

BOARDS, COMMITTEES, RELATIONSHIPS & GOVERNANCE

This paper results from research of the Financial Management Knowledge Centre (Department of Treasury and Finance Victoria), the Victorian Auditor Generals Department, the Australian National Audit Officer and a number of key reference documents regarded by the abovementioned authorities as appropriate guidance material and models for today's Boards of Management to ensure responsible governance and compliance.

Key reference documents are available through the links below.

It will be noted that government and audit authorities emphasise that governance compliance in today's environment is far more demanding than was the case in recent years. There has been and will continue to be significant change.

The Auditor General of Victoria notes in Attachment 4 that:

corporate governance in the public sector is more complex, having to satisfy a broader range of political, economic, environmental and social objectives, according to a greater variety of requirements, influences and public expectations than does the private sector.

The Auditor General polices government departments and entities to ensure government standards and expectations are met.

The standards and expectations that now apply in Victoria resulted from work initiated by the Australian National Audit Office in Canberra circa 1999.

Key reference documents/models referred to in this paper are:

Attachment

No

Title of Attachment

1. Department of Treasury and Finance Victoria:
High Level Summary of the Responsibilities and Functions of the Responsible Body

[http://www.fmkc.dtf.vic.gov.au/CA256C8C000B6952/WebObj/RBSupplementaryMaterialMay05/\\$File/RB%20Supplementary%20Material%20May%2005.doc](http://www.fmkc.dtf.vic.gov.au/CA256C8C000B6952/WebObj/RBSupplementaryMaterialMay05/$File/RB%20Supplementary%20Material%20May%2005.doc)

2. Department of Treasury and Finance Victoria:
Audit Committee Supplementary Material

[http://www.fmkc.dtf.vic.gov.au/CA256C8C000B6952/WebObj/ACSM/\\$File/AC%20SM.doc](http://www.fmkc.dtf.vic.gov.au/CA256C8C000B6952/WebObj/ACSM/$File/AC%20SM.doc)

3. Deloitte Touche Tohmatsu:
Audit Committees - A Better Practice Guide
http://www.deloitte.com/dtt/cda/doc/content/AC_better_practice%281%29.pdf

4. Auditor General Victoria:
Leadership and Accountability
<http://www.anao.gov.au/WebSite.nsf/1c8fb55046f2cc5cca256bed00179e7f/db82bd972f2a30aaca256faf00159722!OpenDocument>

5. Australian National Audit Office:
Public Sector Audit Committees
<http://www.anao.gov.au/WebSite.nsf/1c8fb55046f2cc5cca256bed00179e7f/db82bd972f2a30aaca256faf00159722!OpenDocument>

6. Australian National Audit Office:
Better Practice Guide - Part 3 Contents
<http://www.anao.gov.au/WebSite.nsf/1c8fb55046f2cc5cca256bed00179e7f/db82bd972f2a30aaca256faf00159722!OpenDocument>

7. Australian National Audit Office:
Model Audit Committee Charter - CAC Entity
<http://www.anao.gov.au/WebSite.nsf/1c8fb55046f2cc5cca256bed00179e7f/db82bd972f2a30aaca256faf00159722!OpenDocument>

There are many other reference documents available throughout the Financial Management Knowledge Centre website.

The Board of Management

Cemetery Trusts are Government Business Enterprises. They are the body responsible for the management of government functions as outlined in legislation.

The expressions Board of Management and Trust are synonymous.

Until recently Trusts enjoyed a level of independence not normally enjoyed by government enterprises. They are now much more closely aligned by legislative control to other statutory organizations such as Public Hospital Boards of Managements. Consequently the Trust is subject to much more stringent statutory and legal responsibility and other obligations. This is demonstrated by the 'power' now held over trusts by organizations such as the State Services Authority, the Victorian Auditor General, Department of Treasury and Finance etc.

Change has occurred and is being applied through the enactment of the Cemeteries and Crematoria Act 2003 (the Act). The Cheltenham situation is an illustration of what can happen if a trust operates outside guidelines.

A Trust (the Responsible Body or Board of Management) is appointed by the Governor-in-Council on the recommendation of the Minister for Health.

It is most important to understand that the Secretary of the Department of Human Services has been given significant powers which are outlined in the Act.

- (1) The Secretary may give directions to a cemetery trust with respect to—
 - (a) the manner in which the cemetery trust is to manage and maintain any public cemetery for which it is responsible; and
 - (b) the records to be kept by the cemetery trust; and
 - (c) the expenditure of funds of the cemetery trust; and
 - (d) the carrying out of any other function or the exercise of any other power of the cemetery trust under—
 - (i) this Act or any other Act; or
 - (ii) the regulations made under this Act (including the model rules) or regulations made under any other Act; or
 - (iii) cemetery trust rules.
- (2) A direction given under this section—
 - (a) must be in writing; and
 - (b) may apply to—
 - (i) an individual cemetery trust; or

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| <ul style="list-style-type: none">(ii) a class of cemetery trusts; or(iii) all cemetery trusts. <p>(3) A cemetery trust must comply with a direction applying to it under this section.</p> |
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The current situation clearly means that the Department of Human Services has much greater control and power over trusts. The Department of Treasury and Finance, the Office of the Auditor General Victoria and the State Services Authority also have powers which are enforceable and may require a Board of Management to respond to or undertake lawful directions and to the manner in which they must govern their operations and fulfil their statutory obligations.

The Standing Directions of the Minister for Finance are very clear in relation to roles and responsibilities of Boards of Management.

Despite Cemetery Trusts being voluntary Boards of Management, that in no way diminishes the responsibilities of the Board in relation to compliance and governance.

The relationship of the Board to any Sub-Committee it may appoint must also be in accord with compliance and governance standards and obligations.

The Trust (Board of Management/Responsible Authority)

The attachments to this paper contain a considerable amount of guidance and advice as to how a Board of Management is expected to operate in today's environment.

The Department of Treasury and Finance advises inter alia at attachment 1 that:

The Responsible Body is a board of members which typically is appointed in accordance with, and has the powers and functions provided for in, the Agency's enabling legislation.

The Responsible Body has a lead role in the governance framework processes and practices of the Public Sector Agency. The Responsible Body is actively involved in determining the strategic direction of the Agency and providing other governance oversight. The Responsible Body maintains oversight over the financial performance of the Agency including monitoring performance against financial management objectives and targets, oversight of an efficient and effective budgeting process and approving delegated authorities. The Responsible Body also has responsibility for the oversight of the Agency's system of financial risk management and internal control.

The Responsible Body should:

- Create a formal Charter detailing the Responsible Body's objectives, authority, roles, responsibilities, membership structure and membership requirements, meeting requirements, and performance measurement arrangements. The Charter could specifically include the Responsible Body's requirements under the Directions, as referred to above, in addition to its requirements outside of the FMCF.*
- Ensure a Code of Conduct is in place and which the Responsible Body adheres to.*
- Document the roles, responsibilities and terms of the Responsible Body Chair and members in letter of appointment or equivalent. Chair responsibilities should include providing leadership during meetings, overseeing and/or preparing the agenda and briefing other members or external stakeholders when necessary.*
- Work with management to formulate an annual work plan to form the basis of meeting agendas throughout the year. This work plan and meeting agenda items should be consistent with the Charter of the Responsible Body and be used to ensure the Responsible Body fulfils its obligations under the FMCF*

referred to above. Where practicable, it could specify the nature of reports and papers to be received by the Responsible Body and their overall purpose eg. Information paper, recommendation to be approved etc

- Define deadlines for preparation of material and its circulation prior to Responsible Body meetings to ensure members are adequately prepared. The Responsible Body should expect direct access to the Accountable Officer, the Chief Finance and Accounting Officer and the Public Sector Agency's management for support in preparation of, and during a meeting. It should also make enquiries of management in relation to any identified or emerging issues and their associated rectification plans.*
- Develop an induction and continuing education program for members and ensure that Responsible Body has the appropriate mix of skills and experience to perform its responsibilities under the Directions.*
- Develop a transparent process for performance measurement and evaluation of board members and senior management.*
- The Responsible Body may choose to assign tasks to committees (eg. Audit Committee). The Responsible Body ultimately maintains responsibility. It should approve the Charter of all committees and receive reports on the activities and performance of each committee on at least an annual basis.*

In regard to its decision making and governance capacity a Board of Management is regarded as being the whole entity. Regularly completing meetings and dealing with Trust business with a reduced membership does not accord with the principles and expectations of the various Directions and Guidelines. For that reason the Trust should give consideration to its meeting schedule and agenda structure.

There is much more useful information available and is recommended to Boards by the Department of Treasury and Finance, the Auditor General etc. Such information is contained in attachments 1 and 4.

Trust Sub-Committees

Again the Authorities referred to have issued guidance material in relation to Sub-Committees that may be appointed by a Board of Management. The guidance material places an emphasis on Audit Committees but the same principles apply to all Sub-Committees/Working Party's.

The Department of Treasury and Finance has provided a useful paper at attachment 2 in relation to an Audit Committee. It advises that:

An Audit Committee is a sub committee of the Responsible Body (or the Board) assigned the task of assisting the Responsible body fulfil its governance and oversight responsibilities in financial reporting, internal controls, risk management and internal and external audit. This is achieved by providing an independent and objective review of the financial reporting processes, internal controls and the audit function. The precise role of an Audit Committee will reflect the size and nature of the entity.

Audit Committees require the support of management, together with pertinent information and resources to be effective. Indeed, it is essential that management, internal and external auditors and Audit Committee themselves work with a common purpose of improving financial reporting and greater effectiveness of internal controls. An informed, diligent and probing Audit Committee can enhance confidence in the integrity of business processes while making a valuable contribution to the process by which entities are directed and controlled.

The establishment of an Audit Committee does not release the Responsible Body from its responsibilities.

The Audit Committee has a lead oversight role in financial governance and financial reporting matters. It is actively involved in monitoring financial management compliance issues, particularly in the identification of risk areas and the monitoring of associated rectification plans. It also reviews the integrity of the financial reporting and internal control structures and oversees the financial performance of the entity.

The Audit Committee gathers and assesses information and provides a focus for the Responsible Body in managing financial risks and opportunities confronting the entity. Its establishment supports the Responsible Body's own performance in the discharge of its financial governance and oversight responsibilities.

At attachments 3, 5 and 7 are key reference documents in relation to Audit and committees in general. The relationships between the Board, its Executive and the Sub-Committees is an important issue and must be understood. The resourcing of committees requires careful assessment.

Those in Authority have made it clear that governance in the Public Sector is more complicated than the private sector. Demands of committees are therefore greater and compliance and governance can, and usually does, result in increased costs but that is a matter for the Board of Management to deal with.

The establishment of committees can enhance Board performance and effectiveness in key areas. The Board is responsible. Committees and their Members do not have executive powers. Committees must not detract from the core responsibility of a Board and are only effective and useful if the Committee is prepared to and does some work.

Boards and Committees require, at the very least;

- Terms of Reference/Charter
- A Meeting Procedure/Standing Orders
- A Chairperson
- A Secretary (a demanding role)
- Administrative Support
- An Annual Assessment Program
- Clear power, roles and responsibilities delegated to the Chairperson
- Skilled and experienced Members
- Written Agendas
- Formal Minutes
- An induction
- Appropriate and relevant external advice, and
- An annual plan

There are many other aspects that could be addressed in the above points. The size of the entity, its role and function must be a consideration as to the requirements of a Board and its Committees in order to function in such a way as to be compliant and exercise good governance.

Treasury and Finance advise that a Audit Sub-Committee can be called the Finance Committee, Audit Committee, Advisory Committee, Risk Management Committee etc. It does not matter what the Audit Committee is called. However, an Audit Committee (or equivalent) must exist (except is an exemption has been obtained) which is delegated with the task of fulfilling the responsibilities of the Audit Committee as detailed in Direction 2.2 of the Standing Directions of the Minister for Finance.

Entities must ensure that it is clearly stated in the Charter of the relevant committee that they are undertaking the Audit Committee functions. Direction 2.2 of the Standing Directions of the Minister for Finance sets out these responsibilities.

The Responsible Body, in the absence of an Audit Committee may assume the role of the Audit Committee.

The attached model by Deloitte Touche Tohmatsu (attachment 3) in relation to an Audit Committees terms of reference makes a good model for any committee.

An important message throughout the attachments is that the impetus for conformity must be driven from within the Trust or its committees.