

# INFORMATION AND KNOWLEDGE BASE

## GOVERNING BODY RESPONSIBILITIES

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*“Be who you are and say what you want, because those who mind don’t matter and those who matter don’t mind” – Bernard M Baruch*

## - Chapter 4 -

### GOVERNING BODY RESPONSIBILITIES

#### 4.1 Basic Management Concept

The following, *inter alia*, basic management concepts should be comprehended and applied by the governing body:

##### **Management**

Management functions consist *inter alia* of the setting of business goals and objectives, measuring performance against the objectives and taking alternative or additional steps to achieve the original goal. Governing and performing to achieve the governing body's goals is an important function to accomplish success. Management rules are also stipulated in the governing body's founding documents, and these must be adhered to.

##### **Leadership**

A leader is a person who is confident, can properly present innovative ideas, arouses enthusiasm, encourages staff, has a vision, is influential and communicates well with his/her colleagues and personnel. A leader is the person who is prepared to accept calculated risks, takes responsibility for the tasks to be performed and is determined to succeed.

##### **Governance**

Governance has to do with the effective management of the governing body in an ethical and responsible way. Effectiveness is defined separately while ethics and good governance receive further attention in the definitions below.

##### **Business Ethics**

Business ethics are actual guidelines for practising acceptable behaviour in the governing body. They are concerned with upholding the moral standards within the governing body.

## **Integrity**

Integrity is the quality of being honest and having strong moral principles and ethical standards. A person has integrity to the extent that he/she acts according to the values, beliefs, and principles he/she claims to have.

## **Transparency**

Transparency implies openness, good communications, and the acceptance of accountability in the governing body. It works in such a way that it is easy for others to see the corporate actions that are performed. In addition, it has to do with disclosure of information to shareholders, employees, and all other stakeholders.

## **Accountability**

Accountability simply means answerability. It is the acknowledgement by leaders to assume responsibility for their actions, decisions that have been taken and policies implemented in the governing body. Accountability includes the obligation to report, explain and be answerable for the resulting consequences of their decisions.

## **Empowerment**

Empowerment endeavours to increase the degree of autonomy, authority, and self-determination for employees to help them achieve their goals faster and more effectively. The governing body must find a good balance between their involvement in the governing body and empowering management to get the job done.

## **Culture**

Culture can be described as a blend of attitudes, beliefs and actions that guides the governing body in the way it operates. It is established by a clear set of values and norms, and it motivates, builds the team, creates consistent decision making and shapes employee behaviour. It is the brand of the governing body which an outsider can see and feel that it stands for.

## **Effectiveness**

Effectiveness is the capacity of producing a desired result or outcome in the best viable way. It is all about “doing the right things.”

## **Efficiency**

Efficiency is the ability to avoid waste, loss of materials, energy, and money, whilst achieving the desired results or outcomes. It is all about “doing things right.”

## **Continuous Improvement**

Continuous improvement is the ongoing effort to improve the services of the governing body, personnel, residents, service providers, community, and donors. Processes (includes information sharing, assessment, education and training, empowerment) are constantly evaluated and improved in the light of effectiveness and efficiency. Improvements made can be incremental or extensive when, for example, modern technology becomes available. The governing body must drive continuous improvement to ensure that the governing body does not stagnate.

## **Best Practice**

Best practice is a benchmark that has been accepted as superior and has become the standard way of doing things in a specific part of an industry. Best practices are published by various sources and the governing body can access and then compare these with its own practices to ensure good management of the governing body.

## **Processes**

Processes are series of actions or steps taken to achieve a particular outcome. This is important because all work that is being performed in the governing body is a process which needs to be reviewed and adjusted continuously to improve the performance and reduce costs.

## **Service Excellence**

Service excellence can be described as the governing body’s ability to consistently meet residents’ expectations. In the governing bodies the reader is involved in, it is all about providing a service which the members can accept as being above average. Please note that this is a measurable objective.

## **Performance**

Performance can be defined as achieving results which are above average. This is achieved by effective task focus, networking with others, managing time and resources effectively and

applying teamwork. Performance can only be established if it is measured against the standards set in advance.

### **Decision-making**

Decision-making is a cognitive process of choosing a course of action amongst many alternatives to obtain the best possible outcome based on the decision-makers' values and preferences. Adequate information, using intuition and creativity and applying brain-storming sessions are only a few ways of enhancing good decision-making.

### **Return on Assets**

Return on assets is defined as the yield or profit earned on the gross investment made in a specific asset. It is expressed as yearly percentages return on the investment and can be benchmarked with the industry or simply be compared to various alternatives.

### **Payback Period (refer Life Right Schemes)**

A payback period is defined as the period in years it takes to recover the amount of the original investment. The profit or the reduction in expenses earned is the 'income' used for the calculation.

## **4.2 Duties and Responsibilities of the Body**

### **4.2.1 Introduction**

The governing body is appointed by the members to oversee the management of the governing body with the conditions and limitations of such appointments set out in the founding document. Members may exert some further restrictions on the actions of the governing body at the annual general meeting from time to time. The appointment of members to serve on the governing body must not be taken lightly. You do not want members serving who are incompetent, want to protect their vested interests or are just getting too old to contribute effectively to the well-being of the governing body.

Good and clear nomination, the qualifications needed, elections and appointment procedures will be a huge plus. Also, rules as to who cannot serve as a governor, will help. Australia has for this purpose developed assessment and approval procedures to ensure that the right people

serve on the governing body and all members are obliged to go through an induction process once nominated.

Governing body members must be acutely aware of their duties, responsibilities and liabilities that could arise from their appointment. Managing agents may assist the governing body with the running the governing body but the governing body takes overall responsibility.

The following three areas are dealt with to explain the importance of the aforesaid governing body as a whole and the performance of individual members of the governing body.

#### **4.2.2 Disqualification of Members of the Governing Body**

The *Companies Act* sets the governing body an obligation to conduct its activities at a high standard. The following persons cannot act as members of the governing body:

- A juristic person.
- A minor or a person who fails to meet the criteria set out in the memorandum of incorporation (MOI).
- A person who has been declared a delinquent or has received a court order prohibiting him/her from being a director.
- A non-rehabilitated insolvent, prohibited in terms of any public regulation.
- A person removed from office of trust because of misconduct involving dishonesty.
- A person convicted of offences involving fraud, theft, forgery, perjury or a similar offence.

#### **4.2.3 Duties of the Governing body**

Members of the governing body must always act in the best interest of the governing body and are accountable to its members. The governing body must establish a *Charter and Code of Conduct* for members of the governing body. There are many examples of codes of conduct that can be found on the internet or on the Institute of Directors' website.

The following reasonable conduct practices can be expected from a governing body member. Members contravening these basic rules or failing to comply may be charged with misconduct. Forms of misconduct can be:

- Not exercising the necessary care when taking decisions.
- Not being diligent in all matters.
- Not obtaining the skills that may be expected from a governing body member.
- Not acting in good faith – called the “judiciary responsibility” of members of the governing body.

- Act outside the powers of the authority granted.
- Do not make time available for governing body meetings, do not prepare well and do not actively participate in these meetings.
- Not ensuring a good understanding of the governing body and how it functions financially, the services it provides and how it protects and promotes all stakeholder interests.
- Does not insist on sound and sufficient information and obtain clarity on all issues to make informed decisions.
- Does not obtain independent advice where there is uncertainty on an issue.
- Does not always exercise an active and independent opinion.
- Does not manage conflict of interest well by not declaring the fact and not excusing him/herself when decisions are made on such matters.
- Does not maintain confidentiality as to the information received. Uses confidential information received to the benefit of anyone, except the governing body itself.
- Does not comply with the governing body's code of conduct.

#### **4.2.4 The Potential Liability of Members of the Governing Body**

Section 76 of the *Companies Act* prescribes that member must perform their duties in good faith. This must be done for proper reasons in the best interest of the governing body. It must further be done with a degree of care, skill and diligence that may be expected. Governing body member responsibility under the common law also applies when performing their duties.

It can be assumed that a director acted in the best interest of the company if he/she has taken diligent steps to become informed about the subject matter, does not have a financial interest in the subject matter and has a rational basis for believing that the decision taken was in the best interest of the governing body. Please note that lack of skill is not permitted in a mitigating circumstance.

In Section 77 of the *Companies Act* the general liability of members of the governing body and senior management is explained. In short, the members are liable for:

- Breach of fiduciary duty (skill, trust, confidentiality and interest or governing body put first).
- Become party to an attempt to defraud creditors, employees, or shareholders.
- Issue shares when not authorised to do so.
- Carry on business despite knowing that he/she does not have the authority.
- Contravenes the *Companies Act*.

Governors of the governing body must act *intra vires*, i.e., they must act within the powers conferred upon them by law, the *Companies Act*, the founding documents and its members.

Governors of the governing body are jointly as well as severally liable for damages. Members of the governing body may not be relieved of their liabilities and any such provisions in the founding document or a resolution by members or members of the governing body are invalid.

Governors of a governing body should accept the duties and responsibilities as set out in the *Companies Act*, even though the Act may not directly apply to the governing body.

#### **4.2.5 Overall Responsibilities**

Good governors and members of the governing body are the key to an effective management of your organization. Most homeowners are not extremely interested in how the tasks of the governing body are performed and will only jump in once something goes wrong. It is therefore important for governors to continuously improve and manage good relationships with members.

The following actions will improve the relationships between the governing body governors and owners:

- Inform members of the projects that are planned for the year with dates of implementation and report on progress.
- Arrange for a quarterly newsletter to be distributed.
- Inform members of what resulted from meetings and when the next meeting is going to take place.
- Invite members to the meetings if they would like to raise issues of concern.
- Have a website where the information is posted with all other relevant documents such as the rules and regulations of the governing body. The use of Facebook and Whats-App are other possibilities.
- Arrange an informative get together like a “bring and braai” to meet and chat with members.
- Encourage owners to attend annual general meetings and general meetings and remind them of their responsibilities to attend and to propose for election, members who are qualified to serve as members of the governing body closer to such meetings.

#### **4.2.6 Meetings**

The governing body is responsible for conducting meetings in a well-organised and effective way.

##### **4.2.6.1 Annual General Meetings**

An annual general meeting (AGM) must take place within the period stipulated in the founding document or in accordance with the *Companies Act*. This meeting should not be a tormenting



experience, but a productive, an open and pleasant forum for free discussions, decision-making and for members to be informed of progress made to date on previously approved plans. It is important for the chairperson to generate the right ambiance for these meetings.

Members should be asked for discussion items (with a brief description of the issue and proposed resolution) to be put on the agenda well in advance. Documents with all the necessary information for the AGM should be distributed within a time stipulated before the meeting takes place.

The AGM documents must, *inter alia*, include:

- An invitation that sets the date, time, and venue of the meeting.
- The fact that only members in good standing will be allowed to attend and vote at the meeting.
- The agenda for the meeting stipulating at least the following discussion points:
  - Welcome and confirmation of the quorum required.
  - Approval of the agenda.
  - Approval of the previous meeting's minutes.
  - Items carried over from the previous meeting's minutes.
  - The chairperson's report.
  - Discussion and approval of the Annual Financial Statements.
  - Appointment or reappointment of auditors.
  - Discussion and approval of the operational and capital expenditure budget.
  - Levy and other increases to support the budgeted figures.
  - The creation of special reserves and the application thereof.
  - A list of special resolutions requested by members or the governing body. A special resolution requires a 75% majority of members present. Due to the importance of special resolutions, the background, the exact wording of resolutions and why resolutions are a necessity should be properly explained.
  - Information on new legislation that could affect the governing body.
  - Notice of the appointment of members of the governing body.
  - Detail on the amendment of any general and aesthetics rules.
  - Penalty system changes to enforce the governing body's rules.
  - Other matters for general discussion.
  - Closing of the meeting.
- The chairperson's report that must include governance reporting.
- The minutes of the previous AGM.
- The annual financial statements (AFS).
- The appointment of new auditors and the reason for the proposal.
- The budget (operational and capex) for the ensuing year and the three-year forecast.

- Members of the governing body' nomination forms and the nomination procedures to be follow.
- Proxies and notes on the correct completion of the forms. Electronic voting systems have been successfully developed and governing bodies should consider the use thereof.

#### **4.2.6.2 Special General Meetings**

A special general meeting (SGM) can be called by the governing body of members by following the procedures set out in the founding documents. The purpose of such meetings is for critical matters to be resolved that cannot be kept back until the next AGM.

The matters to be discussed and voted on must be distinguished between ordinary and special resolutions. A 50% majority of members present is required for an ordinary resolution but 75% is required for any special resolution.

The documents to members must include:

- The agenda.
- The reason for the calling of the SGM.
- The matters to be decided on should comprise:
  - The background to the issue at hand with explanatory notes.
  - The various workable solutions.
  - The proposed draft resolution recommended and to be considered (with the exact wording) by the meeting.
  - Any other information that the governing body considers necessary to better inform the members.

### **4.3 Governing Body Effectiveness**

The governing body will agree in advance on the dates for the governing body meetings to take place. The need for an urgent meeting may arise from time to time and these meetings are just as important to be attended by all.

Excellence in the following areas will contribute to the satisfactory performance and success of the governing body:

#### **4.3.1 Duties of the Governing Body**

The governing body needs to understand its responsibility and each governor should be issued

with an official document in which their responsibilities are set out. Access by governors of the governing body to all the critical documents is also important if the business in its totality is to be understood. As part of the induction orientation, new members of the governing body need to spend time with the chairperson as well as with senior management. In short, the governing body's responsibility is to:

- Provide strategic direction to the governing body by determining the mission, vision, objectives, and goals.
- Ensure that the necessary policies are in place and reviewed from time to time. Remember the governing body sets policies and management executes these policies.
- Prepare a plan, set goals and objectives, and monitor its implementation.
- Allocate a portfolio or a combination of portfolios to members of the governing body. The most common portfolios are:
  - The chair and vice-chair.
  - Secretarial and legal.
  - Finance, administration, and IT.
  - Security.
  - Human resources.
  - Infrastructure and aesthetics.
  - Environmental issues and landscaping.
  - Communications and social events.
  - Risk management, compliance (labour, BEE and Occupational Health and Safety), business ethics and good governance.
  - Public relations and marketing.
- Appoint capable managers, evaluate their performance, and give the necessary support, training, and assistance where necessary.
- Ensure effective financial planning and control through an operating budget, capital expenditure budget, monthly reporting, and good internal audit controls.
- Ensure the implementation and maintenance of standard operating procedures (SOP) for all activities performed by the governing body.
- Appoint professionals to assist where necessary - managing agent, architects, engineers, lawyers, accountants, etc.
- Decide on the outsourcing of any function if considered to be beneficial. Evaluate the services offered and reduce or increase these.
- Decide on actions to improve service delivery and allocate adequate resources to achieve this.
- Improve the overall image of the governing body.
- Ensure that the governing body complies with all laws and regulations.
- Ensure that the governing body operates with integrity and maintains its ethical norms.
- Keep up to date with developments.

- Draw up a succession plan and ensure continuity of the governing body functions with the right skills being always on governing body.
- Be transparent to all, including members and staff.
- Be aware of and deal with the vested interests of members of the governing body and management in the governing body.
- Evaluate the governing body's risks and prepare an effective risks control system.
- Measure the governing body's own performance and evaluate its members from time to time.
- Act as the arbitrator for disputes that might arise.

An effective functioning governing body is where members properly perform their duties as non-executives. The manager takes responsibility for the implementation of governing body decisions, policies and procedures and undertakes the running of the day-to-day activities of the governing body. The governing body only directs the activities and members of the governing body and should not interfere with the work to be performed by the manager.

The do nots of appointing members to the governing body:

- Appoint people who are friends and will not rock the boat.
- Appoint too many members with the same skills.
- Appoint members that collect positions as badges of merit.
- Members who are not willing to learn the retirement industry and its complications must not be welcomed.
- Members not respecting the CEO and do not follow the non-executive management principle should be avoided.
- Appoint aged people that still think they know what is going on. Stop the fossilization!
- Avoid the appointment of people with conflicting interests or wanting to do business with the organisation.
- Overstay your welcome. 10 years is good enough.

#### **4.3.2 The Role of the Chairperson**

The success of any governing body depends much on how competent the chairperson is. There is a copious amount of reading matter available to help chairpersons to run successful, productive, efficient, and effective meetings.

The following is a list of a few qualities the chairperson needs to possess to ensure that the governing body adds real value to the governing body:

- A chairperson needs to be well-prepared to conduct each meeting and should know beforehand what needs to be achieved.

- The agenda, the previous minutes, and items from the previous minutes, must be reviewed.
- Seating of the chairperson is of paramount importance. He/she must be able to face every member directly.
- The chair must not only lead, but also control the meeting. He/she must ensure that all members' opinions are voiced and heard.
- The final decision made on each specific point on the agenda must be summarised to enable the secretary to minute the decision.
- Prompt continuation and execution of the agenda is of paramount importance.
  - The significance of any stipulation of the agenda, when viewed in the bigger picture of outcomes, must be recognised so that acceptable debating time can be allocated to the point.
- Consensus must be arrived at wherever achievable. If possible, the resolution should be adapted without affecting the desired outcome.
- Meetings should not be dragged out unnecessarily and reports submitted must be taken as read to save time.
- Ensure that the governing body is diverse to represent all stakeholders and to provide all skills and experiences required.

#### **4.3.3 The Role of Governors**

In addition to the general responsibilities of governors of the governing body as explained previously, there are two simple recommendations to members that take their positions as members of the governing body seriously, namely:

- Have good insight into each decision and support a decision only if you are absolutely convinced of the correctness thereof. If not, ask for your objection or disagreement on the decision to be included in the minutes.
- For material resolutions and where the member feels that the decision could have negative consequences for the governing body, he/she should therefore act accordingly. Remember that a governing body is a collective body when deciding and all members are bound by the decision, even if an individual governing body member should vote against the resolution. If a member is displeased and cannot abide by the decision, he/she is obliged to excuse him/herself from the governing body and tender his/her resignation. Members of the governing body must always feel comfortable with the way the governing body is run and with the decisions that are taken.

#### **4.3.4 The agenda**

There are a few basic rules concerning the agenda and the way it is put into operation. These are:

- The agenda must be sent out well in advance and should be strictly adhered to by the chair. This is necessary to ensure an orderly and focused meeting.
- The agenda should list all the standard agenda items, even should there be no report due, or no discussion required. This will avoid items on the agenda from being lost or ignored.
- The agenda should cover the following points:
  - Welcome.
  - Quorum.
  - Approval of agenda.
  - Declaration of conflicting interests.
  - Minutes of the previous meeting.
  - Departmental reports.
  - Matters arising out of the previous minutes.
  - Other items.
  - Closing and date of next meeting.

#### **4.3.5 Minutes of Meetings**

It is the secretary's task to take minutes of the meeting. The following suggestions will enhance the quality of the minutes and the recording thereof:

- Record those present any apologies as well.
- Only minute decisions taken and not all the discussions and viewpoints that take place.
- A member who wishes to have his/her opinion recorded must distinctively ask the chair to have these included in the minutes.
- Bold print the particularly important decisions for easy reference.
- The chair should articulate the final decision after every point on the agenda for the secretary to minute.
- The minutes should clearly state the steps of action necessary, as well as the person responsible for performing the action.
- A separate action list with responsibilities from the previous meeting should be enclosed with the agenda.
- The draft minutes should be distributed within a few days after the meeting for comments and correction. It is easier to prepare minutes and comment thereon with the discussions still fresh in one's mind. The minutes can then be distributed to remind members of the governing body of actions specifically allocated to them.
- The declaration of conflicting interests at every meeting is important and the conflict needs to be discussed, understood, and addressed where necessary. A register of conflicting interests must be kept.

#### **4.4 Good Governance**

The King IV reports sets sixteen basic principles and a number of recommended governance, compliance, and reporting practices for governing body. The Code is effective as from 1 October 2017. The King IV report endeavours for governing body to set an ethical culture, ensure superior performance, have effective controls in place, and achieve legitimacy in the governing body they serve.

The Code has two supplements that affect us most, namely SMEs and NPOs. In the summary below the ***italicized text*** for each basic principle summarises the King IV supplement.

The first three principles cover the ethical culture of the governing body, principles four and five the performance and six to ten the controls the governing body must have in place. Principles eleven to fifteen are all about good governance and principle sixteen covers stakeholder relationships.

Governing bodies should:

##### **4.4.1 Lead Ethically and Effectively**

Lead effectively by showing collectively and individually characteristics of competence, accountability, responsibility, fairness, and transparency. The governing body must also act ethically beyond what is legally required of them. The governing body must achieve the strategies, objectives, and the set goals of the governing body. It should further share with stakeholders as to how they are being kept responsible.

*Governors of a NPO governing body owe a legal and fiduciary duty to the governing body they serve but not to the members. These duties apply whether services are pro bono or for a small fee. Governors must always avoid conflict of interest. Where the conflict cannot be avoided it must be disclosed, included in the minutes, and thereafter actively managed as agreed on by the governing body.*

*The following minimum checks will give some comfort that the leading principle is effectively practised in the governing body:*

- *New governors go through a short but effective induction programme.*
- *Governors act in the best interest of the governing body at all times.*
- *Acceptable business principles are applied in decision making.*
- *Conflict of interest is declared at every governing body meeting and these conflicting interests are suitably handled in these meetings.*

- *Governors come with a good and clean track record as far as leadership is concerned.*
- *Transparency on all matters exists and governors are encouraged to speak up in meeting.*
- *Matters to be decided on are well presented with all details and alternatives, are thoroughly discussed, analysed and the decision with its reasons included in the minutes.*
- *The secretarial function is performed.*

#### **4.4.2 Establish an Ethical Culture in the Governing Body**

Establish the ethics in the governing body by creating an ethical culture, codes of conduct and principles and procedures to achieve this objective.

*This principle fully applies to the governing body and the governing body must ensure good ethics are practised.*

*The following minimum checks will give some comfort that the ethics culture principle is effectively practised in the governing body:*

- *One of the members of the governing body has specifically been tasked to ensure 'good governance and ethics are practised in the governing body.*
- *The values of the governing body are embraced.*
- *A code of ethics/conduct for members of the governing body, the sub-committees of the governing body, residents in general, management and employees exist and is applied.*
- *Policies exist for entertainment and gifts being given and received.*
- *Tender and quotation procedures are clear.*
- *Long-term contracts are approved by the governing body.*
- *Decisions taken by the governing body are tested against acceptable behaviour and upholding the governing body's moral standards.*
- *A "whistle blowing" facility is operational.*
- *The governing body learns from what happens around them and ensures that similar incidents do not happen with the governing body.*

#### **4.4.3 Practise Responsible Corporate Citizenship**

Practise responsible corporate citizenship by complying with laws, by-laws and own policies and procedures.

*NPOs are an integral part of society and should therefore behave as a good corporate citizen as well.*



*The following minimum checks will give some comfort that the corporate citizenship principle is effectively practised in the governing body:*

- *Responsible corporate citizenship is one of the governing body's values.*
- *A list exists of all the Acts that the governing body must comply with.*
- *Issues in each Act that must be complied with, is identified and the task to ensure compliance is clearly delegated to a manager or governing body member.*
- *The compliance with the Acts is audited at least every three years.*
- *Policies and standard operating procedures for each area of activity are in place and are practically applied.*

#### **4.4.4 Take Responsibility for the Value Creation Process**

Take responsibility for the value creation process and define the governing body's core purpose, set the strategies, approve the business model, ensure excellent performance, and safeguard a sustainable development. This is achieved by steering and measuring the strategy, approval of management policies and overseeing the financial health of the governing body.

*A balance to remain financially viable and deliver on the objectives as set out in the constitution must be practised. The strategy and business model of the governing body must be understood. The code of good practices as issued by the Department of Social Development is to be followed. Three of these are: meet the need of the community, have a reliable and sustainable support base, and ensure procedures are in place to carefully handle resources, and that people are kept accountable for their actions.*

*The following minimum checks will give some comfort that the value creating principle is effectively practised in the governing body:*

- *The mission, vision and values are in place.*
- *A strategic planning session is conducted every three years and a plan is developed.*
- *Strategies are broken down in goals, specific objectives, timelines set and responsibility to achieve the objective allocated.*
- *Progress of strategic objectives is monitored, and progress reported on every quarter.*
- *The budget and three-year financial plan (income statement, balance sheet and specific ratios) tie in with the strategic plan and performance against which the budget is monitored.*

#### **4.4.5 Issue the Necessary and Appropriate Reports**

Issue reports that enable material stakeholders to make informed short-term, medium-term, and long-term decisions.

*Good and comprehensive reporting is important. More rather than less information should be given for stakeholders to assess and understand the business. This will also demonstrate accountability by the governing body.*

*The following minimum checks will give some comfort that the reporting principle is effectively practised in the governing body:*

- *A list of all the reports that are issued during a specific fiscal year is available. This includes all compulsory reports to government institutions.*
- *Major stakeholders have been identified. These would be residents, future residents, members, employees, friends of the governing body, donors etc.*
- *For each report, a mandate (what can and cannot be said) for reporting is in place.*
- *The annual financial statements, the members of the governing body's report, the audit report and the chairperson's report enjoy the required attention at governing body level.*

#### **4.4.6 Act as Focal Point and Custodian of Good Corporate Governance**

Rules regarding reporting standards, how committees must operate and who should attend are only a few examples of what needs to be in place.

*The NPO should steer the governing body and set the strategies. It should approve policies and procedures that will give effect to the strategy. It must oversee and monitor the execution of plans by management, and it must accept accountability for the governing body's performance. It should create the appropriate sub-committees with their mandates.*

*The following minimum checks will give some comfort that the value creating principle is effectively practised in the governing body:*

- *Monthly reports from the manager, the security manager and the care manager are tabled at the governing body meeting, and the reports are of a good standard.*
- *Minutes of all internal meetings are distributed to members of the governing body.*
- *Policies and procedures are in writing and accessible to all.*
- *All disciplinary cases are reported to the governing body with the action and corrective steps taken.*
- *All whistle blowing is reported to the governing body.*
- *Regular articles and talks regarding good governance including ethics, integrity, best practices etc. are performed.*

#### **4.4.7 Skills of Governing Body**

The governing body must comprise the appropriate balance of knowledge, skills, experience, diversity, and independence.

Governing body must discharge their roles objectively and effectively and things like the size and skills required, the attendance of the CEO, succession planning, staggered and rotational membership and the total independence of the governing body and especially the chair will all add to an effective governing body.

*To achieve a good balance of members to serve on a governing body is challenging. A good and formal process of nomination, election and appointment is necessary. The requirements of the governing body should be communicated to those who do the nominations. Nominations should be vetted. The search for experienced professionals to serve should be an ongoing process. One should also guard against members sending representatives to the governing body instead of attending the meetings themselves. This is not a good practice.*

*The following minimum checks will give some comfort that the appropriate balance of the governing body principle is effectively practised in the governing body:*

- *The qualification, skills and experience of each governing body member is known. The mix of talent is good, and all portfolios are allocated to the correctly skilled members of the governing body.*
- *The governing body is non-executive and acts that way.*
- *The chairperson is skilled in chairing meetings and gets the best out of members of the governing body.*
- *The chairperson has not overstayed his/her welcome.*
- *The manager is part of the governing body meeting.*
- *The governing body plans its rotation and succession.*

#### **4.4.8 Delegation of Responsibilities**

Delegation of responsibilities must promote independence and assist with the balance of power in the governing body.

Where appropriate, sub-committees with their own structures and mandates must be instituted. This will promote independent judgement and assist with the balance of power. Specific committees decided on must have own charters and chairpersons. The audit, remuneration, ethics, and risk committees are only a few of the committees that should be considered.

*The governing body should ensure that its arrangements within its structure promote independent judgement and assist the balance of power on the governing body.*

*The following minimum checks will give some comfort that the appropriate balance of power principle is effectively practised:*

- *All portfolios have been allocated to members.*
- *There are sub-committees in place for the key areas and they know their mandate. The sub-committees are finance and audit, risk management, security, care, construction, maintenance, and aesthetics.*
- *Members of the sub-committees are skilled and experienced in the areas they attend to.*
- *Members are given the freedom to act and contribute and the chairperson of the governing body is not dominant in all the sub-committees.*

#### **4.4.9 Evaluation of Governing Body**

Evaluate the performance of the governing body, the individual member, the chairperson and sub-committees regularly to improve overall performance. Action to improve the outcome of such evaluations is essential.

*This principle applies in full to the governing body as well.*

*The following minimum checks will give some comfort that the performance evaluation principle is effectively practised in the governing body:*

- *The performance of the governing body against objectives set and achieved is done once a year.*
- *Performance evaluations of individual members of the governing body are done at least every two years.*
- *The chairperson is evaluated by its members at least every two years.*
- *The performance of the sub-committees is evaluated at least every two years.*
- *Ineffective areas are addressed immediately.*

#### **4.4.10 Appointments and Delegations**

The appointment of capable managers and the delegation of duties and responsibilities resulting in authority and accountability being established is essential.

The appointment of the CEO and key members of his team is a governing body responsibility. The

management should work within certain levels of authority, and these must be such that the governing body is content with the risks of such authority delegated.

*Members of the governing body should not be involved in the day-to-day running of the operations or any of its functions but be left to the CEO. If certain functions are performed by the members, good governance practices must be in place especially as they relate to conflict of interest. A suitably qualified and experienced secretary is of importance.*

*The following minimum checks will give some comfort that the authority and accountability principle is effectively practised in the governing body:*

- *The manager has the correct qualifications, experience, and skills in the areas he is responsible for.*
- *The manager reports to the governing body and the chairperson for daily tasks.*
- *Key performance areas and indicators and objectives are set.*
- *The manager's performance is measured, and bonus payments are linked to this performance.*
- *The delegation of authority document as explained in this guide is in place and is adhered to.*
- *The manager accepts responsibility for the governing body's performance and confirmed his/her accountability.*

#### **4.4.11 Risks**

Govern the risk of the governing body in such a way that will support the strategic goals to be achieved and reducing the risk of failure. A risk management plan must be in place and acceptable risk identification and management process must be adopted.

*The governing body should govern risk in a way that supports the achievement of its strategies.*

*The following minimum checks will give some comfort that the risk management principle is effectively practised in the governing body:*

- *The risk management plan is drafted.*
- *The risk management plan is monitored and given attention by the governing body at least every six months.*
- *The risk management plan is revised every year.*

#### **4.4.12 Information and Technology Management**

Manage the information and technology in a way that will support the achievement of the strategic objectives. Plans for the implementation of technologies and the associated risk must

be governed. Information management plans need the governing body's attention.

*The governing body should govern the information and technology in a way that supports the governing body's strategic goals.*

*The following minimum checks will give some comfort that the technology and information principle is effectively practised in the governing body:*

- *Electronic information is protected and backed up.*
- *The IT system is evaluated for its effectiveness at least every three years.*
- *Financial documents are retained in line with the recommendation in this guide.*
- *The laws that regulate the protection of members and resident information as discussed in this guide are adhered to.*
- *IT problems and hiccups are discussed at governing body level and action is taken to prevent and improve on the current system.*

#### **4.4.13 Legal Compliance to All Laws, Rules, Codes and Standards**

Ensure that the governing body complies with all laws, and its own rules, codes, and standards to ensure it performs ethically and is a good corporate citizen. Its own processes and procedures must be complied with.

*This principle applies to the NPO in full.*

*The following minimum checks will give some comfort that the legal compliance principle is effectively practised in the governing body:*

- *A list exists of all the Acts that the governing body must comply with.*
- *Issues in each Act that must be complied with are identified and the task of ensuring compliance is clearly delegated to a manager or governing body member.*
- *The compliance with the Acts is audited at least every three years.*
- *Policies and standard operating procedures for each area of activity are in place and are practically applied.*

#### **4.4.14 Remuneration of Governing Body and Management**

Remunerate members of the governing body and management fairly, responsibly, and transparently to achieve the set goals of the governing body.

Setting of senior level management salaries and incentives, regular comparison within the

industry and general increases are the governing body responsibility, direct or via the remuneration committee.

*This principle applies to the NPO in full.*

*The following minimum checks will give some comfort that the remuneration principle is effectively practised in the governing body:*

- *The governing body's remuneration is approved by the AGM.*
- *The manager's remuneration package (cost to company) is benchmarked with ARC or CAISA.*
- *Bonuses are based on performance which are accurately measured with pre-agreed-on objectives.*
- *The manager's salary package is shared with members at the AGM.*

#### **4.4.15 The Assurance Function**

The governing body must ensure that the assurance services and function effectively support the control environment and that information for both internal and external decision making is reliable. External auditors, the internal audit function, safety and security and risk compliance functions should work together to achieve the set objective.

*This principle applies to the NPO in full.*

*The following minimum checks will give some comfort that the effective control environment principle is effectively in the governing body:*

- *The auditor's management letter is discussed at governing body level and the appropriate corrective steps proposed are monitored for its implementation.*
- *Reports issued by management are accurate and reliable.*
- *Good and accurate minutes of meetings are kept.*
- *Sub-committee reports are discussed, and action formulated and implemented and progress on the implementation thereof monitored.*
- *Good and accurate reporting to outside institutions is done.*

#### **4.4.16 Stakeholder-Inclusive Approach**

Adopt a stakeholder-inclusive approach that balances the needs, interests, and expectations of all material stakeholders in the best interest of the governing body over the longer term.

The needs, interests and expectations of all material stakeholders must be balanced in the best interest of the governing body over time.

*Stake holders will include members, personnel, suppliers, donors, lenders, and partners. All these need to be informed of the governing body's performance and the achievement of its longer-term objectives. This is critical to the long-term viability and sustainability of the governing body.*

*The following minimum checks will give some comfort that the stakeholder-inclusive principle is effectively in the governing body:*

- *The members of the governing body are given regular feedback on the governing body's performance.*
- *The chairperson has a "sharing of information" approach.*
- *The governing body accepts that they serve members and residents.*
- *The documents shared with members and the chairperson's report for the AGM reflects total openness.*
- *The AGM is a pleasant and information-sharing opportunity.*
- *Departmental reports are accurate and give a true reflection of the governing body's activities.*
- *Personnel are kept informed on the activities and plans of the governing body.*

#### **4.5 Mission, Vision, Values, Goals and Objectives**

The above listed subjects are now discussed individually.

##### **4.5.1 Mission Statement**

A mission statement is used to express the governing body's purpose and the main activities it performs. The statement should be short, concise, memorable, and inspiring. Remember that the mission statement guides the governing body's priorities regarding what needs to be achieved and the responsibilities to which it is committed. The mission can change over time as the governing body evolves and services are either added or discontinued.

##### **4.5.2 Vision Statement**

A vision statement expresses clearly and concisely the governing body's overall ambition. It describes the long-term change the governing body wants to achieve. The vision statement defines the core ideals that will give the governing body its shape and direction. The governing



body's image, its brand, and its value agenda are only a few focus points that can be incorporated in its statement.

#### **4.5.3 Values**

Values can be described as moral principles, beliefs and accepted standards of behaviour and conduct of a specific community. The values chosen for the governing body should reflect the views of the members and employees it represents. It is recommended that three to five values are chosen and then not only published, but also lived by members of the governing body and employees. Values such as transparency, honesty, compassion, speediness, and respect should feature in the statement.

#### **4.5.4 Rights and Responsibility Statement**

Members' rights and responsibility statement would be good to have as well. It keeps the governing body and management focused on the members and their best interest it serves.

#### **4.5.5 Goals**

Goals define the destination of the governing body in more detail, focusing the mind on what is to be achieved over the longer term. It guides the attention of those in charge of the governing body to a few significant changes anticipated. Remember, goals set out the bigger picture to be achieved over time and need to be limited to five or six to ensure focus points in the governing body. Changes will therefore be made, and others added as time goes by. Goals must be simple, measurable, achievable, and realistic and time related.

#### **4.5.6 Objectives**

Objectives are a series of concrete steps which the governing body must endeavour to achieve to reach the goals the governing body has set. They are plans of action with responsibilities and timelines and are reviewed regularly by those in charge of the governing body as part of the strategic planning and control cycle. Monitoring quarterly progress of the objectives is important.

#### **4.5.7 In Conclusion**

The mission, vision, values, goals, and objectives are established through a participative process and consultants may be used to assist in the process of drafting these statements and documents. The results are shared publicly with members, employees, and other stakeholders to ensure that

they have clarity about the governing body, the reason for its existence and the things it wants to achieve.

## **4.6 Strategic Planning**

### **4.6.1 General**

With the mission and vision statement and the governing body's goals and objectives in place, a strategic plan is prepared. Take note that the goals and objectives can be set before the plan is drafted but can also result from the strategic planning process. Please remember that either way, they are not fixed and need to reflect the outcome once the strategic planning process is completed.

All members of the governing body should be familiar with the process of preparing a strategic plan, but for completeness, the process is briefly described:

- Include the right people in the strategic thought process.
- Exploit the existing mission and vision statements as a basis for the procedures.
- The existing goals and objectives should be used as a guide.
- Conduct a SWOT (strengths, weaknesses, opportunities, and threats) or similar analysis of the governing body.
- Decide on solutions for key issues (priority setting is important and carry over the less prominent issues) that came out of SWOT or similar analysis.
- Set the goals for the governing body using the results from the previous step.
- Set the objectives for each goal.
- Develop the financial plan to achieve the objectives. Redirecting current income, raising additional funds and where possible, borrowings can be considered. A risks/benefit analysis and a return-on-investment calculation should be made where appropriate.
- The mechanisms to measure progress on the goals and objectives need to be set in place.
- Put the plan forward in a simple, digestible format.
- Communicate the plan and get the necessary support.

### **4.6.2 Health Care Strategic Policy Objectives**

#### **4.6.2.1 Preliminary Comments Regarding Strategic Planning**

The strategic plan for a facility is critical and should be drafted professionally and cover most of the key areas towards sound ethical leadership and management of the facility and its residents. If it is a life right facility, the owner has a lifelong moral and financial commitment towards a well-

managed and maintained housing scheme. Peace of mind can only be obtained and maintained through a sound working relationship between all the key partners, which may include any managing agent that may be responsible to do the day-to-day running of the facilities. This relationship structure is interdependent and must be correctly understood and managed. In the light of this statement, without being critical, the strategic plan underplays the significant role in moulding a health care policy framework.

#### **4.6.2.2 Understanding the Ever-Changing Health Care Environment**

Two comprehensive studies were completed since July 2017.

These trends are important and should be kept in mind when planning takes place:

- One of the key objects of the Act is to advocate for older persons to live at home for as long as possible and not be prematurely relocated to a frail care centre.
- The costs of frail care services have escalated and have become unaffordable for a growing number of older persons, due to declining income, increased medical care cost and increased longevity.
- The demand for frail care services has shifted from general to more specialised care with an increased demand for memory (dementia) care.
- A changing mind set amongst older persons to prefer home-based care rather than traditional frail care.
- Home-based care opportunities are more readily available than before. Facilities are increasingly facing outside service providers entering their gates to serve residents.
- The incoming Boomer Generation in facilities prefer primary health and wellness services.
- The demand for smaller type units is increasing, especially for single women.
- The rising demand in the rental market in the retirement industry is increasing significantly.
- Increased life expectancy creates demanding financial challenges for facilities as the average stay of residents has increased from 13.5 years in 1985 to 27.8 years in 2017.

#### **4.6.2.3 Further Comments on the Strategic Health and Care Plan**

The following further general comments will help guide the governors in setting the strategic plan:

- Needs assessment is especially important to know and understand risks and potentials. This is referred to the *health baseline* of the facility.
- A care policy framework and a residents' manual are important and must capture all key components.

- Do not use the term Alzheimer's care as it will demand registration under the *Mental Health Care Act* with lots of additional financial and other challenges. Dementia or Memory Care is preferred.
- Consider seeking a fitting brand for services provided and display excellence.
- The time is to strongly consider focussing and unpack the specialisation of services, like primary health, life coaching, lifestyle enhancement, minor medical support, cleaning, maintenance, catering home-based care and so on.
- The Health Care plan must form part of the overall management and administrative structure and operation of the facility.
- Many facilities have opted to bind in all the health care related services into a separate Non-Profit Company who may also apply for registration as a Non-Profit Organization in terms of the *NPO Act*.
- Thinking ahead: this is a very wide item and must be linked to the facility's overall strategic plan.
- Wellness and quality of life are key factors. The main driving goal must be to help residents to remain independent for as long as possible. Consider the services of an occupational therapist once the overall planning has done.

#### **4.7 Delegation of Authority**

The delegation of authority in the roles and responsibility document sets out the limits within which each governing body member and management must operate in running the governing body. The appointment of inexperienced staff, the use of service providers, how complaints are dealt with and who may incur certain costs or expenses on behalf of the governing body, are part of the document. Once established, these rules must be strictly adhered to to ensure good governance in the governing body.

The delegated levels of authority for each of the following persons or groups of persons must be set:

- Members.
- Governing body.
- Individual members of the governing body.
- Committees such as audit and security committees.
- Compliance officers.
- Secretary.
- Management.
- Heads of department.

The areas that need to be covered in the level of authority document are:

- Compliance officer for the *Companies Act*, SARS (Public officer), CSOS, OSHACT, etc.
- The budget, its preparation and approval.
- Approval of the annual financial statements.
- Appointment of professional agents such as auditors, attorneys, accountants, engineers, architects, managing agents, etc.
- Appointment of staff, dismissals, performance bonuses and salary increase.
- Capital expenditure.
- Operating expenditures within and those exceeding budgets.
- Entering into contracts.
- Taking legal action.
- Dispute resolution.

## **4.8 Risk Management**

### **4.8.1 Risk Management Plan**

#### **4.8.1.1 Introduction**

Risk management starts with a policy statement, the assessment of all risks and the mitigation of these risks with business decisions and the insurance of the risks that cannot be mitigated by the governing body.

Objectives are to be stated up front and must be in line with international patient safety goals. It includes the identification of all the possible risk exposures of the governing body as well as likely future risks that might arise. The risk management process endeavours to address risk areas such as fire hazards, safeguarding of property and safety of residents, hazardous materials, emergency plans, prevention of accidents and the maintenance of a safe environment in general.

The information that now follows is extremely comprehensive and governing bodies should keep the risk management practical and easy for management to understand. Start with the basics and then expand on the process as time goes by.

#### **4.8.1.2 Risk Management Policy and Plan**

A risk management policy and mitigation plan should exist in the governing body and be managed at governing body level. Assessment is done according to the Universal Risk Matrix. The results of the assessment are documented.

#### **4.8.1.2.1 Establishing the Plan**

Establishing the plan should consist of at least the following steps:

- The risk areas to be identified.
- Each risk is rated according to its impact (size of risk and likelihood of it happening).
- Define the policy on each risk.
- The mitigation steps for each risk are set out.
- List the monthly, quarterly, or yearly actions that are required to ensure the risk is managed or eliminated.
- Set the emergency procedures and actions if the risk materialises.
- Allocate the resources to address the risk.

#### **4.8.1.2.2 Supporting Framework**

A supporting framework for implementation must be in place to:

- Link the risk management plan to existing standards, accreditations, complaints, quality, and performance initiatives.
- Ensure that the information system supports a risk detection process by providing accurate and complete data.
- Create a platform for communication between all departments.
- Provide regular feedback to all relevant role players.

#### **4.8.1.2.3 Risk Identification and Reporting**

- Routine identification and reporting of incidents and “near misses” are an essential requirement and form an integral part of formal and informal everyday activities at the facility.
- An occurrence reporting process must be implemented.

#### **4.8.1.2.4 Risk Analysis**

- Risk management processes include the analysis of risks to residents’ safety and the dissemination of information for the purposes of improving resident care and reducing morbidity and mortality.
- Data shall be assessed in depth when significant unexpected events and undesirable trends and variations occur. Analysis shall be initiated when levels, patterns, or trends vary significantly and undesirably from what was expected.

#### **4.8.1.2.5 Risk Assessment**

Risk assessment processes should cover:

- Resident satisfaction surveys and complaints procedures.
- Staff satisfaction surveys.
- Safety committee surveys and findings.
- Significant adverse event investigations
- Infection prevention and control activities.
- Performance improvement activities.
- Clinical audit and assessment activities.
- Morbidity and mortality meetings and investigations.
- Code reviews.
- Minutes of department, service, and committee meetings.
- Liability claims.
- Management involvement.
- Annual risk and vulnerability assessment as per the following categories:
  - Critical infrastructure and operations.
  - Communications.
  - Records and information.
  - Environmental hazards.
  - Internal and external disasters.
  - Evacuation.
  - Natural hazards.
  - Non-natural hazards.
  - Financial.

#### **4.8.1.2.6 Risk Monitoring and Review**

- Occurrences are analysed and an action plan for implementation is set.
- Feedback is monitored and recorded until the incident can be closed.
- Incidents that are significant in terms of processes and trends are discussed at board level.
- A risk mitigation progress report is tabled at the governing body meetings on a quarterly basis.
- A risk management responsibility checklist is a useful tool to ensure the persons responsible for managing specific risks are in fact performing their duties.

#### **4.8.1.2.7 Common Risk Areas**

The risk areas we refer to in this guide are common for most of governing bodies and are listed below for use by all governing bodies. Please note that the list is not necessarily complete:

- Governing body performance and cooperation with management.
- HR-related matters including employment and the adherence to all labour related laws.
- Security of residents.
- Financial controls over cash, budgets, and capital expenditure.
- Control over all assets such as buildings, furniture, equipment, and machinery.
- Fire hazards.
- Flooding dangers.
- Emergency evacuations.
- Spare keys to access all buildings if necessary.
- Care services risks such as prevention of infections, patient safety, waste management, medicine management, etc.
- Possible claims against the governing body.
- Adherence to relevant laws and by-laws.
- VAT compliance.
- Tax compliance.
- Residents' safety.
- Staff and visitor safety to reduce financial losses.
- Confidentiality declarations by staff and residents.
- Indemnity declarations by staff, residents, and suppliers of services.
- Storage facilities, especially flammable and hazardous materials.
- OHSACT related matters.
- Entering contracts and the management thereof.
- Insurance.
- Environmental risks such as dolomite intrusion.
- Food preparation.
- Infection control where care services are provided.
- Potential for clinical and non-clinical risk, harm, or loss. These are:
  - Facilities Management
  - Safety and Emergency Preparedness
  - Housekeeping Department
  - Food Services Department
  - Security Department
  - Care Records Department



- Information Technology Department
- Purchasing and Supplies
- Finance Department
- Quality of services to all residents including frail care.
- Information technology, computer systems and back-ups.
- Accounting records and retention thereof.
- Facility's vehicles and the use thereof.
- Training of staff in their field of expertise but also in risk management.

#### **4.8.2 Insurance**

Once the decision is taken to ensure a particular risk there are three aspects which need to be looked at, namely:

- If the correct level of cover is established. The appetite for own risk must also be established as this will affect the premium.
- If the right premium is paid for the insured amount.
- If a reliable underwriter and insurance company have been chosen.

The correct asset replacement values must be determined at least every three years. For the other two years the amounts can be adjusted with inflation. The insurance cover could apply to both residents' property and communal area assets. Governors may decide to cover the governing body against additional insurable risks. This is especially applicable to body corporates where the values are submitted yearly to the AGM for approval.

By obtaining a security grading through the governing body's insurer or a representative association, both the governing body and its residents can enjoy preferential insurance rates.

Using the combined purchasing power of all residents is another way of bringing down the insurance cost for individuals.

Insurance can be divided into seven main categories and the governing body should consider each type of insurance:

- Asset insurance. Insuring the assets at replacement values against theft, fire, floods, and other common disasters. The *Sectional Title Schemes Management Act (STSMa)* makes this insurance compulsory, and each unit must be allocated an insurance value on a yearly basis.
- Business interruption.
- Public liability insurance. Mandatory for body corporates.
- Fidelity insurance. Insuring the governing body against theft of money by senior employees and members of the governing body. In accordance with the CSOS this insurance is compulsory. Mandatory for body corporates.

- Professional indemnity insurance.
- Members of the governing bodies and officers' personal liability insurance.
- Security staff insurance where the function is insured.

### **4.8.3 Occupational Health and Safety**

The *Occupational Health and Safety Act* (OHSACT) is an important act with its main objective to provide for the health and safety of persons against hazards to the health and well-being of people on the premises. The Act has huge negative consequences for the governing body, its members of the governing body and management if not properly implemented and maintained.

The Act applies to any governing body that employs or provides work to an individual. This includes contractors working for and on behalf of the employer. It is clear from the Act that for these contracted workers the governing body is a defined employer and that the OSHACT is applicable.

The employer must provide and maintain a working environment that is safe and without risk to the employee's health. The employer must eliminate and mitigate any hazards or potential hazards to the safety of employees. To achieve this information, instructions, training, and supervision are necessary.

The governing body is responsible for every contractor, sub-contractor, visitor, and resident on its site. The private property of residents is excluded of course. The governing body must ensure that the contractors have a health and safety system in place and that it is in line with what the governing body requirements. Letters of "good standing" and indemnity form part of the assurance process.

Construction activities on private residential sites need a written commitment by the owner that *Occupational Health and Safety Act* (OHSACT) will be implemented, and that the homeowner's association (HOA) will not be held responsible for any deviations from the Act that can result in injury.

The following areas must be addressed in a written plan and procedures document to ensure the governing body operates within the boundaries of the Act. Please remember that residents must be given a copy of the document as well.

- Appointment, acceptance, and delegation of responsibilities. These appointments are renewed on a yearly basis. The areas for which responsibility must be delegated and accepted are:
  - The chairperson of the governing body for accepting the overall responsibility for compliance with the Act by the governing body.

- The chairperson of the occupational and health committee.
- Safety representatives.
- Incident investigators.
- Supervisors and officers of various facilities, tools, and equipment such as ladders, band saws, scaffolding, hand tools, garden tools and harnesses.
- Other areas such as emergency coordinating, fire-fighting teams, first aid, medical coordination, health, and hygiene, etc.
- There are forty-two risk areas identified in the Act for which responsibility must be delegated and accepted.
- For all responsible areas standard control checklists must be completed and signed off on a quarterly basis.
- Training of employees in certain areas must take place on a yearly basis. The areas are health and safety supervisors, first aid, fire protection and evacuation.
- Acknowledgements by staff of having received working instruction and rules.
- A yearly check on critical equipment by outside service providers. These are *inter alia* the fire hydrants, medical equipment, fire extinguishers, fire-fighting equipment, fire hoses, emergency lights and fire alarm systems.
- The governing body must have a crisis management plan (emergency plan).
  - . Who is responsible for responding to emergencies?
  - . Designated assembly points must be established.
  - . Residences and rooms must be numbered and clearly marked and illuminated exits signs placed correctly.
  - . Servicing of all relevant equipment timeously.
  - . First aid courses and training in the use of fire-fighting equipment.
  - . Smoke alarms and heat detectors to be working and tested per planned intervals.
  - . Evacuation procedures must be in place, updated and regularly drilled.
- Disciplinary procedures must be in place.
- The governing body must contribute to the Workmen's Compensation Fund (UIF) and have a current certificate of "good standing" from the Department of Labour.
- Contractors on site must sign an indemnity agreement and commit to the maintenance of the OHSACT rules whilst on site. The contractors must present their certificate of "good standing" as well.
- Staff must attend annual medical examinations.
- Inspection reports must be completed for all accidents.
- Minutes of the quarterly health and safety meeting must be kept on file as evidence of the actions taken to remedy issues reported.
- Valid certificates of compliance for all electrical installations and electric fences.

- Storage areas with appropriate signage for flammable liquids, medical waste, pesticides, and insecticides.
- Fire safety must be addressed. Fire drills must take place at least once a year. Clearly depicted fire escape routes, functioning fire-fighting equipment, unobstructed routes to safety, etc. are part of this important safety discipline.
- Infection control procedures.
- General housekeeping is a prerequisite to good safety.
- The basic conditions of the *Employment Act* must be displayed in all work areas.

To offer the governing body peace of mind with the compliance to the Act an audit of all areas and departments is recommended. Specialist companies can be contracted to do such audits and the report can then be used to implement the shortcomings to become fully compliant. Follow-up audits should be conducted every three years.

#### **4.8.4 Dolomite management**

##### **4.8.4.1 Introduction**

The development of dolomite land presents a big challenge for a governing body. The possibility of sinkholes and land subsidence cannot be overlooked and the loss of lives and damage to properties is a real threat. It will be wise for the governing body to know the land classification on which buildings have been erected. Geoscience reports should be consulted. A B3 certificate must be obtained on all zoned stands.

We will now look at some more detailed requirements where buildings are erected on dolomite land.

##### **4.8.4.2 Regulations**

*South African National Standards (SANS), 1936 Regulations and International Standards Organization (ISO) 14001* set out the requirements for the development of dolomite land. Documents can be downloaded from the [www.geotechnicaldivision.co.za](http://www.geotechnicaldivision.co.za) website. Below are a few of the more important regulations that are specified in the document.

Any governing body that owns or is responsible for the management of dolomite land must act as follows:

- Have a dolomite risk management programme (DRMP) which is to be managed and maintained in accordance with the SANS document. The minimum requirements for the strategy to be incorporated into the programme set out in the SANS document.
- Performance of and adherence to the DRMP must be reported to the governing body.
- The occurrence of any sinkholes must be recorded.
- The persons responsible for the various tasks and remedial actions and for reporting responsibilities must be listed.
- Identify the resources and suitably trained personnel for maintaining the programme.
- Identify support expertise to assist those managing the DRMP.
- The accounting officer must ensure that the DRMP is carried out properly and records of any reviews must be retained. Establish levels of dolomite risk. Implement the DRMP at both the governing body and the individual home-owner levels.
- Measures taken to mitigate risks:
  - Explain the steps to proactively mitigate risk.
  - Identify water leakage precautionary measures and monitoring and maintenance of infrastructure.
  - Take measures for mitigation of surface drainage, groundwater levels and water bearing structures.
- Emergency reactions and dealing with occurrences:
  - Persons should be identified and trained to respond to emergency situations because of sinkholes and subsidence events.
  - Emergency reaction, notification, reporting, investigation, rehabilitation, and on-going monitoring are all aspects to be drafted into the DRMP.
  - Record keeping of all incidents.

#### **4.8.4.3 The Dolomite Risk Management Programme (DRMP)**

The DRMP for your governing body forms the basis for the management of your governing body's dolomite risk. It will address all the issues as set out in the SANS regulation, but in a more practical way, with specific descriptions of areas, tasks, controls, and the persons responsible. The programme will address the following areas:

- Introduction – The SANS reference, the purpose of the DRMP and the governing body's commitment are set out under this heading.
- Technical information – The risk grading and soil classification of the premises and individual stands are listed. A layout of the premises is given as well.
- Wet services layouts – The water, sewerage, and storm water plans for the entire premises form part of the programme. The networks, utility access holes and junction boxes must be

clearly marked and numbered. This is not only done to find the areas in emergencies, but it is also used in the inspection checklist.

- Practical management programme - The water supply network, the sewerage system and the storm water layouts are described and all the weekly, monthly, and yearly inspections and measurements that are done to check for any leaks are given. The borehole monitoring procedures, if any, are described.
- Procedures – Describe the way in which, when and by whom inspections, reviews and reports are prepared.
- Emergency reaction – The actions necessary and by whom they are performed in an emergency. All contact telephone numbers must be listed.
- Stipulate the conditions to be adhered to for the incorporation on new developments.
- The approval of the programme by the governing body is important as they take overall responsibility for the programme and its implementation.

#### **4.8.4.4 The Checklists**

The regulations and the DRMP cannot be successfully managed without the appropriate checklists that need to be signed off by the responsible staff performing the tasks, be it weekly, monthly, or yearly. The checklists must cover all areas of the DRMP and the detail of what is expected from the responsible person performing the task.

It is important to not only inspect the communal areas of water, sewerage, and storm water networks but also other vital areas. Residents should be made aware of their responsibilities and the need to do the checks as requested from time to time. Simple monthly checks such as the testing of water leaks, excessive use of water for swimming pools, damp and wet areas checks, etc. must be performed.

#### **4.9 Code of conduct for Governors**

For simplicity and ease of use an example of a code of conduct for governors follows below:

##### **Introduction**

In their capacity as Board Members the wellbeing of all stakeholders is the Board's top priority and Board Members will always advance and promote this principle in the execution of their functions.

## **1. Functioning of the Board**

- 1.1 This Code and the execution of Board member's functions should always be aligned to the King IV Report on sound governance principles.
- 1.2 A Chairperson and vice chairperson will be nominated, elected, and appointed by the board members after each AGM.

## **2. Procedures for Managing Conflicts of Interest**

- 2.1. No member of the Board shall derive any personal profit or gain, directly or indirectly, by reason of his or her service as a Board Member.
- 2.2. Members of the board shall conduct their personal affairs in such a manner as to avoid any conflict of interest with their duties and responsibilities as members of the Board.
- 2.3. When there is a decision to be made or an action to be approved that will result in a conflict between the best interests of the organisation and the Board member's personal interests, the Board member has a duty to immediately disclose the conflict of interest so that the rest of the Board's members will be informed about the potential conflict.
- 2.4. It is every Board member's obligation, in accordance with this policy, to ensure that decisions made by the Board reflect independent thinking.
- 2.5. Any conflicts of interest, including, but not limited to commercial interests, on the part of any Board Member, shall be disclosed to the Board when the matter that reflects a conflict of interest becomes a matter of Board action.
- 2.6. Any Board Member having a conflict of interest shall not vote or use his or her personal influence to address the matter, and he or she shall not be counted in determining the quorum for the meeting.
- 2.7. All conflicts disclosed to the Board will be made a matter of record in the minutes of the meeting in which the disclosure was made, which shall also note that the Board member with a conflict abstained from the vote [and was not present for any discussion, as applicable] and was not included in the count for the quorum for that meeting.
- 2.8. Any new Board member will be advised of this policy during board orientation and all Board members will be reminded of the Board Member Code of Conduct and of the procedures for disclosure of conflicts and for managing conflicts on a regular basis, at least once a year.
- 2.9. This policy shall also apply to any Board member's immediate family or any person acting on his or her behalf.

### **3. Confidentiality**

- 3.1. Board members are reminded that confidential financial, personnel and other matters concerning donors, staff or clients/consumers may be included in board materials or discussed from time to time.
- 3.2. Board members should not disclose such confidential information to parties unrelated to the subject matter.

### **4. Active Participation**

- 4.1. Board members are expected to exercise the duties and responsibilities of their positions with integrity, respect, collegiality, and care.
- 4.2. Board members must prioritise the attendance of Board meetings.
- 4.3. Board members must prepare in advance to discuss the issues and business on the agenda and having read all background material relevant to the topics at hand.
- 4.4. Board members must cooperate with and respect the opinions of fellow Board members, and leave personal prejudices out of all board discussions, as well as support actions of the Board even when the Board member personally did not support the action taken.
- 4.5. Board members must always place the interests above personal interests.
- 4.6. Board members must always represent a positive and supportive manner and in all places.
- 4.7. Board members must show respect and courteous conduct in all board and committee meetings.
- 4.8. Board members must refrain from intruding on administrative issues that are the responsibility of management, except to monitor the results and ensure that procedures are consistent with board policy.
- 4.9. Board members must observe established lines of communication and direct requests for information or assistance to the Chairman.

I, \_\_\_\_\_, recognizing the responsibility I am undertaking in serving as a member of the ..... Board, hereby pledge to carry out in a trustworthy and diligent manner the duties and obligations associated with my role as a Board member and abide by this Code of Conduct. I understand that failure to abide by this Code of Conduct may result in my removal as a Board Member, pursuant to the requirements and processes provided in the organization's governing documents.

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**