Access Sydney Community Transport

Board Charter

OVERVIEW

"Corporate governance refers to the systems and process put in place to control and monitor – or "govern" – an organisation. Good governance is embedded in the good behaviour and the good judgement of those who are charged with running with organisation."

Excerpt from: Good Governance Principles and Guidance for Not-for-Profit Organisations, Australian Institute of Company Directors.

This Board Charter sets out the principles and practices adopted by ASCT and its Board in order to embed a culture of good governance.

LEGISLATION AND KEY DOCUMENTS

The matters set out in the Board Charter are subject to relevant legislation, including (but not limited to):

- The Corporations Act 2001 (Cth),
- The Australian Charities and Not-for-profits Commission Act 2012 (Cth) (ACNC Act)
- Disability Services Act
- NSW and Australian Privacy legislation
- Passenger Transport Act
- Traffic Act?
- Point to Point Transport (Taxis and Hire Vehicles) Act 2016, and the Point to Point Transport (Taxis and Hire Vehicles) Regulation 2017
- Work Health Safety Act
- Workers Compensation Act
- Employment law
- Anti-discrimination legislation
- Superannuation and tax legislation

All legislation could be listed above, or refer to the chart of legislation that has been previously developed.

The Board Charter aligns with ASCT's Constitution. If there are any discrepancies between this Charter and the Constitution, the Constitution must be followed.

Matters of governance must also be determined within the framework of applicable funding agreements, contracts, and external Standards, including:

- ACNC Governance Standards- required for registered charities
- The Home Care Standards - required for government funded home and

community aged care services
- The NSW Disability Service Standards (NSW DSS) - required for providers of disability supports under the National Disability Insurance Scheme (NDIS)
- The Bus Operator Accreditation Scheme (BOAS) – required for services provided in a vehicle with more than 12 seats where a fare is collected.
- Point to Point Regulatory and Safety Framework – required for booked services outside of the Transport for NSW funded contract in a vehicle with under 12 seats.

The Board Charter should be read in conjunction with the ASCT Board Induction Pack and ASCT Policies and Procedures.

REVIEW

The Board Charter will be reviewed annually by the Board and management, to ensure that governance processes are effective, and in line best practice.

GOVERNANCE STRUCTURE

ASCT's governing body is a Board of Directors (the Board).

Reporting to the Board is a standing Finance Sub-Committee, comprised of two nominated Board members, the CEO, and the Finance Manager). The Finance Committee operates under Terms of Reference (TOR) and has certain delegated powers detailed in the TOR.

There is a senior management team, comprised of the CEO, and reporting to the CEO, the Organisation Performance Manager, Customer Service Manager and Service Delivery Manager.

ROLE AND RESPONSIBILITIES OF THE BOARD AND DIRECTORS

The role of the Board as a whole is to provide strategic oversight and direction for ASCT, and ensure ASCT's activities are aligned with its values, vision, purpose, and charitable objects.

This includes:
- Determining, reviewing, and maintaining ASCT's vision, values, and purpose
- Ensuring the organisation meets its legal and ethical obligations, and operates transparently
- Setting ASCT's long-term goals in line with its charitable purposes and ensuring resources are aligned accordingly
- Monitoring the performance and activities of ASCT to ensure it is adequately progressing towards its goals and operating in an effective manner
- Ensuring there are appropriate risk management systems and controls in place
- Ensuring ASCT's sustainability through oversight and monitoring of its financial performance and viability.
- Appointing, evaluating, and (if the circumstances necessitate) terminating the employment contract of the CEO.

- Establishing and monitoring Committees and Sub-Committees where appropriate to assist in the Board's functions and powers
- Evaluating the performance and functioning of the Board and implementing measures to address performance gaps and improvements
- Representing ASCT to the community and to its members and stakeholders.
- Dealing with any matters in excess of the limits delegated to the CEO and senior management

The Board as a whole, and individual directors, have obligations under legislation, common law, and the Governance Standard 5 of the Regulations made under the ACNC Act. These obligations are:

- To exercise the degree of care, skill and diligence that a reasonable person would exercise;
- To act honestly, in good faith and in the best interests of the organisation and to further the charitable purpose(s) of the company;
- Not to misuse their position as a director;
- Not to misuse information they gain in their role as a director;
- To disclose any perceived or actual material conflicts of interest;
- To ensure that the financial affairs of the company are managed responsibly, and;
- Not to allow the company to operate while it is insolvent.

In order to meet their legal and ethical responsibilities, individual Board members have a responsibility to:

- Understand the business of the organisation and be aware of key developments
- Monitor the organisation's operations and performance
- Read information provided, and ask relevant questions if there is insufficient information on which to base decisions
- Provide advice, opinions and independent judgment to inform Board decisions
- Attend and participate in Board meetings
- Completing tasks they have agreed to in a timely manner
- Be active in the organisation, such as by attending functions or events
- Attend the Annual General Meeting
- Declare and monitor actual, potential, and perceived conflicts of interest

It is important for Board members to understand they do not "represent" any particular constituent group. For example, a person who is a service user does not "represent" the interests of customers, although they do bring knowledge gained from lived experience to Board decision-making. **All directors have a duty to act in the interests of the whole organisation** and apply an independent mind to the Board's work and decision-making.

BOARD COMPOSITION

ASCT must have **no less than 3, and no more than 7 directors** (Board members).

Under ASCT's Constitution, so far as possible, directors should be:

- Consumers or representatives of the full range of services provided by ASCT
- People who bring specific skills or experience which benefit the functioning of the Board

BOARD APPOINTMENTS

Directors can be appointed to the Board in either of the following ways:

- elected by a majority vote of the members at an AGM, or
- appointed by the directors to fill a casual vacancy or as an additional director, provided that the person appointed is eligible to be a director.

To be eligible to be a director, as person must:

- be a member of ASCT
- be nominated by two other members (unless the person was previously elected as a director at a general meeting, and has been a director since that meeting, or if the person is appointed by the directors to fill a casual vacancy or as an additional director)
- give ASCT their signed consent to act as a director of the company, and
- **not be ineligible** to be a director under the Corporations Act or the ACNC Act.

The Board will seek to identify people with relevant skills and experience to fill Board positions, with consideration given to ASCT's strategic directions, and the outcomes of any recent Board evaluations and skills audits. The Board will also consider the diversity of the Board with respect to gender, age, ethnicity, cultural background, and other demographic factors. The Board will aim to build and maintain a skills-based Board, with a membership that reflects the diversity of the communities it serves.

Under its Constitution, **ASCT must not pay fees to a director** for acting as a director.

TERM OF OFFICE

At each annual general meeting, any director appointed by the directors to fill a casual vacancy or as an additional director must retire. In addition, at least one-third of the remaining directors must retire. These will be the directors who have been longest in office. Each director must retire at least once every three years.

Retiring directors may nominate for election or re-election, unless they have held office for a continuous period of nine years or more. In this case, they may only be re-appointed or re-elected by a special resolution.

A director stops being a director if they:

(a) give written notice of resignation as a director to the company
(b) die
(c) are removed as a director by a resolution of the members
(d) stop being a member of the company
(e) are absent for 2 consecutive directors' meetings without approval from the directors, or
(f) become ineligible to be a director of the company under the Corporations Act or the ACNC Act.

The directors cannot remove another director. Directors may only be removed by a members' resolution at a general meeting.

BOARD OFFICE HOLDERS AND OTHER DIRECTORS

The ASCT Board has the following Office Holder positions:

- Chairperson
- Company Secretary

Treasurer

CHAIRPERSON

In accordance with the Corporation Act and ASCT's Constitution, the directors must elect a director as the company's elected chairperson. The elected chairperson's term of office is three years, unless they resign from the elected chairperson role, or, for whatever reason, are no longer a director of ASCT.

The Chairperson's role is to:

- Provide leadership for the Board
- Ensure directors act in accordance with the Constitution, the Board Charter, organisational policies, and relevant laws
- Together with the Company Secretary and CEO, establish an annual Corporate Calendar which ensures that the Board undertakes all its key responsibilities throughout the year
- Ensure that all new directors undergo an appropriate induction program
- Ensure that the board undertakes an annual evaluation, and that appropriate development activities or improvements are put in place
- Together with the CEO and Company Secretary, ensure that Board papers are prepared

and circulated as specified in the *Board Papers* section in this Charter

- Establish the agenda for Board meetings in consultation with the CEO
- Chair Board meetings and ensure their effectiveness
- Chair Annual General Meetings and special meetings of members, and be the spokesperson for the organisation at Annual General Meetings
- Be the key contact and/or spokesperson for the organisation when the need arises
- Be a signatory on company documents
- Be the first point of contact for the CEO
- Initiate and oversee the annual CEO evaluation process

TREASURER

All Board members, and the Board as a whole, have a legal obligation to ensure the sound financial management of the Company. Whilst not required under the Constitution or Corporation's Act, the ASCT Board has a nominated Treasurer role. This role has been assigned specific duties which are aimed at supporting**, but do not in any way limit,** the obligations of other Board members in relation to financial management.

The directors choose the Treasurer by consensus. The Treasurer's role is to:

- Provide guidance and leadership to the Board in ensuring that company finances are appropriately managed and monitored
- Ensure that the financial management of ASCT complies with accounting standards, funding agreements, contracts and all legal requirements
- Ensure all Board members are fully informed and aware of the terms of Funding Agreements and contracts
- Ensure all Board members understand the annual budget, financial reports, and key financial considerations
- Ensure that ASCT meets all financial obligations in relation to tax, superannuation, and the employment of team members
- Ensure an independent financial audit is undertaken each year and that the audited accounts are presented to the members at the AGM.

COMPANY SECRETARY

In accordance with the Corporation's Act and company Constitution, ASCT must have at least one company secretary, who may also be a director. A company secretary must be appointed by the directors and may be removed by the directors. The secretary must give their signed consent to act as secretary for the company. The role of company secretary is currently performed by one of the directors.

Under the Corporation Act, a company secretary's obligations may continue even after the company has been deregistered.

The company secretary is responsible for:

- Maintaining the company records and registers, including:
    - A true version of the company's Constitution and any By Laws
    - The members' register
    - Contact details of directors and company secretary
    - Signed consents of directors and company secretary
    - Conflict of interest register
    - Notices of general meetings and special resolutions
    - Minutes of directors' and general meetings
    - Circular resolutions (refer to Clause 52 of the Constitution and this Board Charter regarding Circular Resolutions)
- Together with the Chairperson and CEO, ensuring that appropriate Board papers are prepared on all matters for decision at Board meetings and that such papers are circulated in advance as specified in the *Board Papers* section in this Charter.
- Ensuring the company complies with reporting and notification requirements to ACNC and ASIC, including (but not limited to):
    - Lodgement of statutory forms, returns and accounts
    - Changes in responsible persons (directors and company secretary), and changes of office holder roles
    - Change of company name and/or address
    - Removal or resignation of an auditor
- Ensuring the company has a system of corporate governance and compliance in order to meet its statutory obligations
- Together with the Chairperson and CEO, establish and monitor a Board calendar which ensures that the Board undertakes all its key responsibilities throughout the year
- Advising directors on governance and compliance matters, and any changes in applicable laws/regulations
- Being a signatory on company documents
- Acting as a spokesperson when requested by the Board, Chairperson, and / or the CEO;

ROLE OF OTHER DIRECTORS

In addition to the general duties of all directors, the role of Board members who are not office holders, is to:

- Provide general assistance and support to the Chairperson, Company Secretary and

Treasurer in undertaking their duties

- Act as a spokesperson when requested by the Board, Chairperson, and / or the CEO;
- Participate in, or chair Sub-Committees
- Be a signatory on company documents as required

PUBLIC OFFICER

The Australian Tax Office (ATO) requires companies (including not-for-profits) to appoint a Public Officer within three months of the entity commencing business or deriving income in Australia. The Public Officer is the person the ATO deals with in relation to the company's tax affairs, and therefore must understand the nature of the role. They must also be over 18 and ordinarily reside in Australia. The Public Officer can be, but does not have to be, a director.

The ASCT Board has nominated the CEO as the Public Officer for ASCT.

The ATO must be provided with the name and contact details of the Public Officer, and notified if the Public Officer changes.

SUCCESSION PLANNING

The directors are key decision-makers and leaders within ASCT. It is therefore essential that the Board is composed of appropriately skilled individuals that work together effectively, and that the Board is able to fill key leadership roles when there is turnover, whether planned or unplanned. This is the purpose of succession planning.

Succession planning involves the following steps undertaken on a cyclical basis:

1. The first step is to have in place:
    - A clear vision, purpose, set of values, and strategic plan
    - Well-defined roles and responsibilities for the Board as a whole, for office-holders and Board committees
    - An annual evaluation of Board functioning and effectiveness

    These documents and processes establish the framework for Board recruitment and development.
2. Secondly, identify the essential and desirable skills sets for the Board as a whole, and for key leadership positions. These should include "soft skills", such as communication, consensus building, leadership, and teamwork, as well as qualifications and experience.
3. Conduct an annual individual Board member skills audit against the skills sets identified.
4. Note the key leaders for whom successors need to be identified. This is likely to include the Chairperson, Treasurer, Company Secretary, sub-committee Chairs, and people who bring specific skill-sets to the Board, such as legal, Human Resources, or business expertise.
5. Through open dialogue amongst the Board, select potential internal successors for key leaders,

using the individual skills audit to assist in identifying the most suitable candidates.

6. Identify and engage with potential external successors if there are likely to be Board vacancies, or if there are particular gaps in skills/expertise that need to be filled
7. Work with potential successors (internal and external) to identify and plan relevant development activities. For example, this may include induction, training, access to information and resources, mentoring, or involvement in sub-committees and working groups.
8. Monitor progress regularly, and update succession plans as necessary

DIRECTORS' MEETINGS

FREQUENCY

Under ASCT's Constitution, the directors may decide how often, where and when they meet. The Board must meet sufficiently frequently to enable it to carry out its statutory duties and responsibilities.

It has been agreed that Board meetings will be held **each month.**

Other meetings may be arranged by the Board as required.

TIMING

At the current time, Board meetings start at 5.30pm and typically close at 7.30pm.

LOCATION

St Barnabas Church, 57-61 Mountain Street, Ultimo.

TECHNOLOGY

Under ASCT's Constitution Board meetings may be held by using technology (such as video or teleconferencing) if agreed to by all of the directors.

At the current time, there is a standing agreement to allow the use of technology within Board meetings.

ATTENDANCE AND ABSENCES

All Board members and the CEO are expected to attend Board meetings. Members of the Senior Management Team, external advisors, or guests may be invited to attend meetings, or parts of meetings, for a specific purpose.

A director must send an apology to the Chairperson for any meeting which they are unable to attend prior to the commencement of the meeting. As per the Constitution, if a director is **absent for two consecutive meetings without the approval of the directors, the director ceases to be a director (clause 30 e) of the Constitution).**

A record of Board member attendance for each meeting will be kept and reported in the Annual Report.

MEETING DATES FOR THE YEAR

The schedule of the upcoming Board and Board committee meetings for a twelve-month period is approved in advance.

Refer to current meeting schedule in the *Board Induction Pack.*

QUORUM

A quorum must be present for the whole of the Board meeting. Unless the Board decides otherwise, **the quorum for a Board meeting is a majority (more than 50%) of directors.**

DECISION-MAKING

The Board may decide on any matter which falls within its power. The Board acts as a whole, and all directors are ultimately responsible for the decisions made by the Board, whether they personally voted for that outcome or not. Therefore, it is essential that each director feels they can, in good conscience, support the decisions of the Board.

Behaviours that promote a healthy culture and effective decision-making are:

- A clear, concise and focused Board agenda, covering the right matters
- Board Papers delivered in good time and containing relevant, accessible information
- Appropriate analysis of issues, including, where needed, the input of senior managers, and/or team members, and/or external advisors with relevant topic expertise
- Board members have read Board papers and taken steps to understand the issues
- Meetings effectively chaired to encourage relevant questions, critical analysis, and respectful debate
- Differences of opinion respected and handled constructively
- Decisions reached in a timely manner
- Minutes that accurately record information and decisions
- Board decisions dealt with at Board meetings and not "in the lobby" or externally through private conversations

VOTING

A majority of votes by directors present and entitled to vote will decide questions arising at Board meetings. Each director has one vote on every occasion. This includes the Chairperson, who **does not** have a casting or determinative vote.

IN CAMERA DISCUSSIONS

In general, the CEO will be part of Board discussions. However, the Chairperson may direct any or all of the managers (including the CEO) to leave a meeting in order that Board discussions may take place in camera, if this is considered necessary and appropriate.

AGENDA

- The Company Secretary, in consultation with the Chair and the CEO, is responsible for preparing the agenda for each Board meeting.

- Any Director may request items or notices of motion be added to the agenda for upcoming meetings. This request should be made at least ten working days before the Board meeting to allow time to prepare and circulate the agenda and other Board papers one week prior to the Board meeting.

- All business to be discussed at a Board meeting must be included in the agenda. Additional items can only be tabled and discussed at a Board meeting at the discretion of the Chairperson.

- The agenda should include:
    - Time meeting opened
    - People present and apologies
    - Acceptance of minutes from previous meeting
    - Business arising from the minutes
    - Declaration of interests / declaration of conflict of interest
    - Reports
    - Correspondence
    - General business (indicating matters for discussion, decision, noting)
    - Meeting feedback and any other relevant items
    - Time meeting closed

The current Board Meeting Agenda Template is attached at Appendix 1.

PREPARATION AND CIRCULATION OF BOARD PAPERS

The Company Secretary or their delegate is responsible for the preparation and circulation of Board papers. Board members should receive the Board papers sufficiently in advance of the Board meeting to allow time for reading. This will be **at least one week prior to the meeting**, or longer if there is substantial reading.

The information provided in the Board papers must be adequate to support organisational monitoring, and informed decision-making. The Board decides the type and content of reports, information and analysis they wish to include in the Board papers.

Matters to be brought to the Board should be designated as either, “For Decision”, “For Discussion”, or “For Noting”, or by some other suitable notation which indicates the purpose of the information provided and required action.

The relevant manager may be invited to speak to aspects of the Board papers.

MINUTES AND RECORD-KEEPING

It is the company secretary's role to ensure that proper minutes are kept. Minutes of Board meetings and Board committee meetings must be recorded within one month of the meeting.

Minutes of Board and Board committee meetings should contain the following information:

- Those present
- Apologies
- Acceptance of previous minutes and any amendments to the minutes
- Any circular resolutions passed since the previous meeting (these must be minuted - see following section)
- Reports given
- Resolutions/recommendations
- Action required and by whom
- Any other relevant items

The minutes must be signed within a reasonable time after the meeting by:

- the chairperson of the meeting, or
- the chairperson of the next meeting.

OUT-OF-SESSION DECISION-MAKING BY CIRCULAR RESOLUTION

- An urgent decision that cannot wait until the next Board meeting may be dealt with by a written resolution out-of-session. In this case, written advice of the resolution will be circulated by e-mail to all Board members with a closing date for voting.
- Where a director has a conflict of interest concerning the matter being decided upon, this should be declared to the Chairperson and appropriate action taken, which may mean that the director is not entitled to vote on the matter (refer to Conflict of Interest Policy).
- **A circular resolution is passed if all the directors entitled to vote on the resolution agree to the resolution.**
- Directors can indicate their agreement to the resolution by sending a reply email to that effect, **including the text of the resolution in their reply**.
- Circular resolutions can also be agreed to by all directors signing a hard copy of the resolution, or each signing identical copies of the resolution.
- A circular resolution is passed when the last director signs or otherwise agrees to the resolution.
- The collated copies of written resolutions and/or email responses must be retained as a record of the decision, and the decision must be minuted at the next Board meeting.
- As out-of-session decision-making is only used to expedite urgent matters, directors are required to make every effort to vote on the resolution by the closing date.

ANNUAL GENERAL MEETING

In accordance with the Constitution and Corporations Act, an Annual General Meeting (AGM) must be held within 18 months of registration of the company, and then at least once in every calendar year.

In most cases the directors, members, and auditor must be given **21 days' notice of an AGM** (or any other general meeting). In some cases less than 21 days' notice can be given, but only if certain conditions are fulfilled (refer to clause 21 of the Constitution).

The agenda for the AGM should include:

- Chairperson's report
- Presentation of audited accounts and auditor's report
- Treasurer's report reviewing the company's finances
- CEO's report
- Election of directors
- Appointment of auditor (if applicable, see following section)
- Any other business that is appropriate to be discussed at a general meeting

It is a requirement of the ACNC Governance Standards that members are provided with adequate information about the company's activities and finances to ensure company accountability. To meet this requirement, members will be provided with a written Annual Report, audited accounts and auditor's report, either before or at the AGM. The Chairperson of the AGM must give members a reasonable opportunity at the meeting to ask questions or make comments about the management of the company.

APPOINTMENT OF THE AUDITOR

In accordance with the Corporations Act, the directors must **appoint an auditor within one month of ASCT being registered as a company.** The auditor holds office until the company's first AGM, where the appointment is confirmed by the members or another auditor is appointed.

The auditor is entitled to attend any general meeting and to be heard by the members on any part of the business of the meeting that concerns the auditor in the capacity of auditor. The auditor must be provided with any communication about a general meeting that the members are provided with.

The auditor holds office until either they resign, are removed by the company or cease to be able to act as an auditor. They do not need to be reappointed each year.

BOARD COMMITTEES

There are times when a Board committee (sometimes referred to as a sub-committee) can act more effectively than the full Board. The Board of ASCT may put in place standing committees or special purpose/impermanent committees for specific purposes and projects.

At the present time, ASCT has the following **standing** Board Committees:

- Finance Audit & Risk Sub-Committee

At the present time, ASCT has the following **special purpose/impermanent** Board Committees:

- Organisation Restructure Sub-committee

PRINCIPLES

Board committees will be established in line with ASCT's *Sub-Committee Purpose and Instruction Sheet,* in particular:

- There should be no more than 3 active committees at any one time
- The Board must endorse the composition and activity of each committee
- Committees may, from time to time, co-opt non-Board members to serve on a committee in order to bring specific skills and knowledge
- All committees must have terms of reference, endorsed by the Board, which include details about membership, function, roles, procedures, communication, reporting, and the boundaries of their authority
- Each committee must maintain minutes of each committee meeting, which will be made available at the next Board meeting, or earliest practicable Board meeting following the committee meeting
- Unless explicitly empowered by the full Board, committees cannot make binding Board decisions. For the most part, the function of committees is to solve problems for, and/or make recommendations to the Board, to enable the Board to make well-informed decisions. Even where decision-making is delegated to a committee, the Board still bears ultimate responsibility for the decision, and therefore Board members have a responsibility to be properly informed about the activities of Board committees.

NON-DELEGABLE POWERS

Some Board decisions must be made by the full Board, and cannot be delegated to a Board committee or employee. ASCT delegations are detailed in the *Delegation of Authority* provided with the Board Induction Pack.

RELATIONSHIP OF THE BOARD WITH MANAGEMENT

Management of the day to day business of ASCT is to be conducted by, or under the supervision of, the CEO, and by those to whom management functions have been delegated, as identified in the Delegation of Authority.

The CEO reports to the Board on a monthly basis and maintains regular contact with the Board Chairperson and the chairperson of any Board committees.

Communication between directors and other managers will be primarily through the CEO, unless otherwise agreed, for example, if a senior manager is a member of a Board sub-committee necessitating direct communication.

When directors are seeking information or clarification about ASCT's business, this may be sought directly from the appropriate senior manager, after consulting with the CEO (see *Information Seeking Protocols* below).

When directors are introducing external people to ASCT, this should always be through the CEO.

INDUCTION

The Chairperson is responsible for ensuring that all new Board members receive an induction at the commencement of their appointment to the Board.

The induction process includes:

- At least one face to face meeting with the Chairperson, or their delegate, to explain roles, responsibilities, governance procedures, and key documents; facilitate introductions; and answer any questions the new Board member may have.

- A *Board Induction Pack*, comprised of:
  - The Board Charter
  - The Constitution
  - The Strategic Plan
  - The Corporate Calendar
  - Delegations of Authority
  - Managing Conflicts of Interest – a Guide for Charity Board Members (ACNC)
  - Ethical Decision Making Framework (NCOSS)
  - ASCT's vision, values and mission
  - Organisational chart
  - Names, positions, and contact details of Board members
  - List of government funding for the current financial year
  - Description of ASCT's business activities
  - ASCT's history
  - Insurance arrangements and current insurance register
  - Access to key policy documents, including:
    - Financial Management
    - Risk Management
    - Conflict of Interest

- Completion and return by the Board member of any outstanding appointment-related documents including, but not limited to:
    - ASCT membership form
    - Signed consent to become a director and declaration of eligibility
    - Consent to a police check
    - Working with children check
    - Signed letter of appointment
    - Conflict of interest declarations
    - Signed Confidentiality Agreement
    - Signed Code of Conduct

An Induction Checklist will be used to guide the process, and demonstrate that the appropriate information has been received by the new Board member.

SKILLS AUDIT, EVALUATION, EDUCATION

SKILLS AUDIT

The Board will conduct a documented skills audit each year. The skills audit should be used to inform education activities, and succession planning. The format of the skills audit should be reviewed each year to ensure it reflects current organisational and governance requirements.

EVALUATION

The Board conducts an annual evaluation of its functioning and performance. The Board may engage an independent person to facilitate the evaluation process. Based on the evaluation outcomes, the Board develops an action plan each year to guide improvements.

EDUCATION

Directors have a duty to understand ASCT's business, remain up-to-date with changes in the sector and compliance requirements, and ensure they have the necessary skills and knowledge to carry out their governance role. As such, ongoing education of directors is an important part of good governance.

Education will be made available to directors based on individual, Board, and organisational needs. Director education will generally be funded by ASCT, unless otherwise agreed.

Education needs may be identified through a number of channels, such as:

- The induction process
- The Board Evaluation
- The Board Skills Audit
- Board meeting discussions
- Individual discussions with the Chairperson
- The CEO bringing new matters and/or education opportunities to the attention of the Board

DIRECTOR PROTECTION

ACCESS TO INFORMATION

Board members have a duty to exercise the degree of care, skill and diligence that a reasonable person would exercise. This means ensuring they have sufficient information to properly monitor the operations and performance of the organisation, comply with legal and regulatory obligations, and make sound decisions in the interests of the organisation.

Management must supply the Board with information in a format and timeframe, and to a standard, that enables Board members to discharge their duties effectively. Directors are entitled to request any information they consider necessary to support informed decision making.

The *Corporations Act* provides Directors with the right to inspect the organisation's books. As such, directors have access to all internal and external audits and auditors, Board papers, and financial and operational information. Access commences from the time they are appointed to the Board and ceases when they cease to be a Board member, unless there are circumstances in which it is reasonable to extend access, for example where there is a continuing legal action or complaints investigation that the Board member is involved with. In this case, the Board should extend access as appropriate.

The Board collectively, and each director, has the right to seek information from the company secretary and public officer to enable the Board and directors to carry out their responsibilities.

The directors have complete and open access to speak with managers. However correct protocol should be followed (see Information Seeking Protocols below).

RELIANCE ON INFORMATION

Under the Corporations Act, directors are entitled to rely on information and advice from others (such as from employees, advisors, and Board committees), after making an independent assessment of the information or advice, using their own knowledge skill and judgement. Directors must ensure that people providing information and advice are sufficiently qualified to do so.

A risk can arise where the CEO is the only conduit of information to the Board. This risk can be reduced by:

- Encouraging attendance at meetings of other managers both in person and as authors of reports
- Financial and risk management systems which incorporate checks and oversight by more than one person
- Written policies and systems that instruct employees to bypass intermediate managers in the event of suspected illegal activity or other serious concerns
- Internal audits focussing on key risk areas (such as financial, data, privacy, safety)

- The use of the external auditors
- Use of in camera discussions at Board meetings

INFORMATION SEEKING PROTOCOLS

When the Board or an individual director is seeking information as part of their governance role, the Information Seeking Protocol should be followed:

1. Discuss information requirements with the Board or Board Committee Chairperson prior to the next Board or committee meeting
2. After discussion, the Chairperson may either decide that the information is not required for governance purposes, or may agree to place the matter on the agenda for the next meeting, or, if urgent, may agree to initiate a circular resolution regarding the required information.
3. Unless the matter is decided by circular resolution, the Board or Board Committee will discuss the information request at the next meeting and decide on a course of action. The Board or Board Committee must be clear about what information is required, the purpose of seeking the information, whether it assists in their governance duties, and who they are seeking the information from. The Board or Board committee may choose to have this discussion with or without the CEO present. In general, the CEO should be present, unless there are compelling reasons to the contrary.
4. If it is agreed that the information is required, the CEO should be consulted (if they have not already been involved in the discussion). The CEO may provide the information or direct the relevant team member to provide the information.
5. If the information has not been provided within a reasonable timeframe, or without a reasonable excuse, the Board may write a letter to the CEO detailing the information that is required, the purpose of the information, and who the Board intends to approach in order to obtain the information.
6. Information obtained by a Board member in the course of their duties should be made available to all Board members.
7. If the Board, or an individual director, has reasonable grounds for concern, they are entitled to approach an employee directly for information. This is a last resort. Individual directors should generally not act alone. This step might be used, for example, if there are reasons to suspect illegal activities and consulting with other Board members may compromise investigations.

INDEPENDENT ADVICE

The Board has the authority to consult independent experts if the Board determines it is necessary to carry out its duties. The cost of consulting an independent expert will be borne by ASCT. Individual Board members do not have the authority to engage independent experts without the approval of the full Board.

The Board should develop a brief for the consultant which should state the nature of the advice/information sought, the reason for the advice/information, and the terms of reference. The estimated cost should be determined and approved by the Board prior to engagement.

The advice/information provided by experts/consultants must be made available to the full Board.

LIABILITY

Under the ACNC Act, Board members of registered charities may be personally liable for deliberate actions or omissions that breach the Act if they have acted dishonestly, with gross negligence or are reckless.

DIRECTOR'S INSURANCE

ASCT holds Association Liability (Professional Indemnity/Directors & Officers/Association Entity) insurance (refer to insurance register in the Board Induction Pack).

The policy covers / does not cover - include brief statement. In particular state the limits of cover, such as illegal activity and gross negligence.

Board members are encouraged to view the policy which can be obtained from the CEO.

CODE OF ETHICS AND CONDUCT

The Board operates most effectively if everyone is aware of what is expected of them. To clarify expectations, the following Code of Ethics and Conduct for Board members has been developed.

Board members agree to:

- Abide by the philosophy of ASCT
- Observe all the rules of ASCT including those specified in the constitution, the Corporations Act, the ACNC Act and Governance Standards, and any others set by the Board or the membership of ASCT
- Follow any policies and practices set down in the ASCT Policy and Practice Manual
- Attend monthly Board meetings whenever possible and if unable to attend to send apologies
- Not to act on ASCT matters without the consent of the Board, including the interference in the day to day operations of ASCT
- Adhere to all the accounting procedures of ASCT
- Represent ASCT in a positive way
- Not discuss confidential issues with people outside of ASCT or with team members or members of ASCT without the consent of the Board
- Follow grievance procedures set down in the Policy and Practice Manual to try to resolve any conflicts with team members or members of ASCT
- Not abuse, physically or verbally, team members or members of ASCT

If a member of the Board fails to abide by Code of Ethics and Conduct they may be liable to expulsion from the Board, as per the procedures set out in the constitution.

CONFIDENTIALITY AGREEMENT

Any personal information obtained by team members and Board members through their association with ASCT must be treated as confidential, except in special circumstances.

The information we gather about customers and potential customers will be kept secure and only used for the purpose for which it is gathered and with their consent.

The personal details and work history of team members will be kept secure and not discussed with anyone within the organisation who does not need to know and should not be passed on to anyone outside the organisation without the person's knowledge and consent.

Comments that Board members make during meetings and how they vote during meetings will not be discussed unnecessarily outside meetings.

Without limiting the broad scope of information that is regarded as "personal information" the following should be treated as confidential. This information should only be passed on when it is being used within the organisation for the purpose of providing services.

- Names and addresses of customers and team members
- Disabilities or special needs experienced by customers
- Health conditions experienced by customers Board members or team members
- Behaviour conditions experienced by customers
- Occupations or lifestyle of customers or team members
- Financial dealings or status of customers or team members
- Acquaintances or friends of customers or team members
- Religion/cultural background of customers or team members
- Customer complaints
- Personal details of team members or Board members
- Team member disciplinary appraisal or grievance procedures or outcomes.

Exceptions to Confidentiality

In the following circumstances personal information may be passed on to another person or organisation without the person's consent. Where:

- It is subpoenaed by a court or in connection with a police investigation
- It is reasonable to believe that the customer, or another person, may be at risk of harm
- It is reasonable to believe that a crime will take place or has taken place, including abuse, theft, assault or fraud

Signature: Name:

Date:

CONFLICT OF INTEREST

Board members have a duty to act in the best interests of ASCT. A conflict of interest occurs if a Board members' personal interests conflict with their responsibility to act in the best interests of ASCT. The term 'personal interests', does not need to be their own interest, but may also arise from the interests of their family, friends, or other organisations they are involved with. It also includes a conflict between their duty to ASCT and another duty that they may have, for example, to another charity. Conflicts of interest may be actual, potential, or perceived, financial or non-financial.

Conflicts of interest occur as a normal part of governance and management. What is important is how they are managed. ASCT's processes for managing conflicts of interest are detailed in the Conflict of Interest Policy (Appendix 3). The Conflict of Interest Policy complies with the ACNC Governance Standards.

The overall framework is as follows:

- A Register of Interests is maintained at all times and updated regularly. This helps to identify and avoid conflicts of interests.
- There are multiple processes to encourage disclosure and a system to record disclosures
- Once a conflict of interest has been identified, the Board members who do not have the conflict of interest decide how to manage the conflict, and record the decision in the Conflict of Interest Register. As a minimum this will involve the Board member(s) with the conflict not voting on, or influencing the decision. It may also involve not participating in, or being present for discussions on that matter.
- All Board members (and others in the organisation) are to be provided with information and education on managing conflicts of interest.
- Failure to comply with the Conflicts of Interest policy are taken seriously and may lead to disciplinary action.

I recommend using the template provided by ACNC in their "Managing Conflicts of Interest – a Guide for Charity Board Members" and providing the Guide within the induction pack.

ETHICAL DECISION MAKING

Governance and management roles inevitably require making decisions that have ethical components, some of which can be extremely complex. Whilst ethical considerations are not necessarily legal matters, there is a strong relationship between the legal and ethical responsibilities of directors and managers, as seen in the legal and common law duties of directors, and in the organisation's responsibilities to customers, team members and the wider community.

ASCT aims to establish and maintain a strong ethical culture. To this end, the Board has adopted a Code of Ethics and Conduct, and the Ethical Decision Making Framework developed by NCOSS (Appendix 4).