



DYSGU English Australia

GOOD GOVERNANCE HANDBOOK

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1 Introduction

DYSGU ENGLISH AUSTRALIA is incorporated in India and trades as DYSGU ENGLISH AUSTRALIA[Academy].

The Academy's governance structure is summarised below in figure 1.

Figure 1 The Academy Governance Structure



External members and staff who are members of the Academy governance boards and committees need to demonstrate both educative and technical prowess, a strong ethical stance and a thorough knowledge of legal requirements. Individuals holding these positions require an understanding of what it means to be a board or a committee member and the significant responsibilities in relation to fulfilling governance obligations.

This handbook is an integral part of the governance induction process and provides the following information:

- a broad overview of key governance legislative requirements for Board Members; and
- an overview of features of good corporate governance practices.

Henceforth, the term board member is used throughout instead of board and/or committee member to simplify the text.

The term board is used throughout instead of board and/or committee, to simplify the text.

2 Governance Overview

2.1 What is governance?

There are many definitions of governance. At the Academy the following definition has been developed and followed:

Corporate and academic governance is the system of rules, practices, and processes by which the Academy is directed and controlled. Essentially it involves balancing the interests of the Academy's many stakeholders, such as its owners, management, students, industry, government, and the community to ensure the future sustainability of the Academy, compliance with Indian National and State laws and legislative instruments and guide the ongoing development of a quality culture with a student outcome focus.

2.2 Why is governance important?

Implementation and maintenance of good governance facilitates robust decision making and improves strategy, performance, compliance, and accountability, and is characterised by ongoing monitoring and evaluation of both corporate and academic functions.

Good governance is an essential ingredient in corporate success and sustainable economic growth. Effective corporate governance helps an organisation to achieve its objectives and desired outcomes and fulfill its obligations through sound:

- Strategic and business planning;
- Risk management;
- Financial management and reporting;
- Human resource planning and control; and
- Compliance and accountability systems.

Good governance also helps provide a framework for establishing responsibility to the people served by the Academy – its members, clients and other stakeholders including funding bodies.

2.3 What is the difference between corporate and academic governance

Based on the Australian Education Framework (TEQSA) definition, corporate governance is broadly defined as the framework of structures, rules, relationships, systems, and processes of an entity through which:

- corporate directions and targets are set;
- authority is delegated;
- organisational performance is monitored;
- risks are identified, managed and controlled;
- organisational accountability is maintained; and
- corporate culture is developed and influenced.

Again, based on a the Australian Education Framework, academic governance is the framework of policies, structures, relationships, systems, and processes that collectively provide leadership to and oversight of an education organisation's academic activities (teaching, learning and scholarship, and research and research training if applicable) at an institutional level.

The collective oversight of the academic community is usually exercised through a single body (e.g. an academic board, with or without sub-committees) and/or a variety of other structures (e.g. faculty

boards, teaching and learning committees or course advisory committees.

A degree of separation between corporate governance, academic governance and management is ideal, although some interdependency between these functions and executive management is required for coherency of governance overall. While corporate governance may therefore delegate defined academic functions to academic governance bodies such as Academic Board, corporate governance retains the ultimate responsibility for all governance functions.

3 **Governance at the Academy**

3.1 **Powers of owners**

The business of the Academy is managed by or under the direction of the Board of Directors or Owners (forthwith referred to as Owners) DYSGU ENGLISH AUSTRALIA.

The directors have the power and duty to manage and control the business and affairs of the company.

The Directors have the power to borrow or raise money.

The Directors have the power to secure the payment of any money in any way, including by mortgage, debenture, charge or other security interest on all the company's assets and undertakings, present and future.

The directors have the power to delegate any of their powers to a committee or a board they specify.

3.2 **Powers of the Board of Governance and other governance boards and committees**

The Owners have delegated responsibility for the governance of specific responsibilities as set out in the relevant Terms of Reference for each board or committee and the delegations register.

Key Reference Documents

- | | |
|---|--|
| <ul style="list-style-type: none"> • Terms of Reference Board of Governance • Terms of Reference Audit and Risk Committee • Terms of Reference Academic Board • Terms of Academic Committee | <ul style="list-style-type: none"> • Terms of Reference Teaching and Learning Committee • Governance Framework • Delegations Register |
|---|--|

4 Common Law Requirements

Board members need to familiarise themselves with relevant requirements established under other laws including Common Law. These are summarised below.

4.1 Care and diligence

Owners, board members and other officers must exercise their powers and discharge their duties with the degree of care and diligence that a reasonable person would exercise. A board member or other officer who makes a business judgment will be deemed to have met this requirement (and their equivalent duties at Common Law and in equity) in respect of the judgment if they:

- make the judgment in good faith for a proper purpose;
- do not have a material personal interest in the subject matter of the judgment;
- inform themselves about the subject matter of the judgment to the extent they reasonably believe to be appropriate; and
- rationally believe that the judgment is in the best interests of the organisation.

4.2 Good faith

Owners, board members and other officers must exercise their powers and discharge their duties in good faith in the best interests of the organisation and for a proper purpose.

4.3 Use of position

Owners, board members, secretary or other officer, and employees, must not improperly use their position to gain an advantage for themselves or someone else or cause detriment to the organisation.

4.4 Use of Information

Owners, board members, or other officers, and employees who obtain information because they are, or have been, a director or other officer or employee of an organisation must not improperly use information to gain an advantage for themselves or someone else or cause detriment to the organisation.

4.5 Good faith, use of position and use of information (Criminal Offences)

Owners, board members, or other officers and employees as applicable under relevant provisions of the Indian Companies Act 2013 commit an offence, where they:

- are reckless or are intentionally dishonest;
- fail to exercise their powers and discharge their duties in good faith in the best interests of the organisation or for a proper purpose;
- use their position dishonestly with the intention of directly or indirectly gaining an advantage for themselves, or someone else, or causing detriment to the organisation; or recklessly as to whether the use may result in themselves or someone else directly or indirectly gaining an advantage, or in causing detriment to the organisation;
- obtain information because of their role with the organisation and use the information dishonestly with the intention of directly or indirectly gaining an advantage for themselves, or someone else, or causing detriment to the organisation; or recklessly as to whether the use may result in themselves or someone else directly or indirectly gaining an advantage, or in causing detriment to the Academy.

4.6 Reliance on information or advice provided by others

Owners, board members or other officers and employees may rely on information or professional or expert advice. Reliance on the information or advice will be taken to be reasonable unless the contrary is proved, where:

- the preparer of the information or advice is a reliable and competent employee or professional adviser or expert, another board member in relation to matters within the board's authority on which the owner of board member did not serve in relation to matters within the board's authority; and
- the reliance is made in good faith and after making an independent assessment of the information or advice, having regard to the owner of board member's knowledge of the Academy and the complexity of the structure and operations of the organisation.

4.7 Responsibility for the actions of a delegate where power is delegated

The board is responsible for the exercise of the power by the delegate as if the power had been exercised by the board itself. The board may rely on the actions of a delegate if:

- they believed on reasonable grounds at all times that the delegate would exercise the power in conformity with the duties imposed on the Board by the Corporations Act 2001 and the organisation's Constitution;
- they believed on reasonable grounds and in good faith and after making proper inquiry, if the circumstances indicated the need for inquiry; and
- that the delegate was reliable and competent in relation to the power delegated.

4.8 Material personal interest (Duty to Disclose)

A board member has a duty to notify other Board members of a material personal interest that relates to the affairs of the organisation when conflict arises. It is also prudent to ensure that notification is documented in the minutes of relevant board meetings. In addition, the conflict of interest should be recorded in the Academy's Register of Conflicts of Interest which is kept by the Governance Officer.

A board member who has a material personal interest in a matter that is being considered at a meeting must not be present while the matter is being considered at the meeting, or vote on the matter, unless participation is approved in accordance with relevant provisions of the Indian Companies Act 2013.

4.9 Disqualification from managing companies (Owners)

Under the Indian Companies Act 2013 there are three scenarios where a person becomes disqualified from managing companies:

- i. Where a person is convicted under any of the following circumstances, they are disqualified from managing an organisation for a defined period:
 - on indictment of an offence that concerns the making, or participation in making, of decisions that affect the whole or a substantial part of the business of the organisation, or concerns an act that has the capacity to affect significantly, the organisation's financial standing; or
 - as a result of an offence that is a contravention of the Indian Companies Act 2013, or involves dishonesty and is punishable by imprisonment for a minimum prescribed period; or – As a result of an offence against the law of a foreign country that is punishable by imprisonment for a prescribed period; or

where a person is an undischarged bankrupt under the law of India, its external territories or another country.

In addition, a person is disqualified from managing organisations if the person has executed a personal insolvency agreement under the Insolvency and Bankruptcy Code (Amendment) Act, 2021

- ii. or a similar law of an external Territory or a foreign country, and the terms of the agreement have not been fully complied with; or
- iii. If the person is disqualified under an order made by a court of a foreign jurisdiction that is in force, from being a Director of a foreign organisation, or being concerned in the management of a foreign organisation; or

4.10 Duty to prevent insolvent trading

While the Board of Governance has some oversight of the financial position of the Academy, it is the ultimately the responsibility of the Owners to prevent insolvent trading by the Academy. The failure of an Owner to prevent insolvent trading may result in personal liability for compensation equal to the amount of that loss or damage where:

- a person is an Owner at the time when the Academy incurs a debt; and
- the Academy is insolvent at that time, or becomes insolvent by incurring that debt, or by incurring at that time debts including that debt; and
- at that time, there are reasonable grounds for suspecting that the Academy may be insolvent, or would become insolvent, as the case may be; and
- The Academy is, at the time the debt is incurred, or becomes at a later time, a corporation to which the relevant provisions of the Indian Companies Act 2013.

4.11 Other general governance responsibilities

Owners and board members should familiarise themselves will all relevant legal governance responsibilities. There are a number of other governance responsibilities of under the Indian Companies Act 2013. While these additional governance responsibilities are not considered in further detail within this Handbook, examples of requirements or topic areas are listed below.

- Appointment of board members, including the Chairperson;
- Conduct of Board Meetings, and General and Special Meetings;
- Recording of Minutes and Resolutions, and members' access to Minutes;
- Delegations;
- The articulation and use of the organisation name including the inclusion or exclusion of the word 'Limited';
- Maintaining a Register of Members;
- Adoption of a Constitution, Replaceable Rules or a combination of each one;

4.12 Receipt, review and lodgement of an Annual Statement with the Securities and Exchange Board of India

- Related parties and financial benefits; Appointment of an Organisation Auditor;
- Accounting records and Annual Audited Financial Statements
- Provision of a copy of Financial Statements and Reports to members, unless a member has waived that right; and lodgement of notices of changes to officeholders, the Constitution or Rules etc. as may be required under Indian Law.

Key Reference Documents (4.1-4.11)

- | | |
|------------------------|-----------------------|
| • Governance Framework | • Financial Framework |
|------------------------|-----------------------|

5 Good Governance

Corporate and academic governance comprises a set of relationships between an organisation's management, its boards, its members and other stakeholders, and a structure with policies and processes through which the objectives of an organisation are established, attained, and monitored. Good governance should be an all-pervading attribute within an organisation – a key enabler to aid in defensible decision making concerning the affairs of the organisation. Therefore, effective implementation and maintenance of good governance facilitates continuous improvement in relation to Strategy, Performance, Compliance and Accountability, as depicted in Diagram 2 below.

Diagram 2: Conceptual Representation of the Features of Good Governance



The eight features of good governance are included in this model

- Leadership
- Strategic in focus
- Perusing quality and excellence
- Risk aware
- Participatory
- Performance focused
- Responsive to change
- Compliance focused, following the rule of law
- Accountable and transparent

A brief overview of the key features of good governance is provided in the following sub- sections of the Handbook.

5.1 Leadership

Excellent leadership from boards helps to develop and facilitate the achievement of the mission and vision, develop values required for the long -erm success of the organisation. During periods of change they retain a constancy of purpose. Where required, board leadership is able to change the direction of the organisation and inspire others to follow.

The tone set by boards as a whole, each board member and other officers, has a major influence on the integrity, ethics and values of an organisation. Continual espousal of ethical principles by such high-profile people demonstrates to staff, students, and other stakeholders that the organisation values these attributes.

It is important when setting an ethical standard for an organisation, that a code of conduct be established, covering members. The code should be developed in consultation with the board, other Officers, management, and staff and cover such matters as:

- the principles underpinning the responsibilities and duties of board members, other Officers, management, and other employees; and
- guidance for interpreting the principles.

Boards should ensure that there is a focus by the board, especially the Chairperson, on identifying the right mix of skills and experience required on the Board and that the necessary efforts are made to continually evaluate the Board and individual Board Member contributions and, if necessary, replenish the Board with the desired competencies.

Areas of focus in relation to leadership for all board members include but are not limited to:

- role modelling ethics and values to support the creation of the organisation’s culture;
- role modelling a quality culture;
- personal and active involvement in improvement activities either the organisational level or in the area of jurisdiction;
- participation in joint improvement activities within and outside the organisation;
- active listening to and responding inspirationally to staff at all levels of the organisational structure;
- understanding the internal and external drivers for change, and their implications;
- support for the external relationships that the organisation needs to alter to drive or support change
- driving forward and developing change plans, ensuring the resources and investments needed to support change are secured;
- communicating change plans and the reasons for them communicated to staff and other stakeholders; and
- listening and learning – sharing experiences, learning from each other and taking action.

Key Reference Documents

- | | |
|--|--|
| <ul style="list-style-type: none"> • Terms of Reference Board of Governance • Terms of Reference Audit and Risk Committee Terms of Reference Academic Board • Terms of Academic Committee | <ul style="list-style-type: none"> • Terms of Reference Teaching and Learning Committee • Governance Framework |
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5.2 Strategy

The implementation of clear strategy setting, planning, and monitoring and adaptation to the changing business environment is a critical element of good governance. The important issue is to ensure that the overall strategy setting, and planning of the organisation is clearly documented and communicated.

Strategy should be based on the present and future needs and expectations of key stakeholders following consultation with major stakeholders including funding bodies, employees, parents, clients, and key community contacts. The importance of good strategy and related planning is that it helps the organisation clearly set the objectives, strategies, and actions, timeframes and performance

indicators for a period and provides a means to monitor performance of the organisation.

The plans should be regularly reviewed and updated to allow for timely and practical adaptation of strategies in response to changing circumstances including new and emerging risks and opportunities occurring in the external operating environment. The plans should also be reflective of and specifically informed by the annual quality cycle and risk assessment. All Academy governance boards play an important role in strategy development within the sector over which they have jurisdiction.

Apart from setting the strategic direction of the organisation overall, financial strategy and viability is also essential if an organisation is to meet its ongoing financial obligations, facilitate continuance of its activities and pursue its objectives. Preparation of financial planning and budgeting underpins strategic and annual business planning to ensure financial resources will be sufficient to achieve desired organisational outcomes.

Consequently, monitoring of achievement against financial targets can then be performed. The Academy’s Board of Governance and management should ensure the preparation of operational budgets, capital management planning and capital budgets, and regular monitoring and review of financial performance. A standard planning cycle is between three to five years, with regular revision to reflect the current operating environment, and to align to updates in strategic and business plans. Members need to ensure that they have at least a reasonable understanding of finance related issues to ensure that relevant governance obligations can be fulfilled.

Key Reference Documents

- | | |
|---|---|
| <ul style="list-style-type: none"> • Governance Framework • Human Resources Framework | <ul style="list-style-type: none"> • Financial Framework |
|---|---|

5.3 Quality and excellence

Regardless of size, culture, tradition, or background, to be successful in the future tertiary education needs to deliver excellence in all areas, to an ever more demanding global customer base within a stringent regulatory environment. A strong focus on quality assurance and improvement at the governance level is instrumental in developing a robust quality framework and a strong quality culture.

The pursuit of organisational excellence requires a strong future orientation and a willingness to make long-term commitments to key stakeholders - the community, employers, faculty, and staff. The institution’s planning must anticipate many factors, such as changes in educational requirements, instructional approaches, resource availability, student/stakeholder expectations, new partnering opportunities, technological developments, the evolving internet environment, new student and market segments, demographics, community/societal expectations, and strategic changes by comparable organisations. Strategic objectives and resource allocations need to accommodate these influences.

Boards can help achieve this through a quality and excellence framework that:

- offers a holistic approach looking at all areas of the organisation;
- integrates with planning, risk and the budget cycle;
- provides for a process of self-assessment;
- supports internal and external benchmarking;
- is evidenced-based;
- provides a balanced set of results indicators, not just financial, that focus on the need of the

customer, the people in the organisation, the local community and other elements of society, the regulatory bodies and the funding organisations;

- is focused on results;
- provides a framework through which the kernel of the organisation’s issues can be surfaced, investigated and continually improved; and
- provides a framework for innovation.

Key Reference Documents

<ul style="list-style-type: none"> • Internal Quality Assurance Policy • Internal Quality Benchmarks • Internal and External Quality and Compliance Procedure • Academic Policy • Terms of Reference Board of Governance • Terms of Reference Teaching and Learning Committee • Terms of Reference Academic Committee 	<ul style="list-style-type: none"> • Academic Monitoring and Review Procedure • Unit and Department Review Procedure • Program Design, Development, Approval, Amendment and Withdrawal Procedure • Academic Integrity and Misconduct Procedure • Terms of Reference Academic Board
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5.4 Risk aware

Risk management, academic and corporate, is a concept that continues to gain significant publicity and is very important in the ongoing management of organisations. Proactive and ongoing assessment and management of strategic and operational risks is essential to avoid or minimise the consequences of undesirable events and take advantage of new opportunities.

Effective risk management can be achieved through the implementation of relevant principles, a sound framework, and a robust process for managing risks.

Boards have a responsibility to ensure that other officers, management, and staff of the organisation have in place an appropriate risk management framework to treat risks that have been identified, and to pursue new opportunities. Equally, when members are deliberating board matters, thorough consideration of risks relating to each matter should be integral to discussions, the articulation of board decisions and documentation in the minutes of the underlying rationale for those decisions.

There needs to be an ongoing process to identify risk, assess its likelihood and consequences and put in place treatment actions, together with regular monitoring and reporting on risks.

There should be a reporting process to the board by management on the emergence of new risks and the treatment of those risks, with regular integration of risk intelligence into the strategic and business planning cycle of an organisation.

Key Reference Documents

<ul style="list-style-type: none"> • Risk Management Policy • Terms of Reference Board of Governance • Terms of Reference Academic Board 	<ul style="list-style-type: none"> • Risk Management Framework • Terms of Reference Audit and Risk Committee • Terms of Reference Academic Committee
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5.5 Participatory

An organisation’s wellbeing results from all of its members feeling their interests have been considered by council in the decision-making process. Thus, boards need to be cognizant that stakeholders affected by or interested in a decision, especially students, should have the opportunity to participate in the process for making that decision. This can happen in several ways – community members may be provided with information, asked for their opinion, given the opportunity to make recommendations or, in some cases, be part of the actual decision-making process.

There are various ways that boards can seek input into the governance process. These include but are not limited to:

- formal representation on the board;
- board performance surveys;
- standing or ad hoc reports from specific stakeholders or on specific issues; and/or
- expert contributions to board meetings.

Key Reference Documents	
<ul style="list-style-type: none"> • Terms of Reference Board of Governance • Terms of Reference Academic Board 	<ul style="list-style-type: none"> • Terms of Reference Audit and Risk Committee • Terms of Reference Academic Committee

5.6 Performance focused

5.6.1 Organisational performance

It is important to establish performance goals – financial and operational – for an organisation and key individuals, together with a system to monitor and report on achievement against those goals.

Regular monitoring of performance against strategic and business plans, budgets, and other performance indicators (including service delivery and quality assurance standards) is essential to enable the Board and management of an organisation to respond and take appropriate actions in pursuit of organisational objectives and desired outcomes.

Establishment of a performance management framework and regular assessment and continuous improvement of boards as a whole, each individual board member, other officers such as the Chief Executive Officer or equivalent, other management and staff members is essential. The assessment must be robust and defensible.

5.6.2 Performance of boards

Members should ensure that there is a focus by the Board, especially the Chair on identifying the right mix of skills and experience required on the board and that the necessary efforts are made to continually evaluate the Board and individual Board Member contributions and, if necessary, replenish the board with the desired competencies.

There should be an induction process for new members to the Board to ensure they are aware of their role and responsibilities, and to understand the objectives and operations of the organisation. Regular professional development should also be undertaken to assist Board Members to keep up to date with the evolving requirements under governance and non-governance related Statute, Common Law and Contract Law, and with changes in the sector in which the organisation operates.

The board should review its own performance at least once annually.

Key Reference Documents

- | | |
|---|---|
| <ul style="list-style-type: none"> • Governance Framework • Terms of Reference Board of Governance • Terms of Reference Academic Board | <ul style="list-style-type: none"> • Terms of Reference Audit and Risk Committee • Terms of Reference Academic Committee • Terms of Reference Audit and Risk |
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5.7 Responsive

Boards should always try to serve the needs of the entire community while balancing competing interests in a timely, appropriate, and responsive manner. Boards should approve or endorse decisions and follow processes that make the best use of the available people, resources, and time to ensure the best possible results for the organisation.

5.8 Compliance

Board members must ensure the implementation of a clear and unambiguous legislative, regulatory, and contractual framework in relation to roles, responsibilities and accountabilities and that decision-making focuses on financial viability and also sustainability in the long term. This means that decisions are consistent with relevant legislation or common law.

An organisation needs to establish a process to ensure vigilant monitoring of compliance with governance and non-governance related legal responsibilities including fulfillment of contractual obligations. This process will help the organisation to respond in a timely and appropriate manner to continue to comply with existing legal requirements and emerging requirements.

Key Reference Documents

- | | |
|--|---|
| <ul style="list-style-type: none"> • Internal Quality Assurance Policy • India Education Act 2021 • National Code of Practice for Providers of India Education and Training 2019. | <ul style="list-style-type: none"> • Internal and External Quality and Compliance Procedure • Financial Viability Risk Assessment |
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5.9 Accountable and transparent

Accountability is a fundamental requirement of good governance. Boards have an obligation to report, explain and be answerable for the consequences of decisions made on behalf of the community they represent.

Organisational stakeholders should be able to follow and understand the decision-making process. This means that they will be able to clearly see how and why a decision was made – what

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information, advice and consultation council considered, and which legislative requirements (when relevant) were followed.

Reporting needs to be comprehensive enough to ensure that members are well informed, but not so complex as to confuse the key issues being reported. Use of summaries with key issues, risks and recommendations highlighted, and graphic representation can greatly assist in communication.

Boards need to establish an agreed format for reporting, to ensure that all matters that should be reported are in fact reported. There should not be different types of reports for different members of the Board based on their own personal requests of management as this leads to confusion and inefficiencies. Reports need to be made available to allow sufficient time to enable members to properly consider them before meetings. Management should also be available to present their reports at Board Meetings.

6 Further Information

For further information, questions or advice please contact one of the following:

General Governance

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