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Governance Handbook – Section 9 Compliance

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Legal Stuff

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While the authors have used their best efforts in preparing this handbook and the resources contained within it, they make no representations or warranties with respect to the accuracy or completeness of this document.

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Due to the dynamic nature of the internet, certain links and website information contained in this publication may have changed. The authors make no representations to the current accuracy of the web information shared.

In Queensland, as an incorporated association, most organisations will be subject to the Associations Incorporations Act and its Regulations. The relevant Government regulator is known as the Office of Fair Trading. There is substantial information available on their website about the legal aspects of both the Act and its Regulations and during the service of this guide, it is possible that some information may change to reflect changes in the legislation. We have added some important links here for you to easily remain up to date.

HELPFUL LINKS

[Incorporated Associations Smart Business Guide](#)

(A must for your association, on the laws and how they apply to you in simple to understand terms)

[Associations Incorporations Act 1981](#) (For rules about running an association)

[Office of Fair Trading Queensland](#) (For information about your responsibilities)

[Australian Charities & Not-for-profits Commission](#) (For those who are registered charities)

[Australian Taxation Office](#) (To keep up to date with changes in tax law)

[Department of Justice OFT Fundraising](#) (For information on raffles & donations)

[Australian Consumer Law](#) (What claims you make in advertising and to “sell” membership & activities)

[Workplace Health & Safety Queensland](#) (For your obligations to members, staff & volunteers)

[Fair Work Ombudsman](#) (When volunteers are bullied)



Introduction

Good Governance - two little words full of meaning that should be at the heart of all the work undertaken by your board/committee and your subcommittees.

The Good Governance Health Check guides users through the essential concepts, principles and activities needed to ensure a healthy and productive organisation.

Most incorporated Associations are small, volunteer-driven organisations, with limited resources and in need of practical guidance to meet the many challenges of the modern not-for-profit environment.

The Health Check contained within this Handbook will give you a snapshot of your Association's governance health status and will identify areas where improvement is needed. Levels of understanding and familiarity will vary amongst your board members according to the purpose, structure, scale and sophistication of your organisation, but the Health Check can be applied to any incorporated entity.

And - to help you work smarter not harder - we've included a Toolbox full of simple tips, techniques, templates and examples to help your organisation on its governance journey.

How does it work?

It's simple. The Handbook is divided into 11 sections, starting with the big picture and moving through the detail of specific areas of operation. Each section contains Questions and Toolbox tips, techniques and examples.

Carefully read each question and the explanation. If you can confidently answer "yes", then tick the box. If the answer is "no" or you don't know, then leave it blank for now. You'll get most value from the Good Governance Health Check if you're completely honest. Most questions are objective - they ask for evidence of something factual or tangible.

When the question asks if you have a particular plan or policy or procedure, only say yes if you can actually put your hands on an example or on the finished item. Some questions are subjective - they ask for an opinion or perception. Glossing over problem areas puts your organisation at further risk and means you miss out on important opportunities to diagnose issues and work out solutions. And - hey - it means you're wasting your time and your money - and that's never smart. Honesty is the best policy!

After you've answered all the questions for that section, review your answers. If you find blank check boxes then you have the start of your Good Governance To Do list. It's simple! Good Governance is complex, but the step-by-step Health Check breaks it down into bite size chunks and makes it do-able.

At the end of each section you'll find the Toolbox. It contains tips, techniques and examples relevant to that particular topic. You can work through the Checklist and Toolbox one section at a time or you can come back to the Toolbox after you've answered all the questions in all sections.

Work through all of the sections. You can do this at your own pace - take all the days, weeks or months that you need. The speed isn't important - but achieving continued forward progress is. It's all about having a strategy and the right tools to achieve genuine continuous improvement.

Good luck and good governing!

SECTION 9

Compliance

Compliance is one of the major elements of Good Governance for your Association. It involves being aware of and complying with all the legislation and regulation that applies to your organisation, and also any requirements of your Federation or other Governing body. The Committee is accountable for monitoring the Association's structures, systems and processes to ensure compliance.



Compliance Checklist

<p>Is there a documented approach or plan that covers how compliance is identified, monitored and reviewed?</p>	<p><i>Ensuring compliance can seem a daunting task for Committee members! Having a plan or system that covers how compliance is identified, monitored and reviewed can break this down into a more manageable process.</i></p>	<input type="checkbox"/>
<p>Do you have a compliance register of relevant legislation and regulation?</p>	<p><i>To create a compliance register you must identify the legislation and regulation that applies to your organisation, and what you have to do to remain compliant. As this can be a large and time-consuming task, you should plan to start with the most important legislation/regulation and those that impact on frequent activity.</i></p>	<input type="checkbox"/>
<p>Do you link your compliance list with your risk register?</p>	<p><i>Failure to comply represents a risk to your Association so should be included in your risk register. Doing so can also combine the two tasks to avoid double handling and using risk measures means you can also prioritise your compliance activities.</i></p>	<input type="checkbox"/>
<p>Do you have a compliance calendar?</p>	<p><i>Once you have a compliance strategy and register, you can plot key dates and activities into a calendar. Add to this internal compliance, such as review dates for your Constitution, policies, plans etc. and you can spread the load of your compliance activities throughout the year.</i></p>	<input type="checkbox"/>
<p>Do you have a register of Governance activities?</p>	<p><i>Along with your legislative and regulatory compliance, you should also have a list of governance activities to be undertaken on a regular basis.</i></p>	<input type="checkbox"/>



SECTION N 9

Tips & Techniques

Compliance
Compliance Calendar
Governance Register





TIPS & TECHNIQUES

Compliance Register

Compliance means making sure all the legal, regulatory, reporting and governance requirements of your Association are met. Basically, it means making sure that everything that should be done, is done!

There are two major elements required to ensure that your Association is compliant.

Compliance Register—what you need to comply with
Compliance Calendar—when you need to do it.

COMPLIANCE REGISTER

The first step in Compliance is making sure that you know all the things you have to comply with. This means compiling a list of all the laws, rules and regulations your organisation is subject to and what you need to do to fulfil your obligations. So where do you start? A good approach is to work out compliance categories based around two things— what you are and what you do.

What you are

As an Incorporated Association you are subject to the Associations Incorporation Act in your State. If you're a Company Limited by Guarantee, then you are subject to the Corporations Act. You need to identify the requirements of the relevant Act and list them in your Register. These will generally include appointing a public officer, holding annual meetings and submitting annual reports. If you turn over more than a specified amount, you will also need to be audited annually.

As an organisation you are also subject to certain general laws that include (but are not limited to);

- **Health & Safety**—for employees if you have them, and certainly for volunteers (including yourselves!)
- **Anti-Discrimination**—including recruitment, employment, service delivery and public statements
- **Privacy**— the way you deal with personal information (which is particularly important with regard to member and donor information)
- **Taxation**—as a not-for-profit organisation you may be exempt in whole or in part from income tax, but what are your reporting requirements and what about FBT and GST?
- **Financial probity**—including dealing with conflicts of interest, safeguards against trading while insolvent, dealing at arm's length etc.
- **Australian Charity and Not-for-profits Commission** - if you are a charity there will be obligations to the ACNC. Your Federation, peak or national or state body may be able to assist you in identifying a complete list.

What you do

You also need to identify compliance requirements associated with what you do. Do you raise funds? Then you need to comply with fundraising legislation and regulation. Do you or your volunteers work with children? Then there will be criminal history checks required for individuals. Do you hold events? Then you may need permits from Council. Want to post pictures from your events on your Facebook page? Then you might need to look at copyright and privacy laws. Look at the things you do, and then start putting together your compliance list! A Compliance Register template follows with a few indicative sample items included.

WHO IS LEGALLY RESPONSIBLE?

The association itself holds the responsibility to meet the legislative requirements that relate to its activities and provided it is incorporated, it is the legal entity that will ultimately be held accountable to meet its obligations. This offers the volunteers themselves who are managing the association considerable but not total legal protection.

WHAT OTHER PROTECTIONS ARE IN PLACE?

Aside from incorporation, in Queensland there is considerable protection for volunteers under the Civil Liabilities Act which provides that when you are volunteering in any capacity you are exempt from personal legal action, however there are four important instances when you could lose that protection! If you are intoxicated, working outside your allocated tasks or contrary to instructions, you fail to exercise due care or you do something criminal, you may not be covered. So, slow down, make careful decisions based on good information, in consultation with others, pay particular attention to people's safety and you should be fine.



Sample Compliance Register

COMPLIANCE REGISTER					
Class	Legislation / Requirement	Obligation	Compliance Activity	Evidence of Compliance	Review
Association	Associations Incorporation Act	Annual General Meeting	Hold Annual General Meeting	Notice and minutes of AGM	Annual
		Public Officer	Appoint Public Officer	Letter of confirmation	
		Annual Return	Submit Annual Return	Notice of receipt Financial	
		Audit	Complete Annual Audit	Report and Auditor's Report	
More...					
General	Privacy	Collection	Collecting personal information for a proper purpose	Notice to users detailing purpose of collection	Annual
		Use and disclosure	Using for a proper purpose and non-disclosure to 3rd parties	Training in proper use and policy on non-disclosure	
		Data security	Passwords and access	Secure Database and regulated access	
		Access and correction	User access to view and correct personal information	User logins and access to data	
More...					
Activity	Fundraising	Registration	Register the fundraiser	Registration certificate	Annual
		Permits	Application for permits for specific activities	Permits granted	
	Events	Insurance Permits	Review current insurances	Insurance certificates	Annual
			Apply for necessary permits	Permits granted	
More...					



TIPS & TECHNIQUES

Compliance Calendar

Now that you have the “what” with your Compliance Register, you need to know the “when”. That’s where your Compliance Calendar comes in!

There are two major elements required to ensure that your Association is compliant, they are:

**Compliance Register—what you need to comply with and
Compliance Calendar—when you need to do it.**

COMPLIANCE CALENDAR

A Compliance Calendar plots your legal and governance compliance requirements over time to ensure that you can deal with compliance a bit at a time, rather than being overwhelmed with a huge backlog of work.

Your Compliance Calendar should run over 3 years. While there are some things that need to be done annually—and some more often!—there are other items that only need periodic review or attention. For example, usually your Constitution only needs to be reviewed once every three years, as does your Strategic Plan. Policies you use all the time or that cover volatile subjects (such as social media) should be reviewed often, but others can be left for longer periods between reviews.

Using an Excel spreadsheet is recommended. You can then have tabs for year 1, year 2 and year 3 and work through your compliance tasks as required.

A sample Compliance Calendar follows on the following pages.

SAVING TIME AND MINIMISING RISK

Creating your Compliance Register and Compliance Calendar may seem like an overwhelming task to begin with, but it will save you time in the long run! Once you have your calendar in place you can work through a few items at each Committee meeting, rather than being faced with missed deadlines that will inevitably result in more paperwork and sometimes fines and penalties.

Compliance is also an important part of risk management, and you can actually combine your risk and compliance registers to avoid doubling up if you wish.

The most important thing is to organise your compliance requirements within the context of your Association and what you do.



Sample Compliance Calendar

COMPLIANCE CALENDAR - YEAR 1												
	Jan	Feb	March	April	May	June	July	August	Sept	Oct	Nov	Dec
Legislation												
Assoc. Incorpor. Act								X				
Privacy Act		X										
More...												
Activities												
Fundraising	X											
Events		X										
More...												
Governance												
Constitution					X							
Risk Register			X						X			
Strategic Plan										X		
Operational Plan											X	
More...												
Policy												
Code of Conduct				X								
Social Media						X						X
Complaints Handling							X					
More...												

COMPLIANCE CALENDAR - YEAR 2												
	Jan	Feb	March	April	May	June	July	August	Sept	Oct	Nov	Dec
Legislation												
Assoc. Incorpor. Act								X				
Privacy Act		X										
More...												
Activities												
Fundraising	X											
Events		X										
More...												
Governance												
Constitution												
Risk Register			X						X			
Strategic Plan												
Operational Plan											X	
More...												
Policy												
Code of Conduct												
Social Media						X						X
Complaints Handling							X					
More...												

Sample Compliance Calendar (Cont)

COMPLAINCE CALENDAR - YEAR 3												
	Jan	Feb	March	April	May	June	July	August	Sept	Oct	Nov	Dec
Legislation												
Assoc. Incorpor. Act								X				
Privacy Act		X										
More...												
Activities												
Fundraising	X											
Events		X										
More...												
Governance												
Constitution												
Risk Register			X						X			
Strategic Plan												
Operational Plan											X	
More...												
Policy												
Code of Conduct												
Social Media						X						X
Complaints Handling							X					
More...												



TIPS & TECHNIQUES

Governance Register

A compliance register for your legislative and regulatory requirements is essential. But it's also good practice to compile a similar Register for your governance activities!

GOVERNANCE REGISTER

As you have seen through your use of the Good Governance App, there are a number of Governance activities that need to occur on a regular basis to ensure you have a healthy and productive organisation. It's a good idea to create a list, or register, of regular governance tasks so that you can be confident that you're not missing anything.

GOVERNANCE ACTIVITIES

Governance activities can be broken down into categories including:

1. constitution
2. committee
3. meetings
4. members
5. finances
6. fundraising
7. planning
8. risk management
9. compliance
10. stakeholders
11. volunteers
12. staff (if applicable).

Within each of the categories, you can define the various items for action and for review, and also work out your review schedule to plot into your Compliance Calendar.

POLICY DEVELOPMENT AND REVIEW

Developing and reviewing policy is also a significant governance task - so much so that it's a good idea to compile and maintain a separate Policy Register. This should include a list of current policies with their review schedule and policies you have identified but not yet developed.

Again, these should be plotted into your Compliance Calendar.

COMPLIANCE CALENDAR

The Compliance Calendar is where you plot your legislative, governance and policy activities so that you can spread your tasks over time. A separate worksheet and sample Compliance Calendar is included in the Toolbox.



Sample Governance Register

GOVERNANCE REGISTER			
Item	Activity	Completion Date	Review
Constitution	Review		Every 3 years
Committee	Skills Matrix Review		Annual
	Office Bearer Job Description Review		Annual
	Develop Committee Job Description	30th June	Annual
	More...		
Members	Hold AGM	By end November	
	Prepare Annual Report	By end October	
	Develop Member Engagement Strategy	31st March	Annual
	More...		
Finances	Develop Financial Strategy	30th September	Annual
	Prepare Budget	30th November	Annual
	Review reporting systems		Annual
More...	More...		

POLICY REGISTER			
Category	Policy	Completion Date	Review
Governance	Board Attendance		Every 3 years
	Confidentiality		Every 3 years
	Delegations		Annual
	More...		
Values	Code of Conduct		Every 3 years
	Anti-Discrimination		Annual
	Diversity	30th June	Annual
	More...		
Financial	Investment	31st December	Every 3 years
	Sponsorship		Annual
	Ethical Fundraising	31st March	Annual
	More		
Volunteers	Volunteer Management		Annual
	Volunteer Development	31st September	Annual
	More...		
More...			



Congratulations

You've worked the whole way through the Good Governance Health Check. Take a bow!

It doesn't matter how long it took you to get here - the important point is that you've taken the time and put in the effort to carefully consider how well your Association is performing.

By now you'll have a plan for continuous improvement (Organisation Development Plan - call it whatever you like, we're plain and simple so we like 'To Do List' - but whatever works for your Committee is fine by us).

You'll also have developed a much greater understanding of what good governance really means - in practice, not just in theory and we're confident you'll have a much greater appreciation of its value to any organisation.



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About Us

The original concept and development The Good Governance Handbook and the online Good Governance Health Check are the result of an original collaboration between Kate Hartwig and Kate Reynolds. Leisa Donlan & Adrian Hart from www.goodgovernanceconsultants.com.au have tailored this guide & updated the content specifically for your organisation and the regulatory framework you work in and added a few templates and other information.

We've all been working in the not-for-profit sector for most of our working lives (hooley dooley, that's about 120 years between us!) and we know what works and what doesn't. Our approach - as you can see with this Handbook - is plain and simple - we provide no-nonsense, proven, practical assistance with governance and organisational development.

We've pooled our good, bad and ugly experiences and some of the many publications, tools, tips and techniques we've developed over the years into one, easy to access Handbook. We hope you've found it useful.