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because housing matters

Governance for Community Housing Organisations

An Introductory Guide

This guide was prepared by Jon Eastgate of 99 Consulting for Q Shelter.

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1.0 Introduction/Forward

Good governance is important for organisations of all sizes and in all areas of work, whether these are large multi-national organisations or local groups of volunteers. It ensures:

- that the organisation is well run and achieves its objectives
- that everyone in the organisation is clear where it is headed
- that dishonesty or misconduct is prevented or detected early
- that the organisation is financially sound
- that the organisation operates within the law.

This guide provides an introduction to good governance for community organisations. It is written specifically with housing organisations in mind, but good governance is the same across the not-for-profit sector and most of what is written here could be applied to any not-for profit organisation.

1.1 National Regulatory System for Community Housing

Community housing organisations are obliged to register under the National Regulatory System for Community Housing (NRSCH). The NRSCH has a set of requirements about governance and also about probity. Both of these areas are covered in this manual. The table in Attachment 1 summarises these requirements and directs readers to the section of this Guide in which they are covered.

It is important to remember that while compliance with the NRSCH is compulsory for community housing organisations, it is only one a series of regulations that affect them and they need to bear in mind the whole regulatory environment in which they work. This issue is dealt with in more detail in Section 6.

2.0 What is Governance?

What do we mean when we use the term “governance”? There are a number of definitions that you might find helpful. The Australian Charities and Not-for-profits Commission (ACNC) defines it as follows:

‘Governance refers to the processes, activities and relationships of your charity that make sure your charity is effectively and properly run.’

The Australian Securities Exchange (ASX) Corporate Governance Council defines it by quoting Justice Owen in the HIH Royal Commission.

‘The phrase “corporate governance” describes “the framework of rules, relationships, systems and processes within and by which authority is exercised and controlled within corporations. It encompasses the mechanisms by which companies, and those in control, are held to account.”’

The Australian Institute of Company Directors defines governance the following way.

‘Corporate governance refers to the framework of rules, systems and processes put in place to control and monitor – or “govern” – an organisation. Good governance underpins good conduct and the good judgement of those who are charged with running an organisation.

Effective governance structures allow organisations to manage their affairs with proper oversight and accountability, to create value for shareholders or members through sound investment and innovation, and provide accountability and control systems commensurate with the risks involved.’

Governance is primarily the responsibility of the board of an organisation. Although this body can delegate tasks to staff or sub-committees, it is ultimately responsible for the organisation’s performance and achievement of its objectives.

Box 1: A note about terminology

Depending on your form of incorporation and the structure you have chosen for yourself, you may use different terms for some things. In this Guide we use the following:

- “Board” for the main governing body of your organisation – you may call this a board of directors, a management committee or some other term.
- “Board members” for the members of this body – you may call them directors, management committee members or some other term.
- “Chairperson” for the chair of the board – you may refer to them as president.
- “Chief executive officer” or “CEO” for the organisation’s most senior employee – in some organisations this person might be referred to as the coordinator, manager, executive officer or some other title.
- “Constitution” refers to the rules that govern the organisation, and may be referred to in your organisation as the “rules” or “memorandum of incorporation”.

2.1 Governance and Management

The governance of an organisation is different from its day to day management, although these two tasks may overlap to some degree. Governance is about the overall direction of the organisation and its accountability for performance. Management is about implementing this overall direction through day to day operations and service delivery. The following table illustrates the differences.

Table 2: Governance and management explained

Governance	Management
Sets the organisation's strategic plan and performance targets.	Implements the strategic plan through the organisation's operations and arrangements.
Sets the budget and financial targets for the organisation and monitors achievement of these monthly or quarterly.	Manages the day to day financial operations including making sure bills are paid, debts are collected and transactions are recorded.
Sets the organisation's policies for key aspects of its operation.	Sets and implements detailed procedures to ensure policies are implemented.
Sets the risk appetite or boundaries within which the organisation will operate, ensures the organisation has an appropriate risk management strategy, and monitors the management of risk	Implements the risk management plan on a day to day basis and maintains systems for identifying and reporting risk.
Sets the overall staffing strategy for the organisation and employs and oversees the chief executive officer or senior staff person.	Appoints and manages staff, assigns tasks and manages performance issues.
Monitors compliance with relevant legal and contractual obligations.	Conducts day to day business in a way which meets these compliance obligations.
Manages relationships with key stakeholders to further strategic directions. Manages the relationship with members or shareholders to ensure accountability.	Manages relationships with clients, contractors and service provider partners to ensure effective service delivery.

In medium sized or large organisations these roles are generally separate – governance will be the responsibility of the board supported by the CEO, while management will be the responsibility of the CEO and staff. In small organisations which have either a very small staff team or no staff at all, board members may also be heavily involved in management activities. The small scale of these organisations can mean that the governance tasks are simpler than for large organisations, but they remain important and should not be neglected.

2.2 Governance Principles

Good governance is informed by a set of principles which should guide all boards in their operations. A number of organisations have articulated these principles in slightly different ways, including the ASX Governance Council, the ACNC and the Australian Institute of Company Directors.

The Australian Securities Exchange (ASX) Governance Principles are specifically referenced in the NRSCH Evidence Guidelines 4b, as outlined in Attachment 1 of this Guide.

These principles are contained in a document called the *Corporate Governance Principles and Recommendations*, published by the ASX Corporate Governance Council. This document includes eight core governance principles (summarised in the box to the right) and 29 more detailed recommendations guiding the implementation of these principles. You can download the full document from the ASX website <http://www.asx.com.au/regulation/corporate-governance-council.htm>

Box 2: ASX Governance Principles

1. Lay solid foundations for management and oversight.
2. Structure the board to add value.
3. Act ethically and responsibly.
4. Safeguard integrity in corporate reporting.
5. Make timely and balanced disclosure.
6. Respect the rights of security holders.
7. Recognise and manage risk.
8. Remunerate fairly and responsibly.

These principles are written specifically for companies that are listed on the Australian Securities Exchange and some items are therefore not of direct relevance to community housing organisations. However most items have wider application – all organisations need to set systems in place for the management of their business, structure their board in a way that gives best value to the organisation and its stakeholders, act ethically, report accurate

Box 3: ACNC Governance Standards

Standard 1: Purposes and not-for-profit nature of a registered entity: Registered charities must be not-for-profit and work towards their charitable purpose.

Standard 2: Accountability to members: Charities must take reasonable steps to be accountable to their members.

Standard 3: Compliance with Australian laws.

Standard 4: Suitability of board members: Charities must take reasonable steps to ensure that their board members are not disqualified from managing a corporation or from being a board member for a registered charity.

Standard 5: Duties of board members: Charities must take reasonable steps to make sure that their board understand and carry out the duties set out in this standard.

information, respects the rights of its shareholders or members, manage risk and pay its staff reasonable rates.

Another relevant set of principles is the set of five Governance Standards set out by the Australian Charities and Not-for-profits Commission (ACNC). These standards are summarised in Box 3 and are a set of minimum rather than 'best practice' standards. Many community housing organisations are registered with the ACNC and must continue to meet these standards to stay registered.

You can see more detail on these standards in the ACNC *Governance Standards Guidance* which you can download from https://www.acnc.gov.au/ACNC/Manage/Governance/ACNC/Edu/GovStds_overview.aspx, or their plain English guide *Governance for Good* <https://www.acnc.gov.au/ACNC/Pblctns/Guides/ACNC/Publications/Guides.aspx>.

A final set of principles worth referring to is the set of governance principles developed specifically for not-for profit organisations by the Australian Institute of Company Directors, set out in the box below. These are part of their NFP Principles and Guidance which you can find on their website: <http://www.companydirectors.com.au/Director-Resource-Centre/Not-for-profit>. The big advantage of these principles is that they are specifically written for not-for-profits and so geared for the type of business they do.

Box 4: Australian Institute of Company Directors – NFP Governance Principles

Roles and Responsibilities

There should be clarity regarding individual director responsibilities, organisational expectations of directors and the role of the board.

Board Composition

A board needs to have the right group of people, having particular regard to each individual's background, skills and experience, and how the addition of an individual builds the collective capability and effective functioning of the board.

Purpose and Strategy

The board plays an important role in setting the vision, purpose and strategies of the organisation, helping the organisation understand these and adapting the direction or plans as appropriate.

Risk - Recognition and Management

By putting in place an appropriate system of risk oversight and internal controls, boards can help increase the likelihood that their organisation will deliver on its purpose.

Organisational Performance

The degree to which an organisation is delivering on its purpose can be difficult to assess, but this can be aided by the board determining and assessing appropriate performance categories and indicators for the organisation.

Board Effectiveness

A board's effectiveness may be greatly enhanced through: careful forward planning of board-related activities; board meetings being run in an efficient manner; regular assessments of board performance; having a board succession plan; and, where appropriate, the effective use of sub-committees..

Integrity and Accountability

It is important that the board have in place a system whereby: there is a flow of information to the board that aids decision-making; there is transparency and accountability to external stakeholders; and the integrity of financial statements and other key information is safeguarded.

Organisation Building

The board has a role to play in enhancing the capacity and capabilities of the organisation they serve.

Culture and Ethics

The board sets the tone for ethical and responsible decision-making throughout the organisation.

Engagement

The board helps an organisation to engage effectively with stakeholders.

These sets of principles provide a framework within which the board needs to carry out its detailed governance work. One way to make sure you keep to these principles is to incorporate them into a board Charter or Code of Governance of your own. This is a document which all board members would sign, and which would be available to all members and stakeholders of the organisation, which sets out:

- the principles under which your board operates
- the responsibilities of the board as a whole and of specific office-bearers
- the ethical standards that guide your conduct individually and collectively (this could be a separate Directors' Code of Conduct)
- key elements of your operation as a board including any standing sub-committees.

3.0 The Board

The board of your organisation carries the main responsibility for governance. Depending on how you are incorporated, your board may go under different names. If you are a Company Limited by Guarantee or a Cooperative, it will be a board of Directors and its members will be directors. If you are an incorporated association your board will be called a Management Committee and its individual members will be referred to as Management Committee Members. When we use the term “board” and “board members” in this guide it is intended to cover all the forms this might take.

There are some differences between the responsibilities of board members depending on which Act the organisation is incorporated under. It is always wise to check the specific details if you are unsure and to seek legal advice. However, the core responsibilities of boards are very much the same irrespective of the form of incorporation, and these are summarised in this section.

3.1 Board Responsibilities

Irrespective of its form of incorporation, the board of an organisation has a set of responsibilities which it needs to fulfil as part of its operation. While board members don't necessarily need to do all the work that relates to these responsibilities – tasks can be delegated to staff, external advisors or sub-committees – ultimate responsibility for these issues rests with the board. The board therefore needs to ensure that matters are delegated to reliable and competent people and entities, and independently monitor the work carried out by them.

3.1.1 Individual board members

It is important to remember that although the board works as a team and shares responsibility for the organisation's performance, each individual director is responsible for ensuring the company operates properly. The exact legal duties that will apply to you as a board member will depend on the legal nature of your organisation. However, the same fundamental principles underpin all board members' duties.

The Corporations Act 2001 specifies four main duties of directors (section 180-183 of the Act).

- To act with due care and diligence in carrying out their role – this is broadly defined as showing the care and diligence a reasonable person would be expected to show.

- To act in good faith and in the best interests of the company, including avoiding conflicts of interest.
- To not improperly use their position to gain advantage for themselves or someone else, or to the detriment or at the expense of the company.
- To not improperly use the information they receive as a director to gain an advantage for themselves or someone else or to the detriment of the company.

These same obligations generally apply to board members of other types of organisation by virtue of common law.

The Australian Securities and Investments Commission (ASIC) describes the legal responsibilities for individual board members of companies registered under the Corporations Act in the following way.

‘As a director, you must:

- be honest and careful in your dealings at all times
- know what your company is doing
- take extra care if your company is operating a business because you may be handling other people’s money
- make sure that your company can pay its debts on time
- see that your company keeps proper financial records
- act in the company’s best interests.... and
- use any information you get through your position properly and in the best interests of the company. Using that information to gain, directly or indirectly, an advantage for yourself or for any other person, or to harm the company may be a crime or may expose you to other claims. This information need not be confidential; if you use it the wrong way and dishonestly, it may still be a crime.

If you have personal interests that might conflict with your duty as a director, you must generally disclose these at a directors’ meeting.’

You can find more information on this subject at

<http://www.asic.gov.au/asic/asic.nsf/byheadline/Your+company+and+the+law>

The ACNC’s Governance Standard 5 has a similar list for directors of charities. In its Good Governance Guide, the ACNC lists six key responsibilities of directors.

1. To act with reasonable care and diligence.
2. To act in the best interest of your charity and for a proper purpose.
3. Not to improperly use information or your position.
4. To manage financial affairs responsibly.
5. To disclose and manage conflicts of interest.
6. Not to allow a charity to operate while insolvent.

If you are on the board of an ACNC-registered community housing organisation, you need to be careful to always act in line with these principles as you carry out your duties.

3.1.2 The Role of the Board

As a group, the board carries a number of crucial responsibilities in the organisation. These include the following.

Setting the strategic direction and monitoring performance

The board is responsible for the strategic direction of the organisation. This includes deciding the key objectives and goals of the organisation (in line with its constitution), setting strategic priorities, setting performance targets and allocating resources (staff, money, assets) to achieve these goals, and monitoring the organisation's performance against these goals. This role is discussed in further detail in Section 4.1 of this Guide.

Financial oversight, including ensuring the organisation is solvent

The board is responsible for overseeing the organisation's financial performance. This includes setting the organisation's budget, and regularly monitoring performance against that budget (usually via monthly financial reports).

One of the most important legal responsibilities of a board is to ensure that the organisation remains solvent at all times. This means that it has enough money to pay all its bills as and when they fall due. It is illegal for a company to trade while insolvent and if the board becomes aware of insolvency it is important for it to immediately seek specialist advice and to inform the regulator (ASIC, OFT, ORIC depending on the form of incorporation) of its situation. In some circumstances, directors can be held personally liable for debts incurred when their company trades while insolvent.

A well-functioning board will ensure as far as possible that it doesn't get into this situation by ensuring it has good quality financial information, identifying problems early and taking steps to fix them. Financial oversight is dealt with in more detail in Section 4.2 of this guide.

Compliance and operation within the law

The board is responsible for ensuring that the organisation operates within the law and honours its contractual obligations. Section 6 of this guide deals with this responsibility in detail.

Risk assessment and risk management

The board is responsible for setting the "risk appetite" of the organisation - that is, the overall level of risk it sees as acceptable - ensuring the organisation has an appropriate risk management strategy, and monitoring the management of risk. This matter is dealt with in detail in Section 4.3 of this guide.

Appointing and managing the performance of the CEO

The board is responsible for the employment of the most senior staff member in the organisation, whatever title that person holds (in the corporate world they are generally called the Chief Executive Officer or CEO but in community organisations they often go by other titles such as Manager, Director or Coordinator).

This responsibility includes:

- approving the position description for this role
- setting the pay and conditions for the role
- recruiting the person who fills that position
- setting their performance expectations and targets
- managing their performance against these targets over the course of their engagement
- supporting the person as they carry out their role.

In an organisation with multiple staff, the CEO would normally be responsible for appointing and overseeing their staff team within the strategic and policy parameters set by the board, although the board may have input into the appointment of some other senior roles – for instance the chief financial officer. In practice, much of the work of supporting and overseeing the CEO may be delegated to the chairperson or a Board committee (such as the Nomination and Remuneration Committee) but the key decisions in relation to the CEO will generally be ratified by the board as a whole. This matter is addressed in more detail in Section 5 of this guide.

Engagement with key stakeholders

The board carries responsibility for engagement with some of the organisation's most important stakeholders. These may include the main funding body, key politicians or significant financial or operational partners. Normally this would be done in tandem with the CEO but it is generally politic for the Chairperson in particular to pay attention to this small number of key external relationships.

Accountability to Members or Shareholders

Finally, the board is itself accountable to the members of the organisation. They are appointed by the members to govern the organisation, and are required to report on their performance each year via an annual report, audited financial statements, and submitting to questions and periodic re-election at the Annual General Meeting. It is important to retain a relationship of trust and confidence between members and the board to ensure this accountability functions well.

3.2 Board Operation

The following section provides some guidance as to how your board should operate from month to month and from year to year.

3.2.1 Meetings and Decision-making

The main business of the board is conducted at board meetings. In most organisations these take place monthly, and a minimum number of meetings per year is often specified in the organisation's constitution. Ultimately, the frequency of meetings will be determined by what information the directors feel they need to fulfil their legal duties.

The following are key processes involved in conducting board meetings.

Meeting Notices

Board members need to be given adequate notice of meeting dates. This is most often through scheduling the meetings on a regular date each month, but if this date changes members need adequate notice (generally at least 7 days) to ensure they can attend. This time frame will usually be set in your organisation's constitution.

Meeting Agenda

A meeting agenda should be prepared beforehand and approved by the Chair, and will consist of a number of standing items (items that occur every meeting) as well as any special items of business for that meeting.

Standing items generally include the following

- apologies
- declarations of conflicts of interest
- review and confirmation of the minutes of the previous meeting
- financial reports
- operational reports (this may be in the form of a CEO's report)
- reports from any subcommittees
- risk management and compliance review.

There are also a number of regular items of business which occur at different times of the year but do not need to be considered at every meeting. Many organisations use a Governance Calendar to ensure that they cover these items at the appropriate time. For instance:

- Matters to do with the preparation and audit of the organisation's financial statements, and organising the AGM need to be considered at the end of the financial year.
- The formal review of the CEO's performance may be scheduled in a number of ways – often it is timed to coincide with the organisation's operational planning cycle, the performance linked to achieving the performance goals set out in each year's operational plan.
- Performance reports for funding departments would be considered as specified in funding agreements.
- Organisations may also use a governance calendar to schedule other internal matters – for instance, to manage a rolling process of policy reviews.

These regular or semi-regular items will generally be followed by any specific unique items of business to be discussed at that particular meeting. The following table identifies some typical items that could appear in such a calendar – you may want to add internal priorities of your own.

Table 3: Example Governance Calendar

Period	Priority	Activities
October-December	Strategic Planning and Review	<ul style="list-style-type: none"> • Review strategic and business plans for previous year - what has been achieved and completed, what actions are ongoing, any new issues or ideas • CEO Performance Review • New or revised Strategic Plan • Skills audit and training plan for incoming board.
March-April	Succession Planning	<ul style="list-style-type: none"> • Board members indicate if they intend to continue, potential replacement members discussed and approached.
May-June	Budget development/review	<ul style="list-style-type: none"> • Review financial achievements in the previous financial year and set budget for coming financial year • Ensure budget remains aligned with strategic plan/review strategic plan in the light of budget changes.
July-September	Audit and AGM	<ul style="list-style-type: none"> • finalise accounts for audit • call and hold Annual General Meeting • complete accountability requirements to funders and corporate regulators.

Board Papers

For a board to do its job properly, it is important that board members come prepared and have information beforehand to consider when making decisions. The CEO of the organisation should ensure that before each meeting (normally around five days before) the board members receive a set of papers which include:

- the latest monthly financial reports
- the CEO's report and any related operational information
- the minutes of the previous board meeting and any sub-committee meetings which have taken place over the previous month
- updated risk and compliance registers where there is anything to report against this item
- appropriately detailed proposals and explanations for any new items on the agenda.

Circulation of papers in this way serves two critical purposes. Firstly, it allows board members to come prepared and ask informed questions or make informed comments. It helps them to fulfil their legal duties as board members.

Secondly, it ensures that those who are bringing items to the board think through the issues properly and clarify what decision they want the board to make. The end result of this type of preparation is that boards make better decisions.

Meeting Process

For the board to be effective, its meetings need to be well run. Ensuring this is generally the responsibility of the Chairperson, but all board members need to be aware of good meeting process for this to function smoothly.

Each board will make a choice as to how formal or informal its meetings are. However, to ensure the business of the board is carried out clearly and professionally certain elements of meeting procedure are essential. These include:

- *Clearly framed proposals* – where the board is asked to make a decision, it is important that this decision be framed as clearly as possible, so that it is clear what is to be done, by whom, and when. Well-run boards use a template which sets out the issues they want to have covered in any proposal to ensure they get all the information they need.
- *Evidence-based decision-making* – It is important that wherever possible, decisions of the board be made in the light of clear evidence about the needs these decisions are intended to meet, and the likely consequences of any decisions on clients, staff, other stakeholders and the organisation's finances. This should include a thorough
- *assessment of the likely risks and benefits of any course of action*. If the board feels that it doesn't have enough information to make a well-reasoned decision, the board should defer a decision while it seeks further information.
- *Respectful discussion* – it is not to be expected that all board members agree all the time (in fact it is good that sometimes they don't) but discussion around issues should take place in an atmosphere of mutual respect, with the ultimate aim of reaching a solution in the best interests of the organisation.
- *Time management and resolution of issues* – It is important that the board get through its business and that in the end decisions are made. This is made much easier if the meeting is well chaired. A good chairperson will allow discussion to take place but move to end it when it becomes repetitive by seeking a concrete resolution, whether this is to accept or reject a proposal or defer pending more information. She or he will also manage the entire agenda of a meeting to ensure that priority is given to the most important issues.

3.2.2 Sub-committees

Many boards establish subcommittees (sometimes referred to as board committees) to assist them in the performance of their functions. These may include standing committees (for instance many organisations have an Audit and Risk Management Committee which oversees key financial and risk management aspects of its operation) and time-limited subcommittees set up to manage a particular task (for instance, exploring a new business opportunity or recruiting a new CEO).

Sub-committees are established by and accountable to the board, and operate under its authority. Their general purpose is to assist with the workload of the board in order to improve decision-making. To make this work smoothly, it is important that the role and function of each sub-committee is clear, and you would normally do this by setting up a set of Terms of Reference for each subcommittee.

Terms of reference need not be over-elaborate but at a minimum they should specify:

- Membership of the sub-committee – it will normally include at least one board member and may or may not include members from outside the board (provided this is not prohibited in the constitution).
- Its role – what issues it has been set up to deal with.
- Its level of delegation – what decision-making powers it has (if any) and what issues need to be brought back to the board for decision or ratification (normally sub-committees aren't delegated any decision-making authority).
- Its reporting requirements – in what way is the sub-committee expected to report to the board and how frequently? Sub-committees should keep minutes of their meetings and, as a matter of general practice, submit these to the board at each monthly meeting for information and consideration of any decisions which need to be made.
- Its term – a sub-committee may be set up for a particular period of time, or else if it is a standing committee the terms of reference should state how frequently its role and membership should be reviewed.

It is important to remember that while the board may delegate tasks or responsibilities to sub-committees, it does not therefore relinquish overall responsibility for these matters. At a minimum, the board will receive and consider the minutes of sub-committee meetings and, if appropriate, endorse any particular recommendations of the committee. In addition, the board retains its key legal responsibilities – for instance although it may have an audit and risk committee, the board as whole remains responsible for the financial wellbeing of the organisation and for ensuring it remains solvent.

3.3 Board Membership

One of the most crucial elements of board functioning is finding the right members. While the organisation's constitution generally sets out a formal process of nominating and electing board members via the AGM, well-functioning boards need to be proactive in ensuring that appropriate people are available for election. The following sections set out some key aspects of this element of board operations.

3.3.1 Board Members' Skills and Attributes

In setting out to recruit a board or specific board members, an organisation will generally start by specifying the ideal composition of its board in order to achieve the strategic direction of the organisation and ensure its proper governance. These may be thought of in a number of ways and increasingly are being documented in a board skills matrix.

Skills and Knowledge

All board members need to have some basic skills, including an understanding of their responsibilities as directors and a minimum level of financial literacy. Boards also need a particular skill-set to do their job. This generally includes people with the following specific backgrounds:

- legal knowledge or experience
- financial and accounting skills
- knowledge of community housing or the specific needs of the organisation's tenants or clients
- knowledge of property management/ maintenance/ development

- organisational management
- governance
- human resources or staff management expertise
- knowledge or experience in business development.

The idea is not that each board member would be highly skilled in all of these areas, but that as a team they can cover all these issues.

Personal attributes

In addition to these formal skills or qualifications, an organisation is likely to be looking for personal qualities in its board members that enable them to work effectively with their peers and match the culture of the organisation. These may include things such as:

- integrity or a strong sense of ethics
- commitment to team-work and collaboration
- creativity, problem solving and lateral thinking ability
- leadership abilities or skills
- community connections or relationships within the community in which you operate
- time availability to fill their role on the board.

Diversity

Ideally you would also be looking to ensure your board included people with a reasonable diversity of backgrounds – for instance, a mix of ages, gender mix, people from different cultural backgrounds – so as to provide a mix of life experiences and knowledge.

3.3.2 Recruiting and Inducting Board Members

Once you know what you're looking for, there's a number of ways you can go about recruiting board members to fill gaps in your board skills matrix.

Finding Board Members

By far the most usual and most successful approach is via *personal contact* from other board members. Most people join a not-for-profit board as a result of a personal approach or their own personal contact with the organisation. It is therefore important for existing board members to be on the lookout for candidates that fit the requirements and to work their networks to find people.

It is also possible to *publicly advertise* for board vacancies. There are some specialist locations where you can do this – for example, the Australian Institute of Community Directors has a free “directorship opportunities” service where you can advertise for directors and where people post their skills if they are looking for a board role – see

<http://www.communitydirectors.com.au/icda/board/>.

Women on Boards (<http://www.womenonboards.org.au>)

and Probono Australia (<http://www.probonoaustralia.com.au>) have similar services. You could also choose to advertise locally via your local paper or message boards, particularly if you are operating in a smaller regional community.

However, don't be surprised if neither method turns up anyone who has all the skills and qualities you are looking at – some professionals like lawyers and accountants are in heavy demand and it can be hard to recruit people with these specialist skills, especially if you are in a small community with a limited pool of people in the first place and/or if you are asking for people to completely volunteer their time. If this is the case, your third option is to recruit board members who have the personal attributes you require, and provide access to training in the more specific skill areas to improve the skills and knowledge of your board members over time, while making good use of the independent advice of professionals as needed.

Checking and Inducting Board Members

Even if you think you know a potential board member well it is important that you do a two way exchange of information prior to someone being formally nominated to a board position. This process is known as a 'due diligence' process.

For your organisation, you need to see evidence of their skills and background – their qualifications, their work and board history, their other commitments including any potential conflicts of interest, and their legal standing. It is important to be assured that they are not disqualified from board membership – for instance by being bankrupt, having been convicted of offences which would prevent their being a board member, or being barred from board participation by ASIC. Even if you think you know the person well, it is always advisable to seek independent confirmation that he or she is not barred from being a director for any reason – this is best done by seeking a reference from a previous or current board on which they serve.

Conversely, it is important that the potential board member has a chance to take on the role with their eyes open. This means you need to give them solid information about your operations. This would include copies of your constitution and annual report, any financial information on the organisation, your strategic and business plans, your risk management plan, key governance policies and processes, the identity of current board members and a summary of the services you provide. Apart from this written information, it will generally help them to have a face to face briefing with the chairperson and/or CEO to answer any questions, explain key aspects of the organisation's operations and generally give them an introduction to the culture of the organisation.

This due diligence process is, in effect, a two-way sounding out process. As an organisation you would determine if the potential board member is a good fit for you. At the same time, the candidate can decide if they are prepared to take on a role with your organisation and what sort of commitment they are prepared to make.

The CEO's role

It is common in organisations for the CEO to take a very active role in board recruitment. However, it is advisable to try and minimise this role. Since the CEO is employed by the board and accountable to it for his or her performance, it is important to maintain an appropriate distance between board and CEO. If there is a perception that the board has been appointed by the CEO and is too close to him or her personally, this can compromise the board's ability to hold him or her to account and to address any performance issues.

However, the CEO is a crucial source of information for potential board members and would normally be responsible for ensuring that the candidate has the relevant documents, and for helping to brief them on the organisation's operations prior to their accepting nomination.

3.3.3 Assessing Board Performance

The strategic direction and needs of an organisation change over time and this means the role and make-up of the board may need to change as well. In addition, the board will want to continue to learn and improve how it performs its role. One way to do this is to conduct regular board performance reviews – many organisations do these annually. The following sets out one approach to this task.

Setting Performance Goals

It is hard to assess the board's performance if you are not clear what you were trying to achieve in the first place. Hence, it is useful to set yourself some clear goals. These should be driven by the overall direction of the organisation, as set in your strategic, risk and financial plans. The core of your organisation's performance will then be around questions such as:

- Have you achieved your strategic goals as an organisation?
- Have you met your financial targets?
- Have risks been properly identified and managed effectively?

In order to assist in achieving this, it is helpful to have some specific goals around the operation of the board. There are a number of ways to do this. The Australian Prudential Regulation Authority (APRA) suggests a set of five goals for the board as a while (paraphrased here for simplicity).

1. Establishing a strategy for the organisation and overseeing its implementation.
2. Determining the appropriate level of risk, and establishing and overseeing a risk management strategy.
3. Assessing and keeping abreast of operating conditions – that is to say, being aware of the environment in which you operate and any changes.
4. Assessing management performance against agreed objectives.
5. Making key decisions in a timely manner.

They also suggest objectives for individual board members including:

- attendance and participation in board meetings
- contribution to board deliberations and decision-making
- possession of the required expertise to carry out their duties.

You may also set some goals about board development to better equip your board to achieve your strategic goals. These could include:

- a strategy to better match board skills to the strategic goals, either by recruiting extra board members or by training existing members
- processes for improving team work and interaction on the board and with senior staff.

Reviewing Board Performance

It is good practice for a board to regularly review its performance against these goals or against one of the governance frameworks set out in section 2.2 of this guide. You may choose to do this yourselves as a routine annual item of business (perhaps scheduled for the time when you are preparing for your AGM, or as part of your strategic planning cycle) or you could engage someone external to facilitate the review for you.

This review could look at a number of aspects of the board's performance including:

- To what extent has the board fulfilled its role in achieving your strategic and financial goals?
- How have you performed against any specific goals you set for yourself as a board?
- How well have you performed on risk management?
- How well has the board been operating as a team, and how well have you performed in making and carrying out important decisions?
- How do your current skills, knowledge and personal qualities match the needs of the organisation?

A review of this nature would identify a series of actions to be taken over the subsequent year to improve your board's performance.

3.3.4 Succession Planning

One of the things which flows from both the process for recruiting board members and the process of reviewing board performance, is the notion of board succession planning.

For a board to remain healthy and functioning, it is helpful to have an orderly and well-planned succession process for positions on the board and for key executive roles such as the chairperson and the chairs of standing sub-committees. This process will avoid two problems that are common in non-profit organisations:

- Individuals becoming entrenched in roles to the extent that replacing them seems impossible, with the individuals feeling trapped
- rapid and unplanned turnover leading to a loss of skills, knowledge and organisational history.

To avoid both these extremes, it is helpful for the board, and individual board members, to think ahead about the length of their commitment and about how to replace departing members, share roles across the board and recruit new members strategically to boost the board's capacity to govern the organisation. This process of succession may have a number of different elements.

1. Turnover in Key Positions

Key board leadership roles such as the chairperson (and the secretary and treasurer in incorporated associations) tend to be demanding of people's time and energy and to exert a strong influence over the way the organisation is run. It is helpful to have turnover in these roles over time both to ensure individuals are not burnt out, and to bring fresh energy and perspectives into the organisation. In order to facilitate this, many organisations place limits (either obligatory through their constitution, or as a matter of practice) on tenure.

For board succession to operate successfully it is helpful to identify and groom successors before the end of the incumbent's tenure. For instance, a potential chairperson can be recruited as vice-chair and involved in planning for and chairing meetings with a view to facilitating a smooth transition to the role; a potential Audit and Risk Management Committee chairperson (or treasurer) can be recruited onto the relevant sub-committee so that they develop a more detailed familiarity with the organisation's finances before taking over the role. The organisation may also wish to support potential successors to these roles with formal training to increase their skills.

This type of succession may also require you to think ahead about recruitment to the board as a whole. For instance, it may be that your current chairperson is the only board member with the confidence and standing in the community to carry out the role you expect of a chairperson. In this case you could make a choice to train an existing board member or members to increase their skills and confidence, or you may actively seek new board members with these skills to support the chairperson and ultimately take over their role.

A further element of this process is that you may use it to manage the exit of longer standing board members. For instance, your immediate past chairperson could be encouraged to remain on the board, or to serve a term as vice-chair, in order to support a new chairperson as they settle into the role. However these transitions need to be managed carefully to avoid personality clashes or power struggles within the board.

2. Targeted Recruitment

The second aspect of succession planning is around targeting recruitment to your board more generally. Your board performance review, as described in the previous section, should identify skill areas where the board is deficient, or areas where you are falling short of your diversity goals. This would then lead you to proactively try and recruit new board members whose skills and attributes complement those of your existing board members and fill your identified gaps.

Once you have identified the qualities you are looking for, you would then use the recruitment and induction process outlined above to seek, approach and recruit appropriate members.

3.3.5 Company Secretary

The secretary of your organisation plays an important role. It is essential to make sure you have a competent person in this position and that they are aware of their responsibilities. The secretary may be a board member but does not necessarily need to be – the secretary can be a staff member or an independent person such as a lawyer or accountant who performs the role on behalf of the organisation. Many organisations prefer not to have a board member as secretary to provide a degree of independence, as some of the functions of the secretary see this person acting as a bridge between the board and other stakeholders including corporate regulators and members. However, since their role primarily relates to the functions of the board it is important that they have a close working relationship with the board and be directly accountable to it.

There is some variation in the responsibilities of a secretary depending on your form of incorporation and the details of your own constitution.

However, there are also some functions common to all forms of incorporation. These include:

- Ensuring that key corporate records are maintained, including membership registers, meeting minutes, formal correspondence and other key registers such as the Register of Interests discussed in Section 4.3.2.
- Ensuring notice is given for board meetings, general meetings and the AGM and that this is done in the proper form and contains the required information – for instance the time and place of the meeting, the agenda and the notice of any formal motions.
- Receiving nominations for board membership.
- Being the conduit for all formal correspondence to and from the organisation's board, for instance correspondence with the corporate regulator or other legal correspondence.
- Being responsible for formal communication between the board and members – for instance providing notice of any significant meetings or events, dealing with processes for accepting new members, receiving member resignations, disciplining or expelling members, and receiving any formal petitions or meeting requests from members.
- Ensuring appropriate directors and officeholders' insurance is in place.
- Ensuring proper storage and use of the organisation's Common Seal.

4.0 Setting Strategic Direction

The strategic governance of your organisation involves setting strategic direction, setting in place a financial plan that supports this direction within the organisation’s resources, appropriately managing your organisation’s risks, and monitoring and measuring performance against key organisational goals. The following sections briefly summarise these key roles.

4.1 Strategic and Operational Planning

An organisation’s strategic plan is what frames its work and drives its financial, operational and investment decisions. It is typically a medium to long term document (3-5 years) and sets out the overall direction of the organisation – its vision and mission, strategic goals and strategies with key performance indicators for achieving these within the organisation.

In most cases a strategic plan is further operationalised by an operational plan. This is a more detailed document with a more immediate focus (usually one year) which sets out in detail how the organisation will deliver on its strategic goals. The relationship between these two types of plan is illustrated in the following table.

Table 4: Linkages between strategic and operational planning

Strategic Plan (3-5 years)	Operational Plan (12 months)
Vision	
Mission	
Values	
Organisational history	
Organisation structure	
Current context	
SWOT analysis	
Operating Environment	
Goals (outcomes/objectives)	Goals (outcomes/objectives)
Strategies	Strategies
Broad statement of actions	Actions in detail. Includes: <ul style="list-style-type: none"> • responsibility • timeframes • resource requirements • performance indicators.
Financial forecast	Detailed budget

Source: NSW Federation of Housing Associations – Guide for Strategic and Business Planning

A number of different terms are used for these plans and terminology can become quite confusing. For instance, it is common at present to call this combination of planning instruments a “Business Plan”. There are also other forms of planning which could either be done as stand-alone processes, or incorporated into these overall plans – for instance a risk management plan, an asset management plan, a communications plan and specific project plans. It is also important that strategic and business planning go hand in hand with financial planning –you need to know that your plans are affordable within your budget.

Queensland Shelter’s *Business Planning for Small Community Organisations* provides a methodology for building these elements into a simple but usable business plan.

There is no one right way of doing this and no single “right” set of terminology. What is important is that you DO plan your operations so that you know where you are headed and how you are going to get there, and that you use consistent terminology within your organisation so that everyone understands your intentions. The following sets out briefly the key elements of a strategic planning process.

4.1.1 Understanding Your Organisation

The first essential to developing a strategic plan is to understand your own organisation. This includes:

- Understanding your reason for being – your mission, vision and the values you stand for. You need to know why your organisation exists and what business it is in.
- Understanding your capabilities and scope – you need to have a good understanding of the financial and human resources available to the organisation, your geographic coverage and your key partnerships and relationships.

Having a thorough understanding of these matters will help you to:

- Stay on mission, shaping your goals to fit the overarching purpose and values of the organisation.
- Stay realistic, setting goals that are achievable within your current resources or using resources you have a reasonable chance of securing.
- Stay connected, working with your key stakeholders and partners to deliver your services.

This understanding provides the starting point for any plan you might agree to. This doesn't necessarily mean you are obliged to stay where you are now. You may end up with a strategic plan which aims to radically transform the organisation over your 3-5 year planning period. However, you will do this knowing clearly what the starting point is and what steps you need to take to get from where you are now to where you want to be.

4.1.2 Understanding Your Environment

The second essential element to good planning is to understand the environment you are operating in. This includes:

- Knowing your community and its needs, whether this be a local community or region in which you operate, or a particular needs group like older people or young people you are set up to serve.
- Understanding current and coming trends in the policy and funding environment you operate within.
- Understanding other social, economic and environmental pressures that impact on your business.

Many organisations bring all this information together by means of a SWOT (strengths, weaknesses, opportunities, threats) analysis. This analysis brings together two key elements **internal** to your organisation (your strengths and weaknesses) and two elements in your **external** environment (the opportunities and threats it presents to you). This is a simple but powerful tool to identify what steps you need to take to build on your strengths and address your weaknesses, in order to take advantage of the opportunities and avoid or overcome the threats.

4.1.3 Setting Your Goals, Strategies and Measures

Once you've analysed your situation carefully, you will then be in a position to set your goals. It is important to take time to frame your organisation's goals carefully. Goals should be:

- Clearly expressed, so that anyone reading them can easily understand what you are trying to achieve.
- Concrete and measurable, so that you will be able to tell whether or not you have achieved them.
- Realistic, so that you have a reasonable chance of achieving them (although you should also be willing to be ambitious and set yourself difficult goals).
- Linked to your mission and values, so that achieving the goals will serve the purpose for which your organisation is established.

Goals are statements of where you want to get to. Strategies are statements about how you will get there. Whereas a goal describes what you want to achieve (e.g. increase the number of households assisted into affordable housing) a strategy describes the steps you will take to achieve this goal (e.g. seek funding to purchase or construct more housing). You may have a number of different strategies to achieve the one goal (e.g. for the goal of assisting more households you may have a strategy for building or constructing more housing, a strategy for head-leasing housing from the private market, and a strategy to start a new service brokering private rental arrangements).

Finally, each of your goals should have a concrete measure or set of measures which will tell you whether or not you have achieved it. For instance, your goal of assisting more households would be accompanied by a target for the number of tenants you want to assist each year. This target should ideally be related to a benchmark figure which tells you what you are achieving now, along with a target which you could express as a number or as a percentage increase.

The final element to setting your goals is to assign responsibility and resources. You need to ensure that someone in the organisation is responsible for making sure the goal is achieved, and that you give them the resources to do the work – either assigning a budget, or staff to the task, or both. Hence the final element of your strategic plan will be an overall financial and human resources plan which will assign resources to goals and match the available resources to the strategic plan. This ensures that the plan is grounded in reality and that you have the resources to deliver it.

4.1.4 Working Out How to Get There

Depending on the scale and complexity of your organisation, you may proceed to develop a more detailed operations plan. If you are a small organisation and your business is relatively simple, you may choose to include the operational details in the strategic plan. For a larger organisation or one with a number of different lines of business, you might be better advised to separate the two.

An operational plan provides more detail about the “how” of your plans, identifying who will do what, by when, and how their performance will be judged. In larger organisations, setting and managing the operational plan is generally the responsibility of staff under the management of the CEO rather than of the board, although the board may retain final approval. An operational plan is usually shorter term than a strategic plan (one year as opposed to 3-5 years) and is focused on immediate, concrete tasks.

It will:

- Build on the goals, strategies and targets outlined in the strategic plan, breaking these down into more detailed, concrete actions and interim targets and performance outcomes.
- Assign individual tasks to specified people in the organisation, and identify how they will be accountable for achieving these tasks.
- Identify and assign both staff and other resources (finance, assets, etc) to the specific tasks.
- Set detailed time-frames in which these tasks will be achieved.

The individual tasks will then generally form the basis for individual staff performance plans, so that they are held personally responsible for the tasks assigned to them.

4.1.5 Reviewing and Revising

Although a strategic plan generally goes over a number of years, it should not be a “set and forget” plan. Part of the board’s responsibility is to review progress at regular intervals and to adjust and update the plan to reflect changed circumstances. Normally you would thoroughly review the plan at least annually as part of developing your next operational plan, and receive more frequent progress updates. A review would look at a number of issues including:

- What progress has been made on achieving the goals – is this in line with expectations?
- What has changed in the environment since the last review and does this mean some of your goals need to be changed, added to or removed?
- If some goals are lagging in achievement, what do you need to do to address this?
- If you have completed some goals, does this lead you to new goals based on your achievements so far?

While your board may not be “hands on” in doing the tasks in the strategic plan, it remains your overall responsibility to both approve the plan and to oversee its achievement and it therefore needs to be a clear part of your business to regularly review progress against your strategic goals.

4.2 Financial Oversight

Financial oversight is one of the key responsibilities of any board and one of the significant risk areas for any organisation. No matter what legislation you are incorporated under, your financial responsibilities are clearly stated – as a board you are responsible for managing the finances and ensuring that the organisation remains solvent. The following outlines the key processes for doing this.

4.2.1 Financial Planning

Good financial management starts with having a clear, detailed financial plan or budget. This plan should be closely linked with your strategic plan – the strategic plan identifies what you want to achieve, the financial plan identifies how you will pay for it. This plan will include:

- a realistic assessment of expected income from all sources
- a detailed budget for expenditure broken down by item, including both immediate expenditure and provisions for longer term items like leave entitlements and asset maintenance
- a cash flow plan which demonstrates expected income, expenditure and reserves month by month.

It is important that this plan be realistic and based on as accurate assessments of costs and income as possible. It is also important that it be affordable. Ideally it would show you breaking even or making a surplus. If you have reserves that are not set aside to meet specific obligations and you decide to spend these, you would be advised to identify this as a separate item in your financial plan with clearly specified outcomes, rather than using them to prop up your general operations.

4.2.2 Financial Monitoring

Once you have set a financial plan, one of the core aspects of your governance role is to decide what financial information the board requires and monitor financial performance against those metrics on a regular basis. This will normally happen each month as a regular item on your board meetings. You will want your financial reports to detail matters such as:

- your income and whether this income is within expectations
- your expenditure and whether this is as budgeted
- your cash flow and current cash situation, indicating whether your cash reserves are sufficient to cover all your liabilities and pay your creditors.

Where income is lower than expected or there are unexpected expenditures it is important that you take action to ensure that these financial problems are corrected. As a board you need to remain in touch with the organisation's finances at all times and to deal with any issues as they arise – while you can delegate the administration of this to staff or to a finance or audit sub-committee, this is a core responsibility of the board which you need to handle.

While this is a responsibility of the board as a whole, each individual board member also has a personal responsibility to satisfy themselves the organisation is solvent. This means each board member must have sufficient financial literacy to understand your accounts, and if they do not it is important you make training available to bring them up to speed or, if this is not possible, plan for their departure and replacement with board members who have the required skills.

As a board you have a very clear legal responsibility to ensure that the organisation remains solvent at all times (that is to say, has enough funds to pay its creditors and meet its financial obligations). This means you need to have enough funds in reserve to meet all your current obligations, including:

- any invoices that are due and have not yet been paid
- staff entitlements including accrued leave, long service leave, superannuation contributions and any other accrued entitlements
- statutory payments such as any funds you owe the tax office (for instance, GST or PAYG tax you have collected) or rates and charges on your properties
- essential maintenance on properties, particularly maintenance that is required to keep properties habitable or comply with regulations.

If there is some doubt about solvency, this is a matter that needs to be taken seriously and changes made to bring the organisation back to solvency. You should always seek professional advice from your accountant if you are in doubt. If your financial problems are so serious that they can't be solved, you need to immediately inform your regulatory agency (e.g. ASIC if you are registered under the Corporations Act) and initiate processes for receivership or administration.

4.3 Managing Risk

Another key role of the board is to manage the organisation's risks. This section sets out an overall risk management framework, and discusses some key risk areas and strategies that are common to organisations.

4.3.1 Risk Management Framework

Organisations face a number of risks in the course of their business. It is important that these be identified and managed as well as possible, while recognising that some risk is inevitable in any area of business.

Risks can be analysed in a number of ways. One framework is for you to analyse them under a set of key headings as follows

- Tenant and housing services risks – risks associated with the business of providing houses and services to your tenants, such as the risk of unpaid rent, abandonment of property or illegal activity by your tenants.
- Asset risks – risks associated with the holding of assets such as damage by natural disaster or fire, or loss of value due to market conditions.
- Community engagement or relationship risks – risks associated with your network of relationships and stakeholders, such as the risk of damage to relationships or reputation as a result of service delivery issues.
- Governance risks – risks associated with the governance of your organisation, such as failures of oversight, inability to recruit board members or divisions at board level.
- Probity risks, including the risk of fraud, theft or conflicts of interest.
- Management risks – risks associated with the management of the organisation including the risk of staffing problems, inability to recruit skilled management.
- Financial risks – risks to the financial viability of the organisation such as loss of income, withdrawal of government funding or uncontrollable cost increases.

There is obviously some overlap between these categories and it doesn't necessarily matter how you categorise them, as long as you clearly identify the risks your organisation is facing. Using these categories, you would go through a risk planning process. A template to assist with this process is Attachment 2 to this guide. In summary, you would.

- Identify the risk – for instance, one of your asset risks is the risk of fire or other catastrophic damage to your housing.
- Identify the risk level - identifying how likely it is to happen (likelihood) and the severity of its impact on your business (consequence). For instance, the destruction of a property due to fire may be "possible" (depending on the nature of the housing) and its impact on your business would be major or extreme.
- Identify what actions you would take to avoid or minimise the risk – for instance, you would minimise the risk of fire by installing smoke detectors and regularly checking electrical safety.
- Identify what action you would take to mitigate the risk (i.e. to deal with the event if it does happen) – for instance you would retain adequate insurance to enable you to replace a property destroyed by fire, and have a contingency plan to house displaced tenants.
- Identify the "risk owner" – that is, who is responsible for ensuring this risk is managed.

This risk register should be reviewed at regular intervals to ensure it remains up to date.

4.3.2 Managing Conflicts of Interest

Conflict of interest is one of the key risk areas that comes up in all organisations, and potential or actual conflicts of interest need to be carefully managed.

A conflict of interest occurs where there is a conflict between the person's duty to the organisation and some other personal interest. A conflict can be

- financial, where a board member or officer stands to gain or lose personally from a decision
- non-financial, where they stand to get some other benefit or loss, for instance a gain or loss in their reputation
- conflicts of duty, where their responsibilities to your organisation directly conflict with or cut across their responsibilities in another role or in another organisation.

Conflicts of interest can be actual (where there is a clear conflict of interest right now) potential (where a conflict of interest doesn't necessarily exist right now could reasonably be anticipated in future) and perceived (where a third party might reasonably conclude that there is a conflict of interest). Examples of conflicts of interest include:

- Where the organisation is letting a contract for goods or services and the board member or someone associated with them has submitted a quote to provide these services.
- Where a close family member of a board member has applied for a job in the organisation.
- Where a board member also serves on the board of another similar organisation and the two organisations are competing for a contract or funding opportunity.

Such conflicts of interest represent a potential problem for organisations because they create the possibility that the board member may influence the board to make a decision which is not in the best interests of the organisation in order to further their own personal interest. Even if they don't actually act in this way, the existence of the conflict of interest can create the perception that this may have happened and damage the organisation's reputation. Legal ramifications might also follow.

It is inevitable that conflicts of interest will arise at some point in the organisation's operation. The important thing is to manage them well. The following sections provide some basic processes for managing conflicts of interest.

Register of Interests

Every organisation should maintain a Register of Interests, which records all the relevant financial and personal interests of board members and senior staff. Board members should be required to declare all the interests they have that are potentially relevant to the organisation on their accession to the board (in fact this is usually done as part of the process of recruiting them to the board). This would include:

- any board memberships they hold with other companies or organisations
- their current employment
- any personal relationships they have which may impact on their role as a board member
- any business or financial interests which may impact on their role as a board member.

The same process should apply to senior staff who should declare their interests at the point of recruitment.

This register would be kept up to date through regular reviews (for instance, annually at the start of each board term) and also as needed during the year as board members' circumstances change and they need to either add to or remove items from the register. A possible template for this register is found at Attachment 3.

Declaring interests as they arise

The second process you would use is to ensure that as items arise where board members have conflicts of interest, these are dealt with appropriately. The precise process for dealing with these situations may be set out in your constitution or your policies, and needs to be consistent with the Corporations Act or other legislation as relevant. The general procedure is as follows.

1. Where an item arises at a board meeting or in the course of other business of the organisation in which someone has a conflict of interest, this would be declared immediately, either by the person concerned or by the chairperson or another board member. This would include any interests they have identified on the Register of Interests, or any other item which arises where there is a conflict of interest even if it is not on the register.
2. In most cases, the person who has the conflict of interest would then leave the room and not be present for discussion or voting on the issue. Their departure would be clearly noted in the minutes of the meeting.
3. The non-conflicted members of the board may choose to vary this in exceptional circumstances by either agreeing to the conflicted director remaining in the meeting but not voting, or participating fully. They would only do this if they formed the view that the conflict of interest was not material and that it was in the best interests of the company for the board member with the conflict of interest to participate in the decision. This decision and the reasons for it should be clearly minuted, and the board member with the conflict should not vote on this resolution. If there is any doubt, the board member with the conflict should be excluded from that part of the meeting.
4. If the conflict of interest is not already on the Register of Interests, it should be added for future reference.

What is important in this process is both that conflicts of interest are properly declared and managed (with the un-conflicted directors deciding how the matter should be managed) and that they are seen to be so by people outside the organisation. This means that if someone (for instance, a member or a regulator) questions the existence of the conflict of interest, the organisation is able to produce records that show it was managed effectively and avoid damage to its reputation or standing in the community.

4.3.3 Fraud Prevention

A key aspect of risk management is to ensure you have processes in place to prevent fraud or misappropriation of funds or resources. Protection against fraud and misappropriation benefits both the organisation as a whole and the officers who handle funds and assets.

The organisation benefits by avoiding losses and reputation damage, individual officers benefit from the fact that everything in the organisation is "above board" so that if they act honestly there is clear evidence that they have done so.

You can take a number of steps to minimise your risk in this area.

Keeping Proper Records

This particularly applies to financial records, but also to records relating to the use of assets such as cars, phones or other equipment. You need to ensure that:

- all expenditure and resource use is properly documented, through invoices or receipts in the case of finances, through log books or other records in the case of assets
- these records are checked regularly and, in the case of financial records, are included in the organisation's accounts
- records are checked by an appropriate officer at regular intervals and any discrepancies are reported to a senior person.

Good record keeping reduces the opportunities for misappropriation as officers of the organisation know that any such conduct has a high risk of being detected. It also ensures accountability more generally since all expenditure and asset use can be easily accounted for if a third party raises questions – this acts to protect your staff and officers from false allegations.

Proper Authorisation

Along with record-keeping, a second set of processes involves authorisation of expenditure and asset use. It is important that:

- all expenditure is authorised by at least two people
- that the procedure for authorisation ensures that expenditure is accompanied by records – invoices, receipts etc. – that clearly show its purpose
- that the process for approving the use of assets is clear and is followed at all times.

This process ensures that one single person does not have unfettered control of resources without any oversight.

Accountability

A third measure you can take to prevent fraud and misappropriation is to build a culture of accountability in the organisation generally. You need to ensure that:

- financial reports are sufficiently detailed for board members to be able to satisfy themselves that resources are being managed appropriately
- financial and other records are available for inspection by members and other stakeholders when requested
- there is full cooperation with audit and other external accountability measures so that you have meaningful and unreserved third party certification of the level of probity in the organisation.

Corrective Processes

Following the processes above minimises the chance of your organisation experiencing fraud or misappropriation, but does not completely eliminate it. Hence it is important that you have clear processes in place to address allegations of fraud if these arise.

These would include:

- processes for recording allegations involving the chairperson or other senior officers
- processes for reporting allegations to relevant authorities (e.g. police, corporate regulators) and cooperating with external investigations
- processes for managing affected staff while investigations are under way and for disciplining or dismissing them if misconduct is proved
- processes for protecting and indemnifying whistle-blowers.

What is important here is that allegations are taken seriously and properly investigated – the worst thing you can do as an organisation is cover up any alleged misconduct, as this shifts it from being an individual issue for the person concerned to being an issue of misconduct by the board as a whole.

4.3.4 Code of Conduct

Many organisations use a written Code of Conduct as a way of communicating to their board, staff and the wider public what is expected of people connected with the organisation. This is generally presented for review and signature by any new board members or staff as a way of ensuring they are formally aware of expectations. It can also be posted publicly so outsiders know what to expect – for instance, on the wall in the waiting area, or on the organisation's website.

The precise content varies between organisations but typically includes:

- provisions about respectful treatment of clients, staff and others
- the expectation that officers will fulfil their duties as directors or officers including that they will act honestly, with integrity and in the best interests of the organisation
- a commitment to respect the law and act lawfully at all times
- stipulations about privacy and confidentiality
- an expectation that officers will publicly support the organisation in external relations.

Other items can be added that reflect the organisation's specific base or business. For instance, respect for elders and culture in Aboriginal and Torres Strait Islander organisations, inclusive practices for organisations that work with people with disability, etc.

A Code of Conduct presents the positive face of the organisation both to itself and to the public – it lets everyone know what to expect, and presents those within the organisation with a standard to aspire to. It also presents a clear 'line in the sand' which can be used later to bring staff and officers into line if there are problems with conduct.

5.0 Staff Oversight

While some community housing organisations operate purely on a voluntary basis, most have at least a small staff team who carry out the day-to-day operations of the organisation. Where there are staff, the board has the responsibility for selecting at least the most senior staff person (who we refer to here as the chief executive officer or CEO) and overseeing their work. The board also has the responsibility for putting in place a framework that ensures staff are clear about their responsibilities and can do their job with the right balance of autonomy and accountability. The following two sections outline some of the key considerations in carrying out these two functions.

5.1 Selecting and Managing your Chief Executive Officer

The chief executive officer is a key person in any organisation. She or he is responsible for ensuring the strategic direction set by the board is translated into action through the work of the staff team, and who provides accountability back to the board for delivery of the strategic and operational plans. In most cases the board will delegate management of other staff in the organisation to the CEO. It is therefore important that you elect the right person for this job, and manage them carefully. This section is not intended to provide a detailed set of guidance on human resource management in your organisation – its focus is purely on ensuring you fulfil your governance roles well.

5.1.1 Recruitment and Selection

It is important that the selection of the CEO be done through a rigorous and accountable process to find the best person for the job. While you may end up employing someone already known to you (either an existing staff member or a person within your network) it is always advisable to cast the net as widely as possible to find the best person available as opposed to simply doing what's easy.

The recruitment process should ideally consist of the following steps.

- Review the role and make sure you have identified clearly the person's duties and the qualities you are looking for in a CEO, and the pay and conditions you are prepared to offer. Document this as well as selection criteria in a Position Description.
- Advertise the role publicly – this may include general advertising through employment websites as well as advertising in the sector through sector publications and informal networks. For some more prestigious positions you may take a more active approach such as hiring an executive recruitment firm to seek candidates, but this is usually not appropriate for most small to medium not-for-profit organisations.
- Short-listing and interview process. This process would generally be delegated to a sub-committee of the board (possibly with independent external advice) and their task is to identify the candidate/s who best fits the qualities the board has identified, using a set of clear criteria. The assessment strategies used might include interviews, review of work samples, psychometric testing and referee checks.
- A final decision. While you may choose to delegate the actual appointment to the selection sub-committee, the final decision should be made or at least ratified by the board prior to the appointment being made. This ensures that the board as a whole takes ownership of the decision and is therefore committed to working with the appointee from day one.

- Briefing and induction. The final step in the recruitment process is to ensure that the new appointee is properly introduced to the organisation – that the staff team are informed of the successful candidate as soon as possible, that the appointee is briefed on the strategic direction of the organisation, the key personnel and its current business situation, and that they have the information and support they need to commence their role.

5.1.2 Managing the CEO

In managing a CEO, it is important that you try to achieve a balance between supporting them and ensuring they remain accountable, and allowing them the freedom and authority to get on with their job. To do this well, it helps to have a number of key processes in place.

1. A clear line of communication to the board. The CEO will normally attend and formally report to each board meeting but they also need a line of communication into the board between meetings. This can be through a designated liaison person (most often the chairperson) who becomes in effect the CEO's direct supervisor. This person is someone the CEO can contact to discuss issues within the organisation, advise of matters which the board may need to know about, and seek guidance in between board meetings.
2. A clear set of performance expectations. A key part of the CEO's conditions of employment will be a performance plan which will specify their responsibility for delivering on key aspects of the organisation's strategic direction, and key performance targets and expectations in relation to these. This performance plan would build in review points at which progress can be checked and new directions set if needed.
3. A clear process of accountability. A CEO is normally expected to provide a detailed report on the organisation's operations at each board meeting, and it is up to the board to be clear what information it wants to see – how much, what data should be included, etc.

With these things in place, the board should be clear at all times how the CEO is going and whether or not she or he is delivering to expectations. What you are striving for through these processes is an open, productive working relationship with respect, trust and accountability on both sides. Where this relationship breaks down it becomes impossible to govern and manage the organisation effectively so it is important to continue to work on it and sustain it through effective communication.

5.2 Delegation of Responsibilities

A critical aspect of the division between governance and management is to put in place an effective set of delegations within the organisation. In the first instance the board must decide which matters it reserves for itself and which matters it delegates to the CEO. In the absence of a clear delegation of authority, all decision-making power rests with the board except for matters reserved for the members at a general meeting as specified in your constitution. In turn, the CEO can then with the board's authority further delegate power in the organisation. There are two aspects to delegation – decision-making capacity and accountability.

With decision-making capacity, it is important to be clear who has the authority to make what decisions. There will be decisions which the board reserves for itself, decisions which it delegates to sub-committees, decisions which are delegated to the CEO, and decisions delegated further to other staff.

In each case where decision-making is delegated it is also important to be clear to whom that person is accountable for the decisions they make, within what framework they are to make them, and how they are to report on the matters within their discretion.

Delegations are often thought of under three headings – financial, human resource and service delivery. The following table illustrates how you might construct is system of delegations.

Table 5: Sample Table of Delegations

Level of Delegation	Decision-making scope	Framework for making decisions	Accountability process
Financial			
Board	Approving budget and financial targets. Approving major asset purchases and disposals (amount specified). Approving variations to budget.	Linked to Strategic Plan and legal responsibilities for financial management.	Audit and AGM report to members, returns to corporate regulator.
CEO	Authorising expenditure within budget (limit may be specified).	Budget as set by board.	Monthly financial reports to board.
[Other Staff]	May be authorised to spend smaller amounts within budget.	Within the particular budget specified for their area of responsibility.	Accountable to CEO or finance officer, responsible for documenting expenditure.
Human Resources			
Board	Sets staffing structure and remuneration policy. Directly engages and supervises CEO. (May have input with CEO in employment of other key roles)	In line with strategic plan and budget	Audit and AGM report to members, returns to corporate regulator.
CEO	Responsible for overseeing the staff team and for day-to-day management of the operation.	Budget and HR strategy and policies approved by the board.	Accountable to the board for performance of the organisation – via monthly board reports.
[Other Staff]	(In a larger organisation some HR responsibilities may be delegated beyond the CEO – e.g. the manager of particular service team may recruit and supervise staff in that team)	In line with board policies and operational plan.	Accountable to the CEO.

Level of Delegation	Decision-making scope	Framework for making decisions	Accountability process
Service Delivery			
Board	Responsible for overall strategic planning framework and for agreeing to service targets and policies.	Dictated by funding agreements and relevant legislation.	Accountable to members via AGM and to funders through the process of reporting against funded outcomes/outputs.
CEO	Responsible for overseeing service delivery and establishing and reviewing service delivery procedures.	Funding agreements and policies/targets agreed by the board.	Accountable to the board through monthly reports and key data.
[Other Staff]	Detailed service delivery/client related decisions will generally be delegated to specific responsible staff.	Organisation's policy and procedures and any relevant laws/regulations.	Accountable to CEO/middle management.

This table is only intended to illustrate the general approach – you would delegate tasks in whatever way you feel is appropriate for your organisation provided this is consistent with:

- the law – for instance, the board cannot delegate its responsibility for overall financial management and oversight as this is their legal responsibility, and
- the proper performance of the board's functions in terms of effectively overseeing the organisation's performance.

However, within this there is a range of choices as to how much authority you give to your CEO and other staff and how much you retain at board level. What is important is that the delegations:

- a. are clear, so that everyone knows what decisions they can make and what they need to seek approval for
- b. promote efficient and effective operation, so that the need to seek permission does not make the delivery of your service unwieldy
- c. provide clear lines of accountability so that the board is able to exercise effective oversight
- d. be reviewed regularly to ensure they remain current and appropriate.

6.0 Compliance

Providers of community housing are required to comply with a wide range of legislation in the course of their business. This final section of this guide provides a summary of these compliance issues and some basic advice on how to become and remain compliant.

6.1 Your duty to comply

Complying with laws and regulations is, by definition, obligatory for organisations. Laws and regulations are compulsory. This means it is essential that organisations do everything in their power to comply with the various laws which apply to them. If you are looking at your compliance responsibilities systematically for the first time you need to carefully check your systems to ensure you are compliant and to address any non-compliance, using the processes outlined in Section 6.3.

There are two basic reasons (explained below) as to why you would put effort into making sure you comply with various laws and regulations.

6.1.1 Laws Have a Purpose

The various laws and regulations which affect providers of community housing exist for a reason and the process of making sure you comply will have tangible benefits for your tenants, staff and other stakeholders. For instance:

- The various provisions of corporate law aim to make sure your organisation is well governed and is properly accountable to its members and wider stakeholders.
- Fire safety regulations improve the safety of your tenants and can save lives.
- Anti-discrimination legislation prompts you to become more inclusive and improve the quality of your service and the diversity of your workforce.
- The Work Health and Safety Act protects the health and wellbeing of your staff and volunteers.

This means that while the effort of ensuring compliance can sometimes seem burdensome, in the longer term you will see benefits within your organisation and for your tenants.

6.1.2 Non-Compliance Has Consequences

On the negative side, failure to comply with laws and regulations has consequences. Depending on the law and the level of compliance, these vary from mild to severe.

- Some forms of regulation start out with corrective processes which aim to bring you into line. In these cases, the main penalty for you is extra work satisfying the regulator, and a likely increased level of scrutiny as the regulator will examine you more closely in the future.
- In some cases, your organisation can face financial penalties – for instance, for late lodgement of corporate returns under the Corporations Act.
- Failure to comply with some forms of regulation can put your continuing existence as an organisation at risk – for instance, failure to abide by the terms of funding contracts can lead to withdrawal of funding, or serious governance failures can result in the organisation being wound up by corporate regulators.
- While the personal liability of directors is generally limited, in some extreme situations they can be held personally responsible for events in a company, For instance, where they have acted dishonestly in carrying out their duties as directors. This can result in personal penalties which in the worst cases can include imprisonment.

While in most cases the direct consequences of compliance failure are likely to be inconvenient rather than catastrophic, regulatory failures have a broader impact in the damage they do to the organisation's reputation, and this can harm your organisation in the long run by limiting opportunities for growth or the development of productive partnerships. These consequences mean it is always worth your while to put the effort into compliance up front.

6.2 What You Need to Comply With

Providers of community housing need to comply with a wide range of legislation. The Australian Institute of Company Directors suggests there are around 600 pieces of Australian legislation that can potentially apply to companies. Some of the key legislative requirements on community housing organisations are summarised in Attachment 4. This list is not exhaustive.

Essentially you could see these obligations as falling into five categories.

- Regulations relating to your incorporation – whatever your form of incorporation you will need to comply with the legal requirements that go with that, including requirements about the duties and responsibilities of directors or management committee members, audit and reporting requirements, requirements about the conduct of meetings, and requirements for good financial management.
- Regulations relating to your role as a landlord, including the Residential Tenancies and Rooming Accommodation Act and the building safety elements of the Fire and Emergency Services Act.
- Elements of consumer and human rights law such as State and Commonwealth privacy legislation and the various pieces of anti-discrimination law.
- If you employ staff, regulations that relate to your role as an employer, including the Fair Work Act and the relevant industrial awards created under that Act, the Work Health and Safety Act and various laws about criminal history screening for staff or volunteers who work with vulnerable people.
- Regulations to do with your funding, including the specific details of funding contracts, the requirement to comply with community housing guidelines and processes, and the requirement to register under the National Regulatory System for Community Housing.

It is important to specifically identify the regulations which apply to you. For instance, regulations related to your incorporation will vary depending on how you are incorporated (e.g. as an association or a company) and regulations about employment and industrial relations only apply if you employ staff. Other regulations, such as tenancy legislation or anti-discrimination legislation, apply to everyone.

Where community housing is only one of a number of services your organisation provides, you will undoubtedly have other forms of regulation you have to comply with, related to the sources of funding or legislative requirements of these other services. Often there will be overlap between these and you can often use the same information to comply with each set of funding or service requirements.

The following table summarises how some of the differences may affect you. This is provided to get you started, but you should check your own individual requirements.

Table 6: Summary of Possible Compliance Requirements

	Larger housing provider with professional staff	Small volunteer run provider	Housing and support provider	Church-based provider	Multi-service agency (e.g. aged care or disability service)
Regulations related to incorporation	Will apply depending on form of incorporation.	Will apply depending on form of incorporation.	Will apply depending on form of incorporation.	Different requirements may apply if a church is your auspice.	Will apply depending on form of incorporation.
Tenancy law	Will apply.	Will apply.	Will apply.	Will apply.	Will apply.
Fire safety regulations	Will apply.	Will apply.	Will apply.	Will apply.	Will apply.
Human rights/ anti-discrimination law	Will apply.	Will apply.	Will apply.	Will apply.	Will apply.
Industrial relations law	Will apply.	Won't apply.	Will apply.	Will apply.	Will apply.
Workplace Health and Safety	Will apply.	Won't apply.	Will apply.	Will apply.	Will apply.
Criminal history screening (e.g. blue or yellow card)	May apply.	May apply.	Will almost certainly apply if support work includes clients in the relevant category.	May apply.	Either aged care or disability regulations are likely to apply.
Funding contract requirements	May have varying requirements under multiple programs.	Likely to have only one set of requirements	Likely to have separate requirements for housing and support.	Will depend on services provided.	Likely to have separate requirements for housing and other services.

6.3 How to Comply

The board or management committee of any organisation is responsible overall for ensuring that the organisation complies with various pieces of legislation. However, it can delegate compliance tasks where this is appropriate, and it is important that everyone in the organisation is aware of the compliance aspects of their own roles.

The following are four straightforward action areas which will help you make sure you become and remain compliant with your legal responsibilities.

6.3.1 Building Compliance into Everyday Activity

It is important that your standard processes and procedures be designed to be compliant with the relevant laws and regulations in each area of your business. You would do this by:

- Building complaint processes into your policies and procedures. For instance building the required notice periods into your tenancy management procedures, including relevant award conditions in your human resource policies and recruitment and selection processes, building board responsibilities into your standard board agendas. This will help to ensure that compliance becomes automatic and habitual within the organisation.
- Ensuring that compliance responsibilities are clearly identified in staff and board member position descriptions, and are covered in staff performance management processes. This will ensure that it is clear who is responsible for ensuring compliance with various areas of regulation.
- Where relevant, putting compliance issues on your regular meeting schedules. For instance, placing work health and safety issues as a standard item on your staff meeting agenda.
- Automating compliance wherever possible. For instance, placing key deadlines for corporate compliance into your CEO's calendar so that she/he is automatically reminded ahead of time when key deadlines like the AGM date and the due date for annual company returns are approaching.

Wherever possible, compliance should not be an extra effort or an “add-on” to your work, it should be embedded in your everyday practice so that it just becomes “what you do”.

6.3.2 Training and Skill Development

The second thing you need to do to build compliance in your organisation is ensure your staff and board members have the knowledge and skills required. Strategies for doing this include the following.

- Induction processes which cover the areas of compliance relevant to the person's role. For operational staff, this will include items such as workplace health and safety, privacy protection and anti-discrimination procedure as well as role-specific compliance like tenancy law for housing management staff or tax procedures for financial staff. For board members and senior staff it will include issues relating to corporate law and the organisation's funding and contractual responsibilities.

- Periodic training for staff to update their knowledge or improve their skills with relation to key compliance responsibilities. This could be in-house or sector-based training such as that provided by Queensland Shelter, or it could be provided by the regulatory body itself. For instance the Queensland Anti-Discrimination Commission runs training on discrimination issues, or the Residential Tenancies Authority provides free training and information sessions on tenancy law.
- Routine training for board members in their governance responsibilities. For instance, some organisations schedule a refresher session on board responsibilities for the first board meeting after each AGM.

6.3.3 Staying Up to Date

Laws and regulations change frequently and it is important that you stay up to date. The following is a suggested way of doing this.

- Assign responsibility:** It is important to be clear who in the organisation is responsible for keeping up to date with your various responsibilities. This responsibility should be written into that person's position description and clearly passed on when the role changes hands so that you don't "drop the ball". This responsibility would be specified in the compliance register (see 6.3.4)
- Subscribe and Update:** Most regulatory bodies have regular free newsletters or circulars which update interested organisations and individuals about changes in regulation. Your organisation should subscribe to these and ensure that they reach the person who holds regulatory responsibility for the area in question. This person would be responsible both for receiving the information and for acting on it. For instance by updating policies and procedures to reflect changed regulations, and making sure relevant staff and board members are aware of any changes which affect their role.

6.3.4 Planning, Checking and Reporting on Compliance

While the board can delegate implementation of compliance tasks, it remains responsible overall for ensuring the organisation complies with relevant laws. To do this it needs a system of oversight and planning to make sure key compliance tasks are covered.

One way of doing this is through the use of a compliance register. A template for such a register is included as Attachment 5.

You would use this register in the following ways.

- It provides a centralised, coordinated record of the organisation's regulatory responsibilities, what process you use to ensure compliance and who in the organisation carries responsibility for this area.
- This register would then be a regular item on each board meeting. The responsible officers would be asked to provide updates on any item on the register which has changed or where issues have been identified (i.e. "reporting by exception"). This should not be an onerous task. Often there will be nothing to report or only minor issues to note, but placing it on the agenda as a regular item ensures that the board is routinely advised of issues as they arise and keeps officers accountable for their responsibilities in this field.

- The use of this register will then prompt any action, follow-up or detailed discussion that needs to take place at board level and provides a mechanism to keep tabs on any “live” compliance issues.

The use of a system like this provides a way of making compliance a routine matter at board level, just as building complaint policies and procedures does at operational level. Hence it works as a preventive and risk management process, keeping you on top of your responsibilities and preventing regulatory failures which can become a lot more time-consuming and troublesome than a routine process of addressing compliance “up-front”.

6.4 What to do if you find you are not compliant

Even with the best of care you will find that at times you fail to meet your regulatory obligations. When you become aware of such a situation it is important that you DON'T IGNORE IT, and take steps to fix the problem. The following three steps provide a summary of how to do this. At each point, you should consider whether you need expert advice to help you deal with the problem – for instance from an accountant or lawyer.

Step 1: Investigate

The first thing to do is to find out the exact nature and extent of the failure.

- Is it a one-off problem or is it something you routinely get wrong?
- Is it confined to a particular person or team or is it a wider problem across the organisation?
- Is it an isolated issue, or a symptom of a wider problem with your operations?
- What are the consequences of the problem – financial, operational, service delivery?

Depending on how simple or complex the failure is you may need to seek expert help at this point to get to the bottom of what is going on and to recommend actions to fix it. Early written notification to your insurer where relevant could also be critical in dealing with any claims.

Step 2: Fix the Problem

Fixing the problem involves both rectifying the immediate problem, and adjusting your systems to ensure the problem is not repeated. You may need to do a number of things, depending on what you find in Step 1. These could include the following:

- Working with individual staff or board members to improve their performance.
- Providing better training or information to the responsible persons on their obligations.
- Adjusting your policies, procedures and work systems to ensure your work is compliant in future.
- Setting up a reporting arrangement to provide for closer supervision and monitoring of future performance.

Once again in putting together your strategy to fix the problem you may benefit from expert advice.

Step 3: Consider Self-Reporting

In some cases it may be advisable to report your regulatory breach to the relevant regulatory authority. If you are considering self-reporting it is always a good idea to seek professional advice and get the relevant advisor to assist with the self-reporting process. You will want to consider self-reporting a breach in a number of situations, including:

- Where the breach involves a law for which there are penalties or other consequences for failure to comply.
- Where the breach has involved you under- or over-paying on items like tax liabilities or fees and charges and you either owe or are owed money as a result.
- Where the breach potentially affects your compliance with funding guidelines.
- Other situations where your breach could have negative consequences for yourselves or others.

Where you are self-reporting a regulatory failure to a government regulator like ASIC or the Australian Taxation Office, you may also need to inform your funding body and/or the Community Housing Registrar under the notifications requirements of the National Regulatory System.

It is often tempting to keep compliance failures “in house” to avoid reputational damage. However, it is most often wise to resist this temptation. There are two reasons for this:

- Internally, it is always wise to develop a culture of openness and accountability rather than secretive behaviour. This ensures that you remain open to feedback, change and learning. In this regard the board should ‘lead from the top’.
- Externally, if you conceal a regulatory failure and it later comes to light as the result of an external investigation (for instance an audit or service review or via a complaint from a third party) the consequences are likely to be a lot more serious than if you self-report. In some circumstances the concealment can itself be seen as an offence which attracts penalties of its own.

As a general rule, regulatory authorities are likely to look much more favourably on organisations which self-report issues, are more likely to work with you to resolve the problem and are inclined to take a more lenient approach to any potential penalties if you demonstrate openness and willingness to address the problem.

Attachment 1: NRSCH Evidence Requirements – Governance and Probity

Performance Requirement	Indicator/Threshold	Governance Guide reference
Performance outcome 4: Governance		
The community housing provider is well governed to support the aims and intended outcomes of its business		
a) Ensuring coherent and robust strategic, operational, financial and risk planning	<ul style="list-style-type: none"> • The governing body sets and implements its strategic directions and scrutinises performance using: <ul style="list-style-type: none"> - business planning - financial planning - risk management planning - business continuity planning. • The governing body provides effective control of related party arrangements (e.g. through a group structure agreement, service-level agreement, partnership agreement or contract). • The governing body meets regularly (at least six times a year) in quorum with the treasurer and/or other financial expertise and/or consistent with the constitution. 	4.1 4.2 4.3 n.c. n.c. 3.2
b) Ensuring effective, transparent and accountable arrangements and controls are in place for decision making to give effect to strategic, operational, financial and risk plans	<ul style="list-style-type: none"> • The provider operates in accordance with a code of governance, consistent with the ASX Corporate Governance Principles, including in relation to: <ul style="list-style-type: none"> - the roles and responsibilities of the governing body and subcommittees - decision-making processes - managing conflicts of interest - internal business compliance - selection and performance of the CEO. • There are no significant and ongoing or repeated failures to achieve the performance outcomes defined in the regulatory code. • Independent chairperson (non-employee of the provider or related parties). 	2.2 3.2 3.2.1 4.3.2 Various 5.1 n.a. 3.3
c) Complying with legal requirements and relevant government policies to strategic, operational, financial and risk plans	<ul style="list-style-type: none"> • The provider has a system in place to ensure compliance with all applicable legal requirements and relevant government policies. • There are no significant and ongoing or repeated failures to meet legal requirements and relevant government policies. • Any instance of non-compliance is dealt with in a prompt and effective manner. 	6.0 n.a 6.4

Performance Requirement	Indicator/Threshold	Governance Guide reference
d) Ensuring that the governing body has members with appropriate expertise or that such expertise is available to the governing body	<ul style="list-style-type: none"> • The provider has fair and transparent processes in place to ensure the governing body has members with, or access to, an appropriate range of skills and knowledge to deliver on its business plan and manage the risks in its business, including in relation to, where undertaken: <ul style="list-style-type: none"> - recruitment and selection - induction - professional development - succession - engaging external expertise - remuneration - performance assessment of the governing body. • The business plan includes maintaining an appropriate governance structure, skills and knowledge. • There is a clear process for identifying and acquiring the skills and knowledge needed for effective governance in the context of its business plan. • The governing body accesses external advice, independent of the provider's management, where appropriate. 	3.3 3.3.2 3.3.2 3.3 3.3.4 Throughout n.c. 3.3.3 n.a. 3.3 Throughout
Performance outcome 5: Probity The community housing provider maintains high standards of probity relating to the business of the provider		
a) Establishing and administering a code of conduct.	<ul style="list-style-type: none"> • The provider has a code of conduct designed (or is supported by additional policies and procedures) to ensure it maintains high standards of probity, including in relation to: <ul style="list-style-type: none"> - whistle-blowing - conflict of interest - gifts and hospitality - procurement. • All board members, staff members and volunteers have provided a written undertaking that they understand and will comply with the code of conduct. • The provider regularly promotes the code of conduct. • There are no significant and ongoing or repeated failures to abide by the code of conduct. 	4.3.4 4.3.3 4.3.2 n.c. n.c. 4.3.4 4.3.4 n.a.
b) Establishing and administering a system of employment and appointment checks.	<ul style="list-style-type: none"> • The provider conducts checks for governing body members, employees, volunteers and agents commensurate with the requirements of the position, including in relation to: <ul style="list-style-type: none"> - referees and previous employment - criminal record - bankruptcy - working with children - working with aged. • There are no significant and ongoing or repeated failures to conduct appropriate employment and appointment checks. 	3.3.2 (board members only) Attachment 4 n.a.

Performance Requirement	Indicator/Threshold	Governance Guide reference
c) Establishing and administering a system for preventing, detecting, reporting on and responding to instances of fraud, corruption and criminal conduct	<ul style="list-style-type: none"> • The provider’s system is consistent with good practice established by relevant anti-fraud, anti-corruption and anti-crime agencies and professional standards bodies in the relevant jurisdiction. • There are no significant and ongoing or repeated instances of fraud, corruption or criminal conduct. • Any instance of fraud, corruption or criminal conduct is dealt with in a prompt and effective manner. 	<p>4.3.3</p> <p>n.a.</p> <p>4.3.3</p>
d) Maintaining the reputation of the community housing sector	<ul style="list-style-type: none"> • The provider notifies the primary Registrar of any incident related to its operations (and its response) that damages or has the potential to damage the reputation of the community housing sector. • There are no significant and ongoing or repeated instances of incidents that damage or may damage the reputation of the community housing sector. • Any incident that damages or may damage the reputation of the community housing sector is dealt with in a prompt and effective manner. • Notifications are made consistent with the NRS notification guidelines and National Law. 	n.c.

n.a. = not applicable – these items are specific NRSCH performance targets and are self- explanatory
n.c = not covered in this Guide

Attachment 2: Risk Management Planning Template

Please contact QShelter on 3831 5900 or info@qshelter.asn.au for risk management planning template.

Attachment 3: Declaration of Interests Template

I have read the XX Constitution, Conflict of Interest Policy and relevant legislation and as they relate to conflicts of interest and undertake to comply with the requirements of these documents and the spirit in which they are intended.

In accordance with the Conflict of Interest Policy, I have documented below my current directorships as well as my personal, professional, business or other interests, relationships or circumstances which do, or could be reasonably expected to, result in a conflict of interest or duty to XX.

Part A: Directorships held

Date commenced	Company	Relationship to XX (if any)

Part B: Other interests and/or duties

Date interest arose	Description of nature and extent of the interest or duty	The relation of this interest to XX	Matter under consideration to which this declaration relates (if applicable)	Description of any action proposed to resolve or manage the conflict

I hereby declare that the above details are correct to the best of my knowledge, and I make this declaration in good faith. I further request that this declaration be recorded in the Register of Interests.

Declarant's name:

Declarant's signature:

Date:

Attachment 4: Summary of Key Regulations

This attachment provides a brief summary of the main pieces of legislation and regulations which typically affect organisations providing community housing. This is not intended to be comprehensive and should not be taken as legal advice. It is intended for information and illustrative purposes only. When you are dealing with issues related to any of these pieces of legislation it is prudent to seek specialist legal, financial or other advice to ensure that you are operating within the bounds of the legislation. Many of the pieces of legislation summarised here are complex and providing proper advice in relation to them requires detailed technical knowledge which you would not normally expect community housing staff or board members to possess.

	Corporations Act 2001
Summary Statement	This is the piece of Commonwealth legislation that regulates a range of companies in Australia. Most of the larger providers of community housing and many smaller ones are incorporated as Companies Limited by Guarantee with non-profit objectives, and are regulated by this legislation. Registration under the Corporations Act provides a level of oversight which can give assurance to investors and other partners, but also imposes more stringent requirements on directors than other forms of incorporation.
Who is responsible for this legislation/regulation?	Australian Securities and Investments Commission (ASIC)
Most important obligations.	<p>Directors and officers have a number of obligations under the Corporations Act, including:</p> <ul style="list-style-type: none"> • to govern the corporation with due care and diligence, act in good faith and ensure that the corporation operates to fulfil a proper purpose; • to declare and manage conflicts of interest; • to ensure that accurate records are kept of the affairs of the corporation including financial records (kept for 7 years), records of activity, and minutes of board and subcommittee meetings; • to submit annual audited financial statements to ASIC (or reviewed statements for turnover under \$1m); • to keep up to date records of membership and of directors (present and past); • to hold an AGM by the end of November each year, with appropriate notice and information provided to members, the business of which includes presentation of financial statements, election of directors and appointment of auditor; • to lodge an annual return with ASIC by 30 November each year; • to ensure that the organisation remains solvent at all times; • to hold appropriate insurance; • to notify ASIC within 28 days of any change of board membership.
Policies/processes to ensure compliance	The organisation's governance policies should cover the key aspects of compliance with this Act.

Corporations Act 2001	
Sources of further information	<p>The Corporations Act can be complex and it is wise to seek advice from your solicitor or auditor if you are unsure. You can find further information on the ASIC website: http://www.asic.gov.au/for-business/.</p> <p>A number of organisations also have helpful resources to assist with governance including</p> <ul style="list-style-type: none"> • the Australian Charities and Not-for-profits Commission (ACNC) https://www.acnc.gov.au/ACNC/Pblctns/Guides/ACNC/Publications/Guides.aspx • the Australian Institute of Company Directors http://www.companydirectors.com.au/Director-Resource-Centre • the Australian Securities Exchange's Corporate Governance Council http://www.asx.com.au/regulation/corporate-governance-council.htm
Potential consequences of non-compliance	<p>Failure to abide by administrative requirements such as notification deadlines can result in financial penalties. More serious breaches of the Act, such as deceptive conduct or trading while insolvent, can result in more serious penalties for directors including criminal prosecution, imprisonment and disqualification from serving as a director.</p>
Timing issues	<p>The organisation's AGM must be held by November 30 each year. Each company has an annual review date which is usually the anniversary of its incorporation, and annual return must be submitted within a set period after this date. Changes to directors and other key changes must be notified to ASIC within 28 days.</p>

	Associations Incorporation Act 1981 and associated regulation
Summary Statement	This Act is designed to be a simple form of incorporation for small non-profit organisations and is generally not considered suitable for larger or more complex organisations. (There are similar Acts in the other Australian jurisdictions.) Many of the smaller localised community housing providers are incorporated under this legislation, and some larger charities are also incorporated as associations.
Who is responsible for this legislation/regulation?	Queensland Office of Fair Trading (OFT)
Most important obligations.	<p>The obligations of an association will vary to some extent depending on its constitution. In general, management committee members have a similar set of responsibilities as those of directors under the Corporations Act, described on p1-2. In addition to these duties, key obligations include;</p> <ul style="list-style-type: none"> • maintaining an up to date register of members; • keeping accurate financial and other records and ensuring the association remains solvent; • holding an AGM within 6 months of the end of its financial year at which audited financial statements are presented and management committee members are elected (a management committee must consist of at least three people including a president and treasurer - an association must also have a secretary who can be a management committee member but need not be); • submitting an annual return to OFT and informing OFT of changes to office bearers within one month of the event; • maintaining a bank account, public liability insurance and common seal; and • ensuring the association's full name appears on all official documents.
Policies/processes to ensure compliance	The organisation's governance policies should cover the key aspects of compliance with this Act.
Sources of further information	OFT has a range of information including a simple and highly readable guide for associations which you can download from its website - http://www.fairtrading.qld.gov.au/non-profits/incorporated-associations
Potential consequences of non-compliance	Some breaches of this Act can potentially attract financial penalties imposed on the management committee members responsible for the breach.
Timing issues	The AGM must be held within six months of the end of the financial year as specified in the association's rules (this can be any 12 month period) and returns provided to OFT within 28 days of the AGM.

	Cooperatives Act 1997 and associated regulation
Summary Statement	This is the State legislation which governs cooperatives - some of the early housing cooperatives are still registered under this legislation although some organisations which refer to themselves as cooperatives are actually registered as companies limited by guarantee.
Who is responsible for this legislation/ regulation?	Queensland Office of Fair Trading (OFT)
Most important obligations.	<p>A cooperative is run by its members for mutual benefit - under Queensland legislation there are trading cooperatives which distribute profits to their members and non-trading cooperatives which do not - providers of community housing will be non-trading cooperatives. Cooperatives have similar obligations to other corporations in terms of financial management and record-keeping, maintaining solvency, appropriate insurance etc. as described on p1-2. A cooperative must have:</p> <ul style="list-style-type: none"> • a board with at least three directors one of whom must be a chairperson; • hold an AGM within five months of the end of their financial year at which auditor's reports and director's reports are presented, directors and office bearers elected and an auditor appointed; • seek OFT approval prior to proposing any change to its rules. • present an annual return to OFT within 28 days of the AGM.
Policies/ processes to ensure compliance	The organisation's governance policies should cover the key aspects of compliance with this Act.
Sources of further information	OFT's website provides basic guidance for cooperatives - http://www.fairtrading.qld.gov.au/non-profits/cooperatives
Potential consequences of non-compliance	Offences under this Act can attract fines or, for some more serious offences, up to six months imprisonment.
Timing issues	The AGM must be held within five months of the end of the financial year (the co-op sets its own financial year in its Rules) and the return to OFT provided within 28 days of the AGM.

	Corporations (Aboriginal and Torres Strait Islander) Act 2006 (CATSI Act)
Summary Statement	This is a specific Commonwealth Act which covers the incorporation of Aboriginal and Torres Strait Islander (A&TSI) corporations. It has its own rules and procedures although many of these are similar to those of other forms of incorporation. Note that some A&TSI organisations are incorporated under the mainstream acts as associations or companies rather than under this legislation.
Who is responsible for this legislation/regulation?	Office of the Registrar of Indigenous Corporations (ORIC).
Most important obligations.	<p>The obligations of directors under the CATSI Act are generally similar to those under other forms of incorporation, as described on p1-2. These include:</p> <ul style="list-style-type: none"> • an obligation to keep membership records and records of directors; • an obligation to manage the affairs of the organisation diligently, keep financial and other records and ensure the organisation remains solvent; • an obligation to hold an AGM before 31 December each year and conduct essential business including presenting audited financial statements, electing directors and office-bearers and appointing an auditor; • an obligation to present an annual return to ORIC; • an obligation to ensure the organisation holds required insurance; • an obligation to ensure that changes to the organisations constitution or directors are progressed in the proper way and notice supplied to ORIC.
Policies/processes to ensure compliance	The organisation's governance policies should cover the key aspects of compliance with this Act.
Sources of further information	ORIC has a number of useful resources on its website that are accessible and in plain English, and is also fairly accessible and helpful via phone contact - http://www.oric.gov.au/running-corporation . ORIC also runs a series of free training courses on governance for Indigenous organisations which range from introductory to diploma level.
Potential consequences of non-compliance	Breaches of this Act can attract various penalties from moderate financial penalties all the way up to serious penalties including maximum 5 years jail for serious breaches.
Timing issues	The organisation's AGM must be held by 31 December each year, and they must also lodge their annual return with ORIC by that date.

	Charities Act 2013
Summary Statement	This Act registers and regulates charities that meet the definition of charity set out in the Act. Registered charities are able to apply for various tax concessions and exemption from Commonwealth fees and charges, and to advertise themselves publicly as a charitable organisation.
Who is responsible for this legislation/ regulation?	Australian Charities and Not-for-profits Commission (ACNC).
Most important obligations.	<p>Providers of community housing are not necessarily required to register as charities, but doing so has certain financial advantages in terms of tax benefits and exemptions from certain fees. If they do register they are required to:</p> <ul style="list-style-type: none"> • meet a set of five governance standards (work towards a charitable purpose, be accountable to members, comply with Australian laws, ensure suitable persons occupy positions of responsibility and ensure these responsible persons understand and carry out their duties); • maintain their eligibility for charitable status; • inform the ACNC of certain changes to operations; • provide Annual Information Statements to ACNC; and • comply with "external conduct standards" if they send money or engage in activity overseas.
Policies/ processes to ensure compliance	These requirements would primarily be covered in the organisation's governance policies and procedures
Sources of further information	The ACNC has comprehensive and reasonably accessible information about requirements on its website - https://www.acnc.gov.au/ACNC/Home/ACNC/Default.aspx
Potential consequences of non-compliance	<p>The ACNC has various powers which include:</p> <ul style="list-style-type: none"> • intervening in the charity's operations, • disqualifying persons from sitting on the boards of registered charities, • cancelling charitable registration, and • applying administrative penalties (i.e. fines) for certain breaches.
Timing issues	The Annual Information Statement must be submitted by 31 December each year.
Other information	<p>Note:</p> <ol style="list-style-type: none"> 1. That the Commonwealth Government is currently trying to repeal this legislation but is not guaranteed to get it through the Senate. 2. That registered charities are exempted from some reporting requirements under other legislation to avoid duplication.

	Residential Tenancies and Rooming Accommodation Act 2008
Summary Statement	This is the legislation which governs landlord-tenant relationships in Queensland, and providers of community housing are bound by this legislation in all their tenancy work.
Who is responsible for this legislation/ regulation?	Residential Tenancies Authority (RTA).
Most important obligations.	Obligations include: <ul style="list-style-type: none"> • compliance with periods of notice using the correct form for access to the property, rent increases, notices to leave or notices to remedy; • completion of condition reports and lodgement of bond with the RTA; • adherence to lease conditions by both parties; • maintenance of the property in liveable condition; • compliance with QCAT processes and any orders.
Policies/ processes to ensure compliance	These obligations should be built into tenancy management policies and procedures.
Sources of further information	The RTA website has good, clear information and they also have a phone information service. https://www.rta.qld.gov.au/
Potential consequences of non-compliance	Failure to follow correct procedures can lead to tenancy decisions being overturned in QCAT and can also potentially lead to the organisation being prosecuted and fined for breaches of the Act.
Timing issues	This is a continuing obligation - specific notice periods are built into the Act as noted.

	Fire and Emergency Services Act 1990 and the Building Fire Safety Regulation 2008
Summary Statement	Includes obligations on lessees to provide smoke detection and other fire safety measures in their properties.
Who is responsible for this legislation/regulation?	Queensland Fire and Emergency Services.
Most important obligations.	Since 2007 all rented homes in Queensland are required to be fitted with smoke detectors and the landlord is required to check and clean them at the beginning of each tenancy. Homes built after 1997 should have hard-wired alarms, homes built before this date can use battery-powered ones although hard-wired devices are recommended. Owners/managers of "budget accommodation", defined as housing where six or more unrelated persons share toilet/bathroom facilities, are required to develop and implement a fire safety management plan. Other forms of housing (e.g. unit blocks) have their own obligations depending on structure and design.
Policies/processes to ensure compliance	The requirement to inspect and clean smoke detectors should be built into the appropriate tenancy or asset management policies. Other requirements are more specific and should be addressed as required.
Sources of further information	Queensland Fire and Emergency Services have a number of useful and accessible publications and can also provide personal advice through their network of Community Safety Officers. https://www.fire.qld.gov.au/buildingsafety/
Potential consequences of non-compliance	Failure to comply can result in fines. Smoke detectors and other fire safety measures are also essential and save lives in the event of fire!
Timing issues	This is an ongoing obligation.

	Queensland Anti-Discrimination Act 1991 and various Commonwealth acts
Summary Statement	A number of different pieces of legislation cover discrimination in both employment and service delivery on a wide range of grounds.
Who is responsible for this legislation/regulation?	Anti-Discrimination Commission Queensland; Australian Human Rights Commission
Most important obligations.	The various pieces of legislation specify a number of grounds on which it is illegal to discriminate - for instance age, gender, disability, race, religion, family or marital status, sexuality, trade union membership. Discrimination is forbidden in a wide range of activities - providers of community housing will mainly be concerned about discrimination in employment and in allocation and management of tenancies or the provision of services. The legislation doesn't prevent positive discrimination or the limitation of services to particular need groups (e.g. women escaping domestic violence, Aboriginal and Torres Strait Islander people) but does prevent discrimination within the target group (e.g. a service that targets on the basis of Aboriginal descent cannot discriminate on the basis of disability or sexuality). It covers both direct discrimination (where a decision is made on discriminatory grounds) and indirect discrimination (for instance where a policy has the practical effect of excluding certain groups, whether or not this is its explicit intention). The Queensland law also covers sexual harassment and vilification.
Policies/processes to ensure compliance	Anti-discrimination policies and procedures should be included in both the organisation's tenancy management and service delivery policies, and in its HR policies.
Sources of further information	The Australian Human Rights Commission administers the national anti-discrimination laws and has a good deal of information on line: https://www.humanrights.gov.au/ . The Anti-Discrimination Commission Queensland also has a range of resources and provides training: http://www.adcq.qld.gov.au/resources/for-employers .
Potential consequences of non-compliance	Individuals who feel they have been discriminated against can take a complaint to either of the two Commissions - they will assess and refer if they believe the other has jurisdiction. This will initiate a process of review, negotiation and, if all else fails, a formal hearing which can result in a range of forms of compensation.
Timing issues	This is a continuing obligation.

	Commonwealth Privacy Act (1988), Queensland Information Privacy Act (2009)
Summary Statement	These acts set out principles for how government and non-government organisations handle personal information they collect about clients. There are some grey areas in application but most if not all funded organisations will be obliged to comply with one or the other - the Information Privacy Principles which are the most important part of the legislation are the same in both Acts.
Who is responsible for this legislation/regulation?	Office of the Information Commissioner (QLD), Office of the Australian Information Commissioner.
Most important obligations.	Organisations need to comply with the ten Australian Privacy Principles. These cover: <ul style="list-style-type: none"> • collection of data, ensuring that individuals know what is collected about them, that it is only collected for legitimate purposes, and that people know who has it and how to access it; • use and disclosure, ensuring the information is only used for the purpose for which it is collected and is not shared with third parties without the person's permission; • data quality, ensuring the information is accurate; • data security, access and correction, ensuring that data is kept securely, that people are able to access data kept about them and correct inaccurate data; • rules about identifiers and anonymity; • regulation of cross border data flows (i.e. outside Australia) and particular provisions for categories of "sensitive" information.
Policies/processes to ensure compliance	Specific policies and procedures for protection of information privacy should be included in the organisation's tenancy management policies and in its client service charter or equivalent documents.
Sources of further information	Queensland Public Interest Law Clearing House (QPILCH) has a handy guide to privacy legislation on its website: http://www.qpilch.org.au/resources/factsheets/Privacy_rights.htm There is further information on both the National and Queensland commissioners' websites: http://www.oaic.gov.au/privacy/privacy-act/national-privacy-principles ; http://www.oic.qld.gov.au/
Potential consequences of non-compliance	Clients can bring complaints about non-compliance to the Office of the Information Commissioner for negotiation and resolution. This initiates a process which is focused on resolving the issue by negotiation. If resolution is not possible the matter can be referred on to QCAT for a formal hearing and resolution, which can potentially include financial compensation.
Timing issues	This is a continuing obligation.

	Work Health and Safety Act 2011
Summary Statement	This act is designed to ensure safety in workplaces and all organisations which employ staff and volunteers are required to comply with it.
Who is responsible for this legislation/regulation?	Workplace Health and Safety Queensland.
Most important obligations.	<p>The Act places a number of obligations on employers. Overall, directors of an employing organisation have a general duty of care in relation to their workers' safety. More specifically, this includes obligations to:</p> <ul style="list-style-type: none"> • provide a safe place of work; • provide facilities for health and safety (e.g. toilets, bathrooms); • identify and remove or reduce hazards; • provide appropriate staff training and information; • conduct appropriate maintenance of equipment; • monitor worker health and safety; • consult with their workers over health and safety issues; • report serious incidents to Workplace Health and Safety Queensland. <p>Note that volunteers are defined as workers in this legislation and have the same protections and obligations as employees. However, fully voluntary organisations which have no paid staff are not covered by the legislation. A workplace is defined as anywhere the organisation carries out its activities.</p>
Policies/processes to ensure compliance	These should be covered specifically in the organisation's HR Policies and Procedures and in its Risk management Plan, and there should be a process of reporting incidents internally through senior management or board.
Sources of further information	There are a number of helpful resources on the Workcover Queensland website: https://www.worksafe.qld.gov.au/
Potential consequences of non-compliance	Workplace Health and Safety Queensland has the power to access and inspect workplaces for safety compliance and can order organisations to take action on breaches. It also has the power to levy on-the-spot fines for breaches of legislation.
Timing issues	This is a continuing obligation.

	Fair Work Act 2009 (Commonwealth)
Summary Statement	Community housing staff are protected by the industrial relations system and organisations are required to provide pay and conditions that comply with the relevant industrial awards or enterprise agreements - this will most often be the Social, Community, Home Care and Disability Services Industry Award 2010 (an award under the national system).
Who is responsible for this legislation/ regulation?	Fair Work Commission, Fair Work Ombudsman.
Most important obligations.	Award conditions typically cover rates of pay (including superannuation), leave entitlements, hours of work, overtime and penalty rates and other employee entitlements. Industrial relations legislation also covers issues such as unfair dismissal and bullying and harassment.
Policies/ processes to ensure compliance	These matters should be covered in the organisation's HR policies and procedures.
Sources of further information	<p>The Fair Work Ombudsman has some useful and accessible information: http://www.fairwork.gov.au/.</p> <p>Since award conditions and pay rates change reasonably often it is important to have a way of staying up to date: Jobs Australia runs an industrial relations advisory service for non-profits which is subscriber based - http://ja.com.au/csir.</p> <p>Alternatively the Queensland Community Services Employers Association runs a member-based information and update service - http://qcsea.com/.</p>
Potential consequences of non-compliance	There are a range of dispute resolution mechanisms which range from mediation and negotiation through the Fair Work Ombudsman to formal hearings and resolution on some key issues through the Fair Work Commission.
Timing issues	This is a continuing obligation.

	Tax Legislation
Summary Statement	Although most providers of community housing are not-for-profit and do not pay income tax, they have various taxation obligations including obligations in relation to PAYE tax for employees, obligations relating to charitable status if they have this, and obligations under GST legislation.
Who is responsible for this legislation/regulation?	Australian Taxation Office (ATO).
Most important obligations.	Essential obligations here include collecting tax which is owed, and paying this on time to the ATO.
Policies/ processes to ensure compliance	These obligations should be addressed through the organisation's financial management policies and procedures.
Sources of further information	The Australian Taxation Office has a number of resources for non-profits which can be accessed online: https://www.ato.gov.au/Non-profit/ . However this is a complex area of law and organisations would be best advised to get expert input via their accountant/auditor rather than try to do it themselves.
Potential consequences of non-compliance	Failure to comply with tax law can result in prosecution and a range of penalties.
Timing issues	Organisations will be required to remit funds to the ATO on a schedule - these vary depending on the scale of the organisation from annually down to monthly.

	Housing Act 2003 and regulation
Summary Statement	The Housing Act and regulation has a range of requirements on organisations who have received social housing funding from the Queensland Government.
Who is responsible for this legislation/regulation?	Department of Housing and Public Works (DHPW).
Most important obligations.	Most important obligations include: <ul style="list-style-type: none"> • the requirement to register under the NRSCH (dealt with on the following page) • specific requirements for the management of social housing which involve adopting Department-sanctioned procedures for eligibility and allocation, ongoing eligibility, rent setting and transfers.
Policies/processes to ensure compliance	The specific social housing system policies should be covered in the organisation's tenancy management policies and procedures.
Sources of further information	Detailed guidelines can be found on the DHPW website. http://www.hpw.qld.gov.au/aboutus/ReportsPublications/FormsTemplates/Pages/CommunityHousingProviders.aspx .
Potential consequences of non-compliance	Failure to comply can result in DHPW commencing a breach process which can ultimately lead to a cancellation of headlease or mortgage and funding agreements and the return of funds/assets to the Department.
Timing issues	Individual policies contain their own timelines for notifying the Department about matters such as vacancies or about your own business, such as regularity of rent or eligibility reviews.

	Housing Act 2003: National Law on community housing regulation
Summary Statement	In January 2014 the Housing Act was amended to incorporate the National Law which establishes the National Regulatory System for Community Housing (NRSCH) - this law is uniform across Australian States and Territories, enabling the creation of a national system.
Who is responsible for this legislation/regulation?	The Registrar of the National Regulatory System for Community Housing.
Most important obligations.	<p>Registration under this system is a condition of receiving funds under the Housing Act. Registered providers are required to:</p> <ul style="list-style-type: none"> • meet the specified standards in the National Regulatory Code; • provide information to the Registrar as requested, including supplying documents, meeting with the registrar or allowing the registrar to inspect premises and documents; • keep a list of all community housing assets and comply with the Housing Act in relation to any transfer of these assets. <p>In addition, 'national providers' are required to:</p> <ul style="list-style-type: none"> • include a specific clause in their constitution specifying appropriate transfer of community housing assets on wind- up; • notify the Registrar of certain events including a decision to appoint an administrator, wind up the organisation, appoint a receiver, cancel registration, take action which may affect eligibility for registration or a change in affairs which may affect registration status.
Policies/processes to ensure compliance	Compliance with this legislation will entail appropriate policies and processes across the organisation as well as specific provisions in the organisation's constitution.
Sources of further information	<p>Further information on requirements can be found through the National Regulatory System website: http://www.nrsch.gov.au/home.</p> <p>Queensland Shelter also has a range of resources to support providers with this process: http://www.qshelter.asn.au/nrsch.</p>
Potential consequences of non-compliance	Failure to comply will initiate a compliance and corrective process. This can lead to deregistration of the organisation which would result in the loss of all community housing funding and assets.

	Housing Act 2003: National Law on community housing regulation
Timing issues	Initial applications for registration must be completed by the end of 2014. Tier 1 and 2 providers are required to complete a Compliance Return annually and Tier 3 every two years - deadlines and schedules have yet to be set. There are also specific time-frames for notification of events, which depending on the event are either "as soon as practicable" or 28 days.

	Working with Children Check/Criminal History Screening
Summary Statement	The <i>Working with Children (Risk Management and Screening) Act 2000</i> requires staff and volunteers working directly with children to undergo a screening process and receive a positive notice (“blue card”) before taking up work. The <i>Disability Services Act 2006</i> requires people working in funded disability services to undergo a criminal history check and receive a “yellow card”. The Commonwealth <i>Aged Care Act 1997</i> has similar provision for people working in aged care settings. While none of these apply specifically to community housing, organisations may be obliged to comply depending on their target groups and the other activities of their organisation.
Who is responsible for this legislation/regulation?	For children, the Blue Card Services team is located in the Department of Public Safety. For people with disabilities, the police check system is managed through the Department of Communities. The Aged Care Act requirements are overseen by the Commonwealth Department of Health.
Most important obligations.	The obligations on organisations vary depending on which act you are working under but the basic obligation in all of them is that before staff and volunteers commence working with your organisation they need to undergo the appropriate check and be cleared to work with the relevant population group.
Policies/processes to ensure compliance	The appropriate checks need to be built onto your recruitment and selection policies and procedures.
Sources of further information	Information on the Working with Children Check can found on the Blue Card Services website: https://www.bluecard.qld.gov.au/index.html . Information on screening for workers with people with disability can be found via the Department of Communities: http://www.communities.qld.gov.au/disability/key-projects/criminal-history-screening/background-to-criminal-history-screening . Information on screening processes in aged care can be found on the Department of Health website: http://www.health.gov.au/internet/main/publishing.nsf/Content/ageing-quality-factsheet-policechecks-guidelines.htm .
Potential consequences of non-compliance	All of the relevant acts include penalties for failure to comply. Under the Blue Card legislation these include fines for failing to institute checks when required to do so, and more serious penalties including large fines and possible jail terms for employers or employees who continue with employment where a positive notice has been refused or withdrawn. Breaches of the <i>Disability Services Act</i> can lead to prosecution and a range of penalties, and likewise with the <i>Aged Care Act</i> .

	Working with Children Check/Criminal History Screening
Timing issues	Initial applications must be completed and processed before a person starts in their role. Blue Cards, Yellow Cards and police checks for aged care workers all need to be reviewed every three years.

	Funding Contracts
Summary Statement	In addition to this broad set of legislative obligations, organisations need to ensure that they remain compliant with the specific conditions of any contracts they operate under, in particular government funding contracts. These vary from program to program and over time.
Who is responsible for this legislation/regulation?	Various
Most important obligations.	Each funding contract will be different but typically they include a set of output or outcome targets, a list of permissible expenditure and a set of reporting requirements, among a range of other conditions. There may also be specifications about issues like collaboration with other providers, use of mandated information systems, and particular service delivery processes or procedures. The DHPW's Mortgage and Funding Agreements specify compliance with the Housing Regulation and the various One Social Housing System policies and procedures.
Policies/ processes to ensure compliance	Specific contractual matters may need to be covered in policies and procedures or in the organisation's business plan.
Sources of further information	This will vary widely depending on the contract.
Potential consequences of non-compliance	Consequences generally range from compliance and corrective processes to reductions or even complete loss of funds.
Timing issues	Most funding agreements include some form of reporting obligation, either annually or quarterly.

Attachment 5: Compliance Register Template

Act/Legislation/ Contract	Requirement	Responsible Person	Process for Ensuring Compliance	Date of most recent full review	Recent Issues Arising	Actions needed or outstanding
(For Example) Residential Tenancies and Rooming Accommodation Act 2008	To ensure that all tenancy management processes are consistent with the Act's requirements.	Housing Manager	Tenancy management policies and procedures explicitly reference requirements under this act and ensure the use of RTA forms where appropriate. Housing Manager subscribes to the RTA newsletter and scans this for any updates or changes to regulation.	March 2013	April 2014 – tenant complained of not receiving adequate notice of property inspection. Matter is being investigated by Housing Manager.	Housing management staff reminded of correct notice periods and procedures – to be completed by May 2014 board meeting.