WELCOME TO THE BOARD

DIRECTORS' GUIDE TO PUBLIC ENTITY GOVERNANCE

VPSC
Victorian Public Sector Commission

VICTORIA State Government

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VPSC
Victorian Public Sector Commission

1. WELCOME TO THE BOARD

Congratulations on your appointment as director. You are now one of the 34,000 directors serving on one of the 3,700 public entity Boards in Victoria.

Your appointment may be as director of a school council, crown land committee of management, cemetery trust, public hospital, water corporation, alpine resort, advisory committee or other type of public entity.

Your role on the Board is essential to public administration and to ensuring that government performs all its roles effectively and efficiently.

Be assured that the Victorian Government recognises and values your contribution of time and expertise to the public sector.

What is a public entity? In Victoria, public entities are bodies, whether corporate or unincorporated, that:

- are established by an Act, the Governor-in-Council, or a minister
- perform a public function on behalf of the State or are wholly owned by the State, and the Governor-in-Council or a minister has the right to appoint at least half of the directors (in the case of a body corporate).

A subsidiary of a public entity is also a public entity.

Welcome to the Board explains:

- how your Board interacts with the minister, portfolio department and the public entity's senior management
- what is expected of you, your Board and senior management
- how your Board sets the strategic plan, makes decisions, manages risk and complies with its legal obligations.

1.1 Victorian Public Sector Commission

Functions of the Victorian Public Sector Commission (VPSC) include the provision of advice and support on issues relevant to public administration, governance and service delivery.

The VPSC publishes detailed governance information and resources on its website at: www.vpsc.vic.gov.au/governance. Those resources include the State of the Public Sector in Victoria which is an annual report containing information about the role, size and composition of the public sector including its Boards (figure 1).

Victorian Government Departments use VPSC information and resources to tailor guidance materials for public entities in their portfolio – for example, the Department of Environment, Land, Water and Planning's On Board website and the Department of Health's website on health service Board governance (Health Service Board Governance – Department of Health, Victoria, Australia).

Figure 1: Composition of the Victorian public sector

Victorian Public Sector

1814 employing bodies
1950 committees
of management, trusts
and advisory boards

- **Victorian Public Service**

  41 employing bodies

  - **Departments (9)**
  - **Adminstrative Offices (9)**
  - **State Services Authority**
  - **Special bodies (14)**

- **Victorian Public Entities**

  1773 employing entities
  1950 (approx) non employing entities

  - **Teaching services and schools 1540 employing entities**
  - **TAFE and other education 24 employing entities**
  - **Health sector 89 employing entities**
  - **Police and emergency services 6 employing entities**
  - **Water and land management 48 employing entities**
  - **Other 66 employing entities**
  - **Committees of management, trusts and advisory boards 1950 (approx) entities**

2. YOUR BOARD'S ROLE IN GOVERNANCE

Public entities are created by government to carry out a public function and are accountable to a minister.In turn, the minister is accountable to parliament and to the community.

The Board must act consistently with the functions and objectives of the public entity (as set out in its establishing Act or other establishing document) and with any business or strategic plan or other document relevant to the work program of the public entity.

Governance relates to the manner in which a public entity is controlled and managed (figure 2). It includes the relationship between a public entity's minister, portfolio department, Board, management and stakeholders, and the administrative arrangements that support those relationships.

Good governance is essential to a public entity's reputation and performance and to community confidence. It enables public entities to perform efficiently and effectively, and to respond strategically to changing demands.

2.1 Public Sector Governance

While the same general principles of governance operate in the public, not-for-profit and private sectors, some differences of emphasis apply in the public sector.

These differences arise from the fact that public entities are part of the executive arm of Government. That is, they are created, resourced and supported by Government to carry out a public function. Therefore public entities need to implement and comply with government policy and applicable legislation.

As a consequence, this generally means there are higher transparency requirements than in the private sector: For instance, Freedom of Information Act obligations, accountability to ministers and departments, government reporting, and integrity requirements.

In addition, public entities are subject to additional oversight by the Auditor-General, Ombudsman, Independent Broad-based Anti-corruption Commission (IBAC) and other specialist integrity bodies (e.g. Health Services Commissioner and Disability Services Commissioner). The emphasis on demonstrating proper behaviours and values is also generally greater.

The Directors' Code of Conduct applies to all directors and a similar code applies to public sector employees. These codes are based on public sector values which are contained in the Public Administration Act 2004 (PAA).

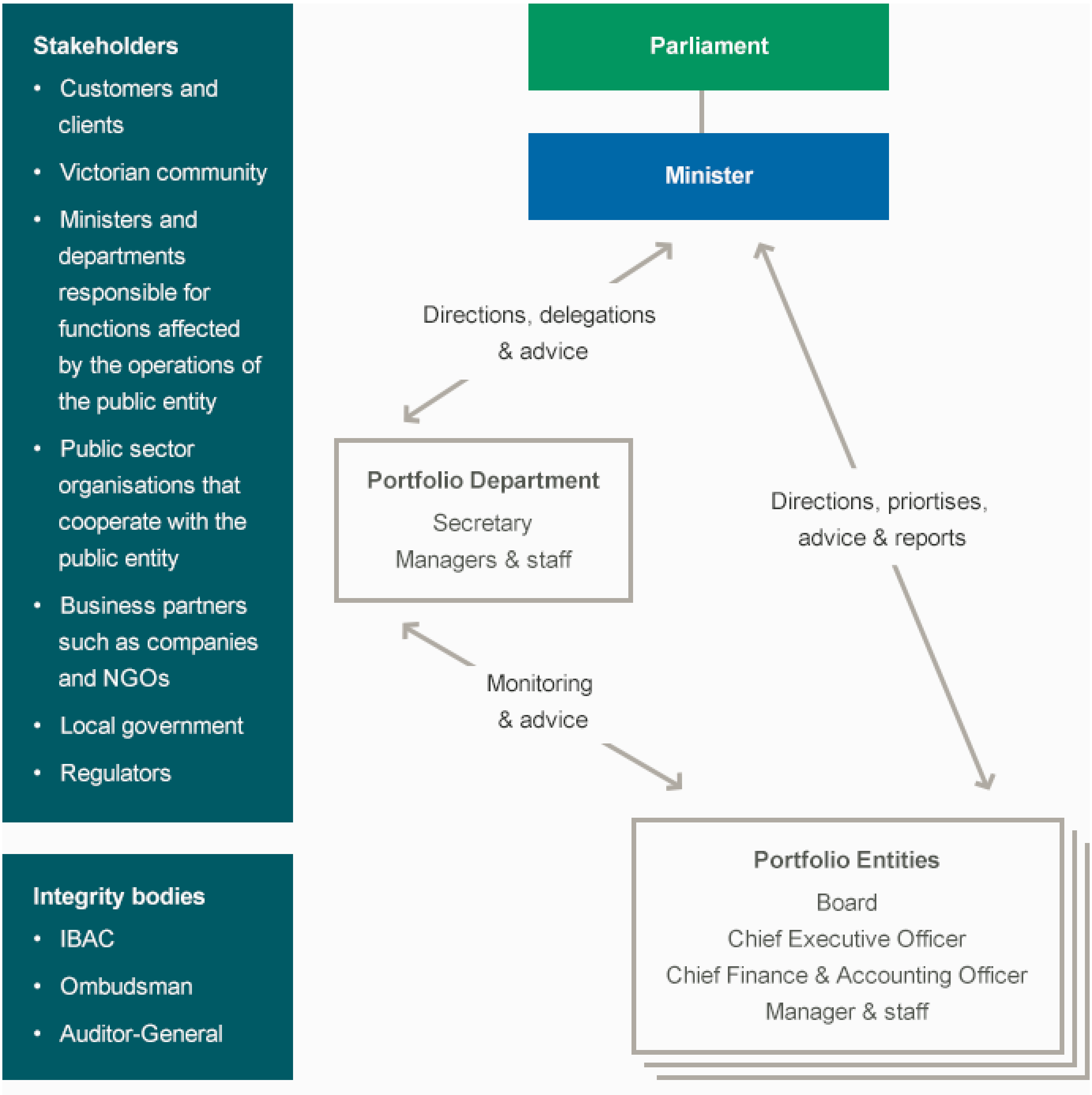
Stakeholder engagement in the public sector can be more complex and critical than in the private sector. Since entities use state power and resources, citizens, media and integrity bodies monitor what entities do and how they do it. Adverse findings or publicity can affect directors' and entities' reputations and can also lead to removal by the Minister.

The existence of Freedom of Information obligations also creates a need for Boards to be mindful to balance transparency and confidentiality in their relationships with stakeholders.

In particular, information provided to individual directors and decisions of the Board are confidential to the Board. The Board as a whole (with management) determines how, when and who communicates information and decisions to stakeholders, as part of an agreed stakeholder management plan.

The PAA codifies a succinct, minimum set of governance principles and accountabilities for Victorian public entities, their directors, Boards and chairpersons. These are found in Part 5, particularly sections 79 to 85. These principles are based on widely accepted governance principles typically also found in the common law, Corporations Law and Australian Standards on governance.

Figure 2: Accountability Framework



2.1.1 Minister

While not an exhaustive list, the minister will have some or all of the following powers:

- appoint, remove or recommend the appointment or removal of directors from office
- approve or disallow a proposed appointment of a chief executive officer (CEO)
- request information about the public entity or its operations (in addition the Treasurer may request financial information and the Premier other information)
- approve a corporate plan
- give directions
- initiate a review of the entity's management systems, structures or processes.

These powers will be outlined in the public entity's establishing legislation and the *PAA*.

The minister or department head can issue a public entity with documents (e.g. statements of priorities, letters of expectation) to outline the roles and relationship between the public entity, department and minister and clarify government's priorities for the entity based upon policy or legislative power.

2.1.2 Department

The relevant portfolio department provides advice and support on all aspects of a minister's portfolio, including the roles, responsibilities and performance of public entities. A sound relationship between a public entity and the portfolio department is critical to the public entity's successful and efficient performance and risk management. Under section 13A of the PAA:

- Secretaries are responsible for advising the public service body Minister or Ministers on matters relating to a relevant public entity, including the discharge by the public entity of its responsibilities, including those under the PAA or any other Act.
- Secretaries are also responsible for working with and providing guidance to public entities to assist entities on matters relating to public administration and governance.
- Unless prohibited by law, public entities must provide information required by Departments to enable them to advise their ministers.

2.1.3 Public Entities

The PAA requires public entities to provide information required by Departments to enable them to advise their ministers. This is a broad requirement.

It is important to note that there is a specific requirement about risk under section 81 of the PAA, as the Board must inform both the minister and department head of known major risks to the effective operation of the public entity and of the risk management systems that it has in place to address those risks.

Public entities have legal rights and responsibilities under their establishing legislation. They generally have operational autonomy to carry out their functions. Some public entities have greater autonomy (for example, regulators and integrity bodies). All are accountable to the minister and have a responsibility to provide information to the department.

2.1.4 Productive Department – Entity Relationships

Productive relationships between departments and entities require active and ongoing management. Departmental and entity leaders have emphasised that representatives from both organisations are better equipped to serve government and deliver their objectives when their working relationship is grounded in mutual understanding and respect.

This means that when issues or problems arise, parties are more likely to contact each other early and resolve matters before they escalate.

Departments and entities can build and maintain productive relationships when:

1. **Contact is positive and regular** – Departments and entities that have clearly assigned relationship managers who set a positive tone and interact regularly have better relationships.
2. **Roles and responsibilities are clear** – Overlaps in responsibilities can occur within portfolios. When departments and entities clarify who is doing what, there tends to be less tension, particularly in resolving issues of role clarity, responsibility and oversight.
3. **Good public administration and governance is adhered to** – Departments that play an active role in providing clear and consistent advice on public administration and governance are more likely to have productive relationships with entities in their portfolio. This includes assistance in inducting Board members, advice on government directions and policies, and support to manage conflict of interest and other risks.
4. **There is collaboration on strategy and planning** – A department and entity that collaborate on strategy, planning and statements of expectations lay the foundations for alignment between government priorities, and department and entity plans.
5. **Monitoring and reporting requirements are optimised** – Departments that integrate entity reporting requirements and share any resulting benchmarking information, reduce the administrative burden on entities and support entity efficiency.

Resources

- Governance Insights

3. ROLES IN YOUR PUBLIC ENTITY

3.1 Board

The Board has both a strategic and stewardship role in the public entity. It sets the overall strategic direction of the public entity and oversees senior management in carrying out that strategic direction.

The Board also ensures that the public entity meets its statutory obligations and that its operations and policies reflect the public sector values and employment principles.

The Board steers the public entity on behalf of the responsible minister and portfolio department. It must inform the minister and department head of major risks to the public entity and of the measures in place to address those risks.

The Board is responsible for its own effectiveness as a governing body. It needs to ensure adequate procedures are in place for assessing its own performance as well as the performance of individual directors', dealing with any poor performance by directors, managing any existing or potential conflicts of interests, and resolving any disputes between directors.

The Board must also ensure it has efficient and effective procedures in place to govern the conduct of its meetings and to keep adequate records.

The Board's legal requirements include complying with the Directors' Code of Conduct, and ensuring that the public entity has relevant policies to deal with conflicts of interest including the provision or receipt of gifts, benefits or hospitality to directors.

Directors oversee management of the public entity but do not participate in day-to-day management. That role is delegated by the Board to the CEO and other staff, as relevant.

If the public entity has no staff, as is typically the situation in the case of most smaller cemetery trusts or committees of crown land management, the Board will undertake functions that would otherwise be assigned to management in larger entities.

As a director and member of the Board, you will be involved in the following activities:

Strategy

- setting broad strategy for the public entity
- setting objectives and performance targets designed to achieve the strategy
- assessing the degree of success in achieving the objectives and performance targets
- approving strategic plans, annual reports, key procedures and policies
- approving decisions related to strategic initiatives such as commercial ventures, significant acquisitions, internal restructures and disposals
- approving the annual budget
- ensuring that the public entity follows corporate planning and accountability guidelines provided by the minister, Treasurer or department.

Administration

- appointing the CEO, where the legislation permits
- establishing and monitoring performance measures for the CEO and a succession plan
- establishing and monitoring governance arrangements for the public entity, including reporting systems to meet the information needs of the minister, department, central agencies and the Board
- establishing, reviewing and monitoring compliance with policies (e.g. policies on fraud and conflicts of interest)
- fostering a culture and set of values with reference to the duties and values detailed in the PAA
- complying with the Directors' Code of Conduct issued under the PAA;

- evaluating the performance of the Board, public entity and CEO.

Risk Management

- integrating risk management into the public entity's strategic planning process
- notifying the minister and the relevant department head of known major risks to the effective operation of the entity and of the risk management systems in place to address those risks
- monitoring and reviewing the effectiveness and currency of internal financial and operational risk management, compliance and reporting systems
- ensuring that the public entity operates within the boundaries set by the establishing legislation, any delegations and the rules and procedures relating to the use of public funds.

Resources

Templates

- Matters Reserved for the Board

Resources

- Board Charter
- Assessing a CEO's Performance

3.2 Board Chair

The chair leads the public entity and its Board, and plays a crucial role in managing relationships with the CEO and with external stakeholders. The chair ensures that all policies adopted by, or relevant to, the public entity are readily accessible to directors.

The chair of your Board will be involved in many of the following activities:

Leadership

- building an effective Board with the necessary skills and capabilities
- leading directors and developing them as a cohesive and effective team
- assisting directors' understanding of their role, responsibilities and accountability
- informing directors about developments in government policy, priorities and financial reporting
- ensuring the active participation of all directors in meetings
- setting the Board's agenda, discussing key issues, and managing the declaration of conflicts of interest or duty
- arranging adequate support for directors, in conjunction with the relevant portfolio department
- welcoming new directors and leading the process for their induction
- leading the performance evaluation of the Board, its directors and the CEO
- informing the minister and relevant department head about significant issues and events
- delivering the corporate plan and annual report to the minister.

Relationship Management

- establishing an effective and constructive working relationship with the CEO
- acting as the key liaison point between the Board and management of the public entity

- encouraging a strong relationship between the audit and risk management committee and the Board
- representing the Board to significant external parties. The Board as a whole (with management) determines how, when and who communicates information and decisions to stakeholders, as part of an agreed stakeholder management plan. It is important that directors observe this agreed communication protocol.

3.3 Chief Executive Officer

The Board plays a key role in the appointment of the CEO. In most cases the Board is responsible for appointing the CEO. In many cases, this is done in conjunction with the Department and/or subject to the approval of, or in consultation with, the Minister.

If a Board does not have the authority to directly appoint a CEO (for example where the CEO is a statutory appointment), it generally has a critical role in advising the minister on the capabilities and experience required of a potential CEO to deliver the strategic goals and priorities of the public entity.

Before undertaking a CEO recruitment process Boards should check their statutory or policy obligations in recruiting and/or appointing a CEO. It is also wise to consult with the Department in planning this process. Reference should also be made to the VPSC resource Recruiting a CEO available on the VPSC website.

The CEO manages the operations of the public entity and is the primary contact between the Board and staff. The CEO is accountable to the overall Board, not to individual directors.

The CEO develops and implements the public entity's operational plan and is accountable to the Board for expenditure, operations and administration in accordance with the Board's strategy, policies and legal requirements.

The CEO is responsible for implementing the policies of the Board and for achieving the outcomes and performance objectives of the public entity. The CEO is also responsible for the preparation of a range of reports for the Board.

Amongst other things, the CEO of your public entity will be responsible for the following activities:

- managing the effective and efficient day-to-day operations of the public entity in accordance with the strategy, delegations, business plans and policies of the Board
- employing and managing staff, including establishing, promoting and maintaining a positive organisational culture that effectively aligns with the public sector values and employment principles
- translating the strategic plans of the Board into action
- ensuring the effectiveness of the public entity's operational systems. These include financial management, human resource management, information systems management, risk management, communications, marketing, fund raising, asset management and reporting
- ensuring that directors are kept informed of any changes to ministerial directions, legislation or other critical information relating to the Board's functions and powers
- ensuring compliance with the public entity's establishing legislation and government policies
- maintaining effective communication and co-operation with external stakeholders in collaboration with the chair
- implementing Board decisions in a manner consistent with the public sector values and employment principles
- providing advice and information to the Board on any material issues concerning strategy, finance, reporting obligations or any other major matters that arise
- preparing the annual strategic plan including organisational performance targets for Board approval
- preparing the public entity's annual report for the Board's review and approval
- liaising with and, where appropriate, reporting to the department.

Resources

- Recruiting a CEO

2.4 Chief Financial and Accounting Officer

Larger or more complex public entities must also appoint a chief financial and accounting officer (CFAO), who is responsible to the CEO for ensuring that proper accounting records and systems are maintained in accordance with relevant regulations and directions.

Standing Directions of the Minister for Finance (Standing Directions) require the Boards of most public entities to establish an audit and risk management committee to oversee and advise the Board on matters of accountability, risk and internal control.

The CFAO is not a member of the audit and risk management committee but may have a standing invitation to attend relevant parts of the committee's meetings to present reports and answer questions.

The CFAO of your public entity is responsible for:

- managing public finances for which the public entity is accountable
- keeping proper accounts
- prudent and economical administration
- efficient and effective use of resources
- compliance with relevant state and federal taxation legislation including the goods and services tax (GST)
- using internal control systems to avoid fraud and misappropriation
- managing the audit process including liaison with internal and external auditors
- ensuring that audit recommendations are implemented within a reasonable time.

2.5 Board Secretary

Larger or more complex entities employ or contract a Board secretary. The Board secretary performs certain administrative functions, as well as a range of governance advisory and other functions similar to those required of a company secretary in a corporations law entity.

The Board secretary, among other things, is responsible for arranging Board meetings, collation and distribution of Board papers, attending Board meetings, drafting minutes, and liaising with the Board and the CEO. The Board secretary is not a director.

The Board secretary should have a detailed knowledge of the establishing legislation of the public entity, the PAA, the Financial Management Act 1994 (FMA) and other legislation and government policies that affect the public entity.

Under the chair's direction, the Board secretary's duties, in addition to administrative duties, may include:

- facilitating the induction of newly appointed directors
- facilitating professional development programs for the Board
- ensuring effective information flows between the Board, its committees, directors and management
- advising directors on the legal obligations of the public entity and themselves
- advising the Board and directors on corporate governance principles and plans
- advising the Board on implementation of corporate governance programs such as risk management and performance assessment
- carrying out the instructions of the Board, usually in conjunction with the CEO, and giving practical effect to the Board's decisions.

Whilst the Secretary may assist the Board in this manner, it is ultimately the responsibility of the Board to ensure that its governance and other obligations are complied with.

4. WHAT IS EXPECTED OF YOU?

4.1 Your Skills, Qualities and Experience

The Board oversees the operations of the public entity, making sure that it delivers its required outputs and operates in an ethical and appropriate way. Directors need to have the right skills to carry out their roles.

Some legislation specifies the type of skills required of directors. Where the legislation is silent on skill requirements, the Board may develop a skills matrix indicating the skills and experience it requires of its directors and any gaps it needs to fill.

The Board may review its skills profile as part of an annual Board performance review. In some cases, the Board may be asked to advise the minister on the Board's skill requirements. It should be aware of the government's policy on diversity in framing this advice.

As a director, you will have many of the following skills, qualities and experience:

Skills

- strategic thinking
- planning and leadership
- governance
- risk management and audit
- ability to read and understand financial statements
- legal, financial and other professional skills
- marketing and communication
- industry-specific skills and knowledge
- stakeholder management.

Qualities

- integrity and standing in the community
- demonstrated commitment to the public sector values and employment principles
- openness to different views
- a track record of acting in good faith and in the best interests of an organisation
- ability to listen, analyse, think clearly and work in a collegiate manner with others
- a willingness to prepare for and attend meetings, ask questions and take responsibility for decisions made.

Experience

- performing at high levels in relevant fields of expertise
- networking and dealing with stakeholders
- working in a regional, rural or remote location
- prior experience as either a Board chair or director, depending on the appointment being made.

Templates

- Skills Matrix

Resources

- Recruitment and Appointment to the Board & Toolkit

4.2 Standards of Behaviour Expected of You

As a director of a Victorian public entity you must comply with the Directors' Code of Conduct issued under the PAA. You must:

- act with honesty and integrity. Be open and transparent in your dealings; use power responsibly; do not place yourself in a position of perceived, potential or actual conflict of interest; strive to earn and sustain public trust of a high level.
- act in good faith in the best interests of the public entity. Demonstrate accountability for your actions; accept responsibility for your decisions; do not engage in activities that may bring you or the public entity into disrepute.
- act fairly and impartially. Avoid bias, discrimination, caprice or self-interest; demonstrate respect for others by acting in a professional and courteous manner.
- use information appropriately**.** Ensure information gained as a director is only applied to proper purposes and is kept confidential.
- use your position appropriately**.** Do not use your position as a director to seek an undue advantage for yourself, family members or associates, or to cause detriment to the public entity; ensure that you decline gifts or favours that may cast doubt on your ability to apply independent judgement as a Board member of the public entity.
- act in a financially responsible manner. Understand financial reports, audit reports and other financial material that comes before the Board; actively inquire into this material.
- exercise due care, diligence and skill. Ascertain all relevant information; make reasonable enquiries; understand the financial, strategic and other implications of decisions.
- comply with the establishing legislation, or its equivalent, for your public entity. Act within the powers and for the functions set out in your public entity's establishing legislation and/or ministerial charter.
- demonstrate leadership and stewardship. Promote and support the application of the Victorian public sector values; act in accordance with the directors' code.

The public sector values, set out in the PAA (s7) apply to everyone in the public entity including its directors and CEO. They must be responsive, impartial and accountable, demonstrate integrity, respect and leadership and uphold human rights. These values are integral to the Directors' Code of Conduct.

4.2.1 Treatment of the Entity's Staff

While directors are not involved in day to day management of a public entity that employs staff, they must ensure that the CEO has established employment processes that are in accord with the employment principles.

These are fair and reasonable treatment, redress against unfair and unreasonable treatment, decisions based on merit, equal employment opportunity and the human rights set out in the *Charter of Human Rights and Responsibilities*.

4.2.2 Board Charter

A Board charter can be useful for directors and Boards. Typically a Board charter documents a high level summary of how the Board will operate and expected standards of behaviour.

It usually references key documents or policies of the entity and sets out key issues reserved for the Board , including how the Board intends to interact with management and its expectations of management in effectively supporting the Board's entity operations and performance.

Resources

- Directors' Code of Conduct and Guidance Notes

- Victorian public sector values and employment principles in the PAA

4.3 Conflicts of Interest and Duty

Your Board's decisions must be transparent and accountable, to protect the public interest, maintain the integrity of the entity, and enable the public to be confident that the Board is performing its duties properly.

Conflicts of interest must be avoided where possible. If a conflict of interest exists, it must be declared and managed in the public interest – ie the best interests of the entity (rather than the director).

4.3.1 Definition

A conflict of interest is a conflict between a director's

- public duty to act in the interests of the public entity; and private interests

A conflict of duty is a conflict of a director's public duty to act in the interests of the public entity and duty to another organisation – 'wearing two hats'.

In either case, such conflict exists whether it is real (it currently exists), potential (it may arise) or perceived (a reasonable person could believe that it exists or may arise).

What is a private interest?

A private interest can be financial or non-financial, or a mixture of both. It can be direct (held by you) or indirect (held by a relative or close associate).

A financial interest includes actual, potential, or perceived gain or loss. An interest exists if you (or a relative or close associate) own property; hold shares, investments or business interests; have a position in a company bidding for government work; receive benefits such as discounts, gifts or hospitality; or have any other relevant financial interest. Money does not need to change hands.

A non-financial interest may arise from personal or family relationships or from involvement in sporting, social or cultural activities. It includes the tendency to favour or be prejudiced against an individual or group for personal reasons such as friendship or dislike. If your personal values are likely to impact on the proper performance of public duty, this can also give rise to a conflict of interest.

What is a duty to another organisation?

If you have a role with another public sector organisation (e.g. you are also a director of another public entity or you are an employee of a government department) or a role with a private organisation (e.g. you are a director of a private company or you are a committee member, employee, or volunteer with a sports club) this can result in a conflict duty. This type of conflict is sometimes referred to as a a 'conflict of role'. For example:

- public sector organisation: an employee of a portfolio department who is serving on a public entity Board faces two sets of imperatives: seeking to ensure the public entity's functions meet government policy objectives and the department's interests; and acting as a director whose duty is to pursue the interests of the public entity.
- private organisation: a director of a private company which tenders for government contracts (e.g. to lease office space) would have a conflict of interest if the public entity was considering advertising a tender for which the private company might be interested in applying.

4.3.2 Declaring a Conflict

At the start of each Board meeting, the chair will ask if any director present has an interest (a private interest or a duty to another organisation) in relation to any matter on the agenda. If you have an interest, you must declare it, even if it has been declared previously.

If you become aware that another director may have an undeclared interest, speak up, so that he or she can declare their interest, if it exists.

Although the chair will bring a copy of each directors' current Declaration of Private Interests form (or a register or other summary of these interests) to the Board meeting, it is *your* duty to declare the interest at the meeting.

4.3.3 Managing a Conflict of Interest

Once a conflict of interest is declared, the Board will determine how to manage it in the public interest. Your Board's policy will usually require that the director with a material conflict of interest:

- leave the room at the start of the relevant agenda item and not return until the start of the next agenda item
- not discuss the matter at all with any other director (either in the meeting or elsewhere)
- not participate in any Board decision on the matter.

This procedure will be followed unless the Board determines and documents in the minutes clear reasons why a lesser or a stronger option would be in the public interest.

4.3.4 Recording Interests

When a conflict of interest is declared at a Board meeting, it is recorded in the minutes of the Board meeting, together with details of how the Board dealt with the conflict.

Declarations of Private Interest

To assist in ensuring that all conflicts of interest are identified, declared, and managed in the public interest, you will have been asked to complete a Declaration of Private Interests form when you applied for appointment to the Board. You are required to update your declaration form annually, or sooner if your circumstances change.

Directors' current declaration forms or summary of forms (e.g. a Register of Interests) will be available at Board meetings for reference.

Resources

- Conflicts of Interest and Duty
- Conflict of Interest Policy Framework and e-Learning Guide
- Managing Conflicts of Interest: A Guide to Policy Development and Implementation

4.4 Gifts, Benefits and Hospitality

Your entity's reputation for integrity, impartiality and accountability can only be maintained if the community is confident that directors and employees cannot be bribed or influenced by gifts.

Your entity's gifts policy needs to be based on the fundamental principle that a gift must never be accepted or offered unless it is clearly in the public interest to do so.

The acceptance and provision of gifts can give the impression that a public official will favour a particular person or organisation, regardless of the public official's intention. This is why it is so important for your entity to display a thoughtful approach to policy and practice in this area.

4.4.1 What is a gift?

A gift is a free or heavily discounted item or service. It may be offered to you for a range of reasons. A gift may be enduring (e.g. a work of art) or consumable (e.g. a box of chocolates).

The definition of a gift also includes hospitality (e.g. restaurant meals, sponsored travel, and accommodation) and benefits (e.g. an invitation to a sporting, cultural, or social event; access to a discount or loyalty program; the promise of a new job) that exceed common courtesy.

A gift may be offered to you directly or offered indirectly via an offer to a relative (e.g. a member of your immediate family or household) or close associate (e.g. friend, relative, business partner).

4.4.2 Responding to a Gift Offer

If you are offered a gift in any form, either directly or indirectly (e.g. as a benefit to a family member), you must follow your Board's policy for declaring the gift offer and for determining whether or not to accept it. Requirements in relation to minor gift offers vary from entity to entity. However, for significant gift offers or frequent gift offers from the same source you will be required to lodge a gift declaration form whether or not you accept the offer.

Any attempt to bribe you must also be reported in accordance with Board policy.

4.4.3 Offering Gifts

Your entity should also have a policy on when it is in the public interest to *offer* a gift in your role as director.

Resources

- Gifts, Benefits and Hospitality Policy Framework

4.5 Consequences for Failing in Your Duties

Directors who fail in their duties may face a variety of consequences. For minor breaches, they may be counselled by the Chair.

For significant breaches, the director may not be reappointed, or there may be action to remove the director (if the public entity's establishing legislation permits it or if the public entity falls under Division 3 of Part 5 of the PAA). The director may face legal action if the breach causes loss or damage to the entity.

4.5.1 Insurance and Indemnity

Where directors who have acted honestly and properly are confronted with legal action, they may be protected by insurance or may qualify for an indemnity from government:

- Under Victorian government policy, indemnities are provided for ministers, servants of the crown and some specified public entity directors who have acted honestly and properly in connection with their duties in the course of conducting government business.
- The Victorian Managed Insurance Authority (VMIA) will provide an indemnity to directors of a statutory authority or state-owned company, if that statutory authority or state-owned company has purchased a D&O policy.
- Directors of public entities should be satisfied they either have appropriate insurance (usually termed Directors' and Officers' Insurance) from VMIA or another appropriate insurance company or a government indemnity in limited circumstances. It would be prudent for Directors to understand the nature and extent of such protection. The relevant department may be able to assist with this information.

5. HOW YOUR BOARD OPERATES

5.1 Setting the Strategic Direction

Boards have a critical responsibility for setting and monitoring the strategic direction of the public entity. They do this through a strategic plan and also by making strategic decisions.

Management of the public entity may do much of the work to develop the strategic plan, but the Board must be satisfied the plan meets their strategic priorities and requirements. Boards need to ensure that their decisions reinforce the agreed strategic direction and are consistent with the public entity's role and responsibilities.

The purpose of a strategic plan is to set the strategy of the public entity and how performance is met and goals are measured. The planning process enables a public entity to think through its direction and document what it is doing or planning to do, for whom and why.

Developing a strategic plan and communicating its contents to all stakeholders is one way in which a public entity can ensure it is accountable and that processes are transparent.

The Board should regularly review the strategic plan and adjust or update it as necessary.

The key elements of strategic planning are:

- defining the purpose and mission of the public entity in carrying out its functions, consistent with Government policy and legislation
- identifying the current aims, objectives and strategy of the public entity that are designed to achieve the purpose and mission
- analysing the public entity's environment and resources
- identifying strategic opportunities, risks, threats and choices.

5.2 Authorising Delegations

A delegation is where a party with authority or power to do something authorises another party to act on the first party's behalf. It is normal for Boards to delegate most of its powers to other parties, primarily the CEO, particularly in larger public entities.

Delegating powers or functions does not absolve the Board or its directors from accountability for the exercise of those powers or functions.

If a Board is permitted to delegate any of its powers, functions and/or duties, the Board must ensure that all delegations are consistent with the entity's establishing Act (and other laws).

The Board must also institute measures to ensure that all delegations are made and exercised in accordance with the required legal procedures. There are important limitations on Board delegations. A Board can only delegate the right to engage in an activity if the Board has the power to engage in that activity itself.

Key questions to ask include :

- Does a power to delegate exist in the establishing Act?
- If so:
  - What are the limitations on the power to delegate (ie what is permitted or restricted by the establishing Act and other laws)?
  - What legal procedures are required to ensure that the delegation is valid (eg an instrument of Delegation)?
  - To whom can delegations can be made?
  - Which powers are not normally delegated? (For instance, the power to delegate cannot usually be delegated.)
  - Is a register of delegations being accurately maintained? The Board should ensure it receives regular reports on the use of its delegations, so that it knows how delegations are being used and that they are being applied as intended by the Board.

A decision to delegate must be made formally by the Board. The chair must sign an instrument of delegation on behalf of the Board and the decision must be recorded in the minutes of the relevant Board meeting.

Subject to any restrictions in legislation on the Board's power to delegate, the Board may delegate powers or functions to:

- any of its directors
- the CEO
- a staff member.

A person who holds a delegation must take care to comply with the limits of the delegation, and any conditions placed on the delegation.

Even if the Board lawfully delegates responsibility for a decision, it can never delegate accountability. Ultimately, the Board is accountable for all its decisions, even those made under delegation.

Templates

- Delegation Instrument

Resources

- Delegation of Authority information on VPSC website

5.3 Forming Committees

5.3.1 Purpose and Membership

Boards often form specialist Board committees to help distribute their workload. This enables each committee to perform a more detailed analysis of important or sensitive matters before making recommendations for the Board to consider.

Membership of Board committees is not restricted to directors of the public entity, but it is wise to have a majority of non-executive directors. It is not appropriate to appoint staff to be members of Board committees, although staff will of course attend and resource the committee as needed.

5.3.2 Powers and Procedures

The decision-making powers of the committee are strictly limited to the powers (if any) that the Board formally delegates by instrument to specified members of the committee who are directors of the entity. Even where there has been a formal delegation of a decision-making power to a committee, the Board remains accountable for all decisions.

Committees need to be established with:

- a specific charter, with clear terms of reference
- delegations which do not undermine the Board's delegations to the CEO
- an appropriate number of directors including a majority of non-executive directors
- procedures for agendas, minutes and reporting to the Board, including providing minutes of committee meetings to the Board
- a clear expectation that the decision making responsibilities of the full Board are not to be compromised by the activities of any committee, and that significant issues will be reported to the Board for discussion and decision.

5.3.3 Type and Number

The Board should think about the types of committee it needs when assessing its strategic priorities. Boards can have:

- 'standing' or ongoing committees, such as a remuneration committee and an audit risk management committee
- limited term committees, for example, to oversee a major project of the entity.

The Board needs to be careful not to establish too many committees as this may lead to undue fragmentation and workload on directors.

The resourcing impacts on management in necessarily supporting Board committees mean that there is the risk of diverting resources from other important management priorities. Also, too many committees can lead the Board into areas of detail that should be the responsibility of management.

Smaller public entities may have few or no committees whereas larger public entities may typically have two to four. This is a decision of the Board.

Audit and Risk Management Committee

Public entities that are subject to the FMA and therefore the Standing Directions require an audit and risk management committee. The committee's primary role is to oversee and advise the Board and CEO on matters of accountability, risk and internal control affecting the public entity's operations.

The committee considers reports from employees and auditors that provide assurance about the integrity of the public entity's risk management and financial processes, systems and reporting.

Remuneration Committee

The Board's remuneration committee determines the detail of the public entity's policy and practices on executive employment and remuneration including the remuneration packages of individual executives, consistent with current Government policy on public entity executive employment and remuneration.

To avoid any conflicts of interest, the committee members must be non-executive directors who would not benefit from the decisions made.

Each public entity is required to comply with current Government policy in regard to executive employment and remuneration. This policy is issued and coordinated by the Government Sector Executive Remuneration Panel (GSERP) that is managed and resourced by the VPSC.

Within this policy framework, each public entity has specific responsibility to determine the organisation's policy and practice regarding executive employment and remuneration including individual executive remuneration packages.

The remuneration committee or Boards generally are encouraged to seek advice from GSERP in relation to compliance with the current policy or to discuss any particular executive employment or remuneration matter in confidence.

The executive employment and remuneration policy framework managed by the GSERP includes the following subject matters:

- definition of an executive under GSERP policy
- definition of remuneration (Total Remuneration Package TRP)
- setting of Chief Executive Officer remuneration policy bands for certain sector industry groups including TAFE Institutes, Water and Public Health Services and Hospitals
- approval of Chief Executive Officer remuneration
- rules relating to the remuneration of executives that report to the Chief Executive Officer
- application of executive performance incentive payments (bonus) policy
- the standard executive employment contract, including those clauses of the contract that can be varied by the employer and those clauses that are mandated as government policy and cannot be varied
- termination by either the executive or employer of the executive employment contract
- annual remuneration review
- how entities can seek and exemption from certain aspects of the policy
- reporting requirements to the VPSC.

Each public entity is required to report executive employment and remuneration data to GSERP annually.

Templates

- Committee Charter

Resources

- Audit and Risk Management Committee Charter
- Policy on Executive Remuneration for Public Entities in the Broader Public Sector

5.4 Contributing to Board Meetings

Meetings are held to allow the Board to consider information and make decisions about the public entity's strategy and operations.

For effective and accountable decision making in meetings there needs to be:

- a carefully prepared agenda
- papers in an agreed format, usually flagged as relevant to particular items on the agenda, circulated no less than five working days before meetings
- as part of the papers, draft minutes of the previous meeting for approval by the Board, with any actions to be undertaken clearly marked and followed up
- frank and open discussion, with all reasonable questions from directors put and answered
- rules about access to information
- ability to seek independent or external professional advice at the public entity's expense, in circumstances that are agreed by the Board
- a clear procedure for determining the formal decision of the Board and if applicable, how this will be communicated to stakeholders
- accurate, timely records (minutes) of each Board decision and any dissent.

5.4.1 Meeting and Decision-making Procedures

The Board's meeting and decision-making procedures should be set out in a Board policy (or charter).

If the establishing legislation contains specific procedural requirements, these should be included (e.g. the quorum required for decision making). Your Board can also establish other procedural requirements in its policy.

As a matter of good practice, your Board's policy should include a requirement that, as a standard agenda item, at the start of each Board meeting the chair must ask directors to declare any conflict of interest in relation to any item on the agenda.

5.4.2 Attendance at Board Meetings

It is important for directors to attend Board meetings in person, where possible. In a situation where the Board agrees for you to attend a meeting remotely (e.g. by teleconference or video link) and a document is tabled during the meeting to inform a proposed decision, then you need to be able to read the document or have it read to you (or its key elements) and understand its key essentials. If that doesn't happen, you may wish to abstain from any decision on that matter.

Attendance by Non-directors

The Board determines who attends its meetings. Staff of the entity (e.g. the CEO) and other external parties may be asked to attend part of a Board meeting to contribute as requested, but never take part in decision-making. It is good practice for part of each Board meeting to be held with only the directors (and the minute-taker) present.

5.4.3 Due Consideration

As part of your duty to exercise due care, diligence and skill, you should read all agenda papers prior to the meeting and be fully prepared to discuss each item on the agenda.

Prior to making a decision, the Board should ascertain all relevant information; objectively consider all relevant facts and criteria (and avoid irrelevant considerations); consider all relevant options; and understand the full implications (strategic, financial, community, etc.) of its proposed decision.

During discussion, there should be an appropriate opportunity for all directors to ask questions, express ideas, and offer opinions. Directors should treat one another with respect and courtesy during this process. Whilst the chair has a key role in ensuring that this occurs, all directors share this responsibility. Each director should balance respect for the expertise of others with their own duty to make reasonable efforts to understand, to speak up, ask questions, and ensure that the best decision is made based on the available information.

Reports to the Board

The Board has a duty to ensure that it receives accurate, digestible information that is sufficient to make an informed decision. It is not appropriate for a Board to let itself be swamped with poorly defined detail; given too little information upon which to base its decision; or given inadequate time to read and consider information prior to making a decision.

A Board cannot avoid its accountabilities by claiming that ‘it was not told of the true situation’. It has a duty to take suitable measures to ensure that it is properly informed. If necessary, the Board should seek professional advice to help understand the full implications of a proposed decision.

A range of reports should be presented at Board meetings, for example:

- the CFAO should provide a paper and be prepared to answer any questions on the current financial situation.
- chairs of committees should provide minutes of their meetings, point out any recommendations made by the committee for the Board to consider, and be prepared to answer any questions.

5.4.4 Board Decisions

The Board is collectively accountable to the Minister for its decisions. Each director should participate actively in each decision, which must be made in the public interest. The Board should ensure that each of its decisions is legally valid, complies with government policy, and is ethically sound and fair.

Decisions of the Board should be clearly agreed, whether by formal vote or consensus around the room and properly documented in the Board minutes. The Chair should ensure that he or she has given each Director every opportunity to express their vote. These processes enable decisions to be properly recorded in the minutes.

Circular Resolutions

If an urgent decision must be made between scheduled Board meetings, directors may meet by circular resolution. This practice should be kept to a minimum.

Supporting papers should distributed with the circular resolution. For the circular resolution to become a valid decision of the Board, it must be agreed by the majority of directors. It is effective on the day the last person signs.

5.4.5 Board Minutes

After each meeting, the draft minutes should be sent (preferably within a few days) to the chair for review, then to other directors for endorsement at the next meeting. Board minutes are a formal and contemporaneous record of the proceedings at a Board meeting. Unless there is clear evidence to the contrary, a court will consider the minutes to be evidence of what occurred and what was decided. Merely asserting that the minutes are inaccurate is not a good/safe defence in any legal proceedings against you. It is basic good practice to actively check the minutes and to only endorse them if you are satisfied that they are accurate and complete.

5.4.6 Annual Work Program and Schedule

The chair schedules the Board's annual work program, including its tasks relating to strategic planning, governance and risk management, performance monitoring and reporting, and stewardship (e.g. analysing staff opinion surveys, typically the 'People Matter' survey) for the forthcoming year, in consultation with the Board and the CEO.

The chair also ensures that the Board's meeting schedule and agendas facilitate an even workflow throughout the year. There should be sufficient time for each item on the annual work program to be dealt with effectively and for issues that arise during the year to be dealt with appropriately. Board meetings should be scheduled at least 12 months in advance to allow directors to book the times in their diaries.

Matters to be considered at meetings over the 12 month period may include those considered periodically through the year or once a year such as the consideration of financial statements and Annual Report, workforce planning review, annual Board performance assessment , and results of the staff opinion survey (typically the People Matter Survey).

The People Matter Survey is conducted annually by the VPSC specifically for public entities and public service bodies. It measures staff perceptions as to how well the Victorian public sector values and employment principles are applied in the public entity, as well as overall perceptions of change management, workplace wellbeing, organisational culture, employee engagement and job satisfaction.

The results of the survey are reported to the CEO and Board, benchmarked against similar public sector organisations and include trend data to monitor changes over time. The Board may choose to use the People Matter Survey benchmark report as one tool to assess the CEO and the public entity's overall performance.

Templates

- Annual Board Agenda
- Board Action List
- Board Decision Making Checklist
- Board Meeting Agenda
- Board Minutes

Resources

- People Matter Survey

6. YOUR BOARD'S OBLIGATIONS

6.1 Complying with Legal and Other Rules

Various Acts of Parliament apply to public entities. A public entity's establishing legislation and the *PAA* are primary examples. Other Acts that could apply include:

- legislation aiming to improve administration such as the Public Records Act 1973
- legislation emphasising financial stewardship such as the *FMA* and Audit Act 1994
- legislation that has accountability, transparency and integrity as a focus such as the Freedom of Information Act 1982, Ombudsman Act 1973, Independent Broad-based Anti-corruption Commission Act 2011, Protected Disclosure Act 2012 and the Privacy and Data Protection Act 2014

Depending on the nature of the public entity, other relevant Acts may include legislation on environmental protection, equal opportunity, human rights, consumer protection, and occupational health and safety.

Compliance obligations also arise from ministerial directions. A ministerial direction is a direction addressed to the Board of a public entity, usually through the chair, requiring it to act in a particular way in relation to certain aspects of its work.

The Board should ensure that the nature and terms of Ministerial directions are complied with by the Board and officers of the entity.

The Board should assume that a Ministerial direction must be complied with, unless the Board has reliable advice that the direction is unlawful or cannot be complied with for some other reason. The Board should also ensure that, where a Ministerial direction cannot be complied with for any reason, the Minister is advised as soon as possible.

An important set of ministerial directions are the *Standing Directions*, established under the FMA. The *Standing Directions* outline the Board's responsibility for the governance and oversight of financial management in the public entity.

The Board oversees financial reporting, risk management, internal control and the adequacy of management reporting. It may delegate some of its responsibilities to the audit and risk management committee.

The Board ensures there is an effective approach for the identification, assessment, monitoring and management of financial risks. It gives clear financial authorisations to specific positions in the public entity and ensures all staff cooperate with external auditors.

To ensure public entities comply with all their obligations, Boards should identify the obligations to be complied with, and embed compliance in everyday operational processes, guidelines, manuals and training programs.

A compliance program is an important element in the governance and due diligence of a public entity and should seek to:

- prevent, identify and respond to breachesof laws, regulations, codes or organisational standards
- promote a culture of compliancewithin the public entity
- assist the public entity in remaining or becoming a good corporate citizen.

The consequences for entities and Boards that are not compliant with their obligations are serious. Depending on the circumstances, the consequences may include criminal prosecution, civil action for damages for breach of statutory duty, adverse publicity, appointment of an administrator (where legislation permits), resignation or removal.

As outlined earlier, the behaviour of individual directors must be consistent with the public sector values. This is essential for the Board to be able to function effectively. A specific example is the expectation that individual directors will support a decision of the Board that has been reasonably and properly made even if they did not vote for it.

Templates

- Compliance Program

Resources

- Guide to Whole of Victorian Government Legislative Compliance Obligations for Public Sector Entities

6.2 Managing Risks

Risk management is a key area of responsibility for a Board. Risk management begins with five questions:

1. What can go wrong with the public entity and its operations?
2. How likely is it to go wrong?
3. What will be the consequences if it goes wrong i.e. how serious would it be and for whom?
4. What will we do to mitigate or prevent it?
5. What will we do if it happens?

Directors need to identify, understand and manage the risks and liabilities affecting their public entity and need to exercise care, skill and diligence in addressing them.

A Board should aim to see that all unacceptable risks are brought under control, appropriately monitored and managed by a Board-approved risk management scheme suited to the public entity's size and risk profile.

The minister and the department needs to be informed of all major known risks (existing and emerging) to the effective operation of the entity and of the risk management systems that are in place to address those risks.

Resources

- An Ethics Framework and Planner
- Risk Management Policy

6.3 Assessing Performance

6.3.1 Board Performance

Usually, the chair leads the process of assessing the Board's performance, and the performance of individual directors using a variety of techniques and performance indicators agreed to by the Board, such as the Board charter.

The Board may also consider periodically (say every 3 years) engaging a corporate governance consultant if:

(i) the Board does not have the capability to undertake the performance assessment and/or

(ii) the Board is seeking greater transparency and independence of the review, and/or

(iii) it is a relatively large or complex entity.

Performance assessment aims to improve governance by examining Board processes, culture and operations. The techniques can include observation, interviews and surveys. They can also include an examination of Board papers, minutes, policy manuals, governance charters and all operational aspects of the Board, including its operational culture and relationship with management.

A Board must assess its performance, as it is a requirement under the PAA. An annual Board performance assessment is typical. The results of the assessment should be discussed at a Board meeting to agree on any actions the Board needs to take to improve performance.

The Board may also wish to supplement this annual review by reviewing the effectiveness of each Board meeting. For instance, directors may take it in turns to observe the proceedings, assess the relevance of the agenda and the quality of the papers and then lead a discussion of these matters.

The chair must also ensure that there are adequate procedures for assessing the performance of individual directors and for dealing with underperformance. The focus of confidential discussions the chair has with individual directors would be on that director's developmental needs.

6.3.2 CEO Performance

Assessment of the CEO's performance will be led by the chair, in conjunction with the whole Board or a Board sub-committee. It differs from the assessment of directors and will depend on how the CEO's appointment is made and the resulting employment contract.

For example, the CEO may be assessed against key performance indicators set by the Board early in the cycle, or as part of the employment contract negotiations.

Resources

- Assessing a CEO's Performance
- Board Self-Assessment
- Director Assessment

7. GOVERNANCE STANDARDS

Welcome to the Board is consistent with Part 5 of the PAA which itself aligns with the minimum governance standards in the Corporations Act 2001 (Commonwealth), Australian Standards and common law.

While similar governance standards apply to public, not-for-profit and private entities, public entities are arguably held to higher standards of accountability and transparency because of their relationship with Government and the expectations of the community about the proper use of public resources and standards of behaviour.

The requirements in Divisions 2 and 3 of Part 5 of the PAA apply to public entities that:

- are established after 1 July 2005
- are included in an Order made by the Governor in Council under section 75(a) of the PAA, which is published in the Government Gazette
- have had their establishing Act amended to deem that the agency is subject to these provisions (e.g. catchment management authorities and water corporations).

Even if Divisions 2 and 3 of Part 5 of the PAA are not legally binding on your agency, the obligations in sections 79 to 85 (which relate to duties of directors, the need for certain Board policies, etc.) should be complied with. They are good governance practice for all public entities.

The matters covered in Part 5 include:

- the directors' duty to perform their role in a certain way (s79). These duties are incorporated in the Directors' Code of Conduct
- the directors' duties relating to standing for an election (s79(4))
- the chairperson's duty to make sure that directors have ready access to all relevant policies (s80)
- the Board's duty to advise the minister and department head of known major risks to the effective operation of the public entity (s81)
- a director cannot be in office if he or she is insolvent or convicted of an indictable offence (s89).

8. TEMPLATES

These templates are a good starting point for developing your public entity's own processes. Feel free to adapt or modify them.

8.1 Annual Board Agenda

8.2 Board Action List

8.3 Board Decision Making Checklist

8.4 Board Meeting Agenda

8.5 Board Minutes

8.6 Committee Charter

8.7 Compliance Program

8.8 Delegation Instrument

8.9 Matters Reserved for the Board

8.10 Skills Matrix

8.1 Annual Board Agenda

Function	Task	Function	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Operations	Approve annual report	Annual				•								
Finances	Approve operating budget	Annual										•		
	Review financial performance	Monthly	•	•	•	•	•	•	•	•	•	•	•	•
Governance	Review charter and other policies	Annual	•											
	Review compliance obligations	Quarterly		•				•				•		
	Review industry reports	Periodic	•											•
	Review delegations	Quarterly				•				•				•
Strategy and Risk	Review strategic plan	Annual		•										
	Review corporate and business plans	Annual			•									
	Identify major risks	Annual				•								
	Monitor risk management	Quarterly			•				•				•	

Function	Task	Function	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Committee Reports	Remuneration Committee	Quarterly	•				•				•			
	Audit and Risk Management Committee	Quarterly			•				•					
	Nominations and Remuneration Committee	Periodic					•				•			
	<Other ongoing and temporary committees>	Periodic						•						
Performance	Approve performance indicators for Board and CEO	Annual		•										
	Succession management and development	Annual	•											
	Monitor People Matter Survey or other staff opinion/climate/culture surveys	Annual	•											

8.2 Board Action List

For a meeting of the <Board or committee> held on <date> at <address>.

Agenda Item No.	Action Required	Responsible Person	Target Date	Status
<x>	<description>	<name>	<date>	<state of completion>

8.3 Board Decision Making Checklist

When making decisions, the Board or its committees consider:

- Who has the power to make the decision?
- What does the establishing legislation say and what limitations does it impose?
- Does the legislation require certain procedures to be followed when making decisions?
- Have all reasonable steps been taken to find out the facts which are important to the decision?
- Has the decision maker considered everything that is relevant to the decision and nothing that is irrelevant?
- Will the decision deprive someone of a right, interest or legitimate expectation?
- Will a person or organisation be adversely affected if the decision is made?

In addition, the Board or its committees:

- must avoid an improper exercise of power
- must avoid making the decision for a purpose other than that for which the power was granted to the Board
- must not exercise a discretionary power in bad faith
- must not exercise the power at the request of someone else
- must not apply an invariable rule to the outcome of decisions on matters of a particular type
- must not make a decision that no reasonable decision maker could have made
- must not act in a way that is incompatible with a human right.

<public entity address>

<time, day, date>

meeting number <x/year>

8.4 Board Meeting Agenda

No.	Item	Papers prepared by
0.	**In-camera Session**	
1.	**Welcome and Conflict of Interest** 1.1 Directors and invited guests present, confirmation of agenda and quorum 1.2 Confirmation of annual Board agenda 1.3 Conflict of interest	Chair
2.	**Apologies**	Chair
3.	**Minutes of the Previous Meeting** 3.1 Confirmation of minutes 3.2 Matters arising from minutes and actions taken	CEO/Board Secretary

No.	Item	Papers prepared by
4.	**Reports for Approval** 5.1 Major strategy decisions 5.2 Routine decisions	Management
5.	**Reports for Discussion** 6.1 Chief Executive Officer's report 6.2 Chief Finance and Accounting Officer's report 6.3 Committee minutes 6.4 Management presentations	CEO, CFAO, Committee Chairs and management
6.	**Reports for Noting** 6.1 Matters decided by circular resolution 6.2 Correspondence 6.3 Appointments and monthly document register	Chair
7.	**Other Business**	Chair
8.	**Meeting Closure** 8.1 Review actions to be taken 8.2 Meeting evaluation 8.3 Next meeting 8.4 Meeting close	Chair

8.5 Board Minutes

<public entity address>

<time, day, date>

meeting number <x/year>

No.	Item	Action
1.	**Welcome and Conflict of Interest** The meeting commenced at <time>. Note whether a quorum of members is present. Confirm the annual Board agenda and meeting agenda. **Board members present** <Name> (Chair) <Name> (Director) **In attendance** <Name> (Chief Executive Officer) <Name> (Board Secretary/Note Taker) <Name, organisation> – present for item <x> **Conflict of Interest** Confirm there are no conflicts of interest or note how any conflicts will be managed. For example, <name> declared a conflict of interest for item <x> and agreed to leave the meeting to abstain from discussion and voting on this item.	
2.	**Apologies** <Name>	
3.	**Minutes of the Previous Meeting** Confirm the minutes. Note any action taken arising from the previous minutes.	Note action required such as amendments to the minutes.
4.	**Reports for Approval** These will include the annual report, strategic plan and other matters requiring the Board's decision. Note each report approved and any dissenting views.	Note action required such as follow up to any queries.
5.	**Reports for Discussion** These will include committee minutes, the chief executive officer's report, chief finance and accounting officer's financial report and management presentations. Note the outcome of each discussion and whether there were any dissenting views.	
6.	**Reports for Noting** These will include matters decided by circular resolution, correspondence, appointments and the monthly document register. Note each report.	
7.	**Other Business** These will include matters that arose since the agenda was set and that require the Board's attention. They may be deferred until the next Board meeting or the Board may decide to recommend action in the meantime.	Note action required.
8.	**Meeting Closure** Record actions to be taken. Briefly evaluate the meeting. The next meeting is scheduled for <time, date>. The meeting closed at <time>.	

I <name>, chair of the <public entity> confirm these minutes are complete and accurate:

Signature_____________________________ Date: _________

8.6 Committee Charter

<Public Entity>

<Name> Committee Charter

Objectives

The objectives of the committee are to:

- ensure ...
- assist ...
- <other objectives>

Terms of Reference

To assist the Board in ensuring that the <public entity>:

[The following list of activities are for an audit and risk management committee.]

- reviews the accounting policies and disclosures in the annual financial statements
- reviews the interim financial statements and disclosures
- assesses the external audit strategy to ensure it addresses all significant business and financial risks
- considers all external audit reports and monitors the implementation of recommendations
- monitors the internal financial control framework
- reviews insurance cover
- reviews the internal audit annual work program
- <other activities>.

[Powers and duties may sometimes replace the terms of reference.]

Membership

The committee shall comprise <x> directors. Other directors may attend the committee meetings as observers with the prior agreement of the committee chair.

[Unless an exemption has been obtained from the Minister for Finance, the Board chair cannot also be the chair of the audit and risk management committee. In addition, all members must be non-executive directors and the majority must be independent.]

Meeting arrangements

The committee will meet before Board meetings every <time period> and at any other time considered necessary. The <role> or a nominee, will attend and arrange attendance of other staff as required by the committee. A quorum for the committee shall consist of <x> directors.

[Examples of relevant roles are the CFAO for an audit and risk management committee, and the marketing manager for a business development committee.]

Reports

The committee will report on its findings; recommendations and oversight of <function> to the Board after each committee meeting. The minutes of all committee meetings shall be circulated to Board directors and be on the agenda of the next full Board meeting.

Charter Review

The charter is effective from <date> and will be reviewed every <time period>.

8.7 Compliance Program

Aspect of compliance	Principles of compliance
Commitment	1. Commitment by the Board and senior management to effective compliance that permeates the whole public entity. 2. The compliance policy is aligned to the public entity's strategy and business objectives, and is endorsed by the Board. 3. Appropriate resources are allocated to develop, implement, maintain and improve the compliance program. 4. The objectives and strategy of the compliance program are endorsed by the Board and senior management. 5. Compliance obligations are identified and assessed.
Implementation	1. Responsibility for compliant outcomes is clearly articulated and assigned. 2. Competence and training needs are identified and addressed to enable employees to fulfil their compliance obligations. 3. Behaviours that create and support compliance are encouraged and behaviours that compromise compliance are not tolerated. 4. Controls are in place to manage the identified compliance obligations and achieve desired behaviours.
Monitoring and measuring	1. Performance of the compliance program is monitored, measured and reported. 2. The public entity is able to demonstrate its compliance program through both documentation and practice.
Continual improvement	1. The compliance program is regularly reviewed and continually improved.

Based on the Australian Standard for Compliance Systems AS3806-2006 published by SAI Global

8.8 Delegation Instrument

Resolution of the Board, <day and date> pursuant to <section of the enabling legislation or regulation>.

It is necessary and expedient for the proper management and control of the Board that the <role> be able to exercise or perform certain Board powers, duties and functions.

This delegation is valid from the date approved by the Board until such time as amended or revoked by Board resolution.

By this instrument, the Board delegates to <role> its powers, duties and function subject to the limitation that this delegation:

1. does not authorise the <role> to enter into any contract for, or otherwise commit the <public entity> or the Board to expenditure that is outside current government policies and procedures relating to the purchase and disposal of goods, works and services;

2. does not include the power of delegation; and
3. does not include the power to make, amend or revoke Board regulations.

The <role> will report to the Board on exercise of the following:

____

____

____

____

____

____

Signed by Chair of <public entity>

Name: ______________________________________

Signature: ______________________________________

Date: ____/____/_________

8.9 Matters Reserved for the Board

- Approval – and monitoring the performance of the public entity's performance against – its strategy, business plans and objectives.
- Approval of financial statements.
- Approval of major contracts valued above a defined amount, and variations of a defined amount or proportion.
- Approval of capital expenditure and/or variations above a defined amount or proportion.
- Performance assessment of the Board, directors and CEO.
- Recommendation of Board appointments to the minister, in conjunction with the portfolio Department, where applicable.
- Approval of Board committees' appointment and terms of reference.
- Delegation of authority to the CEO, Board secretary and other public entity directors, management and staff.
- Recommendation of remuneration for directors, CEO and other executives within the limitations of legislation, government policy and industrial awards.
- Corporate governance principles and practice, and codes of ethics and conduct, beyond those specified by the PAA and any other sector-specific legislation.
- Appointment of internal auditors and principal professional advisers such as legal advisers.

8.10 Skills Matrix

Chair

Skills and experience	Chair <name> <term>	Director <name> <term>	Director <name> <term>	Director <name> <term>	Director <name> <term>	Director <name> <term>
Governance experience						
Committee experience						
Industry-specific skills and knowledge						
Strategic thinking						
Planning and leadership						
Risk management and audit						
Legal						
Accounting and finance						
Stakeholder management						
Marketing and communication						
Experience in regional, rural or remote locations						
<Other skills and experience>						
Diversity demographics						

Gender						
Aboriginal or Torres Strait Islander background						
Language other than English						
< 30 years of age						

9. RESOURCES AND ABBREVIATIONS

Resources

The VPSC has published a range of resources and information on key governance topics on its website. This includes VPSC resources and templates developed with Governance Institute of Australia to assist directors undertake their role. These can be downloaded at www.vpsc.vic.gov.au or ordered from info@vpsc.vic.gov.au.

VPSC Guidelines and Databases

- Assessing a CEO's performance
- Conflict of Interest Policy Framework and e-Learning Guide
- Conflicts of Interest and Duty
- Managing Conflicts of Interest: A Guide to Policy Development and Implementation
- Directors' Code of Conduct and Guidance Notes
- *An Ethics Framework and Planner*
- Gifts, Benefits and Hospitality Policy Framework
- Governance Insights
- Government Appointments and Public Entities Database (GAPED)
- Guide to Whole of Victorian Government Legislative Compliance Obligations for Public Sector Entities
- People Matter Survey
- Policy on Executive Remuneration for Public Entities in the Broader Public Sector
- Recruiting a CEO
- Recruitment and Appointment to the Board & Toolkit
- State of the Public Sector in Victoria

Governance Institute of Australia Templates

- Audit and Risk Management Committee Charter
- Board Charter
- Board Self-Assessment
- Instrument of Delegation
- Director Assessment
- Risk Management Policy

Abbreviations

CEO

Chief executive officer

CFAO

Chief financial and accounting officer

FMA

Financial Management Act 1994

GSERP

Government Sector Executive Remuneration Panel

IBAC

Independent Broad-based Anti-corruption Commission

PAA

Public Administration Act (2004)

Standing Directions

Standing Directions of the Minister for Finance

VMIA

Victorian Managed Insurance Authority

VPSC

Victorian Public Sector Commission