know where you stand

Mahony Horner Lawyers
Association Governance

Tom Mahony – Principal

AuSAE Compliance Symposium

5 November 2019
Association Governance

Introduction

• Know your role
• It’s all about good leadership
• NFP’s are important!
• Governance vs Management
Association Governance

Challenges

• Statutory and regulatory
• Funding
• Help! I need somebody!
Association Governance

What is governance?

• Who governs?
• Policies and Procedures
• Not to be taken lightly
Association Governance

Be familiar with:

• Constitution
• Property and records
• Limitations — what can’t you do?
• Strategic plan and vision
• Purposes of the association
Association Governance

Officers’ Duties

• Good faith, best interests of association
• Exercise powers for a proper purpose
• Comply with Act and Constitution
• Exercise reasonable care and diligence
Association Governance

Officer’s Duties (continued)

• Duties owed to the Association
  • Who is an officer?
  • Breach of duties
  • Protection from liability
Association Governance

Conflicts of Interest

• Personal interests or loyalties
• When is someone “interested”? 
• When do they conflict?
• Duty to disclose
• Consequences of being interested
Association Governance

Managing conflicts of interest

- Process
- Identification
- Recording
- Prevention
<table>
<thead>
<tr>
<th>Name</th>
<th>Position within organisation</th>
<th>Date</th>
<th>Employment</th>
<th>Business</th>
<th>Company directorships</th>
<th>Trusteeships</th>
<th>Members of organisations, public bodies, etc.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Details of all my employees in the last 12 months</td>
<td>Details of all businesses in which I am a partner or sole proprietor</td>
<td>Details of all companies of which I am a director</td>
<td>Details of all charities of which I am a trustee</td>
<td>Details of all organisations of which I am a member AND have a position of general control or management</td>
</tr>
<tr>
<td>Declaration of interests of immediate family:</td>
<td>Details of business interests, company directorships, and trusteeships of immediate family (to include spouse/partner, siblings, children, and parents):</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Date conflict identified:</td>
<td>Details of possible conflict:</td>
<td>How and date conflict notified:</td>
<td>Any action taken?</td>
<td>Is a follow up required? (Y/N)</td>
<td>Date conflict resolved:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Association Governance

**Disputes**
- Inevitable
- Who?

**Resolution**
- Process
- Complaints, grievances
- Natural justice
- Fair, efficient, effective
Association Governance

Accountability

• Member access to information
• Information presented at AGM
• Member access to financial statements, minutes
Incorporated Societies Bill

- Standard provisions – clause 24
- “Officer”
- Conflicts
- Financial Reporting
- Grievances and Complaints