

Board Composition Guide

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1. Background

- 1.1. One of the most important tasks of a Board is to find and recruit new members. In a modern constitution there will be a requirement for directors to serve for a set period of years. Consequently, there will be a regular changeover of directors.
- 1.2. Associations Forum recommends for the association to conduct elections prior to the AGM by means of a postal or electronic ballot. This provides every member with an equal opportunity to participate in the election.
- 1.3. The Board must also expect and be ready to fill casual vacancies using pre-set methodology.
- 1.4. The Board composition needs to reflect the needs and interests of members with a range of skills and expertise that ensure the association is well governed.
- 1.5. This document has been written for companies limited by guarantee. The principles apply equally to organisations registered under State or Territory associations acts.
- 1.6. Remember, directors are temporary custodians of the association. Part of that responsibility is to ensure there is a succession plan in place to enable continuing good governance.

2. Board Composition, Diversity and Mix of Skills

- 2.1. Whilst acknowledging that the nomination of directors is a responsibility of members, the Board will endeavour to ensure that it has the best possible calibre of person as a director. This is because the effectiveness of a Board is largely dependent upon the expertise and experience that can be provided by individual directors.
- 2.2. Diversity needs to be considered in terms of gender, age and culture. The ASX Corporate Governance Council provides guidelines on diversity in its Corporate Governance Principles and Recommendations.
- 2.3. Accordingly, it is the policy of the Board to ensure that, to the extent the constitution allows, the mix of skills, expertise and experience of directors is adequate and appropriate to fulfil its role and responsibilities. In short, the Board must have the technical competencies to fulfil its responsibilities.
- 2.4. The first step in the search for new Board members is to consider what the association wishes to achieve in the next few years with particular reference to the strategic plan.

The Board needs to undertake a skills gap analysis before the nomination process starts.

2.5. Once a skills analysis is completed, the next step is to develop position descriptions for each position. This links to the strategic plan to ensure the particular skills needed for the coming period are specified. This will also provide a mechanism and screening process to ensure the Board only receives applications relevant to the organisations needs and requirements.

2.6. The recommended process is to have a Nominations Committee working under delegation as a subcommittee of the Board.

2.6.1. In starting the nomination process the Nominations Committee needs to consider:

- a. What are the key objectives for the association over the next one to three years?
- b. What skills are needed to assist the staff and the association to achieve these objectives?
- c. What skills do current Board members offer in these areas?
- d. Do current Board members who are finishing a term and are eligible for re-election have the right skills for the future? Have they performed competently during their term?
- e. What skills will depart with the retiring Board member/s?
- f. Where are the gaps?

2.6.2. Potential directors will be sought by the Board who have:

- a. The ability to understand the mission and work of the organisation and its operating environment
- b. Knowledge, skills and experience that align with the mission, vision and strategic plan of the association
- c. Skills that enable them to carry out with due diligence the Board responsibilities of performance, conformance, risk management and quality oversight
- d. Any specific skill sets highly desired by the Board and as identified by the Board from time to time
- e. Independence of thought and the ability to put the organisation first in every decision they make as a director
- f. Time available and capacity for carrying out the duties required of a director including participating in committees of the Board and representing the Board or the association where approved.

2.6.3. Typically, the skill sets the Board seeks to have amongst its directors include:

- a. Governance expertise
- b. Strategic and innovative thinking skills
- c. Business acumen
- d. Expertise in policy relevant to the association
- e. Financial expertise
- f. Legal expertise
- g. Risk management expertise
- h. Political acumen
- i. PR, Media and Crisis Management expertise
- j. Consumer perspectives
- k. Influential links with Members.

3. Recruitment and Appointments

3.1. Process for identifying sought skill sets:

- 3.1.1. In accordance with current best practice, before each AGM (and each time a vacancy occurs on the Board), the Board on the recommendations of the Nominations Committee aims to discuss the key skills and competencies it considers it requires for the Board to operate effectively into the future, including identifying any perceived current skill gaps
- 3.1.2. The Board may then decide to advise members (or the relevant member) of the association on the preferred skill sets identified by the Board for the future and ask members to consider those skill sets when nominating people to fill director roles.
- 3.1.3. All Directors will be required to sign a “consent to act” and the terms and conditions of appointment. Appropriate Board and/or association documents and policies will be provided to each new director by the Company Secretary as soon as possible after appointment.

4. Screening process

- 4.1. Each nominee is to complete a nomination form which is designed to provide equal opportunity for each candidate to identify their skills and interest in the association.
- 4.2. If possible, the Nominations Committee or its delegate(s) should interview candidates after the nomination form has been received and due diligence conducted.
- 4.3. Questions for the candidate:
 - a. Why are you interested in the association?

- b. How much time can you contribute to the association?
- c. What skills, experience or contacts can you offer?
- d. What support will you expect if you become a Board member?
- e. What do you expect to gain from your board service?
- f. Can you envisage any conflicts of interest that may arise?
- g. Do you have any previous experience serving on a Board, or in other leadership positions?

5. Two-way Due Diligence

- 5.1. It is good governance for both Board candidates and the Board to conduct due diligence on each other.
- 5.2. Associations need to take reasonable steps to ensure a potential Board member is a fit and proper responsible person.
- 5.3. For a Company Limited by Guarantee the Company Secretary would take the lead in ensuring the Board understands the required processes for due diligence on potential Board members.
- 5.4. Any checks should be done in *compliance with privacy* laws. It may be necessary to seek written consent from the candidate if searches are to be conducted. (criminal history, bankruptcy, ASIC-banned and disqualified persons' register and the APRA disqualification register, professional industry associations, credit history, media search, internet search, educational history and academic transcript, and professional references).
- 5.5. In addition to background checks conducted by the association, it is good governance to require the Board candidate to complete a due diligence questionnaire.
 - a. Have you been convicted of an offence against a law in Australia or elsewhere involving fraud, dishonesty, bribery or corruption, any securities law, or director or fiduciary duties?
 - b. Have you been a director of an entity or involved in the management of an entity that was, during your period as a director or manager, convicted of an offence against a law in Australia or elsewhere which reflected on your directorship or management of that entity?
 - c. Have you ever been determined not to be a fit and proper person as prescribed under any law in Australia or elsewhere?
 - d. Have you ever been disqualified or restricted, under Part 2D.6 of the Corporations Act 2001 (C'th) or a similar law of another country, from acting as a director of a company, or from acting in the management or conduct of the affairs of any company, partnership or unincorporated association?

- e. Have you ever been prohibited, suspended or refused the right in Australia or elsewhere, to carry on any trade, business or profession for which a specific licence, registration or other authority is required?
- f. Have you ever been reprimanded, disqualified or removed by a professional or regulatory body in relation to matters relating to your honesty, integrity or business conduct?
- g. Have you ever been the subject of civil or criminal proceedings or enforcement action, in relation to the management of an entity or commercial or professional activities, which were determined adversely to you (including by consenting to an order or direction, or giving an undertaking not to engage in unlawful or improper conduct) and which reflected adversely on your competence, diligence, judgement, honesty or integrity?
- h. Are you currently a party to any court or similar proceedings?
- i. Have you ever failed to satisfy a judgement debt under a court or similar order made in Australia or elsewhere?
- j. Have you or any entity over which you were a director ever been refused directors' and officers' liability insurance or had a similar policy cancelled?
- k. Are you currently the subject of bankruptcy proceedings? Are you aware of any such proceedings pending?
- l. Have you ever become bankrupt, applied to take the benefit of a law for the benefit of bankrupt or insolvent debtors, compounded with your creditors or assigned your remuneration for the benefit of creditors?
- m. Have you ever been the director of an entity, or involved in the management of an entity or business that has had a receiver appointed, an external administrator appointed, or entered a compromise or scheme of arrangement with creditors, or been declared insolvent?
- n. Is there anything else you think is relevant in relation to your fitness and propriety?

6. Nominations Committee Terms of Reference

6.1. Role of the Committee

- 6.1.1. The Nominations Committee is a subcommittee of the Board of Directors. The Committee makes recommendations to the Board.
- 6.1.2. The Committee assists the Board in identifying and recruiting potential candidates for the board with a particular emphasis related to appointed board positions and casual vacancies. The Nominations Committee will:

- a. Develop a board skill matrix thereby assessing the skills and expertise required to competently discharge the duties of the Board, having regard to the strategic objectives of the Company and the dynamics and decision-making process of the Board. Such consideration may include skill, expertise, gender balance and geographical representation;
- b. Annually evaluate and report to the Board on the performance and effectiveness of the Board, its Committees and individual Directors in order to facilitate the directors fulfilling their responsibilities in a manner that serves the interests of members of the organisation;
- c. Ensure that an appropriate and transparent process for candidate nominations and appointments is in place in line with the company constitution and governance guidelines.
- d. Determine the process for the induction and education/training of new directors, and the continuing education/training and development of all directors
- e. Before recommending an incumbent, replacement or additional director, reviewing his or her qualifications, including capability, conflicts of interest, and other relevant factors;
- f. Make recommendations on
 - Appointment and termination of CEO
 - Succession planning of Chairman, CEO and the Board.
- g. The committee also examines any other matters referred to it by the Board;
- h. Regularly review and make recommendations about changes to the Terms of Reference of the Nominations Committee.

6.2. Members of the Committee

- a. The composition and number of members of the Committee will be determined by the Board of Directors.
- b. A quorum of the committee is half of its members or half rounded up if the total number is odd.
- c. The committee may invite other people to attend meetings, as it considers necessary and
- d. seek advice from both internal and external sources as deemed required.

6.3. Frequency of meetings

- a. Meetings are held not less than once a year, and special meetings may be convened as required.
- b. Meetings may be held in person, by telephone or by video conference, or by any combination of these media.

6.4. Reporting

- a. The Committee reports to the Board as necessary after each meeting and circulates the report to the Board as soon as practicable.
- b. The Board annually reviews the composition of the Committee and approves the Committee charter.

6.5. Last Updated

6.5.1 Approval and Review

Lead Author	CEO
Approver	Board
Date endorsed	
Date reviewed	
Timeframe for next review	12 months

6.5.2 Version History

	Date	Action
1		Created
2	March 2020	Approved by XX on

7. Disclaimer and Further Information

This is practical advice based on Associations Forum's work with associations and charities.

The contents of this Guide are provided as input for associations to develop their own Gifts & Benefits policy. These guidelines do not constitute legal advice and are not intended to be a substitute for legal advice. You should seek specialist advice in relation to any particular matters you or your organisation may have.

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