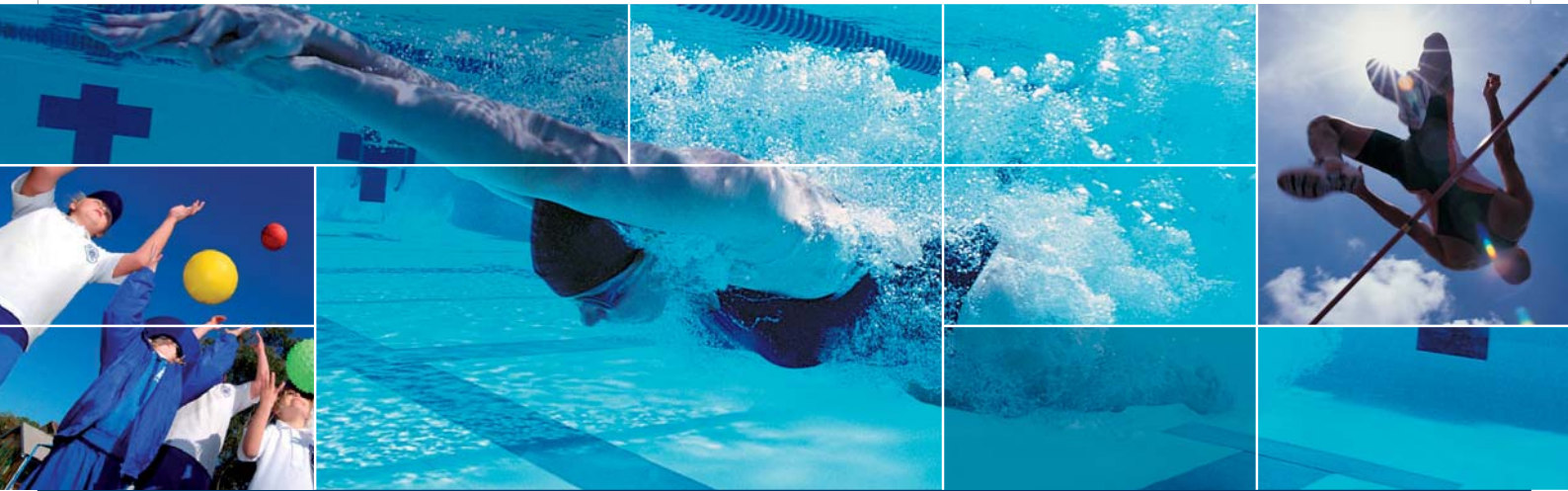




Australian Government
Australian Sports Commission

Australian Sports Commission Sports Governance Principles



March 2012

The Australian Sports Commission is the Australian Government agency that develops, supports and invests in sport at all levels. It was established in 1985 and operates under the *Australian Sports Commission Act 1989*. The Commission's national leadership role is achieved through four operational areas: the Australian Institute of Sport; Sports Development; Government Relations, Communications and Research; and Corporate Operations. The Australian Sports Commission forms part of the Department of Regional Australia, Local Government, Arts and Sport portfolio.

For general enquiries:

Tel: (02) 6214 1111

Fax: (02) 6214 1836

Website: ausport.gov.au

© Australian Sports Commission 2012

Ownership of intellectual property rights in this publication

Unless otherwise noted, copyright (and any other intellectual property rights, if any) in this publication is owned by the Australian Sports Commission.

Creative Commons licence

With the exception of the Commonwealth Coat of Arms, and photographic images, this publication is licensed under a Creative Commons Attribution -NonCommercial-NoDerivs 3.0 Australia Licence.



The Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Australia Licence is a standard form license agreement that allows you to copy, distribute and transmit this publication in its current form for non-commercial purposes, provided that you attribute the work and comply with the other licence terms.

A summary of the licence terms is available from <http://creativecommons.org/licenses/by-nc-nd/3.0/au/deed.en>.

The full licence terms are available from <http://creativecommons.org/licenses/by-nc-nd/3.0/au/legalcode>.

The Australian Sports Commission's preference is that you attribute this publication (and any material sourced from it) using the following wording — *Source: Licensed from the Australian Sports Commission under a Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Australia Licence.*

Unless otherwise specified, all images are the property of the Australian Sports Commission.

CONTENTS

Introduction	1
Purpose	1
Accountability	1
Governance	2
Principle 1: Board composition, roles and powers	3
Principle 2: Board processes	10
Principle 3: Governance systems	12
Principle 4: Board reporting and performance	16
Principle 5: Stakeholder relationship and reporting	19
Principle 6: Ethical and responsible decision-making	21
Glossary	22



INTRODUCTION

The Australian Sports Commission (ASC) is the Australian Government's statutory authority responsible for developing and funding Australian sport. As such, the ASC is responsible for the government's funding to Australia's national sporting organisations to develop sporting excellence and increase participation in sport. It is important, therefore, that the ASC has a clearly stated position with respect to the governance of national sporting organisations to which the ASC provides taxpayer monies.

The sporting landscape in Australia is enriched and delivered through the countless hours of service and support provided by volunteers. Volunteer boards, committees and administrators in particular carry extra responsibilities and burdens associated with the complex legal and regulatory environment within which they must operate. The contribution and commitment to ensuring Australia has a quality environment where people can participate and strive for success is of immeasurable value to the community.

PURPOSE

The purpose of these guidelines is to:

- > assist members of boards, chief executive officers and managers of sporting organisations to develop, implement and maintain a robust system of governance that fits the particular circumstances of their sport
- > provide the mechanisms for an entity to establish and maintain an ethical culture through a committed self-regulatory approach
- > provide members and stakeholders with benchmarks against which to gauge the entity's performance.

ACCOUNTABILITY

The size, complexity and operations of sporting organisations differ, so to optimise individual performance, flexibility must be allowed in the structures and systems that are adopted. This flexibility must be balanced against accountability, contestability and transparency. There is an obligation for all sporting organisations to explain to stakeholders if any alternative approach to the best-practice principles is adopted (the 'if not, why not' obligation).

GOVERNANCE

Governance is the system by which organisations are directed and managed. It influences how the objectives of the organisation are set and achieved, spells out the rules and procedures for making organisational decisions and determines the means of optimising and monitoring performance, including how risk is monitored and assessed.

The ASC recognises that effective sports governance requires leadership, integrity and good judgment. Additionally, effective governance will ensure more effective decision-making, with the organisation demonstrating transparency, accountability and responsibility in the activities undertaken and resources expended.

It is commonly accepted that governance structures have a significant impact on the performance of sporting organisations. Poor governance has a variety of causes, including director inexperience, conflicts of interest, failure to manage risk, inadequate or inappropriate financial controls, and generally poor internal business systems and reporting. Ineffective governance practices not only impact on the sport where they are present, but also undermine confidence in the Australian sports industry as a whole.

Governance concerns three key issues:

- > how an organisation develops strategic goals and direction
- > how the board of an organisation monitors the performance of the organisation to ensure it achieves these strategic goals, has effective systems in place and complies with its legal and regulatory obligations
- > ensuring that the board acts in the best interests of the members.

The Sports Governance Principles of Best Practice advocate strengthening structures that support good leadership and decision-making, and ensure sound and effective governance.

In keeping with best practice in Australian corporate governance, this paper contains guidelines within which the ASC believes a sporting organisation's board members should operate and enact their role. The resource takes the form of six major principles:

- > Principle 1: Board composition, roles and powers
- > Principle 2: Board processes
- > Principle 3: Governance systems
- > Principle 4: Board reporting and performance
- > Principle 5: Stakeholder relationship and reporting
- > Principle 6: Ethical and responsible decision-making.

PRINCIPLE 1: BOARD COMPOSITION, ROLES AND POWERS

Different sporting organisations operate under different governance structures. While not advocating the adoption of any single model, the ASC does advocate that 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.

The organisation's framework of governance should:

- > enable strategic guidance of the entity
- > ensure the effective monitoring of management by the board
- > clarify the respective roles, responsibilities and powers of the board and management
- > define the board's accountability to the entity
- > ensure a balance of authority so that no single individual has unfettered powers.

Principle 1.1: That management powers be formalised, disclosed and placed in a board which has the power to exercise all the powers of the organisation, except those powers that the Act or Constitution requires to be exercised in general meeting.

Commentary and guidance

The ASC does not endorse a governance structure featuring both a board and another body, whereby this other body (usually called a council) assumes some board functions.

The nature of matters reserved to the board and delegated to management will necessarily depend on the size and complexity of the organisation, and be influenced by its tradition and culture and the skills of directors and managers.

Principle 1.2: That national sporting organisations be incorporated as a company limited by guarantee under the *Corporations Act 2001* (Cth).

Commentary and guidance

It must also be noted that, regardless of the Act (Corporations or Associations) under which the organisation is incorporated, if a national sporting organisation carries on business in a state other than that in which it is incorporated, it is required to be registered under the *Corporations Act* as a registrable Australian body. This registration imposes additional administrative requirements on the organisation.

While there can be arguments for the adoption of various legal structures, and there are limitations and benefits attached to each, the ASC encourages national sporting organisations to adopt a company limited by guarantee organisational structure.

The more comprehensive legislation entailed within the *Corporations Act 2001* (Cth) provides for a very robust and structured platform for the operation of organisations and provides clarity in areas otherwise 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 sporting organisations that fall within the lower tiers, the reporting requirements have been made less onerous than they were previously.

Similarly, some states have amended their Association Incorporation Act to introduce tiered reporting requirements that encourage larger state sporting organisations to convert to a company limited by guarantee structure.

The key governance role of the organisation under each of the Acts rests with the board of directors, who must act in accordance with the requirements of the relevant Act, within other federal and state laws, and the constitution of the incorporated body.

Principle 1.3: That the incorporated body has a constitution, which embodies the following key sections:

- > interpretation — objects and powers
- > members — membership and meetings of members (general meetings)
- > the board — powers (including delegations), election and appointment of directors, other roles (chief executive officer and secretary) and meetings of the board
- > reporting, recording and execution of company documents
- > accounts
- > auditors
- > indemnity and insurance of directors
- > winding up.

Commentary and guidance

The constitution should be written in a clear, unambiguous and succinct manner. It should not be overburdened with items that would be better served to be detailed in the organisation's by-laws or policies. These are usually items that can be expected to be changed and updated from time to time. In these circumstances the board should, through by-law and policy development, be empowered to oversee and manage the issues.

The constitution should set out that the members' powers are to elect/dismiss the board, approve/amend the constitution, and accept the financial accounts.

Principle 1.4: That the members of an organisation should elect the majority of the board of directors. In addition, any issue on which a vote is taken, whether at a Board or General Meeting, should require a majority of votes for any proposal to be passed.

Commentary and guidance

Each sporting organisation should detail how people and/or organisations may become the members of them. The constitution of the incorporated body will state the voting power of each member in this regard.

The ASC advocates that a 'one state one vote' voting system be applied to federated sporting structures. While a proportional voting system is an option, it is not recommended. Large member bodies should never be able to dominate the direction of an organisation.

In a unitary structure, the ASC advocates a 'one member one vote' voting system be applied. States may retain input through the creation of advisory councils that advise the board on issues relevant to that particular state, without having any formal powers.

Where a board is made up of appointed and elected directors, it is recommended that at least a majority of the board membership is elected by the members. In addition, it is also advocated that votes taken at board or general meetings should be passed by a majority of directors/members and not be subject to a casting vote. This principle is based on the premise that if a majority cannot agree on an issue then the issue should be forfeited.

Principle 1.5: That the governance structure should feature a clear separation of powers and responsibilities between the board and the chief executive officer and their staff.

Commentary and guidance

This clarity of powers and responsibilities must also apply to the various board and management committees. It follows the principle that ‘directors direct, and managers manage’.

The governance structure should also recognise that individual directors, the chief executive officer (or similar), their staff, board committees and management meetings hold no authority to act on behalf of the organisation by virtue of their position alone. All authority rests with the board, which may delegate authority to any person or committee.

Each such delegation should be clearly documented in a delegations manual or similar. Normally there will be significant delegations to the chief executive officer. In their capacity as directors, directors have no individual authority to participate in the day-to-day management of the entity, unless authority is explicitly delegated by the board.

Principle 1.6: That the chairman/president should be selected by the board.

Commentary and guidance

While some sporting organisations may decide to refer to their chairman as their president, the role should be the same. The chairman is the chairman of the board, not the chairman 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. They appoint and work closely with the chief executive officer, who manages the operations of the organisation and (in most instances) acts as the organisation’s public figurehead.

The chairman facilitates discussion among, and provides leadership to, the board. As the first among equals, it is important that the chairman have the respect and confidence of their fellow directors. As such the board should select their own leader.

Some sporting organisations have retained a member-elected president despite introducing a board-elected chairman. In such instances the president will typically hold certain responsibilities with their position and act as a public figurehead for the organisation.

The ASC does not support this situation, as it creates an unnecessary duplication of powers. The roles and responsibilities typically reserved for the president can be readily performed by either the chairman or the chief executive officer.

Principle 1.7: That the board should:

- > confirm the broad strategic directions of the organisation
- > appoint, dismiss, direct, support professional development for, evaluate the performance and determine the remuneration of, the chief executive officer
- > approve, monitor and be accountable for the financial and non-financial performance of the organisation, including setting fees
- > ensure an effective system of internal controls exists and is operating as expected, and that policies on key issues are in place and appropriate and that these can be applied effectively and legally to those participants or persons for whom they are intended
- > develop a clearly articulated and effective grievance procedure

- > ensure financial and non-financial risks are appropriately identified and managed
- > ensure the organisation complies with all relevant laws, codes of conduct and appropriate standards of behaviour
- > provide an avenue for key stakeholder input into the strategic direction of the organisation
- > ensure director, board and chairman performance evaluation and professional development occurs regularly.

Commentary and guidance

The board's primary responsibility is one of trusteeship on behalf of its stakeholders, ensuring that the legal entity, the organisation, remains viable and effective in the present and for the future.

The board's role includes determining the organisation's strategic direction, core values and ethical framework, as well as key objectives and performance measures. A key critical component of this role is the board's ultimate authority and responsibility for financial operations and budgeting to ensure the achievement of strategic objectives.

Another key role is developing appropriate policy. There should be two levels of policy making; board level policy and operational policy. Board level policy should include:

- > strategic policies defining the outcomes sought from all operational effort
- > governing process policies defining the board's own operating practices
- > board/chief executive relationship policies defining the nature of the board's relationship with the chief executive (or management)
- > operational limitations policies defining the limits of the chief executive's freedom to act.

Operational policy should be developed by the chief executive.

Where a sporting organisation does not have a chief executive officer or equivalent position, either paid or unpaid, management and operational tasks may be delegated to a range of people, including board members or committees. In this case, directors must ensure that they separate their strategic board roles and responsibilities from their individual operational responsibilities. This can be achieved by separating board meetings from management meetings.

To continually improve, performance evaluation should be systematic and occur at least bi-annually. The result of performance evaluation should be tied in to professional development opportunities provided to the board.

Principle 1.8: That each board should be structured to reflect the complex operating environment facing the modern sporting organisation. Normally, it is envisaged that a board will:

- > comprise between five and nine directors
- > have a sufficient blend of expertise, skills and diversity necessary to effectively carry out its role
- > have all directors being independent, regardless of whether they are elected or appointed
- > have the ability to make a limited number of external appointments to the board to fill skills gaps
- > institute a staggered rotation system for board members with a maximum term in office to encourage board renewal while retaining corporate memory
- > be broadly reflective of the organisation's key stakeholders, but not at the expense of the board's skills mix and the organisation's objectives.

Commentary and guidance

The number of directors on a board should reflect the size and level of activity of the organisation.

As such, the ASC advocates a board with the necessary skills to carry out its governance role rather than a representative board.

Independent directors are those that are not appointed to represent any constituent body, are not employed by or have a significant business relationship with the organisation, do not hold any other material office within the organisational structure and have no material conflict of interest as a result of being appointed director.

In relation to traditional federal sporting structures, the holding of state-level positions would be seen to be a material conflict of interest if held at the same time as national-level positions.

In unitary sporting structures, where there is only one organisational entity with a direct relationship to individual members and/or their clubs, club-level positions may create a similar level of conflict to that of the state level in the federal structure. Similarly, sporting organisations whose operations are predominantly of a business-owner nature should avoid situations where the owners of those businesses are also the key decision-makers of the organisation, where those decisions will have a material effect on the outcomes of those businesses, perceived or actual.

Examples of material conflicts are: presidents of member bodies, representatives of select groups (for example, umpires) and chief executive officers or senior staff.

When directors do represent a constituency, they are bound by their legal responsibility to represent the organisation as a whole.

External appointments (appointed directors) are appointments to the board that have not been elected by the constitutional members and are at the discretion of the existing board.

Appointed directors are an effective means of filling identified skills gaps on the board, and can bring skilled individuals into the organisation from outside the traditional membership.

An external appointment should be used for a limited term (usually two or three years) to fill skill and expertise gaps on the board. After such time that director may stand for election to the board should they wish to continue to serve as a director.

An effective board has a proper understanding of, and competence to deal with, the current and emerging issues of the business and can effectively review and challenge the performance of management and exercise independent judgment.

The creation of a nomination sub-committee can assist the board in developing a broad range of skills and diversity among its directors (see Principle 3.9).

Principle 1.9: That national sporting organisations and their member bodies have aligned objects and purpose to ensure effective and efficient achievement of sport outcomes.

Commentary and guidance

To achieve effective outcomes for the sport it is essential, particularly in a federated model, that national and member bodies have aligned objects and purpose. It is critical that member bodies within a sport operate as if they were one body working towards the same outcome to deliver effective products and services to its members and stakeholders. Member bodies should have aligned constitutions with aligned objects.

The sport should have a single strategic plan that drives the overarching objectives, which are delivered consistently and effectively by the member bodies. The sport's strategic plan should form the basis of all local implementation outcomes and be developed with input and agreement from all stakeholders.

Principle 1.10: That where two or more bodies are amalgamating, an interim board arrangement occurs in order for all parties to be confident about the future direction and priorities of the amalgamated body.

Commentary and guidance

In the interim arrangement, the board of the new organisation would include equal representation drawn from the boards of the amalgamating bodies or representatives nominated by each of the amalgamating groups' interests. This should be independently chaired.

This interim arrangement would operate for a finite period of time, at the end of which a new board structure as outlined in Principle 1.7 should be adopted.

The ASC encourages like organisations to look into the benefits of amalgamation to ensure that sustained competitiveness, efficiencies and economies of scale are achieved to provide enhanced outcomes for the sport's members and participants.

Principle 1.11: That the board outline the role of individual directors/board members, including (at a minimum):

- > the fiduciary duty of directors to act in the interests of the members as a whole and not to represent individual constituents. Thus, once elected, the board should have the ability to operate independently in the interests of the organisation as a whole, free from undue influence
- > the legal duties of individual directors, including the requirement of directors to:
 - act in good faith and for a proper purpose
 - exercise due care and diligence
 - ensure the organisation does not continue to carry on its business while insolvent
 - meet the requirements of various other federal and state laws that directly impact on the organisation
- > a code of conduct or policy specifying the behaviour expected of directors (see Principle 6)
- > a conflict of interest provision that specifies:
 - a director must disclose actual/potential conflicts of interest
 - the process for disclosure of real or potential conflicts of interest
 - a process that governs a director's involvement in any decisions with which they have a conflict of interest
 - the requirement for a register of ongoing interest to provide a record of all potential conflicts
 - a director should not hold any other official or corresponding administrative position within the organisation at any level that creates a material conflict of interest. This is to ensure no actual or perceived conflicts of interest
- > maintaining a register of related party transactions
- > the responsibilities of directors for completing an induction program, undertaking continuing professional development as well as engagement in ongoing performance assessment (see Principle 4).

Commentary and guidance

The role of a director of an organisation is one of the key components of the governance framework to ensure the accountability, transparency and contestability of the direction, performance and conformance of the organisation.

It is critical that new directors are appropriately inducted to the board and the organisation and that they understand their roles within the organisation.

In relation to a director's conflict of interest, a director should not hold any official position at state, regional or club level, or corresponding administrative position, that provides a material conflict of interest which is actual or perceived and that all endeavours to avoid this should be pursued (see Principle 1.7).

Directors should have appropriate personal qualities such as loyalty, honesty, the courage to ask tough questions and should exhibit high ethical standards. As a minimum, directors should embrace fairness, respect, responsibility and safety as key guiding principles of ethical behaviour within their organisation.

Principle 1.12: That the roles of key positions in the governance system are documented and understood. Normally these positions should include:

- > board
 - chair/president
 - directors
 - company secretary
 - chairs of board committees
- > management
 - chief executive officer.

Commentary and guidance

A letter of appointment should be provided to each of the above positions upon commencement, outlining the responsibilities and expectations associated with the role.

As it is expected that national sporting organisations will form a company limited by guarantee structure, then it will be necessary to appoint a company secretary to provide for the legal compliance requirements under company law.

Principle 1.13: That the chief executive officer will not normally be a director of the board. This enables and supports a clear separation of power between the board and management.

Commentary and guidance

The ASC suggests it is good practice to ensure that a distinction between management and board membership occurs and that the chief executive officer of the organisation should not necessarily be a member of the board. However, in this circumstance it is also good practice to ensure the chief executive officer is aware of, and present at, board meetings to provide information and advice to the board on the operations of the organisation and to understand the direction provided by the board.

In the event that a chief executive officer is a director, however, the ASC suggests there should be clear policies in place to ensure the distinction between management and the board exists. The organisation should have clear mechanisms in place that, as a minimum, prohibit the chief executive officer from:

- > being involved in remuneration decisions continuing as a director beyond their appointment as chief executive holding the position of chair.

PRINCIPLE 2: BOARD PROCESSES

Each board should agree to and document a clear set of governance policies and processes to facilitate effective governance. These processes should reflect best practice and be subject to regular review.

An effective board meeting should have the following attributes:

- > a capable chair, with meetings held regularly and attended by appropriate personnel
- > board papers for every item provided in advance so directors are informed and well prepared
- > clear, timely and accurate recording of decision-making and communication of outcomes to stakeholders.

Principle 2.1: That the board should document its meeting process. Normally this will include:

- > legal requirements
- > decision-making approach (consensus versus voting) and voting rights of attendees
- > protocol/s for meeting conduct and director behaviour
- > logistical details such as meeting frequency, meeting location, timing of meetings, attendees, etc.

Commentary and guidance

The legal requirements in regard to meetings incorporate such items as the official number required to make a quorum, the amount of notice required for calling a meeting and other such requirements as specified in the organisation's constitution.

The 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. A sporting organisation board should meet no less than six times per year and often as regularly as monthly. The schedule of dates for board and committee meetings should be agreed in advance.

Principle 2.2: That the board should prepare an agenda for each meeting. In addition, the board should agree how the agenda will be developed and the items for regular inclusion.

Commentary and guidance

The governance policy should outline the process for establishing the agenda for each board meeting. It is essential that the board ensures meetings adhere to pre-agreed time frames and that adequate time is given to each agenda item. It is also essential that the board ensures agenda items are linked to the strategic objectives of the organisation and that there is an alignment between the reporting from management and the key performance indicators that have been approved by the board.

Principle 2.3: That board meetings should have appropriate documentation. This means issues submitted to the board should be in an appropriate and agreed form (a board paper) and be circulated sufficiently in advance of the meeting. The board should similarly maintain a clear record of decisions made through an appropriate and agreed minuting process.

Commentary and guidance

The governance policy should determine timing with regard to receiving board papers in advance, and where appropriate the length, format and detail required in the board papers.

Minutes should be an accurate record of discussions held and should be distributed in a timely manner, usually within a week of the meeting. These should be agreed by the board and outcomes communicated to stakeholders, again in a timely manner.

Principle 2.4: That the board should be provided with all relevant information on an issue to enable proper execution of directors' duties. The board, or any individual board member, should also have the right to request, through the chief executive officer, any additional information from management if required (see Principle 4).

Commentary and guidance

The governance policy should state the circumstance when and how board members should go about accessing external or additional information in relation to board papers. For example, a director may wish to receive additional financial reports to enable them to effectively carry out their duties.

Principle 2.5: That the board should plan its key annual activities and develop a corresponding board calendar/work plan.

Commentary and guidance

The board calendar/work plan should include major annual activities for the board agenda, such as budget approval, strategy review, chief executive officer evaluation and annual general meeting.

The board should also develop an annual board plan that sets key performance criteria for the coming year that tie in with the strategic objectives of the organisation.

Principle 2.6: That the board and each committee established by the board should have terms of reference or a charter. The terms of reference or charter should include, at a minimum:

- > board/committee purpose
- > authority delegated to the board/committee
- > board/committee composition, including the appointment of a chair
- > reporting requirements
- > delineation of the role of the board/committee and the role of management.

Commentary and guidance

Board committees allow directors to give closer attention to important issues facing the organisation than is possible for the full board. Board committees are an effective way to distribute the work between the directors and allow more detailed consideration of specific matters.

The number of board committees, size and mix, will vary from organisation to organisation depending on its size, complexity and the challenges it faces. Sporting organisations should consider the need to have board committees. Examples of board committees are audit and risk, nomination and remuneration, selection, and technical. The function and importance of the audit committee are considered later in these guidelines.

Not all committees need to report directly to the board; some committees such as selection and technical committees can report through senior management and the chief executive officer.

Committees should exist for a specific purpose and not merely because they always have.

PRINCIPLE 3: GOVERNANCE SYSTEMS

The board is ultimately responsible for the success of the organisation it governs. Each board should clearly define its role in discharging this responsibility.

An effective organisation should have the following systems:

- > a strategic planning framework identifying core organisational values, goals and performance management indicators
- > clearly documented board/management interaction, including appropriate delegations and authority of all parties
- > a thorough process for identifying and monitoring legal, compliance and risk management requirements
- > a thorough system of audit, including internal and external processes
- > a performance management system to provide evidence and ensure monitoring of legal compliance and performance against plans.

Principle 3.1: That the board should determine the process by which it oversees and develops the strategic direction, key objectives and performance measures as well as core values and ethical framework for the organisation.

Commentary and guidance

It is important that a board regularly reviews its strategic priorities to ensure it maintains its competitive advantage and is clear about on what it wants management to focus. The board's agenda should reflect the strategic objectives of the organisation (see Principle 2.2)

The ASC considers it important that all key stakeholders are consulted through the strategic planning framework to ensure future strategies address the most pressing issues within the industry.

Principle 3.2: That the board should develop a protocol outlining expectations for board–management interactions. This will normally include:

- > expectations regarding the use of a board member's networks/contacts
- > expectations regarding provision of advice to the chief executive officer and management
- > a protocol for individual directors to acquire all information required for decision-making and control (see Principle 4).

Commentary and guidance

The relationship between management and the board is critical and must be supported by a clear segregation of responsibilities. At all times the board must be in control, however management must be accountable, operate with delegated authorities, have appropriate levels of skills, and perform against the established key performance indicators.

Directors should not approach management directly, but rather should channel all additional information requests through the chair and chief executive officer, unless specifically approved within the protocols.

Principle 3.3: That the board should have in place an effective and efficient monitoring and evaluation system. This will include financial and non-financial monitoring. In particular, each board should monitor outcomes of the implementation of the strategies as the basis for the evaluation of overall performance and reporting to members (see Principle 5).

Commentary and guidance

It is essential that the performance indicators are clear and concise and, more importantly, can actually be measured, are aligned to strategic objectives, and comprise both lead and lag indicators where possible.

It is also imperative that an organisation understand where they currently stand in relation to key performance indicators so a comparison can be achieved between past, current and future result targets.

Principle 3.4: That the board should have in place an effective risk management strategy and process. This will require the board to take actions to identify key risks facing the organisation and ensure that risk management strategies are developed and actioned. The risk management system should comply with the Australian Risk Management Standard HB 246:2010.

Commentary and guidance

It is essential that an organisation regularly reviews its risk exposure across all facets of the organisation.

An organisation should establish its risk appetite and assess risk in line with this.

In line with HB 246:2010, an organisation should review the likelihood and impact of all possible incidents and assess the actions required to minimise, avoid or eliminate potential risks. An organisation should ensure it also assesses the opportunities forgone as part of its risk assessment and evaluation process, as risk is not only a negative element; the opportunity cost of not doing activities should also be considered.

In addition, some events or activities often need a specific and comprehensive risk assessment to be done (for example, the hosting of a large sporting event). In this situation a business case should be developed as part of normal risk management processes to assess the impact and potential outcomes, negative or positive, of such an event.

Principle 3.5: That the board should implement an effective compliance system. It is recommended that this system comply with Australian Standard AS3806:2006 and require, at a minimum, that:

- > the organisation complies with all relevant statutes, regulations and other requirements placed on it by external bodies
- > effective internal controls exist and there is full and accurate reporting to the board in all areas of compliance
- > the organisation is financially secure and is able to meet all its financial obligations when they fall due, in the normal process of business.

Principle 3.6: That the board should develop and document a regular (annual/six-monthly) performance review process for the chief executive officer.

Commentary and guidance

While the detail of the performance review may be undertaken by the nomination and remuneration committee or another board committee, at some point in the process all directors should have an opportunity to review and comment on chief executive officer performance.

The performance indicators for the chief executive officer should be clearly linked to the strategic goals and objectives set by the board and should be measurable. In addition the chief executive officer should have performance measures linked to staff performance and key stakeholder relationships.

Principle 3.7: That the board must ensure an effective audit system and process is in place. The audit process may include internal and external processes and systems.

Commentary and guidance

An effective audit process should 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 heavy financial focus on audit processes, management and board directors should have basic financial literacy that enables them to understand and actively challenge information presented.

Principle 3.8: That the board should establish an audit committee and that its role be set out by formal charter/terms of reference.

Commentary and guidance

The existence of an audit committee is recognised as an important feature of good corporate governance. The committee should be structured with at least three people who should be financially literate, and include at least one who has financial expertise (that is, a qualified accountant). The audit committee should only comprise persons who are not directly involved in the management of the organisation; however, the chief executive officer and chief financial officer or equivalent should have standing invitations to provide clarification where necessary.

The chair of the audit committee should be independent from the chair of the board.

The audit committee should take prime responsibility for, but not be limited to:

- > reviewing the organisation's annual financial accounts and recommending them to the board for approval
- > overseeing the relationship, appointment and work of external and internal auditors
- > reviewing compliance-related matters
- > overseeing the organisation's risk management framework
- > regularly reviewing the organisation's ongoing financial accounts, systems and delegations.

The audit committee charter should clearly set out the committee's role, responsibilities, composition, structure and membership requirements. The committee should be given the necessary power and resources to meet its charter. This includes rights of access to management, and to auditors without management being present, and rights to seek explanations and additional information.

If approved by the board, an audit committee can extend their mandate beyond purely financial and audit matters to include compliance and risk management as areas of focus.

Principle 3.9: That the board should establish a nomination committee and that its role be set out by formal charter/terms of reference.

Commentary and guidance

The existence of a nomination committee is recognised as an important feature of good corporate governance. 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.

The committee should be structured with at least three people and may be a combination of directors and external appointments. The nomination committee should only comprise persons who are not directly involved in the management of the organisation; however, the chief executive officer and human resources manager or equivalent should have standing invitations to provide clarification where necessary.

The chair of the nomination committee should be independent from the chair of the board.

The nomination committee should take prime responsibility for, but not be limited to:

- > reviewing the board's skill mix and identifying gaps
- > identifying potential directors for appointment to the board or to be put forward as preferred nominations for elections
- > reviewing director nominations and providing the members with the board's preferred nominees based on needs identified in the skill gap analysis

The nomination committee charter should clearly set out the committee's role, responsibilities, composition, structure and membership requirements. The committee should be given the necessary power and resources to meet its charter.

Principle 3.10: That since ultimate decision-making power rests with the board, the board should clearly document all delegations of authority to the chief executive officer and other individuals, committees or groups. This document, or delegations register, should be regularly reviewed and updated. It should be the subject of a formal board resolution.

Commentary and guidance

To ensure the delegations document is not limiting and restrictive on the operations of the organisation, it is often better to articulate the limits of management authority as opposed to trying to articulate every possible approval item. This approach will provide a framework in which management can operate, without unnecessarily burdening the board with items management should clearly deal with.

PRINCIPLE 4: BOARD REPORTING AND PERFORMANCE

Each organisation should have a comprehensive reporting and performance management system in place to ensure organisational effectiveness and efficiency. It is essential that directors are provided with timely and accurate financial accounts to ensure effective decision-making can occur.

In addition, the board should review the directors' individual and collective performance, including the effectiveness of the chair, to ensure they are discharging their responsibilities against that of the stated objectives. Ensure a board and individual director development program is in place, including mechanisms to respond to non-performing directors.

An effective system of reporting and performance management should include:

- > comprehensive and complete financial accounts
- > review and consideration of the accounts by an audit committee
- > ensuring the independence of the organisation's external auditors
- > directors and board committee members being knowledgeable, well-briefed and informed, having access to the appropriate information or advice when required, and being provided with the opportunity for continuous improvement and education
- > a board and director performance evaluation system
- > an alignment between key performance indicators and the strategic objectives as outlined in the organisation's strategic and operational plans.

Principle 4.1: That the board should ensure its officers and directors have appropriate insurance cover.

Commentary and guidance

It is essential that all directors and officers in an organisation have the appropriate liability and indemnity cover no matter what the purpose or structure of the organisation (for example, not for profit), as once an organisation starts incurring debts and liabilities, directors are potentially liable to provide for any losses incurred.

Principle 4.2: That the board should ensure all new directors undergo an appropriate induction process.

Commentary and guidance

The induction process should ensure all directors have:

- > an appropriate level of knowledge of the industry in which the organisation operates
- > a clear understanding of an organisation's business operations
- > a clear understanding of the organisation's financial circumstances
- > a clear understanding of the organisation's strategy and direction
- > a clear understanding of what is expected of the director in their role, including legal responsibilities
- > a high-level knowledge of the business risks that may affect the organisation's success
- > access to relevant background information.

Management should provide a briefing session to all new directors once they have had time to assess the information just listed. This will allow them to address any concerns or queries they may have regarding the organisation.

In addition, each new director should receive:

- > a letter of appointment outlining the role and expectations in their role
- > a copy of the directors and officers insurance
- > a copy of the constitution, board charter, governance policies, strategic plan and any other key governance documents

Continuous education and professional development programs should be made available to directors as necessary.

Principle 4.3: That the board should ensure that a director can access independent professional advice if required and that this is appropriately protected with a deed of access or similar.

Commentary and guidance

Board directors and board committee members should be entitled to obtain independent professional or other advice at a cost to the entity on predefined terms. These rights should be documented and provided to directors and committee members.

Board directors and board committee members should be entitled to obtain certain resources and information from the entity. These rights should be documented in the deed of access or similar document.

Principle 4.4: That the board should receive timely reports that are presented regularly (preferably monthly), including:

- > accurate financial statements, that comprise:
 - profit and loss statement
 - balance sheet
 - cash flow statement
 - written report regarding material variances from budget
 - budget versus actual report on a month and year-to-date basis as well as identifying the full-year budget
 - listing of all major outstanding debtors and creditors
 - bank reconciliation (including bank account evidence).
- > performance reporting against the organisation's strategic objectives.

***Commentary and guidance*

The organisation should have a one-year fully costed operational plan, as well as having a more strategic 3–5 year financial plan that should link the financial objectives of the organisation with that of its strategic objectives.

It is critical that all directors understand and take their financial responsibility on the board seriously by ensuring they are able to comprehend and challenge the financial information presented to them by management.

It is critical that the board has detailed knowledge of the financial health of an organisation, as it is illegal for an organisation to trade while insolvent and the directors could be held personally responsible.

The board should receive performance reporting, inclusive of lead and lag indicators against its strategic objectives, that allows the board to monitor its performance on an ongoing basis.

Principle 4.5: That the full board of directors should annually meet and be debriefed by the external auditor on the state of the financial position and systems within the organisation and any issues identified throughout the audit process.

Commentary and guidance

To ensure that each director can fully extinguish their fiduciary responsibilities, it is good practice that the full board meets with the external auditor annually to discuss the findings of the audit and any identified issues that may have arisen from the audit.

This open and frank discussion allows individual directors the opportunity to receive further clarification of any particular issues to ensure they fully understand the financial operations and health of the organisation.

Principle 4.6: That the board should regularly review and assess its own performance and the performance of individual directors, including that of the chair and its committees.

Commentary and guidance

Done well, board assessment can be an extremely productive process. A robust and successful assessment process will give the board:

- > a balanced view of its performance, identifying the positive aspects of the board's operation and areas for improvement
- > a benchmark against which the board can assess its collective and individual progress and performance over time
- > a basis to establish agreed performance objectives for the board.

The process should include mechanisms such as external facilitators, assessment questionnaires, confidential non-attribution interviews and a workshop of the findings. Additionally, 360-degree feedback from the likes of management and key stakeholders enhances the comprehensiveness of any program. An effective program should also include separate assessments of individual directors' performance and that of the chair.

PRINCIPLE 5: STAKEHOLDER RELATIONSHIP AND REPORTING

The board should ensure it exercises leadership, integrity and good judgment, always acting in the best interests of the organisation as a whole, demonstrating transparency, accountability and responsibility to its members and stakeholders.

An effective organisation should ensure its members and key stakeholders are:

- > consulted and involved in the development of the sport's strategic plan
- > supportive of, and actively involved in, achieving the outcomes of the national plan
- > well-informed and actively participating at its general meetings
- > regularly provided with timely and accurate disclosures on all material matters regarding the governance and performance of the organisation.

Principle 5.1: That the board should strive to ascertain the interests, aspirations and requirements of members and create responses to these in the form of a national strategic plan with alignment between this and member plans.

Commentary and guidance

Existing boards should canvass the interests, aspirations and requirements of key members. The board should have in place a process that reports and receives feedback from members.

All members should embrace the strategic plan of the sport and should work towards the achievement of its outcomes. In federated organisational structures it is essential that member bodies are working towards a unified strategic document and are held accountable for their outcomes.

Principle 5.2: That members of an organisation should have the ability to remove board members (or a board as a whole) and change the constitution, should they see fit, in accordance with applicable legislation.

Commentary and guidance

It is a guiding principle of law that members must have the right to remove the board and change the constitution as they see fit, as they are ultimately the owners of the organisation.

There may be circumstances where certain arrangements are in place that restrict the members' capacity to make change, however these should only be temporary measures in periods of instability and ultimate power should always return to the members.

Principle 5.3: That board directors should have no voting rights at general meetings.

Commentary and guidance

Where the membership of an organisation comprises other organisations, clubs or groups of individuals, board directors should not be eligible to vote at general meetings or annual general meetings. This ensures a clear separation between the 'owners' and the 'governors' of the organisation.

Principle 5.4: That the board should provide members and key stakeholders with a comprehensive annual report outlining how they fulfilled the governance roles, achieved strategic objectives and aspirations of the organisation, and sufficient financial information so that members can make a judgment as to how effectively the board is fulfilling its role.

Commentary and guidance

The system of governance should ensure that timely and accurate disclosures are made on all material matters regarding the organisation, including governance, financial situation and performance.

It is not appropriate that these reporting documents are delayed. It is the board's responsibility to ensure the appropriate legal time frames are met.

Disclosure should include, but not be limited to, material information on:

- > any legally required information as per the relevant Act
- > the financial operating results
- > the entity's strategic objectives and goals
- > members of the board and key management personnel, including board conflict of interest declarations
- > material foreseeable risks
- > material issues regarding employees and other stakeholders
- > governance structures and policies.

PRINCIPLE 6: ETHICAL AND RESPONSIBLE DECISION-MAKING

Each board should ensure and actively promote ethical behaviour and decision-making within their organisation. Good corporate governance ultimately requires people with integrity and leadership to ensure that the reputation of an organisation is managed, protected and enhanced.

A culture of integrity and ethical behaviour is characterised by:

- > an effective code of conduct
- > quality decision-making processes
- > people of the highest integrity and ethical standards
- > an intent to put the organisation ahead of individual gains.

Principle 6.1: That the board establish a code of conduct to guide directors, the chief executive officer and other senior management as to:

- > the practices necessary to maintain confidence in the organisation's integrity
- > the responsibility and accountability of individuals for reporting and investigating reports of unethical practices.

Commentary and guidance

The code of conduct should set out ethical and behavioural expectations for both directors and employees. It is critical that the board and senior management demonstrate, through their words and actions, absolute commitment to the code and stakeholders in its execution.

Adherence to the code should be periodically evaluated and action taken, where necessary.

Principle 6.2: That the board ensure key decisions and actions are based on a thorough review of all available information and are assessed against the organisation's risk management framework and strategic objectives and that these are documented.

Commentary and guidance

When organisations embrace opportunities to expand or promote the sport, they should assess the opportunities against the risk framework and key strategic objectives of the organisation.

There should be evidence of an evaluation of the benefits and risks prior to any key decision being taken by management or the board.

Principle 6.3: That the board ensure a business case is developed for each major project or significant event/activity prior to the organisation committing resources and that the worst-case scenario has been evaluated and can be mitigated/managed by the organisation.

Commentary and guidance

The development of a business case allows sporting organisations to embrace opportunities to expand or promote the sport through a major event/activity by assessing the ability of the organisation to sustain a worst-case scenario loss.

Given that most sporting organisations have very limited available resources, the assessment of risk and opportunities is critical to the long-term viability of the organisation.

To not develop business cases for major projects and events potentially leads to poor decision-making and lack of awareness of the various scenarios that may play out, hence all major events/activities should be fully costed and assessed for variations from budgeted figures prior to the organisation committing scarce resources.

GLOSSARY

Appointed director — a person who is on the board of directors of an organisation by virtue of being appointed by the board for a set period of time.

Board — the official group of people (directors) empowered through the constitution to oversee the running of an organisation.

Company limited by guarantee — a company formed on the principle of having the liability of its members limited to the respective amounts that the members undertake to contribute to the property of the company if it is wound up.

Deed of access — a formal instrument for companies to enter into agreements with their directors relating to access to documents, rights of indemnity and insurance.

Director — a person who is on the board of directors of an organisation either by being elected or appointed to the board.

Elected director — a person who is on the board of directors of an organisation by virtue of being elected by the members of the organisation.

Independent director — a person who has no direct links, perceived or real, to any official position within the organisation or its directly related member bodies.

Legal compliance — adherence to the various laws and statutes that govern the operations of the organisation by virtue of the activities that it is involved in.

Material variances — a variance that by virtue of its size or impact, would materially change the result or outcomes for an organisation had it not been adjusted.

Members — those persons, clubs or associations, that by virtue of fulfilling the conditions stated in the constitution, belong to or 'own' the said sporting body.

National sporting organisation — the organisation recognised by government and the majority of playing participants as the national representative for that sport.

Organisation — a collection of persons, clubs or associations registered as an incorporated association or company limited by guarantee.

