



Australian Government
Australian Sports Commission

Australian Sports Commission *Mandatory Sports Governance Principles*



March 2013



AUSTRALIAN
INSTITUTE OF SPORT

ASC Policy Statement

NSO Governance — mandatory requirements for ASC large partner NSOs

Overview

Governance in Australian sporting organisations

In its new High Performance Strategy released in November 2012 (*Australia's Winning Edge*), the Australian Sports Commission (ASC) noted that there was a compelling case for change in Australian sport. A key area of focus highlighted was governance — the time is now here to raise the bar, recognising that organisations that are managing public investment and member interests must have structures in place that reflect a greater level of professionalism. This is true whether an national sporting organisation (NSO) is focused on high performance or participation. Good governance is a necessary condition for success.

It is uncontested that governance structures significantly affect the performance of sporting organisations. Where they are present, ineffective governance practices not only impact on the sport, but also undermine confidence in the Australian sports industry as a whole.

The role of the Australian Sports Commission

The ASC is the Australian Government body responsible for the Government's funding to Australia's NSOs to develop sporting excellence and increase participation in sport. It is therefore important that the ASC has a clearly stated position with respect to the governance of NSOs to which it provides taxpayer monies.

Governance — the critical elements

In 2012, the ASC revised the *Sport Governance Principles* (the Principles), which are based on best practice in Australian corporate governance. The Principles contain guidelines within which the ASC believes a sporting organisation's Board members should operate and enact their role. The Principles form part of a suite of information, including a template constitution, Board evaluations and an organisational development framework.

To date, the Principles have been promoted as guidelines and NSOs encouraged to comply with them on an 'if not, why not' basis. For some elements of the Principles, this will no longer be the case — they will now be mandatory.

One of the key planks of *Australia's Winning Edge* is to ensure that NSOs:

'... have the structure, workforce and leadership capacity to develop successful programs to achieve competitive results and to spend taxpayer funding effectively.'

Achieving targets for elite sport under the *Australia's Winning Edge* and outcomes in participation requires a new level of accountability from NSOs:

'Confidence in the leadership capacity and capability of sports — particularly in relation to management, governance, internal controls and business systems — is acknowledged as being critical. Sports will be required to demonstrate good leadership, governance and administration as part of the annual investment and review process.'

Within the Principles there are a number of elements that are **critical** to good governance and therefore to the achievement of outcomes under ASC funding. This sub-set will be non-negotiable requirements for NSOs to be eligible for full future funding from the ASC.

The ASC will assess the risk that current governance arrangements of NSOs present and agree on an implementation plan with each NSO which will be reflected in their funding agreement. Implications for not meeting the requirements will be clearly spelt out, including the risk to funding for non-compliance. Progress against the implementation plan will be considered as part of a risk assessment through the Annual Sports Performance Review process. The ASC will provide assistance to NSOs to implement required changes on a case-by-case basis.

NSO Governance — mandatory requirements for ASC large partner NSOs

1

Structure for sport

Different sporting organisations operate under different governance structures. While not requiring the adoption of any single model, the ASC will consider closely whether sports' governance models are likely to enable them to achieve their core participation and high performance objectives in the most cost effective fashion. Each structure should be clearly documented with a clear delineation of the roles, responsibilities and powers of the Board, management and each body involved. Further, there should be no overlap in the powers of any two bodies or individuals in a governance structure.

1.1 A single national entity for all forms of the sport — from juniors through to high performance — with horizontal integration of sport disciplines.

Each element of a sport needs to be incorporated into governance arrangements on the same basis. Only a sport fully integrated in this fashion can plan strategically for the benefit of the whole sport and operate with optimal efficiency. Effective integration is critical to achieve the scale and whole-of-sport management that will enable a sport to grow and compete in the marketplace.

1.2 Where sports have federated structure, all parts of the federation must demonstrate they are working in cohesion and adhere to a strategic direction set by the national entity to maximise the interests of the sport.

It is essential that NSOs and their member bodies have aligned objectives and purpose to ensure achievement of sport outcomes. The sport should have a single participation and high performance strategic plan that drives the overarching objectives, which are delivered consistently and effectively by the member bodies. The sport's strategic plan will form the basis of all local implementation outcomes and be developed with input and agreement from all stakeholders.

1.3 The national body should be established as a company limited by guarantee.

The *Corporations Act* provides for a very robust and structured platform for the operation of organisations and provides clarity in areas silent within the *Association Incorporation Act* (particularly in the context of internal management and corporate governance). In addition, changes to the *Corporations Act* in 2010 have created a system of tiers based on revenue. For NSOs that fall within the lower tiers, the reporting requirements have been made less onerous than they were previously.

For these reasons, NSOs should be companies limited by guarantee.



2

Board composition and operation



The composition and the manner in which the Board operates fundamentally impact on the operations of the NSO. Only a Board operating under sound principles will be effective and thereby facilitate the success of the organisation.

2.1 A staggered rotation system for Board members with a maximum term in office.

Each NSO should have a staggered rotation system for Board members with a maximum term in office of no more than 10 years to encourage Board renewal while retaining corporate memory. As a guideline, good corporate practice is for around one third of the Board to retire each year, noting that retiring Directors are able to seek re-election within term limits. Terms for Directors should be three or four years before re-election, with the ability to be re-appointed up to the maximum term.

The Chief Executive Officer (CEO) should be appointed on the basis of their perceived ability to manage the sport at a particular time, considering the priorities and strategic direction of the sport.

2.2 A Nominations Committee that nominates Directors for vacancies upon which the members vote.

It is important that Boards are comprised of members with a variety of skills and experience and who act in the best interests of the organisation as a whole. To achieve this, a Nominations Committee should be formed with at least three people which may be a combination of Directors and external appointments. Any external appointees should be independent and have significant business and governance expertise. The Committee should only comprise persons who are not directly involved in the management of the organisation; however, the CEO and Human Resources Manager or equivalent should have standing invitations to provide clarification where necessary.

2.3 An Audit and Risk Committee, including at least one external and independent CPA or Chartered Accountant.

An effective organisation must have a thorough system of audit and risk management, including internal and external processes. This committee must ensure there are adequate controls and systems in place to alert management and the Board to potential risks associated with the operation of the sport. Given the strong financial focus required in this area, management and Board Directors on this Committee should have basic financial literacy that enables them to understand and actively challenge information presented. This should be supplemented by the inclusion of at least one external and independent Certified Public Accountant (CPA) or Chartered Accountant.

2.4 Chair elected by the Board.

The Chair is the chair of the Board, not of the organisation. The leader of the organisation is the Board itself, which acts collectively in the best interests of the organisation as a whole to govern on behalf of the members. The Chair facilitates discussion among, and provides leadership to, the Board. It is important that the Chair has the respect and confidence of their fellow Directors. As such the Board should select their own leader.

The Chair is such a critical role that the ASC must be satisfied that the person is able to fulfil the role effectively.

2.5 Annual Board performance evaluation process involving external input.

An effective Board needs to monitor and evaluate its own performance annually and implement change as appropriate. This should be done with independent input. The process must be visible to the ASC.

2.6 Gender balance on Boards.

There is good evidence that diversity on Boards leads to better corporate performance. The Commonwealth Government has set a target of a minimum of 40 per cent of Commonwealth Boards being female by 2015. Similarly, the ASC's position is that each NSO should seek to achieve a target of 40 per cent female representation over a similar timeframe, which the ASC will review pending progress and the overall skills mix of boards. Sports' progress will be reported in the new annual *Winning Edge: State of Sports Report*. Reporting on gender representation for NSO executive management positions will also be required.

2.7 Board skills mix appropriate to meet the strategic goals of the NSO, including the ability for the Board to appoint a minority number of Directors to obtain an appropriate skills mix.

An NSO Board should have a clear process to determine the skills mix of Directors required to carry out its governance role at a point in time. The Board should determine the skills of elected Directors and map them to the skills mix required, thus identifying gaps. NSO Boards need to have the ability to appoint Independent Directors to address gaps. Independent appointees should be for the same terms as elected Directors (see 2.1 above).

The ASC will consider whether the skills mix of the Board is satisfactory in relation to the outcomes required from funding.

2.8 CEO not to be appointed to Board after leaving role (for three years).

A new CEO needs to be able to work freely to drive the sport forward. The presence of a former CEO on the Board can inhibit the ability of the new CEO to implement any necessary change. This restriction can be time bound (e.g. three years following a CEO's departure).

2.9 Conflict of interest register which is enforced.

A Director should not hold any official position at state, regional or club level, or other administrative position that provides a material conflict of interest which is actual or perceived. Each Board should have a conflict of interest register and a process that governs a Director's involvement in any decisions with which they have a conflict of interest.

2.10 Minimum five Board meetings per year.

The optimal frequency of meetings will depend on the size of the organisation and the internal and external circumstances, including any specific issues the organisation needs to deal with at any given time. At a minimum, an NSO Board should meet no less than five times per year and as often as required. Board and Committee attendance rates for Directors should be included in annual reports.



3

Sport transparency, reporting and integrity



The ASC has a leadership role in ensuring the integrity of sport as a sector. The ASC also has a duty to effectively monitor the performance of NSOs to ensure that taxpayer money is being spent effectively. To do so, the ASC requires that NSOs comply with a range of policies and practices as a condition of funding.

3.1 NSOs to publish annual reports consistent with *Corporations Act* requirements.

The Board must provide members and key stakeholders with a comprehensive annual report containing information consistent with that required under the *Corporations Act* in the same time frame required of public companies.

3.2 NSOs to report consolidated national financial accounts annually to the ASC in addition to national entity information.

As part of the *Annual Sport Performance Review*, all NSOs will be required to present consolidated national financial accounts and any other information that the ASC needs to assess the effectiveness of the organisation on an overall national level in achieving outcomes set under funding agreements and any risks that may impact on an NSO delivering those outcomes.

3.3 NSOs to adopt rolling three-year Strategic Plans with clear and measurable targets, including a detailed operating budget for the next financial year.

The sport must have a single overall three-year strategic plan (covering both participation and high performance) which is endorsed and implemented consistently and effectively by the member bodies. This plan should include measurable objectives and a detailed three-year forward financial model which is compared with historical financials. Key Performance Indicators (KPIs) that are most relevant to the sport and by which its performance can be measured should be identified and trends shown.

A detailed operating budget for at least the next financial year should also be included.

3.4 Full disclosure of administration expenses in the sport, including compensation and associated expenses for top executives and all related party transactions.

In an organisation owned by members and which receives substantial public funding, both members and taxpayers have a right to know how the organisation spends its money and therefore to provide input into the effectiveness of expenditure. NSOs should therefore fully disclose administration expenses for the organisation on a gross basis before any allocation of such expenses across functional activities within the NSO. This should include full transparency on compensation and associated expenses of the top five staff members in the sport. This will enable stakeholders to understand the level of administration expenditure in the sport and the efficiency of the NSO in undertaking its operations. The linkage of the CEO's compensation to the achievement of goals and KPIs identified in the sport's strategic plan should also be identified.

3.5 NSOs to provide in a timely manner all information requested by ASC.

The ASC requires NSOs to provide information to the ASC on a timely basis to facilitate a comparative *Annual Sport Performance Review* (which will become public information) and also so that the ASC can effectively monitor the performance of NSOs against the outcomes set in funding agreements.

3.6 NSOs to sign-up to ASC integrity measures on anti-doping and protocols for sports science.

The ASC has a leadership role in ensuring the integrity of sport in Australia. To this end and in light of recent events, the ASC is introducing new requirements relating to NSO Board processes to ensure appropriate integrity safeguards are in place. These include:

- > Boards should adopt and observe the *Sports Science Best Practice Principles* to be promulgated shortly by the Australian Institute of Sport (the largest employer of sports scientists in Australia)
- > Boards should have in place proper investigation, supervision and reporting practices in relation to the sports science practices in use in their sport. These should be either direct to the Board or through no other person than the CEO. 'Don't ask, don't tell' will not be a satisfactory position for Boards to adopt; they will have a positive obligation to inform themselves about sports science practices and to supervise them in a manner consistent with ASADA, ASC and Australian Government policies.

3.7 New financial and high performance reporting requirements.

Consistent with the *Australia's Winning Edge*, the ASC will be introducing new cross-sport reporting templates for financial and high performance (HP) reporting. These templates will enable a greater degree of transparency around HP spend and enable the ASC to utilise data to provide comparative analysis to assist sports in investing and achieving efficiencies.





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