

CHARTER OF BOARD GOVERNANCE

1.0 Introduction

Jobs South West Inc T/A JSW Training and Community Services (JSW) is a non profit community based charity governed by a Board of voluntary directors. The organisation was incorporated on 19th February 1998 following the merger of two community based organisations located in Bunbury. These organisations were South West Joblink Inc. (T/a WorkReady SW) and South West Employment Inc. (T/a South West Skillshare) JSW's history extends through these two organizations back to the late 1980's.

JSW's head office is in Bunbury where a large range of services are delivered; in addition there are full-time sites in Busselton, Margaret River and Fremantle with outreach services being delivered from Collie Brunswick, Bridgetown Manjimup and in community contexts throughout the region.

The organisation was incorporated under the Associations Incorporations Act (WA) 1987 and was automatically incorporated under the Associations Incorporation Act 2015 when it was introduced on July 1 2016. The Association's rules are required to be updated by 1 July 2019. Jobs South West Inc is recognised by the Australian Taxation Office as a Public Benevolent Institution.

The Incorporations Act 2015 and the Corporations Act 2001 provide the principle guidelines for management and governance of the organisation. These two pieces of legislation together with the organisation's Constitution provide the foundation for this Charter of Board Governance. This Charter acknowledges and documents the key duties and obligations incumbent upon the Board together with its directors and officers.

The Board and its officers have adopted this Charter and in so doing has agreed to abide by the principles and processes outlined in the document.

2.0 JSW's Core Values

The core values that underpin the role and aims of JSW's services and governance are outlined below:

- Maintaining universal courtesy, respect and dignity
- Providing ethical, caring and professional service
- Demonstrating flexible and inclusiveness in response to client's needs
- Promoting innovation and currency in service design and delivery
- Being transparent and accountable to our clients, communities and funding bodies
- Promoting collaborative dynamic teamwork

3.0 Mission and Vision Statement

JSW's mission and vision is:

"To make a positive difference to people's lives"

And

To deliver flexible and holistic community and training services to create opportunities for people by:

- Upholding social justice
- Demonstrating leadership to create and support innovation
- Developing partnerships
- Being responsive to regional needs
- Encouraging life-long learning

4.0 Board Structure

In accordance with the Constitution and the Associations Incorporations Act, the Board is comprised of the following

- Chairperson
- Deputy Chairperson
- Treasurer/Secretary
- At least three other voting members

Non voting positions are allocated to the CEO.

An AGM is held within 12 months of the previous AGM. At each AGM all positions become vacant for the purpose of Board elections. The new Board appoints the auditor the current financial year.

Directors serve in a voluntary capacity and are not remunerated.

5.0 Board Strategic Roles

The strategic roles of the Board are to:

- *Act as the organisation's ultimate leadership group;*

The Board's role is to provide leadership to the organisation as a whole. The CEO provides leadership to the staff;

- *Protect the organisation's long term future;*

The job of the Board is to protect the long term interests of the organisation. To this end the Board and its directors owe a first allegiance to the organisation, rather than to the various current stakeholders. The Board's main focus is on the future and to ensure a prosperous future for the organisation so that future as well as current stakeholders enjoy the benefits offered by the organisation.

- *Govern the organisation and delegate management functions to the CEO;*

Management of the organisation is vested in the hands of the CEO whilst the Board accepts governance responsibilities. Governance may be described as:

“The systems and processes used by the Board to set strategic direction, priorities, company policies and management performance expectations and to monitor and evaluate the achievement of these in order to exercise its accountabilities to the company and its stakeholders.”

Consequently, the Board has an active job and is concerned with both the past and the future whilst maintaining a separation of roles between itself and management.

- *Be accountable to its stakeholders, legal and moral;*

The Board's stakeholders comprise of its members (the legal stakeholders) and the community, including creditors (the moral stakeholders) The Board represents the interests of these stakeholders and is accountable to them.

- *Ensure adequate processes are in place to govern the organisation;*

The Board has a responsibility to set the future direction for the organisation as well as monitor current operations. Because the Board is responsible for employment of the CEO it is also responsible for providing a point of accountability for the CEO.

6.0 Key Board Responsibilities

The 5 key responsibilities of the Board are to:

Set strategic direction for the organisation as the basis for all further strategic and operational planning;

- Appoint the CEO;
- Develop policies to manage the risks faced by the organisation;
- Monitor and evaluate organisation and CEO effectiveness;
- Report to stakeholders and other key stakeholders on the successes or failures of the organisation and interpret the agency to the community;

7.0 Principles of Board / CEO Interaction

The key principles that guide the Board and CEO in their responsibilities to each other are as follows:

- 7.1 The Board has only one direct employee, the CEO. All other staff are employed and managed by the CEO;
- 7.2 The Board is responsible for establishing highest level policies, leaving subsequent policy development and implementation to the CEO. All Board authority delegated to staff is delegated through the CEO;
- 7.3 The CEO is authorised to make all decisions, take all actions and develop all activities, which are true to the Board's policies;

- 7.4 When the Board instructs the CEO through policies, including outcomes to be achieved, it speaks with one voice, i.e. every Board member is bound by the policy until such time as the Board agrees to change it;
- 7.5 The Board evaluates the CEO's success in achieving organisational outcomes, as defined in the strategic platform / strategic plan;
- 7.6 While policies are agreed and in place, the CEO is entitled to know that the Board will respect these as the basis for CEO decision making. When the board has established a policy, the policy means what it says. In other words, the CEO is assured of consistent interpretation of the policies by the board;
- 7.7 The CEO is expected to exercise reasonable judgement in the interpretation of the Board's policies and to act accordingly. Therefore, the CEO is allowed "any reasonable interpretation" of the board's policies in order to achieve the outcomes stated or implied in the policy or in other related policies. Having agreed its policies and granted the CEO this right, the Board agrees to stand behind the CEO's decisions;
- 7.8 The Board agrees that it will not give instructions to staff other than the CEO, nor will it evaluate the effectiveness of other staff;
- 7.9 The CEO is not denied the opportunity to use the skills and expertise of individual Board members in an advisory capacity, however such advice should not be interpreted as instruction. The CEO must be free to seek advice and also to reject this;
- 7.10 The CEO is held to account by the Board for the achievement of all operational outcomes. Given controllable circumstances, organisational performance equals CEO performance.
- 8.0 Legal Requirements of the Board and Directors

These requirements are applicable to directors and officers and generally relate to aspects of Duty of Care, insolvent trading and Conflict of Interest responsibilities to the organisation. General duties imposed by the Corporations Act on directors and officers of companies include the following:

8.1 Duty of Care

Each Board director has a duty of care to the organisation (Association) when exercising their powers and discharging their duties. This includes a requirement to exercise:

8.1.1 Care and Diligence

The extent of care and diligence should at least equal that which a reasonable person would exercise. In the course of making judgements directors and officers should:

- (i) Make judgements in good faith and for a proper purpose; and
- (ii) Not have a material personal interest in the subject matter of the judgement; and
- (iii) Inform themselves about the subject matter of the judgement to the extent they reasonably believe to be appropriate; and
- (iv) Rationally believe the judgement is in the best interests of the organisation.

8.1.2 Good Faith

Director's and officer's powers and duties should be exercised in good faith in the best interests of the organisation and for a proper purpose;

8.1.3 Proper Use of Position

A director or officer must not improperly use their position to:

- (i) Gain an advantage for themselves or someone else; or
- (ii) Cause detriment to the organisation.

8.1.4 Proper Use of Information Obtained by Directors in their Positions

A director or officer must not improperly use information to:

- (i) Gain an advantage for themselves or someone else; or
- (ii) Cause detriment to the organisation.

8.2 Duty to not trade while insolvent

As well as general directors' duties, you also have a positive duty to prevent your company trading if it is insolvent. A company is insolvent if it is unable to pay all its debts when they are due. This means that before you incur a new debt, you must consider whether you have reasonable grounds to suspect that the company is insolvent or will become insolvent as a result of incurring the debt.

An understanding of the financial position of your company only at the time you sign off on the yearly financial statements is insufficient. You need to be constantly aware of your company's financial position.

8.3 Conflict of Interest

Organisational policy governing this issue is as follows:

- (i) Directors must declare any personal interest in a matter falling within the scope of their service to the organisation, or any inconsistent obligation with a third party;
- (ii) All declared conflicts of interest shall be documented in a Conflicts of Interest Register and minuted at the first available Board meeting;
- (iii) A director may give standing notice of a conflict of interest at any time, whether or not the matter relates to the affairs of the organisation at the time the notice is given;
- (iv) Where a conflict of interest is identified and minuted, the Board member concerned shall not vote on that issue until the conflict of interest is removed. Only with the unanimous agreement of all other members present may the member concerned participate in any Board discussion on that topic. Failing such agreement being reached, the individual shall either refrain from participation or leave the room;
- (v) When the Chairperson is aware of a real or potential conflict of interest involving one or more Board members, the Chairperson must take whatever steps are necessary to ensure that the conflict is managed in an appropriate manner according to this policy;
- (vi) Individual Board members aware of a real or potential conflict of interest of another Board member, have a responsibility to bring this to the notice of the Board.

Examples of conflict of interest are:

- When a Board member or his / her immediate family or business interests, stands to gain financially from any business dealings, programmes or services of the organisation;
- When a Board member him or herself offers a professional service to the organisation;
- When a Board member stands to gain personally or professionally from any insider knowledge, if that knowledge is used to his or her personal or professional advantage.

8.4 Fiduciary Responsibilities

Directors fulfil a trustee role in regards to the legal and moral stakeholders of the organisation. This trustee role may be considered a fiduciary responsibility. Duties and legal requirements associated with this role are outlined above. Guidelines for directors executing these legal requirements are as follows:

- The standard of care is that which a reasonable person might expect to take on his own behalf.'
- A director is not required to exercise a greater skill than may reasonably be expected from a person with his/her knowledge and experience;
- A director is not bound to give continuous attention to the affairs of an organisation – recognising the intermittent nature of Board meetings and the directors duty to attend such meetings; and
- In the absence of grounds for suspicion, a director is justified in trusting and expecting other directors and officers to perform their duties diligently and honestly;
- Directors ought to take all positive steps to ensure they are properly informed about the business of the organisation and that they can satisfy themselves that it is being run properly.

8.3 Joint Liability

All directors are equally liable for actions and decisions taken by the Board.

Non – attendance at meetings in which a decision is made does not absolve a director from shared responsibility, accountability or liability for that decision.

9 Board Code of Ethics and Proper Practice

The Board's policy in regards to ethical conduct in all areas of its responsibilities and authority binds all its directors and officers. The policy is summarised as follows:

9.1 Directors

- 9.1.1 Shall act honestly and in good faith at all times in the interest of the organisation and its stakeholders, ensuring that all stakeholders, particularly those who are recipients of services, are treated in accordance with their rights;
- 9.1.2 Shall carry out their duties in a lawful manner and ensure that the organisation carries out its business in accordance with the law and the terms of its own constitution;
- 9.1.3 Shall avoid conflicts of interests in as far as this is possible. Where such conflicts arise, the director/s concerned must act within the terms of the Boards Conflict of Interests policy;
- 9.1.4 Shall be diligent, attend Board meetings and devote sufficient time to preparation for Board meetings to allow for full and appropriate participation in the Board's decision making;

- 9.1.5 Shall observe the confidentiality of non public information acquired by them in their role as directors and not disclose to any other person such information that might be harmful to the organisation;
- 9.1.6 Shall act in accordance with their fiduciary responsibilities recognising both the legal and moral duties of the role;
- 9.1.7 Shall interact with the Board and the organisation in a positive and constructive manner;
- 9.1.8 Shall be loyal to the Board, abiding by Board decisions once reached;
- 9.1.9 Shall not do anything that in any way denigrates the organisation or harms its good name;
- 9.2 The Board
 - 9.2.1 Shall meet regularly to monitor the performance of management and the organisation as a whole. To do this the Board will ensure that appropriate monitoring and reporting systems are in place and that these are maintained and utilised to provide accurate and timely information to the Board;
 - 9.2.2 Shall ensure that there is an appropriate separation of duties and responsibilities between itself and the CEO and that no one has unfettered powers of decision making;
 - 9.2.3 Shall ensure that the independent views of Board members are given due consideration and weight;
 - 9.2.4 Shall ensure that stakeholders are provided with an accurate and balanced view of the organisation's performance including both financial and service provision;
 - 9.2.5 Shall regularly review its own performance as the basis for its own development and quality assurance;
 - 9.2.6 Carry out its meetings in such a manner as to ensure fair and full participation of all Board members;
 - 9.2.7 Shall ensure that the organisation's assets are protected via a suitable risk management strategy.

10 Directors Indemnity Insurance

JSW holds a Management Liability Insurance policy that provides a level of protection to Board members in those instances where Board decisions and action have been taken with honest intent. The policy has a number of exclusions including insolvency. Compliance with the items outlined in Section 6 above will generally support director's and officer's claims of honest intent. The limit of liability covered by the policy is \$2,000,000.