

In the Public Eye

Public scrutiny of not-for-profit organizations in Canada is increasing. Funders, stakeholders and the general public have high expectations of transparency and accountability, and boards of directors must be sure that their organizations are prepared to operate in this environment.

Increased Focus on Transparency and Accountability

A number of factors have played a role in forming the environment in which not-for-profits find themselves operating today.

Allegations against a few organizations of poor spending controls or misuse of donor funds have led to significant negative media exposure which affected not only the organizations involved but the sector as a whole. Media and stakeholders are seeking more and more information about the way not-for-profit organizations are run.

Politicians are taking an interest, as demonstrated by Bill C-470, which would require disclosure of the names, titles and compensation of the five highest-paid employees at each registered charity. It would also allow for the revocation of charitable status of organizations paying salaries above a certain threshold.

Voluntary best practices developing within the not-for-profit sector also reflect the trend towards increased accountability and transparency. For example, Imagine Canada's draft Standards of Excellence address stakeholder communication and consultation as well as disclosure and reporting.

Current lightning rods for public opinion include:

- travel and expenses,
- executive compensation (including salary, bonuses, benefits and pensions),
- use of consultants and fundraisers, and
- use, misuse, or failure to use donated funds.

Role of the Board

There are some important steps that boards of directors can take to prepare their organizations to survive and thrive in this environment of increased public scrutiny. These include:

- ensuring that a robust policy framework is in place,
- seeking confirmation that policies are consistently interpreted and applied, and
- approving a plan to address disclosure and information requests.

Robust Policy Framework

Boards should be proactive in ensuring that a sound policy framework is in place, particularly with respect to potential trouble spots such as compensation, procurement, travel and expenses, and fundraising. Gaps or failures in the organization's policy framework in areas such as these can lead to reputational damage which can last for years and can severely undermine both the organization's effectiveness and its ability to attract funding.

Directors should seek confirmation that the policy framework is current and reflective of best practice, and that it is in line with any legal or regulatory requirements. The policy framework should be reviewed at least annually and benchmarked periodically against sector standards and sector leaders.

Oversight of Policy Interpretation and Application

Even the most comprehensive policy framework cannot be effective if the policies are not consistently followed. The board should be asking management questions in order to determine:

- whether policies are being followed,
- whether management has put in place mechanisms to verify compliance throughout the organization,
- whether management's interpretation of policies is consistent with the board's interpretation,
- whether policies are being applied consistently, and
- whether there are clear guidelines in place to address and document exceptions to policies.

Disclosure of Information versus Protection of Privacy

The board should also review whether the organization is prepared to respond to requests for information and should consider whether management has determined the appropriate balance between transparency and protection of information which should be kept confidential.

Not-for-profit organizations should be prepared for requests for information from the public, media or special interest groups, and directors must understand the implications of those requests. Failure to disclose information can undermine the public's confidence and lead to the perception that the organization is hiding something. A timely response to information requests can go a long way towards maintaining the trust of stakeholders.

However, transparency must be balanced against the protection of confidential information (particularly personal information) and compliance with privacy laws. There is the potential for both liability and reputational damage for organizations which don't protect personal information.

A carefully considered policy addressing the organization's approach to disclosure and protection of privacy can help ensure that it is ready to respond to requests for information in a timely and effective manner. Directors should consider:

- whether the organization has documented overall disclosure principles,
- whether the organization has a policy and protocol to deal with information requests, and
- whether the organization has policies in place to ensure that confidential information is *protected*.

Careful review and oversight by the board of directors in these areas can help ensure that the organization is able to stand up to the climate of increased public scrutiny.

Further information can be found in the CICA NPO Director Alert entitled *Increasing Public Scrutiny of Not-for-Profit Organizations: questions for directors to ask*, authored by Rob Devitt. Much of this discussion is based on that publication.

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