



AIS



Mandatory Sports Governance Principles

June 2015

Overview

Governance structures significantly affect the performance of sporting organisations. Ineffective governance practices not only impact on the sport but also undermine confidence in the Australian sports industry as a whole.

Australia's Winning Edge 2012-2022, promotes the critical link between sports governance and business capability, and the achievement of high performance success. This link is equally true for sport participation success and is further highlighted in the Australian Sport Commission's (ASC) *Play.Sport.Australia* game plan released in 2015.

It is important for all organisations to continually set a higher standard of governance and work with stakeholders to adopt best practice across the sport. These standards provide a benchmark both for the priority *Australia's Winning Edge* sports and the broader sports industry.

Governance underpins success

One of the key aims of *Australia's Winning Edge* is to ensure national sporting organisations (NSO):

'... have the structure, workforce and leadership capacity to develop successful programs to achieve competitive results and to spend taxpayer funding effectively.'

Achieving targets for high performance sport under *Australia's Winning Edge* and achieving participation outcomes require accountability from NSOs:

'Confidence in the leadership capacity and capability of sports – particularly in relation to management, governance, internal controls and business systems – is acknowledged as being critical. Sports will be required to demonstrate good leadership, governance and administration as part of the annual investment and review process.'

The ASC released its Sport Governance Principles ('the Principles') in 2002, as best practice guidelines for sporting organisations to operate under. Revised in 2007 and 2012, the Principles are part of a suite of information, including a template constitution, board evaluations and an organisational development framework.

Mandatory Sports Governance Principles

Elements of the 2013 Principles are critical to good governance and are reflected as non-negotiable requirements in these Mandatory Sports Governance Principles.

In 2013, the seven sports that received the highest levels of ASC funding were required to meet the *Mandatory Sports Governance Principles*. The ASC assessed the seven sports' compliance against the *Mandatory Sports Governance Principles* and subsequently funding levels were impacted.

From 2015, the number of sports subject to the *Mandatory Sports Governance Principles* increased. From time-to-time additional sports will be required to meet the *Mandatory Sports Governance Principles*.

The ASC supports NSOs to best enable compliance, and measures compliance through the Annual Sports Performance Review process. This process is a vital part of accountability for sports receiving public funding.

The sports are assessed for performance against each mandatory principle on a scale ranging from 'not in place' through to 'optimised'. The assessments are evidence-based and sports have the opportunity to provide the evidence during the assessment liaison process.

Where a sport is operating according to a Mandatory Sports Governance Principle, the sport is assessed as having 'implemented' the standard. The ranking 'optimised' is applied when a sport demonstrates a pattern of continuous improvement against the principle.



1. Structure for sport

Different sporting organisations operate under different governance structures. While not requiring the adoption of any single model, the ASC will consider closely whether sports' governance models are likely to enable them to achieve their core participation and high performance objectives in the most cost-effective fashion.

Each structure should be clearly documented, with a clear delineation of the roles, responsibilities and powers of the board, management and each body involved. There should be no overlap in the powers of any two bodies or individuals in a governance structure.

1.1 A single national entity for all forms of the sport – from juniors through to high performance – with horizontal integration of sport disciplines.

Each element of a sport needs to be incorporated into governance arrangements on the same basis. Only a sport that is fully integrated in this fashion can plan strategically for the benefit of the whole sport and operate with optimal efficiency.

Effective integration is critical to achieve the scale and whole-of-sport management that enables a sport to grow and compete in the marketplace.

1.2 Where sports have a federated structure, all parts of the federation must demonstrate they are working in cohesion and adhere to a strategic direction set by the national entity to maximise the interests of the sport.

It is essential that NSOs and their member bodies have aligned objectives and purpose to ensure achievement of sport outcomes. The sport should have a single participation and high performance strategic plan that drives the overarching objectives, which are delivered consistently and effectively by the member bodies.

A sport's strategic plan will form the basis of all local implementation outcomes and be developed with input and agreement from all stakeholders.

1.3 The national body should be established as a company limited by guarantee.

The *Corporations Act* provides a robust and structured platform for the operation of organisations, and provides clarity in areas silent within the *Association Incorporation Act* (particularly in the context of internal management and corporate governance). In addition, changes to the *Corporations Act* in 2010 have created a system of tiers based on revenue. For NSOs that fall within the lower tiers, the reporting requirements have been made less onerous.

For the above reasons, NSOs should be companies limited by guarantee.

2. Board composition and operation

The composition and manner in which a board operates fundamentally impacts the operations of an NSO. Only a board operating under sound principles will be effective and facilitate the success of the organisation.

2.1 A staggered rotation system for board members with a maximum term in office.

Each NSO should have a staggered rotation system for board members, with a maximum term in office of no more than 10 years to encourage renewal while retaining corporate memory. As a guideline, good corporate practice is for around one-third of a board to retire each year, noting that retiring directors are able to seek re-election within term limits. Terms for directors should be three or four years before re-election, with the ability to be re-appointed up to the maximum term.

The chief executive officer (CEO) should be appointed on the basis of their perceived ability to manage the sport at a particular time, considering the priorities and strategic direction of the sport.

2.2 A nominations committee that nominates directors for vacancies upon which the members vote.

It is important that boards are comprised of members with a variety of skills and experience, and who act in the best interests of the organisation as a whole.

To achieve this, a nominations committee should be formed with at least three people, which may be a combination of directors and external appointments. Any external appointees should be independent and have significant business and governance expertise.

The committee should only comprise persons who are not directly involved in the management of the organisation; however, the CEO and human resources manager (or equivalent) should have standing invitations to provide clarification where necessary.

2.3 An audit and risk committee, including at least one external and independent Certified Practising Accountant or Chartered Accountant.

An effective organisation must have a thorough system of audit and risk management, including internal and external processes. This committee must ensure there are adequate controls and systems in place to alert management and the board to potential risks associated with the operation of the sport.

Given the strong financial focus required in this area, management and directors on this committee should have basic financial literacy that enables them to understand and actively challenge information presented. This should be supplemented by the inclusion of at least one external and independent Certified Practising Accountant or Chartered Accountant.

2.4 Chair elected by the board.

The chair is the chair of the board, not of the organisation. The leader of the organisation is the board itself, which acts collectively in the best interests of the organisation as a whole to govern on behalf of the members.

The chair facilitates discussion among, and provides leadership to, the board. It is important that the chair has the respect and confidence of his or her fellow directors, and as such the board should select its own leader.

The chair is such a critical role that the ASC must be satisfied the person is able to fulfil the role effectively.

2.5 Annual board performance evaluation process involving external input.

An effective board needs to monitor and evaluate its own performance annually and implement change as appropriate. This should be done with independent input and the process must be visible to the ASC.

2.6 Gender balance on boards.

There is substantial research showing that increased gender diversity on boards leads to better corporate performance¹. The ASX Corporate Governance Principles and Recommendations require ASX200 companies to set targets for increasing the number of women on their Boards and at senior executive level. ASX200 companies are required to report periodically on these targets². Further, the Australian Human Rights Commission recommended the introduction of a minimum target of 40 per cent representation of females on Commonwealth boards by 2015 with all publicly listed company boards following shortly after³.

In accordance with these standards, the ASC's position is each NSO should seek to achieve a target of 40 per cent representation of females on their boards over a similar timeframe, which the ASC will review pending progress and the overall skills mix of boards.

The ASC requires NSOs to report annually on their progress on the achievement of the 40 per cent target at board level and the disclosure on gender representation at executive management level.

2.7 All directors to be independent, regardless of whether elected or appointed.

Independent directors are those who:

- are not elected by the members to represent any constituent body
- are not employed by the organisation
- do not hold any other material office within the organisational structure
- have no material conflict of interest as a result of being a director.

The holding of state-level director or administration positions would be seen as a material conflict of interest if held at the same time as a national-level position. Where an international federation has particular requirements relating to board representation of Australians who hold a position with the international federation, these will be considered on a case-by-case basis.

2.8 Board skills mix appropriate to meet the strategic goals of the NSO, including the ability for the board to appoint a minority number of directors to obtain an appropriate skills mix.

An NSO board, through its nominations committee, should have a clear process to determine the skills mix of directors required to carry out the board's governance role at any point in time. The board should determine the skills of elected directors and map them to the skills mix required to identify gaps.

NSO boards need to have the ability to appoint directors to address gaps, and board-appointed directors should have the same terms as elected directors (see 2.1 above).

The ASC will consider whether the skills mix of a board is satisfactory in relation to the outcomes required from funding.

¹Ribey Institute 2011 'ASX500 Women Leaders: Research note' reibeyinstitute.org.au/wp-content/uploads/2011/10/ASX500_Women-Leaders-2011.pdf, and Catalyst, March 2011 *The Bottom Line: Corporate Performance and Women's Representation on Boards (2004-2008)* www.catalyst.org.

²ASX Corporate Governance Principles and Recommendations' 2014 Recommendation 1.5 asx.com.au/documents/asx-compliance/cgc-principles-and-recommendations-3rd-edn.pdf

³Australian Human Rights Commission 2010 *Gender equality blueprint* section 3: humanrights.gov.au/publications/gender-equality-blueprint-2010#s3

2.9 CEO not to be appointed to board after leaving role (for three years).

A new CEO needs to be able to work freely to drive the sport forward. The presence of a former CEO on a board can inhibit the ability of a new CEO to implement any necessary change. This restriction can be time-bound and the standard requires a minimum of three years following a CEO's departure.

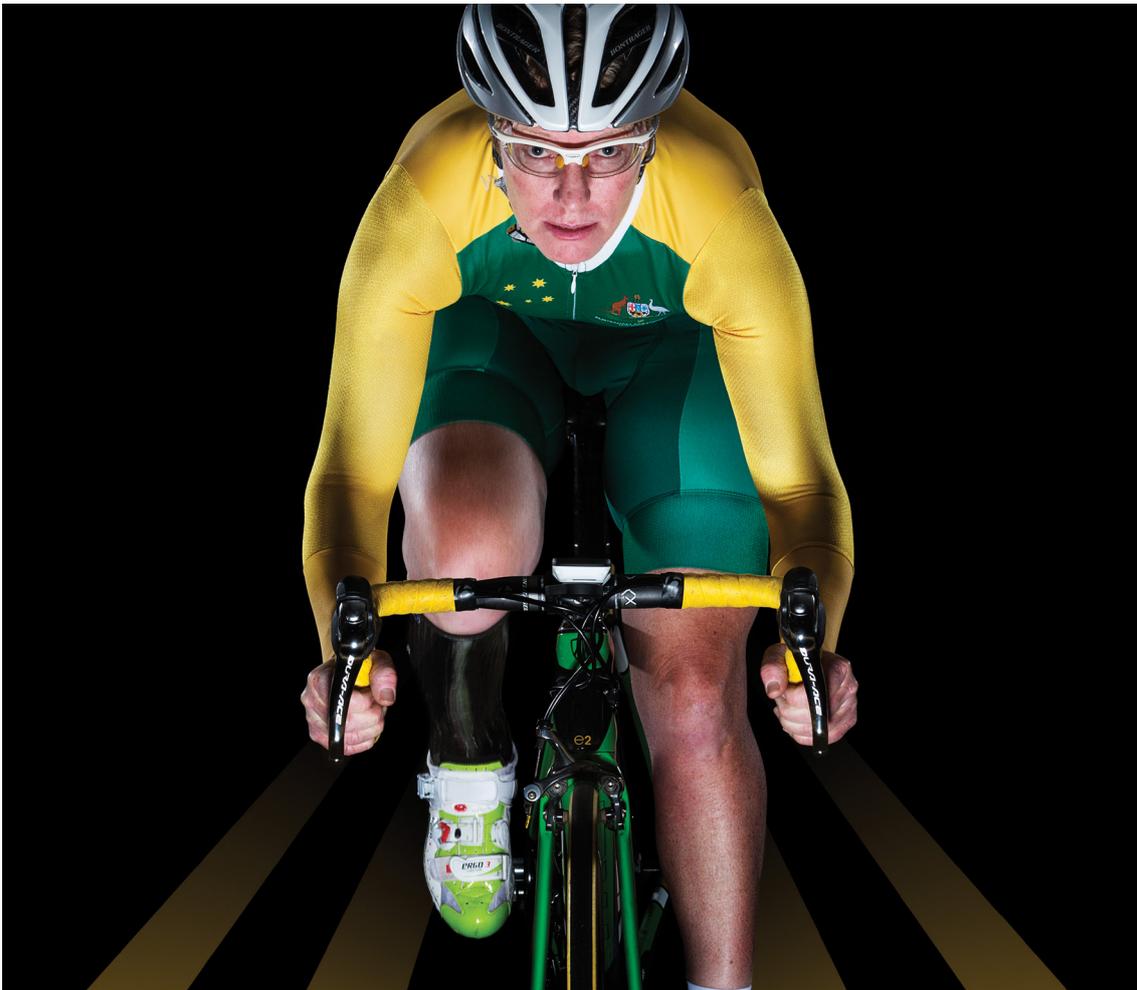
2.10 Conflict of interest register which is enforced.

A director must not hold any official position that provides a material conflict of interest (actual or perceived). Each board should have a conflict of interest register and a process that governs a director's involvement in any decisions in which they have a conflict of interest.

2.11 Minimum of five board meetings per year.

The optimal frequency of meetings will depend on the size of the organisation and internal and external circumstances, including any specific issues the organisation needs to deal with at any given time.

At a minimum, an NSO board should meet no less than five times per year and as often as required. Board and committee attendance rates for directors should be included in annual reports.



3. Sport transparency, reporting and integrity

The ASC has a leadership role in ensuring the integrity of sport as a sector. The ASC also has a duty to effectively monitor the performance of NSOs to ensure taxpayer money is being spent effectively. To do so, the ASC requires that NSOs comply with a range of policies and practices as a condition of funding.

3.1 NSOs to publish annual reports consistent with *Corporations Act* requirements.

The board must provide members and key stakeholders with a comprehensive annual report. It must contain information consistent with that required under the *Corporations Act* and be provided in the same time frame as public companies.

3.2 NSOs to report consolidated national financial accounts annually to the ASC in addition to national entity information.

As part of the Annual Sport Performance Review, all NSOs will be required to present consolidated national financial accounts. In addition they must also provide any other information if in the ASC's reasonable opinion it is required to maintain an understanding of how effective the organisation is on achieving outcomes set under funding agreements, as well as any risks that may impact on an NSO delivering those outcomes.

3.3 NSOs to adopt rolling three-year strategic plans with clear and measurable targets, including a detailed operating budget for the next financial year.

The sport must have a single three-year strategic plan (covering both participation and high performance) endorsed and implemented consistently and effectively by the member bodies. This plan should include measurable objectives and a detailed three-year forward financial model that is compared with historical financials.

Key performance indicators (KPIs) that are most relevant to the sport – and by which its performance can be measured – should be identified and trends shown.

A detailed operating budget for at least the next financial year should also be included.

3.4 Disclosure of administration expenses in the sport, including remuneration and associated expenses for key management personnel.

In an organisation owned by members and which receives substantial public funding, both members and taxpayers have a right to know how the organisation spends its money and therefore to provide input into the effectiveness of expenditure.

NSOs should therefore fully disclose administration expenses for the organisation on a gross basis before any allocation of such expenses across functional activities within the NSO. Reporting should also include reporting bands for remuneration and associated expenses of the key management personnel in the sport. Key management personnel are defined as those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity.

This disclosure will enable stakeholders to understand the level of administration expenditure in the sport and the efficiency of the NSO in undertaking its operations.

3.5 NSOs to provide in a timely manner all information requested by the ASC.

The ASC requires NSOs to provide information to the ASC on a timely basis to facilitate a comparative Annual Sport Performance Review. This is so the ASC can effectively monitor the performance of NSOs against the outcomes set in funding agreements.

3.6 NSOs to sign up to ASC integrity measures on anti-doping, protocols for sports science, and match fixing.

The ASC has a leadership role in ensuring the integrity of sport in Australia. To this end – and in light of recent events – the ASC is introducing new requirements relating to NSO board processes to ensure appropriate integrity safeguards are in place. These include:

- Boards should adopt and observe the AIS Sports Science Sports Medicine Best Practice Principles.
- Boards should have in place proper investigation, supervision and reporting practices in relation to the sports science practices in use in their sport. These should be direct to the board or through no other person than the CEO.
- ‘Don’t ask, don’t tell’ will not be a satisfactory position for boards to adopt. Board members will have a positive obligation to inform themselves about sports science practices and to supervise them in a manner consistent with Australian Sports Anti-Doping Authority (ASADA), ASC and Australian Government policies.
- Boards are required to understand their obligations under the sport’s anti-doping policy, national anti-doping scheme and applicable international federation anti-doping requirements. They must also assist, cooperate, and liaise with ASADA – including in relation to the conduct of any investigations or hearings – on any alleged anti-doping rule violations.
- Boards will have an obligation to ensure there is provision of appropriate education to athletes, their agents, support personnel, officials and staff on their responsibilities under the sport’s anti-match-fixing policy and code of conduct.

3.7 Financial and high performance reporting requirements.

Consistent with *Australia’s Winning Edge*, the ASC has introduced cross-sport reporting templates for financial and high performance reporting. These templates will enable a greater degree of transparency around high performance spend and for the ASC to use data to provide comparative analysis. This will assist sports in investing and achieving efficiencies.



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Australian Sports Commission

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