



Draft Board Charter

Swaziland National Council of Arts & Culture

(ENCAC)



Board of Directors Charter





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Introduction

The Swaziland National Council of Arts and Culture (SNCAC) was established through a Memorandum of Understanding (MOU) with the Government of the Kingdom of Swaziland and is in a transition of being transformed into a parastatal which will be regulated by the Public Enterprise (&Monitoring) Unit (PEU) Act. The Board of Directors as well as the Chairperson of the Board have been and shall continue to be appointed by the Hon. Minister for Youth Sports and Culture.

The Board is a representative of the shareholder in providing oversight for the operations of the Council and to provide strategic direction. The SNCAC Board Charter governs the regulation of meetings and the proceedings and performance of the Board of Directors. This Charter has been developed to:

- a) provide a clear statement of the roles, responsibilities, processes and operations of the Board for the benefit of both the Board and management; and
- b) ensure the practices of the Board are consistent with and reflect the Board's commitment to best practice in corporate governance

1. The Board shall be the focal point for Corporate Governance

- a) The Board shall direct, govern and be in effective control of the Council through the Charter setting out its responsibilities.
- b) The Board shall collectively provide effective corporate governance that involves managing the relationships between the management, its shareholders and other relevant stakeholders.
- c) The Board's paramount responsibility shall be the positive performance of the Council in creating value for its shareholders. In doing so, it shall appropriately take into account the interests of all stakeholders.
- d) The Board shall exercise leadership, enterprise, integrity and judgment in directing the Council so as to achieve the set mandate and corporate objectives. The Board shall ensure that stakeholders are engaged in such a manner as to create and maintain trust and confidence in the Council.

2. Composition

2.1 Size & Composition

The Board shall be made up of a minimum of seven Directors and a maximum of ten Directors. The majority of members should be independent Directors.

2.2 Appointment

The Board is appointed by the Hon. Minister for Youth Sports and Culture on the basis of their identified skills, knowledge and experience to meet the needs of the Board at the time their appointment is proposed.

2.3 Independence

A Director will be considered independent if they have no material relationship to the SNCAC that may interfere with the exercise of their independence from management and the SNCAC.

Examples of such relationships include:

- a) Being employed by the SNCAC within the last three years or being a Director after ceasing to hold any such employment;
- b) Being, within the last three years, a principal of a material professional adviser or a material consultant to the SNCAC or an employee materially associated with the service provided;
- c) Being a material supplier or customer of the SNCAC, or an officer of or otherwise associated directly or indirectly with a material supplier or customer;
- d) Serving on the Board for a period which could, or could reasonably be perceived to, materially interfere with the Director's ability to act in the best interests of the SNCAC; and
- e) Having any interests, business or other relationship which could, or could reasonably be perceived to materially interfere with the Director's ability to act in the best interests of the SNCAC.



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3. Responsibilities of the Board

3.1 General

3.1.1 The powers and duties of Directors are set out herein.

3.1.2 The Directors shall act in the best interests of the SNCAC and are to use their best efforts to ensure the SNCAC is properly managed and constantly improved. The principle role of the Board is to:

- a) oversee, approve and monitor strategy;
- b) oversee the implementation of the Business Plan including the Annual Budget;
- c) recommend the appointment of the Chief Executive Officer (CEO) and evaluate his or her performance;
- d) provide guardianship of corporate values;
- e) monitor the integrity of financial reporting;
- f) oversee risk management and legal compliance; and
- g) oversee stakeholder communications and relationship.

3.2 Specific

To discharge its responsibilities and to facilitate its ongoing oversight of the SNCAC, the Board has agreed its role includes, but is not limited to the following matters. The Board may choose to delegate some of these responsibilities to one or more of its Committees. This will be specifically reflected in the Charter of the relevant Committee.

3.2.1 Strategic

- a) **Strategic planning:** Approving the strategic planning process and timetable, contributing to the SNCAC's strategy and objectives, approving the SNCAC's strategy, associated performance indicators and targets and approving any subsequent material variations.
- b) **Business planning:** Approving the business planning process and timetable, adopting the business plan including operating budgets, capital budgets, performance indicators and approving any subsequent variations.
- c) **Future Funding:** Contributing to and approving a strategy for funding of the SNCAC, including funding targets, timelines and avenues and appropriately involving itself in liaison and communication with potential sources of funding.
- d) **Change management:** Overseeing the SNCAC's capacity to identify and respond to changes in its economic and operating environments.
- e) **Major projects:** Approving and monitoring major projects including corporate restructures/re-organizations, major capital expenditure, capital management, acquisitions and divestitures and any significant initiatives or opportunities that arise outside the annual planning and budgeting process.
- f) **Stakeholder liaison:** Appropriately involving itself in liaison and communication with key stakeholders.
- g) **Performance monitoring:** Overseeing the conduct and performance of the company and subsidiaries to ensure they are being properly and appropriately managed. To discharge this
- h) duty the Board will give specific and regular attention to:
 - i. monitoring performance against the strategic and business plans;
 - ii. monitoring performance against peer and competitor companies; and



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3.2.2 Governance and Board Matters

- a) **Delegations of authority:** Reviewing, approving and, where appropriate, revising the delegations of authority from the Board to the CEO and significant delegations from the CEO to executives. The Board notes that these delegations must be clearly defined and be sufficient to empower the CEO and the executive team to run SNCAC.
- b) **Committees:** Overseeing the work of the Board Committees including determining the need for specific Committees, reviewing the need for those Committees on an ongoing basis, receiving reports from, reviewing the work of, and considering the recommendations made by each Committee.
- c) **Self assessment:** Developing and implementing a formal process for the Board to assess its performance. This policy will include an external assessment every three years.
- d) **Referred matters:** Attending to matters appropriately referred to it by the Chair, management, the CEO or Committees of the Board.
- e) **Governance matters:** Attending to corporate governance matters including the identification and nomination to the members of new Directors to fill Board vacancies and to any other matters identified as reserved to the Board.
- f) **Information needs:** Dictating its information needs to management including the form, timing, content and style of Board papers and ensuring these are fully addressed on an ongoing basis.
- g) **Succession planning:** Ensuring that appropriate plans are in place for the succession of the CEO and Board members.

3.2.3 Risk Management, Compliance and Internal Controls

- a) **Risk management:** Defining the SNCAC's risk appetite, approving and overseeing the operation of the SNCAC's corporate risk management framework, assessing its effectiveness, understanding and reviewing the major/significant risks facing the SNCAC and monitoring their management.
- b) **Internal controls:** Overseeing, reviewing and monitoring the operation, adequacy and effectiveness of the SNCAC's reporting systems and the overall framework of internal controls established by the CEO including operational, accounting and financial reporting controls.
- c) **Operational compliance:** Approving, reviewing and monitoring compliance with key corporate policies.
- d) **Legal compliance:** Overseeing, reviewing and monitoring the operation of the SNCAC's programs, policies and procedures to ensure compliance with relevant legislation is actively promoted within the SNCAC. Specific attention is to be given to privacy and occupational health and safety programs.
- e) **Reputation:** Being aware of and, where appropriate, reviewing any litigation, actions, transactions and issues, papers and reports to external/third parties which impact on the Australian Stem Cell
- f) Centre and may attract adverse public, government, regulatory or other interest.
- g) **Encourage the reporting of unlawful or unethical behavior:**
- h) Maintaining a firm stance in relation to encouraging the reporting of unlawful or unethical behavior and ensuring that employees and management are assured of protection where violations are reported in good faith.

3.2.4 Financial



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- a) **Financial oversight:** Overseeing all aspects of the SNCAC's financial position including giving specific attention to the quantum, nature and terms of SNCAC's debt facilitates and its ability to meet its debts and other obligations as they fall due.
- b) **Financial reporting:** Approving the annual audited financial statements, the half year financial statements, and the theme and text of the SNCAC's annual report.
- c) **Audit:** Selecting SNCAC's external auditors for approval by the members, ratifying the appointment of the internal auditor and approving their respective scopes of work.
- d) **Related party transactions:** Reviewing and monitoring all related party transactions to identify whether consideration should be given to seeking stakeholder approval.

3.2.5 Personnel

- a) **CEO:** The appointment, regular performance assessment, remuneration, succession planning and, should it be necessary, the dismissal of the CEO.
- b) **Executive performance and development:** Ensuring an appropriate process is in place to recruit, review the performance of, remunerate, train and develop executives and to provide for management succession.
- c) **Executive compensation:** Reviewing and approving the compensation, equity and incentive schemes in place for the CEO and executives to ensure they are appropriate and competitive in both structure and quantum.
- d) **Standards of behavior:** Reviewing, approving and monitoring compliance with the SNCAC Code of Conduct, which provides guidance regarding ethical behavior, including approving all proposed revisions or waivers.

4. The Chairperson

4.1 Appointment

The Hon. Minister for Youth Sports and Culture appoints the Chairperson as an independent Director. The Board shall appoint among the Directors a Vice Chairperson in an authorized Board setting who shall deputize the Chairperson in her absence.

4.2 The Role of the Chairperson

The role of the Chairperson is to ensure that the Board is functioning effectively. The Chairperson shall:

- a) chair Board meetings;
- b) establish the agenda for, and frequency of, Board meetings (together with the CEO where appropriate);
- c) attend the meetings of the sub-committees from time to time as an ex-officio member;
- d) monitor the operations of the sub-committee and recommend revoking the appointment of sub-committee members that are deemed to be non-performing and or not serving the interests of the Council thereof;
- e) ensure the Board's decisions have been implemented;
- f) promote and ensure the due participation and performance of Board members;
- g) ensures that all Directors behave in a manner prescribed by this Charter;
- h) directly supervise the CEO and be the link between the Board and the CEO/senior management;
- i) review matters of concern to the Council together with the CEO;
- j) cause the development a Performance Agreement with the CEO and review his or her performance against this Agreement
- k) provide guidance and mentoring to the CEO; and
- l) provide a proposal to the Remuneration Committee on remuneration of the CEO.

5. Directors

The role and function of the Director shall include:

- a) attending all Board meeting;



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- b) providing support, advice and positively contribute to the meetings;
- c) participating as members of sub-committees;
- d) undertaking the functions outlined in section 3 of this Charter under the guidance of the Chairperson;
- e) participate in the annual evaluation of the performance of the Chairperson;
- f) performing any other duties as assigned by the Chairperson.

6. Board Committees

- a) The Board shall establish the following Committees:
 - I. Audit Committee;
 - II. Remunerations Committee;
- b) Each formally constituted Committee will have a written Charter, approved by the Board. Formal minutes of each Committee meeting will be prepared and circulated to each of the Directors as part of the Director's package for ordinary and or special Board meetings.
- c) Membership of Board Committees will be based on the needs of the Council, relevant legislative and other requirements and the skills and experience of the individual Directors. Membership of the Audit Committee and Remuneration Committee will be restricted to the Non-Executive Directors. The specific requirements of each Committee are set out in its Charter.
- d) The Board has sole responsibility for the appointment of Directors to Committees and expects that, over time, the Directors shall rotate on and off various Committees taking into account the needs of the Committees and the experience of the individual Directors. The role, function, performance and membership of each Committee will be reviewed on an annual basis as part of the Board's self-assessment process.
- e) The Board may from time to time establish appropriate Committees to assist it in the discharge of its responsibilities. However, the Board will not delegate any of its decision making authority to those Committees.

6.1 Responsibilities of the audit committee

The audit committee shall:

- a) be responsible for reporting and internal controls in the Council, these responsibilities may be delegated to the audit committee, which shall make recommendations to the Board in this regard.
- b) oversee the Councils reporting and assurance functions on behalf of the Board, and serves as a link between the Board and these functions.
- c) review aspects of risk and sustainability issues where it is mandated to do so by the Board. ensure that the Board critically evaluates the recommendations and reports of the audit committee before approving them.
- d) ensure the integrity and completeness of financial reporting as delegated by the Board.

Financial Management

- e) be responsible for evaluating the judgments and reporting decisions made by management,



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- f) including changes in accounting policies, decisions requiring a major element of judgment and the clarity and completeness of the proposed disclosures.
- g) require explanations from the management on the accounting of significant or unusual transactions and shall consider the views of the external auditor's in these instances.
- h) oversee the controls for the publication of financial information by the Council. This is to ensure that the financial information complies with applicable financial reporting requirements, including whether the management has adopted appropriate accounting policies and made defensible assumptions, supported by reasonable estimates and judgments.
- i) be responsible for monitoring the appropriateness of the company's combined assurance model and ensuring that significant risks facing the company are adequately addressed.
- j) satisfy itself of the assurance provided by external assurance providers and management that significant risk areas within the Council have been adequately addressed and suitable controls exist to mitigate and reduce these risks.
- k) provide an effective counterbalance to executive management, to uphold the independence of external assurance providers, thus helping to ensure that these functions are carried out effectively.

Information Technology Risks (IT)

- l) consider IT risk as a crucial element of the effective oversight of risk management of the Council. In many cases the audit committee may need to rely on expert advice from within or outside the Council.
 - I. The audit committee should play an oversight role regarding:
 - II. IT risks and controls;
 - III. business continuity and data recovery related to IT; and
 - IV. information security and privacy.

External assurance providers

- m) recommend to the Board the appointment, reappointment and removal of external auditors.
- n) oversee the report of the activities of the external auditors, among others, the planning and execution of the annual external audit.
- o) recommend to the Board the approval of the external auditors' terms of engagement and remuneration. In doing so, it should engage with the auditor to satisfy itself that the level of fee payable is appropriate to enable an effective audit to be conducted.
- p) review and monitor the external auditor's independence and objectivity and the effectiveness of the audit process on an annual basis.
- q) review any accounting and auditing concerns identified as a result of the internal or external audit.
- r) develop a protocol to receive, consider and resolve reportable irregularities (as defined in the Auditing Profession Act, 2005) reported by the external auditor to the Independent Regulatory Board for Auditors.

6.2 Responsibility of the Remunerations Committee

The remunerations committee shall:



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Remuneration

- a) ensure that the Council has in place staff terms and conditions of service as well as policies and procedures that are compliant with the existing legislation.
- b) recommend to the Board for adoption a remuneration policy to enhance corporate and individual performance of staff.
- c) recommend periodic remuneration reviews designed to attract, retain, maintain talented and motivated Directors and employees. The maximum amount of annual fees to be paid to non – executive Directors will be in accordance to the Public Enterprises Units’ Circular issued from time to time.

Continuing Professional Education

- d) facilitate and motivate the Directors to undertake any necessary continuing professional education to enable them to discharge their duties.
- e) review management briefs the on changes in the legislative, regulatory or industry framework which impact the Council noting that this is not a substitute for the Directors’ own efforts.

Performance Assessment

- f) ensure that the Board recognizes that regular reviews of its effectiveness and performance are key to the improvement of the governance of the Council.
- g) encourages the Board to review and evaluate its own performance and the performance of its Committees on an annual basis against both measurable and qualitative indicators. Every two years a review of Board performance will be facilitated by an external service provider.

Stakeholder Liaison

- h) encourages effective communication with stakeholders and put strategies in place to effect this including: stakeholders, employees, Government funding bodies and the community.

6.3 The Role of the Chairpersons of Sub-committees

The role of the Chairpersons is to:

- a) convene and chair sub-committee meetings;
- b) establish the agenda for, and frequency of sub-committee meetings as approved by the Chairperson of the Board;
- c) invite external professionals to provide expertise on technical matters being deliberated, in consultation with the Chairperson of the Board or his/her designate;
- d) ensure the Board’s decisions have been implemented;
- e) be the link between the Board and the sub-committee;
- f) review matters of concern to the Council together with the CEO;
- g) be the custodian of the principles of good corporate governance during meeting;
- h) generate reports to the Board and ensure that recommendations are submitted to the Board on key issues.

7. Meetings

- a) Board meetings shall be a regular basis, as determined annually in advance by the Board in line with the Public Enterprises Unit’s Directive. The agenda for each meeting is dictated by the



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needs of the Council and the matters set out in the annual agenda for attention at a particular meeting.

- b) An additional Board meeting can be convened by the Chairperson at the request of a Director, sub-committee or management at any time by giving all Directors reasonable notice in writing, email, text message and any other mode of communication deemed acceptable by the Board.

7.1 Declaration of Interests

- a) Directors are required to take all reasonable steps to avoid an actual, potential or perceived conflict of interests with the SNAC's interest.
- b) Directors must comply with the requirements of the Public Enterprises Act and the corporate governance Code of Conduct – Conflicts of Interest with respect to the disclosure of actual, potential or perceived conflicts of interest.

7.2 Quorum

A meeting of the Board will have a quorum if:

- a) where the Board comprises at least three Directors excluding the CEO
- b) where the Board comprises more than three Directors:
 - i. if the total number of Directors comprising the Board is an even number, the quorum is half such total number; and
 - ii. if the total number of Directors comprising the Board is an odd number, the quorum is the upper of the whole numbers nearest to half such a total.
- c) A quorum must be present at all times during the meeting.

7.3 Remuneration

- a) The remuneration of the Board of Directors shall be in accordance to the PEU Circular issued from time to time on the remuneration of boards.
- b) The remuneration of the sub-committees shall be at a scale of 75% of the remuneration of the Board of Directors.
- c) All Board and sub-committee members shall be re-imbursed travelling costs for all authorized Board and sub-committee meetings and or events so duly authorized by the Board and or Chairperson at a rate so determined by the Automobile Association (AA) as revised from time to time.

7.4 Recording of Minutes

- a) Minutes shall be recorded for all Board and sub-committee meetings and they shall be recorded by the Board Secretary or his/her designate.
- b) All Board minutes shall be made available to Board members within a period of 7 days from the date of the meeting.