

# Manufacturing Skills Australia

(Manufacturing Industry Skills Council)

ABN 88 006 441 685

## *Governance Charter*

(January 2011)



Manufacturing Skills Australia



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The MSA Governance Charter was developed for MSA during early 2005 by Terry Kilmister of Boardworks International. A process involving a governance workshop, led by Terry, was used during the development of the charter. The MSA Board of Directors adopted the Governance Charter in September 2005.

Revisions and additions have been made since that date as well as reformatting the whole document.

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# Section 1: Responsibilities

On behalf of the stakeholders, especially the Members and clients, the board is responsible for the stewardship and future well-being of Manufacturing Skills Australia. The board should exercise leadership, enterprise, integrity and judgement in directing Manufacturing Skills Australia so as to provide assurance of its continuing and lasting prosperity. Manufacturing Skills Australia is a Company Limited by Guarantee under the Corporations Act 2001. Its purposes are made clear in its constitution. Board members should apply and endeavour to achieve the highest possible standards of corporate governance. The board should always act in the best interests of Manufacturing Skills Australia and in a manner based on transparency, accountability and responsibility.

In discharging their responsibilities the board, and individual board members, have a duty to act in the best interests of Manufacturing Skills Australia as a whole, irrespective of personal, professional, commercial or other interests, loyalties or affiliations. When serving as board members, members' first duty and loyalty must be to Manufacturing Skills Australia rather than to any constituency or nominating or appointing body.

## 1.1 Governance defined – the role of the board

Governance might be described as:

*The exercise of establishing and monitoring necessary controls and strategic direction setting so that the organisation is equipped to respond to the changing circumstances and situations in the external and internal environments in order to meet the expectations and demands of owners (Members) and other key stakeholders.*

The board establishes the organisation's purpose, values, goals and objectives, employs the Chief Executive, identifies and monitors the management of corporate risks and monitors and assesses Chief Executive and organisation performance.

In brief, governance involves the board in the process of ensuring that Manufacturing Skills Australia is well managed without the board itself becoming involved in the operations except as required by its legislation or as a consequence of exceptional circumstances.

## 1.2 Governance is different from management

Whereas the board sets governance-level policies and establishes the strategic direction including the development of the organisation's purpose, values and the organisation-wide goals and objectives, the Chief Executive designs and manages the processes that ensure that these are honoured or met.

The Chief Executive is thus the agent of the board. The board then is responsible for determining the 'what' and the 'why' and the Chief Executive is responsible for determining the 'how'. Another way to consider the difference between the two roles is to think of the board's role being to determine organisational 'ends' and the Chief Executive's role to design the "means" to achieve those ends.

## 1.3 Two levels of organisational policy

Organisational policy can be described in a two-level structure:

- (a) **Governance-level policy.** Policies at this level are developed and adopted by the board and relate to high-level, organisation-wide matters. These include policies in respect of the board's operating processes and duties, and its delegation to the Chief Executive in areas such as finances, human resources management, public affairs and asset management.

These policies are a reflection of the board's desire to meet its duty of care under law and its moral responsibility to provide good governance on behalf of all interested parties.

- (b) **Management-level policy.** These are developed by the Chief Executive and relate to the operational management of the organisation. The board is not required to approve policies at this level. Management-level policies flow logically from the governance policies.

## **1.4 Enacting the governance responsibilities**

To discharge its obligations and duties the board should assume responsibility in at least the following areas:

### **Meeting legal and moral requirements**

The board's first duty is to the legal entity. In meeting this duty the board must ensure that all legal requirements under the Act are met and that the entity is protected from harmful situations and circumstances in the interests of current and future stakeholders. The board also has a responsibility to its various stakeholders to ensure that the available resources are used to deliver the 'right outcomes' to the 'right people' in the 'right way'.

In particular the board has the following obligations:

- to act in good faith (in the interests of Manufacturing Skills Australia)
- to exercise their powers for a proper purpose
- to not compromise their capacity to make decisions
- to avoid conflicts of interest
- to act honestly
- to act with reasonable care and diligence
- not to make improper use of either their position on the board or information gained while in that role.

Board members, either individually or collectively, are potentially liable if they act illegally or negligently.

## **1.5 Board membership**

The board will:

1. Ensure that there is an effective process for appointments to the board to provide a mix of proficient board members, each of whom is able to add value and to bring independent judgement to bear on the decision-making process.
2. Assist Manufacturing Skills Australia to make good appointments to the board by ensuring that constituent bodies are fully conversant with the role, responsibilities, work programme and performance of the board and its members.
3. Provide a thorough orientation process for new board members.

## **1.6 Governance philosophy and approach**

The board will govern Manufacturing Skills Australia with an emphasis on:

1. a future focus rather than a preoccupation with the present or past;
2. strategic issues rather than administrative detail;
3. pro-activity rather than reactivity;
4. encouraging a diversity of opinions and views;
5. the development and expression of a collective responsibility for all aspects of the board's performance;
6. continuing improvement in board and individual board member effectiveness; and
7. the interests of Manufacturing Skills Australia as a whole.

## **1.7 Strategic leadership**

The board will:

1. Provide input that assists in identifying and understanding emerging trends and issues likely to affect the well being of Manufacturing Skills Australia and its clients.
2. Review Manufacturing Skills Australia's situation and agree on the broad framework within which the strategic and business plans will be prepared each year.
3. Establish the strategic direction for the organisation.
4. Recommend any significant shifts in the broad strategic direction of Manufacturing Skills Australia to the stakeholders.
5. Ensure the development of medium-term and annual business plans.
6. Review and approve Manufacturing Skills Australia's financial objectives, plans and actions, including significant capital allocations and expenditures.

## **1.8 Monitoring progress**

The board will monitor corporate performance against the strategic direction, including assessing operating results to evaluate whether the business is being properly managed.

## **1.9 Risk management**

The board will identify and evaluate the principal risks faced by Manufacturing Skills Australia and ensure that appropriate systems are in place to avoid or mitigate these risks including the protection of intellectual capital developed with the resources of Manufacturing Skills Australia and intrinsic to the value, or potential value, of Manufacturing Skills Australia.

## **1.10 Direction of executive performance**

The board will:

1. Select, monitor and, if necessary, replace the Chief Executive.
2. Maintain an up to date framework for defining the board's expectations of the Chief Executive's performance including the setting of a clear, annual performance agreement.
3. Provide regular, honest and rigorous performance feedback to the Chief Executive on the achievement of such expectations.
4. Ensure there are positive conditions for the motivation of the Chief Executive and ensure that there is adequate training to support her/him in their role.

### **1.11 Compliance and integrity**

The board will:

1. Ensure ethical behaviour and compliance with the board's Code of Ethics and Proper Practice and Conflict of Interests policies, State and Federal laws and regulations, audit and accounting principles and Manufacturing Skills Australia's stated values and its governance documents.
2. Ensure the integrity of Manufacturing Skills Australia's internal control and management information systems so that its decision-making capability and the accuracy of its reporting are maintained at a high level at all times.

### **1.12 Board focus**

The board will:

1. Ensure that the board makes the best possible use of its meetings by dealing only with matters that have governance-level significance, by focusing primarily on the future (the board cannot influence the past) and, within a defined policy framework, by delegating as much as possible to the Chief Executive.
2. Ensure that reports and proposals for the board are timely, contain content and are formatted so as to reinforce and support the board's governance role.
3. The Chairperson in conjunction with the Chief Executive will establish the agenda for each board meeting although each board member is free to suggest the inclusion of item(s) on the agenda. To the extent possible (given some matters worthy of the board's attention may be unforeseen) agendas will be based on a schedule of subjects agreed at the beginning of each year.

### **1.13 Material transactions**

The board will review and approve transactions that are not consistent with the ordinary course of business (i.e. of considerable size, or of an unusual nature).

### **1.14 Monitoring and enhancing board effectiveness**

The board will assess annually its own effectiveness in fulfilling this charter and other board responsibilities, including the effectiveness of individual board members.

### **1.15 Assurance of accountability**

The board will:

1. Serve the legitimate collective interests of the present Members and stakeholders of Manufacturing Skills Australia and account to them fully.
2. Remain up to date in terms of stakeholders' concerns, needs and aspirations.
3. Report to an Annual Meeting of the Members on the performance of all Manufacturing Skills Australia's entities and account for the board's stewardship of that performance.
4. Identify Manufacturing Skills Australia's other internal and external stakeholders determining how Manufacturing Skills Australia should relate to them including reporting to them on a regular basis on the performance of the organisation.

### **1.16 Other**

The board will perform such other functions as a prescribed by law or assigned to the board under Manufacturing Skills Australia's governing documents.

## **Section 2: Expectations of board members**

**To execute these governance responsibilities, board members must, so far as possible, possess certain characteristics, abilities and understandings:**

### **2.1 Board members' responsibilities**

board members must fulfil their fiduciary duty to act in Manufacturing Skills Australia's best interest at all times regardless of personal position, circumstances or affiliation. They should be familiar with Manufacturing Skills Australia's constitutional arrangements and be aware of, and fulfil, the statutory and fiduciary responsibilities of a board member.

The Code of Ethics and Good Conduct and the Conflicts of Interest policies provide direction to board members and the board in addressing key ethical issues.

Board members are expected to be punctual and attend regularly for the full extent of board meetings and be willing to contribute between meetings if required. They should come fully prepared for board meetings.

### **2.2 Strategic orientation**

Board members should be future oriented, demonstrating vision and foresight. They are expected to think conceptually, taking a 'helicopter' or 'big picture' perspective. They should be able to synthesise and simplify complex information and ideas. Their focus should be on strategic goals and policy implications rather than operational detail. They need to understand and focus on issues that are central to the success of Manufacturing Skills Australia.

### **2.3 Integrity and accountability**

Board members must demonstrate high ethical standards and integrity in their personal and professional dealings, and be willing to act on - and remain collectively accountable for - all board decisions even if these are unpopular or if individual members disagree with them. board members must be committed to speaking with one voice on all policy and directional matters.

### **2.4 Informed and independent judgement**

Each member of the board must have the ability to provide wise, thoughtful counsel on a broad range of issues. He or she must have (or be able to develop) a sufficient depth of knowledge about Manufacturing Skills Australia's business. This is in order to understand and question the assumptions upon which strategic and business plans and important proposals are based, and to be able to form an independent judgement as to the probability that such plans can be achieved, or proposals successfully implemented. Each board member must be willing to risk rapport with fellow board members in taking a reasoned, independent position.

### **2.5 Financial literacy**

Because the board must monitor financial performance, board members must be financially literate. They should be able to read financial statements and understand the use of financial ratios and other indices used for evaluating Manufacturing Skills Australia's performance. To achieve this appropriate training and support will be provided by Manufacturing Skills Australia.

## **2.6 Participation**

Each board member is expected to enhance the board's deliberations by actively offering questions and comments that add value to the discussion. Each should strive to be at ease with fellow board members participating in a constructive manner that acknowledges and respects the contribution of others at the table including the executive team. Board members must be able to accept challenge from others without becoming defensive. In order to foster teamwork and engender trust board members should be willing to reconsider or change their positions after hearing statements of others' reasoned viewpoints.

## **2.7 Whistle blowing**

In order to honour its duty to protect the organisation against harmful situations and circumstances, the board will provide a safe channel for staff members to bring to its attention information about acts, omissions or decisions of a serious nature that could threaten Manufacturing Skills Australia's integrity. Accordingly any staff member will have access to the board when there is evidence or reasonable (i.e. soundly based) suspicion that the Chief Executive has:

- a) breached a board policy;
- b) has allowed other staff to breach board policies; or
- c) has acted or allowed staff to act in a manner likely to cause serious harm to the organisation.

This is in effect a 'whistle-blower' provision. The channel to the board in such a circumstance is via the board Chairperson

Any such assertion must be formally noted by the board.

All individuals involved in such an action will have the protection of natural justice.

Provided that in the judgement of the board the claim is not vexatious or frivolous, the staff member bringing a whistle blowing assertion against the Chief Executive shall be protected against discrimination for having taken such an action.

## **Section 3: Governance process policies**

**The board's job on behalf of its owners is to ensure Manufacturing Skills Australia achieves its Mission and strategic goals and objectives and, in doing so, meets all the legal and moral responsibilities and requirements accompanying 'best practice' corporate governance.**

### **3.1 Governance policies**

The board is committed to governing through policies, enabling it to speak with one voice on critical issues and core values. The board will carry out its governance responsibilities based on the following four groups of policies:

1. Strategic direction policies; describing the strategic outcomes the board wants to be achieved. These policies will include the organisation's Purpose or Mission statement, a Statement of Core Values, a set of Key Result Area statements (KRAs) defining the benefit provided, beneficiaries and the cost or worth of the benefit and Key Performance Indicators (KPIs) defining the next level of outcomes detail. These are located in the Strategic Business Plan.
2. Board processes policies; describing the way the board carries out its governing role.
3. Board-Chief Executive Interrelationship policies; defining the board's relationship with, and the nature of its delegation to the Chief Executive.
4. Chief Executive Delegation policies; making clear constraints or limits on the choice of operational means available to the Chief Executive for the achievement of organisational outcomes or results.

### **3.2 Connection with owners**

The board acts in trusteeship for Manufacturing Skills Australia's owners\*.

1. The board will gather information about their concerns, needs and aspirations.
2. The board will remain up-to-date in relevant industry related matters.
3. The board will report to its owners on a regular basis on the performance of the organisation.

\*Manufacturing Skills Australia's owners, legal and moral, include:

Australian Industry Group  
Australian Chamber of Commerce and Industry  
Australian Manufacturing Workers' Union of Australia  
Australian Petroleum Production and Exploration Association Limited  
Australian Workers Union  
Communication, Electrical and Plumbing Union  
Construction, Forestry, Mining and Energy Union  
Textile & Fashion Industries Australia Limited  
Footwear Manufacturing Association of Australia  
Furnishing Industry Association of Australia Limited  
Liquor, Hospitality and Miscellaneous Union  
National Union of Workers  
Plastics and Chemicals Industries Association Inc  
Textile Clothing and Footwear Union of Australia

### **3.4 Code of ethics and proper practice**

**The board is committed to the adoption of ethical conduct in all areas of its responsibilities and authority.**

Board members shall:

1. Act honestly and in good faith at all times.
2. Declare all interests that could result in a conflict between personal and organisational priorities.
3. Be diligent, attend board meetings and devote sufficient time to preparation for board meetings to allow for full and appropriate participation in the board's decision making.
4. Put the needs of Manufacturing Skills Australia before their own needs.
5. Ensure scrupulous avoidance of deception, unethical practice or any other behaviour that is, or might be construed as, less than honourable in the pursuit of Manufacturing Skills Australia's business.
6. Not disclose to any other person confidential information other than as agreed by the board or as required under law.
7. Act in accordance with their fiduciary duties, complying with the spirit as well as the letter of the law, recognising both the legal and moral duties of the role.
8. Abide by board decisions once reached notwithstanding a board member's right to pursue a review or reversal of a board decision.
9. Not do anything that in any way denigrates Manufacturing Skills Australia or harms its public image.

The board shall:

1. Ensure that there is an appropriate separation of duties and responsibilities between itself and its Chief Executive.
2. Make every reasonable effort to ensure that Manufacturing Skills Australia does not raise community, supplier or stakeholder expectations that cannot be fulfilled.
3. Meet its responsibility to ensure that all staff employed by Manufacturing Skills Australia are treated with due respect and are provided with a working environment and working conditions that meet all reasonable standards of employment as defined in relevant workplace legislation.
4. Regularly review its own performance as the basis for its own development and quality assurance.
5. Carry out its meetings in such a manner as to ensure fair and full participation of all board members.
6. Ensure that Manufacturing Skills Australia's assets are protected via a suitable risk management strategy.

### 3.5 Conflicts of interest

The board places great importance on making clear any existing or potential conflicts of interest for board members.

#### Conflicts of interest may occur:

- a) When a board member, or his/her immediate family or business interests, stands to gain financially from any business dealings, programmes or services provided to Manufacturing Skills Australia;
- b) When a board member offers a professional service to Manufacturing Skills Australia; and
- c) When a board member stands to gain personally or professionally from any insider knowledge if that knowledge is used for personal or professional advantage.

#### Legal requirements

**Sections 191 to 196** of the *Corporations Act 2001* impose requirements on directors of companies to disclose material personal interests in matters relating to the affairs of their companies. A board member may give standing notice about a matter which could become a source of potential conflict even if it is not a matter relating to MSA's affairs at the time notice is given.

Under **section 195**, if you have a material personal interest in a matter being considered at a meeting of the MSA board, **you must leave the meeting while that matter is being considered and you cannot vote on the matter**. — It is an offence to breach this section.

In addition, **section 180** of the *Corporations Act 2001* requires directors and officers of corporations to exercise powers and discharge duties with the level of care and skill which a reasonable person would apply in the situation. **Subsection 180(2)** specifies what the requirements of care and skill include when making business judgements – including a requirement that the director or officer must not have a material personal interest in the subject matter of the judgement.

Therefore you must disclose any actual or potential material personal interest you have in a matter about which the MSA board is making a business judgement, and you must leave the meeting when it is being considered and voted on. Otherwise you will not have reached the "reasonable person's" level of care and skill as required under section 180.

#### Process

1. Any business or personal matter which could lead to a conflict of interest of a material nature involving a board member and his/role and relationship with Manufacturing Skills Australia, must be declared and registered in the Register of Interest.
2. All such entries in the Register shall be presented to the board and minuted at the first board meeting following entry in the records.
3. All conflicts of interest must be declared by the board member concerned at the earliest time after the conflict is identified.
4. The board shall determine whether or not the conflict is of a material nature and shall advise the individual accordingly.

5. Where a conflict of interest is identified and/or registered, and the board has declared that it is of material benefit to the individual or material significance to the organisation, the board member concerned shall not vote on any resolution relating to that conflict or issue.
6. The board member shall only remain in the room during any related discussion with board approval.
7. The board will determine what records and other documentation relating to the matter will be available to the board member.
8. All such occurrences will be minuted.
9. Individual board members, aware of a real or potential conflict of interest of another board member, have a responsibility to bring this to the notice of the board.

### **3.6 Board committees and working parties**

**The board will establish committees and working parties only to support it in its own work, never to conflict with the Chief Executive's delegated responsibilities.**

1. Committees and working parties shall have Terms of Reference or Role Definition clearly defining their role, life span, procedures and functions, and the boundaries of their authority, reviewed annually.
2. A decision of a committee or working party exercising delegated authority is a decision of the board and should be treated by the Chief Executive accordingly.
3. Committees and working parties may co-opt outside members from time to time in order to bring additional skills, experience or networks.
4. Committees and working parties cannot exercise authority over staff nor shall they delegate tasks to any staff unless the Chief Executive has specifically agreed to such delegations.
5. Unless explicitly empowered by the full board, committees or working parties cannot make binding board decisions or speak for the board. For the most part the function of committees and working parties, in fulfilling their role, is to make recommendations to the board.
6. Committees and working parties will not mirror operational divisions, departments or staff functions.

**Attachment A** to this document shows the agreed arrangements for MSA committees and groups, their membership and terms of reference.

### **3.7 Board processes**

**To meet standards of good governance, the board will follow a one year agenda that:**

- a) **regularly reviews results policies and relevant strategic issues;**
- b) **provides assurance that all relevant compliance requirements are addressed; and**
- c) **improves board performance through education and continuous focus on its governance effectiveness.**

#### **Agenda planning**

The board will develop an annual agenda setting out a framework for its year's work. Examples of recurring and once-off agenda items include:

- 1 Scheduled review of board stated results as indicated in the board's strategic planning statements, e.g. via Chief Executive reports and presentations.
- 2 Scheduled time for strategic thinking.

- 3 Scheduled assessment of organisational risk.
- 4 Consultations with key stakeholders as appropriate.
- 5 Governance education as appropriate e.g. sessions that facilitate a better understanding of the organisation's business.
- 6 Other policy compliance monitoring both in respect of the Chief Executive delegation and other board policies, e.g. regular financial and non financial reporting.
- 7 board Effectiveness review.
- 8 Chief Executive performance appraisal review meetings (setting up and reporting) and remuneration review.
- 9 Preparation for or review of AGM matters.
- 10 Meeting with the external auditor.
- 11 Scheduled reporting by the Audit Committee or other board committees.
- 12 Specific board discussion relating to projects currently underway, e.g. buildings, change programmes etc.
- 13 All other matters that the board can plan for.

### **Board member induction**

The board will provide to all new directors a thorough induction into the affairs of both the board and Manufacturing Skills Australia at large.

1. All prospective directors will be provided with all relevant information.
2. Prior to attendance at their first board meeting, new directors and alternate directors will:
  - d) Receive a letter of appointment from the CEO that lays out some of the specific requirements of office from both from company constitution and by law
  - e) Receive a copy of the board's resource handbook including Governance policies, Articles/Constitution and other relevant legal governance documentation, current and recent meeting papers, an organisational chart, contact details for other directors and key staff, a glossary of key terms, definitions and acronyms, the current year's meeting schedule and the annual agenda.
  - f) Receive a briefing by the CEO on the company, structure, operations etc. The briefing to include familiarisation with the Constitution and Governance Charter as well as the operations of the board and Sub-Committees.
  - g) Meet with the Chairperson where possible before their first meeting to provide a familiarisation with general board proceedings and governance. This meeting may be held as a group session or with individuals.

### **Board development**

The board's value-adding role requires that all directors must have access to professional development relevant to their duties as a director.

1. Individual Directors will be requested to identify any areas where they would like further development to enable them to better fulfil their role as a director on the board of the company.
2. Specialist suitable developmental programs will be identified to meet any needs (as identified by individual directors or the board as a whole) where MSA could cover costs for MSA directors to attend/participate.
3. The board will make every reasonable effort to facilitate training for all directors and for the board as a whole to maximise the value-adding contribution to the organisation.

4. The board will annually carry out a review of its performance. (See board Performance Review policy)
5. To assist it to fulfil its monitoring responsibilities the board may engage outside assistance. This includes but is not limited to financial audit.
6. All costs associated with governance effectiveness will be designed to ensure the development of the highest standard of governance including; meeting costs associated with effective communication with owners and other key stakeholders, surveys and associated analysis, focus groups, the costs associated with external audit and other independent third party reviews or consulting input.

## **Section 4: Board-Chief Executive interrelationship policies**

### **4.1 Delegation to the Chief Executive**

**The board delegates to the Chief Executive responsibility for implementation of its strategic direction/strategic plan while complying with the Chief Executive Delegation policies.**

1. Only the board acting as a body can instruct the Chief Executive. Typically all instruction to the Chief Executive will be codified as policy.
2. The board will make clear Manufacturing Skills Australia's strategic direction including performance indicators to be applied by the board when reviewing the organisation's and the Chief Executive's performance.
3. The board will make clear to the Chief Executive in writing any limitations or limits it chooses to place on his or her freedom to take actions or make decisions that the board deems to be unacceptable within the delegation.
4. The Chief Executive is responsible for the employment, management and performance evaluation of all staff employed/contracted to the organisation.
5. Neither the board nor individual board members will 'instruct' staff in any matters relating to their work.
6. Provided that the Chief Executive achieves the outcomes sought by the board and does so in a manner consistent with the board's policies and Manufacturing Skills Australia's values, the board will respect and support the Chief Executive's choice of actions.
7. The expert knowledge and experience of individual board members is available to the Chief Executive.

### **4.2 Chief Executive authority**

1. Always with the proviso that the Chief Executive's decisions must be consistent with and not defeat the stated intent and the spirit of the board's policies, he/she is authorised to establish all operational policies, make all operational decisions and design and implement and manage all operational practices and activities.
2. Acknowledging a board member's right to have access to information necessary to meet his/her duty of care to the organisation, the Chief Executive may defer instructions or requests from individual board members or from unofficial groups of board members if, in his/her opinion, such requests or instructions are:
  - a) inconsistent with the board's policies;

- b) are deemed to make unjustifiable intrusions into the Chief Executive's or other staff member's time; or
  - c) are an unjustifiable cost to the organisation.
3. The Chief Executive must notify the Chairperson of the use of point 2.

### **4.3 Chief Executive performance assessment**

**The Chief Executive's performance will be continuously, systematically and rigorously assessed by the board against achievement of the board-determined strategic outcomes and compliance with Chief Executive Delegation policies. The board will provide regular performance feedback to the Chief Executive.**

1. The board's assessment of the Chief Executive's performance will be against only those performance indicators that have been agreed at the commencement of the performance year.
2. The standard applied to all facets of the performance assessment shall be that the Chief Executive has met or can demonstrate compliance with the intent or spirit of the board policy/statement.
3. The board may monitor any policy at any time using any method but will normally base its monitoring on a predetermined schedule.
4. The board may use any one or more of the following three methods to gather information necessary to ensure Chief Executive compliance with board policies and thus to determine its satisfaction with that person's performance:
  - a) Chief Executive reporting,
  - b) Advice from an independent, disinterested third party, or
  - c) Direct inspection by a board approved board member or group of board members.
7. If at any time the board engages an outside evaluator to assist the board to conduct an assessment of the Chief Executive's performance, the process must be consistent with this policy. Any such evaluator is a contractor to the board, not the Chief Executive.

### **Suggested reporting/monitoring schedule**

<b>Policy</b>	<b>Frequency/date for review</b>	<b>Method of data collection</b>
Budgeting/financial planning	Annually	CEO report/Audit and Risk Committee
Financial Management	Annually	CEO report
Investments	Quarterly	CEO report/Audit and Risk Committee
Remuneration and Benefits	Annually	CEO report
Protection of Assets	Annually	CEO report
Communication and Support to the board	Annually	board survey
Emergency Chief Executive and Senior Management Succession	Annually	CEO report
Employment Conditions	Annually	CEO report/ staff feedback survey
Client Privacy	Annually	CEO report/ independent data gathering
Public Affairs	Annually	CEO report

## **Section 5: Chief Executive delegation policies**

### **5.1 Overarching Chief Executive limitation**

**The board will make clear the limits of freedom it allows its Chief Executive in the design of operational methods and the choice of actions and decisions. These will be known as Chief Executive Delegation Policies and will form the basis of the board's delegation to the Chief Executive.**

The Chief Executive must not take, or approve any action in the name of the organisation that is in breach of the law, is imprudent or which contravenes any organisation specific or commonly held business or professional ethic.

### **5.2 Financial planning and management**

**The Chief Executive is responsible for the day-to-day financial management of the organisation. In carrying out this duty he/she must ensure that nothing is done, or authorised to be done, that could in any way cause financial harm or threaten the organisation's financial integrity.**

### **5.3 Financial planning**

In developing the operational financial plan and budget, the Chief Executive must not:

1. Fail to demonstrate:
  - a) a credible projection of revenues and expenses,
  - b) separation of capital and operational items,
  - c) projection of cash flows, and
  - d) disclosure of planning assumptions.
2. Create financial risk beyond board-determined parameters.
3. Fail to incorporate/accommodate medium to long-term financial plans/projections and long-term business direction.
4. Design a financial plan that anticipates the achievement of a 'bottom line', materially different from that determined by the board, e.g. a predetermined surplus, acceptable deficit or balanced budget.
5. Design plans that would/could threaten the achievement of board determined financial ratios.
6. Fail to provide for current and future capital requirements such as future buildings.
7. Fail to provide for the board's developmental and other expenditure.
8. Fail to plan for the board-determined spread of revenue sources.

### **5.4 Financial management**

**The Chief Executive is responsible for the day-to-day financial management of the organisation. In carrying out this duty he/she must ensure that nothing is done, or authorised to be done, that could in any way cause financial harm or threaten the organisation's financial integrity.**

In managing the day-to-day financial affairs of the organisation the Chief Executive must not:

1. Use any organisational funds, or enter into any contracts or accept other liabilities, other than for the furtherance of board-approved purposes and priorities.

2. Expend more funds than have been received in the financial year unless offset by approved borrowings or approved withdrawals from reserves.
3. Allow undisputed invoices from suppliers of goods and services to remain unpaid beyond trade credit terms agreed with those suppliers.
4. Fail to pay staff in accordance with their employment contracts.
5. Authorise expenditure beyond the level established by the board.
6. Fail to meet all government imposed compliance requirements or payments on time and to standard.
7. Breach Australian Accounting Standards.
8. Acquire, encumber or dispose of land or buildings.
9. Neglect to ensure that there are limitations on expenditure and adequate controls on the use of credit or other purchase cards by card holding staff.
10. Fail to assertively pursue receivables overdue.

### **5.5 Investments**

**The Chief Executive shall not allow or cause to allow Manufacturing Skills Australia's investment assets to be invested in a manner that threatens its financial security.**

The Chief executive must not:

1. Fail to maintain sufficient liquidity to meet short to medium-term financial commitments.
2. Invest in other than board approved institutions.

### **5.6 Remuneration and benefits**

**In managing the setting and review of salaries and benefits, the Chief Executive must not make decisions or promises that would in any way cause or threaten financial harm to the organisation.**

The Chief Executive must not:

1. Change his/her remuneration.
2. Fail to have regard for the employee's skills and experience, negotiated salary scales, award rates and market conditions for such skills and experience when establishing employee remuneration and benefits.
3. Create obligations that cannot be met over the projected period of the individual's term of employment or over a period for which revenues can realistically be projected.
4. Cause unfunded liabilities to occur or in any way commit Manufacturing Skills Australia to benefits that incur unpredictable future costs.
5. Make promises or offer guarantee of long-term employment under circumstances when such guarantees or promises cannot realistically be honoured.
6. Fail to honour staff entitlements accrued or carried forward as the basis of a contractual agreement with another organisation.

### **5.7 Protection of assets**

**The Chief Executive shall not fail to take all prudent and reasonable actions to ensure that Manufacturing Skills Australia's assets, physical and intellectual, are protected against all foreseeable damaging circumstances.**

The Chief Executive must not:

1. Permit any unauthorised person to handle cash.

2. Process the receipt or disbursement of funds outside of controls acceptable to the duly appointed auditor.
3. Deposit funds in non board-approved institutions.
4. Allow the assets to be insured for less than is considered necessary for prudent risk-management.
5. Make any purchase of goods or services without protection against conflict of interest.
6. Allow employees to drive Manufacturing Skills Australia's or rental vehicles if they do not hold a current driver licence in the appropriate category or if their driving record causes the vehicle insurance to be restricted or be cancelled.
7. Allow plant and equipment to be subjected to unauthorised or improper use, wear and tear or insufficient maintenance.
8. Fail to protect intellectual property, information, and files from loss, improper use, improper purposes, or significant damage.
9. Fail to ensure that there are appropriate and effective security systems in place to adequately safeguard against loss, common damage or theft of staff, customer and organisation property.
10. Fail to maintain an appropriate asset register.
11. Fail to ensure that the premises meet appropriate local and/or government standards and/or any other statutory or minimum code requirements.
12. Fail to maintain a current assessment and evaluation of the risk factors that could conceivably disrupt Manufacturing Skills Australia's effective and efficient operation and ensure that there are plans and systems that, in the event of disruptive events, will allow continuity of business.

## **Section 6: Communication and support to the board**

**The Chief Executive shall not permit the board to remain uninformed about issues and concerns essential to the meeting of its duty of care, the carrying out of its responsibilities and the meeting of its accountabilities to its owners and key stakeholders.**

The Chief Executive must not:

1. Neglect to provide support and information in a timely, accurate and understandable fashion addressing the various issues to be monitored by the board.
2. Neglect to provide financial reports that make clear:
  - a) significant trends
  - b) data relevant to agreed benchmarks and board-agreed measures
  - c) further board financial data as determined by the board from time-to-time.
3. Fail to inform the board of significant external environmental trends, achievement of, or progress towards the achievement of, the board's Results policies or changes in the basic assumptions upon which the board's policies (both Results and CEO Delegation) are based.
4. Fail to inform directors when for any reason there is actual or anticipated non-compliance with a board policy.
5. Fail to inform the board of any breach of any externally imposed compliance requirement.
6. Neglect to inform the board of any serious legal conflict or dispute or potential serious legal conflict or dispute that has arisen or might arise in relation to matters affecting Manufacturing Skills Australia.
7. Fail to ensure that the board is provided with the necessarily wide range of views and perspectives in support of effective decision-making.
8. Fail to bring to the board's notice such occasions when it is in breach of its board Processes policies particularly when this relates to the Chief Executive's ability to carry out his/her responsibilities.
9. Fail to deal with the board as a whole except when responding to individual requests for information or requests from board committees or working parties.

## **Section 7: Emergency Chief Executive succession**

**The board recognises that one of its major risks is the loss of key personnel, particularly its Chief Executive. To this end the Chief Executive must not fail to ensure that there is in place an emergency management regime that can operate in the event of unexpected loss of his or her services. There must also be at least one person capable of responding to board concerns and requirements at a level necessary for effective governance.**

## **Section 8: Employment conditions**

**In exercising the delegation for the management of staff and volunteers, the Chief Executive must not fail to ensure that there is provided a workplace environment conducive to sound workplace practices, consistent with workplace legislation and Manufacturing Skills Australia's core corporate values.**

The Chief Executive must not:

1. Fail to provide staff with clear guidelines as to their rights, entitlements and workplace obligations.
2. Fail to provide staff with safe, dignified and fair working conditions.
3. Deny to any employees and volunteers their right to an approved and fair internal grievance process.
4. Deny employees the right to express ethical dissent.
5. Discriminate against any staff member who expresses ethical dissent.
6. Refuse employee access to the board to express a grievance when:
  - a) The internal grievance process has been properly followed; and
  - b) The grievance asserts that the CEO has breached a board policy to his or her detriment: and/or:
  - c) The grievance asserts that the board has not provided adequate protection of the staff member's human rights;
  - d) There is verifiable evidence of this;
7. Access to the board is via the Chairperson
8. The board reserves the right to appoint and independent third party to mediate the matter or to investigate and recommend an appropriate course of action.
9. Fail to ensure that all staff members are acquainted with their rights under this policy.

## **Section 9: Client privacy**

**The board placed a high emphasis on high quality ethical relationships with clients and all those applying to become clients. The Chief Executive must not create or permit conditions or circumstances in which client rights, dignity or privacy is denied or treated lightly.**

The Chief Executive must not:

1. Gather client information beyond that necessary for the provision of services or as required by law.
2. Fail to protect against improper access to client information.

3. Fail to provide a reasonable level of privacy for client interactions with the agency.
4. Fail to ensure that there are systems to provide information to consumers (and their advocates) regarding the services including a process whereby a complaint or grievance can be pursued in respect of some aspect of their relationship with the organisation.

## **Section 10: Public affairs**

**The Chief Executive shall not undertake, approve or in any way support any action that is directly or indirectly demeaning or derogatory or in any way damaging to Manufacturing Skills Australia.**

# Attachment A – MSA Committees & Terms of Reference

## Introduction

Manufacturing Skills Australia (MSA) uses a range of committees and groups to assist in governance, advice and management. These committees and groups are established by the MSA Board of Directors, at their discretion and to serve such purposes as are determined by the Board from time to time.

The Board appoints members to those committees or groups.

In order to ensure that these committees and groups assist MSA achieve its goals, the Board has determined Terms of Reference for each. These terms will provide guidance to the committees and groups in carrying out their assigned functions.

The MSA Committees and Groups Terms of Reference were adopted by the Board of Directors in February 2009. Terms of Reference are subject to review by the Board from time to time.

## Purpose of MSA committees and groups

MSA establishes committees and other groups to assist MSA achieve its goals. They are established by the Board and they provide advice to the Board. They provide a focus on the work at hand but in keeping with the best interests of the company. Members of the committees and other groups are appointed by the Board to provide relevant and appropriate expertise. This may be through applied knowledge and skills as well as considered and reflective advice.

In general, committees and other groups may be formed to:

- oversee a project, activity, service or function, including all aspects of the assigned work or function  
*(Note: this statement will be expanded by each committee or group to incorporate the scope of work involved)*
- meet with sufficient frequency to enable them to carry out the purpose for which they have been established in an orderly and timely manner.
- provide an interchange of ideas and debate/discussion to support the project or activity  
(meetings may be through any medium including face-to-face)
- provide advice and other input as appropriate
- contribute to reports and final products/outcomes of the project or activity
- work cooperatively with other MSA committees and groups
- make recommendations to the MSA Board of Directors

## **Governance of MSA committees and groups**

All MSA committees and groups are responsible to the Board. They will be governed by the rules in the MSA Constitution and the clauses in the MSA Governance Charter. This document forms an appendix to the MSA Governance Charter.

The committees will:

- meet with sufficient frequency to enable them to carry out the purpose for which they have been established and in order to achieve a timely completion of the work
- provide an interchange of ideas and debate/discussion to achieve the aim (meetings may be through any medium including face-to-face)
- provide advice to the CEO and the Board of Directors and other input as appropriate
- make recommendations to the MSA Board of Directors

MSA committees and groups may set their own meeting procedures and practices on a 'fit for purpose' basis. However the following must be observed:

1. Meeting procedures and practices must be consistent with general directions of the MSA Constitution.
2. The committee or group shall be chaired by an MSA Director unless determined otherwise by the Board of Directors.
3. Membership shall be determined by the Board of Directors. Committees or groups may nominate or co-opt additional members to ensure that their coverage for the work is comprehensive. Any additional members may only be added at the discretion of the appointed Chair.
4. Observers may be allowed and may include other such individuals or organisations as the committee or group sees fit. Observers shall not have voting rights but may attend meetings and participate therein on invitation by the appointed Chair.
5. Members of committees and groups shall be appointed by the Board of Directors. Members will usually be appointed for the duration of the project, activity, service or function unless a member is otherwise disqualified or their appointment is terminated by the MSA Board of Directors.
6. Membership of the Board Executive Committee and the Board Finance and Audit Committee will be established at the first meeting of the Board of Directors in any calendar year or other meeting where the Board Chair is elected.
7. Retiring members of the Board Executive Committee and the Board Finance and Audit Committee shall be eligible for re-appointment where they are not otherwise excluded.

8. Until otherwise determined by the Board, a simple majority of the committee or group members participating constitutes a quorum. Business may be conducted and decisions made if a quorum is not present but actions cannot be taken on any such decisions until they have been ratified by a majority of members of the committee or group. This ratification may be made out of session.
9. Members shall each have the right to vote on formal proposals.
10. All decisions shall be determined by a simple majority.
11. At each meeting of the committee or group, all members will be asked to declare any conflicts of interest and that these will be duly recorded in the minutes of the meeting. Any conflict of interest will be dealt with according to the provisions of the MSA Governance Charter. A member with a conflict of interest is to be counted in a quorum despite the representative's declared conflict of interest.

### **Scope of MSA committees and groups**

The terms 'committee' and 'group' cover a range of small bodies that MSA may set up from time to time. The use of the term 'Steering Committee' will generally not be used. This term implies that some elements of management may be required. With a few exceptions (Board Executive Committee, Board Finance and Audit Committee), most MSA committees are established for consultative purposes or as points of reference.

The list of types of committees/groups and their main features is shown below.

### **Board sub-committees (standing sub-committees)**

#### **Executive committee**

This is a sub-committee of the MSA Board of Directors and is comprised of 3 people drawn from the Board of Directors and includes the current Chair and Deputy Chair. Roles span a strategic focus including CEO performance management.

#### **Finance and audit committee**

This is a sub-committee of the MSA Board of Directors and is comprised of 3 people drawn from the Board of Directors.

##### **Aim**

To assist the MSA Board of Directors in fulfilling its oversight responsibility to exercise due care and diligence relating to finance and audit matters.

##### **Terms of reference**

The work of the committee will span:

- financial reporting practices

- business ethics, policies and practices
- accounting policies
- management and internal controls
- risk management

In particular, the committee will focus on:

- the systems of internal controls over financial processing and reporting which management has established with a view to minimising risk and increasing efficiency and effectiveness
- the integrity and transparency of MSA's financial statements
- MSA's compliance with legal and regulatory requirements
- MSA's policies related to risk assessment and risk management
- the independent auditors' capability and independence
- the performance of the independent auditors
- MSA's financial strategies and policies, capital structure, reserves and investment policy and capital expenditures

### **Working groups and other sub-committees**

(established by the board for specific projects and activities)

- focus on a project, activity, service or function (a piece of work)
- chaired by a board member
- make recommendations to the board
- disband on completion of the work