

GOVERNING BODIES



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Guide body

Every organisation has a governing body whose members are solely responsible to the law for the proper functioning of the organisation and for the achievement of its objectives. In this book, the term board of directors refers to the governing body, which in practice is often referred to as a board of trustees, board of management, board of directors, board of managers, etc. The name is not essential.

This resource material includes:

- Reasons for the existence of a governing board.
- Responsibilities of council members and other governing bodies and where to learn more about them.
- Specialists and their duties.
- The role of subcommittees.
- Some ideas on how to get the best from the board.

Which body is the governing body

In an unincorporated membership organisation (association/society) without a dedicated board of directors, the governing body will consist of all members of the organisation.

In associations with members and a separately elected or appointed governing board, this governing board is the governing body. The members of the governing board shall be presumed as of right to act as agents of the members of the organisation. If the organization has a constitution or bylaws, these will specify how the governing board is elected; these procedures must be strictly followed. The governing board is usually elected at an annual general meeting, but there may be arrangements for some or all members to be elected or appointed in other ways. In effect, its members may be anyone who volunteers, or people invited to join by a sitting board member, or people appointed by an outside body. But regardless of how they are included, it is essential that the election or appointment procedures set out in the constitution or by-laws are strictly followed.

If the organization is a foundation and has no members, the articles of incorporation or bylaws determine how the trustees are appointed. The trustees are the governing body.

The Governing Board as a committee

In this resource material, the term board of directors refers to the body that has constitutional and legal authority to make important decisions about the organization and its work. What we call a board is usually a governing body, but to avoid confusion with legal responsibility, the term board or other governing body is used specifically when referring to legal authority.

Why is a Governing Board needed?

The groups have governing boards:

- to ensure that the organisation meets the needs of its members, users or customers and/or the community it serves;
- to draw on people's experience and knowledge when making decisions for the organisation;
- to ensure that the organization is accountable to its members, consumers or clients, or the community it serves and/or donors;
- because donor organisations and donors want to know whether financial and other decisions are being made properly, not just by one or two people;
- because organisations registered as non-profit entities are required to have a governing body

Managers and staff in CSOs sometimes feel that the board brings more problems than benefits and that board members are constantly interfering in their work, or at the other extreme - they are not interested in the organisation at all. On the other hand, board members may conclude that paid staff are more interested in their own careers than in the community or the cause. For a civic organization to function effectively, it is critical that staff, managers, and board members see each other not as rivals but as partners working together to achieve the organization's purpose.

Members of the Management Board and their role

Most organizations have honorary members - usually a president, vice president, secretary and treasurer. Despite the general similarities, the roles of Board members vary from organisation to organisation and from one period to another.

It is important that everyone on the board understands what they are supposed to be doing in the organization in question.

Delegation

While the primary responsibility for the management of an organization is assumed by the board as a whole, individual specific responsibilities may be delegated to certain chairs or vice-chairs, to regular board members, to members of subcommittees, to task forces, to senior managers, and to other managers, employees or volunteers, individuals or groups.

Confusion may arise if it is not entirely clear what rights are being delegated. Can the chair, a board member, a subcommittee member, the manager, or any of the staff actually make final decisions, are they allowed to make suggestions or recommendations to the whole board, or are they just asked to provide information so that board members can make decisions? Clarifying these issues means defining terms of reference for different areas of responsibility.

Good communication between the board and staff or a person with delegated authority is particularly important, otherwise board members may have to answer for something they haven't even heard of.

Note that legal responsibility for the activities of the organisation cannot be fully delegated. Members of the board of directors or other governing body remain legally responsible, even if the person legally representing the organization is a director who is not a member of the board.

Responsibilities of strategic management

The board of directors or other governing body is responsible for strategic management, i.e. ensuring the organisation operates properly and effectively and achieves its agreed objectives. Strategic management includes:

- understanding and regularly reviewing the nature and values fundamental to the work of the organisation and enabling board members, staff, volunteers and others associated with the organisation to understand and put these values into practice;
- Building a long-term perspective on the organization and its work;
- Making strategic and master decisions about the organization's goals, policies and procedures;
- Making decision-making procedures transparent (people know who makes decisions and how) and accountable (decisions are communicated to the people who need to know about them).
- Ensuring that the needs and interests of relevant people and organisational structures are taken into account when decisions are made;

- Securing adequate resources (especially people and money) to carry out activities and make decisions about how to work if resources prove to be unavailable;
- monitoring the performance of the organisation in terms of achieving its objectives;
- ensuring and taking appropriate action when work is not done or not done properly;
- taking legal responsibility for the organisation and all its actions (or inactions).

If the organisation becomes involved in financial or legal problems, members of the board or other governing body can in many cases be held personally liable. This is explained in more detail later in this resource material.

Legal liability is the subject of Resource 3. Communication and decision-making are covered in Resource 6 to 8, personnel management in Resource 9 to 13, planning, performance and evaluation in Resource 14 to 18, external relations management in Resource 19 and 20, and day-to-day management in Resource 21 to 24.

The President

The role of the President has two distinct sides:

- Planning and conducting meetings, making sure all topics are covered and necessary decisions are made, keeping order, helping groups deal with differences of opinion and conflicts, making sure everyone has a chance to speak.
- Ensuring that the organization as a whole develops its policies and adheres to the priorities already set. The Chair acts as a spokesperson for the organisation, making important or urgent decisions between meetings, working closely with the Director/Chief Executive and, if necessary, with other staff so as to make sure that the job is done properly, and to assist in dealing with difficulties.

Presidency of the organisation

This role should be held for a period of at least one year by a person elected at the AGM or in some other formal and democratic way. It is not good practice for the position of 'President of the Organisation' to be filled on a rotational basis or to be changed at intervals of less than one year, as most people need at least this length of time to develop in this position. The constitution or bylaws usually limit the chairmanship to a certain number of years to avoid anyone holding it for too long.

The role of the chair varies and changes greatly and depends on the personality and experience of the person as well as the size and structure of the organisation - and especially whether there is someone in a paid position with special responsibility for the day-to-day running of the organisation. Where there is a manager, the chair needs to work closely with him/her and in many cases the chair acts as a supervisor and evaluator (see Resource Material 10) to the manager. Where there is no senior manager, the Chair can take an active role in managing the staff and volunteers in the organisation.

The presiding officer is the central figure for the board and for the organization and may be its spokesperson, but he/she is not the commander-in-chief of the Army. The chairperson has no more authority than any member of the board unless that authority:

- is not specifically assigned under the articles of incorporation;
- is not specifically defined, according to the competencies defined by the organization for this position;
- is not specifically voted on in the Board's decisions;
- is assumed by default to be part of the organisation's "rules and customs" - its way of doing things;
- is not tacitly accepted by the chairman by performing certain actions that are not disputed by other people in the organization.

The latter could cause serious problems if the chairman acts tyrannically and imposes duties on the committee and staff, or if the chairman is weak and cannot suggest a proper course of action for the organisation.

Activity of the President

If urgent decisions need to be taken between meetings, the constitution of the organisation or its rules of procedure shall give the right to a presidential decision.

It should only be used for decisions that really cannot wait until the next meeting.

If the organization's policy on an issue is not clear, the chair should consult with the vice chair, another board member, or the general manager before taking action. Any action taken on the basis of a Chair's decision must be reported to the next Board meeting. The President may not take action on his/her own chapter unless it is stated in the constitution or bylaws, or a decision to do so is made by the Board of Directors.

Other Honorary Board Members

The Vice-President

The Vice-Chairperson shall take the place of the Chairperson and assist in decision-making between meetings. Sometimes the Chair is responsible for 'organisational' matters and policies, and the Vice-Chair for the meetings themselves.

The President should provide the necessary information so that the Vice President knows enough about the current affairs of the organization to be able to take over immediately if needed. In some organisations, the Vice-Chair is responsible for certain matters, for example, personnel.

The Secretary

If not provided for in the constitution, the organisation need not have an elected secretary. If there is one, the role is considered in two specific aspects:

- assisting the Chair in planning meetings, ensuring that they are held in accordance with the constitution, that notices of meetings and agendas are made and circulated in advance if required, that members receive all necessary information, ensuring with the Chair that decisions are taken when required, that minutes are taken and circulated;
- Handling correspondence concerning the Board (including e-mails, phone calls, etc.), making sure that the people to whom it pertains are aware of the content of the correspondence, maintaining mailing and e-mail lists, sending out promotional materials and other information about the organization.

These activities may be divided between the Meetings Secretary and the Correspondence Secretary.

Some or all of this work may be done by members. It is important to clarify what the Board Secretary is expected to do and what the members are expected to do.

Resource Material 7 addresses the issue of agendas and minutes, and Resource Material 8 includes guidelines for the submission of oral and written reports of meetings.

The Treasurer

An organization need not have a treasurer unless provided for in the articles of incorporation. However, it is good practice to have one and most donors require it.

The treasurer, on behalf of the board, checks that the money is spent as intended, that all debts are paid and that there are no financial troubles. The treasurer must also ensure that the board receives budgets and regular financial reports and that there is enough information to make decisions about finances.

If staff work with funds on a day-to-day basis, the treasurer should ensure that the work is being done properly and provide advice in problem situations (e.g., prioritizing spending.) The treasurer should also ensure that there is coordination between applying for programs, participating in tenders, and organizing fundraising campaigns.

Resource Material 23 includes a list of the Treasurer's responsibilities.

Other roles

Other honorary positions may be meeting organizer or meeting host (see Resource Material 7), social secretary, press secretary, fundraising officer, or any other position the organization decides to create. These positions need not be included in the constitution unless the organization requests to make them permanent.

Committees and working groups

Board members are sometimes frustrated, nervous or even alienated because they feel they are expected to know and do too much, or because the staff or the chair or vice-chair takes on all the work and board members simply approve decisions already made.

In a very small organization, everyone on the board can be involved in all the decision making. But as the organization grows and acquires a more complex structure, it is not reasonable to expect that every board member is a specialist in all aspects of running the organization. One way around this problem is to create subcommittees that will deal with specific aspects of governance responsibilities.

Typical subcommittees may be responsible for:

- personnel and could be called employee, personnel or human resources committees;
- recruiting volunteers and providing assistance;
- finance, fund management and fundraising, which may be undertaken by one, two or three subcommittees;
- the premises;
- development, which would require one or two or more committees to deal with the development and monitoring of specific aspects of the organisation's work;
- equal opportunities and diversity;
- information and communication technologies (ICT);
- Publications;
- advertising and media relations.

If executive committees are short-term rather than permanent (if stipulated in the constitution) or long-term, they may be called working groups or ad hoc committees. Task forces may be created, for example, to draft a Bridging the Gap policy and propose it to the full board for approval, to develop a training methodology, to organize the annual general meeting or a specific fundraising event, or to undertake other similar, time-limited tasks.

The creation of committees and working groups means that:

- the pressure on the chairman and other members is less;
- managers, paid staff and volunteers feel more supported and less isolated as they can turn to the relevant committee for help or advice;
- the organisation can grow and draw on areas of specific expertise;
- Board members should have a strong knowledge of one or two areas of management responsibility, know absolutely everything;
- the specific interests and skills of Board members can be put to good use;
- Gaps in the knowledge or experience of the Board can be more easily identified;
- people external to the organisation with special expertise who would not want (or be allowed) to sit on the board can be involved;
- new board members can work with more experienced members;
- individuals can take a greater part, as most work is done by small groups;
- meetings of the full council are shorter and more efficient because information is gathered from subgroups and presented to the council in a condensed and accessible form.

Work assignment

Every committee, whether permanent, long term or short term, must have clearly defined terms of reference. These are:

- the purpose of the executive commission;
- who can sit on the executive committee, how appointments are made and for how long;
- who appoints the members of the group and whether appointments need to be approved by the board;
- how often the group meets and whether it can determine the frequency at which this should happen;
- who serves the group technically (convenes meetings, sets the agenda, takes minutes, etc.);
- what topics the group is looking at (and possibly, what it is not looking at);
- what decisions the group can make or actions it can take independently (delegated powers) and what must be referred to the board for decision or action;
- how often the executive committee reports to the board and whether this should be done in writing, either directly or through a designated person, a member of the board;
- how the group is funded and how its spending is approved;

- whether the group intends to be permanent or temporary and, if the latter, how it will be convened.
- Most importantly, the terms of reference set out what powers the executive committee has to make and implement decisions. There is a big difference between:
 - A committee that is asked to gather information about an issue or project, analyze it, and discuss the most important elements for consideration by the entire committee;
 - group that should make suggestions or recommendations to the board;
 - and one that can make and implement decisions and then report them to the whole council.

Serious problems could arise if expectations and boundaries are not absolutely clear.

Sample terms of reference for the Personnel Committee are given in Resource 10; for the Development Committee in Resource 14 and for the Finance and Fundraising Committee in Resource 23.

Strategic Management Code and Standards

Ideally, every organization should have a code of conduct for board members.

Drawing up your own code

It is certainly good to offer model codes for board members, but many organisations would be better off creating their own. A board code usually sets out rules for the following:

- As a board member, you are part of the group responsible for setting the overall course of action for the organization. In this capacity, you must work in the best interests of the organization as a whole as well as current and future beneficiaries. When carrying out your responsibilities as a board member, you cannot work in your own interest or in the interest of a particular group or faction - even if one of them elected you to the board.
- All board members must remember that they are jointly accountable to the members of the organization [in a membership organization], donors, supporters, and regulatory bodies such as the NRA, etc.
- As a board member, you are entitled to reimbursement of personal expenses when you carry out activities for the benefit of the organisation or its beneficiaries. However, you, a family member or business associate may not receive any financial or other benefit from the organization unless specified in the articles of incorporation. These rules help avoid conflicts of interest.

- You should have information about the organisation, its work and the sector or environment in which it operates. You need to monitor changes inside and outside the organisation that could affect its activities and the way it works.
- You must understand and operate under the terms of the articles of incorporation or bylaws. In particular, you need to make sure that the organisation is following its objectives (under the clause in the constitution that sets out what the organisation was set up to do) and its powers (the clauses that set out what the organisation and the board can do to achieve its objectives).
- You must understand the moral standards and values of the organization, adhere to them in your work, and, along with other board members, be confident in their relevance to the organization.
- You need to understand the broad legal framework in which the organisation operates, the law on non-profit organisations, other legal frameworks such as employment law, social welfare or the child protection charter, for example.
- You should familiarize yourself with the agenda and briefing materials prior to meetings, make a serious effort to attend and participate in board meetings and (if necessary) committee meetings. If you are unable to attend a meeting, you must apologise in advance.
- Together with the other board members, you need to make sure you have the information you need before making decisions. Whether it is professional information or consultation, it must be obtained and considered before a decision is made.

- If it appears that you, a family member or a business associate is financially connected to a board decision or action, you should declare that conflict of interest as soon as you become aware of it and make sure it is reflected in the organization's register of board member interests and/or the minutes of the meeting at which you declare it. You cannot then take part in any decision-making on the matter and, in most cases, you cannot take part in any discussion about it.
- Loyalty conflict: when you or a loved one are not working in the best interests of the organization. If you are a board member, you must be loyal to your organization. If, for some particular reason, you cannot work for what you sincerely believe to be in the best interests of the organization, you should not be involved in the decision-making on that issue, and in some cases, the discussion itself.
- [For membership organizations] The conflict of interest and conflict of loyalty rules apply differently at the AGM and other general meetings (meetings of all members of the organization, not just its board of directors).
- Decisions can only be made if a quorum is present at the council meeting or by a group or individual specifically authorised to make those decisions on behalf of the council. All members of the council, even those who are not involved in the decision, are responsible for all decisions taken by or on behalf of the council.

- Where information is confidential it should not be discussed outside the council. Even when information is not specifically designated as confidential, you should not speak outside council meetings about sensitive or confidential topics.
- Once you agree to do something on behalf of the council, you should do it! If you find that you can't, you should discuss this with the Chair or another appropriate person to make the appropriate changes if this is possible.
- Staff and volunteers do the work on behalf of the organisation. Your role is to support them, but without interfering with their work or undermining the authority of the director or other manager.
- If you work as a regular volunteer for the organisation, for example helping with day-to-day work, fundraising, etc., you may report to a staff member or another volunteer. You must be accountable within that activity and not abuse your place as a board member.
- You must be willing to train or participate in other activities in order to improve the effectiveness of the Board. In some cases, attendance at such events may be mandatory for all or some board members.
- As a board member, people will perceive you as a representative of the organization. You should not undermine the authority of the organisation or the board by your actions. You should always treat other board members, the organisation's staff and users, and other people connected with the organisation, with consideration and respect.

- You should not speak on behalf of the organisation or the council unless you are authorised to do so, and you should make sure that you are expressing their views and not just stating your own.
- If you are unhappy or worried about the way the council is working, you should discuss it with the chair or another member.

It would be appropriate for the code to include other issues, for example the personal relationship between trustees and staff or between trustees and service users.

Using the full potential of the council

A good board, good staff and good volunteers: all have an important role to play in ensuring the organisation works well. However, the board is often seen as unnecessary or even a burden. Organisations and individuals need to contribute to the effective work of their board and its improvement.

The organizational structure

In many organizations, a negative attitude towards the board is an almost inevitable result of the organizational structure (the way the organization is set up).

The board can be an imposing body, made up of 'good and responsible' people, dedicated to the organisation and its work, but too removed from the day-to-day lives of its staff and its users and beneficiaries. In this case it would be a good idea to introduce a rule that representatives of the final beneficiaries participate in the board meetings or serve as consultants.

The other extreme is when the board is made up only of members or users who are strongly interested in what the organisation provides them at the moment, rather than its long-term development. It would then be useful to broaden the board with external people with particular skills or experience to give a broader perspective.

The structure can be complex because of its circular nature: the board is the employer of the staff who supervise the volunteers who are on the board, which is the employer of the staff... or the board is the employer of the staff who provide the services to the service users who are on the board, which is the employer of the staff, and so on. Circular structures of this type require certain skills in setting and maintaining boundaries between the person as a volunteer and/or service user and the person as a board member.

If the board includes staff or board members of other organisations, a conflict of loyalties (also known as a duality of interest) could arise when considering, for example, whether to apply for certain funding. Such a duality of interest or conflict of loyalty may arise if donors are represented on the board. A person who serves on the governing body of an organization should always act to achieve the best outcomes for the organization and its beneficiaries - even if this conflicts with his or her personal interests or the interests of another organization that he or she represents or is affiliated with.

Another difficulty arises from holding annual elections and the constant turnover of board members. Even if the bylaws require annual elections, the organization can provide that board members hold their positions for at least two years (which implies that they be re-elected for the second year). The articles of incorporation could also be amended to allow board members to be re-elected for two or three years.

Improvement of procedures

Regardless of the structure of the board, the following ideas would help people participate effectively in it:

- Board information sessions to encourage people interested in applying for membership to learn more about what this commitment entails or one-on-one conversations with potential members;
- Appointing an experienced board member as an “assistant” or “mentor” to new members;
- Induction package (see Resource Material 1) and training/instruction for all new members as well as annual training for all interested members;
- Chair’s conversations with new members after the first and second meetings to see if they have questions and concerns;
- Encouraging board members to visit the office and browse the organization’s websites to know what’s going on;
- Encouraging board members to volunteer in the office or work with users of the organization;

- building an organisational culture where individuals - for all their diversity - are truly respected and valued;
- identifying the skills, experience and knowledge that people bring to the board, valuing them and making the most of them;
- Encourage new members to participate in subgroups in accordance with the goals set by the board;
- Assumption of responsibility by a specific board member for certain aspects of the board's work;
- sending out agendas and briefing materials for board meetings early enough so that members have time to read and consider them;
- submission of minutes that clearly present the issues considered and the decisions taken (see Resource Material 7);
- Create concise and clear documents that outline the main issues and possible solutions (see Resource Material 8);

- Proper management of meetings so that members stick to the issues at hand, listen to each other, respect each other's views and come to concrete decisions;
- creating opportunities to talk informally before meetings or during breaks;
- organising periodic events to confer with employees and users;
- organising open seminars and other events where councillors can discuss topics in depth with senior officers, all staff, service users and others when required;
- building a sense of collaboration between the board, director, staff, volunteers and users, rather than maintaining an 'us-you' distinction;
- and, most importantly, creating an atmosphere in the organisation in which the board is seen as an important "non-monetary asset".

List of Questions for Councils to Work Effectively:

1. Do all board members know and understand the organization's goals, priorities and values?
2. Do they understand the importance of strategic thinking (long-term, large-scale), when it make plans, make decisions, monitor achievements?
3. Do all board members have a very clear understanding of their financial and legal responsibilities?
4. Do councillors know where they could get further information to improve their performance, particularly on legal and financial matters?
5. Are the right steps being taken to introduce new board members to the organisation, its work and how the board operates?
6. Are training and self-improvement perceived as a concomitant process, appropriate not only for new board members?
7. Are board members getting the information they need to make informed decisions?
8. Do you think that council and executive committee meetings (if any) are effective?
9. Do you think the council and staff work in true collaboration?