Business Advocacy Network

Public policy dialogue & advocacy

Corporate governance & ethics

Contents

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1. Introduction

Business Membership Organisations (BMOs), trade unions and civil society engage in policy dialogue and advocacy to seek reforms that will lead to improvement in the investment climate.

Corporate governance and ethics have emerged as key drivers of organisational sustainability and success. As membership organisations, BMOs need to have strong corporate governance systems, structures and processes. In addition, they should have effective ethical standards that guide organisational practices and the behaviour of members and staff. This handbook is intended to provide guidance to BMOs to support the strengthening of corporate governance and ethics in their systems, structures and processes.

2. Learning objectives and outcomes

2.1 Learning objectives

The objectives of this handbook are to

- emphasise the value and need for corporate governance and ethics in BMOs' governance and management
- enhance knowledge and understanding of corporate governance and ethics
- enhance competence on how to integrate corporate governance and ethics in BMO governance and management

2.2 Learning outcomes

On completion of the handbook, it is expected that you will have:

- gained more awareness of the value and need for having strong corporate governance and ethics in your BMO
- increased your knowledge and understanding of corporate governance and ethics and how they apply to your organisation's governance processes
- learnt how to integrate corporate governance principles and processes in your BMO's governance and management processes
- gained knowledge on how to establish an ethics programme in the BMO.

3. Understanding corporate governance and ethics

The need for effective corporate governance and ethical standards applies to all organisations whether for profit or not-for-profit. Organisations need a form of governance to direct and control the organization. At the same time, organisations need core ethical standards to guide its business and operational practices. Whereas corporate governance and ethics are considered as distinct concepts in this handbook, they are to a large extent interrelated. Good corporate governance includes integration of ethical practices. It espouses an organisation's values and ethics. Ethical practices in an organisation safeguard corporate governance systems and processes.

Although there is no single definition of corporate governance, there are several definitions that provide a good description of its meaning.

Tricker (2015: 4) defines corporate governance as "the way power is exercised over corporate entities. It covers the activities of the board, and its relationship with the shareholders or members, and those managing the enterprise, as well as with the external auditors, regulators and other legitimate stakeholders". Larker and Tayan (2016: 7) define corporate governance as the "collection of control mechanisms that an organisation adopts to prevent or dissuade potentially self-interested managers from engaging in activities detrimental to the welfare of shareholders".

The Cadbury Report (1992, part 2.5) defines corporate governance as "the system by which companies are directed and controlled". Corporate governance deals with management of relationships between different organisational structures and core stakeholders. Corporate governance "involves a set of relationships between company's management, its board, its shareholders and other stakeholders. Corporate governance also provides the structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performance are determined" OECD (2015: 9).

From the definitions, corporate governance may be viewed as

- set up of organisational structures i.e. what bodies are formed to govern and manage the organisation
- management of relationships among the organisation's internal and external stakeholders
- management and control of the organisation's operations and procedures
- oversight over organisational performance
- distribution of rights and responsibilities within an organisation, IFC (2010: 7)
- management of organisational affairs for purposes of compliance with statutory obligations.

Ethics "is a set of principles or standards of human conduct that govern the behaviour of individuals or organisations. Ethics can be defined as the discipline dealing with moral duties and obligation, and explanation of what is good or not good for others or for us", Nainawat & Meena (2013: 1086). Ethics or business ethics define the boundaries of organisations in terms of conduct or behaviour of those involved in management or governance whether acting in individual capacity or on behalf of the organisation. Adda *et al*. (2016: 27) observe that ethics are "codes of values and principles that govern the action of a person or a group of people regarding what is right versus what is wrong……ethics sets standards as to what is good or bad in organisational conduct and decision making".

Corporate governance and ethics are normally codified in laws governing establishment of business entities such as the Companies Act and the Societies Act; in laws regulating sectors such as the Banking Act, the Civil Aviation Act and the Information and Communication Act; laws governing specific behaviour such as the Bribery Act and Competition Act; and tax related laws. These laws stipulate expected conduct and behaviour of organisations in regard to matters such as governing bodies and transparency and accountability. In addition, individual business entities have adopted codes of corporate governance and codes of ethics to govern their internal and external corporate relations and conduct.

4. Importance of corporate governance and ethics

Whilst there are legal obligations with which organisations need to comply in relation to corporate governance and ethical standards, there are also benefits for BMOs which adopt good corporate governance practices and ethics in their governance and management system. These include:

- The organisation gains credibility with key stakeholders such as government, development partners, employees, suppliers and potential members
- Improvement in organisational effectiveness and performance
- Avoidance of sanctions due non-compliance with statutory requirements
- Increasing organisational sustainability
- Enhancing organisational value
- Reducing conflicts in the organisation
- Enhancing trust among the organisation's stakeholders
- Increasing the organisation's respect among peers
- Reducing the probability of loss of the organisation's resources through misappropriation or embezzlement
- Attracting and retaining good staff since good corporate governance and ethical practices positively contribute to the way organisations are viewed as employers.

5. Characteristics of good corporate governance

Good corporate governance integrates management of processes, relationships within the organization and with external stakeholders including society. The King Report of Corporate Governance in South Africa II (King II, Institute of Directors in Southern Africa, 2002: 11-12) describes the characteristics of good corporate governance as outlined in the table below.

Characteristics of good corporate governance

1. Discipline

Corporate discipline is a commitment by a company's *(BMOs) board* and senior management to adhere to behaviour that is universally recognised and accepted to be correct and proper. This encompasses a company's awareness of, and commitment to, the underlying principles of good governance, particularly at board and senior management level. Discipline includes commitment codifying corporate governance principles into standards and policies to guide the organisation

2. Transparency

Transparency is the ease with which an outsider is able to make meaningful analysis of a company's (BMOs) actions, its economic fundamentals and the non-financial aspects pertinent to that business. This is a measure of how good management is at making necessary information available in a candid, accurate and timely manner- not only the audit data but also general reports and press releases.

3. Independence

Independence is the extent to which mechanisms have been put in place to minimise or avoid potential conflicts of interest that may exists, such as dominance by a strong chief executive or large shareowner (or large member the case of BMO). The mechanisms range from the composition of the board, to appointments to committees of the board, and external parties such as the auditors. The decisions made, and internal processes established, should be objective and not allow for undue influence.

4. Accountability

Individuals or groups in a company, who make decisions and take actions on specific issues, need to be accountable for their decisions and actions. Mechanisms must exist and be effective to allow for accountability. These provide [the members of the BMO] with the means to query and assess the actions of the board and its committees.

5. Responsibility

With regard to management, responsibility pertains to behaviour that allows for corrective action and for penalising mismanagement. Responsible management would, when necessary, put in place what it would take to set the company on the right path. While the Board is accountable to the company, it must act responsively to and with responsibility towards all stakeholders of the company.

6. Fairness

The systems that exist within the company must be balanced in taking into account all those that have interest in the company and its future. The rights of various groups have to be acknowledged and respected.

7. Social responsibility

A well-managed company will be aware of, and respond to, social issues, placing a high priority on ethical standards. A good corporate citizen is increasingly seen as one that is non-discriminatory, non-exploitative, and responsible with regard to environmental and human right issues. A company is likely to experience indirect economic benefits such as improved productivity and corporate reputation by taking those factors into consideration.

6. Corporate governance: Organisation's membership

6.1 Role of members

For a membership organisation, such as a BMO, the members are the owners of the organisation. They are the custodians of the organisation's vision and mission. Under the principal-agent theory of governance, members as the principal delegate powers to govern and manage the organisation to the board which is the agent. The board is required to account to the members on the performance of the organisation. The annual general meeting is the main structure through which members convene and exercise their power to govern and discharge their mandate. Members exercise their mandate through (i) electing a board of directors, (ii) approving the organisation's budget, (iii) considering and approving audited accounts and appointing the external auditor, (iv) approving compensation if any for directors, and (v) considering the organisation's strategy. To enhance corporate governance, the following should be considered:

- Annual general meetings should be held every year
- The board should keep members consistently and comprehensively informed about all matters related to the organisation
- Members should elect directors who have demonstrated dedication to the organisation and emphasise its welfare, growth and development
- Members should maintain oversight over and support to the board and the organisation
- Members should give time, funding, and support as required
- Members should maintain an effective dispute resolution mechanism and should seek to strengthen the organisation in so far as they are able

6.2 Reporting on corporate governance

It is good practice for the management and board committees to report regularly to the board on progress and improvement in corporate governance. In addition, the board should include a report on corporate governance in its annual report. This should include issues such as a summary of the board composition, qualifications, skills and experience of board members; board committees and membership; any independent evaluation of the board's activities; performance of board, improvements in corporate governance systems, attendance at board and committee meetings and board remuneration among others.

7. Corporate governance: Board and directors

7.1 Role of the board

The board of directors or board of management is the main structure in an organisation that directs and controls the day-to-day organisational processes. Some organisations especially non-profit may refer to the board as governing council or council. The board of directors plays a leading and pivotal role in the organisation's corporate governance as it operates between the members (to whom it is accountable) and management (who it supervises). It should be properly constituted and effective in providing corporate leadership.

There are several aspects of the board that form the basis of the board's role in corporate governance. These are duties or responsibilities of the board, independence of the board, operations of the board or board work processes, selection and removal of board members, remuneration of board members, board structure and directors' term limits.

7.2 Duties or responsibilities of the board

According to the Financial Reporting Council (2016: 7), "every company should be headed by an effective board which is collectively responsible for the long-term success of the company". The board in principle has dual roles: advisory and oversight. The board has the following duties or responsibilities in promoting corporate governance:

- establishing the organisation's direction by determining the organisation's purpose, vision, values and objectives
- defining or formulating a strategy to deliver the company's purpose and implementation of values
- formulating policies, plans and procedures for guiding the organisational processes. These are instrumental when the board is evaluating management's performance
- establishing a performance management system
- monitoring and evaluating the implementation of the strategy, policies and plans and management performance
- ensuring compliance with the code of ethics and implementation of the ethics programme where it has been established
- ensuring compliance with relevant laws
- risk management including audit
- financial management
- strategic transactions such as mergers and major investments
- recruitment of the CEO, setting performance targets and assessing the CEO's performance. This may include recruitment of top-level management that is directly in charge of implementing the organisation's strategy
- human capital development
- promoting organisational culture
- management of external relations
- accounting to the membership (owners) on the performance of the organisation

Despite clarity on duties of the board, a board has to provide necessary leadership, be prudent and diligent in decision-making and focus on being effective in discharging its mandate. A board should establish a policy on reserve powers, which stipulates the specific duties or functions that are purely reserved for the board, and those duties that the board delegates to management while retaining oversight role. Useem, Carey & Charan (2014: 22) describes leadership decisions that a board must make in relation to its mandate i.e. when to take charge, when to partner, when to monitor or when to stay out of the way.

Leadership decisions	
When to take charge ▪ central idea (corporate strategy & purpose for existence) ▪ selection of the chief executive officer ▪ board competence, architecture, and modus operandi ▪ ethics and integrity ▪ compensation architecture	**When to partner** ▪ strategy, capital allocation ▪ financial goals, shareholder (members) value, stakeholder (members) balance ▪ risk appetite (management) ▪ resource allocation talent development ▪ culture of decisiveness
When to monitor ▪ creation of owners' (*members'*) value	**When to stay out of the way** ▪ execution ▪ operations ▪ areas of delegated authority ▪ non-strategic decisions ▪ excluded by board charter

7.3 Independence of the board and directors

To be effective, the board and board members should be independent in terms of decision-making. The directors have two primary duties in the discharge of their roles. First, directors have a fiduciary duty or duty of trust. They are required to act with integrity and honesty, in good faith and fairness for the benefit of the members who are the owners and principal. They should make all decisions in the best interest of the members and not their personal benefits. Second, directors have a duty of care, which requires directors to make decisions with care, skill, and diligence. Each director is expected to apply their respective professional skills and experience in making decisions.

The board should be independent from external influence when making decisions. It should at all times make decisions that are in the interest of the organisation. It should avoid making decisions that are influenced by political parties, politicians, government officials and other external interested parties such as suppliers. Directors should be free from conflict of interest while carrying out their duties and should act in the interest of the organisation (Larker and Tayan 2016: 58). In addition, the directors should make decisions free from influence of the management even where the directors have close relationship with management.

The board should establish a conflict of interest policy to govern directors and management. Directors and management should sign and commit to comply with the conflict of interest policy. The policy should among others stipulate the regulation of matters such as directors or their close associate doing business with the organisation, and participation of directors on decisions where they may have interests or may not exercise independent judgement.

7.4 Board composition and structure

Board composition and structure deals with attributes such as size, inclusion and integration (including geographic) of directors' representation, professional mix and experience and board committees among others.

The size of the board is normally determined in the constitutive document such as Memorandum and Articles of Association or the Constitution. The size of the board should not be too large to make deliberations impractical or too small to make the board ineffective due to lack of quorum or participation in board committees. The number of the board members should be an odd number. Ideally, the number should be between 9 and 13 members although the number could be 15 for a nationwide membership representative organisation like a BMO. The board should consist of independent directors (i.e. BMO members, other appointed professionals), the CEO and designated senior management.

The membership should have gender balance and should reflect the diverse composition of the membership including ethnicity, geography, business size, sector etc. It is important also to have a mix of skills and experience. Where the BMO finds it necessary to include other professional skills not available through the ordinary election process, the BMO may provide for the co-option of board members.

7.5 Board committees

Some boards, particularly of larger or more complex organisations, may want to delegate some of the work to specialist committees both to reduce the workload of the full board but also as a way of involving more people. Each board committee should have terms of reference to guide its functions. The committees may be *ad hoc* or standing depending on the board function or issue under consideration. Standing committees mainly deal with specific core board functions, especially oversight functions, such as an audit or finance committee. *Ad hoc* committees mainly deal with emerging issues that require a smaller board team to consider. Membership of the various committees should be based on directors' qualifications, expertise and capacity to add value to the committee. The committees regularly report to the full board. Possible standing committees include:

- **Audit committee** which oversees the organisation's internal and external audits and deals with the auditor, financial reporting, monitoring the choice of financial policies and principles, overseeing the hiring, performance and independence of the auditor, overseeing regulatory compliance, ethics and whistle-blower policy, monitoring internal control processes, overseeing performance of the internal audit function and engaging with management on financial and non-financial risk management policy and practices.
- **Finance committee** which oversees financial management, budget preparation and execution, finance policy and procurement policy. Small organisations often combine the finance and audit committee functions.
- **Governance, ethics and compliance committee** which is responsible for developing and evaluating corporate governance and ethics structures,

systems and standards, identifying qualified individuals to serve on the board or managing director selection or election process, overseeing the organisation's compliance with regulatory framework, managing board evaluation process and organisation's governance audits.

- **Human resources committee** which is responsible for overseeing human resources management and development, setting board compensation and compensation for the CEO and senior officers, setting and reviewing the performance goals and targets of the CEO and managing succession planning.

Board committees engage with management issues at a deeper level. They should prepare detailed, concise and analytical reports to for Board for consideration. Ordinarily, board reports should consist of outcome and proposals arising from deliberations by the committees. Board committees should be proactive in their engagement on issues. They should proactively request for critical information to facilitate decision making as opposed to only relying on the information provided by the management.

7.6 Appointment, term limits and removal of directors

The process selection or election of directors is normally stipulated in the main constitutive document. The following matters should be taken into consideration when selecting or electing directors:

- the process should be rigorous, open and transparent.
- selection should be inclusive and should take into consideration gender, ethnic and geographical inclusion.
- consideration should be given to qualifications, knowledge and expertise on matters related to the organisation's vision, mission and strategy.
- there should be no malpractices such as bribery and other election irregularities. There should be a policy barring any member who engages in irregularities from being elected to the board.
- some of the criteria to be followed in electing or selecting a director include: availability for service in the board and organisation, team player (not a divisive person), qualifications, experience and skills), duration that the person has been a member of the organisation, commitment to the purpose, vision and mission of the organisation and corporate ethics.

The term limit of directors varies with different organizations. Some organisations have one-year terms, others two-year terms while others have three-year terms. In addition, it is has become a common practice to limit the maximum number of terms or years a director can serve without taking a break from the board. A two-term limit has become a common practice which has been embraced even in the public sector. Setting this kind of limit ensures that there is perpetuity in the organisation, board performance is enhanced as new directors bring in new perspectives and minimise entrenchment of personalised interests. Once a director has served the final term, the director would be expected to stay out of the board for a specified time e.g. two years before being eligible for election.

Ordinarily, directors are expected to serve their full term. The circumstances for removal of directors from the board or for a director to cease to be a board member will be described in the constitutive document. Reasons for removal include lack of consistency in attending board meetings, breaching the code of ethics and other organisational policies. The governance committee should handle the process of removing a director.

7.7 Professional development of directors

A formal process of professional development will help to ensure that directors contribute effectively. Professional development should commence with the formal induction of new directors to orient them with the organisation's operations, structures, plans, programmes, staff, and the environment within which the organisation is operating and board functions. Subsequently, the board should organise scheduled training and capacity building programmes that build their skills and knowledge on diverse corporate governance technical issues related to the purpose of the organisation. In addition, the board should establish a mentorship programme for directors who may not be experienced in board matters. Mentorship and professional development may also be informal for certain aspects with the guidance of the chairperson of the board of human resources management committee.

7.8 Remuneration of directors

Directors may be paid fees for attending board meetings. The remuneration should be set by the human resources management committee and approved by the board and the members. Remuneration of directors should be based on the financial capacity of the organisation. An organisation should prepare a budget for the remuneration of directors to ensure prudent financial management. The board should ensure that there is a limit to the number of meetings that can be held by directors so as to put a cap on financial cost for board services. Alternatively, many organisations simply agree an annual fee, and expect the director to participate in a minimum number of board meetings and committee meetings.

In many not for profit organisations, directors give their time pro bono and do not receive fees, though it would still be reasonable for travel costs for meetings to be reimbursed.

7.9 Operations of the board or board work processes

Effective board performance depends on the effective management of key work processes. Roland and Hardin (2006: 84) describe three core board processes that drive board performance, which are information management, agenda and meetings management and executive session management.

7.9.1 Information management

Access to the right information in the appropriate quality and in the right manner enables the board to make informed decisions. Roland and Hardin (2006: 87) identify challenges faced by boards in regard to information management as well as proposed solutions.

Problem	Solution
▪ Excessive quantity and inferior quality of information ▪ Narrow focus on raw data ▪ Too much technical details	A streamlined combination of information and raw data ▪ Summaries of the big issue ▪ Highlights containing most important facts ▪ Detailed appendices with supporting data
▪ Limited focus ▪ A heavy emphasis on financial and operations material	Information that gives a broad context and deeper understanding of company's potential risks, opportunities and challenges ▪ Information on strategic issues ▪ Details about market place, strategic issues, investor (*BMO*) bases ▪ Report on internal issues such as culture, compliance, talent development ▪ Timely update on new technologies, market trends
▪ Reliance on management for information the board needs to monitor management's performance ▪ A heavy emphasis on financial and operations material	An independent source – the board leadership to manage the information flow ▪ Sharing the responsibility with management ▪ Gaining a clear understanding of what the board wants ▪ Enhancing the management package through meetings with internal and external experts, company site visits

7.9.2 Agenda and meetings management

The agenda for meetings determines the comprehensiveness, relevance and quality of deliberations during board meetings. In addition, the board meeting is the main avenue for corporate decision making by the board. Roland and Hardin (2006: 95-100) identify some challenges and solutions related to agenda and management of board meetings.

Problem	Solution
▪ CEO's or chairman's control of the agenda ▪ Overloading the agenda with too many issues ▪ Papers sent to directors just before the meeting	▪ Sharing the process of setting the agenda between board and management ▪ The agenda should ensure that the board is discussing the right stuff ▪ Ensure right combination of people determine which issues will be raised, how much time is appropriate and how best to use the time ▪ The chairperson should ensure that the agenda speaks to the right issues that will enable the board to discharge its mandate ▪ The chairperson may engage with each director to identify core issues to be included in the agenda ▪ A draft agenda should be circulated to directors for comments and input before finalisation

▪ Limited time to discuss strategy ▪ Poor prioritisation of discussion topics ▪ Rushing through discussion of core topics during meetings	▪ Board should set a limit of the scheduled meetings e.g. quarterly ▪ Board should set an annual agenda for discussing core topics throughout the year and detailed agenda for each board meeting ▪ Board committee chairs discuss the topics to be covered ▪ Adequate time should be allocated for each topic ▪ Topics for discussion during the meetings should placed in the order of priority with core priority issues taking precedence ▪ The board should organise at least one board retreat annually to discuss in detail topics that cannot be adequately handled during ordinary meetings

7.9.3 Executive session management

Executive sessions are meetings of the directors without the CEO or any representative of management. They are held to enable the directors to assess critically the organisation and build consensus on strategic leadership. They provide a level of open discussion on the direction the organisation is taking and provide peer review and accountability for the directors. To maximise on the value of a session, they should be organised with the knowledge of the CEO, held before or after board meetings and feedback or decisions of the meetings communicated to the CEO by the chairperson after the session.

7.10 Succession planning

The board should have in place a succession planning policy for directors, CEO and senior management. This would ensure the organisation's sustainability and performance. Succession planning should include identification of potential persons who may join the board or management, professional development for staff and mentorship for leadership. The board should continuously be developing leadership capacity for organisation members to ensure availability of pool of members who can serve as directors.

7.11 Board core values and norms

In order for the board to be effective, the board should inculcate certain core values and norms especially in relation to leadership and board work processes. Nadler (2006: 113) describes some guiding values and norms.

Values & norms	Description of values and norms
Independence and integrity	▪ **Spirit of inquiry**: Does not accept management position at face value, pursues truth by digging below the surface. ▪ **Constructive dissent**: resists pressure to act as a rubber stamp and conform to "group think". ▪ **Search for relevant facts**: demands complete and credible material, looks beyond management for information sources.

Openness	▪ **Candid sharing of opinions:** Takes part in animated discussions, encourages debate. ▪ **Board participation:** Discourages domination of discussions, conducts real business only when everyone is present. ▪ **Respect for common sense and intuition:** Trusts personal instincts, not afraid to ask the "stupid question".	
Accountability	▪ **Shared leadership and responsibility:** Agrees that all directors have equal responsibility to shareholders or members; shares the heavy lifting. ▪ **Self management:** Accepts responsibility for managing personal behaviour, speaks up, and is fully prepared. ▪ **Peer management:** Helps shape behaviour of peers, raises issues, and intervenes when appropriate.	
Action orientation	▪ **Rules for resolving conflict:** Encourages guidelines that help lead to consensus and prevent deadlocks. ▪ **Development of collective "intuition":** is diligent about helping the board develop its own form of collective intuition about the organisation. ▪ **Focus on priorities:** Actively manages agenda to ensure that appropriate time is spent on the most important issues.	
Mutual trust and respect	▪ **Confidentiality inside the room, solidarity outside the room:** Fosters mutual respect and trust between directors. ▪ **Respect for expertise and diverse opinions:** Respects what new voices bring and pays attention to them. ▪ **Active and respectful listening**: Listens when other directors talk, expects them to do the same.	

Shaping and building the culture based on the above values and norms takes time and requires high commitment from the board leadership. One of the best ways is for the board to adopt an incremental process of change management.

7.12 Board leadership

Board leadership plays a significant role in organisational success. The chairperson of the board of directors plays the leadership role in the board as well as the organisation. The chairperson shoulders the responsibility of leading the board through providing in guidance, direction, support and to an extent mentorship to other board members and the CEO. Tricker (2015: 347-351) outlines the functions of the chairperson of the board of directors as:

Leadership of the board: providing overall leadership of the board, setting direction in terms of board activities including annual board work plan, actively participating in selection of board members and overseeing succession planning of board members, CEO and senior management, ensuring induction of new directors including the CEO, ensuring director training and development, ensuring effective performance of board committees, ensuring compliance with policies and procedures and initiating board evaluation.

Management of meetings: guiding preparation of agenda of board and company meetings, chairing and managing meetings of the board and company, ensuring effectiveness of board meetings including director participation and ensuring proper preparation for board meetings.

Strategic leadership: Ensuring board and the organisation are following the organisation's strategy, overseeing strategy and policy development, managing crisis affecting the organization and ensuring sustainable organisational performance.

Linking the board and management: Working with CEO and management to effect organisational strategy, providing strategic advice to management on strategic issues including implementation of board decisions and guiding the board in creating objective relationship with management.

Arbitration between board members and others: resolving disputes among board members, between board and management and among members, responding to grievances raised by organisational members.

Being the public face of the organisation: representing the board and the company to external stakeholders (sharing responsibility with the CEO) such as media, partner organisations, government and development partners.

7.13 Certified Secretary

Large companies may be obliged to utilise a certified secretary (Certified Public Secretary). Smaller organisations, whilst not required, may choose to do so to enhance their credibility. Depending on the size of the organisation, a certified secretary may be an employee or a third-party individual retained to provide services as need arises or as a long term outsourced service. A certified secretary will provide essential corporate governance support to the organisation. The board should issue comprehensive terms of reference to the certified secretary and undertake evaluation of the services on an annual basis.

7.14 Board charter

Every board should have a board charter to enhance its effectiveness and efficiency. A board charter is a document that provides for governance and management of the board. It acts as the board's job description. The charter provides for matters such as functions of the board, board work processes, role of directors, meetings and management of meetings, decision-making process of the board, organisation's decisions reserved for only for the board (reserve powers), recruitment of board members and succession planning and relationship between the board and management among others. The board charter enables the board to have a reference point in terms of board policies and procedures.

7.15 Board evaluation and review

Board evaluation or review is the process of assessing the performance of the board, board committees and individual directors vis-à-vis the organisation's mission, purpose and strategy. The UK Corporate Governance Code describes two principles of board evaluation i.e. the board:

- should undertake a formal and rigorous annual evaluation of its own performance and that of its committees and individual directors.
- should state in the annual report how the performance evaluation of the board, its committees and its individual directors has been conducted.

Board evaluation is ideally conducted after three years. However, a board may undertake an internal or external review annually to assess progress made in performance of its mandate for that year. The governance committee should lead the process of board evaluation. Board evaluation or review entails assessment of the following among others (Tricker 2015: 443): review of the governance structure, the board structure, profile of the board members (professional background, length of appointment, balance of skills and experience, and roles), board work processes, board performance in terms of efficiency and effectiveness and individual director's performance. The outcome of board evaluation or review is development of strategy for board development and action plan.

8. Principles of corporate or business ethics

Corporate or business ethics provide a framework for determination of what is the right behaviour or practices that should govern internal and external relationships. The standard for determining the right behaviour is the globally acceptable ethical principles and standards. In order to enhance corporate integrity, an organisation should have in place standards for governing ethical behaviour. Paine *et al.* (2005) describe the Global Business Standards Codex in the form of eight ethical principles that should guide an organisation's practices:

- **Fiduciary**: Act as a fiduciary for the company and its investors (and members in the case of BMOs). Carry out the company's business in a diligent and loyal manner, with the degree of candour expected of a trustee.
- **Property**: Respect property and the rights of those who own it. Refrain from theft and misappropriation, avoid waste, and safeguard property entrusted to you.
- **Reliability**: honour commitments. Be faithful to your word and follow through on promises, agreements, and other voluntary undertakings, whether or not embodied in legally enforceable contracts.
- **Transparency**: Conduct business in a truthful and open manner. Refrain from deceptive acts and practices, keep accurate records, and make timely disclosures of material information while respecting obligations of confidentiality and privacy.
- **Dignity**: Respect dignity of all people. Protect the health, safety, privacy, and human rights of others; refrain from coercion; and adopt practices that enhance human development in the workplace, the market place and the community.
- **Fairness**: Engage free and fair competition, deal with all parties fairly and equitably, and practice non-discrimination in employment and contracting.
- **Citizenship**: Act as responsible citizens of the community. Respect the law, protect public goods, cooperate with public authorities, avoid improper

involvement in politics and government, and contribute to community betterment.

- **Responsive**: Engage with parties who may have legitimate claims and concerns relating to the company's activities, and be responsive to public needs while recognising the government's role and jurisdiction in protecting public interest.

These principles should be integrated as standards into the organisation's policies and code of ethics.

9. Corporate or business ethics programme

The benefits of adopting corporate ethics by a BMO include:

- reducing risks associated with unethical practices e.g. theft of the organisation's funds and assets
- safeguarding organisational integrity which is necessary for corporate reputation
- enhancing value for money in the organisation's business transactions by eliminating unethical practices such as bribery and kickbacks
- improving organisational performance through recruitment of staff by merit and not nepotism and patronage
- enhancing strategic decision making through effective management of conflict of interest
- safeguarding members' interests and effectively managing member relations

For an organisation to promote and facilitate business or corporate ethics, it is important to establish a business ethics program. A business ethics program "provides enterprise employees and agents with the guidance and information they need for effective, efficient, and responsible choices and actions" (US Department of Commerce 2004: 53). The US Department of Commerce identifies nine structural components of a business ethics program that integrate well with the above eight ethical principles.

Structural components of corporate or business ethics programme

- Standards and procedures to guide behaviour and foster reasonable stakeholder expectations.
- Adequate structures and systems that provide for authority, accountability and sustainability.
- Communication of standards, procedures and expectations to the members.
- Programs that monitor and audit member conduct
- Encouragement of members to seek advice and report concerns.
- Due diligence in hiring, especially for sensitive positions in, for example management, finance and contracting.
- Encouragement of members to follow standards and procedures.
- Appropriate responses when standards and procedures are violated.
- Regular evaluations of program effectiveness.

For better implementation and compliance, the standards for ethical behaviour should be written down in a code of ethics. A code of ethics may also be described as code of conduct or a declaration of business principles. The purpose of a code of ethics to set standards of what is morally acceptable in the organisation to guide decision making at all levels.

Steps for establishing corporate or business ethics programme in the BMO

- Ensure there is buy-in, concurrence and commitment among the members, board and senior management about the need and importance of establishing an ethics programme
- Build consensus among the BMO members, board of directors and management on the orientation or nature of the ethics programme i.e. integration of
  - compliance-based approach which focuses on preventing, detecting and punishing violations of the ethical standards and code as well as legal requirements
  - value-based approach which focuses on defining organisational values and encourage members, board and employee commitment to ethical aspirations
  - satisfying external stakeholders which focuses on maintaining and improving public image, reputation and relations with external stakeholders
- Establish a working group to spearhead the process of developing the programme. The working group could consist of a board member and senior management or management which would prepare the draft papers for consideration by the board
- Undertake an ethics review or assessment to establish where the BMO stands in regard to establishing and maintaining ethical external and internal ethics context including application ethical standards and processes.
- Define the goals, objectives and expected outcomes of the programme
- Describe how the ethics programme will be integrated with organisation's core beliefs and culture, the organisation's systems, policies and practices, address leadership priorities and employees expectations for ethics and how the programme will be integrated at all levels of the organisation from members to staff
- Define roles for members, board and management on pursuing ethical processes and practices
- Developing documentation on ethical standards and processes such as code of ethics and *standards for integration in organisational policies*. The documentation should include the structural components of ethics programme *and principles of ethics* discussed above
- Adopting or approving the code of ethics and other ethics standards by the board
- Assigning top leadership the responsibility of overseeing implementation and compliance with the code and *ethics standards. All directors and staff should sign the code of ethics*
- Developing a framework for integrating the code of ethics or ethical standards and processes with organization's culture, systems, policies and processes
- *Continuously reviewing progress with implementation of code of ethics and ethics standards*
- *Carrying out continuous capacity development of members, directors and staff on compliance with code of ethics and ethical standards*

Source: adapted from the US Department of Commerce, 2004

10. Corporate governance and ethics instruments

An organisation should have the following key documents which integrate corporate governance and ethics principles and processes

Governance	Management plans & policies
Memorandum and Articles of Association; Constitution; Regulations and By-laws**;** Board charter; Code of ethics; Conflict of interest policy	Strategic or Corporate plan; Finance; Human Resources; Procurement; Investment, Information Technology; Communication

11. Corporate governance audit

To ensure that corporate governance is integrated in the organisation, it is advisable and prudent for a BMO to carry out comprehensive independent corporate governance audits. This could be done at least once in three to five years. The audit would cover all aspects of corporate governance covered in this handbook i.e. corporate governance and ethics principles, systems, structure, policies and processes and documents in relation to the three levels of governance which are: members, board and management. The audit report is shared with the board and members and should inform subsequent decision-making in the respective organisation governance and management levels.

Further reading and further information

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This series of advocacy competence handbooks – divided into modules and units – is intended to support business member organisations (BMOs) to engage in public private dialogue and to advocate improvements to the business environment. You are free to use the units and other materials provided that the source is acknowledged.

Foundation Unit

0. Introduction to advocacy & dialogue

Module 1: The policy process

1.1 Understanding policy and regulation

1.2 Policy analysis

1.3 The process of formulating and reforming policy

Module 2: Policy positions

2.1 Identifying, understanding & framing issues

2.2 Preparing policy positions

2.3 Influence & argumentation

Module 3: Communications
3.1 Communications & public relations

3.2 Media relations & use of social media

3.3 Interview skills

Module 4: Written communications

4.1 Branding & house styles

4.2 Writing press releases

4.3 Preparing written documents

Module 5: Managing advocacy projects

5.1 Planning an advocacy project

5.2 Budgeting & financial management

5.3 Evaluation of advocacy

Module 6: Managing a BMO6.1 Leadership, strategy & business planning

6.2 Governance and ethics

6.3 Members and member services

Module 7: Research

7. Research methods

The Business Advocacy Network is an initiative of Irwin Grayson Associates and can be found at businessadvocacy.net. IGA can be found at irwingrayson.com and contacted at david@irwin.org. You can follow David Irwin on twitter at @drdavidirwin.