

You can't build a strong corporation
with a lot of committees and
a board that has to be consulted at every turn.
You have to be able to make decisions on your own.

Rupert Murdoch

Board committees

The focus question: Do they contribute to, or deflect from, board work?

Love them or hate them the vast majority of boards have some form of committee structure in place. The key to knowing whether you have the right structure in place for you is to go back and look at the governance structure you are trying to implement.

To support you in doing this please refer to the article in *STAnews* issue 166 August 2006 p8, *Does NZSTA have a governance model?*

Only after determining what this model would look like for you and ensuring that you meet legislation is a board truly able to answer the above question. If, for instance, a board chooses to be hands on then it could be expected to have a pretty full committee structure, as it will potentially be dealing in more management focused areas which are generally not board work. Alternatively, if a board is predominantly hands off, it will delegate authority through policies to the principal and more than likely have a structure where there are standing committees. These committees meet infrequently and only when there are governance related issues that have not been delegated to the principal, eg, finance and property.

Unfortunately, it is not uncommon for a board to set policy, delegate authority to the principal, and then continue to manage through a committee.

A prerequisite of any board is surely the ability to let the principal get on with his/her job

We see this often around the important area of finance. The board sets the policy, the budget, and the delegations and then requires the principal to meet with the finance committee or accountant on the board before the board meeting so the principal can inform the trustee/s of why budgets are over or under expected results so the trustee/s can report this to the board! The easier and more effective reporting process could be the enlightened approach of having the person responsible on a day to day basis for the spending of the money, ie, the principal, report to the board by way of a variance report. Basically, what the board is saying is, we expect you to meet policy requirements around the spending of the money so let us know when there are concerns or income or expenditure is not as we planned.

Sometimes committees are established or have been established over time to be responsible for a particular area when in effect that task could be carried out by:

- 1 the whole board (the whole board needs to understand the finances, not just the accountant on the board)
- 2 a member/s of staff (this could be the principal acting as the day to day manager)
- 3 a trustee/s (as a delegated authority or committee dealing with governance issues)
- 4 a volunteer (this could be a trustee who is acting as a volunteer under the direction of the principal)

There are two main types of committees, standing and ad hoc. These are best explained as:

Standing committee

This type of committee is the most common but also the most contentious! This committee provides specialised assistance and advice to the board. Boards need to be particularly vigilant in ensuring these committees are not doing management work but are focused at a governance level.

Examples are: discipline, finance, property, review.

Ad hoc committee

This type of committee is formed to handle a specific situation or issue that does not fall within the responsibilities of a standing committee. Once the task is completed the committee ceases to exist. The board would usually take the advice and recommendations from this committee and ratify them. For example, develop a policy, review the current policy framework, plan and implement the strategic planning process.

When a board is reviewing its governance structure, or indeed documenting it for the first time, this would be an excellent opportunity to review the committee structure, the individual terms of reference for each committee, and any compliance requirements.

Relevant legislation relating to board committees can be found in the Education Act.

Education Act 1989, section 66

Section 66 of the Education Act 1989 contains the provisions on delegations. These were changed in 2005. The major changes in terms of committees/delegations are:

- 1 **Non trustees:** A board can now delegate its powers/ functions to committees consisting of non-trustees. Committees must have a minimum number of 2 persons, at least one of whom must be a trustee.
- 2 **Resolution and in writing:** Section 66 explicitly states that delegations must be by way of resolution (ie, at a board meeting) and written notice to the person or persons. It also states the delegate must not sub-delegate the power or function without the written consent of the board. The board is not able to delegate the general power of delegation or the power to borrow money. The delegation can be revoked at any time by resolution and written notice to the delegate(s) or by any other method provided for in the delegation.
- 3 **Existing committees:** If a board has an existing committee which has been dealing with matters such as personnel or student discipline (suspensions/expulsions etc), it should ensure there is a clear written delegation by way of resolution to the committee. Delegation of powers/ functions can be general or specific. This would minimise the risk of any legal action being brought against the board or committee for acting without authority.
- 4 **Renewal of delegations:** There is a misconception that delegations must be renewed annually. This is incorrect. A delegation continues in force until it is revoked. This is the case even if the membership of the board changes. However, it would be good practice for a schedule of all the delegations made by the board to be tabled at the first meeting of the board each year or following an election. This is so that all trustees are aware of them and any changes, if felt necessary, can be discussed.

Recommendations

1 Document committee principles

For example, the board may set up committees to help carry out its responsibilities and due process (eg, staff appointments, review, disciplinary). Board committees:

- are to be used sparingly, and only when other methods have been deemed inadequate, to preserve the board functioning as a whole
- may use non trustees as long as there is at least one trustee on each board committee
- may not speak or act for the board except when formally given such authority for specific and time-limited purposes. Such authority will be carefully stated in order not to conflict with authority delegated to the principal
- help the board (not the administration) do its work.
- are to have terms of reference drawn up as required. It is suggested that these contain information about the following:
 - **Committee name**
 - **Type** – could be standing or ad hoc
 - **Chairperson**
 - **Purpose** – short, general description as to why the committee was formed
 - **Timeframe** – specifies duration of the committee and when any reporting is due
 - **Committee members** – this could include what the composition is to be eg, staff trustee, parent trustee
 - **Authority** – clearly sets out any decision making or approval authority
 - **Duties and responsibilities** – states the specific objectives or tasks
 - **Budget**

2 **Review/determine your committee structure** to see if it is aligned to your governance model

3 **Review/document your terms of reference** for each committee.

4 **Review/document a schedule of board delegations** ensuring that you meet the requirements of Section 66 of the Education Act. The board should spell out in its minutes the precise powers that are delegated. For example, the committee can:

- A) investigate and report their findings to the board
- B) investigate and make any recommendations based on those findings to the board
- C) investigate, come to conclusions based on what they have discovered, and have the power to act upon those conclusions then report to the board what they did.

It is recommended that the **student disciplinary committee** should always be given delegation C).

SCHEDULE OF DELEGATIONS

| Date of minuted delegation | Date letter sent [informing of & outlining delegation] | Personnel [Delegations can be to a person or a committee. Committees must have a minimum number of 2 persons, at least one of whom must be a trustee.] | Delegated authority [See individual committee terms of reference in the board's Governance Manual] | Term of delegation [Note: delegation ceases at the date below, by earlier resolution of the board or if no date is ongoing] |
|----------------------------|--|--|---|---|
| 15-11-05 | 18-11-05 | Elaine Hines - Committee Chair (trustee) Peter Smith (trustee) John Brown (community) | That E Hines, P Smith and J Brown are delegated authority to implement the board's strategic planning committee terms of reference. | 30-05-06 |

5 **Use ad hoc committees where possible** and discuss the inclusion of volunteer experts from your community as members. This is a short term commitment by busy people who have special skills. This can also be an excellent way of introducing potential trustees to the board and its work.

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