

Associations Forum - NSW GBOTA Constitution Review

Comments	Actions
<p>1. Clause 8 regarding admission to membership over emphasises the significance of becoming a Branch member. Eligible potential members should have an easy pathway to joining GBOTA, and then active Branch membership should be encouraged. Whilst Branches are an important part of an association, they are a sub-group for members from the same geographic area or with common professional or sector interests.</p>	<p>Directors have agreed with the recommendation and a simpler pathway to membership will be considered a review of the Constitution proposed for early 2016.</p>
<p>2. The stringent conditions in 8.5 regarding “Before lodgement of an application for membership the applicant must attend at least three (3) meetings of the relevant Branch as a visitor or observer” is a barrier to joining.</p>	<p>Directors have agreed with the recommendation and a simpler pathway to membership will be considered a review of the Constitution proposed for early 2016.</p>
<p>3. Based on the current number of district associations, there are 10 Directors on the Board. We note that having 10 Directors is slightly high than the ideal number of 8 based on research by Associations Forum. Further, there are more contemporary ways to elect a board than by geographic division.</p>	<p>Directors have subsequently engaged external consultants to review governance within the NSW GBOTA and these reports have supported a reduction in the size of the Board.</p>
<p>4. There is a trend in the associations sector towards having a skills based board comprising:</p> <ol style="list-style-type: none"> a. 6 or 7 member directors elected by the members; and b. 1 or 2 directors (who may or may not be members) appointed by the board where certain skills or knowledge are sought 	<p>Directors have subsequently engaged external consultants to review governance within the NSW GBOTA and these reports have supported a reduction in the size of the Board and the inclusion of independent skills based Directors. Directors are currently considering options with a view to placing recommendations before members.</p>
<p>5. To ensure continuity and succession on the board, there is also a trend towards staggered rotational elections. For example, if there are 6 directors with 2-year terms, 3 positions will be up for election each year.</p>	<p>Directors have supported the recommendation in principle and it will be further considered once the Board composition recommendations are determined and the Constitution is reviewed in early 2016.</p>

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6. We suggest consideration be given to setting maximum term limits for Directors of around 10 years.	Directors currently do not see the need for setting a maximum term, certainly on elected Directors.
7. Clauses 16.2 and 19.2 states that the Chairman has a casting vote at general meetings and board meetings. We suggest that no individual should be given more votes than other members or directors. In the event of a motion being proposed and resulting in a tied vote, the constitution should state that the motion shall be lost because it has not achieved a majority vote. We comment that having the office bearers elected by the Board (from amongst their number) rather than being elected by the members is best practice as Directors will have closer experience in working with potential office bearers than the membership at large.	Directors have supported the recommendation in principle and it will be further considered as the Constitution is reviewed in early 2016.
8. We note that there is no role of Treasurer and instead there is a Finance and Audit Committee. This is in line with contemporary governance practice. Financial responsibility is shared by all directors. Having a treasurer as a member of the board may reduce the focus of the other directors from financial matters.	Directors noted the comment.
9. We suggest that some of the details regarding the election process in clause 17.1 be reviewed and assessed to see if they are more appropriately placed in the by-laws.	Directors have supported the recommendation in principle and it will be further considered as the Constitution is reviewed in early 2016.
10. The constitution does not address holding board meetings using technology. It also does not address board resolutions made outside of meetings i.e. circular or written resolutions	Directors have supported the recommendation in principle and it will be further considered as the Constitution is reviewed in early 2016.
11. Clause 19.3 requires the Board to meet at least 10 times a year. Association Forum's research indicates that most association boards meet on average 5-6 times a year. Regardless of the number of meetings that a board may have each year, we recommend that the constitution does not mention a fixed	Directors have supported the recommendation in principle and it will be further considered as the Constitution is reviewed in early 2016.

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<p>number of meetings. Contemporary governance practice is that the board should meet as often as necessary to fulfil their governance responsibilities.</p>	
<p>12. Clause 19.7 allows Directors to appoint a proxy at Board meetings. This should not be permitted. Directors need to be present at meetings in order to be informed and make appropriate judgements on the matters being considered.</p>	<p>Directors have supported the recommendation in principle and it will be further considered as the Constitution is reviewed in early 2016.</p>
<p>13. Alternate Directors are a different issue to proxy voting at Board meetings. While alternate directors are permitted by the Corporations Act, allowing alternate directors is not recommended. Frequent use of alternate directors diminishes board processes.</p>	<p>Directors noted the comment.</p>
<p>14. Some of the requirements in the constitution regarding general meetings are inconsistent with the Corporations Act.</p> <ul style="list-style-type: none"> a. Clause 15.13.1 re notice of meeting. The Act requires at least 21 days notice regardless of whether it is an AGM or EGM. Shorter notice is only permitted in certain circumstances. b. Clause 15.9 states that Directors must call a general meeting on the requisition of not less than 10% of the total voting rights of all eligible and financial members. This is a higher threshold than the Corporations Act which states that members with at least 5% of the votes may request a general meeting. c. We doubt whether GBOTA can require the members who request a general meeting to cover the cost of posting out the notices (clause 15.10.4). Paying for a General Meeting notice may be a duty of the association. 	<p>Directors have supported the recommendation in principle and it will be further considered as the Constitution is reviewed in early 2016.</p>
<p>15. We encourage communications with members, but there is</p>	<p>Directors have supported the recommendation in principle and it will</p>

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<p>usually only the need for one General Meeting per year, being the Annual General Meeting. Clauses 15.1 and 15.6 stipulate a Bi-Annual meeting, but the formality and process necessary for a General Meeting would discourage the type of open communication and feedback likely to be sought from such a meeting</p>	<p>be further considered as the Constitution is reviewed in early 2016.</p>
<p>16. With regards to powers of Directors, it is sufficient to state that the Directors may exercise all powers exercisable by the Association as are not required by the Act or the Constitution to be exercised by the Association in general meeting. If the Directors have this power, there is no need to list specific powers as currently stated in clauses 20.1.</p>	<p>Directors have supported the recommendation in principle and it will be further considered as the Constitution is reviewed in early 2016.</p>
<p>17. The constitution gives the Board the power to delegate to sub-committees. However, there is no mention of delegation to other persons such as employees. Clause 20.1.1 gives the Board the power to appoint and remove staff. The accountability structure in associations is usually as follows:</p> <ul style="list-style-type: none"> a. Members elect the Directors and have the power to remove them. Therefore, the Directors are accountable to the members. b. The Executive Officer is accountable to the Board of Directors c. The staff are accountable to the Executive Officer. 	<p>Directors have supported the recommendation in principle and it will be further considered as the Constitution is reviewed in early 2016.</p>
<p>18. Further legal advice may be required with regards to clauses 20.5 and 20.6 and the right of an Appeals Tribunal to suspend a Director.</p>	<p>Directors will take legal advice regarding the Appeals Tribunal and are favourably disposed to having the disciplinary processes and procedures reviewed and replaced by accepted best practice alternatives.</p>

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19. There is no provision for the use of current technology, for example, using technology to hold Board meetings, to hold general meetings or to send electronic notices.	Directors have supported the recommendation in principle and it will be further considered as the Constitution is reviewed in early 2016.