



**British Columbia
Library Association**

BCLA Board Meeting
Friday, September 11, 2020
Join Zoom Meeting

Present: C. Middlemass, T. Mundle, A. Farrell, A. O'Shea, P. Lesku, E. Henninger, P. Russell, N. Porter, L. Tripp, A. Sullivan, A. DeFaveri

Guest: Michael Blatchford from Norton, Rose, Fulbright

Meeting is called to order at 9:30am by President Chris Middlemass.

Land Acknowledgment and Welcoming Remarks (CM)

Adoption of the Regular Agenda (CM)

Introducing Michael Blatchford from Norton, Rose, Fulbright
Board Training, Part Two
See attached slides

Due to time constraints the below Agenda item will be moved to the October Board meeting.

2021 AGM Date (Annette DeFaveri)
BCLA Committees (CM)

Closing Remarks (CM)

Adjournment (CM)

The next BCLA Board Meeting is Friday October 9, 2020

Financial institutions
Energy
Infrastructure, mining and commodities
Transport
Technology and innovation
Life sciences and healthcare



Board Governance Part 2: Effective Governance

Prepared for BC Library Association

Michael Blatchford
Partner, Charities and Tax Exempt Organizations
Norton Rose Fulbright Canada LLP
September 11, 2020

Overview

1. review principles from last time
2. NFP life cycle analysis
3. board decision-making
4. board meetings
5. officers
6. senior manager
7. relationship between Board and Management
8. key policies to reinforce good governance

Quick Review



A Board is...

- the governing body of the society, legally responsible to supervise management of the affairs of the BCLA
- required to operate in the best interests of BCLA as a whole
- a collective decision-making body responsible for governance, not for operations
- focused on the big picture, not implementation or ground level programs/projects
- expected to hold management accountable to approved strategic goals, not to direct their day-to-day work

A Director is...

- a fiduciary, with duties to BCLA that supercede their own interests, desires, plans or projects
- bound by fiduciary duties or loyalty, diligence and confidentiality
- required to disclose and manage conflicts of interest
- part of a collective body, with no individual authority to make decisions or direct staff, but responsible to contribute to prudent decisions
- responsible to help the organization advance, by setting strategic priorities and holding management accountable to carry them out responsibly

A fiduciary is...

- entrusted with authority as part of the board and held to a high standard of conduct
- required to act honestly and in good faith for the best interests of BCLA
- required to devote reasonable care, diligence and skill to their work
- bound by strict confidentiality, which is only set aside by decision of the collective
- personally liable if they breach their duties

Fiduciary duty does NOT mean...

- input into day-to-day operations
- that a director can individually determine what the ED's job is
- that a director can individually instruct the ED how to do their job
- solely responsible to generate ideas on new or improved offerings

Questions on Review



Life Cycle Analysis



Stages of NFP Life Cycle

- Not-for-Profits move through different stages of development: start-up to growth, decline to turnaround, growth to maturity.
- not always linear progressive and every stage is part of a normal life cycle at some point
 - complete with unique benefits and challenges.
- understanding lifecycle stage allows a board to pinpoint your exact growing pains and determine your next steps in capacity development.
- with credit to Susan Kennedy Stevens, and Vantage Point

Stages of NFP Life Cycle (cont.)

1. Idea

- no formal organization, only an idea and a personal mandate to fill a societal, programmatic or cultural gap in the community.

2. Start-Up

- beginning stage of organizational operations in which unbridled mission, energy, and passion reign supreme, but generally without corresponding governance, management, resources or systems

3. Growth

- mission and programs have taken hold in the marketplace, but where service demands exceed current structural and resource capabilities.

Stages of NFP Life Cycle (cont.)

4. Maturity

- the organization is well-established, operating smoothly and has a community reputation for providing consistently relevant and high quality services..

5. Decline

- organization's services are no longer relevant to the marketplace; self-indulgent, status quo decisions are made; and declining program census creates insufficient operating income to cover expenses.

6. Turn-Around

- an organization, having faced a critical juncture due to lost market share and revenues, takes decisive action to reverse prior actions in a self-aware, determined manner.

Stages of NFP Life Cycle (cont.)

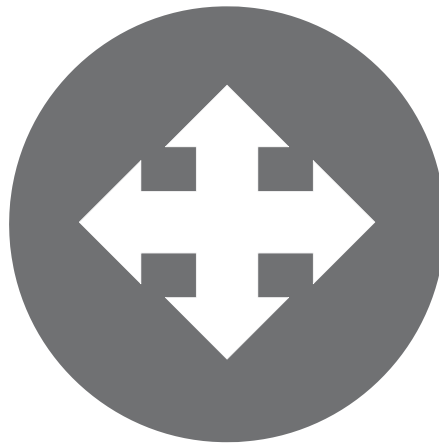
7. Termination

- when an organization has neither the will, purpose nor energy to continue to exist
- can be deliberate and conscious, or by default

What stage is BCLA?



Board Decision-making



Collective Decisions

- collective authority
 - Individual directors have no authority except as expressly delegated
- collective decision-making
 - examine the issue appropriately and then decide with a view to best interests of BCLA as a whole
- consensus decisions where possible, majority where necessary
- each director has one vote and all votes are equal

What is our role?

purposes in constitution

is every sectoral issue one for BCLA to address

taking a position?

Is this for us – or for another organization?

Contributing to Decisions

- open mind, not empty mind
 - encouraged for directors to bring their various perspectives to the discussion
 - not acceptable for directors to come with a pre-determined decision, especially where that decision is determined by something other than the best interests of BCLA as a whole
 - listen to each other, debate and argue respectfully and keep your mind open to being changed
 - try to leave personal interests at the door – you are not there to advance an ulterior agenda
- once a decision is made, all directors support it as a decision of the board, even where it was not your preferred outcome
- all board business is confidential, until the board decides otherwise

Board Meetings



Purpose of Board Meetings

- a board meeting serves various purposes
 - **reporting and accountability** from management
 - **discussion and strategizing** on board issues
 - **decision-making** on board issues
- don't confuse business raised for one purpose as an opportunity to drag that business into another purpose
 - a report on operations by management is provided for accountability purposes, its submission does not open operational items up to board discussion, let alone decisions

Purpose of Board Meetings (cont.)

- to be clear – a board meeting is not the place where directors review management’s activities and suggest ideas (unless requested)
 - if management wants a sounding board they can ask
- board meeting is not just a brainstorming session
- should be primarily focused on discussion and decision-making of board business
 - governance, not operations
 - strategy, not tactics

Board Responsibilities

- mission and values
- fiduciary oversight
- strategic planning and review against approved plan
- policy development and approval
- risk management
- management accountability (CEO evaluation, etc.)

Using a Board Meeting Agenda

- plan board meetings consciously, with its appropriate role in mind
- develop board meetings to focus on governance issues
 - deal with reports on operations first, address questions briefly and move to the Board's business
 - don't get bogged down in rehashing management's business or trying to do their job for them

Using a Board Meeting Agenda (cont.)

- flag different items as one of the following
 - information/report
 - questions for clarification only, unless feedback requested
 - for routine reports consider approval of consent agenda, no discussion needed
 - discussion only
 - identify the purpose of the discussion
 - fiduciary (are we ok?)
 - strategic (how does this fit in to plans, or do we need to change plans?)
 - generative (what are the issues, risks, opportunities? what are we missing?)
 - discussion and decision

Director Responsibilities

- attend all meetings
- be prepared, read materials in advance
- take off your “manager” hat and put on your “fiduciary” hat
 - stay at the level of priority and strategy; avoid micromanaging and operational discussions; rolling up your sleeves does not mean getting into the weeds
 - board’s are expected to hold management accountable to ensure the work of BCLA gets done well, not to do that work or tell management exactly how to do it
- ask:
 - “how does this advance our purposes and strategic priorities?”
 - “how does this help us function better as an association and provide value to our stakeholders?”
 - “are there risks or unknowns that come with this issue? how can we mitigate them?”

Officers



Officer Role

- officers serve specific governance roles on the board of directors
- usually a subset of the directors
- purpose is to help the board to function well
 - officers do not have individual authority or any exceptional powers
 - they don't overrule the board
 - they don't have extra votes, they have extra governance responsibilities
 - they are not management roles with operational duties
- officers are accountable to the board of directors

Officers of BCLA

Part 12 of Bylaws

- four officers positions named in bylaws:
 - President
 - President-Elect
 - Treasurer
 - Treasurer-Elect
- member elect the “elect” positions
- tracked positions, automatic succession from President-Elect to President, and from Treasurer-Elect to Treasurer

Officers of BCLA (cont.)

- President supervises the board in their duties and presides at meetings
 - works closely with ED to plan agenda for board meetings
 - organizes and sets tone for board interactions
 - liaison between board and ED for overlapping issues and concerns
 - no “presidential” or executive powers of individual decision-making
 - does not have individual authority over staff
 - president of board, not chief executive of association
 - spokesperson role to be decided by board with input from management
- Treasurer responsible to make arrangements for preparation and maintenance of financial records, reports and returns
 - works with management, liaison/advocate role between management and board for approval of key financial obligations (budget, annual F/S, tax return)
 - does not entail individual ownership or responsibility for tracking or managing budgets
 - does not have individual authority over staff

Senior Manager



Senior Manager

- under the *Societies Act*, a senior manager is an individual who is:
 - appointed by the Board of Directors, and
 - delegated authority to manage the activities and affairs of the Society as a whole.
- for BCLA – this description matches the executive director
- senior managers also have duties to the society and are potentially liable for breach of those duties
- does not change the employment status, job title or job description of the executive director.

Senior Manager (cont.)

- BCLA bylaws confirm that Executive Director is a senior manager
- basic role of Executive Director is set out in bylaws:
 - The Executive Director shall manage the affairs of the Society and shall be responsible for the administration of the Society. The Executive Director will direct and manage the Society's office and other personnel. The Executive Director shall regularly report to and advise the Board on all matters relevant to the affairs of the Society.

Notwithstanding the foregoing, the Executive Director will be responsible for:

 - issuing notices of meetings of the Society and the Board;
 - keeping minutes of all General Meetings and meetings of the Board;
 - custody of all records and documents of the Society;
 - the maintenance of the register of Members; and
 - the conduct of the correspondence of the Society.
 - The Executive Director will have such other duties and responsibilities as determined by the Board.

Relationship with Management



It takes two

- board and management work together to ensure the healthy functioning of BCLA
- the role of the board is different than the role of management
 - two sides of a coin
- board has delegated management authority to its executive director
 - this includes actual decision-making authority
 - not just recommendations for approval (like a committee)
- it not optimal (and can be outright problematic) for the board to be constantly stepping into management's work
 - understood that this is difficult because BCLA directors are, in their day jobs, managers, and are used to thinking this way

Stay in your lane!

- understand your role and management's role - boards govern, management manages; be disciplined about keeping in your lane unless invited to cross

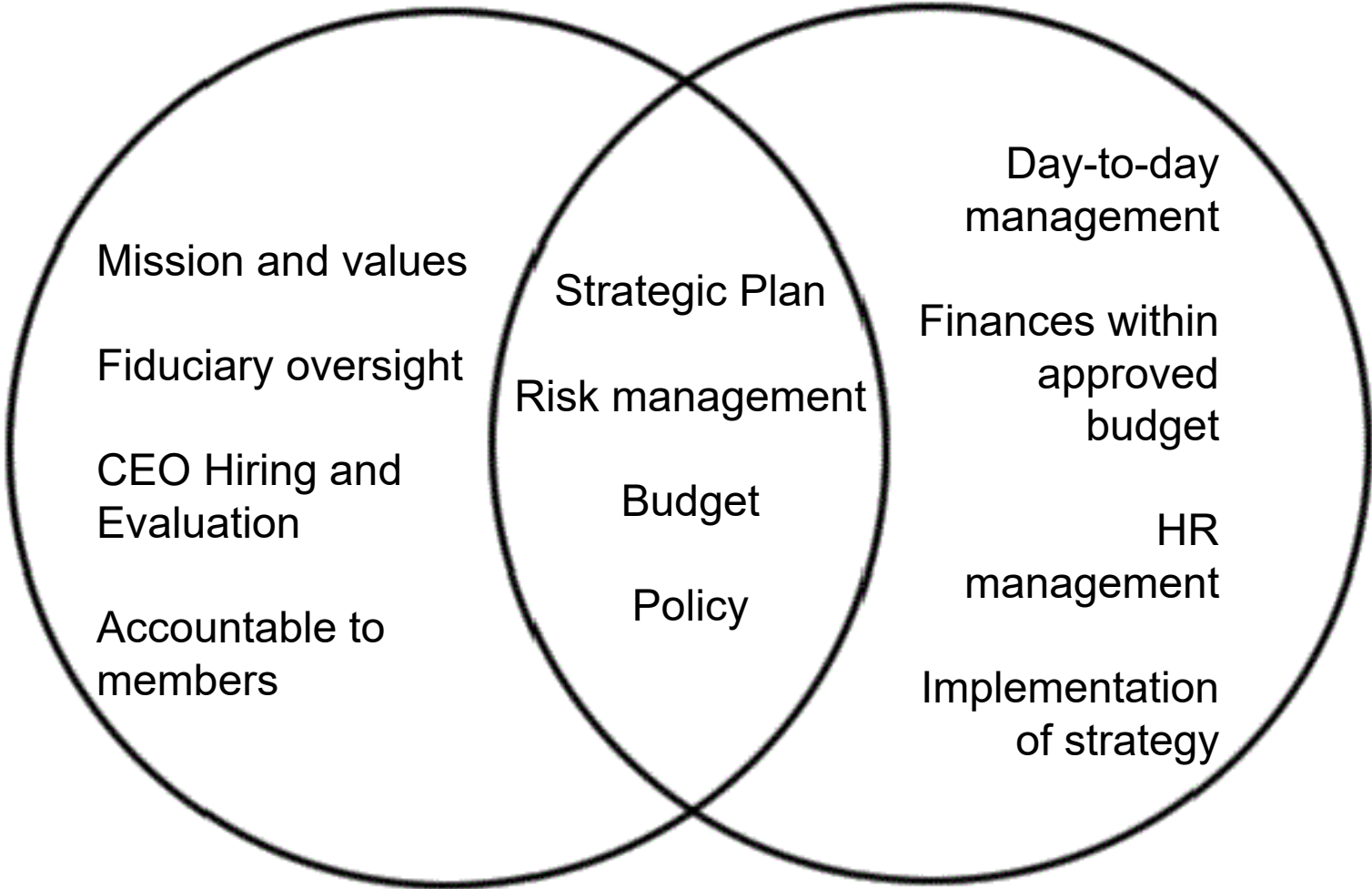


- if you are invited to share your own management level ideas, remember that management is not obligated to adopt them.

Different Models

- **no management**
 - board solely responsible to manage all issues
- **operational board**
 - limited management, board maintains primary management role
- **transition board**
 - moving towards governance, some management habits/tendencies persist
- **governance board (policy board)**
 - board governs, management manages, collaboration on overlapping issues
- **carver model**
 - complete separation between board governance and management functions
 - board sets ends, management determines means

Overlapping Spheres



Complementary Roles in Overlapping Responsibilities

slides courtesy of The Vantage Point

What vs. How

Board considers:

- purposes
- mission and values
- resources/finances
- stakeholder needs

and determines **WHAT** the organization should be focused on (i.e. strategic priorities) as well as high level strategies to achieve them.

Management considers:

- approved strategic plan
- approved budget
- staffing and capacity

and determines **HOW** to implement the plan to achieve the priorities, and the tactics/actions to carry out the strategies

Examples for Discussion

- Strategic Plan
 - Board reviews and discusses, management has input
 - board decides, management drafts
 - board approves, management implements
 - board assesses progress regularly with management
 - board evaluates ED and overall performance against strategic priorities
- Budget
 - Management develops, board has input based on strategic plan
 - management drafts, board reviews and approves
 - management implements and manages the budget
 - management reports regularly to board
 - board approves expenses materially outside budget
- Operational Plan
 - management develops, based on strategic plan and budget
 - management provides to board as information, MAY seek input
 - management implements and evaluates

What Happens when a board gets too operational?

- wrong mindset
- wastes board time better spent on governance issues
- wastes management time spent on responding to board and maintaining boundaries
- implies lack of trust in management
- undermines ED's relations with staff
- too many cooks in the kitchen
- lost in the minutiae

Working Together

- determine the model of board you want
- set boundaries
 - role descriptions/job description
 - code of conduct
 - terms of reference/policies
- create communication protocols for board/management interaction
 - is any director able to email/call the ED about any issue, any time?
 - consider using the officers to collect and transmit director comments/questions

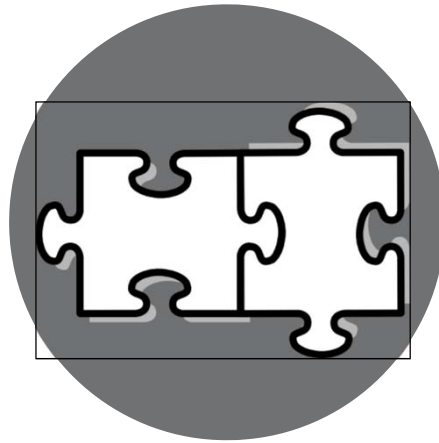
Working Together (cont.)

- demonstrate trust in management
- create a culture of respect for the model you want
 - remind each other respectfully of roles and boundaries
 - talk about this frequently and evaluate progress
 - recognize improvements and understand that change takes time (AND EFFORT)
- collaborate on strategic planning
 - set strategic priorities
 - allow management to implement
 - hold ED accountable
- formally evaluate ED annually and Board/directors regularly
 - ensure ED evaluation is tied to strategic plan

Tools to Help Transition

- develop a board calendar with appropriate items of board business planned throughout the year
 - constitution and bylaws review
 - budget review and approval
 - financial statement review and approval
 - AGM preparation
 - strategic plan review
 - risk management update
 - SWOT analysis
 - policy review
 - succession planning and recruitment
 - ED evaluation
 - board/director evaluations
- minimize operational agenda items, or note as information only, to avoid getting stuck in operational discussions

Key Policies



Governance Policies

1. code of conduct/board terms of reference
2. confidentiality and communications
3. conflict of interest
4. board discipline/investigation
5. nominations and election procedures
6. board-management interface
7. board meeting procedures
8. officer and committee terms of reference
9. privacy and personal information
10. access to corporate records

Final Questions



Contact

michael.blatchford@nortonrosefulbright.com

(604) 641-4854

@BlatchfordLaw

Disclaimer

Norton Rose Fulbright US LLP, Norton Rose Fulbright LLP, Norton Rose Fulbright Australia, Norton Rose Fulbright Canada LLP and Norton Rose Fulbright South Africa Inc are separate legal entities and all of them are members of Norton Rose Fulbright Verein, a Swiss verein. Norton Rose Fulbright Verein helps coordinate the activities of the members but does not itself provide legal services to clients.

References to 'Norton Rose Fulbright', 'the law firm' and 'legal practice' are to one or more of the Norton Rose Fulbright members or to one of their respective affiliates (together 'Norton Rose Fulbright entity/entities'). No individual who is a member, partner, shareholder, director, employee or consultant of, in or to any Norton Rose Fulbright entity (whether or not such individual is described as a 'partner') accepts or assumes responsibility, or has any liability, to any person in respect of this communication. Any reference to a partner or director is to a member, employee or consultant with equivalent standing and qualifications of the relevant Norton Rose Fulbright entity.

The purpose of this communication is to provide general information of a legal nature. It does not contain a full analysis of the law nor does it constitute an opinion of any Norton Rose Fulbright entity on the points of law discussed. You must take specific legal advice on any particular matter which concerns you. If you require any advice or further information, please speak to your usual contact at Norton Rose Fulbright.



RESPONSIBILITY OVERVIEW: BOARD & EXECUTIVE DIRECTOR/STAFF

RESOURCE

Responsibility Overview: Board & Executive Directors/Staff

RESOURCE

Role clarity is crucial to a high-performing not-for-profit organization. This chart is designed as a simplified reference tool to distinguish different levels of responsibility for board and executive director/employees in fourteen key functions of your organization. This is not a complete list of roles and responsibilities for board and salaried employees, but a reference for key areas where there is often role confusion. You can easily adapt this resource to your organization.

Responsibility Chart

AREA	BOARD	EXECUTIVE DIRECTOR / STAFF
Strategic planning	Approves	Provides input
Day to day operations	No role	Makes all management decisions
Budget	Approves	Develops and recommends
Purchases	Approves budget as part of global budget	Develops and implements policy, acts within approved budget and maintains an audit trail
Repairs	Approves budget as part of global budget	Acts within approved budget and maintains an audit trail
Hiring of employees	Hires executive director	Hires all other employees within an approved budget
Employee assignments	Establishes annual goals and work plan with executive director	Establishes for all other employees within an approved budget
Firing of employees	Makes final termination decision for executive director	Makes final termination decision for all other employees
Employee grievances	Goes to Board Chair only when related to executive director.	Grievances stop at executive director
Personnel policies	Approves	Develops and implements policy
Employee salaries	Establishes executive director's salary budget as part of global budget	Approves employee salaries with recommendations from supervisory employees, within approved budget
Employee evaluations	Evaluates executive director	Evaluates other employees
Volunteer evaluations	Evaluates board member roles	Evaluates all other volunteer roles
Monitoring	From a governance and overall management perspective	From a managerial perspective

Responsibility Overview: Board & Executive Director/Staff

RESOURCE

*Transforming
Not-For-Profit
Leadership*

 **vantage point**

Transforming Not-for-Profit Leadership

1183 Melville Street
Vancouver , BC
V6E 2X5

T: 604.875.9144

F: 604.875.0710

e: info@thevantagepoint.ca
thevantagepoint.ca