



ديوان المحاسبة

STATE AUDIT INSTITUTION

Best Practice Guide

SEPTEMBER 2009



GOVERNMENT BOARDS

Best
Practice
Guide

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FOREWORD

Federal Government organisations in the United Arab Emirates are responsible for a cash flow of over Dhs119 billion of public funds per year.

The recent financial crisis felt across the entire world has demonstrated the need for effective oversight, direction and financial management at the highest level within an organisation to ensure public money is spent wisely.

Recent events have further highlighted how the application of incorrect principles, practices and ethical behaviour can cause unnecessary consequences for countries and the public.

A well resourced and effective Board plays a key role in the governance of an organisation and can ensure that stakeholder's interests are served in the best possible way.

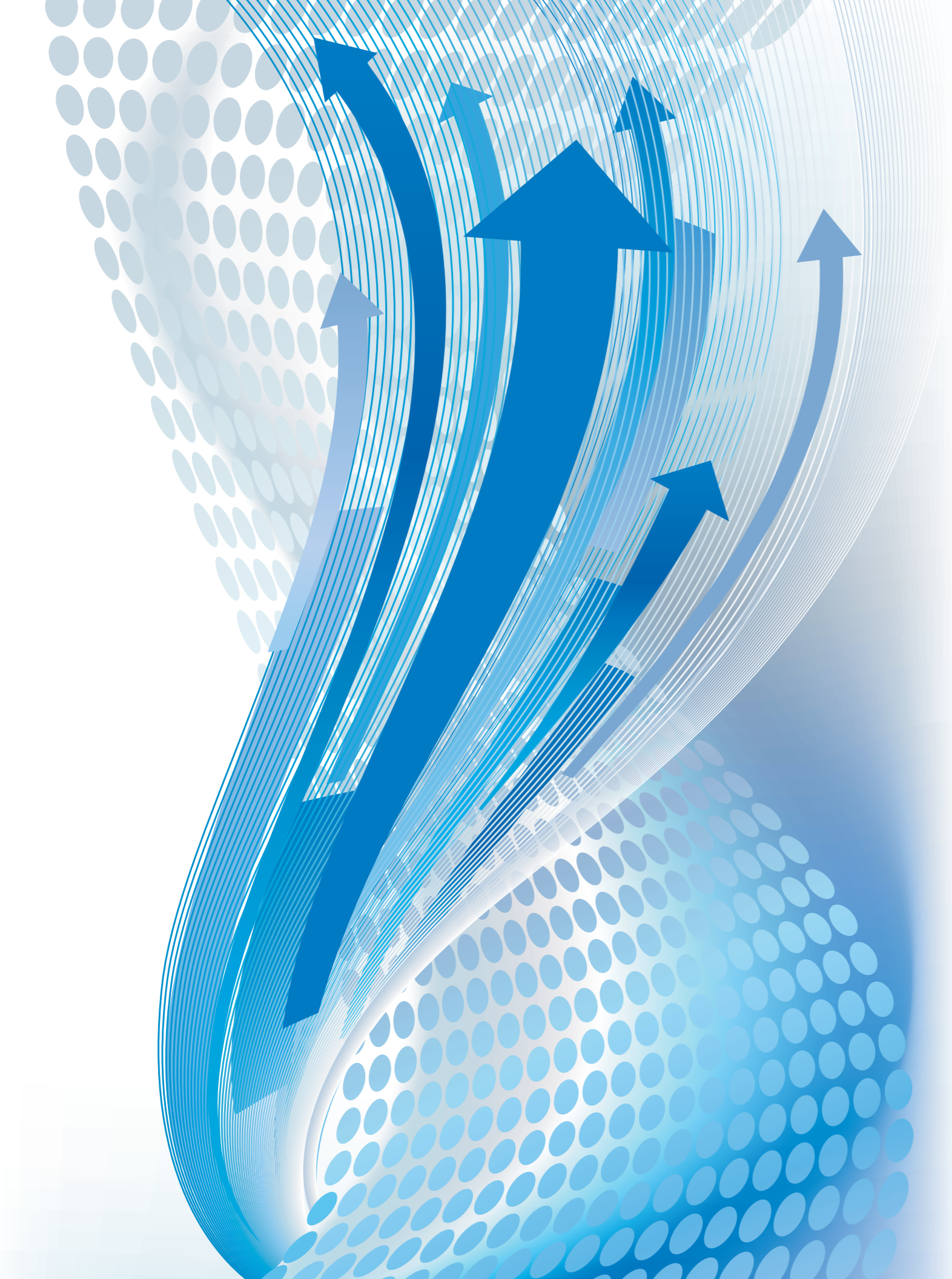
The aim of this Best Practice Guide is to provide guidance to relevant public sector organisations to assist with improving the way in which public money is spent. This gives people confidence that Federal Government is doing all it can to ensure public money is adequately safeguarded.

Each organisation is encouraged to use this Guide to identify and apply best practice principles within their organisation.

The State Audit Institution is committed to ensuring public funds are spent efficiently, effectively and economically.

Dr. Harib Al Amimi

President
State Audit Institution



INTRODUCTION

Who is this guide for?

This guide is based upon international best practice. It is intended for use by UAE Federal Government organisations except for profit motivated public enterprises that provide a dividend to the Federal Government. It does not include Ministries.

What is a Board?

A Board is a group of people with various skills who together determine the future path of the organisation while ensuring it serves its purpose.

There has been a lot of research on the effectiveness of Boards internationally. In recent times there has been more accountability and ethical behaviour expected of Board members.

Where should you start?

As a new Board member you must know what is required of you.

Appendix 1 lists 20 questions a Board Member should ask the Chairman of the Board and the General Manager (GM) about the organisation.

INTERNATIONAL BEST PRACTICE CHECKLIST



If your organisation intends to establish a Board, it should put in place the items listed.

If your organisation has a Board in place, it should have:

1. Written Charter (Terms of Reference)
2. Appropriate mix of people, skills and experience relevant to operations of the organisation
3. Independent Chairman
4. A Board comprising only Non-Executive Directors
5. People appointed at different times to ensure ongoing corporate knowledge
6. Limit on the number of years a person can serve on a Board
7. Induction process for new Board members
8. Sub-committees of the Board, for example an Audit Committee
9. Code of Conduct for Board members
10. Register of Interests of Board members
11. Procedure for conflicts of interest
12. Forward schedule of Board meetings
13. Written Agenda for each Board meeting that is distributed in advance of each meeting
14. Agenda items that go to the heart of management of the organisation
15. Written reports from management for Agenda items
16. Written Minutes for each Board meeting
17. Written record of every Board decision in the Minutes
18. Periodic evaluation process to assess effectiveness of the Board
19. Annual reporting of the organisation's performance
20. Annual review of Board's performance

1. PURPOSE

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1.1 Why is the Board important?

The Board oversees the governance of an organisation



1.2 What are the functions of the Board?



A Board has 4 main functions:

Representation

- Represent the views of its stakeholders
- Ensure stakeholders (Ministers and Federal Government) receive what they want, when they need it

Decision Making and Leadership

- Focus on the long term mission rather than present or short term goals
- Consider thoroughly the large decisions rather than many smaller decisions

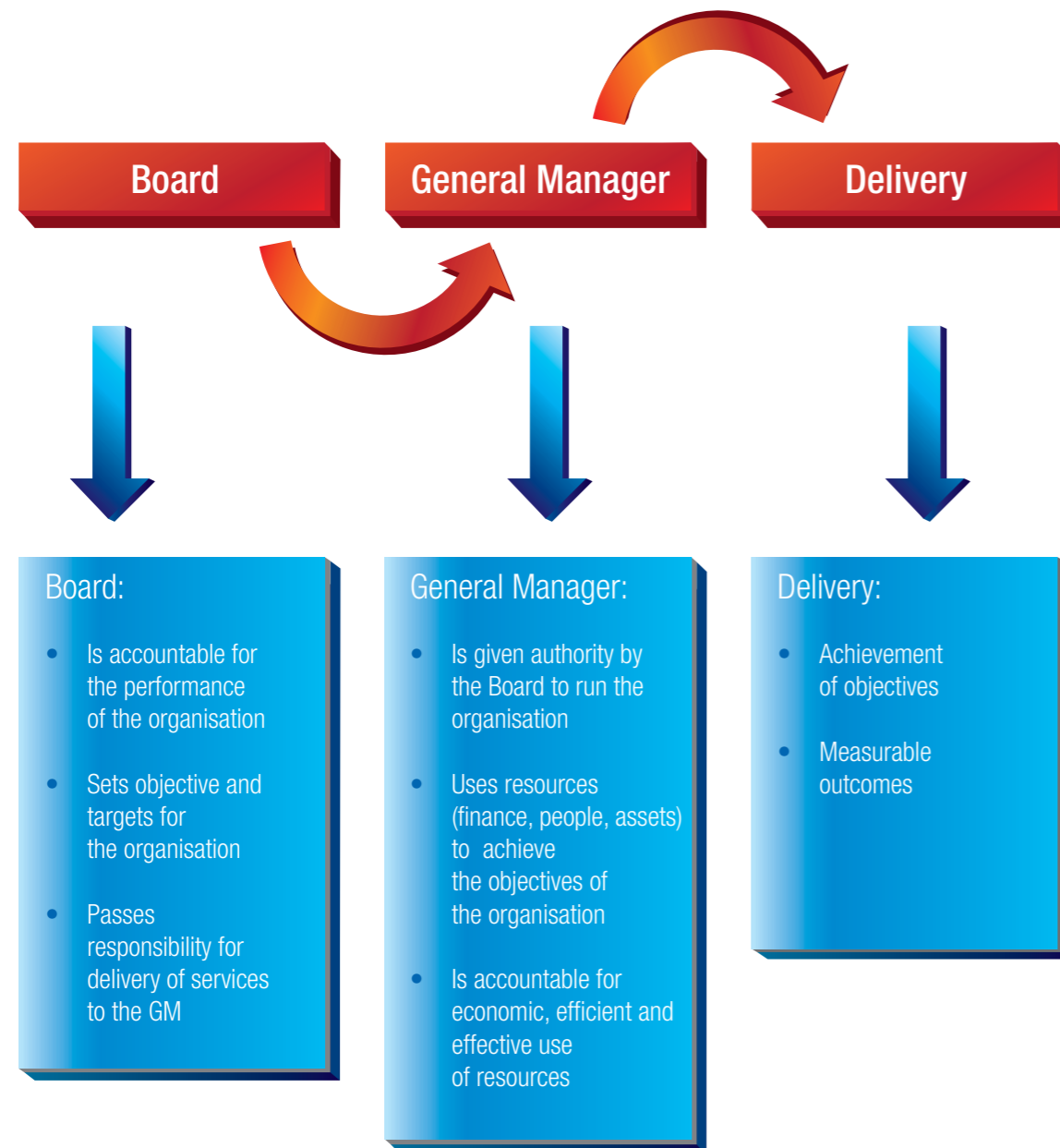
Accountability

- Be accountable to stakeholders and not just employees
- Be accountable for the performance of the organisation

Communication and Disclosure

- Have a clear communication policy showing what information is to be disclosed, when it is to be disclosed, and to whom it is to be disclosed

1.3 What do Boards seek to achieve?



2. Structure and Composition

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2.1 What are the responsibilities of the Board?

Board responsibilities

- Act in the best interest of stakeholders (Federal Government and the public)
- Oversight, review and guidance of corporate strategy, annual budgets, business plans, succession planning, and the setting of the organisation's objectives and performance measures
- Monitor effectiveness of corporate governance practices in the organisation and make changes when needed
- Ensure the organisation has effective risk management, control systems and internal audit
- Ensure the Board has access to relevant, accurate and timely information
- Ensure integrity of the financial systems
- Act in a highly ethical manner and treat everyone fairly
- Exercise independent and objective judgement
- Consider their duty of care and act in good faith at all times
- Oversee the process of communication and disclosure
- Monitor and manage potential conflicts of interest of Board members and management
- Ensure the independent external audit is timely and effective
- Only act within their powers and only make decisions when fully informed
- Appoint, remove and monitor the performance of the GM (or equivalent) and senior management
- Ensure compliance with laws and regulations

The Board must have a Charter (sometimes known as Terms of Reference) that should include:



The Charter should be periodically reviewed by the Board to ensure it remains relevant and up to date. The Charter should be made publicly available. For example you may wish to include it on your organisation's website in a clearly marked corporate governance section. An outline of a Board Charter is at Appendix 2.

2.2 What is the composition of a Board?

- Appropriate mix of people, skills and experience relevant to operations of the organisation
- Independent Chairman
- Non-Executive Directors
- People appointed at different periods to ensure ongoing corporate knowledge
- Limit on the number of years a person can serve on the Board

- No Board Member should have more influence than another Board Member
- Non-Executive Directors are not employed by the organisation, they have no pension rights and can only be appointed for a specified term so as not to lose their independence if serving too long
- Executive Directors are not considered to be independent as they are employees of the organisation
- Some Board Members must have an understanding of legal, accounting and financial management
- Board Members should have no relationships or circumstances that interfere with their judgement (see section 3 Values and Ethics)
- Some Board Members should have knowledge and experience of the services the organisation provides
- Board Members should not be appointed for their management expertise, but for their understanding of how organisations work
- The Board Chairman and the GM should not be the same person
- Board Members should not be members of too many Government Boards otherwise they may not have enough time to do the job effectively
- In most cases a former GM should not become a member of the Board until a period of 3 years has elapsed since leaving the organisation

2.3 What is the role of the Chairman?

- Facilitate productive and respectful relations between the Board and management
- Commit the time necessary to do the job effectively
- Help Board members do their jobs and monitor their performance
- Regularly review the time commitment required of Board Members
- Review and report on Board performance

2.4 What is the role of a Board Member?

- Contribute the time needed to study and understand the documents provided
- Be analytical, objective and use good judgement to make decisions
- Express opinions freely and honestly
- Ask questions that go to the fundamental core of the issues
- Be independent in thinking

The organisation should have procedures in place so new Board Members receive relevant information and briefings as part of their induction to assist them in performing their Board duties. An example of the type of information a Board Member should receive is at Appendix 3.

2.5 What Board sub-committees should there be?

The Board should establish the following sub-committees:

- Audit Committee – includes risk oversight, control systems, internal audit, external audit
- Other committees may be necessary where relevant to the organisation, for example a remuneration committee for Executive Management or a technical committee for operational matters

The main relationship between a Board and the State Audit Institution (SAI) will be through the organisation's Audit Committee. This is because Audit Committees usually include representation from external auditors.

3. Values and Ethics

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3.1 What is a Code of Conduct?

The Board should have a Code of Conduct to assure integrity and accountability of Board Members. This should include information such as a statement of the organisation's values, promotion of ethical behaviour, and conflicts of interest.

All Board Members should sign a copy of the Code of Conduct to demonstrate they agree to comply with it. It should be publicly available, for example, by posting it on the website in a clearly marked corporate governance section. An outline of what should be contained in a Code of Conduct is at Appendix 4.

3.2 What is a Register of Interests?

A Register of Interests is a document that records Board Member interests outside the organisation. Examples include membership of other Boards, directorships of companies or businesses owned by Board Members, and other financial interests.

The Register of Interests allows for review of relationships or circumstances which could interfere with a Board Member's independent judgement and result in a conflict of interest.



3.3 What is a conflict of interest?

A conflict of interest exists when a Board Member could be seen as being influenced by a private interest when performing Board duties.

Members should disclose to the Board their family relationships and other circumstances that may impact upon their independence.

Examples of potential conflicts of interest

A Board Member:

- Has been employed in an Executive Management position by the organisation, and there has not been a period of at least 3 years between ceasing that employment and serving on the Board
- Has within the last 3 years been a professional adviser or consultant to the organisation
- Is a supplier to the organisation (for example of photocopiers or other office equipment)
- Is associated directly or indirectly with a supplier or customer (for example an uncle owns the company which supplies vehicles to the organisation)

Question to ask

Does the conflict of interest disqualify the Board member?

In some cases, the existence of a conflict of interest means a person cannot be considered or cannot continue to be a Member of the Board. For example the Board Member is a supplier of goods or services to the organisation.

A Board Member may also decide to remove the conflict of interest, for example, by not supplying any more goods or services to the organisation.

A conflict of interest does not necessarily mean a person cannot be a member of the Board. For example where a conflict of interest may arise on a Board decision, the following options may be:

- The Board Member leaves the room during discussions and does not vote on the matter
- The Board Member stays in the room during discussions but does not participate in the discussions and does not vote on the matter
- The Board can pass a resolution allowing the Board Member to vote where the interest is not considered significant enough to affect the Board Member's judgement

A precise definition of when such a conflict exists should be clearly stated in writing in the Board Code of Conduct. Details of any conflicts of interest should be recorded in the Minutes including how the conflict was managed.

3.4 How are conflicts of interest reviewed and updated?

- Board Members should report changes of circumstances as soon as possible to the people responsible for receiving and reviewing conflicts of interest
- It is important the Register of Interests is kept up to date. Quarterly declarations by Board Members are a way for this to occur

4. Board Decisions and Information

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4.1 How often should Boards meet?

The Board and management need to agree the frequency of meetings. The minimum requirement should be quarterly, but the Board can meet more or less frequently if it chooses.

Each year there should be a plan of meetings circulated in advance to Board Members and management.



As a rule

The higher the business risk involved the more frequently the Board needs to meet to understand progress to date and how risks are being managed

4.2 How can Board meetings be effective?

A Board meeting will be more effective if:

- The Agenda is carefully prepared
- Papers are circulated well in advance of the meeting
- Discussion on items is honest and open
- Decisions, discussions and disagreements are recorded in the Minutes
- Minutes of meetings are accurate and signed off by the Chairman and Deputy Chairman
- There is guidance to Board Members about how to get information
- Independent external professional advice is available to Board Members if needed

A suggested Agenda for a Board meeting is at Appendix 5.

4.3 What information should be considered at Board meetings?

It is important the Board and management agree on the type of information needed to make informed decisions. Information provided to the Board must show progress against the organisation's objectives.

Examples

- Estimated budget against actual spend
- Progress on achieving objectives
- Implementation of key plans and strategies
- Management of key risks
- Implementation of key laws and policies

Papers to the Board commenting on progress must also outline what action is being taken, particularly if progress has not been as good as expected.

The Board should ensure the information it receives is relevant, objective and timely.

Information must:

- Give a clear explanation of technical issues and their implications
- Be of a high level nature (Boards should not be involved in operational management)
- Presented in a fair and balanced way

Professional advice on legal and financial matters needs to be accessible, especially where there may be significant legal and financial implications resulting from decisions made by the Board.

4.4 Why is recording decisions important?

It is important the Board keep a written record of every decision in the Minutes. This will help:

- Management to be clear about what the Board wants them to do
- Follow up progress to ensure decisions have been implemented in a timely manner
- Inform auditors and reviewers about key decisions, particularly where possible problems have been raised that need to be investigated

When senior management provide alternative options to Board Members for a particular course of action, they must outline the potential implications in relation to areas such as laws, finance and the delivery of objectives.

Board decisions should be clearly recorded in the Minutes together with the reasons for the option chosen. Where the Board is not in consensus on a decision, this must be recorded in the Minutes.

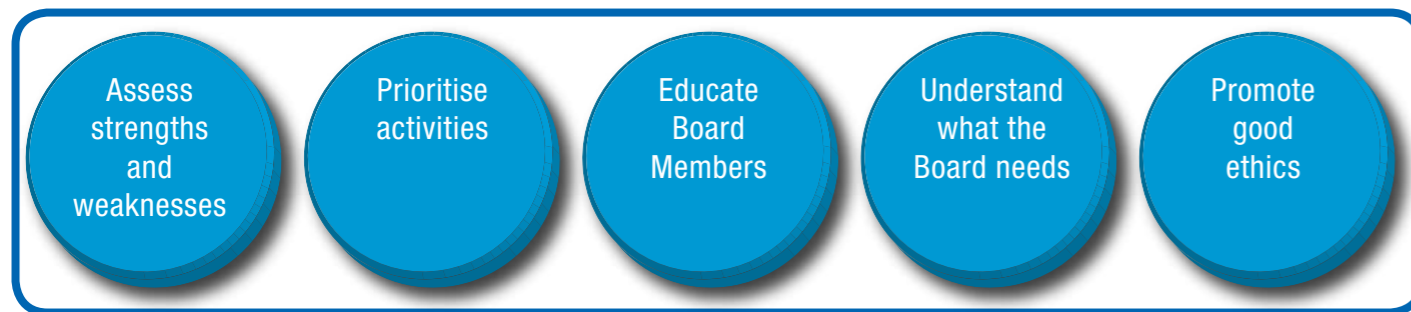
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5.1 Why evaluate a Board?

Evaluate to:



5.2 How can Boards be evaluated?

Possible ways

- Self evaluation
- A sub-committee of the Board
- External consultant



As a rule

Executive Management should not perform the Board evaluation

5.3 When and how often should a Board be evaluated?

- Annually
- In exceptional circumstances, for example where the performance of the organisation is not to a satisfactory standard

Evaluation should include assessment of individual Board Member performance and overall Board performance.

5.4 What evaluation criteria should be used?

- Keep criteria as simple as possible
- Use a simple rating of 1 to 5 to assess performance, as well as a "do not know" category

Evaluation of individual Board Member performance	Evaluation of overall Board performance
<ul style="list-style-type: none"> • Attendance and contribution at meetings • Stakeholder feedback • Willingness to question, probe, challenge 	<ul style="list-style-type: none"> • Aligned strategy and objectives • Management of senior managers in the organisation • Financial results • Achievement of objectives • Management of risk • Effectiveness of meetings • Adherence to governance • Workload

5.5 How will other people know what you have achieved?

To help improve public accountability and transparency, it is important the organisation provides information on what has been achieved. This includes annual reporting of the organisation's performance.

Questions a Board should ask when reporting performance:



- Are we providing balanced information on what has been achieved and what we still need to do?
- Is the information available in a timely way that meets the needs of the audience?
- Are we ensuring the information is available and easy to understand?

It is good practice to make reports available to the public. For example, an annual report could be available on the organisation's website.

Appendix 1

What a Board need to know

20 questions a Board Member should ask the organisation

1. Why are we here (what is our mission)?
2. What are our objectives?
3. What are our key plans?
4. Who are our customers?
5. What have we tasked the GM and senior management to deliver?
6. What are we accountable for delivering?
7. What are our key measures of success?
8. Do we have the resources to deliver our services?
9. What are our biggest risks and how do we manage them?
10. Is there a Charter (Terms of Reference) for the Board, and also a Charter for each Board sub-committee?
11. What period of time am I appointed to the Board?
12. Who do I go to for training, advice and information to perform my job effectively?
13. Is there a Code of Conduct for the Board, and also for the organisation?
14. Is there a Register of Interests for Board Members?
15. Is there a conflict of interest procedure for the Board?
16. How will I know that agreed Board actions have been implemented?
17. How will I know if the organisation is performing effectively and what action can I take if we are not performing effectively?
18. How will I know the organisation is working in accordance with key legislation?
19. How will we know if we are working effectively as a Board?
20. What relevant knowledge and experience will I bring to the organisation?

Appendix 2

Example of a Board Charter or Terms of Reference

PURPOSE OF CHARTER

Role, composition and responsibilities of the Board of Directors, as required by the Federal Government

APPROVAL OF THE CHARTER

Who approves the Charter, for example, it might be the Federal Government in consultation with the Board

LEGAL MANDATE OF THE BOARD

Relevant Federal Law applicable to establishing the Board

PURPOSE OF THE BOARD

Board objectives required to achieve the objectives of the organisation

Overview of legal responsibilities

ROLES AND RESPONSIBILITIES

Functions of the Board

Powers delegated to others (including the GM)

MEMBERSHIP AND TERM

Non-Executive Directors

Number of Board Members required for a decision to be valid

Confirmation that members have no interests that may conflict with their Board appointment

Maximum period of Board Member appointment

BOARD CULTURE

Behavioural norms, beliefs and values which are usually contained in a Code of Conduct

REPORTING AND DECISIONS

How Board decisions are recorded

How many Board Members need to be present for a decision to be valid (known as a quorum)

REVIEW OF CHARTER

How frequently the Charter will be reviewed (usually annually)

PUBLICATION OF THE CHARTER

Where the Charter is available to the public

Appendix 3

Information for a new Board member

- Board Charter
- Letter of appointment (sometimes known as an instrument of appointment)
- Organisation chart
- Strategic plan of the organisation
- Code of Conduct of the Board
- Details of other Board Members
- Committees reporting to the Board and their Terms of Reference
- Annual reports of the organisation for the last 3 years, including financial statements and audit opinions
- Training and development opportunities for Board Members
- Board evaluation reports
- CVs of the GM and Executive Management
- Minutes of Board meetings for at least the last year
- Current budget report showing budgeted against actual revenue and expenditure
- Audit Committee Charter, Minutes of meetings for at least the last year
- Internal Audit Charter, Internal Audit Plan, Internal Audit Reports for the last 3 years, CV of Head of Internal Audit, the most recent independent quality assessment of the Internal Audit Department
- List of all current contracts between the organisation and its suppliers
- Relevant laws
- External Audit Reports

Appendix 4

Example of a Code of conduct

Professional behaviour

This section outlines the standards of professional behaviour expected of Board Members including a commitment to fairness, impartiality and integrity, and acting in the public interest.

Ethical decisions

To help Board Members make ethical decisions they should ask whether a decision or type of behaviour is lawful and consistent with Federal Government policy. Also consider if a Board Member, or employee, may be benefiting personally from a decision at the expense of the organisation.

Fairness and equity

Board Members must consider all relevant facts when deciding a matter and deal with it in an unbiased manner. Board Members must not show prejudice against employees or customers.

Conflicts of interest

A conflict of interest may lead to decisions which may not be in the best interest of the organisation. The Board should have a register disclosing conflicts of interests, real or perceived, and include details on how each was dealt with.

Use of official information and public resources

Board Members should not disclose confidential information about the organisation without official approval. Office equipment and other resources provided to the Board to conduct its work should not be used for private purposes.

Accepting gifts and benefits

Board Members should not accept gifts or benefits from employees, suppliers or customers that are intended to influence, or may be seen to influence, their decisions or behaviour. Board Members should also report any instances of bribery.

The Board meeting agenda should include the date and time of the meeting, estimated length, and the venue.

Reports for meetings should be issued to Board Members in advance of the meetings. Additional items should be agreed on an exception basis by the Chairman in advance of the meeting.

Activity

- Open meeting
- Welcome
- Apologies
- Minutes from previous meeting
- Action items from previous meetings
- GM Report
- Audit Committee report
- Reports from other Board sub-committees
- Reports from each key area of the organisation (finance, human resources, IT, etc)
- Reports on major projects
- Organisation performance report on progress against objectives
- Organisation risk report
- Any other business
- Agree actions from the meeting
- Details of next meeting
- Close meeting

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