



GOVERNING BOARDS IN THE NON-PROFIT SECTOR

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IN THE NON-PROFIT SECTOR

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CHAPTER 1

Introduction

During the past two years, Inyathelo has worked with a number of non-profit organisations (referred to in this book as NPOs) on their long-term financial sustainability. During this work, one key issue has dominated – that of the role of the boards of NPOs.

Although it is clear that boards have specific duties of governance, it is often the more nuanced issues that impact on NPOs. These include the relationships between boards and the organisation's CEO; the fundraising responsibilities of boards; the extent to which board members become involved in operational activities of the NPO, etc. This book, while providing a backdrop to the duties and responsibilities of boards, also explores some of these issues. We hope that it helps board members as well as NPO staff to find a way of working together that satisfies both.

The experiences of board members and NPO staff should be good ones. They are, after all, involved with organisations that have a positive and transforming role in South Africa. They work towards solving many social issues and needs and this should be extremely rewarding. A true partnership between board members and NPO staff, particularly the CEO, can be an extremely satisfying experience.

The relationship between the board and the CEO is key in determining whether NPOs operate at their maximum potential.

CEOs are expected to be miracle-workers: to provide strategic leadership and vision, put in place efficient administration, transform organisations, manage all programmes, be financial experts, raise funds, be human resource specialists, public relations officers and writers, on salaries that are well below market value.

What are some problems with boards in South Africa?

Many NPOs in South Africa have large boards, but find it difficult to obtain a quorum at meetings and find it hard to find dedicated and interested board members. While there is great advantage in having prominent names on boards as this provides the NPO with some form of status in the non-profit landscape, what is also required is a group of individuals who are prepared to give time, assist with fundraising (or even make their own financial contributions), participate in strategic thinking with NPO leadership, open doors, provide networks, etc. The board experience in South Africa is not always satisfactory – board members are often not informed about the NPO’s activities, they do not have a good grasp of what is happening financially and they see their role as merely ‘rubber stamping’ whatever is put on their meeting agendas.

What are some expectations of NPOs’ CEOs?

On the other hand, some NPO CEOs are expected to be miracle-workers. They are expected to provide strategic leadership and vision, put in place efficient administration, transform organisations, manage all programmes, be financial experts, raise funds, be human resource specialists, public relations officers and writers, all in return for salaries that are well below market



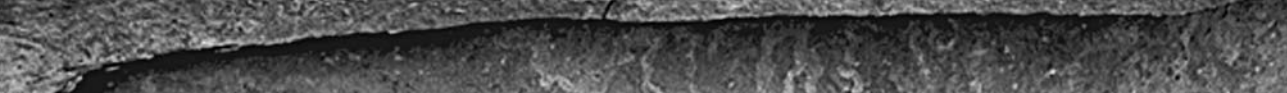
The board has a key role in ensuring that the organisation is adequately resourced.

Issues that impact on organisations include the relationships between boards and the organisation's CEO, the fundraising responsibilities of boards and the extent to which board members become involved in operational activities of the organisation.

value. Very few NPOs in South Africa have unpacked the role of leader and manager. This often means the CEO is hampered by having to give strategic leadership, engage outwardly with key stakeholders, communities and donors, while micro-managing the NPO itself. Clearly, there are not enough hours in the day to do everything effectively. Boards frequently expect the CEO to be responsible for everything and more, yet board members often by-pass the CEO and get involved in operations by working directly with staff. Most difficult are ex-CEOs who remain on the board and cannot cut the apron strings, thereby undermining the new organisational head who may want to do things a different way.

What effect does inadequate funding have?

With our focus on sustainability, we have explored both organisational and financial issues. We have regularly noted a tension between NPO staff and the board if funds are not adequate to meet the needs of the organisation. Staff resentment that board members are not playing their role to assist in ensuring the financial sustainability of the NPO often leads to unpleasant relationships. If there are inadequate finances, it is the staff who are overworked and underpaid. They are expected to continue their activities, but to double-up. The non-profit sector often prides itself on paying low salaries, but expects a



high level of professionalism from its staff. Such professionalism is becoming even more important in an age when donors are demanding greater accountability and transparency. The role of the board in ensuring that the NPO is adequately resourced is a key focus area that is covered in this book.

Why is the relationship between boards and CEOs important?

The rapport between the board and the CEO is probably the most crucial relationship that affects the success or failure of a NPO. How they integrate their responsibilities and how they work together as human beings is critical to the well-being of any NPO.

This booklet is therefore for both CEOs, staff and board members. We explore various dynamics in the relationship and clarify where the boundaries of accountability and responsibility lie; the difference between governance and executive roles and what support is required from board members for the NPO and the CEO. The book will assist in clarifying the roles of each, identifying potential flash points and providing guidance so that the experience can be mutually satisfying. This book aims to create dialogue in your NPO. Each organisation is unique and each will therefore find its own balanced relationship between the board and the CEO. Our main aim is to open up debate to ensure that our NPOs are operating at their maximum potential. This can only happen if the board-CEO relationship is in good shape.

CHAPTER 2

The Importance of the Governing Board



Appreciating the important role of NPOs' governing boards is vital for our pursuit of good governance in the non-profit sector. We need to be clear about why NPOs need to have governing boards.

What are the reasons for having a board?

Some say that NPOs have governing boards because the law requires it. That is partly true, but also not completely accurate. It is legal, for example, to establish a non-profit trust with only one trustee. The Companies Act requires at least two directors for Section 21 companies (and seven members), but Section 21 companies with only two directors are rare. Voluntary associations can be established legally with only three persons, but governing boards rarely consist of only three people. The law offers part of the answer but does not address the issue completely.

The reasons for having a board go beyond the law and are inherent in the nature of the non-profit sector. The key element is to understand the commonly-used terms 'voluntary sector' or 'non-profit sector'. The term 'non-profit sector' is more commonly used in South Africa. We often have to explain that *non-profit* does not mean that no profits can be *made*, but that the profits must be *used* in pursuit of the organisation's objectives. *Non-profit* actually means that the profits cannot be distributed among the members of the organisation.

Why is this important?

Well, the term *voluntary* does not mean the activities of the organisation are done by volunteers. Many organisations have paid staff that do the work, without the assistance of any unpaid volunteers. Instead, *voluntary* means that volunteers *govern* the NPO: in other words, the volunteers are the members of the governing board, not the members or staff of the organisation. In the same breath, *non-profit* means that the board members, like the staff, will not share in any profits that the organisation may generate.

Why are people willing to make donations to NPOs?

This still does not explain why governing boards are needed. It does explain why people are willing to make donations to NPOs. The answer lies in the fact that these NPOs are established to pursue certain objectives and the public assumes that there are safeguards in place to ensure that the money they donate is used for those objectives. Donor agencies that donate millions of rands do not make that assumption; they make sure that such safeguards are in place.

One of the safeguards is having a board that does not have a financial interest in the affairs of the organisation, hence the term *voluntary*. If you do not have a financial interest, it means you are volunteering your services. The public (and donor agencies) have more trust that people who have no financial interests will use funds for their intended purpose. *Volunteer* board members do not stand to gain financially from the affairs of the non-profit organisation.



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The board is important because NPOs deal with public money and the board is responsible for ensuring that it is spent in a responsible manner.

What is the alternative to having a board?

The alternative to having boards is to have staff members govern the NPO. But having employees who also govern the organisation means that they are both *employees* and *employers*. This means that they can decide how much they are paid, when salary increases are due and when to terminate employment. This may lead to decisions being made that are not in the best interests of the organisation, but in the interests of the staff members. Wise people will not make donations to such an organisation.

The law does allow board members of NPOs to get reasonable payment for their services. However, donors may be reluctant to provide funds to an organisation if the board is fully paid for its services as it then has a financial interest in the organisation. A board that is fully compensated may thus not secure the organisation's long-term financial sustainability.

Board members of NPOs also bring a beneficial element of diversity to an organisation and this diversity has increasingly become a requirement from funders.

Many small, community-based organisations exist without governing boards. This is completely lawful, but such organisations will not attract substantial financial contributions without a *volunteer* governing board.

How do boards of non-profits differ from boards of business companies?

In business companies, we find that directors are paid for their services. The difference is that they can be removed or voted out by the shareholders. This is not the case with self-appointed governing boards of NPOs. Even in business companies, the

international trend now is to require non-executive directors in order to further protect the interests of shareholders.

The short answer to the question of why the board of an NPO is important is that NPOs deal with public money and the board is responsible for ensuring that it is spent in a responsible manner.



The board as a safety net

It's not uncommon to see a nonprofit go through some very trying times. In one example, the longtime executive director had recently departed, and the board was struggling with serious financial difficulties - the organization was two weeks late on its payroll, and there was no immediate "fix" in sight for some long-standing, deep problems. One positive factor was the way that board members stepped up to the plate. The board members didn't expect these kinds of challenges when they joined the board, but they "declared a state of emergency" and courageously and aggressively addressed the situation. This real story calls attention to an unexpected, yet important, role of boards: acting as a safety net for organizations. For many years of this organization's existence, the board had wondered, "Why are we here when staff are so competent?" Any organization can get into trouble over time; if the board had not been there in this case, surely the organization would have folded. Instead, there was immediate attention for the issues for clients and staff, and long-term cause for hope.

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CHAPTER 3

The Basic Responsibilities of the Governing Board

Although NPOs can take different shapes and forms, the responsibility for governing them always belongs to their governing boards.

It is therefore important for board members to understand their responsibilities towards the NPO. Board members must understand that their responsibilities can never be shifted. Operations may be delegated, but the responsibility for governing the NPO stays with the board. It is also important to know that the board has a collective responsibility and no single board member can be held responsible to the outside world for a particular issue.

What are the basic responsibilities of boards?

The basic responsibility of the board is taking legal responsibility for the NPO. This includes oversight of its direction and affairs. The Board is also responsible for ensuring that the organisation has sufficient resources (such as finances and appropriate staff) to carry on its activities.

The board has a fiduciary responsibility towards the NPO, which recognises a duty to act for the good of others. This, in its most simple form, is what we refer to as practising good governance. Good governance is about ensuring the responsible and ethical management of an NPO. The main legal requirements that apply to an NPO board can be found in the fiduciary responsibilities outlined in legislation governing NPOs and as implied by the organisation's founding document.

The NPO board primarily carries out its functions for the benefit of the public, on a unpaid or voluntary basis. A central paradox of NPO boards is that they hold ultimate power but, unlike boards of for-profit companies, they do not ordinarily wield it in terms of the NPO's day-to-day operations. Instead, the board delegates the running of the organisation to professional staff unless there is a very good reason to do otherwise. This puts a responsibility on the board to carry out a number of oversight duties.

What does it mean to provide oversight?

Providing oversight is an important responsibility. It means that the board must actively inspect and analyse the NPO's activities, finances, legal affairs and assets. If anything goes wrong, the board must account for it. Once an NPO has been established, it becomes an entity of public interest. The board is then accountable towards the broader stakeholders. It may exercise its accountability through annual financial audits and through information sharing, which may take place through publishing brochures, holding annual general meetings and developing websites. Simply put, the oversight task of the board is to make sure that the NPO is managed in a responsible and ethical way.

How does the board exercise oversight of the direction of the organisation?

An NPO is established for a particular purpose, which must be of a non-profit nature. The main oversight duties of the board involve making sure that the NPO keeps to the spirit and meaning of its founding mission and that money raised to implement the mission is used only for this purpose. This also means that the board should make sure that the mission and institutional strategies are reviewed regularly. It should evaluate any revision that may be necessary before approving any new direction that the CEO may wish to take.



The oversight task of the board is to make sure that the NPO is managed in a responsible and ethical way.

From time to time the board may also call for an external assessment of the NPO and its strategic direction, especially its performance and progress towards meeting its goals. The board does not direct the NPO but it does make sure that there is due governance over the direction of the organisation in terms of its ultimate legal responsibility.

This also means that the board must keep up to date with contractual agreements and legal obligations to donors. It must make sure that relationships with donors are looked after, that their grants are properly used and that reports for donors are produced as required.

In this way the board is able to play a governance role in shaping institutional strategy and advancing the mission of the NPO without getting embroiled in its day-to-day operations.

What is the board's general legal responsibility?

Boards have both general and specific legal responsibilities. At the most general level, boards must ensure that NPOs operate within the confines of the law.

Our legal system has developed significantly over the past few years and there are a number of laws that are relevant to NPOs. The board is responsible for ensuring that the NPO's activities are legal. It must also ensure that the NPO meets its legal responsibilities towards other parties, for example, towards donors, with whom it has contractual obligations. The board must also ensure that the NPO meets its legal obligations towards its employees.

The board should regularly examine the policies of the NPO to ensure that they comply with the law and must ensure that revision takes place when necessary.



The board does not direct the NPO but it does make sure that there is due governance over the direction of the organisation in terms of its ultimate legal responsibility.

The board has an oversight duty to hold the CEO accountable and ensure responsible and ethical direction and management of the NPO and its resources. It must make sure that systems are in place to govern finances, roles, responsibilities, actions and privileges. These are key elements of managing the reputation of the NPO.

Accounting standards and sound remuneration practices must be upheld. It also means the board must ensure integrity and ethics in the organisation in terms of the practices and behaviour of directors, managers and staff. Risk management, as it relates to finances, compliance, continuity, performance and impacts of the work of the NPO, is part of this duty. Relevant practices include such issues as transparency regarding information, labour relations, equity practices, staff development, upholding safety standards, looking after the property of the NPO, maintaining a favourable public image and generally giving due regard to the law. An important part of this duty is selecting, supporting and regularly reviewing the performance of the CEO.

Basic responsibilities of the board include taking legal responsibility for its affairs; ensuring that it has sufficient resources to carry out its activities and providing oversight of its direction and affairs.



General legal responsibilities of a board

- The board must ensure that the NPO operates within the law. The laws that apply to NPOs must be complied with.
- Board members must always act in good faith and in the best interests of the NPO. Board members should always avoid their personal interests conflicting with the interests of the NPO.
- The NPO's founding document will give its board a certain amount of authority and power. The board cannot act beyond this.
- Board members may be reasonably expected to have a degree of skill and they must exercise it.

What is the board's role in securing resources?

In exercising its oversight duty of recruiting and employing a suitable CEO, the board has an obligation to retain and support this essential human resource. It must also make sure that the NPO has the operational resources that are necessary to deliver its goals.

The board's role in securing resources also involves engaging in outreach to stakeholders, clients, regulators, donors and the public. It involves protecting the NPO, mobilising support for it and raising resources for it. Advocacy, door-opening, fundraising and taking part in relations-building are an essential part of good governance in the NPO sector. The board has a special duty to lead by example in terms of volunteering time, giving financial support, promoting the image of the NPO and advocating on its behalf.

What are the board's specific legal responsibilities?

Accepting an invitation to serve on the board of an NPO is the same as entering into an agreement in which you accept co-responsibility for the NPO's legal affairs. Board members do not always appreciate the nature of this responsibility. Important to note is that the board's legal responsibilities can never be shifted away from the board: no-one else can take this responsibility. Board members should collectively and individually be aware of their legal responsibility.

The reality is that an NPO is a legal structure. As a legal structure, it has a host of legal responsibilities that need constant attention. Board members should never see their membership of the board merely as an opportunity to add another activity to their CVs, or to make themselves look better.

Many of the laws that have been put in place since 1994 apply to NPOs. Board members should therefore be aware of the legal environment in which the NPO operates.

Board members are responsible for governing NPOs: tasks may be delegated, but the responsibility for governing the NPO stays with the board.



Legal issues of which board members must be aware

These are only some of the legal issues about which board members must be aware. Would the board of your NPO be able to answer these questions?

- What is the legal status of your NPO?
- Is your NPO registered as a taxpayer?
- Is your NPO exempted from paying tax?
- Is your NPO registered as an employer with SARS?
- Is your NPO deducting employees' taxes?
- Is your NPO deducting UIF?
- Is your NPO deducting the Skills Development Levy?
- Is your NPO registered with the Compensation Commissioner?
- Does your NPO have an accounting officer/auditor?
- Is your NPO registered with the Directorate for Non-Profit Organisations?
- Do you know when your NPO's reports are due to the NPO Directorate?
- Do you know who the NPO's funders are?

What are the board's legal institutional responsibilities?

Understanding the legal obligation of board members means first understanding the NPO's legal status. The South African legal system allows for three kinds of legal structure for those who want to establish an NPO. These are voluntary associations, non-profit trusts and Section 21 companies.

Each of these legal structures is established differently and has to comply with different requirements in terms of the regulations. For example, a trust must be registered with the Master of the High Court but a Section 21 company must be registered with the Registrar of Companies.

The following table shows the institutional differences between these three legal structures.

LEGAL ENTITY	VOLUNTARY ASSOCIATION	TRUST	SECTION 21 COMPANY
Founding document	Constitution	Trust Deed	Memorandum and Articles
Applicable law	Common Law	Trust Property Control Act	Companies Act
Public office		Master of the High Court	Registrar of Companies
Governing structure	Members and/or Management Committee	Board of Trustees	Members and Directors

Board members' legal responsibilities differ, depending on the kind of legal structure. The common law regulates voluntary associations, the Trust Property Control Act No 57 of 1988 and common law regulate trusts and the Companies Act No 61 of 1973 regulates companies. At least one copy of the relevant legal document should be available at the NPO's offices. Its purpose should not be to just gather dust, but rather to guide the board so that it complies with the law.

Voluntary associations

The main legal document for voluntary associations is its constitution. This is meant to set out the organisational structure of the NPO. It is amazing how many board members attend meetings of their NPO without having a copy of the constitution to hand. Our courts said that:

- A voluntary association is founded on a contractual basis, in other words, there is a contract involved.
- The contract is collectively made up of the voluntary association's constitution and its rules and regulations.
- The voluntary association's constitution:
 - determines the nature and scope of the organisation's existence;
 - says what the powers of the governing body are; and
 - makes clear what rights members have and regulates them.

The constitution for voluntary organisations is meant to set out the organisational structure of the NPO.

Trusts

Trusts are regulated by the Trust Property Control Act and the common law. Trustees must therefore be aware of their obligations under the Act. The box lists just some of their important legal duties.



Legal obligations of trustees

- Trustees can only act as trustees once they have received written authorisation from the Master of the High Court. The Master issues letters of authority, listing the names of the trustees. If you are a trustee and you have not seen this letter, stop reading this book and locate your NPO's latest letter of authority from the Master as soon as possible to check if your name is on it. If it is not on there, it means you are not a trustee.
- Trustees must act with care, diligence and skill. This can be reasonably expected of a person who manages someone else's affairs.
- Trustees must provide the Master with a physical address where any notice or court process can be sent and must advise the Master by registered post within fourteen (14) days of any change in address.
- Trustees who wish to resign must tell the Master of the High Court and the trust's beneficiaries (or their tutors or curators) in writing.
- Trustees must take control over the affairs of the trust and keep it registered in their capacity as trustees, separate from their personal estates.
- If a trustee receives money for the trust, it must be deposited in a separate trust account at a bank institution or building society. It must not be deposited into the trustee's personal account.
- A trustee may not borrow money from the trust.

Section 21 companies

Directors of Section 21 companies have a difficult task: they must comply with the complex provisions of the Companies Act, which is set up for commercial companies. Section 21 companies are regarded as public companies and so they must comply with most of the legal provisions that apply to public companies.

Commercial companies usually have directors who are employed full time and who are paid to ensure that the company complies with the Companies Act. This is different for Section 21 companies, who usually have part-time, non-executive directors.

Specific duties of board members of a Section 21 company

- The company must have at least seven members and two directors. The directors can also be members. If you are the only director of the Section 21 company, you have a problem.
- The board must keep up-to-date registers with certain prescribed details about the members and the directors.
- Details of new directors must be provided, in the prescribed form, to the Registrar of Companies. If you are a director of a non-profit company it would be a good exercise to check if your details are reflected in the register of directors and that it has been sent to the Registrar of Companies.
- The board must keep accounting records that present the state of the company's affairs and business in a fair way. They must also explain the company's transactions and financial position. These records must be in one of South Africa's official languages.
- Changes to the founding documents must comply with prescribed requirements.

What legal concerns does the board have around taxation?

Let's be clear on one point: the board does not want to be on the wrong side of the law when it concerns the South African Revenue Services (SARS). This is a dangerous position to be in and so the board must always be very aware of issues of taxation.

Registration as taxpayer

Your NPO must submit an annual tax return to SARS. But first, it must register with SARS as a taxpayer. When it does, SARS will issue your NPO with an income tax reference number.

Tax benefits

Your NPO will need the income tax reference number if it wants to apply for tax benefits at a later stage. It can apply for tax benefits in terms of the Income Tax Act. The board must think about this carefully as there are several requirements for obtaining and keeping these benefits. SARS has a helpful guide that explains how to get tax benefits.

What are the board's legal duties towards employees of the NPO?

Many NPOs have employees who implement the activities of the NPO. The board serves as their employer. This is an enormous responsibility and can have serious repercussions for any NPO if it is not dealt with correctly.



The board does not want to be on the wrong side of the law when it concerns the South African Revenue Services (SARS). This is a dangerous position to be in and so the board must always be very aware of issues of taxation.



Basic laws that boards must be aware of when people are employed by the NPO

- The Income Tax Act, No 58 of 1962.
- The Labour Relations Act No 66 of 1965.
- The Basic Conditions of Employment Act No 75 of 1997.
- The Compensation for Occupational Injuries and Diseases Act No 130 of 1993.
- The Employment Equity Act No 58 of 1998.
- The Skills Development Levy Act No 9 of 1999.
- The Unemployment Insurance Contributions Act No 4 of 2002.

People are the most important asset of any organisation and it is important for a board to ensure that the NPO meets the basic requirements in relation to its employees. The day-to-day tasks in this area are normally delegated to the CEO, but the board is still responsible to ensure that these tasks are properly done.

Specific laws

The board must also be aware of some of the most recent laws that have been made in our young democracy. They impose specific conditions on NPOs. If NPOs don't comply with them, there may be serious consequences. Here are examples of these laws:

- Promotion of Access to Information Act, No. 2 of 2000
- Promotion of Equality and Prevention of Unfair Discrimination Act, No 4 of 2000
- Financial Intelligence Centre Act, No. 38 of 2001
- Prevention and Combating of Corrupt Activities Act, No. 12 of 2004
- Local Government: Municipal Management Finance Act, No. 56 of 2003



For more information on laws relating to employees of NPOs, board members can consult the local Department of Labour or visit its website at www.labour.gov.za

What duties does the NPO have towards donors?

Funding comes with legal obligations and board members must be aware of the NPO's duties in terms of funding agreements. Failure to comply with these obligations will make it unnecessarily hard for the NPO to get funding in future.

What happens if the board does not comply with the legal requirements?

If board members do not comply with the legal requirements, there may be serious consequences. The consequences may differ depending on the legal structure, but in principle they would be the same for all boards.

Potential consequences of not complying with legal requirements:

- the NPO losing its registration status, obtained through the Directorate for Non-Profit Organisations or losing its approval as a Public Benefit Organisation;
- financial losses as a result of penalties imposed by SARS or compensation for losses suffered by employees (eg occupational injuries);
- agreements being cancelled because of non-compliance, or being declared void (not binding or invalid) because of conflicts of interest;
- board members' personal liability being affected, eg through the Companies Act or the Income Tax Act;
- civil proceedings being started against the NPO by third parties; and
- criminal prosecution being started against board members.

What are the financial responsibilities of the board?

The board is responsible to ensure that the income and property of the NPO are used in an efficient and accountable way. This is not the task of the treasurer, but the collective responsibility of the board.

The NPO is established to pursue non-profit objectives. The income and property of the NPO cannot be distributed among its members or office-bearers, but must be used to further the objectives of the NPO. The board acts as a custodian over the income and property of the NPO and must ensure that they are used to promote the objectives for which the NPO was established.

NPOs operate in the public sphere and their financial records are a means of communicating to their wider stakeholders, showing that resources are being used to further the NPOs' objectives.

Some financial responsibilities are needed for legal reasons, while others have developed through best practices. It's important for board members to be aware of what is legally expected of them in relation to the finances of the NPO. The founding document of the NPO may also set out certain requirements about its finances. Legislation may also prescribe certain financial requirements. The Companies Act, for example, lists a number of specific duties that must be complied with by the board of directors of a Section 21 company. Agreements with funders also set out specific financial obligations.

The financial aspects of NPOs are, however, wide-ranging and it is advisable to have at least one board member who has financial skills. This should not mean that the rest of the board takes a back seat. Board members who are not familiar with the financial aspects of the NPO should attend suitable training and must continuously interact with the financial person to ensure a better understanding of the NPO's financial affairs.



The income and property of the NPO cannot be distributed among its members or office-bearers, but must be used to further the objectives of the NPO.

What financial policies should be developed?

It's a reality that staff members do most, if not all, the ground-work for the financial documentation of the NPO. However, the board should develop policies to ensure that information keeps flowing between the board and the staff.

Financial policies should include the following:

- Staff members should prepare regular financial statements, including income and expenditure statements, comparisons with year-to-date budgets, balance sheets, cash flow projections. These should be circulated before board meetings.
- Staff members should prepare regular short explanations of the financial statements, especially dealing with the income that is expected, problems being experienced, the NPO's financial health, how the financial systems are working and any significant financial developments.
- How and when budgets should be prepared.

The board must always be aware of the financial position of the NPO and should be able to respond to situations that require action. The final approval of the budget rests with the board. This can, however, cause lots of uneasiness between staff members and the board. It is important for the board to appreciate that staff members possess a significant amount of knowledge about the specific activities required to meet the objectives. Staff should appreciate that the board has the ultimate responsibility for governing the NPO. The board can, however, adopt some basic principles in approaching this matter:

- In the budgeting process, make sure that the lines of communication with staff members are open. Staff should be allowed to make input by commenting on budget items.

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A board must make sure that there is a regular external evaluation of its competencies (at least every three years) to ensure that its work is being done properly.

- The budget process may be subject to specific funding obligations. It is not wise for boards to reduce spending in areas where funders have allocated specific funding for certain activities.
- There should be regular reviews of the budget, accompanied by expenditure-to-date statements.

Changes to the board

A board must make sure that there is a regular external evaluation of its competencies (at least every three years) to ensure that its work is being done properly, to give members an opportunity to leave the board if they wish to do so, to allow changes in executive positions and to allow new members to be brought onto the board if necessary. The conduct and life of a board also affects the image of the organisation.

Board members may need to have additional specific skills and qualities so that they can best serve the interests of the NPO. These skills and qualities will be different for each NPO, but the following are some suggestions that can help your board in identifying suitable board members:

1. specific skills: legal, financial, business, marketing, human resources, management, governance, social issues;
2. community representation;
3. constitutional;
4. programme-related; and
5. the board should also be representative of the broader society and the NPO's target community.

What is a conflict of interest?

Board members should always act in the best interests of the NPO. But situations may arise where the interests of the NPO clash with the interests of a board member. A conflict of interest may manifest in many different ways. It is not limited to situations where a board member may stand to benefit financially from the affairs of the NPO, though this is the most common form of conflict of interest.

A conflict of interest may also arise when the board member, his or her family or business partners may directly or indirectly benefit as a result of that member being on the board. The conflict of interest actually exists, or there may just be the potential for it to exist.

Situations of conflicts of interest are bound to happen and it is essential for boards to develop policies that deal with this issue when it arises. The existence of an actual or potential conflict may not in itself be a problem, but how the board deals with that situation is of the utmost importance.

Conflict of interest and the law

It is important to note that different legal rules apply about conflict of interest, depending on the kind of legal entity in which the NPO has been formed. Failure to comply with these legal rules may have serious consequences for the board or individual members.

Non-profit trusts

Important rules and principles are found in the law and in court decisions over the years. Section 9 (1) of the Trust Property Control Act says that when a trustee performs his duties he must act with



The existence of an actual or potential conflict may not in itself be a problem, but how the board deals with that situation is of the utmost importance.

The Companies Act is very specific on the issue of disclosing specific interests

the care, diligence and skill that it is reasonable to expect of someone who manages the affairs of another (in this case, the NPO). The courts have adopted the general principle that, as far as possible, trustees must avoid putting themselves in a position where their duty as trustees conflicts with their private interests.

Companies Act

The same principle applies to the board of a Section 21 company. Directors have a legal duty to prevent a conflict arising between their own interests and those of the company they serve.

Directors are required in terms of the Companies Act to disclose interests that they may have in certain contracts. Failure to do so is an offence and could even result in the profits being recovered from the director. The Companies Act is very specific on the issue of disclosing specific interests and both the board and the director with interests have specific duties that they must comply with.

Income Tax Act

Once an NPO is approved as a public benefit organisation under section 30 of the Income Tax Act, it must comply with the conditions in the Act. If it does not, it may lose its status as a public benefit organisation. Section 30 (1) (b) (ii) of the Act says that the public benefit activity of the NPO should not be intended to promote the economic self-interest (the financial situation) of any employee of the organisation, either indirectly or directly, except for paying them a reasonable salary.



How to deal with a conflict of interest

The board should develop a suitable policy that sets out the procedure when dealing with an actual or potential conflict of interest. It should include these important principles:

1. full disclosure in good faith by the relevant board member as soon as the issue arises;
2. the board must record the disclosure in the minutes of the next board meeting;
3. the board may investigate and ask for more information on the conflict of interest;
4. the person involved can make representations to the board, but must be absent from discussions and voting on the issue; and
5. the absence of the person involved from voting and discussion should also be recorded in the minutes.



Nonprofits and democracy

Many NPOs in South Africa played a vital role in the overthrow of Apartheid as part of what was called the Mass Democratic Movement. Throughout the world NPOs have proved to be an important bonding agent in the social fabric of democratic societies. It is therefore desirable that NPOs become full participants in the vibrant democracy which we all helped to create in South Africa and they should also embrace an open democratic culture in the manner in which they do business.

NPOs, however, are not and should not be partisan political organisations, as they are not mandated representatives of constituencies nor formally constituted for this purpose. It is unfortunate that for many years the NPO sector used the term 'non-government' which tended to send out a message that their primary role was that of being a sort of government opposition sector. NPOs were as much 'non-business' and therefore it has been an important shift to embrace a terminology that emphasises that the sector is focussed on 'public benefit activities of a not-for-gain nature'.

Amongst its many public service roles there are two that stand out for NPOs in regard to the democratic arena. The one is that of being an advocacy voice that fosters public debate, solution-finding and promotes social dialogue on a range of issues important to grassroots constituencies. The other is that of facilitating grassroots constituencies in accessing and using public participation fora that are an integral part of the democratic process established by the Constitution of the Republic of South Africa.

For Boards it is important to recognise that there are fine balances to be kept in this arena of the NPO's work. Public money given in the form of donations and grants cannot be used for narrow partisan agendas of a political or religious nature and therefore there is a need for strong governance oversight when it comes to such matters.

CHAPTER 4

The Governing Board and Strategic Planning

What the board should know about Strategic Planning in an NPO?

There are different views about the need and effectiveness of strategic planning in NPOs. We believe it is an effective way of providing overall direction for NPOs. However, we do not suggest that a 'one size fits all' approach is appropriate. Strategic planning should be approached in a way that suits the nature and objectives of the specific NPO. This chapter deals with the important principles that should be present during the strategic planning process.

Understanding the difference between 'strategy' and 'planning'

Before going any further, it is important to point out that there is a great difference between the concepts of 'strategy' and 'planning'. Strategy is about how an organisation relates to (usually external) factors that are not under its control. Planning is how the organisation deals with issues under its control. Strategic planning is about integrating these two processes.

Strategic planning in NPOs is not always successful. Sometimes its failure leads to organisational conflict. This is often caused by a misunderstanding of what formal planning and strategic thinking processes involve. Most recent evaluations of 'strategic planning' even suggest that these are contradictory concepts



Strategy is ever-evolving and includes strategic conversations among staff, management, the board, volunteers and stakeholders.



The strategy document should be written in a manner that does not tie an NPO down so tightly that it cannot adapt in response to changes in the external environment.

and a distinction should be made between a 'strategy document' and what is essentially a 'business plan'.

Many NPOs make a fetish out of strategic planning exercises, which are often tackled by full-staff plenary sessions in the form of a 'talkfest' where there is little understanding of what strategy means. This is where NPOs fall short in terms of formalised planning for implementation, strategic thinking and strategy formation. NPOs can end up with long, meandering and complex documents which cannot possibly offer a formal plan for moving forward. These 'plans' are then set aside while the organisation carries on doing what it has always done. Inevitably, NPOs then institutionalise what they have called strategic planning and it becomes the reason for an annual breakaway.

According to Henry Mintzberg in the 'Rise and Fall of Strategic Planning', strategy has elements of being a guide, a pattern, a position and a perspective. Planning is a formalised procedure to produce a specific result, in the form of an integrated system of decisions. Planning is about co-ordinating, rationalising, controlling, systematising, preparing and pre-empting. When we talk about strategic planning we are integrating the two processes. Unfortunately, this does not happen in most cases, even with the assistance of the best consultants.

Strategy cannot neatly be a result of a meeting of people who set aside two or more days for the purpose. Strategy is ever-evolving and may include informal strategic conversations among staff, management, the board, volunteers and stakeholders. The CEO of the NPO has the responsibility of pulling these together and leading all of these role-players towards an agreed strategic framework that he/she will champion. The means of coming up with an agreed framework could be a retreat, which would be the culmination of a process. Taking the strategic framework forward

to come up with a business plan would be the next step and would possibly involve another retreat having a planning focus.

A strategy that is well documented should inform an NPO's business plan or operational plan. This, in turn, should inform the activity plans of staff members. Operational plans and activity plans also give the NPO a way to monitor, evaluate and appraise the performance of all role-players. While operational planning and activity planning are done annually or even twice annually, a strategy document is more enduring. The strategy document itself should be visited as frequently as strategic conversations are held within an organisation. This means that the strategy document should be written in a manner that does not tie an NPO down too tightly. The board's role is to make sure that the CEO co-ordinates regular, inclusive planning activities and provide leadership in this regard.



Why is strategic planning important?

Strategic planning is a tool that offers opportunities to:

- take account of the context in which the NPO is operating in and how future developments may impact on its activities;
- prepare for current and future challenges in pursuing the NPOs objectives and to make the necessary changes to make the organisation's activities effective;
- consider what the NPO's weaknesses are and how to improve on past failures;
- identify and seize opportunities; and
- promote an understanding of how the NPO's various activities fit into the bigger picture.



What are some of the advantages of strategic planning?

- it can boost the morale of staff and board members and build positive relationships between them;
- it allows staff and board members to make innovative contributions towards the strategic direction of the NPO;
- it informs staff and board members of all activities of the NPO;
- it re-asserts the values upon which the NPO was formed;
- it gives a sense of common direction for those involved with the NPO by refining its mission, vision and objectives;
- it provides a basis for developing day-to-day activities;
- it informs the preparation of organisational and project budgets and promotes effective use of resources; and
- it should provide an opportunity to address some unresolved issues within the NPO.

Strategy is about how an organisation relates to factors that are not under its control and planning is how it deals with issues that are. Strategic planning involves integrating the two processes.

What are the risks of strategic planning?

- Internal organisational conflict may have a serious impact on the strategic planning process. Conflict may cause hours of pointless arguments about petty issues. Strategic planning does not aim to deal with unresolved internal conflict - on the contrary, it may be necessary to deal with internal conflict before starting with strategic planning.
- Ineffective consultation may lead to a lack of participation. There may also be a lack of enthusiasm for the implementation of the strategic plan. Consultation and participation should be essential elements of strategic planning.
- A lack of information about the external environment may lead to a weak and ineffective strategic plan.
- Strategic planning may not accurately predict any future trends. The past and present do not enable us to accurately predict what is going to happen in the future. Some of the assumptions may be flawed.
- The strategic plan may result in fixed long-term objectives that do not take into account short-term changes in the external environment. This may lead to an inability to adapt to changes.

A strategy that is well documented should inform an NPO's business plan or operational plan and this, in turn, should inform the activity plans of staff members.

What factors should be considered during strategic planning?

A number of factors should be considered during the strategic process. It may not be possible to identify a comprehensive list of all factors that will be important for the NPO. For example, situations arise in the external environment that are not easy to predict during strategic planning. Because of globalisation, the activities of an NPO in South Africa could be significantly impacted by, for example, a hurricane in the USA, a war in Iraq, an earthquake in Pakistan or a tsunami in Asia.

Dedicated attention must be given to the known factors that may affect the work of the NPO over the next few years. The outcome of this process may determine whether or not it will have a leading edge over others in the sector. Our transition to a democratic government saw the disappearance of many NPOs that simply became irrelevant in a democratic dispensation. Others flourished, after having prepared themselves to play an effective role in the changed political environment.

Factors that should be taken into account during strategic planning include:

- the economic, political, social and legal environments;
- constitutional obligations;
- government structures and international relations;
- HIV/AIDS and other epidemics;
- population growth and life-style conditions;
- technological developments and environmental conditions;
- funding priorities; and
- employment conditions.

Strategic planning is expensive and takes a lot of time. It should never be started just because it is part of the regular activities of the NPO. The aim is that the NPO should come out better after a strategic planning process than it was before it. Improved performance should always be the target. A well-planned strategic planning session has a greater chance of success.

The relationship between the Board and the CEO

A Partnership of Governance and Directorship

Key to the success of any NPO is a good, productive relationship between the governing board and the CEO. When a board appoints a CEO, it will look for someone who has visionary leadership, management skills and good communication and advocacy abilities.

However, it is most important in the non-profit sector to find a person who shares the values and vision of the NPO. The appointment of the CEO is probably the most important decision that any board makes.

Following the appointment of the right CEO, the board's greatest challenge is to retain the CEO's services by giving him/her the support they require. Clarifying the roles of the board and the CEO is a basic element of the relationship between them and it is also necessary to provide the context for a constructive relationship. When the relationship between the CEO and the board is subject to struggles over power or major differences between them, and where there is a lack of confidence and trust on both sides, an NPO can self-destruct. It is therefore important that, once the board has appointed the CEO, it allows the CEO to direct the affairs of the organisation.



A relationship between the board and the CEO that is not constructive can have negative consequences for the NPO.



The relationship between the board and the CEO should include these principles:

- An understanding that the board's role is to ensure good governance. Board members must support the CEO and the NPO to the best of their ability.
- An understanding that the CEO's role is to direct the affairs of the NPO, give strategic leadership and ensure its mission and objectives are put into operation.
- Both board members and the CEO should have the ability and resources to play their respective roles of governance and directorship in the NPO.



Key to the success of any NPO is a good, productive relationship between the governing board and the CEO.

The relationship between the CEO and the board can be complex and will have different characteristics, depending on the NPO. Complexities can be based on the type of NPO (ie whether it is a trust or a Section 21 company), its aims, the terrain in which it operates, its available resources, how it mobilises resources and what its relations with its donors are like and many other issues that characterise each different organisation. The specific skills that the CEO has, the personalities involved and the energies or lack of activity of board members also contribute to the challenge of keeping a balanced relationship between the board and the CEO.

Potential consequences when the relationship between the board and the CEO is not constructive

- unnecessary conflict;
- time wasted on trivial matters;
- harm to the NPO's activities;
- lowering of staff morale;
- losing focus on important strategies and missing key strategic interventions;
- negative publicity, leading to a poor reputation;
- loss of donor income; and
- even the unnecessary resignation of the CEO, key staff or board members.

There should be a commitment by the board and the CEO to make this crucial relationship work. In this process, there should be open lines of communication, teamwork and an appreciation of the contribution that both board members and the CEO make towards an effective NPO. To make sure that the partnership between the board and the CEO is productive, there must be clear boundaries relating to their functions.

Who directs the NPO?

A CEO is hired specifically to direct the affairs of the NPO, to develop it, to conceptualise its strategic path and deliver on its operations. Directorship is a singular activity. While it is desirable that the CEO's leadership style ensures an inclusive approach in mobilising ideas and talents toward fulfilling the NPO's mission, the buck stops with the CEO.

*An inclusive approach
by the CEO in
mobilising ideas and
skills to deliver on the
NPO's mission is
desirable, but
ultimately the buck
stops with the CEO.*



The appointment of the CEO is probably the most crucial decision that any board makes. The key issue is how to retain the CEO's services by providing the ongoing support they require to deliver on the NPO's mission, whilst providing job satisfaction for the individual concerned.

The board hires and fires the CEO and it therefore has final accountability for the activities of the NPO. However, because the board is made up of a number of individuals, the Chair of the board plays a key leadership role and is the point person to link with the CEO on important matters. A mutually respectful partnership between the Chair of the board and the CEO is the pivotal relationship in a successful NPO.

Hiring and firing the CEO

The board is responsible for appointing the CEO, evaluating his/her performance and making any decisions about dismissal. There is a high turnover of CEOs in the non-profit sector and most board members will, at some stage, be involved in looking for a new person to head the organisation. The search for a new CEO is often time-consuming and difficult, but it is one of the board's most crucial functions. A change in CEO gives the board the chance to re-evaluate the NPO and choose someone who will lead it into a new direction, or transform it to fit with the changing external context.

Can CEOs serve on the board?

Many NPOs have founding board members who are also on the staff, often in the role of CEO. These individuals are frequently the driving force in establishing an NPO and have specific skills that complement its vision and mission.

It is also seen as good practice for CEOs to serve on the board as they are the leadership face of the organisation and should be able to make their input at board level. A CEO is expected to provide strategic direction and engage in organisational development in the interest of enabling the NPO to meet its objectives. This is extremely difficult if the CEO does not play a role in the governance body, either as a full member or in an ex-officio

capacity. The CEO should not merely be seen as a manager, putting into practice the vision, mission and strategy set by a board that is playing the directing role.

It is important to state that the CEO (or any other staff member serving on the board) should never serve as an exco member of the board. This would create a conflict of interest in terms of the board holding the CEO accountable or setting the CEO's salary or terms of employment. It is also important to note that while it is legally possible to have staff on a board, it is good practice to limit their numbers. At all times the board members who are not staff of the NPO should have enough voting numbers to outweigh the collective vote of the board members who are also staff. In all situations where decisions are needed on issues that involve a personal, vested interest of the CEO (or other staff who are board members), they should remove themselves from the meeting while a decision is made by the other board members.

Should a previous CEO serve on the board?

This question often creates conflict. While an ex-CEO may have significant institutional memory, it has not proved to be good practice to have ex-CEOs serving on boards. Though an ex-CEO may make a commitment to being co-operative, it may prove difficult not to interfere in a changing organisational environment. The ex-CEO may resent new initiatives and methodologies used by the new CEO. Real conflict can arise. CEOs who are stepping down should rather arrange for an effective handover of the reins and then leave the NPO.

What does it mean to lead the NPO?

The question of who actually leads the NPO is important. Who sets the agenda? Who develops the strategy? Who is the external

A change in CEO gives the board the chance to re-evaluate the NPO and choose someone to lead it into a new direction, or transform it to fit with the changing external context.

The CEO should encourage interaction between board members and staff so that board members are not faceless to the organisation.

face of the organisation? In some NPOs the board develops the vision and mission of the organisation and regularly reviews them as the external context changes. However, in other NPOs highly effective CEOs develop the vision, mission and strategy, which are then presented to the board for comment and approval. Comment is strictly limited to ensuring alignment with the aims and objectives of the founding document. The advantage is that the CEO is, in fact, at the rock face of the operations of the NPO and is best equipped to analyse changes in its context and direct the organisation in its future path and programmes.

There are frequently very talented people serving on boards and they can help the CEO by giving feedback on proposed strategy. Their own experience in business, governance, finance, law, conflict resolution or in the field in which the NPO operates can be an important resource for strategic thinking and strategic discussions. They can therefore be a key leadership resource. This is separate, though, from directing the NPO and from operational leadership.

How should CEOs keep board members up-to-date?

Some non-profit boards meet monthly (or even more frequently) to try and keep up-to-date with the NPO's activities. Numerous sub-committees may be established in this situation but, if this is not managed well, the board becomes a shadow organisation to the entire operation. This can be a recipe for conflict and can create enormous commitments in time for board members, who may already be extremely busy. A key decision for a board is thus how often it should meet. The simple answer is: as often as it is necessary. And what is necessary depends on the parameters established about what the board's role in governance and direction are.

As outlined previously, the governance duties of a board include ensuring that the NPO's direction is in keeping with the founding document and the rule of law, that the CEO is doing his or her job properly in all matters and that the organisation's financial affairs are being properly managed. The board is also the eyes and ears of the donors and the recipient stakeholders in terms of service delivery, stewardship responsibility and ethical conduct. It is also international good practice that board members donate money to the NPO, advocate on its behalf and actively mobilise resources to ensure its sustainability.



To be effective a board must:

- organise itself in an appropriate way;
- receive regular reports from the CEO;
- request whatever information it regards as necessary;
- receive financial reports;
- visit the NPO; and
- keep informed about issues in the public arena that relate to the mission of the NPO.

Doing this effectively and efficiently requires time and effort. Simply having monthly meetings before which lengthy documents are produced and distributed does not necessarily meet these obligations. A strong partnership between the CEO and the board will establish a well-paced set of meetings, reporting that is comprehensive but not burdensome, and the

All staff should know what the established procedure is that must be followed if there are serious concerns about mismanagement by the CEO.

necessary activities for board members that establish strong support for the CEO and the NPO. If technology, such as e-mail and website facilities, is used well, they can ensure that every board member has access to all necessary information and news about the organisation. NPOs that follow a practice of open access to information can also ensure that all documentation is easily accessible to visiting board members through intranet facilities.

Should the board have direct access to other staff?

Board members should not be faceless to the staff in an NPO. The CEO should encourage interaction between board members and staff. Sometimes, however, organisational strife can result from interactions between board members and staff if due process in relation to official board business is not respected. Where there are proper procedures for airing grievances, both board members and staff should respect them as a matter of ethical conduct.

It is best practice for a board to make sure that there is an established procedure to follow if there are serious concerns about mismanagement by the CEO. This procedure should be made known to all staff.



While the fundraising can be delegated to the CEO, support should be available from the board.

What if the CEO feels the board is off track?

There are often board decisions made that are not unanimous. If a CEO believes the board is making an incorrect decision about a specific issue, the CEO should put this in writing and take it to a board meeting. It is important to make sure that issues that could impact on the organisation in the long term are recorded. This means that in future, there would be clarity about where the responsibility lay for an incorrect decision. If a CEO disagrees

with the board about a specific issue, it should be recorded in the minutes. However, once the decision is made by the board, the whole NPO, including the CEO, should respect that decision.

In a case where the CEO has fundamental differences with the board about the NPO's vision, mission and strategy, or if they no longer share common values, he/she will most likely resign.

Who should raise funds for the NPO?

In South Africa the CEO normally has the responsibility for fundraising. However, the board is responsible for ensuring that the NPO is adequately resourced and the board should therefore play a major role in mobilising resources. While this job can be delegated to the CEO, it is a lonely and frustrating role for a single person to undertake and support should be available from the board. The board should understand the NPO's resource base and how money is raised. Most importantly, it is difficult to raise money for an organisation if its key stakeholders (ie its board members) do not make any financial contribution themselves. Many people view the time they give to the NPO as their contribution but a donation, no matter how small, is the most powerful message that can be given to other people when they are asked to give support. To see the names of board members listed as donors in the NPO's annual report states publicly that the board is committed to the organisation's vision and mission. It is also seen as a vote of confidence in the CEO.

It is difficult to raise money for an NPO if its key stakeholders (ie its board members) do not make any financial contribution themselves.

CEOs of NPOs are often expected to undertake far more than directors of companies in the for-profit sector.

Conclusion

Running an NPO is hard work and there are frequently expectations that the CEO will undertake far more than a director in the for-profit sector would. This often implies a lower salary, longer hours, less support staff and continual stress relating to the NPO's resource base. Boards should be aware that they are frequently the only point of support for a CEO. Every effort should therefore be made to help and nurture the CEO, who has taken on the responsibility of delivering on the NPO's aims and objectives.

Boards should be aware that they are frequently the only point of support for a CEO.

Caution

It is problematic :

- to have ex-CEOs serving on boards;
- for a CEO (or any other staff member serving on the board) to serve as an exco member of the board;
- for boards to meet so frequently, or for them to become so complex, that the board becomes a shadow organisation to the entire operation and that excessive demands are made on board members' time.



Preferred practice

It is preferred practice:

- to clarify the roles of the board and the CEO and establish clear boundaries relating to their functions;
- for CEOs to serve on the board, as they are the leadership face of the organisation and should be able to make their input at board level;
- to limit the number of staff serving on boards;
- for board members to donate money to the NPO, however modest their contribution;
- for a board to make sure that there is an established procedure to follow if there are serious concerns about mismanagement by the CEO; and to make this procedure known to all members of staff;
- for the CEO or other staff who are board members to remove themselves from meetings where decisions are needed on issues that involve their personal, vested interests;
- to use technology (eg email and web sites) appropriately so that board members can have access to all necessary information and news about the NPO.
- for CEOs who believe their board is making an incorrect decision about a specific issue to put this in writing and take it to a board meeting, and for the decision on the issue to be recorded in the minutes;
- for the CEO and the NPO as a whole to respect the board's decision about a specific issue, even if they disagree with it.

CHAPTER 6

Board Meetings



A board might look good on paper: a strong alignment around the organisation's vision, appropriate members, a clear division of roles. But if board meetings start and finish late, members receive preparatory materials late or arrive unprepared, and there is never enough time to address important matters sufficiently, the process isn't working.

<http://www.onphilanthropy.com/bestpract/bp2004-09-17.html>

Board meetings can be an exciting occasion or they can be very boring, with routine agendas and little discussion. It is difficult for the CEO of an NPO to make the meetings more interesting as the board members actually 'own' the process.

Many organisations have trouble getting a quorum for board meetings, which then sometimes have to be postponed even when there are urgent issues for discussion.

Meetings generally are an important part of NPO governance. They may take different forms, such as board meetings, annual general meetings, special general meetings, public meetings and staff meetings. Whatever form they take, meetings should be productive, effective and efficient. This is especially so with board meetings, as board members usually have limited time at their disposal and don't meet that often: the average board spends less than 24 hours a years making decisions as a body, so every minute counts. Most of the work to ensure that the meetings are effective takes place outside the meeting room.



Important basics for successful board meetings

- The requirements and procedures for board meetings are often set out in the NPO's founding document. It is helpful for board members to know and understand them.
- Board members should have a common understanding of the NPO's vision, mission and objectives. Different interpretations of why the NPO exists can consume enormous amounts of time in meetings.
- One of the most common problems is a lack of preparation by board members. If members have not read the documents circulated before the meeting, they will need to use meeting time to read them. Board members need to be fully informed when they make decisions.

Before the board meeting

“Every meeting should be enjoyable, efficiently run, and build organizational morale. Efficient meetings respect people's time as their most valuable resource.”

<http://www.wisconsinrivers.org/documents/effective%20meetings.pdf>

What must be done to convene a board meeting?

When convening a board meeting it must be done in a way that is in line with the requirements of the founding document. The founding document may allow for meetings to be convened by a specific member or during specific times. Improperly convened meetings may result in decisions that are null and void.

A notice and agenda are normally used to convene a meeting. However, it is useful to set meeting dates at the beginning of the year so that people can book diary dates well in advance. It is always difficult to obtain a full quorum and it is advisable to first check the availability of the people who are supposed to attend the meeting.

The notice of the meeting

The notice of the meeting should set out the following information:

- the date of the notice;
- to whom it is addressed;
- the kind of meeting (eg board meeting or members' meeting);
- the date and time of the meeting; and
- the meeting venue.

A map to the venue can be supplied and mention should be made of parking arrangements, if relevant. The name of a contact person in the organisation should be provided in case of queries or problems.

Sample notice

1 January 2005

To all ABC Development Association Trustees :

Notice is hereby given that a meeting of the board of trustees of the ABC Development Association will be held at 11h00 on Friday, 1 February 2005, at their offices at 26 Broad Street, Johannesburg. The agenda for the meeting and the minutes of the previous meeting are attached.

Yours faithfully,
J Soap
Secretary

What should the agenda include?

Some time and consultation with others are needed to prepare an effective agenda. If your plan is to merely put most discussion issues under the item called 'General', it means you will not be able to determine how long the meeting will take. Things that you have not planned for could take up substantial time and the meeting may run way over the allocated time.

The key is therefore to make time to prepare for the meeting by drawing up an agenda that has been thought through carefully. This preparation could include the following:

- going through the minutes of the previous meeting and deciding which matters must be incorporated in the current agenda;
- getting suggestions from the CEO and other board members;
- indicating on the agenda which matters are for decision and which are for discussion;

- setting a period of time for each item (optional); and
- circulating the agenda among the board members for their comments.

What supporting documents should be provided with the agenda?

The agenda should include the background material that is relevant to the issues to be discussed. The following are likely to form part of the agenda package:

- notice of meeting;
- minutes of the previous meeting;
- the CEO's report;
- the financial report; and
- specific attachments related to the agenda eg rental agreement or donor contracts that require board approval.

All the above documentation must be sent to board members in good time, by both email and hard copy. This helps to remind board members that a meeting is to take place. The documentation should be easy to read and user-friendly. It can be irritating for board members if it arrives late or if it is badly prepared. Care should be taken not to overload board members with unnecessary paper.

A few extra copies of the documents should be taken to the meeting in case someone has not received them or did not bring them along.



Ground rules for meetings

It is advisable to have ground rules for board meetings, which would also apply to other meetings of the NPO. They don't have to be lengthy, but should capture the essential principles that will guide your meetings. They may include:

- meeting preparation must be completed properly;
- those not able to attend must send their apologies;
- meetings must start on time;
- participants must listen to and respect each other's views;
- participants must refer to the Chair when wanting to speak;
- there must be formal voting on important matters;
- records must be kept of abstaining and opposing votes; and
- meetings must end on time.

Chairing the meeting

What does chairing a meeting mean?

Chairing a meeting involves:

- Creating a sense of shared ownership between participants and the chairperson
- Setting a tone and creating a process for equal participation;
- Using creative techniques that tap participants' best thinking while managing conflict;
- Guiding groups towards specific goals; and
- Managing time and the group process well.

The chair of a meeting must ensure that decisions are made, plans are developed and commitments are made, but in a manner that is enjoyable for all concerned.

Adapted from: <http://www.wisconsinrivers.org/documents/effective%20meetings.pdf>

The person who chairs the meeting is the one who will ensure that the purpose of the meeting is met in an effective way. Chairing meetings involves more than just pointing out, in a mechanical way, which item is next on the agenda. It is a multi-faceted skill that may take time to develop. It includes being able to guide and manage discussions in a way that leads to a productive outcome for the meeting, even when discussions become heated. An effective chairperson can take charge of the way the meeting progresses in a guiding rather than a dictatorial manner; reinvigorate discussion if it is faltering but without dominating it; and ensure that the discussion keeps focused on the matter at hand without going off on tangents. At the same time, the Chair should recognise when an important new issue emerges that was not anticipated when planning the meeting and accommodating it by adjusting the agenda.

A skilled chairperson will also be able to assess when a change in the agenda is necessary to help the meeting move past a blockage – for example, if a decision cannot be reached on a certain issue, it may be helpful to take an early tea break so people can clear their heads and come back to the discussion feeling refreshed. Being alert to these situations can help avoid meetings getting bogged down in unproductive arguments or dead-end discussions.

In all these situations, the chair needs sufficient skill to balance keeping the meeting under control and being sufficiently flexible

to respond to changing needs. It may happen that a board member has not read the background material provided and this causes unnecessary questions to be raised. The chairperson must be able and willing to shut down questions that are answered in the background material to avoid wasting time. To be even better prepared, a chairperson could call all board members a day in advance of the meeting to make sure they have received the materials and to ask if everything is clear.

Basic principles for chairing a meeting:

- arrive on time (preferably a few minutes early) for the meeting;
- confirm that a quorum is present when starting the meeting;
- present any apologies received;
- introduce any new board members;
- briefly review the agenda with the participants;
- be familiar with items on the agenda and the supporting documents;
- have a clear sense of what the meeting is intended to accomplish;
- make sure the meeting sticks to the purpose for which it was called;
- make sure that ground rules are adhered to;
- make sure that all the items on the agenda are covered within the time allocated; but
- allow appropriate time to debate specific issues when such debate is needed;
- be firm in maintaining order in the meeting and avoiding domination by individuals;
- try to encourage and make it possible for all members to participate;
- accurately summarise each decision or discussion before moving on to the next agenda item and ensure that decisions are properly recorded;

It is important to take minutes for all meetings and to store them in an accessible central location

- confirm which tasks were given to which members before the meeting ends;
- make sure that the meeting ends on time;
- remind participants when the next meeting is scheduled to take place; and
- thank people for attending and those who made special contributions towards the meeting, eg arranging the venue or catering.

Choosing a chairperson for board meetings

“An experienced and effective chair is essential if board meetings are to be successful. To assist in the process of identifying existing board members as a potential chair, review each director’s skill sets. Do they have the right leadership skills? If you do not have a natural successor to the current board chair, it is the responsibility of the organisation to bring in an appropriate board member in a timely manner, and provide experience so they can become the next chair.”

http://www.maytree.com/fgi/summaries/2005_1.htm

Taking minutes

It is important to take minutes for all meetings and to store them in an accessible, central location. Capturing the essence of discussions and decisions at a meeting is a skill and it may take some time to develop. It can be helpful for the chairperson to summarise discussions as the meeting proceeds for the benefit of the minute taker. This also helps to confirm that everyone at the meeting has understood the outcome of the discussions in the same way.



Important principles to keep in mind when keeping minutes

- capture the logistical details of the meeting, eg venue, date, time, chairperson, minute taker, those present and absent (including apologies), and nature of the meeting;
- ask members to sign an attendance register;
- record the essence of discussions, especially any decisions reached, and not the full discussion;
- record specific points made when participants request their point of view to be noted;
- ask for clarification when required and if uncertain, read the relevant part out to other members and ask for their confirmation;
- clearly identify action items and who is responsible to perform tasks and by what time;
- listen carefully to discussions; and
- produce the minutes as soon as possible after the meeting to avoid forgetting important details.

After the meeting

Circulation of draft minutes

One of the first tasks after a meeting is to complete the minutes. A draft version should be sent to participants for their comments before circulating the final draft. The final draft, including any comments or revisions, is submitted to the next meeting and will be the official record of the meeting.

It is advisable to agree to a standard time within which the first draft must be circulated and a standard time within which members must provide comments. For example, the board can decide that the draft minutes will be circulated within two days of the meeting and that members have a further two further days to make comments.

Written resolutions

It may be important for certain purposes to capture a resolution taken at the meeting in writing. For example, if a resolution is issued to change the NPO's constitution, it is advisable to prepare an additional resolution that only reflects that decision. You can use that document to inform the Directorate of Non-Profit Organisations or the Commissioner for the South African Revenue Services of the decision. The resolution would still be reflected in the minutes. If a separate resolution is issued it would mean that others who see it would not have access to the rest of the discussions that took place at that meeting.

Execution of tasks

Those who have been given specific tasks must ensure that they complete them within the time provided. Failure to do so may hamper the progress of the NPO and may also impact on the productivity of the next meeting. It is be advisable to do some follow-up before the next meeting takes place. A member can be appointed to remind board members who have agreed to undertake specific tasks.

How not to run a meeting?

See <http://www.charityvillage.com/cv/research/rbod5.html> for an article illustrating how not to run a meeting.

Code of Good Governance for Non-Profit Organisations



In 2005, a broad forum of South African non-profit organisations, donors and government representatives discussed a range of issues around Good Governance in Non Profit Organisations. This Code of Good Governance emerged from these deliberations with a call for NPOs to voluntarily move toward adopting these within their own organisations.

As a non-profit organisation, we commit ourselves to the practice of good governance principles and to the implementation of these as far as is reasonably possible within our organisation.

We shall do this in the following ways :

- Through ensuring that the board is aware of its responsibilities and its role.
- Through having board members that come from different backgrounds and have a range of skills and experience, with representatives from the communities we serve.
- Through having transparent and clear objectives and goals that we measure ourselves against regularly.
- Through open and honest accountability by producing regular financial and narrative reports that are available to the public and our donors.

- By meeting all legal and statutory requirements expected of us on time and as required.
- By keeping good financial records and being able to account for all funds given to us and for all money spent or invested.
- By treating our staff fairly and having clear and open staff policies.
- By making sure that our board is given all the information it needs to do its task, that it meets regularly, and that members receive training to do their job effectively and in the interests of our organisation.
- By making sure that no staff or board member benefits unfairly through the awarding of tenders or contracts, hiring of staff, or in any other way that results in them obtaining unreasonable benefits or preferential treatment, by having a formal conflict of interest policy and appropriate procedures that are understood by all.
- By making sure that the Executive Director/CEO is appointed, supported and removed by the board alone, that the board has authority over him/her, and that his/her performance is evaluated and reviewed by the board fairly and regularly against agreed and understood performance measures.
- By demonstrating through our actions the values we believe in, showing fairness, discipline, responsibility, accountability, transparency and independence in all that we do.

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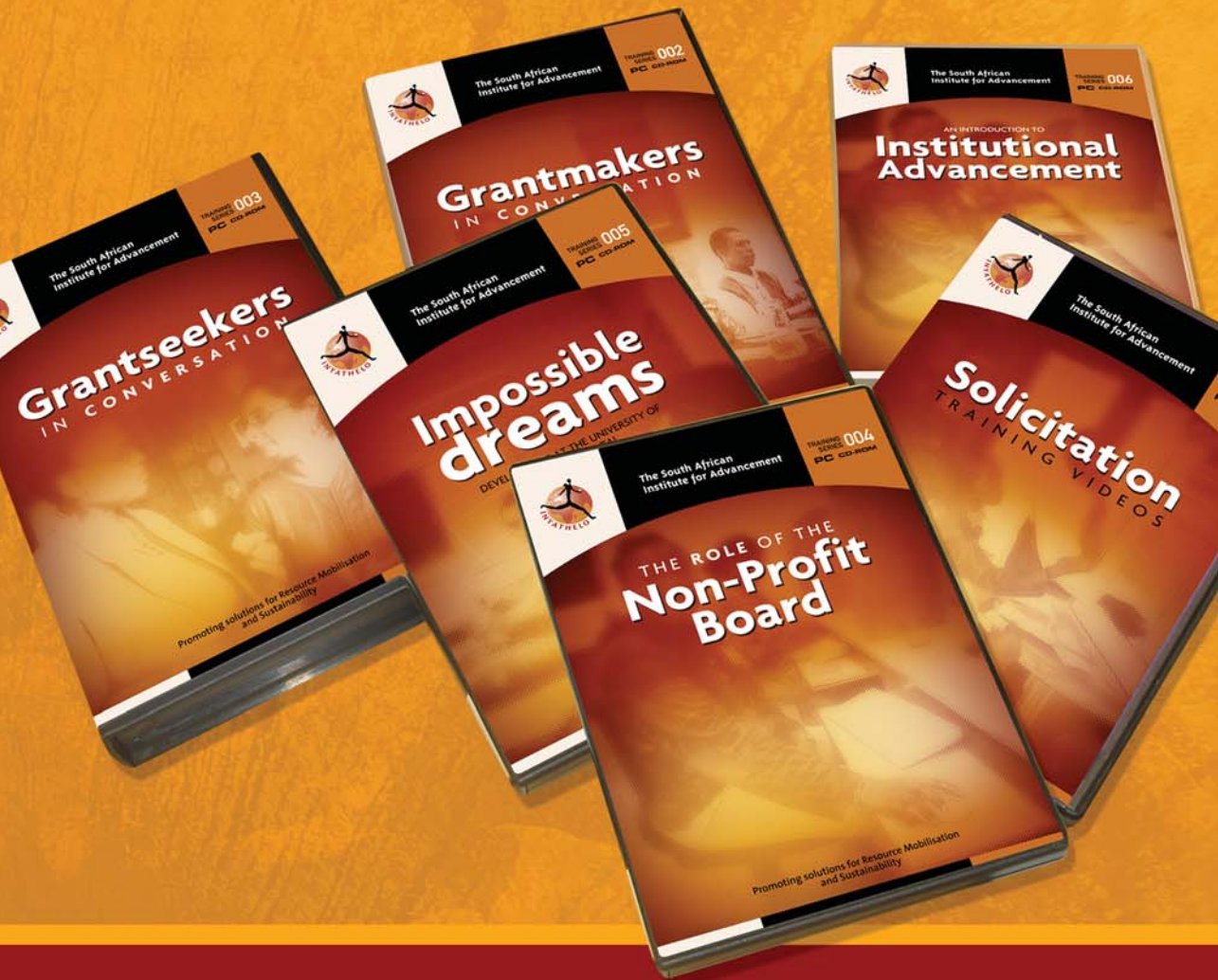
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