Not-for-Profit Governance Principles

Third Edition, April 2024

Australian Institute of Company Directors

Minister Foreword

The Hon Dr Andrew Leigh MP
Assistant Minister for Competition, Charities and Treasury, Assistant Minister for Employment

The Australian Government is a passionate supporter of the non-profit sector, and the valuable role that it plays in forging a more connected community and a healthier economy.

Over recent years, Australian communities have faced significant challenges. As we've taken on fires, floods and a global pandemic, the non-profit sector has been essential.

Generating more than one-tenth of employment and accounting for almost one-tenth of the economy, the non-profit sector is critical to Australia's productivity and wellbeing. The sector, along with the volunteers that support its work, deeply enriches the social, civic, economic, cultural and environmental fabric of our nation. When charities and non-profits are strong, our communities are happier, healthier and more egalitarian.

The Productivity Commission's once-in-a-generation inquiry into philanthropy has already made the interim observation that board directors, many of whom are volunteers, have difficult challenges to juggle. Board directors have the responsibility to oversee compliance with regulatory obligations, while also continuously developing their skills and advocating for the mission of their organisation.

I welcome the publication of the Australian Institute of Company Directors' updated NFP Governance Principles. These Principles provide a contemporary framework to help directors understand and meet their governance responsibilities. This resource is a valuable supplement to the Australian Charities and Not-for-profits Commission's extensive suite of free resources, including its Governance Hub, Charity Chat podcast, and webinars.

In the face of increased community expectations around good and transparent governance, directors play a critical role in ensuring non-profits are governed well to deliver on their purpose and serve their communities.

As the Australian Government continues our work to grow Australia's charities and non-profit sector, well-intentioned, well-trained and well-informed boards and directors will play a vital role. My thanks to all those who give their time, money and energy to help charities and non-profits thrive. Together, we are all working to build a more connected community.

AICD CEO Foreword

Mark Rigotti MAICD
CEO and Managing Director

The Australian Institute of Company Directors (AICD) is committed to supporting not-for-profits (NFPs) and their boards to achieve good governance. The AICD supports the NFP and charities sectors through the AICD's Not-for-profit Governance Principles, Director Tools, annual NFP Study and governance education, including scholarships provided to leaders of small NFPs to undertake the Governance Foundations for NFP Directors course.

It has been over a decade since the first version of the Principles was released in 2013, with the second version published in 2019. Since that time, the sector has experienced increased community expectations and significant regulatory reform and disruption. This has arisen in part from a series of Royal Commissions, the COVID-19 pandemic, and emerging risks such as cyber and climate.

At the same time, the sector faces profound structural challenges, such as constrained Government and private funding, fundraising constraints, declining rates of volunteering and workforce shortages, and rising costs. The AICD's 2023-24 NFP Governance and Performance Study found the time commitment for NFP directors continues to increase considerably.

The Principles have been refined extensively. Ten principles have been consolidated into eight, with new principles on sustainability and organisational culture and a short resource on how to elevate the client voice into board decision making. The Principles also feature a governance checklist for smaller NFPs and real-life case studies from senior directors.

Given the diversity of size, scope and scale of the NFP sector, it will be a matter for each NFP board to carefully consider how best to apply the Principles within their own context.

In developing this edition of the Principles, extensive consultation has been undertaken with directors, policymakers, legal experts and other stakeholders to ensure that it reflects the wisdom of the broader NFP sector.

On behalf of the AICD, I thank the many people who have contributed to the development of this resource which will help NFPs in their important work.

As the CEO of AICD and also the Chair of an NFP, I am delighted to commend these updated NFP Governance Principles and reinforce the AICD's commitment to standing with the NFP sector as part of our goal to strengthen Australian society through world class governance.

Contents

PART 1

Minister Foreword 2

AICD CEO Foreword 3

AICD NFP Governance Principles - Snapshot 5

About the Principles 9

- How to use the Principles

Introduction 10

- What is the NFP sector?
- What is an NFP?
- What is a charity?
- Who is an NFP director?
- Dynamic and challenging environment

Key director obligations and regulatory requirements 12

- Legal structure of the NFP
- Director' duties and obligations
- General director duties
- Statutory director obligations
- ACNC Governance Standards
- CATSI Act Organisations
- Key Commonwealth and State regulatory requirements, regulators and oversight bodies

PART 2

PRINCIPLE 1 – PURPOSE, VISION AND STRATEGY 17

- Questions for directors
- Case study – Bruce Cowley FAICD

PRINCIPLE 2 – ROLES AND RESPONSIBILITIES 23

- Questions for directors
- Case study – Susan Pascoe AM FAICD

PRINCIPLE 3 – BOARD COMPOSITION AND EFFECTIVENESS 30

- Questions for directors
- Case study – David Shortland MAICD

PRINCIPLE 4 – RISK MANAGEMENT 40

- Questions for directors
- Case study – Lisa Chung AM FAICD

PRINCIPLE 5 – PERFORMANCE AND ACCOUNTABILITY 48

- Questions for directors
- Case study – Rosina Hislop FAICD

PRINCIPLE 6 – STAKEHOLDERS 56

- Questions for directors
- Case study – Flourish Australia

PRINCIPLE 7 – SUSTAINABILITY 61

- Questions for directors
- Case study – Good Sammy Enterprises

PRINCIPLE 8 – ORGANISATIONAL CULTURE 66

- Questions for directors
- Case study – Ken Dean FAICD

PART 3

- Acknowledgements 73
- Appendix A: Key Commonwealth and state regulatory requirements 74
- Appendix B: Elevating the client voice – Resource for NFP boards 76
- Appendix C: Resources 81

AICD NFP Governance Principles - Snapshot

PRINCIPLE 1 – PURPOSE, VISION AND STRATEGY

KEY POINTS

- A core responsibility of an NFP board is to contribute to defining, documenting and realising the NFP's purpose, vision and strategy.
- The purpose, vision and strategy represent the spine or heart of an NFP and serve as both the motivation and the guiding lights for the decisions and actions of the organisation.

Questions for directors

- How frequently does the board review the NFP's purpose and vision and ensure the NFP's activities are in alignment?
- If the NFP is a registered charity, does the board monitor that its activities are consistent with its charitable purpose?
- What is the best way to co-design the strategy with management?
- Does board reporting provide visibility on the progress of the strategy and its key initiatives?
- How is the NFP's purpose, vision and strategy documented and communicated to stakeholders?

GO TO PRINCIPLE 1 →

PRINCIPLE 2 – ROLES AND RESPONSIBILITIES

KEY POINTS

- An NFP board should define and document roles and responsibilities as a foundational component of effective governance.
- An NFP board should have visibility and oversight of the role of key third party service providers, including understanding their performance.
- Comprehensive and clear board reporting, including engagement with management, ensures that the board is well-informed and can make sound decisions.

Questions for directors

- Does the board (and any board committees) have charters that set out the roles and responsibilities of the directors?
- Is there an organisation delegation policy and are delegations clear and regularly reviewed? Does the board understand what it cannot delegate?
- Is the board clear about the roles and responsibilities of the CEO, including the relationship between the board and CEO?
- Does the board have visibility of key employee and volunteer recruitment and training policies, including how people are screened and trained?
- Does the board approve key service provider arrangements, including key fundraising contractors?
- Is the board receiving clear, relevant reporting that enables directors to ask questions and challenge management?

GO TO PRINCIPLE 2 →

PRINCIPLE 3 – BOARD COMPOSITION AND EFFECTIVENESS

KEY POINTS

- The board should have an appropriate mix of people with a diverse set of skills, experience, and backgrounds, that aligns with the NFP's purpose, vision and strategy.
- The selection of directors through a transparent process is essential for maintaining trust and accountability.
- Board evaluations, including on composition, effectiveness, and governance structures, should be conducted periodically.

Questions for directors

- Is there a rigorous process for appointing, electing and inducting directors that clearly outlines the requirements and expectations of directors?
- What expertise and experience (including board diversity) would the board benefit from including in the board's skills matrix to address the evolving needs of the organisation?
- Are board meeting agendas structured to allow sufficient time for discussion and opportunity for all directors to contribute?
- What regular actions does the board take to review its performance?

GO TO PRINCIPLE 3 →

PRINCIPLE 4 – RISK MANAGEMENT

KEY POINTS

- The board should oversee a risk culture that aligns with purpose, vision and strategy.
- Board decision-making should be informed by a risk management framework that sets out an appropriate risk appetite.
- The board should periodically review the risk management framework, conduct scenario planning and dynamically assess emerging risks.

Questions for directors

- Does the board understand the underlying organisational risk culture?
- Does the board understand how the risk appetite statement and risk register operates, with risk owners and risk treatments in place?
- Does the board periodically conduct scenario planning and assess contingency plans?
- Has the board considered recommendations from internal audits?
- Does the board provide adequate support and resources for assurance activities?
- When was the last time the NFP's risk management approach was externally reviewed?

GO TO PRINCIPLE 4 →

PRINCIPLE 5 – PERFORMANCE AND ACCOUNTABILITY

KEY POINTS

- Directors should closely oversee the performance of the NFP with a focus on its financial health and whether it is effective in achieving its purpose.
- The board should set a tone of internal accountability and transparency from the top, including holding management to account and ensuring that employees and volunteers understand the NFP's performance.
- External accountability extends beyond annual reporting and the AGM to a focus on dynamic and proactive transparency and building trust and confidence with key stakeholders.

Questions for directors

- Is the board receiving the right information to form a view on the financial performance and financial position of the NFP?
- Are there specific financial measures or ratios that the board should be focused on?
- How does the organisation measure the impact of its programs and service?
- Do the performance and consequence management settings in the NFP align with the strategic plan and board expectations of employees?
- Other than the annual report and AGM, how does the NFP demonstrate accountability and transparency with its stakeholders?

GO TO PRINCIPLE 5 →

PRINCIPLE 6 – STAKEHOLDERS

KEY POINTS

- The board should consider stakeholder views as providing valuable insights into whether the NFP is achieving its purpose, and as an early warning signal for key risks.
- The board oversees a framework in engaging with key stakeholders and considering their interests, having regard to the purpose and strategic objectives of the organisation.
- Open and transparent engagement with stakeholders fosters trust and goodwill towards the NFP which can benefit the NFP in attracting volunteers, donations, and partnerships.

Questions for directors

- Which stakeholders are vital to the organisation's long-term success and what are their perspectives and interests?
- Does the organisation need a formal stakeholder governance framework?
- How do stakeholder perspectives inform board decision-making, management oversight and risk management?
- How clear are the board's and management's roles in stakeholder engagement?

GO TO PRINCIPLE 6 →

PRINCIPLE 7 – SUSTAINABILITY

KEY POINTS

- Sustainability considerations are central to best practice governance and should be regularly considered by all NFP boards in a manner that is consistent with purpose, including charitable purpose.
- An NFP's purpose, vision and strategy should guide the organisation's approach to sustainability with the board overseeing a framework for evaluating the risks and opportunities related to sustainability.
- Given the broad set of sustainability considerations, boards should be clear on their approach to sustainability, especially when it comes to resource allocation.

Questions for directors

- How does the board's approach to sustainability align with the purpose and vision of the NFP?
- Has the board assessed the impact of sustainability issues on the NFP?
- Has the board considered how peer organisations are responding to sustainability issues?
- What governance structures and processes will enable the board to oversee the NFP's actions on key sustainability issues?

GO TO PRINCIPLE 7 →

PRINCIPLE 8 – ORGANISATIONAL CULTURE

KEY POINTS

- Directors should lead by example in modelling the organisational culture they expect of employees and volunteers.
- Assessing and monitoring an NFP's organisational culture requires the board to proactively obtain meaningful information on key elements of culture, including employee and volunteer satisfaction and compliance with relevant laws.
- The board has a key role in promoting employee and volunteer recognition and meaning, including through ensuring sufficient resources are dedicated to recognition.

Questions for directors

- Has the board defined an appropriate set of core values and desired cultural attributes for the organisation, which align to purpose and strategy?
- Does the board set a clear example and provide direction to the NFP regarding the behaviour that is expected of employees and volunteers?
- Does the board hold the CEO to account for ensuring the core values and desired cultural attributes are present in the organisation?
- Does board reporting enable directors to obtain insight into organisational culture?
- Are emerging areas of cultural focus, such as addressing sexual harassment, receiving board and senior management attention?
- Is there a strategy for recognising employees and volunteers that is aligned with the board's desired organisational culture?

GO TO PRINCIPLE 8 →

About the Principles

The 2024 Not-for-Profit Governance Principles (Principles) refreshes and updates the 2019 edition and the original 2013 edition.

The Principles have been developed by the AICD as a key part of its commitment to promote good governance of the NFP sector consistent with the AICD's purpose 'to strengthen society through world-class governance'.

The Principles are not a 'one size fits all' framework. They provide practical guidance for directors and responsible persons on better practice approaches to NFP governance. The Principles draw on experienced director and stakeholder views, and sector and regulator guidance.

Boards of individual NFPs are best placed to determine the relevance and applicability of the Principles to the unique circumstances and context of their organisation.

Where relevant, the AICD has utilised existing governance guidance developed by other organisations, including regulators and governing bodies, to ensure the Principles are consistent with other frameworks. Key sources are referenced and/or listed in the **Resources** break out boxes within each Principle.

Each Principle consists of the following:

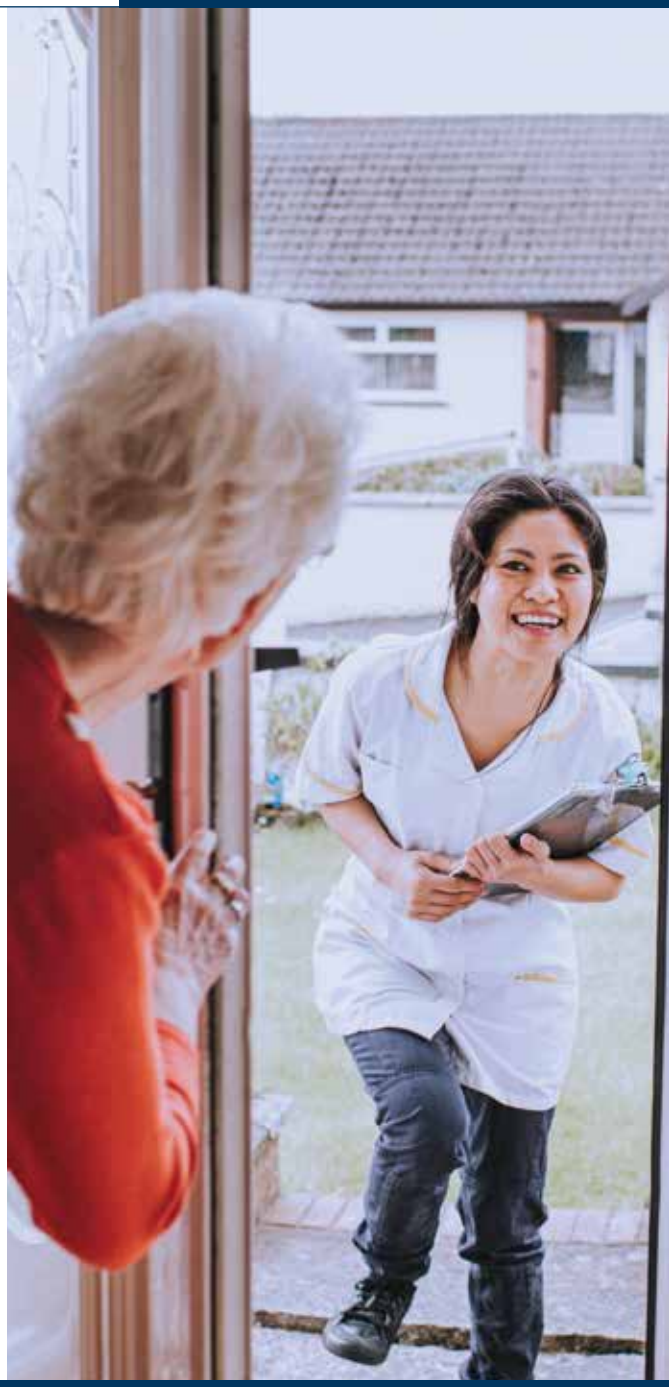
1. Principle
2. Questions for directors
3. Case study
4. Resources

HOW TO USE THE PRINCIPLES

The Principles are designed to be practically applied in several ways.

For example, the Principles can form part of a new director's induction and ongoing learning and development. Boards can self-assess their performance against the Principles. This could be achieved through a deep dive of an individual principle at board meetings with actions to drive continuous improvement or an annual board review to review holistically against all of the principles.

The Principles also serve as reference material for directors, boards and CEOs who report to boards. By actively engaging with the Principles, boards and management can build a culture of continuous learning in achieving good governance.



KEY STATISTICS[1]

600,000
NFPs operate in Australia

225,000
NFPs have registered Australian Business Numbers

60,000
charities are registered with the ACNC

10.5%
Charities alone employ one in 10 Australian workers

50%
Half of charities operating in 2021/22 reported having no paid staff

$13.4 billion
was donated to charities in 2021/22

32.6%
A third of adult Australians undertook formal volunteering in the 12 months to April 2023

Introduction

WHAT IS THE NFP SECTOR?

The NFP sector is comprised of a diverse range of organisations that are a central component of the economy and foundational to the successful functioning of Australian society.

WHAT IS AN NFP?

NFPs and the NFP sector can be called by different names, including the third sector, voluntary sector, for-purpose organisations, and the social economy. For the purposes of the Principles the AICD has adopted the 'NFP sector' to cover all organisations in Australia established for a collective, public or social purpose that do not operate with the goal to generate profit for their owners.

NFPs deliver services and products to their members, to their clients or to the Australian community more broadly across a vast number of industries and areas, including education, aged care, sport, arts, religious worship, indigenous areas and the environment.

Almost all NFPs rely on the contribution of volunteers to undertake their operations. These volunteers range from individuals who contribute through volunteering time or skills at a 'grass roots level', such as assisting with sports coaching, through to serving as a director on the board of an arts NFP.

WHAT IS A CHARITY?

A charity is a specific NFP that is established with a charitable purpose and is registered under the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) (**ACNC Act**). Charities may register with the ACNC. Whilst it is not mandatory, it may be a pre-requisite for tax concessions or grants.

Charities must pursue charitable purposes only. The States and Territories rely on the common law definition of charity, whilst at a federal level, there are 12 charitable purposes or charitable subtypes as set out in the *Charities Act 2013* (Cth) **(Charities Act)**.

WHO IS AN NFP DIRECTOR?

The Principles use the term 'director' to denote individuals that sit on the governing body of the NFP (e.g. board, council, or committee) and

1 Sources: **ACNC – Australian Charities Report – 9th Edition** (June 2023), **NFP Sector Development Blueprint Issues Paper** (October 2023), **Volunteering Australia - Ongoing trends in volunteering in Australia (November 2023)**

are responsible for overseeing the NFP, its finances, strategic direction and whether the NFP is meeting its purpose and vision.

Reflecting the diversity of the NFP sector an NFP may have a different name for directors, including trustees, members, officers, elders, councillors, and governors. It is not uncommon for those involved in the senior management of the NFP, such as the CEO, to also sit on the governing body in the capacity as an executive director.

In many smaller NFPs, a director may also have a role in the organisation, for example a director of a sporting club may also volunteer as a coach or be a player or be a parent of a player.

Directors and those involved in the governance of charities are 'responsible persons', and their names are listed on the ACNC **Charity Register**. The responsibilities of these directors is covered in more detail in the next section.

DYNAMIC AND CHALLENGING ENVIRONMENT

Since the Principles were last updated in 2019, there has been an evolution in governance expectations and practices of all Australian organisations. This has been driven by changing regulatory obligations as well as increasing stakeholder and community expectations. Directors of both for-profit and NFP organisations have been grappling with a broadening scope of risks and issues that boards are increasingly expected to oversee.

Central to this governance evolution have been the following drivers:

- Spotlight on governance failures from numerous Royal Commissions over the past decade;
- Expectations for stakeholder governance and client/customer voice in organisational decision-making;
- New regulatory obligations and rising community expectations in respect of organisational culture, diversity and inclusion;
- Business disruptions, changing work habits and customer behaviour during and after the period of the COVID-19; and
- Sustainability considerations and emerging non-financial risks, notably cyber security, data management and climate change.

The Principles, where appropriate, seek to provide guidance on these areas.

Key director obligations and regulatory requirements

The law recognises that directors have distinct roles and responsibilities in making decisions and overseeing the activities of the NFP.

Directors of NFPs need to be aware of the specific legal obligations they face under Commonwealth and State legislation and common law. In some cases, personal liability attaches to these obligations.

There are also a number of key regulatory frameworks that apply to all organisations in Australia that directors should be familiar with.

LEGAL STRUCTURE OF THE NFP

The legal structure of the NFP is a key factor in determining what specific obligations a director and the organisation itself may face.

In Australia there are a number of common legal structures (at a high level):

- Community groups that are not incorporated ('unincorporated associations');
- Incorporated associations (regulated under State and Territory legislation);
- Companies, generally companies limited by guarantee under the *Corporations Act 2001* (Cth) (**Corporations Act**);
- Co-operatives;
- Indigenous corporations; and
- Trusts.

A high number of companies limited by guarantee have a licence under section 150 of the Corporations Act which allows them to leave out the word 'Limited' from their name, on the condition that the organisation:

- Is a registered charity; and
- Has a constitution which prohibits the payment of fees to directors.

A director should familiarise themselves with the legal structure of their organisation as it is fundamental to understanding legal obligations. For instance, an incorporated association is established under State/Territory law while a company is established under the Corporations Act. This distinction is borne out in the accompanying example at **Figure 1**.

The ACNC provides **guidance** on different legal structures as they apply to charities, while Justice Connect has extensive **resources** on legal structures for NFPs.

FIGURE 1 - EXAMPLES OF NFP CORPORATE STRUCTURES

DIRECTORS' DUTIES AND OBLIGATIONS

There can often be a misconception that NFP directors do not have the same directors' duties or legal obligations as for-profit directors because they are volunteering their time or the organisation is small. This is not correct. Directors' duties apply consistently to NFP directors and for-profit directors and they face many of the same personal liability risks, regardless of the size, structure or complexity of the organisation.

GENERAL DIRECTORS' DUTIES

There are four general directors' duties. These duties are found in common law (that is law developed by judges) and/or in key legislation that applies to directors, including the Corporations Act, ACNC Regulations (in the form of the Governance Standards) and *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (**CATSI Act**).

The AICD Director tool, **General Duties of a Director**, provides additional guidance to assist NFP directors understand these duties. Currently, directors of charities that are structured as companies that are limited by guarantee are not subject to the **individual duties** under the Corporations Act as they are replaced by the ACNC Governance Standards.

Read the AICD's **Practice Statement** for guidance on how directors can discharge the 'best interests' duty effectively in practice.

Table 1 - General directors' duties

Act with reasonable care, skill and diligence	• Directors must make use of their skills and experience for the benefit of the NFP and give sufficient time and thought to tasks and decisions that the director is required to make. This includes overseeing the strategic direction and financial performance of the NFP.
Act in good faith and for a proper purpose	• Acting in good faith means that directors must act honestly and fairly, and requires that directors act in the best interests of the NFP (rather than in their own personal interests). • A 'proper purpose' means that a director's decisions must further the organisation's purpose and be made within the board's legitimate authority.
Not to improperly use information or position	• Information provided to directors to support them to undertake their roles must only be used for the benefit of the organisation. Directors cannot use the information provided to them to gain an improper advantage for themselves, another person or another organisation.
Disclose and manage conflicts of interest	• This duty applies to both actual and potential conflicts of interest. While conflicts can be common in NFPs, directors must disclose and manage them appropriately.

STATUTORY DIRECTOR OBLIGATIONS

In addition to the general directors' duties, there are a number of statutory director obligations that NFP directors should be aware of when undertaking their governance duties.

Again, personal liability can result from a breach of these duties. The following is a non-exhaustive list of specific director obligations.

Table 2 - Statutory director obligations

Prevent insolvent trading	• This is a separate duty under Commonwealth laws and some State laws. It is closely linked to the duty to use reasonable care with respect to the NFP's finances. • A director must not allow the NFP to incur further debts if the director knows or suspects that the NFP cannot pay its current debts or will be unable to if it takes on further debt. **Insolvency safe harbour** • Directors of NFPs incorporated under the Corporations Act can access the insolvency safe harbour that provides protection to directors seeking time to resolve the financial challenges of the NFP. Further information on the safe harbour is available here.
Workplace health and safety (WHS)	• Directors must exercise due diligence, or 'reasonable care', to ensure the organisation and management are complying with the relevant obligations, including that resources and processes are used to eliminate or minimise risks and safety. • The AICD **Director tool: Workplace health and safety** provides an overview of directors' duties with regard to WHS. The positive duty under WHS laws, also applies to workplace sexual harassment. See AICD resource **Positive duty to prevent workplace sexual harassment – A director's guide** for further guidance under employment and anti-discrimination law.
Environmental law	• Commonwealth and State environmental laws make directors personally liable for breaches by their organisations where a director has not taken reasonable steps to prevent the offence.
Taxation and superannuation	• Directors of an organisation that fails to meet pay as you go (PAYG) withholding obligations and/or does not pay superannuation guarantee amounts can become personally liable for a penalty equal to the unpaid amount. • When an amount remains outstanding, the Australian Taxation Office may issue a director penalty notice. • In certain circumstances, directors may also be personally liable for a company's goods and services tax (GST) liabilities.
Director identification numbers (director ID)	• Directors of NFPs that are incorporated either under the Corporations Act or the CATSI Act are required to obtain a director identification number (director ID). Further details on how to apply for a director ID can be found on the Australian Business Registry Services **website**. • The AICD also has guidance on director IDs **here**.

ACNC GOVERNANCE STANDARDS – REGISTERED CHARITIES

For **registered charities**, the **ACNC Governance Standards** are one of the key legislative frameworks that directors of charities should be familiar with.

The ACNC Governance Standards are the minimum standards that relate to the governance and management of the charity. Organisations must meet the ACNC Governance Standards in order to be registered as charities with the ACNC. Once a charity is registered, it must continue to comply with the standards in order to retain its registration.

The Governance Standards are:

1. Purposes and not-for-profit nature
2. Accountability to members
3. Compliance with Australian laws
4. Suitability of Responsible People
5. Duties of Responsible People
6. Maintaining and enhancing public trust and confidence in the Australian not-for-profit sector

For the directors of charities, **Governance Standard 5**, is the key set of obligations that are central to their role. A director of a charity is a 'responsible person'. The Governance Standard is summarised in **Figure 2.**

Failure to comply with one or more of the Governance Standards by the charity may result in:

- The use of the Commissioner's enforcement powers, including warnings or directions being issued to the charity; and
- Revocation of charity registration, resulting in the charity losing access to certain government funding, exemptions, concessions and benefits.

The ACNC provides extensive information on the ACNC Governance Standards **website**.

CATSI ACT ORGANISATIONS

CATSI Act organisations are Aboriginal and Torres Strait Islander corporations that are registered and regulated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (**CATSI Act**).

The CATSI Act is a Commonwealth law that allows Indigenous groups to form corporations that suit their cultural needs and aspirations. The CATSI Act also establishes the role of the Office of the Registrar of Indigenous Corporations (**ORIC**), which oversees the governance and compliance of CATSI organisations.

Some CATSI organisations, such as registered native title bodies corporate, have additional responsibilities under other laws. Most CATSI organisations are not-for-profit, which means they do not distribute any surplus or profit to their members or shareholders. Instead, they use their funds to pursue their charitable or community purposes. Some CATSI organisations may also be registered as charities with the **ACNC**.

Broadly the obligations on directors and responsible persons of CATSI organisations align or are consistent with those obligations of directors of other NFPs.

Further information on the duties of directors of CATSI organisations is available on the ORIC website **here**. Separately, ORIC and ASIC have published a fact sheet on the differences between CATSI and Corporations Act entities, available **here**.

FIGURE 2 - ACNC GOVERNANCE STANDARD 5 - DUTIES OF RESPONSIBLE PEOPLE

- To act with reasonable care and diligence
- To act honestly and fairly in the best interests of the charity and for its charitable purpose
- Not to misuse their position or information they gain as a responsible person
- To disclose conflicts of interest
- To ensure that the financial affairs of the charity are managed responsibly
- Not to allow the charity to operate while it is insolvent.

KEY COMMONWEALTH AND STATE REGULATORY REQUIREMENTS, REGULATORS AND OVERSIGHT BODIES

In Australia, there are a myriad of different Government regulators and oversight bodies that play a role in setting the governance obligations on NFPs and their activities, including fundraising. The relevance of the different regulator or oversight body will differ by industry and nature of the NFP.

NFP directors will often encounter these bodies in understanding and having oversight of business activities of the NFP. Directors should seek assurances from management that the organisation is complying with relevant laws.

An oversight body may have specific regulatory powers and may set specific governance obligations of a certain industry or population of NFPs. For example, the **Australian Sports Commission** links funding for national sporting organisations to meeting certain expectations, including governance processes. The following **Table 3** is a non-exhaustive list of key regulators and oversight bodies of NFPs in Australia.

Table 3 - Key Commonwealth and State Regulatory Requirements, Regulators and Oversight Bodies

Australian Charities and Not-for-profits Commission (ACNC)	All registered charities
Australian Securities and Investments Commission (ASIC)	All NFPs incorporated under the Corporations Act, but with some of the functions performed by ASIC for non-charitable companies (such as providing updates about changes to directors) being performed by ACNC for registered charities
State/Territory fair trading authorities	NFPs established under state associations laws
Office of the Registrar of Indigenous Corporations (ORIC)	CATSI Act organisations
Australian Taxation Office (ATO)	All NFPs
Fair Work Ombudsman (FWO)	All NFPs
Aged Care Quality and Safety Commission	Aged care providers
NDIS Quality and Safeguards Commission	Disability providers under the National Disability Insurance Scheme (NDIS)
State/Territory social services departments	Disability providers
State/Territory education department	Education providers
Australian Children's Education & Care Quality Authority	Childcare providers
State/Territory health departments	Health care providers
Australian Prudential Regulation Authority (APRA)	Banks, credit unions, building societies, general insurance and reinsurance companies, life insurers, private health insurers, friendly societies, and superannuation trustees
Tertiary Education Quality and Standards Agency (TEQSA)	Higher education providers
Australian Sports Commission (ASC)	National sporting organisations

Principle 1 - Purpose, vision and strategy

PURPOSE

The reason or reasons the NFP exists

KEY POINTS

- A core responsibility of an NFP board is to contribute to defining, documenting and realising the NFP's purpose, vision and strategy.
- The purpose, vision and strategy represent the heart of an NFP and serve as both the motivation and the guiding lights for the decisions and actions of the organisation.

PURPOSE

An NFP's purpose is the reason for its existence and is the centrepiece of NFP governance. The decision-making of the board and the activities of the NFP should be consistent with this purpose(s).

Registered charities are required to have a 'charitable purpose' as defined under the Charities Act. This registered charitable purpose will be consistent or mirror the purpose the charity has defined for itself in its constitution or governing rules. Further detail is provided in **Box 1.1**.

For NFPs and the subset of registered charities, core questions can assist a board in setting the purpose:

- Why does this organisation exist?
- What does this organisation do or plan to do?
- Who are the beneficiaries of the organisation?
- How does the organisation provide value for its beneficiaries?
- How will the organisation's purpose align with our NFP status?

It is better practice for the purpose to be clearly articulated and documented in the NFP's constitution or governing rules. For NFPs, especially charities, it is common to develop a mission statement that is consistent with its charitable purpose.

BOX 1.1 - CHARITABLE PURPOSE

All 60,000 registered charities in Australia must have a charitable purpose.

- The Charities Act lists 12 charitable purposes. Examples include 'advancing education', 'advancing religion' and 'preventing or relieving the suffering of animals'.
- Generally the ACNC will determine the charitable purpose at the time the charity seeks registration. This determination will be based on information provided by the charity, including its governing documents.
- A charity can have more than one charitable purpose.
- Of note, sporting clubs, social clubs and trade groups may not fit the meaning of 'charitable purpose'.

Further information is available on the ACNC website.

All directors, regardless of when they join the board, should have a clear understanding of the NFP's purpose and how it is defined.

For example, the mission of RSPCA Australia is to 'prevent cruelty to animals by actively promoting their care and protection' and the purpose is 'to make animals' lives better'. This aligns with the Charities Act charitable purpose of 'preventing or relieving the suffering of animals.'

The documented purpose of the NFP should ultimately be the central guiding factor on the board's decision-making, including setting the NFP's vision and strategy.

Revisiting purpose

For most NFPs the purpose of the organisation will remain consistent throughout the life of the organisation. However, for some NFPs the purpose may change or evolve as the organisation undertakes its activities. This evolution may occur subtly over a number of years.

A board should regularly reflect and monitor the alignment between the NFP's activities and its purpose, as part of their strategy cycle. In specific cases, the board may conclude that the nature and context of the NFP are such that the purpose of the NFP should be amended. When amending purpose, the leadership of the NFP should engage with key stakeholders, including members, employees, volunteers, clients and donors. This is especially important when a board is considering a major change such as a merger with another NFP or the withdrawal of services and programs.

As revising purpose often entails amending the organisation's constitution, the NFP in most cases will have to seek the approval of the members of the NFP. External legal advice on the steps to amend purpose may also be appropriate, including consideration of how any amendment may impact registration with the ACNC and, in the case of charities, access to tax concessions.

VISION

A vision is a clear and compelling statement of what an NFP wants to achieve in the future that is consistent with its purpose.

A clearly articulated vision provides direction, inspiration and motivation for the people who work in the organisation.

A board should consider the following key factors in setting the NFP's vision:

- The vision should align with or fulfil the NFP's purpose(s);
- The vision should be realistic, but also ambitious and challenging; and
- The vision should be able to be communicated effectively to stakeholders, both internally and externally.

The vision should be reviewed by the board periodically and revised where appropriate to reflect changing circumstances and feedback.

Small NFP governance checklist: Principle 1

- ☐ The NFP's organisational purpose is understood by directors, employees and volunteers.
- ☐ The board has a vision and strategy document setting out the next 3 – 5 years.
- ☐ In developing the vision and strategy the board has considered the types, and levels, of risk the NFP is prepared to take on.
- ☐ The board understands the resources, including employees and volunteers, that will be needed to achieve the strategic goals.
- ☐ The NFP has used practical methods, such as the organisation's website, to communicate purpose, vision and strategy to employees, volunteers and other key stakeholders.

VISION

Where the NFP is going and what it is seeking to achieve

STRATEGY

The NFP's strategy is 'how' it will fulfil its purpose and pursue its vision. Developing the strategy in partnership with management is a key role of the board. It sets the direction of the NFP, and encompasses the resources and capabilities needed to achieve the desired vision. Setting a smaller number of strategic priorities is preferable to ensure the board and management are focused on maximising the NFP's impact.

Typically, a strategy or strategic plan will cover a 3-5 year period and include measures or indicators of performance and progress. A strategy is supported by operational plans which run for shorter time periods and includes further detail on how the strategy will be implemented by management.

Key considerations for strategy development by the board and management include:

- The purpose and vision of the NFP;
- The external environment of the NFP, which includes the political, economic, social, technological, environmental and legal factors that affect the organisation's performance and opportunities;
- The risk appetite of the NFP, discussed in greater detail in **Principle 4 – Risk management;**
- The internal capabilities and resources of the organisation, which include the infrastructure, culture and people that enable the organisation to deliver its purpose and strategy. A board should understand the strengths, weaknesses, opportunities and threats of the organisation's internal capabilities;
- Financial implications such as funding, impact on revenue sources under various scenarios. For NFPs, tomorrow's revenue is never guaranteed and funding can be withdrawn at a moment's notice;
- The stakeholders of the NFP, which include the clients or customers, employees, volunteers, members, suppliers, regulators and the community; and
- How the strategic goals will be measured, including an understanding of the system that will monitor and evaluate the progress and impact of the organisation's strategy and how this will be reported to the board.

Elements of a strategy can include an overarching strategy statement, values of the organisation, goals and key initiatives (**see Figure 3**). See Director tool: Strategic plan development for further guidance on strategy.

Monitoring the strategy

A key role of the NFP board is to monitor the implementation of the strategy and its underlying initiatives. To assist in its monitoring role, the board should oversee effective board reporting and assurance. Reporting to the board is covered in greater detail in **Principle 4 – Risk management.**

The board should provide constructive guidance and support to management, and hold them accountable for the implementation and outcomes of the strategy.

STRATEGY

The plan for making the vision real and fulfilling its purpose

COMMUNICATING PURPOSE, VISION AND STRATEGY

The board has an important role in ensuring that an NFP's purpose, vision and strategy is communicated and is understood by everyone within the organisation, including volunteers, and the key external stakeholders, such as funders and donors.

A clearly understood purpose, vision and strategy is a key mechanism to build trust and commitment across an organisation. In addition, it serves as a valuable articulation of the impact and value of the NFP that can be used to attract and retain external support and funding.

Documenting and communicating purpose, vision and strategy is consistent with the NFP's 'social licence', including meeting expectations on transparency and accountability, as detailed in **Principle 5 – Performance and accountability.**

Questions for directors

- Does the board periodically review the NFP's purpose and vision and consider alignment with the NFP's activities?
- If the NFP is a registered charity does the board monitor that its activities are consistent with its charitable purpose?
- What is the best way to co-design the strategy with management?
- Does board reporting provide visibility on the progress of the strategy and its key initiatives?
- Does the board need to intervene and change any strategies?
- How is the NFP's purpose, vision and strategy documented and communicated to stakeholders?

FIGURE 3 - KEY ELEMENTS OF A STRATEGY

Our purpose
Concise reason for the NFP's existence, towards which its activities and resources are directed.

↓

Our vision
Mid to long term ambitious goals of the NFP.

↓

Strategy statement
The clear objective over the time period of the strategy.

↓

Goals
The most important outcomes the NFP aims to achieve over the strategy time frame.

↓

Measures
The most important metrics that will measure achievement of the goals.

↓

Key initiatives
The initiatives that will enable the NFP to achieve its goals.

Bruce Cowley
FAICD

Chair of the Queensland Trust for Nature, Director of Australian Retirement Trust and Klarna Australia Pty Ltd, and former Chair of MinterEllison.

CASE STUDY: PURPOSE, VISION AND STRATEGY

The purpose and vision are the 'north star' for the NFP that guides the organisation and its decisions, whilst strategy is the 'roadmap' for how the organisation achieves its purpose and vision, according to Bruce Cowley FAICD. All three elements need to be aligned to ensure resources are focused in serving the best interests of the organisations.

Purpose

Mr Cowley noted that the board of an NFP rarely has an opportunity to create a 'purpose' from scratch unless they are establishing a new organisation. Charities which must register with the ACNC to apply for tax concessions from the ATO must ensure that they operate within their approved purpose to ensure continuity of their gift deductible status. Boards should build buy in from key stakeholders on the NFP's purpose and ensure alignment between the needs of those whom the NFP was formed to support and those who wish to provide the support.

Vision

Mr Cowley said, "compared to a for-profit which often has access to greater resources and an ability to offer salaries, the vision becomes more important for an NFP in attracting employees and volunteers who have 'bought in' and connect to why the organisation exists." As long-term stewards, the 'vision' of the NFP needs to be ultimately owned by the board. Boards should dedicate time to ensuring the vision is clearly articulated and understood by key stakeholders.

Strategy

Mr Cowley highlighted that boards need to be active during the strategy cycle working with management and bringing key stakeholders such as employees and clients along on the journey. This does not mean 'rubber stamping' strategy developed by management or setting strategy independently of management. The strategy should be reviewed annually to ensure it remains achievable and resourced sustainably.

Boards should not be afraid to adjust the strategy if the underlying assumptions change or it is clear that what the organisation is doing is not working. The board must be laser focused on what strategic activities will drive the greatest impact with limited resources. "NFPs are resource constrained at the best of times so boards should not be throwing good money after bad," said Mr Cowley.

Key questions for the board to consider include:

- Who will be involved during strategy development?
- How does the strategy align with the purpose and vision?
- Who will strategy implementation be delegated to?
- How will the board monitor progress?
- What does success look like?

Scope creep

Mr Cowley said setting clear KPIs and regularly reviewing them assists in limiting scope creep and staying true to the organisation's purpose and vision. However, where a board believes that there are opportunities for it to have impact beyond its existing purpose and vision, the board may consider it necessary to seek approval to amend the organisation's constitution to update its purpose or vision.

Principle 2 - Roles and responsibilities

KEY POINTS

- An NFP should define and document roles and responsibilities as a foundational component of effective governance.
- An NFP board should have visibility and oversight of the role of key third party service providers, including understanding their performance.
- Comprehensive and clear board reporting, including engagement with management, ensures that an NFP board is well-informed and can make sound decisions.

Comprehensive and clear roles and responsibilities across the NFP, including at the board level, are a feature of good governance. Clear roles and responsibilities assist in avoiding uncertainty, duplication, or conflict of interests, and ensure accountability, transparency, and efficiency. They also enable the board to delegate authority and monitor performance, and to support the management and staff in achieving the organisation's goals.

The AICD has various resources on roles and responsibilities that can assist NFP directors, which are outlined in **Box 2.1**.

ROLE OF THE DIRECTORS AND THE BOARD

NFP directors, in the form of the board, are collectively responsible for the overall governance and strategic direction of the organisation. The board must work to ensure there are resources available for the NFP to pursue its purpose, vision and strategy and monitor its performance, including how risks are managed and controlled. As a result, the board is ultimately accountable for the NFP's activities and performance. See **Principle 4 – Risk management** and **Principle 5 – Performance and accountability** for further guidance.

The board should require clearly documented roles and responsibilities across the NFP, covering the board, the management team, employees and also volunteers where appropriate.

FIGURE 4 - DIMENSIONS OF THE BOARD'S ROLE

PURPOSE, VISION AND STRATEGY

Define and establish the NFP's purpose, vision and strategy to guide the NFP's activities and direction.

RESOURCES

Make resources available to achieve the purpose, vision and strategy.

PERFORMANCE

Monitor the NFP's performance.

RISK

Oversee the effective management and control of risks.

ACCOUNTABILITY

Report progress and hold individuals to account.

CULTURE AND COMPLIANCE

Set the tone from the top on the NFP's organisational culture and compliance with legal requirements such as tax and superannuation, in the context of director liability.

The role of the board may vary depending on the nature of the NFP. The boards of smaller organisations, or those without paid employees, may have more of an operational focus, whereas for larger operations, the role of the board will likely be more strategic. The line between responsibilities of management and board is often challenging to define and will vary with the NFP's circumstances.

Directors should bring an inquisitive mind to serving on the board of the NFP. This includes constructively challenging management.

The creation of a board charter assists the directors in meeting their legal obligations by setting out the board responsibilities and how it will operate. Typical matters covered by board charters include:

- Role of the board, CEO, chair, company secretary;
- Board responsibilities and board membership;
- Independence and composition;
- Committees;
- Meetings;
- Conflicts management;
- Access to management and independent advice;
- Induction and continuing training; and
- Performance review.

THE ROLE OF THE CHAIR

The chair role is a key leadership position and is central to the governance of the NFP. Key responsibilities include:

- Representing the board in its accountability to members and stakeholders including at, and between, member meetings; and
- Collaborating with the CEO and representing the public face of the organisation to its broader stakeholders and the community.

The chair has a key role in facilitating effective meetings and liaising with management on the agenda, board papers and reporting. It is also important that there is a strong, open and collegiate relationship between the chair and the CEO or Managing Director of the NFP.

Typically, chairs are elected to office by their fellow board members although the constitution of some NFPs may provide for the chair to be elected or appointed directly by the members of the organisation.

Better practice is for the chair's responsibilities to be documented in the organisation's governing document, the constitution, and articulated in further detail in a board charter.

RELATIONSHIP BETWEEN THE CHAIR AND CEO

An effective relationship between the chair and CEO is important for good governance. The chair plays a critical role in communicating and evaluating CEO performance through conveying the views of the board, especially in the case of underperformance.

The relationship needs to primarily be a 'business relationship' where professional trust and respect is paramount and where the chair can act as a sounding board to the CEO.

The chair and CEO should meet from time to time between board meetings to help set board agendas, debrief following board meetings, exchange updates (positive and negative in nature) on relevant/current issues, and give guidance on material issues impacting the organisation. However, boards should be mindful that any major decisions that require board approval is brought to the full board, rather than just the chair.

BOX 2.1 - AICD RESOURCES ON ROLES AND RESPONSIBILITIES

- **Director tool: Role of the board**
- **Director tool: Role of the chair**
- **Director tool: Role of the non-executive director**
- **Director tool: Role of the executive director**
- **Director tool: Role of the company secretary**
- **Director tool: Board charters**
- **Director tool: Board committees**
- **Director tool: Role of the audit committee**

DELEGATION OF AUTHORITY

The board of the NFP, subject to its governing documents, can often choose to delegate part of their authority to others, such as a board committee, management and staff.

The delegation should be recorded in the board's minutes. Good governance practice is for the board to establish a formal written list detailing the delegation of authority and attaching the list within their governance documents or board charter. Delegations should also be documented in delegation policies that can be accessed by the relevant employees. Delegations should also be periodically reviewed by the board.

Directors cannot delegate directors' duties individually or collectively as a board. Directors should maintain clear oversight of the delegate individual(s).

Increasingly a range of Commonwealth and State legislation is imposing non-delegable duties on directors individually and collectively (including in relation to Workplace Health & Safety and Child Safety), so boards should ensure they have clear understanding of which duties must be discharged by the board itself and cannot be delegated to management or committees.

BOARD COMMITTEES

The boards of larger NFPs often delegate work to committees, to enable a more effective consideration of complex or specialised issues and to use directors' time more efficiently. Board committees comprise of directors and in some cases include external committee members. Committees make recommendations for action to the board, thereby ensuring that the board retains collective responsibility for the organisation's decision-making.

Each board will make decisions on the number and kind of committees that will serve the board function most efficiently. This process should ensure that the board's governance function is optimised such that the relevant committees add value to the NFP. Committees may be of an ongoing or 'standing' nature like the audit committee or may be formed for a specific short-term project, such as a particular information technology project. Audit, risk, people and remuneration, sustainability and nominations are common committees. Other committees may be necessary for organisations in specific NFP sectors. For instance, a health provider may have a care committee. In certain industries, such as aged care, the establishment of a particular committee may be mandated via the regulatory framework that applies to that industry.

As discussed in greater detail in **Principle 3 – Board composition and effectiveness** and **Principle 6 – Stakeholders**, NFPs across many sectors are seeking to establish mechanisms to build in lived experience and client voice into governance structures and board decision-making. While a client or consumer body may be advisory in nature and not be a constituted board committee, they will often have a board members(s) sitting on them.

The board remains accountable for the operation of committees and for the use of any delegated authority by those committees. The establishment of a board committee should be comprehensively documented, with reporting to the board and regularly reviews of its effectiveness.

At a minimum, a committee's governing charter or terms of reference should cover:

- The committee's purpose;
- Its delegated authority (if any);
- Its members;
- Its chair;
- How often it will meet;
- How it will report to the board; and
- How often it will be reviewed.

THE ROLE OF MANAGEMENT

The board oversees purpose, vision and strategy and it is the responsibility of management, led by the CEO, to implement the strategy.

The CEO is the head of the management team and manages the day-to-day operations of the organisation, its people and resources. It is necessary for the board to delegate and empower the CEO to take responsibility for the business operations and management of the NFP. The CEO implements the strategy approved by the board and ensures that the organisation's structure, processes and organisational culture enable it to meet the purpose and strategic goals of the organisation.

In some cases, the CEO may also be a board member and therefore an executive director. The CEO will then sub-delegate certain aspects of those delegated powers to other executives and managers of the organisation. This is commonly effected by a delegations policy proposed by the CEO and approved by the board.

Each executive or managers' responsibilities should also be separately documented in their role statement or position description. Where appropriate, key performance measures and components of variable remuneration may be linked to meeting key responsibilities. Where this is the case, the board has a key role to play in setting appropriate incentives and a transparent framework for monitoring performance and progress. For charities, the board will be required to meet the ACNC's annual reporting obligations regarding **key management personnel remuneration**.

Shared responsibilities

A challenge for many NFP is that core responsibilities may not be located in one business area or team. For example, while the IT team may be responsible for maintaining IT equipment and software, a client facing or fundraising team may have responsibility for how client or donor information is collected, stored and shared. Where responsibility is blurred or unclear it can result in a lack of ownership and ineffective oversight.

The use of maps or other visual aids, as well as scenario testing or workshops may assist staff better understand where key responsibilities sit across an organisation.

THE ROLE OF EMPLOYEES AND VOLUNTEERS

For NFPs of all sizes, responsibilities are cascaded from management through the organisation to employees and ultimately volunteers of the NFP.

- At large organisations the cascading of responsibilities is often done formally, via documented responsibilities and reporting lines.
- At smaller NFPs it may be informal in nature, with employee or volunteers assuming particular responsibilities based on verbal instruction, organisational precedence or personal initiative.

However at both large and small NFPs it is essential that individuals within the organisation have a clear understanding of what is expected of them in terms of their contribution to the NFP's purpose, vision and strategy.

Small NFP governance checklist: Principle 2

- [ ] The roles and responsibilities of the board encompassing governance, oversight, and strategic direction are documented.
- [ ] Each board director understands their individual duties and obligations, consistent with relevant legal and regulatory frameworks.
- [ ] The responsibilities of the management team are well understood and set out in position descriptions.
- [ ] There are processes in place, such as training and induction, to ensure employees and volunteers are aware of their responsibilities, including legal requirements for working with vulnerable people.
- [ ] The board has an understanding of key third party providers, including IT software and system providers.
- [ ] The board receives the necessary reports aligned with the size and complexity of the NFP.

There may be certain responsibilities or organisational values that should be documented in all employees' position descriptions.

To ensure that responsibilities remain current, there should be established processes to update responsibilities, including reflecting changes in the organisational structure or changes in operations.

Volunteers

Volunteers are essential for the success of many NFPs and charities in Australia. They contribute their time, skills, energy and passion to support the purpose, vision, and strategy of the NFP.

While unpaid, volunteers also have roles and responsibilities that should be documented and clearly understood by the respective volunteers and employees. For instance, a volunteer that engages with beneficiaries or clients should understand the expectations on them in providing a particular service and any legal obligations. A key method for ensuring volunteers understand their responsibilities is for the NFP to provide training prior to them commencing their role.

The board should ensure the organisation has appropriate policies and procedures to provide oversight of how volunteers are selected, screened, trained and monitored.

For example, in an education setting:

- Does the board understand how the NFP ensures that a volunteer has a 'working with children' accreditation?
- Does the organisation conduct rigorous reference checks to screen for past behaviours relating to bullying and harrassment?

Where the workforce is a blend of paid workers and volunteers, careful consideration should be given as to whether certain roles should be designed for volunteers, especially from a risk management perspective.

The board should also consider how volunteers can be recognised, celebrated and supported at the NFP. The importance of volunteers is discussed in greater detail in **Principle 8 – Organisational culture.**

THE ROLE OF EXTERNAL PARTY SERVICE PROVIDERS

While it will not be possible for the board to review in detail every service agreement or understand relationships with small providers, effective risk management controls (covered in more detail in **Principle 4 – Risk management**) and board reporting will assist the board meet its responsibilities for overseeing third party arrangements.

For many NFPs, external parties are increasingly key elements in the provision of the NFP's products and services. These external parties commonly include IT infrastructure and software systems, accounting and legal services and professional fundraising bodies. It is also common for other NFPs to be key external parties, including through delivering on the ground services. For example, a state sporting body relies on local sporting clubs to organise teams, practices and competitions in particular geographic areas.

NFP boards should take steps to effectively oversee such key external providers.

Effective oversight helps to ensure that:

- Services are delivered as agreed and in compliance with laws and regulations;
- Resources are used efficiently and achieve value for money; and
- Risks are managed effectively through mitigation strategies such as contract reviews.

BOARD REPORTING

Effective board reporting is essential for ensuring that the NFP is well-governed, managed and is achieving its strategy. The board needs to have access to accurate and timely information to assist in making informed decisions about the NFP's strategy, finances and operations.

Effective board reporting should be:

- **Concise, relevant, and reliable**: The board should not be overwhelmed with information. Reports should be focused on the key issues the board needs to consider;
- **Timely**: The board needs to have access to information in a timely manner so that it can make informed decisions. The information should be accurate and up-to-date;
- **Material**: The board should only receive relevant information to its decision-making;
- **Fit**: The reporting process should be designed to meet the specific needs of the board. The content and format of reports should be tailored to the board's level of knowledge and experience; and
- **Responsive to the board's needs**: The reporting process should be flexible and the board should be able to request additional information or clarification as needed.

Directors should ask management the following questions:

- Is the data trustworthy?
- Does the paper cover all necessary aspects of the issue?
- Is the information up-to-date?
- Is it presented in such a way that a director can readily understand it?
- Is the level of detail, language and content appropriate to a member of the board?
- Are the risks, if any, considered?
- Are options/alternatives discussed?

When the reporting process is effective, it helps to ensure the board is well-informed and can make sound decisions for the NFP. This can lead to more effective governance, risk management and ultimately better outcomes for the NFP's beneficiaries and stakeholders.

See AICD resource on **Board papers** and **sample annotated board paper** for further guidance. See **Principle 3 – Board composition and effectiveness** for more detail on board agendas, meetings, and decisions.

Questions for directors

- Does the board (and any board committees) have charters that set out the roles and responsibilities of the directors?
- Is there an organisational delegation policy and are delegations clear and regularly reviewed? Does the board understand what it cannot delegate?
- Is the board clear about the roles and responsibilities of the CEO, including the relationship between the board and CEO?
- Does the board have visibility of key employee and volunteer recruitment and training policies, including how people are screened and trained?
- Does the board approve key service provider arrangements including key fundraising contractors?
- Is the board receiving clear, relevant reporting that enables directors to ask questions and challenge management?

Susan Pascoe
AM FAICD

President of the Australian Council for International Development (ACFID), Trustee of St John of God Health Care, Director of Mercy Health, Chair of the Community Directors Council, and was the inaugural Commissioner of the Australian Charities and Not-for-profits Commission (ACNC).

CASE STUDY: ROLES AND RESPONSIBILITIES

The board needs to ensure there is clarity on their roles and responsibilities, especially given the reliance on volunteers in many NFPs. Susan Pascoe AM FAICD noted, "for newer NFPs, this means directors familiarising themselves with the organisation's constitution and setting up charters for the board and committees to provide clarity for directors in their governance roles,". Undertaking this process is educative and helps grow the governance culture of the board. Smaller NFP boards will often have more of an operational focus so in these instances, it will usually be more efficient to use the full board instead of delegating to committees, including director nominations.

Board charters and delegations of authority

Especially for larger NFPs with complex governance structures, a board authority matrix/charter is essential to guide decision-making and financial delegations. "For example, St John of God Health Care, is established under canon and civil law with a tri-cameral governance structure. The bishop appoints the non-executive trustees who appoints the board, which is accountable for financial stewardship and strategic development. The board charter is essential in ensuring reporting lines and relationships are mapped out effectively," explained Ms Pascoe.

Membership-based organisations

Independent directors provide external wisdom and balance internal viewpoints from member-elected directors. The board collectively works in solidarity towards a common purpose, welcoming the lived experience from each member director. "For example, Australian Council For International Development (ACFID) board directors are elected by members at each AGM whilst the board elects an independent President as enshrined in the organisation's constitution," said Ms Pascoe.

Code of conduct

Ms Pascoe said, "for integrity and credibility, codes of conduct must have real consequences for non-compliance, such as loss of membership, otherwise they are a toothless tiger." ACFID members are subject to a Code of Conduct that is independently governed on behalf of the ACFID Board by the ACFID Code of Conduct Committee.

Cycle of review

Ms Pascoe reflected, "it is good practice to regularly schedule in a cycle of reviewing governance policies and procedures, whether as a full board or through committees depending on the size and complexity of the organisation, at least every three years."

Accountability

External events also prompt boards to review governance practices and organisational culture. For example, the ACFID board in 2018 accepted all recommendations of an independent review of ACFID member organisation compliance with the Code of Conduct following reports of misconduct in the international aid and development sector. "The board worked hard to ensure there was credible information that could be shared with donors and demonstrate we had mechanisms to address non-compliance and provide greater accountability for public confidence," said Pascoe.

Principle 3 - Board composition and effectiveness

KEY POINTS

- The board should have an appropriate mix of people with a diverse set of skills, experiences, and backgrounds, that align with the NFP's purpose, vision and strategy.
- The selection of directors through a transparent process is essential for maintaining trust and accountability.
- Board evaluations, including of composition, effectiveness, and governance structures, should be conducted periodically.

DIRECTOR APPOINTMENTS

Directors are generally appointed by:

- Direct appointment by the board; or
- Election by the members.

It is common in NFPs for boards to be comprised of a mixture of both types of directors. In federated membership bodies, it also common for representational directors to serve on boards at both the state and national level. Generally, an organisation's governing documents and any laws set out requirements about director eligibility and the process by which they are appointed.

To promote trust and transparency, the board should ensure the skills matrix and selection process for appointing directors is available to stakeholders, especially members. Applicants nominated for the election process should have their skills highlighted and how their skills will fill the current and or future gaps on the board. A director's passion for the NFP's purpose is no longer the sole detriment in a director selection process.

The policy should include matters regarding the application, assessment, and appointment:

- Who is eligible to be a director;
- The nominations and election (if applicable) process; and
- Timeframes to be followed.

The overarching goal in selecting directors is to build a mix of individuals that can work as a well-rounded team. A diverse board provides a variety of perspectives, encouraging innovative thinking and robust discussions.

A formal and transparent procedure for the selection, appointment and re-appointment of directors to the board helps promote stakeholder trust in that process.

Directors should think carefully before accepting appointments and ensure they have adequate time to devote to the role. Being a volunteer director does not lessen one's responsibilities.

BOX 3.1 - ARE THERE ANY SPECIAL REQUIREMENTS FOR ACNC REGISTERED ENTITIES?

The ACNC requires charities to meet its Governance Standards. Under Governance Standard 4, a charity must make sure its Responsible People are suitable. This means that a charity must take reasonable steps to be satisfied that its directors or committee members are not disqualified from:

a. managing a corporation under the *Corporations Act 2001* (Cth), or

b. being a Responsible Person by the ACNC Commissioner, within the previous 12 months.

The benefit of independent directors

In Australia, it is considered good governance practice for the majority of directors on NFP boards to be non-executive and independent. Whilst, an independent board may not be as easily achieved for smaller or membership-based organisation, boards should consider the unique insights and experiences that independent directors bring from their individual contexts outside of the NFP.

Independent directors do not have any relation to the organisation other than being a director. They are considered free of any business or other relationship that could materially interfere with – or could reasonably be perceived to materially interfere with – the independent exercise of their judgment.

BOARD RECRUITMENT

The board must ensure that it has the right mix of competencies to meet the organisation's evolving needs. Managing the process that encompasses succession planning, nomination and director recruitment is one of the board's most important tasks. Every board will require the appropriate mix of competencies in each of the four areas in **Figure 5**. For smaller NFPs, a diverse board may be a challenge to achieve immediately. This is something that can be improved over time with creative ways to tap into a broader talent pool that may have been traditionally overlooked for governance roles, due to their age, experience, cultural background, disability etc.

Board recruitment is a two-way process, with aspiring directors expected to rationally evaluate the organisation, its reputation and financial viability. See Director tool on **evaluating an organisation before joining**.

DIRECTOR TENURE AND TURNOVER

Directors are generally appointed for a fixed term. 'Tenure' refers to the total time directors are appointed for, which may include serving several terms. Longer than average director tenures are more common in NFP or membership-based organisations, such as registered clubs.

An organisation's governing documents usually sets out details on:

- The size of the board;
- How long a director can be appointed for; and
- How many terms they can serve.

Continuing tenure should be closely linked to performance and contribution – a poorly-performing director should not be able to assume they will automatically remain on the board for the maximum time allowed. In the NFP sector, it can be difficult to recruit skilled directors, especially those willing to volunteer their time and resources to fulfilling the role. However, it is good practice to continually review tenure, especially if directors have served for more than 10 years. Recruiting new directors ensures boards continue to benefit from fresh ideas and perspectives.

BOX 3.2 - AICD RESOURCES ON BOARD COMPOSITION

- **Director tool: Selecting a new director**
- **Director tool: Guidance for preparing a board skills matrix**
- **Director tool: Board recruitment**
- **Director tool: Checklist for assessing board composition**
- **Director tool: Succession planning**

SUCCESSION PLANNING

Succession planning refers to taking a methodical approach to forecasting and establishing plans to meet the future skill and experience needs of the organisation. It is also important for key leadership roles such as the board chair, committee chairs, and the CEO.

Boards should note when vacancies will arise and identify suitable candidates to facilitate smooth transition between directors. This is where the chair can independently check with each director on their plans for retirement, especially those long-standing. It is important that the board is proactive in responding to director retirements, including from unexpected events.

A regular skills audit of the current board and comparison with future needs will highlight any gaps and assist in targeting succession plans.

PREPARING A BOARD SKILLS MATRIX

A board skills matrix is a tool used to provide an overview of the skills, expertise, and characteristics of board members. The matrix can include different elements such as education, experience, gender, age, industry knowledge, and specific business-related skills.

The board may also wish to consider identifying particular expertise or skills relevant to the NFP or its particular industry. For example, an NFP with animal welfare as a component of its purpose, such as a zoo or shelter, may consider it appropriate to have animal husbandry as a identified area of expertise in the skills matrix. By outlining these diverse attributes, a board skills matrix provides a clear snapshot of the board's collective abilities and identifies gaps.

The board skills matrix enhances decision-making and board effectiveness by ensuring board diversity and coverage of necessary skills.

BOARD DIVERSITY

Board diversity is the mix of skills, experiences, backgrounds and characteristics present at the board table. The board should focus on having as diverse a range of perspectives as possible to ensure the board's decisions are well rounded, informed and truly representative of the diverse community it serves. Recent Royal Commissions have highlighted the importance of having certain characteristics such as having a board with a majority of independent directors and incorporating lived experience into its governance structures (Aged Care, Disability). See **Appendix B: Elevating the client voice – Resource for NFP boards** for further guidance. Boards should aim to reflect a mix of skills, experience, and backgrounds.

FIGURE 5 - BOARD COMPETENCY FRAMEWORK

INDUSTRY

Experience and knowledge (e.g. sector specific such as clinical governance for an aged care organisation).

TECHNICAL

Professional and specialist knowledge (e.g. accounting, legal, human resources, marketing and communications, fundraising, cyber security, sustainability etc).

GOVERNANCE

Essential governance knowledge and understanding that all directors should possess or develop to be effective board members.

BEHAVIOURAL

Attributes and competencies enabling board members to use their knowledge and skills to function as a board team and to engage with key stakeholders.

KEY QUESTIONS FOR ASSESSING BOARD COMPOSITION

The following are some key questions to assist boards when assessing whether their composition, and their approach to determining composition, is appropriate in their organisation's circumstances. A smaller NFP early in its formation will have different needs to a larger established NFP that is more mature in its governance practice:

- **Board size** – Is the board of an appropriate size, such that it can execute its workload effectively, have productive discussions and perform orderly succession planning?
- **Mix of skills, experience, and backgrounds** – Is the mix of skills, experience and backgrounds on the board aligned with the overarching purpose, vision and strategy of the organisation?
- **Policies and practices** – Is the board, at appropriate intervals, undertaking regular and rigorous assessments of the skills, experience and backgrounds that are essential and desirable on the board, with a view to identifying and addressing potential gaps?
- **Strategic environment** – Has the board properly considered and taken account of changes that are likely to occur in the short to medium term (e.g. changes to strategy, changes in the external environment on fundraising) when establishing its desired size and mix of skills/experience/backgrounds?
- **Board dynamics** – Does the composition compliment the culture, engagement and style of the board?

Small NFP governance checklist: Principle 3

- [ ] The board collectively represents the diversity of the community served by the NFP.
- [ ] The board has the necessary skills, experiences, and perspectives on the board to effectively govern the NFP.
- [ ] New directors are given sufficient support and education when joining the board and ongoing directors are supported with regular learning and development.
- [ ] The board meets at appropriate intervals, the papers are concise and insightful and the meetings are well led by the chair.
- [ ] There is clear distinction between the oversight role of the chair and the management role of the CEO.
- [ ] The board at least annually formally reflects on the performance of the board and where improvements could be made.

DIRECTOR REMUNERATION AND RECOGNITION

The practice of NFP director remuneration has been increasing in Australia in the recent years.[2] Some form of compensation, even small expense reimbursements, is seen as a recognition of the complexity, time and travel demands on directors of many NFPs which can be similar to directors on for-profit boards. It can also be seen as a mechanism to increase diversity and improve the skillset of NFP boards where the volunteer nature of the role may have have created the unintended consequence of limiting the director pool.

Benefits of director remuneration

Under the ACNC guidance on **Remunerating Responsible People**, charities that decide to remunerate may do so for a variety of reasons:

- Charities can be large complex organisations that need board directors with particular skills and experience to be effective. Offering remuneration may help a charity attract people with relevant skills or experience;
- Remunerating board directors may enhance their sense of accountability and responsibility;
- Offering remuneration can increase the pool of potential board directors and lead to greater diversity. There are many people who cannot afford to be a board director without financial compensation, but would make a positive contribution to a charity; and
- When board directors are paid for their service, charities may expect greater engagement in attendance, communication, and decision-making.

Regardless of whether a director is paid or not, board members will have the same legal responsibilities, and should not see the lack of compensation as allowing a lower level of care and diligence. However, State and Territory civil liability laws include an exemption from personal liability for volunteer board members in certain circumstances..

Challenges of director remuneration

It is not uncommon for the constitutions of charities and NFPs, regardless of corporate structure, to prevent the payment of fees or remuneration to directors. Specific legislation also prevents director remuneration such as in non-government schools in NSW.

Any compensation decision must be considered in the context of the NFP's purpose, size and complexity, especially those heavily reliant on volunteers.

NFPs should consider what other forms of recognition may be appropriate to acknowledge their directors' contributions or support their future development as a director.

Member engagement and transparency

It may be advisable for the NFP's members and other key stakeholders to be consulted prior to any decision on whether to change director remuneration practice. For example, the board of a small local sporting club paying themselves compensation may not be consistent with the NFP's purpose and community expectations.

It is good practice for charities to seek member approval of director remuneration and disclose payments as part of annual reporting, even where not legally or constitutionally required to do so.

2 **AICD Not-for-Profit Governance and Performance Study 2023-24** – Twenty-one per cent of NFP directors (21%) were remunerated which has steadily increased from 14% five years ago. Just over three-quarters (77%) of board members report being unpaid, or only have expenses covered.

BOARD INDUCTION AND ONGOING DEVELOPMENT

The duties and responsibilities of directors begin the moment they are appointed. The sooner a director can get up to speed on what they need to know, the sooner they can contribute effectively to governing the organisation. A director who has not been inducted properly risks being less effective and making poor decisions.

It is important that an induction is not seen as a 'one and done' activity but an ongoing process complete with a refresher and additional development, especially in the first 18-24 months of a directors' tenure.

Board inductions should be tailored to the individual's needs, their governance and industry experience, and requirements for meeting participation. A good induction can consist of the elements in **Figure 6**.

Directors today are increasingly appointed because they possess particular skills and knowledge needed by the organisation (e.g. clinical experience). However, the legal and governance environment is constantly changing. The board can assist directors in keeping up to date with trends and changes by providing opportunities for learning and development, thus enhancing its ability to make more informed decisions.

BOARD AGENDAS

The purpose of a board meeting agenda is to improve the effectiveness of board meetings. It is the tool the chair uses to keep boardroom discussions focused. Although each board will have an agenda that reflects specific topics of relevance to the organisation at that time, a number of general items will be included on most agendas.

A well-designed agenda alerts directors about issues that will be discussed at the meeting. It can help executives prepare to discuss issues with the board and to develop related board papers. An agenda helps the chair ensure that all issues are dealt with in an appropriate order and depth during the meeting.

Given the range of issues and limited time that most boards will have to deal with them, it is important for an agenda to include only those items that are ripe for productive discussion, and where decisions can only be made by the board. For example, approving the strategy. If there is insufficient time to prepare accompanying documentation to aid decision-making, it is often better, if at all possible, to leave the item until another meeting.

The agenda is usually prepared by the chair with assistance from either the CEO, the board secretary or both. Chairs will usually invite the other directors to contribute ideas for the agenda.

FIGURE 6 - BOARD INDUCTIONS

PLANS AND POLICIES

New directors should review key documents including the NFP's constitution, annual reports, board charter, previous board papers and minutes, strategic plan, risk management plan, and organisational chart. Policies include board delegations, directors and officers (D&O) insurance, conflicts of interest, code of conduct, and whistleblowers.

PEOPLE

New directors should get one-on-one time with the board chair, other board directors, the CEO, senior management and key external stakeholders (e.g. major donors).

PLACES

It is essential for new directors to get a 'feel' for the organisation. This involves undertaking site visits and other activities to see the services and programs in action. See Principle 6 – Stakeholders for further guidance of the types of activities directors may want to undertake.

BOARD MEETINGS

Directors must be able to establish that their decisions are made with care and diligence, in good faith and for a proper purpose.

Accurate minute taking is essential to keep a record of the process by which directors make decisions on behalf of the organisation. Unlike general meetings where member attendance is optional, directors have a duty to be present for board and committee meetings as a part of their duties and responsibilities, and to participate in decision-making.

For meetings, it is advisable to decide a policy in advance stating:

- The frequency of meetings;
- The usual meeting place and time;
- Who will attend – some meetings may include management team member/s;
- How many directors constitute a quorum;
- Who will chair the meeting;
- How to communicate, including consent by all directors to use specific technology; and
- The process for calling unscheduled meetings and making emergency decisions.

Effective board meetings usually rely on some rules or norms around meeting behaviours. For example, with the rise of virtual and hybrid meetings, board etiquette has had to adapt, especially with considerations for accessibility and inclusion.

The chair has an important role in working with the CEO to determine the appropriate length of board papers, noting the time for directors to review them in advance of board meetings and the time for management to prepare them.

It is essential that directors review the board papers in advance of meetings and have time to reflect on the materials in a thoughtful manner. Where directors have had time in advance to consider the board papers, the meeting will be an opportunity for directors to add value to decision-making. This prevents board time being wasted on addressing issues already covered in the board papers.

In-camera sessions

The basic tenet of good governance practice is the separation between board and management. Each group has a different, but complementary, role to play. The board is the ultimate decision maker and there are times when non-executive directors need time alone as a group for unrestrained discussion.

The inclusion of an in-camera session in the agenda allows non-executive directors to raise or explore issues of concern or clarification prior to the meeting without the presence of management. It is good practice for the in-camera session to be a standing item on the agenda. This means it becomes a habitual part of the board's business and signals to directors there will always be an opportunity to raise sensitive issues with colleagues. A routine in-camera session helps remove any potential management anxiety or mistrust.

BOARD DECISIONS

The most important function of a board meeting is to make decisions, subject to any legal requirements on how a board decision must be made. Many boards aim to achieve a decision by consensus. It is important to know that all directors are responsible for the final decision, whether or not they had agreed with it.

It is useful to have a decision-making framework that ensures decisions are made ethically in the best interests of the organisation as a whole. For example, in the AICD/Ethics Centre resource, **Ethics in the Boardroom**, directors are encouraged to apply the following lenses:

- **Lens 1: General influences** – What aspects of the organisation's strategic environment are relevant to the decision?
- **Lens 2: The board's collective culture and character** – Does the board as a whole have a culture that enables and supports ethical consideration?
- **Lens 3: Interpersonal relationships and reasoning** – Have directors considered how group dynamics impact on decisions, including how a director's default decision-making style fits in?
- **Lens 4: The individual director** – Is each director aware of their personal ethical position and how it might differ to that of the organisation?

BOARD MINUTES

Board minutes are a record of board decisions and the process, or proceedings, by which those decisions have been made. They are used to convey board decisions to the executives who will implement the decisions and serve as reference for the board if it wishes to revisit a decision. They are not a transcript of every word said during the meeting or a record of individual directors' contributions. However, they can be used as evidence in legal proceedings, and as such care must be taken with the preparation of the board minutes.

Appropriate minutes record key decisions, highlight director dissent where appropriate, reduce misunderstandings as to the board's intent in a matter and show compliance with legal duties and responsibilities. If the minutes are silent on an issue, a court may adopt a degree of scepticism as to whether the matter was indeed considered by the board.

See **Director tool: Board meeting minutes** and the AICD/Governance Institute of Australia **joint statement** on board minutes. This statement directed the ongoing discussion about this topic and outlined the key principles, considerations for minute content, and the approach to board papers and document retention policies.

RELATIONSHIP BETWEEN THE BOARD AND MANAGEMENT

A productive relationship between the board and management is critical for good governance and organisational effectiveness. However sometimes this can be difficult to achieve in reality, especially in many resource constrained NFPs with heavy reliance on volunteers and the increasing number of issues that boards are expected to be across.

As discussed in **Principle 2 – Roles and responsibilities**, it is vital that the board and management have a clear and mutual understanding of roles, delegations and boundaries which allows each party to respect the other's responsibilities, contributions and expectations. The relationship depends on an open flow of relevant and timely information in both directions.

Board directors must courteously and respectfully listen to management with an open but constructively challenging mind to allow management to make its contribution with confidence and clarity of viewpoint, and without undue interference, constraint or trepidation. Management has a critical role in effective board decision-making by:

- Reporting relevant material information to the board;
- Stimulating board discussion on emerging issues;
- Assisting the board in analysing and considering issues; and
- Responding to issues raised by the board.

Individual board members have no inherent authority or executive power. Communications between individual board members and management should primarily be channelled via the chair and CEO, to not over-burden management, but also keep a clear picture of issues of interest.

Where there is any direct material contact between individual board members and management, the chair, CEO, and/or company secretary should be kept informed by way of courtesy. In smaller NFPs, directors may be more 'hands on' working on specific projects such as marketing or fundraising. Boards should have a communications protocol set out in a policy relevant for their NFP.

BOARD EVALUATION

Board evaluation and director appraisal is not about critiquing one another, rather ensuring that the board works as effectively as possible for the good of the NFP and its purpose. Effective board evaluation and director appraisal assists the board as a whole and directors individually to improve their ability to contribute to the work of the board. It is common practice for boards to run an externally facilitated board evaluation every 3-4 years and to conduct lighter touch internally managed processes in each of the years between.

There are a number of questions to resolve before commencing with a board evaluation:

- **What is the purpose, and what are the objectives, of the evaluation?** (e.g. continuous governance improvement, identifying board performance improvement opportunities and governance framework gaps)
- **What will be evaluated?** (e.g. board as a whole, board committees, individual directors, board and committee chairs)
- **How will the evaluation be done?** (e.g. internally managed, externally facilitated)
- **How will the evaluation process cope with difficult situations?** (e.g. director conflict)
- **Whose views will be sought?** (e.g. directors, senior executives, external stakeholders)
- **What evaluation method will be used?** (e.g. interview-based, survey-based)
- What should be the outcome? (e.g. board improvement action plan, personal director development plans).

Evaluations should start with a collective view before adding individual feedback, which should be kept confidential. Once the board evaluation and/or director peer assessment process has been completed, the resulting improvement actions should be reviewed and agreed by the board.

In addition to formal annual evaluations, it is also best practice to evaluate the effectiveness of the board at the end of each meeting. This has the significant benefit of allowing true continuous improvement and giving the chair and management constructive and real-time feedback on better structuring of agendas and development of board papers.

BOX 3.3 - AICD RESOURCES ON BOARD EFFECTIVENESS

- **Director tool: Annual board calendar**
- **Director tool: Board meeting agenda**
- **Director tool: Directors' meetings**
- **Director tool: Improving board effectiveness**
- **Director tool: Relationship between the board and management**
- **Director tool: Board evaluation and director appraisal**

Questions for directors

- Is there a rigorous process for appointing, electing and inducting directors that clearly outlines the requirements and expectations of directors?
- What expertise and experience (including board diversity) would the board benefit from including in the board's skills matrix to address the evolving needs of the organisation?
- Are board meeting agendas structured to allow sufficient time for discussion and opportunity for all directors to contribute?
- What regular actions does the board take to review its performance?

David Shortland
MAICD

Director and former Deputy Chair of ChildFund Australia, Director of ChildFund Alliance international board, and former Director of Heart Foundation (NSW). David is also a Facilitator for Australian Institute of Company Directors in Strategy, Risk, Board Effectiveness and Governance.

CASE STUDY: BOARD COMPOSITION AND EFFECTIVENESS

To serve their organisations effectively, NFP boards like all boards, should have a suitably diverse mix of expertise and experience, potentially including independent and member directors, suggests David Shortland MAICD. Independent directors offer external perspectives, enhancing diversity in discussions and decisions.

Board composition

Mr Shortland recommends the nominations committee review board composition at least annually, and maintain an appropriate boards skills matrix aligned with the purpose, strategy and tenure of the current board. This matrix assist the board to gauge the collective skills and identify future gaps. Foundational boards should also consider key person dependencies when assessing composition and tenure.

Board induction

'All NFPs should invest time and effort in creating/refreshing an appropriate director induction program with an associated plan for ongoing learning and development,' according to Mr Shortland. An effective induction involves the chair and accelerates directors' contributions, recognising their directors' duties begin immediately on appointment. Tailored induction programs should augment director knowledge and integrate activities like engagement with key stakeholders and potentially mentoring by senior directors.

Succession planning

Good succession planning assists boards to prepare for the future and helps avoid the pitfalls of rushed director appointment and reappointment decisions. Mr Shortland suggests some succession planning steps for boards:

- make succession planning a regular board agenda item;
- reflect on the purpose, values and current strategy of the organisation as a critical component of succession planning;
- review director tenure to identify vacancies to be filled in the next 12-24 months and potential impact on sequencing for replacements;
- assess current directors and future candidates for contribution and possible chair and committee chair leadership potential;
- consider external expectations such as the inclusion of the client voice on boards; and
- consider any recent board/committee/director evaluation.

Board evaluation

Mr Shortland suggests regular, fit-for-purpose evaluations of the board's performance be part of the board's annual calendar and the nature and scope of each year's evaluation discussed and agreed to. For example:

- how formal we will be?
- will we assess individual director performance by peers?
- will there be qualitative interviews? and
- who will do them?

Some boards build regular evaluation elements into ongoing meeting processes. For example, a short in-camera board debrief at the close of each meeting enables directors to reflect on board performance in real time. The chair may also seek informal confidential soundings from individual directors.

Regarding the performance of the chair (and CEO which is typically done by the chair in consultation with the board), the board should agree on a simple protocol for sharing feedback, such as through a lead independent director or nominations committee chair.

Principle 4 - Risk management

KEY POINTS

- The board should oversee a risk culture that aligns with purpose, vision and strategy.
- Board decision-making should be informed by a risk management framework that sets out an appropriate risk appetite which incorporates risks and opportunities.
- The board should periodically review the risk management framework, conduct scenario planning and dynamically assesses emerging risks.

Risk terminology summary	
Risk appetite	The amount of risk an organisation is willing to take in pursuit of its goals. There will be different appetites for different risk impacts which vary over time.
Risk tolerance	How much risk an organisation will accept in respect of a particular risk category, event or circumstance.
Risk treatment/control	An action applied by the organisation that reduces the likelihood or impact of the risk occurring.
Inherent risks	These are the risks that exist in a particular circumstance that have been identified but have not (yet) been subjected to any form of risk treatment or management.
Residual risks	These are the risks that have been treated (subjected to a management strategy) and where it may be impossible or undesirable to further reduce or remove the risk.
Key risk indicators (KRIs)	Metrics used to provide an early indication of increasing risk exposure in various areas of the organisation.

Source: *AICD Governance for NFP Directors course*

THE BOARD'S ROLE IN RISK MANAGEMENT

The directors' duties of good faith and care and diligence mean that directors not only need to focus on performance outcomes but also have ultimate responsibility for risk oversight of the organisation. This means setting the risk appetite of the organisation and ensuring it has a risk management framework to identify and manage risk on an ongoing basis. Board decision-making should be informed by the risk appetite and aligned with the purpose, vision and strategy of the organisation. It is critical that the board and management work together.

Risk is not something to be avoided, but to be understood and leveraged in pursuit of an organisation's purpose. It arises because the future is unknowable and therefore the outcomes of decisions are always uncertain to some extent.

RISK CULTURE

The board is ultimately responsible for overseeing a risk culture that allows people to safely report incidents, highlight deficient procedures and processes, and ultimately

speak up where something is of concern. This requires robust policies and procedures to address matters such as complaints handling, near miss reporting, and whistleblowing. See **Principle 8 – Organisational culture** for further guidance on risk culture.

Boards should focus on leading, not just lag indicators. For example, increasing reports of sexual harassment can be an indicator of an unsafe workplace culture, but could also reflect employees and volunteers feeling safer to speak up. See AICD resource **Positive duty to prevent workplace sexual harassment – A director's guide** for further guidance.

Effective risk management is a component of risk culture and entails the processes and structures in the organisation. The benefits of effective risk management may include:

- Improved strategic decision-making and implementation of decisions;
- Appropriate focus on duty of care for beneficiaries;
- Reduced likelihood of 'surprises';
- Enhanced stakeholder confidence in organisation;
- Improved organisational resilience and adaptability; and
- Clearer purpose, roles and accountabilities for all employees and volunteers.

Risk management is an important part of the board and senior management's role. However, consideration of the key strategic risks to an organisation, will often be front of mind for boards, given management is typically focused on addressing day to day operational issues.

A useful exercise is for boards and management to independently assess key strategic risks. The two perspectives are compared and the gap between the board and management views are discussed. This helps boards identify which risks to focus on (i.e. the risks that threaten the future of the NFP or affect achievement of strategic objectives).

While many of the risks faced by NFPs will be universal, across all Australian businesses there will often be unique circumstances that result in specific risks for NFPs. The risks faced by NFPs will differ based on funding models, industry/sector, size and complexity. **Figure 7**, provides a snapshot of specific NFP risks.

As NFPs grow in size, scale, and scope, boards have to deal with a range of internal and external risks, including:

- **Safety** - E.g. employees, volunteers and service users.
- **Regulatory** - E.g. changes in legal obligations regarding fundraising.
- **Non-financial risk** - E.g. cyberattack.
- **Organisational risk** - E.g. governance, performance, culture and conduct.
- **Legal risks** - E.g. director liability.
- **Strategic risk** - E.g. brand reputation.

FIGURE 7 - SPECIFIC NFP RISKS

RELIANCE ON A SINGLE OR SMALL NUMBER OF FUNDING SOURCES

An NFP may rely on a small number of funding sources, such as government grants or program funding. These can disappear at short notice with changing priorities or performance.

FUNDRAISING COMPETITION

There are over 60,000 charities and 600,000 NFPs in Australia and competition for scarce donations, funding and volunteers can be intense. This dynamic can be particularly challenging in economic downturns when donations decrease and service demand increases.

DISADVANTAGED COMMUNITIES

NFPs often provide services to communities that are characterised by some form of disadvantage. This can bring unique risks to the NFP, including distinct regulatory requirements and the need for specific staff and employee training.

RELIANCE ON VOLUNTEERS

Volunteers are often the backbone of an NFP. However, there can be specific risks with a reliance on volunteers to perform key tasks. These can include challenges with appropriate skills and training, motivation, retention and compliance.

RISK MANAGEMENT FRAMEWORK

Risk management refers to the 'coordinated activities to direct and control an organisation with regard to risk' (**ISO 31000:2018 Risk Management Principles and Guidelines**). It is critical that boards have a line of sight to how risk is managed through the practices, processes and policies within an organisation.

Components of an effective risk management framework typically include:

- Risk appetite statement (RAS);
- Risk register; and
- Risk committee.

See **Director tool: Risk management** for further guidance on the key design elements of an effective risk management framework.

RISK APPETITE STATEMENT

A RAS documents the approved amount and type of risks the organisation is willing to accept in pursuit of its objectives. The RAS is a living document so the board should plan to review it periodically, ideally annually to reflect the organisation's risk appetite. See **Figure 8** for example RAS.

Practical tips in establishing a RAS include:

- Draft a set of qualitative and/or quantitative statements to explain the risk appetite;
- Clarify the categories of risk. Different risks will have a different risk appetite. It is important to align risk appetite, strategy and culture;
- There is substantial value in the process of developing, discussing and debating the RAS when delivering an outcome to align board and management's views; and
- Boards should be clear on the factors that influence the risk appetite, including the NFP's capacity for risk, strategic ambition, stakeholder views, risk management maturity, and the broader environment.

RISK REGISTER

A risk register is an essential element of an effective risk management system. It is used to document risks and how they are controlled. An effective risk register informs strategy development and includes information such as:

- The category and type of risk;
- Risk rating;
- Risk owner;
- Risk controls to mitigate the risk (such as policies and procedures); and
- Action plans to bring risks within agreed tolerance.

BOX 4.1 - AICD RESOURCES ON RISK

- **Director tool: Risk management**
- **Director tool: Risk committee charter**
- **Director tool: The evolving role of the risk committee**

ACNC GOVERNANCE TOOLKIT ON RISKS

- **Financial abuse**
- **Cyber security**
- **Working with partners**
- **Safeguarding vulnerable people appraisal**

FIGURE 8 - WHAT DOES A RISK APPETITE STATEMENT (RAS) LOOK LIKE?

Example – RAS for the not-for-profit organisation ABC Ltd

Introduction (outline purpose and use of the RAS)
For example: ABC Ltd is a ...

Risk management framework (or Background)
Outline how the RAS fits with the risk management framework

Frequency of review
For example: Periodically, ideally annually

Responsibilities
For example: The Board is responsible for setting and approving the RAS

Risk appetite definitions
Should be organisation specific

Risk tolerance definitions
Should be organisation specific

	Risk appetite statement	Key risk indicators	Target	Within tolerance	Unacceptable
CLIENT CARE	The provision of the quality and safety of services is central to what we do.	# of preventable clinical incidents (monthly)	0 - 2	3 - 5	> 5
CLIENT CARE	We have a low appetite for poor quality client care and safety.	% of serious client complaints resolved within (x) days	90 - 100%	80 - 90%	< 80%
LEGAL COMPLIANCE	We operate in a complex and dynamic environment with legislative obligations across multiple jurisdictions and regulatory regimes.	# of high-risk compliance breaches	0	1	> 1
LEGAL COMPLIANCE	We have a very low appetite for any serious regulatory non-compliance and zero tolerance for unlawful activities.	# reportable compliance incidents	0	1	> 1

Copyright: Aged Care Quality and Safety Commission (adapted from Governance Toolkit)

RISK COMMITTEE

Many organisations will establish a board-level committee to assist the board in the oversight of the organisation's risk management policies and processes. In smaller organisations it is common for the risk management committee to be combined with other committee functions such as audit.

It is good governance to have a charter that sets out the committee's roles and responsibilities, composition, structure and membership requirements, authority, processes and procedures, as approved by the board.

For further guidance, see **Director tool: The evolving role of the risk committee,** and **Director tool: Risk committee charter** - which includes a sample charter.

RISK TREATMENT/CONTROL

Determining the most appropriate method to deal with the risks facing an organisation will depend on what is reasonably practicable for that organisation, and the size, scope and scale of risk. Legal obligations cannot be avoided. However, stakeholder expectations and resource constraints should be considered in mitigating risks.

Generally, NFPs will have a choice between:

- **Avoidance** – An organisation can avoid risks by not commencing or discontinuing certain activities that generate the risk;
- **Treatment** – An organisation can invest in controls that reduce either the likelihood or consequence of the risk; and
- **Sharing** – An organisation reduces the risk by sharing its adverse impact with another entity through insurance, outsourcing, or other contractual arrangements.

Selecting the most appropriate control requires balancing the cost and effort of implementation against the benefits derived from additional risk mitigation. Boards should assess what would be an acceptable residual risk, which may change over time for different risks, given the NFP's risk appetite and resource constraints.

FIGURE 9 - EXAMPLES OF COMMON RISK CONTROLS

CYBER

Cyber security policy that covers practices such as the use of anti-virus software, cloud backups of key data, and multi-factor authentication.

REPUTATION

Proactive policy engagement and advocacy on specific NFP issues with key stakeholders.

THIRD PARTY SUPPLIERS

Educating employees and volunteers on conflict of interest policy and procurement policy.

RISK REPORTING

Robust board reporting on risk is a key oversight tool by which directors obtain insight into how controls, processes and the organisation's employees and volunteers are contributing to a proactive risk culture. Reports should be regularly presented by management and discussed at the board and board risk committee.

Risk reporting should align with the RAS and capture a mixture of historic and forward-looking metrics, both qualitative and quantitative, across financial and non-financial risks.

Risk reporting should also highlight if key risks are approaching the upper limits of the risk tolerance and which require timely intervention by the board to bring the risk within the approved risk appetite. Boards should require management to undertake root cause analysis, or 'deep dives' to identify underlying causes of recurring breaches of risk appetite.

For smaller NFPs, reporting may be relatively simple, whereas at larger NFPs, information may be presented as a dashboard or heatmap that allows a holistic picture of the organisation's risk profile, emerging risk trends, and areas for improvement.

See **Director tool: Periodic Comprehensive Review of the External Auditor – Guide for Audit Committees** and **Principle 5 – Performance and accountability** for further information on internal and external audits.

Small NFP governance checklist: Principle 4

- ☐ The board regularly discusses the NFP's risk appetite and documents this in a concise risk appetite statement and supporting risk register.
- ☐ The board has a risk management framework or policy that outlines the approach to identifying, assessing, and mitigating risk.
- ☐ Low cost and practical risk controls are implemented that reflect the nature of the risk, the resourcing of the NFP, and the frontline employees or volunteers managing the risk.
- ☐ The board receives reporting that allows it to have an informed view on how risk is being managed in the NFP.
- ☐ The board at least annually meets the external auditor or accountant.

SCENARIO PLANNING

As stewards responsible for ensuring the long-term sustainability of the NFP, boards should be vigilant in preparing for unexpected events and ready to act decisively when needed. Boards should consider allocating time on their agenda (e.g. an annual exercise at a board meeting or board retreat) for scenario planning against unexpected scenarios and documenting how the organisation would respond. This could form part of the board calendar cycle whether it is a board agenda item facilitated by the CEO, an offsite board retreat facilitated by an external expert, or delegated to the risk committee.

Cyber incidents have emerged as critical scenarios that all NFP boards should be prepared for. Key questions for NFPs include:

- Who will be responsible in leading the response to a cyber crisis?
- What are the key systems and critical data that are essential to the operations of the NFP?
- How will the organisation operate and communicate if all systems go offline for an extended period?
- Does the organisation hold highly sensitive personal information (e.g. client or beneficiary personal information) and how is this protected?

The joint AICD/Cyber Security Cooperative Research Centre/Ashurst resource **Governing Through a Cyber Crisis** resource provides practical steps for NFP directors.

Even if the example scenarios do not occur, the risk management practice and impact on risk culture within the organisation of going through this process will help organisations to better prepare for, mitigate and manage the impact of future risks and potentially seize new opportunities.

Questions for directors

- Does the board understand the underlying organisational risk culture?
- Does the board understand how the risk appetite statement and risk register operates, with risk owners and risk treatments in place?
- Does the board periodically conduct scenario planning and assess contingency plans?
- Has the the board considered recommendations from internal audits?
- Does the board provide adequate support and resources for assurance activities?
- When was the last time the NFP's risk management approach was externally reviewed?

Lisa Chung
AM FAICD

Lisa Chung AM FAICD is the chair of Australian Unity Limited, The Front Project and the former chair of The Benevolent Society. Ms Chung is also a director of AV Jennings Limited, Warren and Mahoney, the Committee for Sydney, the Sydney Community Foundation and Artspace/Visual Arts Centre Limited and a Trustee of the Foundation of the Art Gallery of NSW.

CASE STUDY: RISK MANAGEMENT

All NFPs, regardless of size, resources and industry, can foster an effective and dynamic approach to risk management, according to Lisa Chung AM FAICD.

Staff resourcing

Ms Chung reflected that at smaller organisations all it can take is one key empowered staff member to have a profound impact on how risks are identified and controlled, for example through targeted training and education of employees and volunteers. The board's role is to oversee and support management, including through providing additional resources where possible.

Director engagement

Ms Chung also sees a key role for the board in setting a 'tone from the top' in how key risks are controlled. Ms Chung provided the example of the directors visiting different sites or locations of the organisation and engaging with employees and volunteers on how risks are being managed and where there are concerns 'it is invaluable to directly engage with employees and volunteers about how they are practically managing risk'. Ms Chung considered this engagement is particularly vital where the NFP provides services to vulnerable people where there can be very specific risks and challenges that staff and volunteers face which can vary by location.

Fundraising

Almost all NFPs have significant funding challenges and frequently a reliance on one, or a small number of, funders notes Ms Chung. This is often unavoidable, but the risk can be managed, including through the composition of the board. Directors with networks and experience engaging with key funding sources is often invaluable in maintaining clear communications and an effective relationship with these vital stakeholders.

Audit

Ms Chung cautions that while external audit is crucial for all sizes of NFPs there should not be an overreliance at the board level on an auditor's findings. For smaller organisations, in particular, the audit may be limited and the board should be taking steps to support an effective internal finance and risk function.

Principle 5 - Performance and accountability

KEY POINTS

- Directors should closely oversee the performance of the NFP with a focus on its financial health and whether it is effective in achieving its purpose.
- The board should set a tone of internal accountability and transparency from the top, including holding management to account and ensuring that employees and volunteers are heard, and are aware of the NFP's performance.
- External accountability extends beyond annual reporting and the AGM to a focus on dynamic and proactive transparency and building trust and confidence with key stakeholders.

NFPs of all sizes and types are increasingly expected to be able to demonstrate their performance in a transparent and accountable manner to stakeholders and the broader community. This expectation of transparency of performance extends beyond financial reporting measures to encompass concepts of 'effectiveness', 'impact', and 'sustainability.'

NFP directors play a pivotal role in ensuring that the NFP effectively pursues its purpose, vision and strategy and delivers a positive impact on the community it serves. This responsibility entails overseeing organisational performance and accountability, a crucial aspect of fostering transparency, trust, and sustainability.

BOARD'S OVERSIGHT OF RESOURCES

Resources are the tools and means that NFPs utilise to pursue their strategic objectives and key strategic initiatives. Directors have a key role in understanding what resources the NFP has access to, what is needed for it to undertake its strategy and ultimately overseeing the effective us of these resources.

Resources can be grouped under the following categories:

- **Human** – These are the people who work or volunteer for the organisation, and they are the NFP's most important resource. They are responsible for carrying out the organisation's purpose, setting the vision and implementing its strategy;
- **Financial** – These are the funds that an organisation needs to operate. Financial resources include cash, credit, and investments and in kind contributions;
- **Physical resources** – These are the tangible assets that an organisation owns or controls, such as buildings, equipment, inventory, and land; and
- **Intellectual resources** – These are the intangible assets that an organisation owns, controls or has access to. This can include copyrights, trademarks and internal data sets.

A board will form a view of the NFP's resources when working on and agreeing to an organisational strategy. The board monitors how the NFP utilises its resources, including understanding how much money is being spent on programs or services and how many employees are being hired. The board should use this information to identify any areas where the organisation may be wasting resources or not using them effectively. Effective board reporting, covered in **Principle 2 – Roles and responsibilities**, is key to this monitoring role.

MEASURING PERFORMANCE

For the NFP to be able to understand and demonstrate that its activities contribute to its purpose it must define and evaluate its performance against defined measures. Boards should select a mix of financial and non-financial performance measures to help it present a complete picture of the NFP's performance to internal and external stakeholders.

Measures that align and are consistent with the NFP's purpose, vision and strategy are also key to effective accountability, discussed further below.

Financial performance

A sustainable financial performance is fundamental to the NFP pursuing its purpose and delivering for its clients and beneficiaries. Poor or weak financial health will curtail the ability of the NFP to deliver on its purpose and securel its survival.

Every director has a responsibility to understand the NFP's finances and to contribute to appropriate oversight. This role is not the sole remit of the organisation's treasurer and nor can it be outsourced to the NFP's external accountants or auditors. Close and enduring focus is required by all directors.

Table 4 lists common indicators used across NFPs to provide a picture of financial health.

Table 4 - Measuring NFP financial performance

Program efficiency	• Ratio of program expenses to program commitment • Ratio of program expenses to total expenses
Fundraising efficiency	• Ratio of fundraising expenses to funds obtained • Ratio of fundraising to total expenses
Grant efficiency	• Ratio of grant submissions to grants obtained • Ratio of grants to expenses associated with grant submission • Ratio of grants to total expenses
Reserves and savings indicator ratios	• Ratio of operating reserves to monthly/annual expenses • Ratio of total revenue minus total expenses over total expenses
General financial indicators	• Revenue growth • Working capital ratio • Return on equity • Return on assets

Financial reporting

Effective board reporting is central to a board's understanding of the financial position and trajectory of the NFP. The board should work with management to determine what information the board needs to assess the financial position of the organisation. Core financial or management reports that should be presented to the board at each meeting include the balance sheet, statement of profit and loss and the cash flow statement.

External accountants and auditors are also a key source of external advice to the board on financial health of the NFP. Better practice is for the board to periodically meet separately with the auditors without management to test the financial reports of the NFP and obtain additional insight.

Solvency

NFP boards should always be alive to the financial health and solvency of the NFP. As many NFPs can be resource constrained and rely on funding sources that are temporary or non-guaranteed the issue of ongoing solvency can be a regular topic of discussion at board meetings. This is especially relevant for NFPs heavily reliant on a small number of funders for the bulk of their funding (e.g. government) and risk of delays in receiving funding.

Where possible the NFP should seek to generate a surplus from its activities during the year and hold cash or liquid reserves that can assist in navigating any future financial challenges.

As noted in **Key director obligations and regulatory requirements** NFP directors have a duty to prevent insolvent trading. Further, for directors of registered charities **ACNC Governance Standard 5** requires a charity's responsible people to ensure their charity is not allowed to operate while insolvent (further detail here). Directors of charities that are companies limited by guarantee can access the insolvent trading safe harbour (safe harbour) under the Corporations Act. The safe harbour enables directors to pursue restructuring or a turnaround of a financially challenged organisation without fear of personal liability, providing certain conditions are met (further detail here).

A board having oversight of the NFP's cash flows and working capital ratio can provide insight into solvency. External auditors and accountants are a key source of information on the financial health of the NFP, including via the annual auditors' report.

Effectiveness and impact

NFPs exist to meet a particular purpose(s) and pursue a vision. The NFP will target the provision of services or programs to a group of beneficiaries or community, or a particular outcome, such as improvements in animal welfare or environmental protection.

Increasingly NFPs are expected to be able to demonstrate effectiveness and resulting impact at an organisational, program or initiative level. For example, government and philanthropic funds increasingly require NFPs to assess the performance of a particular program or service as a condition of receiving funding.

Small NFP governance checklist: Principle 5

- ☐ The board has a small set of targeted performance measures and indicators that assists in understanding and refining the NFP's performance.
- ☐ The board is able to form a quantitative and qualitative view on the effectiveness and impact of the programs and services the NFP provides for clients, beneficiaries or community members.
- ☐ There are clear quantifiable goals and targets for the NFP's senior management that the board measures and reviews regularly.
- ☐ There are mechanisms by which the board and senior management can listen to and understand the views of employees and volunteers, including surveys and 'town hall' meetings.
- ☐ The board has a dynamic approach to public transparency that goes beyond regular reporting and the AGM, including regular communications and an accessible website.

In October 2023, the AICD published an extensive resource on impact measurement and governance. The resource provides best practice guidance on how NFP boards can oversee effective impact measurement. The resource is available by clicking the accompanying image.

ACCOUNTABILITY AND TRANSPARENCY

A rigorous approach to accountability and transparency is a crucial component of the good governance of NFPs. They often use external and public sources of funding, such as government grants and donations, and provide key services to the public, including disadvantaged communities.

Because of the public funding, purpose-led nature of the sector and community expectations, NFPs are generally held to higher standards than the for-profit sector. A rigorous approach to accountability and transparency assists NFPs to maintain their community standing.

TABLE 5 - INTERNAL ACCOUNTABILITY AND TRANSPARENCY

Area	Policy
Board oversight of management	The board holds management accountable for the organisation's use of its resources. This includes making sure that management is following the board's policies and procedures, that management is making sound decisions about resource allocation, and managing risks effectively.
Performance and consequence management	A system or set of policies and processes that hold all individuals at an NFP accountable for actions and results. It helps to ensure that everyone is working towards common goals and that resources are being used effectively. Performance measurement entails an individual having clear goals and objectives and then tracking progress against those goals. Consequence management, includes taking corrective action for poor performance, without encouraging a 'blame' culture. An effective system includes providing regular feedback to individuals so that they can improve their performance.
Engagement with staff and volunteers	A board should ensure that the organisation and senior management are effectively engaging with staff and volunteers. Mechanisms include staff surveys, site visits, open 'town hall' meetings of all staff and fostering an open and transparent culture. The board and senior management should also seek to communicate effectively with staff and volunteers, including updates on NFP performance, structural and staffing changes. This is connected with strong organisational culture of the NFP, discussed in detail in **Principle 8 – Organisational culture**.
Whistleblower policies	A whistleblower policy is an internal process that encourages and protects employees and volunteers who report wrongdoing. An effective policy can be a key mechanism by which internal performance failings, including by senior management or executives, are identified and reported to the board. The policy should provide clear procedures for reporting misconduct and protecting whistleblowers from retaliation.
Internal and external audit	Larger NFPs may have an internal audit or risk function. **Internal audit** is an independent appraisal activity within an NFP designed to examine and evaluate the effectiveness of risk management, control, and governance processes. Internal audit often reports findings to the board and/or risk committee. Most medium and large NFPs and charities in Australia are required to annually have an **external audit**. It is good practice for all NFPs regardless of sizes to be externally audited in some capacity. The purpose of an external audit is to express an opinion on whether the financial statements are fairly presented in accordance with the relevant accounting standards, and provide a timely and fair view of the financial position. These results are reported to the board and generally included in the annual report.

TABLE 6 - EXTERNAL ACCOUNTABILITY AND TRANSPARENCY

The annual report and annual general meeting have traditionally been the main mechanisms that NFPs, and their boards, have been held to account by members and stakeholders. NFPs are increasingly expected to use more flexible and responsive mechanisms to be transparent and accountable with stakeholders over the reporting cycle.

Area	Policy
Annual reporting	The annual report assists in providing a comprehensive review of the NFP's activities and performance and assists in setting out the NFP's objectives and strategy. The board will ultimately approve and sign off on the annual report, including a directors' report where relevant. The board should also ensure the annual report is accessible to all key stakeholders, for instance on the NFP's website.
Regulator reporting	NFPs in Australia can face a myriad of different reporting obligations that are a key accountability mechanism. Reporting enables the regulator to review the NFP and the broader public to access details on the NFP based on information disclosed or published by the regulator. Registered charities are required to report to the ACNC while state-based associations are often required to report to State/Territory based fair trading offices. NFPs may also have industry specific reporting requirements, for instance aged care providers are required to report to the Aged Care Quality and Safety Commission. The board should be satisfied that the NFP is comprehensively and accurately meeting its regulator reporting obligations.
Annual general meeting (AGM)	An AGM is an important accountability forum for NFPs that provides an opportunity for members to engage directly with the board and the organisation. At an AGM, stakeholders can: • Review the charity's financial statements • Ask questions about the charity's activities • Vote on resolutions that could affect the charity's future, such as the election of board members The AGM is also an opportunity for the NFP to: • Present its annual report to stakeholders • Highlight its accomplishments and challenges • Share its plans for the future
Member and stakeholder communications and engagement	An NFP should seek to communicate regularly and transparently with members and broader stakeholders, including donors. This can include updates on the activities of the NFP and offering these stakeholders opportunities to provide feedback on the NFP. A key accountability mechanism for donors is being able to measure effectiveness of key sources of funding. As noted in **Principle 6 – Stakeholders**, increasingly NFP boards are expected to have governance processes that make them accountable to key stakeholders, including clients or customers, employees, volunteers, members, suppliers, regulators and the community. Effective use of digital channels, such as social media, can be important to reach a broad range of stakeholders.
Voluntary disclosure	Where an NFP has identified an organisational issue, a failing or compliance breach it may often be appropriate to voluntarily disclose the issue depending on the circumstances. The disclosure may be narrow, to the relevant regulator or donor, or broader to a larger group of stakeholders. Legal advice should be sought where possible. Voluntary and proactive disclosure demonstrates a commitment to transparency and accountability, assists in maintaining stakeholder trust and reputation and displays ethical behaviour.

BOX 5.1 - AICD RESOURCES ON PERFORMANCE AND ACCOUNTABILITY

- **Director tool: General meetings of members**
- **Director tool: Performance review and appraisal of the CEO**
- **Director tool: What to consider before approving financial statements**
- **Director tool: Whistleblower director duties and responsibilities**

Questions for directors

- Is the board receiving the right information to form a view on the financial performance and financial position of the NFP?
- Are there specific financial measures or ratios that the board should be focused on in respect of our NFP?
- How does the organisation measure the impact of its programs and service?
- Do the performance and consequence management settings in the NFP align with the strategic plan and board expectations of employees?
- Other than the annual report and AGM, how does the NFP demonstrate accountability and transparency with its stakeholders?

Rosina Hislop
FAICD

Chair of ECH, Director at Jones Radiology and Director at Super SA. Rosina is also a Facilitator for the Australian Institute of Company Directors Company Directors' Course.

CASE STUDY: PERFORMANCE AND ACCOUNTABILITY

Regular oversight and monitoring is a fundamental tool through which the board evaluates the organisation's performance, according to Rosina Hislop FAICD. Boards should set a small number of clear objectives and metrics to assess the NFP's outcomes and impact, not just outputs.

Financial performance

Ms Hislop highlighted that financial reporting mechanisms such as the annual budget and audit helps ensure there is strong internal control as well as compliance with relevant accounting standards. Ms Hislop said 'the budget should be viewed as a shared understanding with management, outlining mutual expectations and financial stewardship' with implications for board decision-making and possible performance management should the budget not be met.

During the annual budget process, directors should rigorously test underlying assumptions and make sure that activities and projected spending align with the strategic plan;

This provides the basis for monitoring:

- Variances between actual and budgeted figures;
- Expenditure aligns with the organisation's strategy; and
- Assess risks and opportunities of tied and untied funding.

CEO appraisal

Ms Hislop reflected that setting balanced metrics for CEO performance across areas such as finance, client focus, organisational culture, and innovation and regularly monitoring these metrics is another tool that the board uses to demonstrate the NFP's performance and accountability. Directors should:

- Set clear and sustainable performance goals for CEO from outset;
- Provide two-way feedback to CEO, through the chair; and
- Ensure feedback is balanced and linked to the achievement of strategic goals.

Non-financial performance

Regarding non-financial performance, Ms Hislop noted that publishing quality indicators helps NFPs to build credibility with stakeholders and the broader community on the impact of their activities. For example, in the care sectors, regularly publishing client survey results and follow up strategies, shows stakeholders that the organisation is taking continuous improvement seriously.

Ms Hislop said, 'it is an opportunity for boards to demonstrate leadership by explaining and owning the results, even if there is a lot of room for improvement.'

Accountability

Annual reports should be transparent and accessible for a variety of audiences, whether online or in person. Ms Hislop highlighted that 'boards should be clear on who their key stakeholders are, such as members, funders and regulators, how those key stakeholders prefer to receive their information, and how stakeholder views will be considered during board decision-making.' For example, in an aged care setting, clients may prefer to receive to receive physical copies of reports than online.

Principle 6 - Stakeholders

KEY POINTS

- The board should consider stakeholder views as providing valuable insights into whether the NFP is achieving its purpose, and as an early warning signal for key risks.
- The board oversees a framework for engaging with key stakeholders and considering their interests, while having regard to the purpose and strategic objectives of the organisation.
- Open and transparent engagement with stakeholders fosters trust and goodwill towards the NFP which can benefit in the NFP in attracting volunteers, donations, and partnerships.

This Principle is adapted from the more detailed AICD publication Elevating stakeholder voices to the board, which provides a framework for effective stakeholder governance. See Figure 10 on the following page for a suggested approach for boards.

DO DIRECTORS OWE A DUTY TO STAKEHOLDERS?

Directors owe a duty to act in good faith in the best interests of the organisation and for a proper purpose. In exercising this duty, directors have considerable discretion to identify the 'best interests' of the organisation, and stakeholder interests can, and should, be a legitimate consideration. For NFPs, the organisation's purpose will be a core factor for directors to consider in deciding what is in the best long-term interests of the organisation.

A **2021 legal opinion from Bret Walker AO SC and Gerald Ng MAICD, commissioned by the AICD**, provided greater clarification on the best interests' duty. The legal opinion confirmed that directors have considerable discretion to identify the best interests of the company. An accompanying **AICD Practice Statement** emphasised that while members' interests are central, directors can, and should, also consider a range of stakeholder interests – doing so is often necessary to protect an organisation's reputation and ensure its sustainability.

As a guiding principle, directors should take a long-term view of where the organisation's interests lie, while seeking to maintain as respectful and transparent a relationship as possible with stakeholder groups.

BOARD'S ROLE IN STAKEHOLDER ENGAGEMENT

Boards should lead only from the boardroom. The board should determine when it actively engage with stakeholders from a strategic and risk perspective (see **Figure 10**). Importantly, boards have a role in reflecting how the organisation should engage with stakeholders that they disagree with or with whom they have had challenging relationships. This builds goodwill and helps to identify potential issues for resolution. This engagement also helps stakeholders develop a better understanding of the NFP, its resource constraints, how to work with it, and how to manage expectations accordingly.

The board should ensure it is receiving timely and accurate information about stakeholder perspectives to inform key decision-making. However, boards are increasingly being asked to take a more active role in stakeholder engagement where directors can add value and not duplicate the work done by management. In smaller NFPs, directors may be already performing a greater role in stakeholder engagement, given resource constraints.

A board's approach will be tailored depending on the purpose, size and nature of the NFP, and the type of stakeholders involved. For example, a small regional

arts NFP operating in a single location will likely have a smaller set of stakeholders to consider in their decision-making, compared to a large aged care and disability NFP operating nationally.

Stakeholder engagement builds goodwill and helps to identify potential issues for resolution. This engagement also helps stakeholders develop a better understanding of the organisation, its resource constraints, how to work with it, and how to manage expectations accordingly.

In some sectors, such as human services, health and education, there may be mandated requirements in regulations and/or accreditation frameworks to consult with key stakeholders. Generally, these requirements seek to ensure the voices and experiences of the people who are using the organisation's services are considered in policy making, program design and quality improvement processes.

The frequency of such direct engagement will vary from stakeholder group to stakeholder group and issue to issue. The board must consider what form of engagement is most suitable for the stakeholder group and which directors from the board are most appropriate to engage with particular stakeholders.

Formal governance structures

Formal stakeholder governance structures such as advisory councils or committees can offer a range of benefits for NFPs, from improved decision-making to enhanced legitimacy and trust. However, careful consideration and planning is essential to consider whether it is appropriate, including the resourcing commitment.

One of the key advantages of formalised structures is that it provides a consistent and periodic rigour to hearing stakeholder voices that ad-hoc approaches can lack. The appointment processes can benefit the NFP through targeting a diverse group of individuals and skills from a group or groups of stakeholders.

These structures are more common amongst NFPs that provide human services and/or target a particular community or demographic. In certain sectors, such as aged care, advisory committees are required under the relevant regulatory framework.

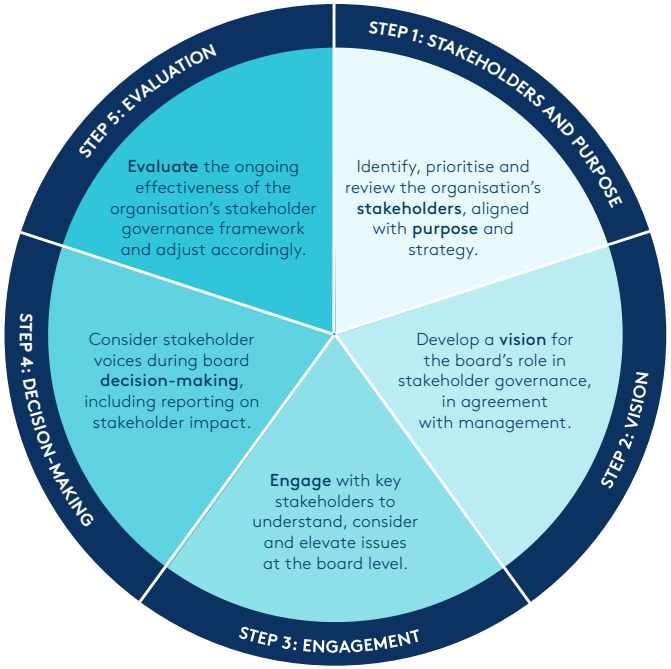
Board appointments

In some areas, it may be appropriate for the board to seek to recruit directors with deep connection and understanding of specific stakeholder groups. This does not mean such individuals will represent that constituency though, as all directors will have common directors' duties, including to act in the best interests of the organisation.

Recruiting directors with lived experience is one mechanism that the board can use to demonstrate its commitment to ensuring its decision-making is informed by the client voice. To enable this, the board may need to review governing documents, such as the board skills matrix, board charter, and or constitution.

See **Appendix B: Elevating the client voice – Resource for NFP boards** for further guidance.

FIGURE 10 - STAKEHOLDER GOVERNANCE STEPS



BOX 6.1 - POTENTIAL FORUMS FOR ENGAGEMENT

- Formal advisory councils, committees and forums
- Fundraising events
- Stakeholder days, including annual general meetings
- Board & stakeholder dinners
- Site visits, including unannounced 'mystery shopper' visits

IDENTIFYING YOUR STAKEHOLDERS

Identifying and prioritising stakeholders is a dynamic process. Stakeholder groups may be in conflict and their priority may change over time, as the NFP strategically allocates resources to certain activities.

Depending on the nature of NFPs, stakeholders can include:

- Members;
- Clients/beneficiaries, their families, carers and advocates;
- Employees and volunteers;
- Employee representatives/trade unions;
- Religious institutions;
- Industry and peak bodies;
- Suppliers;
- Traditional Owners/Traditional Custodians;
- Donors and funders;
- Government and regulators;
- Local and broader community; and
- Media.

INTEGRATING STAKEHOLDER PERSPECTIVES

Boards and management should ideally have a strategic framework to holistically assess the diverse range of stakeholder perspectives which they consider to be material. Boards should allocate sufficient time to discuss the key stakeholder interest and impact on board decision-making, supported by management briefing.

NFPs have limited resources and make trade-offs accordingly on which key stakeholders to prioritise, noting there will be various levels of regulatory obligations and community expectations to meet. Boards should have processes to ensure that the views of stakeholders are considered in proportion to their importance and connection to purpose, not simply those with the strongest voice.

The Disability Royal Commission highlighted the negative consequences that a failure to listen and consult people with disability on decisions affecting their lives.

BOX 6.2 - FIRST NATIONS STAKEHOLDERS

First Nations advocates recommend organisations have regard to the United Nations (UN) Declaration on the Rights of Indigenous Peoples, which Australia has supported since April 2009. It calls on States to obtain free, prior and informed consent (FPIC) of First Nations people before adopting legislative or administrative measures that would affect them. See further UN FPIC guidance here.

Where relevant to the organisation's purpose, boards should ensure that stakeholder voices that are not always heard have safe opportunity, such as First Nations communities.

Organisations should engage early and invest in the relationship. A 'tick-a-box' or tokenistic approach to board engagement and oversight can be perceived as disrespectful, empty and meaningless. Engagement should be ongoing and genuine, not just when a specific approval or consent is needed. There should be an ongoing connection that also recognises historical legacies. Boards should be ready for raw and direct feedback.

Respect is built at the speed of trust. Organisations should understand that First Nations timelines are built on relationships first, rather than transactions.

Education

Taking time to understand Traditional Owners'/ Traditional Custodians' or First Nations peoples' protocols and timelines for consultation is also critical for effective engagement and building respectful relationships. Cultural awareness training for boards and directors is one way that directors can prepare for community engagement.

Reconciliation Action Plan

Developing a Reconciliation Action Plan (RAP) is a way that NFPs can support the national reconciliation movement and engage with First Nations people. Boards can send a clear signal about the importance of reconciliation through their active oversight of RAP implementation. More information can be found on the Reconciliation Australia webpage.

Questions for directors

- Which stakeholders are vital to the organisation's long-term success and what are their perspectives and interests?
- Does the organisation need a formal stakeholder governance framework?
- How do stakeholder perspectives inform board decision-making, management oversight and risk management?
- How clear are the board's and management's roles in stakeholder engagement?

Small NFP governance checklist: Principle 6

- [ ] The board has identified the NFP's key external stakeholders and understands the diverse interests and expectations of these stakeholders.
- [ ] The NFP uses accessible communication methods to engage with these stakeholders, including meetings, surveys, newsletters and social media.
- [ ] The board reflects on the perspectives of stakeholders when making decisions and engaging with management.
- [ ] The board regularly assesses the effectiveness of its stakeholder engagement practices and where things can be improved.
- [ ] Directors have considered whether the board skills matrix and board appointment process should account for a specific stakeholder voice or lived experience.

Professor Elizabeth More
AM MAICD

Chair, Flourish Australia

Mark Orr
AM GAICD

CEO, Flourish Australia

CASE STUDY: STAKEHOLDERS

Flourish Australia, a specialised community mental health service, has a stakeholder framework that ensures stakeholder voices are elevated collectively to the Board, through formal board committees and engagement by individual directors outside of the board room. CEO of Flourish Australia, Mark Orr AM GAICD, notes "stakeholder engagement is part of the DNA of Flourish Australia, it's not just what we do but who we are." This includes people with lived experience of trauma and mental health issues participating fully on the board, executive team, managers and front-line staff.

Stakeholder engagement by the Board:	
Community Advisory Council (Council)	• The Board engages with the Council, which consists of people accessing services, acting as representatives from across metropolitan, regional, rural and remote areas. For example, the Board acted on the advice of the Council about service delivery issues and how it could help people stay safe and connected during the COVID-19 pandemic. • Chair of Flourish Australia, Professor Elizabeth More AM MAICD, who also attends bi-monthly Council meetings, explained that "the Council is a valuable guide on important issues with which the Board deals. For example, the Council was involved in the development of the organisation's Strategic Plan and the Monitoring and Evaluation Framework which the Board deeply appreciated." • The Council makes presentations to the Board ensuring directors have a regular opportunity to engage directly during the year.
Staff	• Board directors undertake site visits to speak with people accessing services and team members, and to monitor the environments in which supports are delivered. Site visits include informal afternoon teas with regional managers to gain insights about their work. • In 2023, the Board approved an organisational cultural statement and adopted a metrics report as a tool to monitor organisational culture, which complements the insights gained from directors' own site visits. • Strategic site visits by directors demonstrate the importance of building trust between the board and executive and respecting their shared but distinct roles and responsibilities in oversight of organisational culture and succession planning.
Fundraising	• Flourish Australia has established a Foundation, a standing Board committee, which is responsible for providing guidance and oversight on Flourish Australia's philanthropic and charitable fundraising. • The Foundation also ensures compliance with charitable fundraising legislation and requirements, and raising the organisation's National profile.
First Nations	• The Board endorsed the organisation's support of the Uluru Statement from the Heart and a statement in support of the Voice Referendum co-developed with Flourish Australia's YarnUp Group, made up of staff from First Nations Communities. • The Board also meets with the YarnUp Group to discuss the organisation's Strong and Deadly Together Plan, the organisation's formal commitment to the reconciliation journey.

Principle 7 - Sustainability

KEY POINTS

- Sustainability considerations are central to best practice governance and should be regularly considered by all NFP boards as consistent with purpose, including charitable purpose.
- An NFP's purpose, vision and strategy should guide the organisation's approach to sustainability with the board overseeing a framework for evaluating the risks and opportunities related to sustainability.
- Given the broad set of sustainability considerations, boards should be clear on their approach to sustainability, especially when it comes to resource allocation.

WHAT IS SUSTAINABILITY?

Sustainability refers to a focus by a board on how the organisation impacts, and is impacted by, the environmental, social and human elements that are central to its operations.

Many NFPs describe sustainability from a traditional financial perspective as it relates to ensuring the organisation can sustain its operations over time. Broader sustainability considerations are often paramount governance issues as they go to the organisation's risk profile, reputation and community standing.

The approach to sustainability and what to focus on by a particular NFP will be guided by its purpose, size, complexity, industry, key stakeholders and the existing resources at its disposal. **Box 7.1** on the following page outlines a list of common sustainability matters that may be relevant for NFPs. The board is central in deciding what sustainability matters are of importance having regards to the circumstances of the NFP and its purpose.

SUSTAINABILITY AND PURPOSE

Directors have a duty to act in the best interests of the organisation and for a proper purpose. As a guiding principle, directors should take a long-term view of where the organisation's interests lie. This means NFP directors can, and should, as a matter of practice, consider other stakeholders such as employees, customers and the environment when discharging their duty. Doing so is often necessary to protect an organisation's reputation and ensure its sustainability. See AICD **Practice Statement – Best Interests Duty** for further guidance.

Like for-profits, NFPs must maintain ongoing public trust, and especially for charities, maintaining their ACNC registration and access to tax concessions from the ATO.

A board of a charity should have confidence that any sustainability measures are consistent with the charitable purpose under which it is registered with the ACNC.

For example, many charities that choose to make investments aim to do so in an ethical way that is aligned with their charitable purposes. The ACNC **advises** that any investment decisions must comply with the ACNC Governance Standards. This helps to ensure decisions are made within an appropriate governance framework and in a way that furthers its charitable purpose.

In certain cases it may be appropriate for the board to seek external legal advice on this issue.

Sustainability is also closely linked to **Principle 3 – Board composition and effectiveness** and **Principle 6 – Stakeholders**, as NFP boards are expected to consider a range of sustainability related matters, depending on its materiality and impact on stakeholders.

WHY SHOULD NOT-FOR-PROFITS CONSIDER SUSTAINABILITY?

Sustainability provides numerous benefits that align with the goals, values, and long-term success of NFPs. For example:

- Sustainable practices can ensure the long-term financial viability of NFPs by reducing operational costs and improving resource efficiency which is crucial for NFPs operating with limited budgets. Governments are also embedding sustainability considerations within their procurement policies. See Queensland Government **guidance** on responsible social procurement;
- Boards strengthen their risk management effectiveness by preparing the organisation for future regulatory changes on sustainability. NFPs are increasingly being captured directly or indirectly through corporate reporting on issues such as **modern slavery** or carbon emissions; and
- Demonstrating commitment to diversity and inclusion through recruiting staff and volunteers that reflect the community, the NFP will likely have greater impact in how it serves the community (e.g. people with disability). Employees and volunteers also want to work with organisations that are aligned with their values on addressing issues such as climate change.

Box 7.1 provides a list of potential areas of sustainability focus that will vary based on individual NFPs. Many organisations have activities that align to the UN Sustainable Development Goals (see **Box 7.2**). In the **AICD 2023-24 NFP Study**, sustainability issues featured on the board's agenda more than twice per year for 41 per cent of respondents and never for only 21 per cent.

BOX 7.1 - POTENTIAL SUSTAINABILITY CONSIDERATIONS

- Air and water pollution
- Biodiversity and nature
- Carbon emissions
- Climate change
- Community engagement
- Data protection and privacy
- Diversity and inclusion
- Employment creation
- Energy efficiency
- First Nations reconciliation
- Gender equality
- Human rights

Small NFP governance checklist: Principle 7

- ☐ The board has prioritised particular sustainability considerations consistent with purpose, size, industry/sector, stakeholders and resources.
- ☐ The board understands the environmental impact of the NFP's operations and has taken steps to minimise this impact where feasible.
- ☐ The board and the executive have supported employees and volunteers with guidance and training on how to prioritise focus areas related to sustainability.
- ☐ The board has indicators that enable it to track progress on key sustainability measures and can take action to improve if necessary.

EXAMPLES OF SUSTAINABILITY ISSUES:

Environment (including climate change)

Many NFPs already dedicate plans to reduce the organisation's impact on the environment, including recycling and reducing waste and pollution. NFPs are also increasingly impacted by climate change. Clients, customers, and communities are impacted by the increased severity and frequency of extreme weather events (e.g. frontline emergency support, supply chain disruption, inability to host events and fundraisers etc). Donors and funders will expect NFPs to reduce emissions and build climate resilience in line with other sectors of the economy. See AICD resource **Climate Governance for NFP Directors: Starting the Journey to Net Zero**.

Diversity and inclusion

Boards are increasingly aware that achieving greater board diversity strengthens governance. Getting a more diverse range of viewpoints leads to better board discussions and improves decision-making. It also creates a broader talent pool and pipeline of directors to draw from. Recent inquiries such as the Disability Royal Commission have highlighted the importance of elevating the lived experience of people with disability through formal governance structures, whilst the Aged Care Royal Commission highlighted the importance of upskilling or recruiting directors with clinical expertise. See **Principle 3 – Board composition and effectiveness** for further guidance on board diversity.

Human rights

For organisations, human rights cannot be simply framed as a reputational or 'non-financial' risk. The consequences of poor human rights practices can materially impact an organisation's stakeholder relationships, financial performance and prospects for long-term sustainability. Although designed for Australian international development NFPs, the Australian Council for International Development (ACFID) **Code of Conduct**, provides useful guidance on how NFPs can implement a human-rights based approach.

Social issues

Organisations and their boards may face stakeholder and community expectations to take public positions on important social issues, including where public debate is intense. Charities will have a focus on whether the social issue is consistent with their charitable purpose, the interests of its beneficiaries, and stakeholder expectations. On advocating political and policy change, the ACNC notes that 'if a charity plans to undertake advocacy activities, it must be able to demonstrate why it considers its advocacy furthers its charitable purposes.' Personal views of management and directors should be kept separate from whether an organisation should take a position. See AICD resource **Social Issues and the Board**.

BOARD STRUCTURES – HOW TO INTEGRATE SUSTAINABILITY FOR LARGER NFPs?

Sustainability requires oversight by the whole board. Directors should upskill on the relevant sustainability issues to enable informed decision-making. A dedicated sustainability committee may be appropriate for larger NFPs, noting the complexity of issues likely to arise. Board oversight can also be strengthened by all existing board committees seeking ways to incorporate these matters into their existing responsibilities and mandates (e.g. charters).

For further guidance, see joint AICD/Herbert Smith Freehills guide on **sustainability committees**, which includes a template charter.

BOX 7.2 - UN SUSTAINABLE DEVELOPMENT GOALS

There are 17 **Sustainable Development Goals** (SDGs) – which sets out a roadmap for global development efforts to 2030 and beyond. Australia actively participated in international discussions to design the 2030 Agenda. Many organisations have adopted this framework to develop their own approach to sustainability.

The content of this publication has not been approved by the United Nations and does not reflect the views of the United Nations or its officials or Member States

The following board-level committees may be of relevance:

Governance committee – Ensure appropriate director training on sustainability issues; review organisational policies; ensure that material environmental and social issues are integrated into the full board and committee charters and areas of expertise;

Audit and risk committee – Understand sustainability risks and opportunities, including in annual reporting on the performance of the organisation; ensure quality and reliability of disclosures; ensure compliance with new regulations on sustainability issues; and

Nominations committee – Integrate sustainability competencies into the director nominations process and board matrix.

Questions for directors

- How does the board's approach to sustainability align with the purpose and vision of the NFP?
- Has the board assessed the impact of sustainability issues on the NFP?
- Has the board considered how peer organisations are responding to sustainability issues?
- What governance structures and processes will enable the board to oversee the NFP's actions on key sustainability issues?

Trent Bartlett
FAICD

Former Chair, Good Sammy Enterprises

Kane Blackman
GAICD

CEO, Good Sammy Enterprises

CASE STUDY: SUSTAINABILITY

Good Sammy Enterprises, social enterprise and disability employer, based in Western Australia, embraces sustainability as central to their purpose and mission. As part of the 'social' pillar of environmental, social and governance, more than half of Good Sammy's workforce are people with disability, whilst the board also comprises of people with disability. In the 'environmental' pillar, Good Sammy diverted 6 million kilograms of textiles and other materials from landfill and recycled 30 million containers in 2022-23.

Former Chair of Good Sammy Enterprises, Trent Bartlett FAICD says, "sustainability is not just an environmental or social imperative but also a strategic and operational one. It offers numerous benefits that align with the goals, values, and long-term success of NFPs." By integrating sustainability as a strategic priority, the Board also ensures associated risks are dealt through the organisations' risk management framework.

The Board has established a Sustainability Plan which outlines the following pillars, developed and aligned with the United Nations 17 Sustainable Development Goals. For each pillar, the Board has established policies with approved targets and performance reporting. Revisions are considered on a case-by-case basis, underpinned by an evidence base.

The Board ensures sustainability remains consistent with the best interests of the organisation through annual reviews of board policies, key performance indicators, and alignment of impact remuneration incentives for executives and managers. For example, the Audit and Risk Committee reviews the organisation's Reconciliation Action Plan and Diversity and Inclusion Plan.

For directors of smaller NFPs engaging with sustainability for the first time, Mr Bartlett highlighted "the board needs to ensure the organisation is ready, willing and able to commit to the journey and provide clarity about the sustainable outcomes they want to achieve." Boards should start with small achievable goals, prioritise actions for maximum impact, and "measure what you need to treasure when it comes to sustainability." Whilst many NFPs are resource constrained, boards should consider pursuing low-cost initiatives such as energy-saving measures, recycling programs, volunteer-led projects and partnerships for resource sharing and joint ventures.

Environment	Social	Governance
• Resource use (energy, water, land) • Emissions • Waste and recycling	• Health and safety • Diversity and inclusion • Community impact • Employee engagement + experience • Customer + product responsibility	• Board diversity, governance and remuneration • Conduct and ethics • Tax transparency • Anti-corruption and bribery • Stakeholder rights and engagement

Principle 8 - Organisational culture

KEY POINTS

- Directors should lead by example in modelling the organisational culture they expect of employees and volunteers.
- Assessing and monitoring an NFP's organisational culture requires the board to proactively obtain meaningful information on key elements of culture, including employee and volunteer satisfaction and their compliance with relevant laws.
- The board has a key role in promoting employee and volunteer recognition and meaning, including through ensuring sufficient resources are dedicated to recognition.

Organisational culture is the collective behaviour, norms and values of the organisation and is a central consideration of best practice modern governance. A strong ethically grounded organisational culture seeks to go beyond compliance focused 'can we' questions to instead focus on 'should we' questions'.[3] Directors play a key role in shaping and overseeing the culture of the NFP organisations they govern and should lead by example.

TONE FROM THE TOP

Organisational culture starts with the tone set by the board and senior management. The board must model the characteristics of the desired culture, both individually and collectively. It is the board's responsibility to ensure that it sets expectations for performance, behaviour and accountability and tests whether these expectations are being met through the NFP's management practices, policies and decision-making. The chair and board should be explicit about the application of codes of conduct and demonstrating the organisation's values including in board meetings, evaluations, and stakeholder engagement.

Key responsibilities of the board in overseeing organisational culture are:

- **Establish and articulate the NFP's values and ethical principles** – The board is responsible for defining the organisation's core values, which provide the foundation for its culture. These values should be clearly communicated to all employees and volunteers;
- **Assess and monitor the NFP's culture** – The board should regularly assess the organisation's culture to identify any areas of concern or potential risks. This can be done through surveys, employee feedback mechanisms, and external reviews;
- **Hold management accountable for upholding the desired culture** – The board should hold management accountable for creating and maintaining a positive and ethical culture, especially at senior executive and CEO level. The board should have regular CEO reports on organisational culture that allow directors to deep dive on issues;
- **Address cultural issues promptly and effectively** – If the board identifies or becomes aware of any significant cultural problems, it should take swift action to address them. This may involve implementing new policies or procedures, establishing an internal review or investigation, providing training to employees, or taking disciplinary action against individuals; and
- **Seek external expertise when needed** – The board may need to seek external expertise from consultants or experts to help them assess and address cultural issues.

3 See AICD **briefing** on the 2018 Australian Prudential Regulation Authority (APRA) Report into the Commonwealth Bank of Australia.

Code of conduct

A code of conduct is a key policy document that sets out the behaviours and conduct expected of people involved with the NFP. The board will generally approve the code of conduct and it will apply to directors, staff, volunteers and members.

Codes of conduct can take many forms with some highly prescriptive, for instance prohibiting certain behaviour, while others are more principles based. Core features of a code will include:

- **Values** – It defines the core values that guide decision-making and interactions at the NFP.
- **Expectations** – It sets clear standards for acceptable and unacceptable behaviour, covering areas like communication, conflict resolution, and professionalism.
- **Consequences** – It outlines the repercussions for violating the code, ranging from warnings to termination. This ensures accountability and encourages compliance.
- **Legal and compliance** – It ensures adherence to relevant laws and regulations, protecting the NFP and its beneficiaries or clients.

Boards should be prepared to make difficult decisions to enforce the code of conduct and to empower management to do the same. This type of decision is challenging especially when it involves people that have extensively contributed to the organisation and their skills and experience are difficult to replace.

The code of conduct should be readily available and understandable. In some cases, it may be appropriate to make the code of conduct publicly available, on the NFP's website for instance. This approach to accessibility and transparency may be appropriate if the NFP has a large membership base or pool of volunteers that are covered by the code.

The code of conduct should be a living document that adapts to evolving needs and community expectations through an annual review by management or board committee and updates to the code of conduct, accounting for any new legal obligations or lessons learnt internally.

Small NFP governance checklist: Principle 8

- [ ] The board and CEO set a 'tone from the top' for the organisational culture that they expect to see at the NFP.
- [ ] The NFP has a succinct and clear code of conduct that is shared and understood by employees, volunteers, and third party providers.
- [ ] The board has documented policies that cover conflicts of interest, related party transactions and whistleblowers and takes action to improve if necessary.
- [ ] The board understands the NFP's legal and compliance obligations and the organisational culture promotes compliance.
- [ ] The board takes steps to recognise and reward employees and volunteers, including low cost options such as thank-you notes.

CONFLICTS OF INTEREST

How conflicts of interest are identified and managed at NFPs should be an area of close attention for the board. NFPs and charities can face elevated conflicts of interest challenges, particularly associated with donations or related party transactions, that should be comprehensively managed to prevent reputational harm. Poorly managed conflicts of interest can damage both the organisational culture of the NFP and its reputation amongst stakeholders.

Directors must identify and manage conflicts of interest consistent with their director duties. A conflict of interest may mean the director's duty to act in the best interest of the NFP is undermined by another interest or relationship. These relationships can include family, social and business interactions which may intersect with the governance and operations of the NFP.

Key steps in managing conflicts of interest include:

- **Adopting a conflict of interests policy** that applies across the organisation to directors, employees and volunteers;
- **Maintaining a register of interests**, which assists the NFP identify potential conflicts;
- **Creating and promoting a culture of disclosure** across the organisation with directors, employees and volunteers viewing comprehensively disclosing interest as part of their role; and
- **Managing any conflicts of interest appropriately**. For a director this may include excusing themselves from discussions and decisions related to the area subject to the conflict.

The ACNC has **extensive guidance** on the management of conflicts of interest that are informative for both directors of registered charities and NFPs.

Related party transactions

The effective oversight and management of conflicts of interest overlaps with the NFP identifying and reporting related party transactions. Related party transactions are dealings between the NFP and individuals or entities with close ties to the organisation. A related party transaction can include:

- Purchases, sales or donations;
- Receiving goods, services or property;
- Leases;
- Transferring property, including intellectual property;
- Loans;
- Guarantees;
- Providing employees or volunteers; and
- Responsible Person of a charity providing professional services (for example, accounting or legal services) at a discounted rate or for free.

In some cases, a related party transaction may not be in the best interests of the NFP. All NFPs and charities are generally required to report related party transactions consistent with the relevant accounting standards. NFPs need to manage the risk that related parties or key management personnel could receive significant private benefits from charity operations.

See ACNC **guidance** on reporting related party transactions (including establishing a template register) for registered charities.

Table 7 - Conflicts of interest

Actual	The NFP board member is an owner of a business that sells products or services to the NFP.
Potential	A relative of the NFP board member applies for an employee position at the NFP.
Perceived	A close friend of the NFP board member is a senior employee of a business that is quoting to provide services to the NFP.

Reporting and acting on organisational culture

The most comprehensive of internal policies and procedures will not always prevent cultural failings. It is crucial that there are systems and reporting practices in place where these failings are identified, reported to the board and action is taken to address any misconduct.

The board should work with management to ensure that it receives comprehensive reporting that enables it to form a view on the overall culture of the organisation. While one reporting item may not provide a picture of organisational culture, a number of meaningful items may in totality provide genuine insight. Example of reporting items are provided in **Table 8**.

NFP directors should also seek formal and informal opportunities for gauging organisational culture, including interacting with employees and volunteers.

A board should have oversight of the internal processes, including investigations, that act on cultural failings. In some instances, it may be appropriate for the board to have a more active role in addressing systematic failings. For example, a board committee may be delegated responsibility for driving the NFP's response and remediation to particular service delivery failings.

See **AICD and Australian Council of Superannuation (ACSI) resource** on governing company culture.

Protecting whistleblowers

A board should be satisfied that the employees and volunteers who report wrongdoing or internal issues are protected from retribution. Whistleblowers play an important role in exposing misconduct and cultural issues. Cultivating an environment where whistleblowers feel safe to come forward is critical to achieving this and assists the NFP board effectively discharge its oversight of financial and non-financial risks.

Whistleblowing laws under the Corporations Act were reformed with effect from 1 July 2019 to provide significantly strengthened protections to whistleblowers and require the organisations subject to the regime to have a compliant whistleblowing policy in place. Whether these obligations apply to a particular NFP will depend on the corporate structure of the NFP. In general, all NFPs structured as public companies limited by guarantee must comply with the whistleblower protection provisions. Further information on the application of the provisions to NFPs is available on the ASIC website **here**.

Even where the NFP is not subject to explicit whistleblowing obligations, better practice is for the organisation to have in place a whistleblowing policy and for the board to have an active role in monitoring how the policy is implemented in practice.

The AICD's Director tool **Whistleblower director duties and responsibilities** provides practical guidance on the significance of whistleblowing to good governance.

Table 8 - Examples of board reporting on organisational culture

Employee and volunteer turnover trends, dismissal rates and reasons
Employee demographics, hiring practices, and promotion rates
Staff and employee feedback, including via surveys or other mechanisms
Internal complaints related to cultural issues, such as discrimination, harassment, or bullying
External complaints or feedback related to service or product delivery, beneficiary/client experience
Workplace health and safety incidents
Completion of employee training, employee attendance at internal events, employee engagement with internal communications
Breach identification and reporting to regulators, investigations by regulators
External assessments, including cultural audit reports

SUBSETS OR DISTINCT FORMS OF ORGANISATIONAL CULTURE

Depending on the size of the NFP and prevalence of volunteers, the organisational culture may not be consistent or uniform across all divisions, teams and geographic locations. Subsets or distinct cultures can emerge that can vary across the organisation. This dynamic only increases the challenges for the board in gaining visibility of organisational culture.

In addition, the culture of the organisation may vary based on the behaviour. For example, APRA has focused in recent years on the 'risk culture' of financial entities. The concept of risk culture is intended to cover the behavioural norms and practices of individuals and groups that shape an entity's ability to identify, understand and act on its current and emerging risks.[4]

In **Box 8.1** and **8.2** there are two examples of distinct cultures that may be present in the NFP, one concerns how the organisation approaches cyber security and the other its approach to preventing sexual harassment.

COMPLYING WITH THE LAW

All NFPs must comply with the relevant laws that apply to them and the board has an important role in overseeing the steps the NFP has taken to ensure compliance.

As discussed in **Director obligations and regulatory requirements** and set out in **Appendix A** there can be a myriad of laws and regulatory regimes that apply to NFPs. It is generally not possible for the board to know in detail every law that applies to their organisation or be able to evaluate whether the NFP is in compliance with those laws. However, there are steps the board can take to satisfy themselves on compliance, including:

- Seeking independent or external advice of proposed key decisions;
- Establishing internal policies, processes and board reporting that promote compliance with relevant laws;
- Maintaining the integrity and periodic nature of internal and external audit;
- Promoting a culture that rewards compliance;
- Seeking independent legal advice where necessary;
- Overseeing processes to investigate and act on compliance failings and misconduct; and
- Self-reporting or disclosing compliance breaches to the relevant regulator.

BOX 8.1 - PROMOTING A CULTURE OF CYBER RESILIENCE

The board should seek to promote a culture of cyber resilience across the NFP – that is, the day-to-day attitudes and conduct of staff in their interactions with the digital world.

Significant cyber incidents often have an element of human error (e.g. an employee opening a malicious email). A genuine culture of cyber resilience is a crucial, and often overlooked, risk control.

Further guidance on building cyber resilience is available in the AICD CSCRC Cyber Security Governance Principles and AICD CSCRC Ashurst Governing Through a Cyber Crisis resource.

4 Further information on APRA's approach to risk culture is available here.

RECOGNISING EMPLOYEES AND VOLUNTEERS

A strong culture of employee and volunteer recognition is essential for fostering a positive and productive work environment, boosting morale and engagement, and enhancing overall NFP performance. The board plays a key role in promoting employee and volunteer recognition, including resources and support.

Here is how a board can oversee and drive a focus on employee and volunteer recognition:

- **Establish a clear approach to recognition** – Develop a comprehensive and well-defined approach to recognition policy that outlines the NFP's approach regarding employee and volunteer appreciation, the types of recognition available and the link to performance and desired outcomes and behaviours.
- **Lead by example** – Board members should actively participate in the recognition process, expressing gratitude to employees and volunteers for their contributions.
- **Empower managers** – Provide managers with the training, resources, and support they need to effectively recognise their team members on a regular basis.
- **Encourage peer-to-peer recognition** – Foster a culture where employees feel comfortable and encouraged to recognise and appreciate their colleagues' contribution.
- **Variety of recognition methods** – Implement a diverse range of recognition programs that appeal to different employee preferences and interests, including verbal praise, written thank-you notes, employee reward programs, and special privileges.
- **Make recognition public** – Publicly acknowledge and celebrate employee and volunteer achievements, both big and small, to inspire and motivate others.
- **Seek feedback** – Gather feedback from employees and volunteers on the recognition process, what forms of recognition they value most, and how to improve the overall recognition culture.

BOX 8.2 - CULTURE OF PREVENTING SEXUAL HARASSMENT

Since December 2022, the positive duty requires employers to take 'reasonable and proportionate' measures to prevent sex discrimination, sexual harassment, hostile environments and victimisation occurring in their workplaces.

Core to this is cultivating a 'speak up' and 'listen up' culture from the boardroom down.

Further guidance on promoting an organisational culture that prevents sexual harassment and a hostile workplace is available in the AICD Director tool **Positive duty to prevent workplace sexual harassment**.

Questions for directors

- Has the board defined an appropriate set of core values and desired cultural attributes for the organisation, which align to the purpose and strategy?
- Does the board set a clear example and provide direction to the NFP regarding the behaviour that is expected of employees and volunteers?
- Does the board hold the CEO to account for ensuring the core values and desired cultural attributes are present in the organisation?
- Does board reporting enable directors to obtain insight into organisational culture?
- Are emerging areas of cultural focus, such as addressing sexual harassment, receiving board and senior management attention?
- Is there a strategy for recognising employees and volunteers that is aligned with the board's desired organisational culture?

Ken Dean
FAICD

Chair of the Reformed Theological College and is the former chair of Mission Australia. Mr Dean has previously held directorships with BlueScope Steel Ltd, Energy Australia Holdings Ltd, Virgin Australia Holdings Ltd, Alcoa of Australia Ltd, Santos Ltd, Woodside Petroleum Ltd and Shell Australia Ltd.

CASE STUDY: ORGANISATIONAL CULTURE

Experienced charity and NFP director Ken Dean FAICD has seen the board play a key role in modelling organisational culture. The board's conduct inevitably permeates through the NFP. 'You need to behave the way you expect everyone in the organisation to behave because you are an example, whether you aim to be or not.'

Key steps a board can take in setting this tone from the top include:

- if you want a performance culture, directors need to hold themselves to account, including reviewing the performance of the board, engaging with management with respect and rigorously following-up on action items;
- genuine engagement with employee survey results, and seeking to understand the experience and perspectives of employees across the organisation;
- having a laser focus on the workplace health and safety of clients, employees and volunteers;
- getting out of the boardroom to engage directly with employees, volunteers, supporters and (where relevant) regulators, asking questions, and listening to feedback. 'You can neither read nor lead the culture by just staying inside the boardroom' Dean says; and
- every board meeting having a dedicated time to hear complaints from clients, employees, volunteers and stakeholders. 'That can be confronting' Dean says, 'but complaints need to be seen as a gift, and as better feedback than many consultants can give'.

Mr Dean reflected that it is a key task for the board to agree on the fundamental dimensions of organisational culture, and how they are linked to the NFP's purpose. The board and management might need to get creative to develop metrics and reports that provide real insight into organisational culture. Although he also noted 'you can't measure everything. So measure what you can, and consciously assess what you can't measure'.

Acknowledgements

The 2024 Not-for-Profit Governance Principles (Principles) have been developed through extensive consultation with directors, subject matter experts, and other leaders in the not-for-profit (NFP) sector. It also reflects the feedback of the AICD's policy committees – the NFP Chairs' Forum and Corporate Governance Committee, and Division Councils.

In developing the Principles, the AICD benefited enormously from the guidance and insight of a Director Reference Group comprising Virginia Bourke FAICD, Bruce Cowley FAICD, and Fiona Payne FAICD, that met throughout 2023 and 2024. The AICD also benefited from the contributions of experienced directors who provided real life case studies to illustrate the Principles in action.

The AICD recognises the guidance and insight from the charities regulator, the ACNC, and Age Discrimination Commissioner and former NSW Ageing and Disability Commissioner, Robert Fitzgerald AM.

The AICD also recognises the contributions of Robert Gregory MAICD and Angela Wood of Maddocks who provided formal external review of this document. We also recognise the insights of individual directors, NFPs and other peak bodies who provided feedback on the Principles.

The 2024 Principles update the 2019 edition and the original 2013 edition. We acknowledge the contribution of the 2019 author, former AICD Senior Policy Adviser, Lucas Ryan, and the 2013 original authors, former AICD Head of Board Advance, Dr Mark Blair GAICD, and governance expert and AICD Facilitator, David Shortland MAICD.

Appendix A - Key Commonwealth and state regulatory requirements

Area	Key legislation	Summary
Anti-discrimination	*Age Discrimination Act 2004* *Disability Discrimination Act 1992* *Racial Discrimination Act 1975* *Sex Discrimination Act 1984* State based legislation	Anti-discrimination law in Australia aims to protect people from unlawful discrimination and harassment on the basis of various protected attributes, such as age, disability, race, sex, gender identity and sexual orientation.
Australian Consumer Law (ACL)	*Competition and Consumer Act 2010*	The ACL protects consumers and businesses from unfair practices and guarantees certain rights when buying goods and services. It covers areas such as contracts, product safety, warranties and consumer agreements.
Employment law and workplace relations	*Fair Work Act 2009*	Employment law and workplace relations law in Australia are governed by the Fair Work Act and other related legislation. The Fair Work Act establishes a national workplace relations system that provides a safety net of minimum terms and conditions of employment, enables flexible working arrangements, and ensures fairness and non-discrimination at work.
Financial reporting	*Corporations Act 2001* *Australian Charities and Not-for-profits Commission Regulations 2022* Australian Accounting Standards Board standards State based legislation	The financial reporting requirements for charities and NFPs in Australia depend on their size and the applicable legislation or regulations. Generally, all charities registered with the ACNC must submit an **Annual Information Statement** (AIS) and comply with the Australian Accounting Standards (AAS) for recognition and measurement. Medium and large charities must also submit an annual financial report that is either audited or reviewed.

Area	Key legislation	Summary
Fundraising laws	State based legislation National Fundraising Principles	Fundraising in Australia is regulated by different laws depending on the state or territory, the type and purpose of the fundraising activity, and whether the organisation is a registered charity.
Modern slavery	*Modern Slavery Act 2018 (Cth)* *Modern Slavery Act 2018 (NSW)*	The Commonwealth Act requires entities with a minimum annual consolidated revenue of $100 million to report on modern slavery risks of in their operations and supply chains and actions taken to address those risks. Modern slavery refers to situations of exploitation where a person cannot refuse or leave work because of threats, violence, coercion, abuse of power or deception.
Privacy and data governance	*Privacy Act 1988*	Privacy Act regulates how personal information is handled by organisations with annual turnover of more than $3 million, and some other, including entities providing health services. However, application is also not only revenue based. Privacy Act sets out 13 Australian Privacy Principles that cover the collection, use, disclosure and storage of personal information.
Taxation and superannuation	*Income Tax Assessment Act 1997* *A New Tax System (Goods and Services Tax) Act 1999* *Fringe Benefits Tax Assessment Act 1986*	An NFP organisation may be eligible for income tax exemption if it falls under certain categories. An NFP organisation may also be eligible for other tax concessions, offsets and rebates, such as goods and services tax (GST), fringe benefits tax (FBT), and fuel schemes. Deductible gift recipient (DGR) status allows an organisation to receive tax deductible donations for the donor. It is a requirement to be registered as a charity with the ACNC to be eligible for DGR endorsement, unless it is a government organisation, an ancillary fund, or specifically listed in tax law.
Workplace Health and Safety	*Work Health and Safety Act 2011* State based legislation	Workplace health and safety law aims to protect the health, safety and welfare of workers and other people at work. It is based on the model Commonwealth Workplace Health and Safety Act 2011, which has been implemented by most jurisdictions, with some variations.

Appendix B - Elevating the client voice - Resource for NFP boards

INTRODUCTION

Directors have a **duty** to act in the best interests of the organisation. For directors of a charity or an NFP, the organisation's purpose is essential in the application of the duty. This will usually require that voices of key stakeholders are heard, including from clients, consumers, their carers, families or other representatives, as sometimes it will not be the client themselves.

Whilst this resource is primarily aimed to assist sub-sectors where the client voice is commonly used, such as in health care, aged care, social services, or education, it also provides lessons for other sub-sectors.

Given many NFPs deliver programs and services to the community, it is important that boards ensure the client voice is appropriately accounted through activities such as strategic decision-making, service design and policy advocacy. There is no one size fits all approach to amplify the client voice. In circumstances where there are a range of client or beneficiary profiles, organisational and board structures, a flexible and fit-for-purpose approach needs to be taken by individual boards.

This resource is not a prescriptive list of actions, but a range of options for consideration. It builds on the AICD resources **Elevating stakeholder voices to the board** and **Governing for quality aged care** (**Principle 2: Roles and responsibilities**).

WHY IS INCORPORATING THE CLIENT VOICE OR LIVED EXPERIENCE IMPORTANT FOR NFP BOARDS?

Increasing regulatory obligations and community expectations across the NFP sector have elevated the importance of boards listening to the voices of the communities they serve in their governance practices and decision-making.

For example, various industries already have requirements to consult with clients such **aged care**, **health care**, and **telehealth**. Legislative reforms resulting from the **Aged Care Royal Commission** now require aged care providers to consider feedback from consumer advisory bodies in board decision-making, whilst the **Disability Royal Commission** recommends disability service providers consider whether their boards have a meaningful level of representation of people with disability and recruit people with

WHAT IS CLIENT VOICE?

Client voice refers to the expression of the views, needs, experiences or outcomes of people who have lived experience. They could be individuals, family members or carers.

WHAT IS LIVED EXPERIENCE?

This term refers to someone with personal knowledge and understanding gained through direct involvement in a situation, event or issue, such as experience with mental health. Lived experience can encompass clients, carers, families, or supporters.

disability as board directors. The Royal Commission into Institutional Responses to Child Sexual Abuse also led to the development of the **National Principles for Child Safe Organisations** which is aimed at embedding the rights of children and young people to be protected, respected and listened to.

Separate to regulatory changes, a formal governance approach to considering the voice of clients and those with lived experience can bring significant benefits to NFPs. These benefits are noted at a high level in the accompanying box.

Regardless of whether boards recruit people with lived experience, it is important that boards consider the risks of failing to meaningfully elevate client voice on decisions affecting beneficiary or client lives, including decisions about how programs and services are provided to them.

HOW CAN BOARDS ELEVATE THE CLIENT VOICE?

Board composition

Recruiting board directors with lived experience is the most direct mechanism to ensure the client perspective is heard around the boardroom, subject to an organisation's constitution and other governance requirements. For example, the constitution of ACON, a leading HIV prevention organisation, seeks to ensure at least one director with lived experience, whilst the constitution of Canteen, a national youth cancer charity, mandates the majority of the board must be member directors (i.e. young people with lived experience with cancer), including the chairperson.

GOVERNANCE BENEFITS

- Alignment with purpose, vision and strategy
- Improved reputation and community trust
- More informed and effective decision-making

Just because a director with lived experience serves on the board does not mean that other board directors should rely on them to elevate the client voice. It is incumbent on all directors to seek to inform themselves of client perspectives as part of their duties to act in the best interests of the organisation and with due care and diligence.

While it may be appropriate for some boards to have a quota for directors with lived experience, given the purpose, vision and strategy of the NFP, this may not be feasible in all circumstances, especially for smaller organisations operating in regional, rural and remote areas. A different approach may be to stipulate in the board skills matrix that, where possible, there should be a director with lived experience on the board.

There are risks if the board recruits only one person with lived experience. It can be overwhelming, create a sense of vulnerability or isolation for the director or be seen as tokenistic. More than one person may be required to give real effect to the client voice.

Effective training, induction, and supports are critical to ensuring directors with lived experience are upskilled and supported to undertake their governance roles. The board should consider what other funding resources may be needed to ensure the voice of people with lived experience is heard, including accessibility supports.

CASE STUDY – HIREUP

Over the past decade, **board observership programs** have increased in prominence in Australia as a way to provide observers with first-hand exposure to the complexity of governing an NFP board, whilst building governance skills.

Online disability platform, Hireup established its **Board Observership Program** in 2021, which brings the customer voice (i.e. people with disability) to the boardroom. Observers attend the monthly board and committee meetings either in person or virtually. They are mentored by the CEO and the Chair, consulted on strategic decisions and asked to challenge assumptions and provide their own perspectives. The board observers receive an honorarium payment to recognise their commitment and receive three days of paid professional development.

Board meetings

The structure and facilitation of board meetings are key to ensuring the client voice is elevated to add practical utility from the front-line service users' perspective. For example, the board agenda may have a standing item on 'client issues.' At larger organisations this discussion may be led by a nominated director, for instance the chair of a board sub-committee that has particular oversight of client issues.

The board may consider alternating board meetings in different locations to understand local client issues and hear the voices of local people when undertaking board discussions.

The board chair also has the critical role of managing board dynamics and facilitating discussion to enable directors with lived experience to contribute meaningfully by asking questions, challenging assumptions, and sharing insights, noting this could be their first board role.

Ongoing learning and development by the board and CEO is essential in reinforcing the value of elevating the client voice and maintaining positive momentum, especially when there is director and executive turnover.

Decision-making

Board decision-making incorporating client voice should be supported by board structures, the reporting of metrics and measures, and nature of reporting lines. For example, board papers are a way of ensuring the board is accounting for client impacts in its decision-making.

Tracking a range of client metrics, such as client satisfaction and updates on quality improvement initiatives, enables the board and management to focus attention on the client and prioritise resourcing to address any issues.

At larger organisations, board committees may also play an important role in considering particular components of the client experience in detail. For example, a clinical and care committee assessing client complaints and incidents in detail.

Building client voice into governance processes can be challenging for smaller NFPs due to resource constraints and limited time. However, even with limitations, there are creative ways to achieve meaningful client participation. Several practical options are set out in the accompanying box.

Risk and strategy

Boards should consider the role of the client voice through a risk lens to ensure that appropriate governance, metrics and measures are in place. For example, boards may need to amend their risk appetite statement to reflect client feedback on certain risk tolerances (e.g. **dignity of risk**), underpinned by robust safety and quality data from staff. Client feedback is useful to identify emerging risks and develop strategies for proactive mitigation, rather than reactive remediation in the future.

Equally, elevating the client voice into board decision-making can support a more effective strategy, that builds long term impact, consistent with the NFP's purpose. For example, seeking feedback and discussion from the client/consumer advisory committee on a draft strategic plan.

PRACTICAL WAYS TO ELEVATE CLIENT VOICES

- Board pack to include a short paragraph of a client's experience (positive or negative).
- Board meetings include a client or representative to present feedback directly.
- Formal and informal feedback through surveys, social media, focus groups, and interviews.
- Employee and volunteer outreach, including local visits by board directors.
- Clients providing advice on specific projects such as a community fundraiser or an employee recruitment panel.
- Former client perspectives sought on service provision and areas for improvement.

Stakeholder engagement

Meaningful stakeholder engagement with clients and their representatives helps to demonstrate that the board is genuine about elevating client voice within its decision-making. For example, individual directors should take opportunities to proactively engage with clients in a range of settings, whether through site visits, sitting in or taking client calls, assisting staff with service or program delivery, or collaborating with clients on a major fundraising campaign.

Boards should also consider the client voice collectively through engagement with peak bodies and advocacy groups representing people with lived experience. Involving groups during environmental scanning or strategy exercises is an efficient way to elevate the client voice.

Board committees or advisory committees

Board committees or advisory committees focused on the client experience, increasingly play an important role in NFP governance, particularly for larger NFPs focused on the delivery of human services and health care. For example, advisory committees provide boards with insight on decisions relating to the design and delivery of policies, programs and services.

Below are several examples:

- **Disability service provider,** Yooralla, has a Community Partnership Advisory Committee (YCPAC) that provides an opportunity for people with lived experience with disability to support the design and delivery of services and ensure they reflect the diverse needs and wants of the community. The YCPAC reports to the board and members review and provide guidance on various strategic and operational matters.
- **Mental health charity,** Flourish Australia, has a Service Quality & Safety Committee board committee that advises the board on services, receives reports from the Independent Advocate, and reports on these to the board.
- **National blindness and low vision service provider,** Vision Australia, convenes a Client Reference Group (CRG) to gain advice and feedback on specific matters relating to the client experience and direction of the organisation. The CRG operates under a charter that set outs roles, structure, appointments and meetings.
- **Youth cancer charity,** Canteen, which has young leaders advising employees at all levels of the organisation, also has a Young Adult Reconciliation Network – a First Nations youth leadership group which uses their lived experience to help implement the organisation's Reconciliation Action Plan and advise Canteen on the organisation's commitments to youth leadership and reconciliation.

Employee and volunteer engagement

Both frontline employees and volunteers play crucial roles in amplifying client voices within governance structures. Directors can also gain unfiltered verbal and visual feedback on the client experience from employees and volunteers through observing the delivery of programs and services and comparing them with board reporting.

It is critical that boards welcome and actively seek the expertise held by frontline employees and volunteers on client experience to assist in their board discussion and decision-making.

ELEVATING THE CLIENT VOICE – KEY QUESTIONS FOR DIRECTORS

The following questions are designed to prompt discussion among board directors and guide client voice considerations as appropriate for their NFP.

Area	Questions
Board composition and training	• Does the board skills matrix include client experience? If not, why not? • Has the board considered recruiting directors with lived experience to reflect the diversity of the client base? Has the board considered the feasibility of an observership program? • Are there benefits in remunerating directors with lived experience? • How can new and existing directors gain insight on client trends and issues? • Are direct client engagement opportunities included in the induction and ongoing learning and development?
Board meetings	• Is there a standing agenda item at board meetings to discuss client issues and experience? • Do board papers encourage discussion on client impacts? • Does the existing board committee structure allow for an appropriate focus on clients?
Decision-making	• Do client metrics reported to the board provide the necessary insights to improve decision-making? • Does client data clearly communicate trends, priorities and issues? • How are all decisions that impact on client outcomes communicated to clients? • Does the Annual Report and other corporate reports demonstrate how client needs are considered in strategic decision-making?

Area	Questions
Risk management	• How is client risk considered within the risk appetite statement? • Are controls established to support proactive identification and mitigation of client risks? • What assurance activities are undertaken to ensure client risk is being effectively managed? • Are client focused metrics included in performance reporting and executive remuneration?
Stakeholder engagement	• What opportunities already exist for the board to engage with clients or their representatives? • Does the board provide opportunities for clients to share first-hand experiences of services? • Does the organisation actively seek feedback from former clients?
Board committees or advisory committees	• Should the board consider establishing board committees or advisory committees, or a similar body? • How does the feedback from board committees or advisory committees inform our strategy and risk frameworks?
Employee and volunteer engagement	• Does the board gain client insights from employees and volunteers formally and informally? • What ongoing training is offered to employee and volunteers to understand client needs and perspectives? • How does our organisational culture seek to foster respect and value of clients?

Appendix C - Resources

AICD RESOURCES

General

Director tools

Director Identification numbers

Directors' 'best interests' duty in practice

NFP RESOURCES

Not-for-Profit Resource Centre

Not-for-Profit Governance and Performance Study

Governance Foundations for Not-for-Profit Directors course

Scholarships

Specific topics

Care Governance webinar series and Care Governance: Achieving Quality Outcomes course

Climate Governance Initiative Australia (including Climate Governance for NFP Directors)

Cyber Security Governance Principles and Governing Through a Cyber Crisis

Director's guide to the positive duty to prevent workplace sexual harassment

Elevating stakeholder voices to the board

Governing company culture

Governing for quality aged care

Impact measurement and governance

Innovation Study

Periodic Comprehensive Review of the External Audit

Social Issues and the Board

Whistleblower director duties and responsibilities

GOVERNMENT RESOURCES FOR NFPS

Australian Charities and Not-for-profits Commission (ACNC) – **Governance Hub**

Australian Securities and Investments Commission (ASIC) – **Charities registered with the ACNC**

Australian Taxation Office (ATO) – **Not-for-profit organisations**

Office of the Registrar of Indigenous Corporations (ORIC) – **Resources**

ADDITIONAL RESOURCES FOR NFPS

Australian Council for International Development (ACFID) – **Publications**

Australian Indigenous Governance Institute (AIGI) – **Indigenous Governance Toolkit**

Justice Connect – **Free legal resources**

Volunteering Australia – **Volunteering Resource Hub**

ABOUT US
The Australian Institute of Company Directors is committed to strengthening society through world-class governance. We aim to be the independent and trusted voice of governance, building the capability of a community of leaders for the benefit of society. Our membership includes directors and senior leaders from business, government and the not-for-profit sectors.

DISCLAIMER
The material in this publication does not constitute legal, accounting or other professional advice. While reasonable care has been taken in its preparation, the AICD does not make any express or implied representations or warranties as to the completeness, reliability or accuracy of the material in this publication. This publication should not be used or relied upon as a substitute for professional advice or as a basis for formulating business decisions. To the extent permitted by law, the AICD excludes all liability for any loss or damage arising out of the use of the material in the publication. Any links to third party websites are provided for convenience only and do not represent endorsement, sponsorship or approval of those third parties, any products and services offered by third parties, or as to the accuracy or currency of the information included in third party websites. The opinions of those quoted do not necessarily represent the view of the AICD. All details were accurate at the time of printing. The AICD reserves the right to make changes without notice where necessary.

COPYRIGHT
Copyright strictly reserved. The text, graphics and layout of this document are protected by Australian copyright law and the comparable law of other countries. The copyright of this material is vested in the AICD. No part of this material can be reproduced or transmitted in any form, or by any means electronic or mechanical, including photocopying, recording or by any information storage and retrieval systems without the written permission of the AICD.

© Australian Institute of Company Directors 2024

For more information 1300 739 119

E: **policy@aicd.com.au**

JOIN OUR SOCIAL COMMUNITY

aicd.com.au

CCT1165_24