

Specimen code of conduct for board members

Guidance note

Specimen code of conduct for board members

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Specimen code of conduct for board members

Introduction

This SGA guidance note can be adapted for any size of organisation to reflect good practice for each their needs. This document, and others in the SGA knowledge base, should provide sufficient detail for board members, and others interested in governance, to think about the governance arrangements within their own organisation, and apply those aspects of good practice that are most appropriate and proportionate. The terminology it contains can be amended to suit your organisation's circumstances. For example, board members may be termed 'directors', 'board members', 'members of the management committee' or by another designation, according to the legal form the organisation takes.

It is good practice for each organisation to undertake a periodic review of their governance arrangements as it evolves and, where appropriate, amend policies, procedures, and the governing document¹ to ensure that they remain fit for purpose and are structured in the most effective way to meet the organisation's objectives and environment in which it operates.

The information in this document consolidates and expands upon the principles highlighted in the Code for Sports Governance.² The Code requires that:

"Each organisation shall adopt a mandatory directors' code that, amongst other things, requires all directors to act at all times, with integrity, in a forthright and ethical manner and in accordance with their organisation's conflicts policy." (Requirement 4.4).

It adds (Requirement 4.5) that such a code of conduct should be reviewed at least every 4 years, along with other policies.

For the purpose of this note, it is assumed that the organisation employs staff including a governance lead, such as a company secretary or other governance and compliance professional, who is not the chief executive officer.³

1 There are specific actions that must be taken in order to change the governing document of a company or a charity, which depend on the legal form the organisation takes.

2 This can be downloaded from <https://www.sportengland.org/campaigns-and-our-work/code-sports-governance>

3 Further details on the role of the governance professional can be found in the section of the SGA knowledge base titled 'The role of the governance professional'.

Specimen code of conduct for board members

Overall purpose

The purpose of the specimen code of conduct below is to provide board members with clear guidelines as to their standard of behaviour, responsibilities, and good practice in fulfilling their obligations to the organisation they represent. Board members should also be aware that their conduct can impact the way in which the sport and physical activity sector as a whole is viewed. High profile stories in sectors across the economy (and sport has been in no way immune) have highlighted the damage which can be done, both to victims of poor choices, actions or behaviour, and to the reputation of the organisation concerned. Such conduct also represents a risk to public investment (where relevant), to the trust of stakeholders more widely and to the sport's legitimacy. Board members occupy an important position in an organisation and the sector more widely. Their conduct should set an example for others to follow, both internally and externally.

Where the organisation is a charity, it should be noted that the Charity Commission has the power to take action against board members in order to protect the public perception of the sector and this need not relate to actions performed as a trustee. These powers include disqualifying board members where 'any other past or continuing conduct by the person, whether or not in relation to a charity, is damaging or likely to be damaging to public trust and confidence in charities generally or in the charities or classes of charity specified or described in the [disqualification] order'.⁴

The role of board member is one that can offer considerable satisfaction, challenges and experiences, but it should not be forgotten that the position can be quite onerous and require a significant time commitment.

This document should be read in conjunction with the SGA guide to the role and responsibilities of board members and the model conflicts of interest policy.⁵

When considering introducing a code of conduct for board members, due regard should be given to the organisation's governing document to ensure that the code reflects the powers of the board members. Ultimately, the governing document's provisions and relevant legislation must take precedence over any code of conduct.

⁴ Charities Act 2011 s. 181A (6)(a)–(c) and (7) F (as amended by the 2016 Act). See also Charities Act 2011 s. 76A (3)(a)–(b)

⁵ Available from the SGA website.

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Delete/insert contents of square brackets [] as appropriate

This code of conduct provides board members with guidelines as to the standards and behaviours that [name of organisation] expects from the board of directors and/or board members (individually and collectively) when acting on behalf of, or representing, the organisation.

This code of conduct should be read in conjunction with:

- the duties and responsibilities of board members;⁶
- any role descriptions for board members;
- any statement of expectations issued by the [name of organisation];
- [name of organisation's] governing document;
- [name of organisation's] meeting etiquette protocol;
- [name of organisation's] policy and procedures covering conflicts of interest, anti-money laundering and anti-bribery, the declaration, acceptance and refusal of gifts and hospitality;
- the organisation's mission, vision and values; and
- the Code for Sports Governance or other applicable governance code.

Why we have a code of conduct

The board of [name of organisation] has ultimate responsibility for all actions carried out by staff and committees [and volunteers] throughout the organisation's activities. This responsibility includes the stewardship of charitable resources [and the provision of activities and/or services to the community].

The board is therefore determined to ensure the organisation inspires confidence and trust amongst its [members, staff, partners, supporters, funders and suppliers] by demonstrating integrity and avoiding any potential or real situations of undue bias or influence in decision making and in dealings with staff, members, volunteers and other stakeholders.

The governing document of [name of organisation] makes provision for the [appointment/election] of board members, practice and procedure of board decision making, tenure of office and ultimately the removal of board members. This code of conduct complements the governing document.

⁶ See the knowledge base on the SGA website - 'Roles and responsibilities'.

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Appointment and tenure

The board comprises *[appointed/elected/co-opted/nominated]* individuals. The term of office for individual board members is *[three years]*, after which period the board member may be able to stand for re-election *[to a limit of nine years]*. A board member must not be disqualified from acting as such *[and must be a member of the organisation]* in order to stand for election or appointment.

The board of board members should represent the interests of *[name of organisation]* taken as a whole. The board member owes his/her duty to the *[name of organisation]* and not to any individual, organisation or constituency that appointed/elected them.

Induction and training

In order for board members to be effective in performing their legal duties and responsibilities, it is essential that individual board members, and the board as a whole, are aware of the nature of the work of the organisation and its operating environment *[including the roles of staff and volunteers]*. In order to prepare and support board members, *[name of organisation]* will provide a comprehensive induction and ongoing development opportunities, in line with the statement of expectations. Individual board members are invited to speak to the *[chair and/or governance lead]* about any further information or training needs.

Board members are expected to attend induction and training programmes, given reasonable notice, in line with any individual or collective requirements identified *[by the board member or the periodic board performance appraisal or the chair]*.

[Name of organisation] operates a buddying/mentoring system whereby existing board members are paired with newly *[appointed/elected]* board members to develop a swift understanding of the more informal aspects of the work of the board. Further information on the buddying/ mentoring system will be provided by the governance lead upon induction.

The board, *[collectively]* *[and/or individually]* is expected to undertake an annual performance appraisal exercise to assess the skills set and competencies available to the organisation and to identify areas for future development and training. This process will be led by the chair. In line with the Code for Sports Governance, this evaluation will be undertaken by an external reviewer every four years.

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Role and function of board members

Board members must act in accordance with the law and regulations affecting their organisation, and must have regard to their legal duties, namely:

Where the organisation is a company,

- act within their powers
- promote the success of the company for the benefit of its members as a whole
- exercise independent judgement
- exercise reasonable care, skill and diligence
- avoid conflicts of interest
- not accept benefits from third parties
- declare an interest in proposed transactions or arrangements

Where the organisation is a charity,

- ensure they are eligible to serve as a trustee;
- ensure that the charity is carrying out its purposes for the public benefit;
- comply with the charity's governing document and the law;
- act in the charity's best interests;
- manage the charity's resources responsibly; and
- act with reasonable care and skill.

The organisation will provide board members with guidance outlining their specific role and responsibilities.⁷ In fulfilling their general roles and responsibilities individual board members must:

- adhere to the organisation's rules and policies, including the governing document, any standing orders and bye-laws, and support its charitable objects;
- act in the best interests of the organisation at all times, taking professional advice where necessary;
- contribute to the work of the board in order for it to fulfil its role and functions as defined in the governing document and legislation;
- recognise that their role is a collective one and that any task or function delegated to an individual board member or committee of the board does not relieve the other board members of the responsibility for that task or function; and
- support and assist the chief executive, where applicable.

⁷ See the section of the SGA knowledge base titled 'Roles and responsibilities'.

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Further details and recommended practice for effective governance, can be found in the Code for Sports Governance or other sector-specific codes of governance, such as the Charitable Governance Code, which is essential reading for all those with responsibility for leading an organisation and which should be read alongside CC3 – The essential trustee: what you need to know, what you need to do.

Conflicts of interest

The board has a legal obligation to act in the best interests of *[name of the organisation]*, and in accordance with the organisation's governing document, and to avoid situations where there may be a potential, real or perceived conflict of interest.

Board members should not exert any influence to garner any preferential treatment for themselves or their family, or other connected persons or organisations. Board members should be aware of, and act in accordance with, the organisation's policy and procedures on identifying and managing conflicts of interest.⁸

Upon appointment, and at least annually, board members are required to complete a declaration of interest form. This document must be updated when a material change occurs. A register of interests will be maintained by the *[company secretary/governance lead]*, and will be made available to the public, in line with the organisation's conflicts of interest policy.

Failure by a board member to declare an interest, real or perceived, could result in the complaints process being instigated by the organisation. Depending on the circumstances and severity of the conflict, this may result in the individual being removed from office *[in accordance with the governing document]*.

Standards of conduct

Board members are required to adhere to the highest standards of conduct in the performance of their duties. This code of conduct respects and endorses the seven principles of public life set out by the Nolan Committee⁹ and all board members are expected to perform their duties in accordance with them. The seven principles are:

⁸ For further information see the SGA knowledge base.

⁹ Further details can be found at www.public-standards.org.uk.

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- selflessness;
- integrity;
- objectivity;
- accountability;
- openness;
- honesty; and
- leadership.

In addition, the organisation requires board members to perform their duties in accordance with the vision, mission and values of the organisation. Board members are encouraged to:

- value fellow board members, even when there are differences in opinion;
- adhere to the organisation's meeting etiquette;
- board members should treat the organisation's [*directors/trustees, employees, and volunteers*] with respect and in accordance with the organisation's policies;
- be mindful of conduct which could be deemed to be unfair or discriminatory; and
- conduct themselves in a manner which reflects positively on the organisation when attending external meetings or any other events.

All board members are expected to understand, agree and promote the organisation's equal opportunities policy in every area of their work. The board's activities should not prejudice any part of the community on the grounds of age, disability, gender, gender reassignment, pregnancy and maternity, race, nationality, religion or belief, or sexual orientation.¹⁰ Any actual or perceived prejudicial action, views or comments shall be investigated and dealt with in line with the complaints procedure and could result in the individual being removed from office.

Stakeholder engagement¹¹

Board members are accountable to a range of interested parties for their actions and as such, decision making and governance issues should be as transparent as possible, except for when confidentiality is required or there is likely to be a breach of the organisation's data protection policy.¹²

¹⁰ Section 149 of the Equality Act 2010.

¹¹ Further useful information on this issue can be found in the SGA knowledge base section 'Stakeholder engagement'.

¹² Principle 3 of the Code for Sports Governance states that 'organisations shall be transparent and accountable, engaging effectively with stakeholders and nurturing internal democracy'. It explains that being responsive to stakeholders, understanding their interests and hearing their voice helps shape the organisation's governance and strategy. Transparency about why the organisation exists, what it is trying to do, how it is doing it and with what results empowers stakeholders by giving them the information about the organisation that they need to know.

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[Board members are accountable to the membership]. In order to demonstrate their accountability to the organisation's wider community, board members are encouraged to attend events and provide opportunities to meet, talk and listen to *[the members/partner organisations they represent/and the public]*, in order to best understand their views and concerns.

Board members should be fully aware of their representative functions and should not become personally involved in those operational matters that should rightly be handled by the appropriate member of staff *[or other designated person as detailed in the organisation's policy]*. Board members are advised to act as a conduit for forwarding public comments and concerns to the appropriate staff member when presented with a complaint from *[a member/worker/volunteer, participant user, beneficiary or the general public]*.

Visiting the organisation

In fulfilling their core duties and responsibilities, board members will be expected to visit the organisation's facilities and properties. For activities other than attending board or committee meetings or *[member events organised by the organisation]*, board members are requested to follow the procedure below:

- For group visits, arrangements will be discussed and agreed between the chair and governance lead, in liaison with appropriate staff.
- For individual visits, the board member should speak directly to the governance lead *[or follow the organisation's established procedure]*.

The organisation will make every effort to accommodate the request of the board member, but may not always be able to agree to specific dates, times or site visits.

Personal visits to the organisation, or volunteer activity or participation in events that is not related to the board member role is not covered by this procedure but board members must abide by the rules of the event.

Expenses

The position of director/trustee is *[remunerated/unremunerated]*. Reasonable out-of-pocket expenses are paid. Please refer to *[name of organisation's]* policy on expenses and how to claim for reimbursement for costs incurred on behalf of the governance lead.

Further information about expenses can be gained by speaking directly to *[governance lead]* *[finance director]*.

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Trustees of a charity must not receive any financial or non-financial benefit that is not explicitly authorised by the governing document or the Charity Commission.¹³

Meetings

Board members have a responsibility to attend meetings of the board. When this is not possible they should submit an apology to the *[chair]* *[and/or]* *[governance lead]* in advance of the meeting. Board members are expected to attend for the duration of each meeting.

Repeated absence from board meetings without good reason established to the satisfaction of the board could result in the individual board member being removed from office, in accordance with the governing document.

Non-attendance at *[three]* *[four]* *[six]* consecutive board meetings will result in the board member being deemed to have resigned their position, unless the grounds for absence are regarded as satisfactory by the board. An appeals process is available for those board members wishing to argue against their removal.

If a board member wants to submit an item for inclusion in the board's agenda, they should forward their request to the organisation governance lead *[at least 14 working days]* before the meeting. Late items of an urgent nature may be added to the list of any other business, at the discretion of the chair, in discussion with the governance lead.

Meetings of the board shall be held in private, and in accordance with *[name of the organisation's]* meeting etiquette. The board may decide to invite named staff and other individuals to all or part of a meeting to discuss a particular item. All due consideration will be given to ensure that any confidential or sensitive items remain as such. Such invitations will be agreed by the chair and facilitated by the governance lead.

Mediation

A mediation process is available to the board, and individual board members, for use when there has been a breakdown of communication or trust between the board members and organisation management. Further information should be requested from the chair or organisation governance lead.

Before the mediation process is instigated, the *[chair]* *[vice-chair]* and *[complainant]* should have met in an attempt to resolve the matter.

¹³ Unless authorised to do so by the governing document, statute, or by the Charity Commission, board members should not benefit from the position they occupy. The Charities Act 2006 amended the position regarding the payment of board members for undertaking activities outside those of being a board member, or the provision of services. Charities Act 2011 s.185 provides for board members to be remunerated for services to the organisation if certain conditions are met.

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Confidentiality

All board members are required to respect the confidentiality of the information to which they are exposed as a result of their membership of the board. All board members, when dealing with difficult and confidential issues, are required to act with discretion and care in the performance of their role.

Board members should only speak to the media with the express permission of the *[chair]* *[chief executive]* *[governance lead]*. In situations concerning potential whistleblowing matters, board members are encouraged to adhere to the organisation's whistleblowing policy to resolve the matter, in the first instance.

Any allegations of breaches of confidentiality will be investigated under the complaints policy and could result in the removal of any board member involved in such a breach, in accordance with the governing document.

Ceasing to be a board member

Board members must continue to comply with the qualifications required to hold a board member position throughout their period of tenure, as defined in the willingness to serve declaration.¹⁴ Any changes that would render the board member ineligible to serve must be forwarded to the governance lead.

As previously mentioned, failure to attend *[three]* *[four]* *[six]* consecutive meetings will result in the board member being deemed to have resigned their position unless the grounds for absence are deemed to be satisfactory by the board. An appeals process is available for board members wishing to challenge such decisions.

Board members may resign their office ahead of their three-year tenure by writing to the *[chair]* *[governance lead]*. Depending on the reasons and circumstances of the resignation, the chair may decide to formally record those particulars in the minutes of the next board meeting.¹⁵

The confidentiality requirements referred to above continue to apply after the board member leaves office.

¹⁴ Specimen board member declaration can be found in the SGA knowledge base under 'Roles and responsibilities'.

¹⁵ For instance, where a board member does not agree with the decision(s) of the board and can no longer support the organisation. Conversely, a board member resigning may request that the reason for his/her resignation is recorded appropriately.

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Code non-compliance

In addition to this code of conduct, a complaints policy operates to cover allegations made against board members that appear to breach the spirit of the code or specific conditions of service.

Non-compliance with the code of conduct may result in action being taken as follows:

- Where misconduct takes place, the *[chair]* *[vice-chair]* may be authorised to take such action as may be immediately required, including the exclusion of the person concerned from a meeting.
- Where such misconduct is alleged, it shall be open to the board to decide, by simple majority of those in attendance, whether to lay a formal charge of misconduct. In such instances it will be the responsibility of the board to:
 - inform the board member in writing of the nature of the allegation of the breach, detailing the specific action or behaviour considered to be detrimental to the organisation, and inviting and considering their response within a defined timescale;
 - inviting the board member to address the board in person if the matter cannot be resolved satisfactorily through correspondence;
 - deciding, by simple majority of those present and voting, whether to uphold the charge of the breach and conduct detrimental to the organisation; and
 - impose such sanctions as shall be deemed appropriate. Sanctions will range from the issuing of a written warning as to the board member's future conduct and consequences, to the removal of the board member from office.
- Where the board cannot agree on a course of action in a situation that is deemed detrimental to the organisation, the organisation has the power to remove the board member.¹⁶

Further information regarding any aspects of this code of conduct can be requested from the governance lead.

¹⁶ This will depend on the powers contained within the organisation's governing document.

