



Board Charter

Women's Legal Centre ACT
(Canberra and Region)



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1 INTRODUCTION AND CONTEXT

1.1 INTRODUCTION

The purpose of this charter is to document the principles, procedures and governance framework that the Women's Legal Centre (WLC) Board follows in exercising its responsibilities.

This Charter is in keeping with the WLC Constitution and is informed by standards of good practice, including the National Association of Community Legal Centres standards for accreditation, The Australian Charities and Not-for-Profit Commission Governance Standards and the Australian Institute of Company Directors (AICD) Not-for-Profit Governance Principles.

1.2 USE OF THE POLICY

- All Board members and the Executive Director (ED) will be bound by the policy.
- The policy will be provided to all new Board members as part of their induction.
- The policy will be used as a basis for evaluating the ongoing performance of the Board.
- The policy will be reviewed at least every two years and updated as the need arises.

1.3 CONSTITUTION AND ENABLING LEGISLATION

The WLC is a non-profit association incorporated under the ACT *Associations Incorporation Act 1991*, and registered with the Australian Charities and Not-for-Profit Commission. The Constitution is the primary governance instrument and sets out WLC's objects and rules.

2 BOARD MAKE UP AND DIRECTOR RESPONSIBILITIES

2.1 BOARD ELECTION, ELIGIBILITY AND COMPOSITION

2.1.1 Diversity and skills required on the Board

The Board will work to ensure that the Board reflects the community it serves, particularly Aboriginal and Torres Strait Islander women. It will also ensure it has the full range of skills identified in the Board Competency Matrix, which is updated annually. It will do this by identifying and encouraging potential directors from diverse backgrounds and with the necessary skills to nominate for election to the Board. It will also provide information to the AGM on diversity and the skills required.

2.1.2 Board size and office bearers

The Board is made up of a minimum of seven directors¹:

- The Executive, which consists of the Chair, Vice Chair, Secretary and Treasurer; and
- The Board Committee, which consists of three Board Members and any number of additional members appointed by the Board.

2.1.3 Young Woman Observer

The Board has established a Young Woman Observer position on the Board. The intent of the position is to:

- Contribute to the development of future women leaders; and

¹ WLC Constitution ss 8.2

- Use the position as a training opportunity for young women with potential to move into director roles at the WLC and other organisations in the sector.

The Young Woman Observer is appointed through an expression of interest process that includes an interview and referee checks. This process is managed by the Executive Director and a member of the Governance Committee. Young women between the ages of 18 and 25 are eligible to apply for the position and must join the WLC if appointed. They are able to serve a single term of two years.

The Governance Committee will appoint a director to act as mentor to the Young Woman Observer.

2.2 ROLE OF THE BOARD

The Board has legal responsibility to direct and control the business and affairs of the association toward attainment of its objects. It exercises this responsibility on behalf of WLC members, clients, funders and donors.

The Board is responsible for:

- overseeing the management of the Women’s Legal Centre (WLC);
- providing strategic direction by approving and periodically reviewing the strategic plan;
- approving the annual budget proposed by management, and approving the annual business plan and monitoring financial performance and solvency;
- monitoring organisational performance and the achievement of strategic goals and objectives;
- setting the Board’s risk appetite, ensuring risks are identified and appropriate control, monitoring and reporting mechanisms are in place;
- monitoring compliance with best practice corporate governance requirements;
- appointing and removing the Executive Director (ED), determining terms and conditions of appointment (including remuneration package), and maintaining a succession plan;
- agreeing performance targets with, and monitoring the performance of, the ED;
- determining the desired culture for the WLC and acting as a role model of the desired culture;
- approving the appointment of the external auditor and the audited financial statements;
- approving and regularly reviewing key board governance documents such as the Constitution, this Charter, and the charters of the Board Sub-Committees;
- enhancing and protecting the reputation of the WLC;
- engaging with stakeholders such as members, employees, the legal sector within the ACT, government, potential donors and other interest groups; and
- reporting to members.

2.3 BOARD POWERS AND DELEGATIONS

2.3.1 General powers

The direction and control of the WLC, including its business and affairs, is vested in the Board as a whole. The Board's authority to govern the WLC is granted under the Constitution.²

2.3.2 Management

The Executive Director is responsible for implementing the strategic directions and operating within the risk appetite set by the Board and for all other aspects of the day-to-day running of the WLC. However ultimate responsibility for strategy and control and oversight of sound and prudent management of the WLC rests with the directors.

2.4 DIRECTOR RESPONSIBILITIES

Directors, through their participation in the Board, are responsible for setting the strategic direction of the WLC and monitoring its performance to ensure it is being managed effectively. Directors, as individuals, also have specific legal duties and obligations established through common law, the Australian Charities and Not-for-Profit Commission and the *ACT Associations Incorporation Act 1991* and these are outlined below.

This WLC also places specific requirements on its Directors. These have been designed to ensure that the WLC has high quality governance and support achievement of the AICD Governance Principles. These responsibilities are noted below and described in more detail in the Director Position Statements Policy. While there is some overlap with the legal duties, these sections provide additional detail on how directors can meet the earlier requirements.

A copy of these responsibilities will be provided to directors with their letter of appointment.

2.4.1 Requirements of the Associations Incorporation Act 1991

The Associations Incorporation Act requires that Directors govern an organisation with due care and diligence, including:

- abiding by the mission, objects and rules
- conducting business with honesty and integrity
- complying with the law and meeting contractual obligations
- ensuring the organisation remains financially solvent and does not trade when insolvent.

2.4.2 Requirements of the Australian Charities and Not-for-Profit Commission

The Australian Charities and Not-for-Profit Commission requires charities to meet five Governance Standards. Governance Standard 5 requires that directors are aware of their duties and comply with them. This includes:

- acting with reasonable care and diligence
- acting honestly and fairly in the best interests of the organisation and its charitable purposes
- not misusing their position or information they gain through their position
- disclosing actual or potential conflicts of interest
- ensuring that the financial affairs of the organisation are managed responsibly
- not allowing the organisation to operate while it is insolvent.

² WLC Constitution ss11.1.

2.4.3 Other responsibilities

- Exercise reasonable care and diligence
- Act in good faith
- Maintain Board solidarity and collective responsibility
- Contribute strategically
- Build board capacity
- Exercise responsible management of financial affairs and risk.

2.5 CONFLICT OF INTEREST

2.5.1 Responsibility of the board

Conflicts of interest are an inevitable aspect of organisational life. Good governance principles require the Board to operate with a culture of disclosure, recognition and active management of conflicts as they arise to ensure transparency and sound decision making.

A perceived conflict of interest can be as damaging to the reputation of the Centre as an actual conflict. All conflicts, whether real, potential or perceived, must be declared and managed in accordance with the Women's Legal Centre Conflict of Interest Policy and Procedures for the Board of Directors.

The board is responsible for:

- establishing a system for identifying, disclosing and managing conflicts of interest across the WLC
- monitoring compliance with this policy
- reviewing this policy every two years to ensure it is operating effectively.

2.5.2 Obligations of directors

The obligations of directors under this policy are to:

- act impartially, without prejudice and in the best interests of the Centre
- not accept gifts or benefits that could influence their actions
- avoid conflicts of interest where possible
- identify and disclose any conflicts of interest³
- carefully manage any conflicts of interest
- follow this policy and respond to any breaches.

All directors must complete an annual Conflict of Interest Declaration within one month of the AGM and immediately notify the Executive Director should their circumstances change in a way that could result in a conflict of interest.

2.6 BOARD CODE OF ETHICS AND CONDUCT

WLC Directors are required to abide by the WLC Code of Ethics and Conduct applying to all staff. Other requirements applying specifically to directors are listed under section 2.4 Director Responsibilities (above).

³ The ACT *Associations Incorporation Act* requires members of a Board to disclose any existing or potential conflicts of interest.

2.7 ATTENDANCE AT MEETINGS

Board and committee members are expected to demonstrate their commitment to the WLC by attendance at meetings of the Board and any Board Committee on which they sit, unless prevented by unforeseeable or reasonable circumstances.

Directors who are absent from three consecutive meetings without leave of absence from the Board are automatically removed from the Board.⁴

2.8 ROLE OF THE CHAIR

The Board Chair is responsible for facilitating effective board leadership and governance and sets the tone for meetings. It is an active role that engages the board members, building upon each member's individual strengths.

The Board Chair exercises leadership to ensure the work of the board is focused on the strategic issues that require its attention and delegates work that could be more effectively addressed by a Board committee or by management.

The board chair's relationship with the Executive Director is critical to the organisation and is built on mutual trust and respect. They share a common understanding of the organisation's goals and strategies and work together to achieve them. The Board Chair and Executive Director orient new members prepare strategic agendas for meetings.

2.9 BOARD POSITION DESCRIPTIONS

Board office bearers have responsibility for key aspects of governance and leadership for the WLC. The WLC Directors' Position Descriptions Policy includes position descriptions for both office bearers and ordinary directors. Office bearers will be provided with a copy of the position statement attached to their letter of appointment within two weeks of their election. Ordinary members are provided with their position statement within two weeks of their election / appointment to the Board.

2.10 CEASING TO BE A BOARD MEMBER

2.10.1 Resignation

Directors may resign from the Board at any time.

2.10.2 Disqualification

Directors are required to resign from the Board immediately if they are disqualified from managing a corporation:

- within the meaning of the *Corporations Act 2001*; or
- within the meaning of the Australian Charities and Not-for-profit Commission Regulation 2013

or if they are suspended or removed by the Commissioner from being a responsible entity of a registered entity.

2.10.3 Provisions in the WLC Constitution

Under ss10.1 of the WLC Constitution, the office of a Board Member is immediately vacated if the Board Member:

- becomes bankrupt

⁴ WLC Constitution ss10.1 (e).

- cannot manage the Association because of her mental incapacity
- resigns by notice in writing to the Association
- is removed by a resolution of the Association
- is absent from three consecutive Board meetings without leave of absence from the Board
- is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of the interest.

2.10.4 Requesting a director's resignation

There are a number of situations in which it may seem desirable to seek a director's resignation. These could include not complying with the responsibilities in their position description, not complying with the Code of Conduct, or behaving in a way that breaks Board confidentiality or damages the good standing of the WLC.

In general, the best approach is to provide constructive feedback to the director concerned, understand the reasons of the behaviour and explore whether the director remains committed to the WLC and is motivated to improve their performance. If this is the case, the Board should consider options to support and coach the director to improve their skills and contribution to the Board.

If the issue is sufficiently serious, or the director is unwilling to address the issues that have been identified, the Board has three options:

- i. It can formally request the director's resignation (noting that the director is not obligated to comply with this request);
- ii. It can consider whether the matter is sufficiently serious to vote to expel them from the WLC using the power outlined in ss6.2 of the WLC Constitution; or
- iii. It can call a general meeting of the WLC and put a resolution to members seeking the removal of the director.

It is important to note that options ii and iii should only be used in the case of serious wrongdoing or disruptive and damaging behaviour.

3 KEY BOARD FUNCTIONS

3.1 THE BOARD AND STRATEGY

The Board works collaboratively with the ED to develop and review the strategic directions and goals of the WLC. The Board:

- oversees the process of strategy development, design and implementation, probes and monitors corporate performance, and helps to identify risks and strategic inconsistencies
- directly contributes to strategy development by bringing a broader perspective than that of management, including experience from beyond the industry, understanding of stakeholder perspectives, and helping to avoid cultural blind spots
- provides the strategy with credibility and authority and helps garner support from both within and outside the WLC⁵.

⁵ Cossin, D. & Metayer E, 2014, "How Strategic Is Your Board," *MITSloan Management Review*, Fall 2014, quoted in What is Board Strategy, Right Lane, www.rightlane.com.au/the-boards-role-in-strategy/, 18.07.2019

3.2 THE BOARD AND THE EXECUTIVE DIRECTOR (ED)

Trust, mutual respect, teamwork and open communication are the foundations for a productive working relationship between the Board and the ED. The relationship must be empowering and safe. Operational decisions made by the ED are not questioned by the Board as long as they are in line with the strategic and business plans. The expectations set out below are the basis on which trust and mutual accountability are built and maintained.⁶

The Board relies on the ED to:

- Provide strategic advice, analysis and recommendations to support Board decisions
- Provide open and honest, timely, fit for purpose and high-quality reports
- Implement Board decisions in a timely way and accurately communicate the rationale for Board decisions to staff
- Keep the Board informed of major developments and significant opportunities and risks relevant to the centre
- comply with the constitution and Board policies and facilitate the Board's oversight of compliance and review of policies
- support the operation of the Board.

The ED relies on the Board to:

- contribute to and approve the strategic direction and policy framework of the WLC
- provide a sounding board, as needed, to test thinking and make difficult management decisions
- provide support, express appreciation and recognise achievements by the ED and staff
- observe boundaries between operational and Board responsibilities
- make timely and sound decisions
- follow through on commitments and agreed actions.

3.3 CHAIR AND ED RELATIONSHIP

Outside of Board meetings, the primary point of contact between the ED and the Board is through the Chair. This relationship is pivotal to Board effectiveness and supports the ED's leadership of the organisation.

The Chair and ED will meet/communicate prior to each Board meeting and more frequently if there are major issues to be discussed and resolved. The meetings provide a space for:

- the ED to discuss and seek advice on significant operational issues
- the Chair and ED to consider and agree on matters to come before the Board and prepare for the Board meeting
- the Chair to provide support, feedback and guidance to the ED
- joint strategy development and thinking,

⁶ www.ourcommunity.com.au/files/ICDA/IntroNFPGovernancePREREADING.pdf accessed 24.7.2019

3.4 COMMUNICATION BETWEEN THE BOARD, MANAGEMENT AND STAFF

The ED is the primary link between the Board and staff. Maintaining and respecting this link means that:

- The ED keeps staff informed about the outcomes of Board meetings and matters under discussion by the Board and its committees.
- Staff only participate in Board meetings by invitation of the Chair and/or ED, where their knowledge or advice is critical to matters before the Board.
- Matters that staff wish to bring to the Board's attention should be referred to the Board through the ED.
- Board members should not direct the work of individual staff members and they should keep the ED informed where there is a need for direct communication.

The exception to the above general rules are:

- Formal complaints and staff grievances about the ED should be referred directly to the Board through the Chair.
- Staff and Board members may communicate on joint work through committees or by delegation of the Board and/or the ED.

3.5 PUBLIC OFFICER

The ACT *Associations Incorporation Act* requires that the Board appoint a Public Officer who acts a point of contact between the association and Access Canberra. The Public Officer does not need to be a member of the board and may be an employee of the WLC.

3.6 BOARD SUB-COMMITTEES

The Board may establish committees to which it may delegate any of its powers, duties and responsibilities. At least one member of each committee must be a Board member. Each committee will have Board-approved Terms of Reference setting out their roles and responsibilities.

Committees may be ongoing, or time-limited and focussed on a specific task. While committees will often have delegated powers, the Board may establish advisory committees with no delegated powers.

The Board has the following standing committees:

- Finance Committee
- Governance Committee.

3.7 POLICY FRAMEWORK

This Charter is one part of the policy framework that guides the operations of the WLC. At the highest level, the Constitution sets out the establishment and rules of the organisation. This Charter sits under the Constitution and is supported by a suite of Board governance policies and procedures. Board governance policies and procedures are approved and regularly reviewed by the Board.

The framework also includes the policies and procedures that guide the day-to-day operations of the WLC. Policies and procedures development, approval and review processes are set out Policy and Procedure Development and Review Policy.

3.8 MONITORING PERFORMANCE

The Board is responsible for monitoring the performance of the WLC and ensuring it complies with legislative and other requirements. The Board does this by carefully considering the reports provided by the Executive Director, the Treasurer and the external auditor.

The Board will work with the Executive Director to ensure the reports it receives are useful and provide the information it needs in a user-friendly format.

The Executive Director will maintain a Board Calendar that includes the due dates for significant requirements such as the annual report to ACNC and the ACT Government, the AGM, accreditation requirements and reports to funders.

3.9 RISK MANAGEMENT

Directors' duties require them to actively consider risk. Directors must agree a common approach to risk and set the risk appetite of the WLC. This should result from robust discussion by the board and inform the framework that the board adopts to support its risk oversight activities.

The WLC has a risk management framework to support the identification of risk and regularly assesses controls to prevent or mitigate the incidence of risk.

As well as setting the risk appetite, the Board oversees the risk management framework implemented by management and must satisfy itself that the framework is sound.

4 BOARD PROCESSES

4.1 BOARD MEETINGS

The WLC Board must meet at least six times each year⁷ but may meet more often if necessary to fulfil its duties and responsibilities. The Executive Director will usually attend Board meetings; however the Board may choose to meet without her for all or part of a meeting.

Board meetings are generally convened by the Chair. All directors must be provided with the notice of the meeting not less than 48 hours prior to the meeting. Where possible, Board and Committee papers will be provided to directors at least 5 days prior to the meeting.

4.1.1 Quorum and Voting

A quorum is a majority of Board members. A quorum must be present at all times during the meeting.

Decisions are generally made through consensus; when they are made through a vote, each member has one vote. Decisions can also be made between Board meetings by circulating a resolution, in writing, to all Board members. These decisions must be noted in the minutes of the subsequent Board meeting.

4.1.2 Election of office bearers

Office bearers are elected at the first Board meeting following each AGM. The Governance Committee makes recommendations to the Board about the election of office bearers and this

⁷ WLC Constitution ss12.2(a)

aims to achieve a consensus approach to the election and ensure the selection of people who will be effective in these roles.

In practice, elections are rarely needed as there is usually only one nominee for each position. If an election is required, the procedures is as follows:

- A. the elections will be the first order of business;
- B. the elections will be conducted in the following order: Chair, Deputy Chair, Treasurer, Secretary;
- C. if an election for the position of Chair is required, the Executive Director will preside over the initial stage of the meeting and will hand over to the new Chair once the election is finalised;
- D. nominations for positions on the Executive must be made to the Executive Director and may be made by email prior to the meeting or orally at the meeting up until the start of voting for the position;
- E. to be valid, the person being nominated must agree to the nomination;
- F. a candidate who fails to be elected for a position may be nominated for a subsequent position;
- G. candidates may make a statement of no longer than three minutes to the Board regarding their candidature with the order of candidates' statements being determined by the person chairing;
- H. the Executive Director will act as returning officer for each election;
- I. each director has one vote, the vote is anonymous, ballots are cast by writing the name of the preferred candidate, if a director is participating in the meeting by phone they communicate their vote privately to the returning officer who marks a ballot for them;
- J. if there is a tie for first place, then the person chairing may invite the two candidates to provide a further statement of no longer than two minutes in support of their candidature before repeating the vote; if the tie persists the Chair may decide to facilitate Board discussion of the best option prior to running a third vote. If the tie persists the returning officer may use a coin toss to choose which candidate is elected. A candidate can withdraw their nomination at any stage during this process.⁸

5 BOARD EFFECTIVENESS

Board members will participate in a regular review of the Board's effectiveness in carrying out its responsibilities. The review process will include consideration of:

- the size and composition of the Board
- the Board succession plan
- the skills matrix for Board membership
- the number and type of committees and their size and composition
- any amendments to the Constitution or Board Charter.

The review should also include:

- a collective review of effectiveness

⁸ Adapted from www.internet-society.org/about-internet-society/governance-policies/procedure-conducting-election-officers-board/, accessed on 13.09.19

- individual performance reviews for directors
- opportunities for directors to give private feedback to the Chair on Board effectiveness
- such other review mechanisms as the Board decides.

The Chair will lead the Board review process. The Board may engage an independent expert to facilitate the review.

6 RELATED DOCUMENTS

6.1 CONSTITUTION

The WLC is incorporated under the ACT *Associations Incorporation Act 1991*. The Constitution is the primary governance instrument and includes the WLC's objects and rules.

6.2 BOARD GOVERNANCE DOCUMENTS

- Strategic Plan
- Director Position Descriptions
- Ethics and Code of Conduct Policy and Undertaking
- Conflict of Interest Policy and Procedures for the Board of Directors
- Finance Committee: Terms of Reference
- Governance Committee: Terms of Reference
- Budget Development Policy and Procedure

7 ACKNOWLEDGEMENTS

Reference documents available on the Australian Institute of Company Directors and Governance Institute of Australia websites have provided valuable guidance during the development of this Charter. Many organisations, both not-for-profit and commercial, publish their Board Charter online and these have also been a useful resource.

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