

# Not-for-Profit Officers, Directors and the Board

Course outline

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# Course Outline

The Not-for-Profit (**NFP**) sector operates within a complex legal and regulatory framework, which varies depending on a range of factors including whether the organisation:

- is incorporated, and if so, whether it is incorporated under state, territory or Commonwealth legislation
- is registered as a charity with the Australian Charities and Not-for-profits Commission (ACNC)
- operates in one state or territory of Australia, or multiple states or territories
- is eligible for Australian Taxation Office (ATO) tax exemptions or concessions
- engages in fundraising or charitable collections
- operates in a regulated service area such as education, health or aged care.

The duties of officers, directors and boards of NFP organisations are many and varied, depending on the entity type/legal structure, the jurisdiction (i.e. Commonwealth, state or territory) and the internal governance framework of the specific NFP organisation, as stipulated in its governing framework.

Other regulatory factors such as registration as a charity with the ACNC and taxation advice from the ATO or the applicable Office of State Revenue also impact the compliance obligations of NFP organisations and therefore the duties of officers and directors.

It is recommended that participants undertaking this course have a basic understanding of modern governance practice and procedures in Australia.

The **aim** of this course however is to discuss the role and responsibilities of NFP boards or management committees and to examine the legal duties of officers and directors of NFP organisations.

The **key objectives** are to:

- outline the role of the governance framework in defining the ethics and culture of an organisation, as well as the duties and responsibilities of officers, directors and the board of NFP organisations
- review the role and responsibilities of the board or management committee of NFP organisations
- examine the common law, equity and statutory duties that apply to officers and directors of NFP organisations
- appreciate the importance of the role and responsibilities of the board secretary in an NFP organisation
- provide an insight into the statutory duties of NFP organisations in relation to membership, meetings and minutes
- discuss topical issues affecting NFP boards such as the management of risk and conflicts of interests, strategic planning, and ethics and communication.

# Course content

## **1 Background to this course**

- 1.1 What is the aim of this course?

## **2 The role of the governance framework**

- 2.1 What is governance?
- 2.2 Ethics and culture
- 2.3 Defining duties and responsibilities of officers, directors and the board of NFP organisations

## **3 The role of the board or management committee**

- 3.1 Forming a board or management committee
- 3.2 Appointment or dismissal from a board or management committee
- 3.3 The role and responsibilities of the board
- 3.4 Board structure
- 3.5 Board committees
- 3.6 Director types
- 3.7 Board types
- 3.8 Board (directors') meetings
- 3.9 The board's responsibility for communication
- 3.10 Board performance assessment

## **4 Duties of officers and directors**

- 4.1 Who is an 'officer'? Who is a 'director'?
- 4.2 Sources of duties
- 4.3 Duties of officers and directors — common law, equity, Corporations Act and ACNC Act
- 4.4 Duties of officers and directors — the ACNC Act
- 4.5 Duties of officers and directors — ATO obligations
- 4.6 Duties of officers and directors — Fundraising
- 4.7 Insolvent trading
- 4.8 Regulatory reporting
- 4.9 Other statutory duties
- 4.10 Legal protection for officers and directors

## **5 Duties of the company secretary**

- 5.1 Who is a 'company secretary'?
- 5.2 Appointment and termination of the company secretary
- 5.3 Role of the company secretary
- 5.4 Duties of the secretary

5.5 Responsibilities of the secretary

## **6 Duties to members**

6.1 Membership categories

6.2 Eligibility requirements

6.3 Voting rights

6.4 Meetings of members

## **7 Topical issues**

7.1 Data and information

7.2 Competition

7.3 Technology

7.4 COVID-19

## **8 Conclusion**

## **9 Resources**

9.1 Legislation and regulators

9.2 Standards and guidelines

9.3 Governance Institute resources

9.4 Reference books

9.5 Reports and journal articles

9.6 Other resources

## **10 Appendices**

## **11 Readings**