Code of Governance for the Australian Community Sector

Developed in consultation with
the Australian community sector
by Our Community (June 2008)

An initiative of the Boards,
Committees & Governance Centre
www.ourcommunity.com.au/boards

ourcommunity.com.au

Dear Colleagues,

At Our Community we get a steady stream of enquiries from puzzled board and committee of management members who are getting themselves tangled in questions of governance.
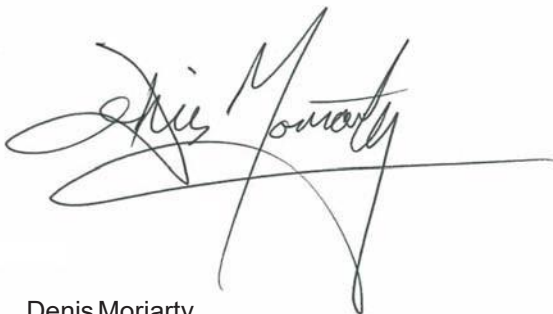
Some of the questions are technical and can be quickly fixed using Our Community's online resources, particularly the Boards, Committees & Governance Centre - www.ourcommunity.com.au/boards. This is the resource created to support the development of more efficient, more responsive and more responsible community boards in Australia. It includes dozens of free help sheets, an online Policy Bank, a quarterly newsletter, a Matching Service to help community boards get access to new members, a consultants' register and much more – all proudly supported by HESTA.

Many questions about governance, however, arise out of confusions about what governance is for, what it encompasses, and the values that it is trying to achieve. In these cases it is always necessary to lay out clearly the principles of governance adopted by an organisation. When these principles are not clearly set down there can be confusion, conflict, and avoidable crossed purposes.

I have come to the realisation that it is a lot easier to build community organisations when there is a sense of shared values. At the heart, community organisations have in common a commitment to the public good, a preference for fair dealing and open conduct, and a consciousness of the need to embrace diversity – but all of this must be confirmed and driven by the board.

In the Draft Code of Governance that follows we have tried to sketch out the rules that seem to flow from those principles, as they apply to the boards of our organisations. Our initial call for comment brought a large number of valuable insights and practical suggestions from across the community sector, and this code now embodies the wisdom of the many.

I hope that we now have a code that can lead us through the morass of politics, finance and marketing that faces all organisations in this shifting and surprising society of ours.

Denis Moriarty
Group Mananging Director, Our Community

A Code of Governance for the Australian Community Sector must be:

Enabling

The basic requirement of a governance code is that it ensures that power in an organisation is properly sourced from the organisation's own community, that it is not able to be hijacked or hidden away, and that it is able to be contested fairly within the rules.

Responsive

The value of civil society is that it provides a counterweight to power, that it allows dissident views to be heard, and it gives power to the powerless. These strong points also have to be applied within the organisation. The power of the board has to be limited by the rights of all stakeholders, and by the organisation's responsibility to our society.

Flexible

The Australian community sector is diverse in size, purpose, and legal form. Almost no statement can be applied to every community organisation, and any rule that applies to every group will be inappropriate for many. Such a governance code therefore needs to be flexible both in its interpretation and its application, dealing with principles rather than regulations.

Positive

The code should stress what boards should actually do. A long list of things boards shouldn't do leads to caution, inertia, bureaucracy, and many other undesirable organisational traits.

This code should be judged against these criteria.

A governance code sets out the values that the organisation considers central to its operations, describes the boundaries of acceptable behaviour for the organisation based on these values, and identifies the areas in which procedures are required to police these boundaries.

A code of governance cannot overrule the organisation's constitution, still less the legislation that establishes it. It is enforceable only with the agreement of its users. A code is not self-actuating; it can deal with any abuses only where the board is prepared to act in its defence.

A code of governance is not a comprehensive statement of the applicable law, nor is it a treatise on management. These aspects of community group board practice are addressed in more detail at Our Community's Boards, Committees & Governance Centre (www.ourcommunity.com.au/boards).

Any code is of course necessarily general in nature, and every community organisation will have to go through the necessary process of clarifying its own principles and the policies that flow from these, adapting the code to its particular situation, (there's a bank of policies at the Our Community website that your community group can use as models – see www.ourcommunity.com.au/policybank) and to its particular legal form.

Once the organisation has developed its own policies, it will have to make sure that people know what they are by publishing a specific procedures manual and putting the code and the ensuing policies into the induction and training packages for board members, staff, and volunteers.

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Board Membership

1. The Board may not place barriers on the free choice of the organisation's members; in elections to the Board it should, however, institute procedures and policies that recruit as candidates persons whose skills or experience would benefit the operations of the Board.

2. The Board should seek advance commitment from prospective Board members to any specific policies concerning the expectations of the Board regarding such matters as attendance requirements, investment of time, support for the organisation, conflict of interest policy and practice, collective decision making, and acceptance of responsibility.

3. The Board should establish policies dealing with the number of consecutive terms a Board member or officeholder may serve.

Collective Commitment

4. The Board should be independent – not susceptible to outside direction or outside interests.

5. The Board should develop a culture that enables collective decision making.

6. The Board should ensure that while each member has the right to argue for their own point of view and vote as their conscience dictates, they should, once a decision has been taken, not speak or work against the decision outside the Board.

7. The Board should take ultimate responsibility for ensuring that effective mechanisms are in place for dealing with and managing conflicts.

8. The Board should put in place policies to ensure that Board members treat each other frankly and honestly but with respect.

9. Any members of the Board who are elected by or appointed from particular sections of the community (users, for example, or staff) cannot be bound to follow the instructions of those sectional interests but must be free to govern in the best interests of the organisation.

Democratic Governance

10. The Board should ensure that its procedures allow for all Board members to bring issues before the Board, to be informed on these issues, to discuss these issues productively, and to take informed decisions.

11. The Board should develop standing orders that are flexible, efficient, and simple, and that allow motions of dissent to be put before the Board without obstruction.

12. The Board should meet at least six times a year.

13. The Board should support the Chair to fulfil his/her functions.

14. The Board should develop a culture that enables members to dissent without apprehension from the Chair's rulings or assessment of collective decisions.

Management of the Board

15. The Board should provide induction, instruction, and continuing support to provide all Board members with the skills needed to carry out their functions.

16. The Board should ensure that clear policies and procedures are in place to remove from the Board, in conformity with applicable legislation, members who are in the opinion of the Board unable properly to fulfil their legal, ethical or social responsibilities.

17. The Board should ensure that clear policies and procedures are in place to protect that the rights of members of the Board to voice their views without fear of reprisals.

18. The Board should have in place clear policies to ensure that all potential conflicts of interest are dealt with in accordance with ethical codes and applicable legislation through appropriate disclosure or recusal.

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Direction

19. The Board has the ultimate responsibility and therefore control of the organisation. No major policy should be put into effect without analysis and approval by the Board.

20. The Board is responsible for approving the organisation's mission and strategic direction, its budget and its major financial affairs, and its policies on governance, management, and program implementation.

21. The Board should in practice concern itself primarily with the strategic direction of the organisation, and should delegate operational (day-to-day management) issues to its staff (paid or unpaid).

22. The nature and extent of any delegation by the Board should be clearly documented in every case.

23. The Board is legally responsible for the performance of delegated duties, and should institute effective monitoring and evaluation procedures.

24. Where the organisation employs staff, the chief executive officer (CEO) should be responsible for the operational management of the organisation. The CEO may delegate tasks to other staff, but the CEO remains accountable to the Board for their performance.

25. Liaison between Board members and the organisation's staff should, except in exceptional circumstances, go through the CEO.

Risk Management

26. The Board should ensure that robust risk management policies and procedures are in effect to minimise any risk to the organisation's mission, its assets, its programs, its reputation, its staff, or its users.

27. The Board should continuously test, review and refresh risk management policy and procedures.

28. The Board should ensure that the health and safety of its employees is of equal priority with the performance of the mission of the organisation.

Accountability

29. The Board is ultimately accountable for the entire operation and the impacts of the organisation.

30. While the Board may be directly accountable either to its members or to the Minister or governmental agency that appointed it, it is also accountable to those served by its mission.

31. In order to make this accountability meaningful, the Board should ensure that clear procedures are developed to provide a transparent framework for conducting its meetings, recording its decisions, communicating those decisions, and receiving feedback from the organisation's members and the users of its services.

Transparency

32. The Board should withhold from public scrutiny as little information on its operations as is possible. All Board deliberations should be open to the stakeholders and the broader community, except where the Board passes a motion to make any specific portion confidential.

33. The Board should report to the organisation's stakeholders at least annually in a format and using a medium best suited to the stakeholders. The report should completely disclose information on the topics and indicators required to demonstrate the impact of the organisation's activities and to enable stakeholders to make decisions. The report should also disclose the processes, procedures, and assumptions used to prepare those disclosures.

34. The Board should establish and implement "whistleblower" policies and procedures that enable individuals to come forward with information on illegal practices (or violations of Board-approved policies) without fear of retaliation.

Community Responsibility

35. The Board should do its part to reduce systemic social disadvantage in Australia.

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36. The Board should work to encourage in the operations of the organisation social diversity, access and inclusion, community participation, and consumer participation (where this is applicable)

37. The Board should take into account not only the mission and maintenance of the organisation but also

   - The rights and interests of the organisation's users
   - The rights and interests of the organisation's members
   - The rights, interests, health, safety, and wellbeing of the organisation's workforce
   - The interests of the community sector as a whole
   - The interests of the general public, and
   - Human rights locally and globally

   and should be prepared to justify its actions to all these constituencies.

Environmental Responsibility

38. The Board should ensure that the organisation actively works to preserve the environmental sustainability of the planet
   - in its own practice,
   - as a participant in a community of practice, and
   - as a participant in the Australian social discourse.

Diversity and Empowerment

39. The Board should ensure that its membership profile largely reflects the composition of the Australian community. There should be tangible efforts to increase the representation of women, minority ethnic groups, under-represented age groups, people with disabilities, and Indigenous Australians.

40. Where services are provided by the community organisation, the Board should ensure that these respond to and reflect the reality of Australia's diverse community.

41. Where an organisation is responsible for the delivery of services or provides opportunities to participate, the Board should respond to the needs of its own users for representation on the organisation's Board. Where it is desirable to avoid conflicts of interest this representation should be by proxy through consumer or rights-oriented groups.

42. The Board should ensure that all members brought on to the Board from disadvantaged groups are given adequate support, mentoring, expenses, and respect, and should ensure, to avoid intense pressure and isolation, that more than one member is from such disadvantaged groups.

43. The Board should ensure that the whole organisation, in all of its systems, operations and activities, upholds and promotes the imperatives of empowerment.

44. The Board should ensure that the principles of equal opportunity and diversity are practically applied to all areas of the organisation's work, including its planning, its marketing, its employment practices, and its management.

Ethical Fundraising

45. The Board should ensure that all materials used in fundraising are accurate and truthful, and that, except in exceptional circumstances, funds raised for stated purposes are used for those purposes.

46. The Board should respect the privacy of its donors and should not make their names available to any other person for any other purpose, except where mandated by law.

47. The Board should adopt policies and procedures for dealing with the circumstances in which the organisation should refuse a donation that might compromise its ethics, its finances, or its mission.

Effectiveness

48. The Board should periodically review its own effectiveness, and take any necessary steps to ensure it works well.

49. The Board should regularly review and evaluate the performance of the organisation's CEO.

50. The Board should ensure that the organisation as a whole, and its programs, are regularly reviewed, and its outputs and outcomes assessed against the organisation's mission.

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A note on nomenclature

In the community sector the same thing may have many different names, and some names may apply to many different things. To simplify matters a little in some places we've settled on using one name throughout.

Board	means the governing body of a not-for-profit organisation – and covers bodies named:	• Councils • Boards of Directors • Committees of Management
Board member	means a member of a governing body – and covers members named:	• Members • Directors • Trustees
Chief Executive Officer (CEO)	means the (paid) head manager of the organisation – and covers staff named:	• CEOs • Managing Directors • Administrative Officers • Executive Officers • Principals
Community Organisation	means any not-for-profit, community-based organisation – and covers organisations that are:	• Incorporated associations • Not-for-profit companies • Non-profits • Quasi-non-governmental organisations (quangos)
User	means any of the persons for whose benefit the not-for-profit organisation was established – and covers:	• Consumers • Clients • Service recipients

We welcome ongoing input and comment on this Code, particularly

- the underlying principles of the code - whether you agree with them, and whether you think they cover everything that needs to be covered
- the specific detail of this draft - whether you think it's clear enough to implement, and whether you think it's too detailed (or not detailed enough)
- any practical difficulties your own organisation would run into if it adopted and implemented this code.

The community sector will benefit from vigorous debate in all these areas, and Our Community will foster such a debate on its website and in its monthly newsletter Our Community Matters – see www.ourcommunity.com.au/ocmatters.

For input/comments, email service@ourcommunity.com.au

The Boards, Committees
& Governance Centre

The Boards, Committees & Governance Centre is one of the 16 Knowledge Centres developed by www.ourcommunity.com.au for Australia's 700,000 community groups.

It is the primary resource for Australian community groups, accelerating their impact and building a stronger and bolder community sector.

The Boards, Committees & Governance Centre contains everything a community group needs to learn and flourish. Resources include:

Resource Centre – dozens of practical help sheets on all aspects of joining a board, evaluating and improving a board, strategic planning, meetings, financial/legal responsibilities, relationship management, building diversity, troubleshooting and more.

Policy Bank – sample policies and procedures relevant to community boards and committees and the organisations they govern, ever-expanding and available in Word format for easy download and adaptation.

Board Builder Newsletter – a quarterly newsletter that builds the knowledge and skills of community board and committee members through the delivery of practical, plain-language information and advice.

How-to Guides – Low-cost, practical books to help guide the development and operation of community groups. Titles include Making Meetings Work; Transforming Committees and Boards – from Hell to Heaven; and Surviving and Thriving as a Safe, Effective Board Member.

Matching Service – providing community group boards and committees with access to a pool of skilled and willing helpers. The service is free to community groups wishing to list a vacancy and individuals wishing to search the database for opportunities to serve on a board.

Training – Our Community provides a range of training opportunities for board and committee members and their supporters. Opportunities include the annual Board Builder Conference, half-day seminars on the Secrets of Successful Boards and Making Meetings Work, and the nationally accredited Certificate IV in Business (Governance).

www.ourcommunity.com.au/boards

Step One The Essential Facts	Resource Centre Help Sheets	Policy Bank	Board Builder Newsletter
CLICK HERE	CLICK HERE	CLICK HERE	CLICK HERE
How-To Board Books	Board Matching Service	Boards Training	Business on Boards
CLICK HERE	CLICK HERE	CLICK HERE	CLICK HERE
Consultants Register	Diversity on Boards	Governance Code	Certificate IV in Business Governance
CLICK HERE	CLICK HERE	CLICK HERE	CLICK HERE