

Appendix 4 — AIHW Charter of Corporate Governance

Introduction

The Australian Institute of Health and Welfare (AIHW) exists to describe the Australian health and welfare systems. Reflecting the scope of those systems, the operating environment of the AIHW Board, created by legislation (the *Australian Institute of Health and Welfare Act 1987*—AIHW Act) is complex.

The AIHW is an Australian Government statutory authority within the Health and Ageing portfolio, reporting directly to the portfolio minister. The AIHW is defined as a body corporate subject to the *Commonwealth Authorities and Companies Act 1997* (CAC Act). As provided for by the AIHW Act, management of AIHW affairs is delegated to the Director.

The AIHW Charter of Corporate Governance provides guidance for members and potential members of the AIHW Board to ensure the AIHW operates effectively as an independent agency of government. It defines the roles and responsibilities of individual members, and provides guiding principles to support members through the range of operational and legal issues they encounter in their direction of the AIHW.

Purpose

This charter outlines the framework for the corporate governance of the AIHW.

As a statutory authority of the Australian Government, the AIHW must take into account relevant governing laws. A clear set of instructions and processes outlining the Board's responsibilities is designed to enable the Board to work effectively within its legislative requirements and in response to the requirements of the organisation. This paper outlines the corporate governance responsibilities of the Board and the structures established to support it.

AIHW's mission and values

The AIHW is guided in all its undertakings by its mission and values.

AIHW mission

Better information and statistics for better health and wellbeing.

Values

Our values are:

- **the APS values** being apolitical, accountable, sensitive and fair with the highest quality ethics and leadership
- **objectivity** ensuring our work is objective, impartial and reflects our mission
- **responsiveness** meeting the needs of those who supply or use our information
- **accessibility** making information as accessible as possible
- **privacy** safeguarding the personal and collective privacy of both information subjects and data providers
- **expertise** applying specialised knowledge and high standards to our work
- **innovation** showing curiosity, creativity and resourcefulness in what we do

Roles, powers and responsibilities

1. Governing laws

Enabling legislation

The AIHW was established as a statutory authority in 1987 by the then *Australian Institute of Health Act 1987*. In 1992, the AIHW's role and functions were expanded to include welfare-related information and statistics. The Act is now entitled the *Australian Institute of Health and Welfare Act 1987* (AIHW Act).

Under the AIHW Act, AIHW Board members are collectively also referred to as the Institute.

The Board may appoint committees as it thinks fit to assist it in performing its functions (section 16).

As a statutory authority, the AIHW is defined in its Act as a body corporate subject to the CAC Act. Directors (members) are subject to legislation that specifies their duties and responsibilities under the CAC Act.

Responsible Minister

The Minister for Health and Ageing is the minister responsible for the AIHW and it is therefore an agency within the Health and Ageing portfolio.

2. Constitution

Section 8(1) of the AIHW Act specifies the constitution of the Board.

The following members are appointed for a term of 3 years, by the Governor-General on the advice of the Minister:

- a chairperson
- a member nominated by the Australian Health Ministers' Advisory Council
- a member nominated by the Community Services Ministers' Advisory Council
- a representative of the Housing Ministers' Advisory Council;
- three members nominated by the Minister for Health and Ageing
- a person nominated by the minister who has knowledge of the needs of consumers of health services
- a person nominated by the minister who has knowledge of the needs of consumers of welfare services
- a person nominated by the minister who has knowledge of the needs of consumers of housing assistance services
- a person nominated by the minister who has expertise in research into public health issues.

Directors holding office by virtue of the position they hold (therefore not appointed) are:

- the Director
- the Australian Statistician
- the Secretary of the Department of Health and Ageing (DoHA).

The Australian Bureau of Statistics (ABS) and DoHA members may formally designate a representative to attend meetings on their behalf.

A member of staff of the AIHW, elected by its staff, is also a member of the Board. The member is appointed annually through a staff ballot. This position is independent of the official appointment process.

Note: The Secretary of the Department of Family and Community Services and the Chief Executive Officer, National Health and Medical Research Council or their nominees, attend and participate as observers with the agreement of the Board.

Board members who are Commonwealth or state/territory officers (other than the Director and staff member) are referred to in this document as departmental representatives.

3. Conduct of Board members

As a statutory authority, the conduct of members of the AIHW Board is prescribed by the CAC Act. Members are bound by the Conduct of Directors, specified in the AIHW Act.

Board members are expected to ensure that they understand their responsibilities under both the CAC and AIHW Acts, and to uphold the AIHW's values.

4. Roles of Board members

Key responsibilities of the AIHW are to:

- provide biennial reports to the minister and to parliament on *Australia's health and Australia's welfare*
- establish data standards for health and welfare statistics
- develop knowledge, intelligence and statistics to better inform policy makers and the community.

Role of the Board

The Board has broad responsibilities to:

- set the AIHW's mission and values and its strategic goals and directions, including endorsement of its Corporate Plan and Business Plan
- maintain the independence of the AIHW
- ensure that the AIHW complies with legislative and administrative requirements
- meet its statutory requirements including making recommendations to the Minister to appoint a Director of the AIHW
- oversee the financial viability of the AIHW
- endorse the Annual Report and the audited financial statements (as required by the CAC Act), at a Board meeting
- advocate and promote the contribution of information to improve health and welfare outcomes
- identify and manage the risks that might impact on the AIHW
- monitor the performance of the organisation against its Corporate Plan and Business Plan
- secure feedback from stakeholders on the use of AIHW products
- set remuneration for, and assess performance of, the Director
- review its own performance, including whether it has the appropriate skills among members to fulfil its functions.

Role of the Chair (in addition to the role of the Board)

- Chair meetings of the Board and endorse associated processes.
- Extended role in managing formal relationship between the AIHW and the Minister for Health and Ageing.
- Manage significant issues between meetings of the Board.
- Manage the relationship between the Board and the Director of the AIHW.

Role of the Director

- Provide leadership to the AIHW in policy and statistical issues across the scope of the AIHW's functions.
- Manage the affairs of the AIHW in accordance with the AIHW Act and the CAC Act.
- Establish and maintain appropriate working relationships with the portfolio minister and other ministers whose portfolios include activities within the scope of the AIHW.
- Establish and maintain appropriate working relationships with the portfolio department, other relevant Commonwealth, state and territory agencies, and associated Commonwealth/state forums.
- Liaise as required with non-government bodies associated with the functions of the AIHW.
- Ensure the AIHW provides, either directly or through collaborations with others, high-quality, timely information across the health and welfare sectors, and arrange the necessary financial resources to enable this.
- Ensure the Board is properly advised on all matters.
- Ensure the security of data provided to the AIHW, and protect confidentiality and privacy in accordance with legislative and ethical standards.
- Develop the Corporate Plan and the Business Plan.
- Maintain a strong financial position of the AIHW.
- Attract and retain the committed, skilled staff needed to carry out the AIHW's functions.

Role of staff-elected board member

- The staff member is a full Board member, with the same responsibilities as other members.

Role of other members

- Act in the best interests of the AIHW. If nominated by a stakeholder group, a member may act as a channel for that stakeholder's interests, but must act in the interests of the AIHW. (See also below; 'Conflicts of interests'.)
- Support the Chair and Director of the AIHW in decision making.
- Participate on Board committees established under s. 16(4) of the AIHW Act.
- Provide input to the Board based on their knowledge and background.

Role of the Secretary

- Provides advice and support to the Board.
- Is independent of the AIHW Director and staff when dealing with sensitive matters related to the Director's employment.

5. Relationships

With management

Management representatives are invited to attend Board meetings to inform discussion, while having no formal responsibilities.

With stakeholders

Stakeholders are important to the prosperity of the AIHW. The AIHW has responsibility to a wide range of stakeholders from the minister to the whole community. Board members have an important role in establishing and nurturing sound relationships with the AIHW's stakeholders.

With staff

The Chair participates in key AIHW activities, notably the launch of *Australia's Health* and *Australia's Welfare*, and in developing the Corporate Plan and the Business Plan.

The AIHW Act places the employment and terms and conditions of staff under the control of the Director. The Board seeks to ensure the development and welfare of staff, and provides advice to the Director when considered appropriate.

6. Delegation of powers and actions

The AIHW has established itself as a Board and delegated powers for the day-to-day operations of the AIHW to the Director (s. 27).

7. Board processes

Meetings

The AIHW Act stipulates that the Board shall meet at least once every 4 months. To enable the Board to guide the work of the AIHW, to fit in with the launch of its biennial publications, and to approve the financial statements, the annual report, and meet other deadlines, meetings are usually scheduled for March/April, June, September and December of each year.

On occasion, where issues are to be discussed by independent members only, for example, commercially or personally sensitive issues, the Chair may excuse from discussion the director, the staff member, and departmental representatives.

Agenda and papers

The Director, in consultation with the Chair, formulates the agenda. Any Board member may submit items.

The Secretary of the Board sets a standard format for papers. Papers are developed by the Director in consultation with Group Heads, sourced from the Institute.

Group Heads are responsible for providing papers to the Secretary 2 weeks before the meeting date.

Papers are distributed electronically and in hard copy to members at least 1 week before the meeting date.

The Board will consider late papers with the approval of the Chair.

Confidentiality

All papers for Board meetings are considered to be 'Board in confidence' unless otherwise decided by the Board. Members and staff attending meetings, or having access to papers, are responsible for maintaining the confidentiality of discussions and papers.

While departmental members may be supported by seeking adequate briefings from their departmental staff officers, to protect their confidentiality the full set of papers is not to be distributed throughout the department. Where members require briefings on certain items, only the paper covering the item in question may be forwarded to relevant staff within their respective agencies. These papers may not be used for any purpose other than that for which they are intended.

The AIHW makes available records of endorsed minutes to its staff.

The staff-elected member may make available notes on the outcome of issues following a Board meeting, in accordance with agreed release practices.

Minutes

The secretariat notes on the meeting are provided to the Chair directly following the meeting.

The Board Secretary and secretariat staff are responsible for taking the minutes and producing a draft document for clearance by the Chair before circulation to all members. The minutes primarily reflect the major decisions from the meeting. Where it is appropriate to do so, a brief background or notes from the discussion may be recorded to provide a more accurate picture of the proceedings.

The minutes of each meeting are endorsed at the subsequent meeting of the Board. Following endorsement, the Chair signs the minutes which are retained for the official record and are subject to audit scrutiny.

Conflict of interests

The CAC Act requires Board members to disclose their interests relevant to AIHW's functions, and not participate in decisions where a conflict is declared. A member who considers that he or she may have an interest in the matter shall:

- (i) disclose the existence and the nature of the interest as soon as the member becomes aware of the conflict
- (ii) provide details of the interest as requested by other members to determine the nature and extent of the interest
- (iii) remove themselves physically from the room, if appropriate, while the discussion takes place unless the Board determines otherwise.

In some cases, Board members could be representing potential purchasers or competitors of the AIHW with regard to contract work. In such a case, a member should declare his or her interest with regard to particular agenda items. The member may be present for discussion of the item with the agreement of the Board, but not for the decision making.

Conflict of roles

The Auditor-General has identified that the presence of government officers on the boards of statutory authorities may give rise to a conflict of roles, and has issued advice as follows (adapted to AIHW circumstances):

The portfolio Secretary, as a member of the Board, is simultaneously:

- chief policy adviser to the Minister for Health and Ageing and can be expected to oversight the AIHW's compliance with government policy objectives
- a customer of the AIHW as service provider
- a Board member expected to pursue the interests of the AIHW.

If considered necessary for the portfolio Secretary to be excluded from sensitive discussions, such as those concerning forthcoming budget strategy, the Secretary may offer advice and then leave. Relevant papers should not be forwarded on such items.

Concerns by the Secretary as a customer of the AIHW will be pursued through an outside stakeholder-consultation process and brought to the attention of the Board as necessary.

In relation to the Australian Statistician, it has been agreed with the Statistician that his agreement to an AIHW survey at the Board will constitute his agreement under s. 5(1)(a) of the AIHW Act, provided he has had adequate notice of the proposal.

Decisions taken

Decisions of the Board are reached generally on a consensus basis. Decisions are recorded in the minutes.

Sections (5)(d) and (e) of the AIHW Act stipulate that 'all questions shall be decided by a majority of the votes of the members present', and 'the member presiding has a deliberative vote and, if necessary, also has a casting vote'.

Quorum

A quorum is the majority of members at the time of the meeting (s. 15(5)(c)).

Members may provide the Chair with their endorsement or otherwise of a recommendation if they are absent for discussion of a particular item.

If the Chair is absent, the members present shall appoint one of their number to preside.

Remuneration and travel

In accordance with the AIHW Act, Board members who are not Australian Government, or state or territory employees, will be paid remuneration as determined by the Remuneration Tribunal.

The AIHW makes all travel and accommodation arrangements where necessary. Flights are booked according to the best fare available.

The AIHW will pay for accommodation and meals where members are required to stay overnight. The AIHW will pay for any appropriate and necessary incidental expenses.

Ensuring continuous improvement

The Board will review its performance each year. Issues reviewed may include its success in pursuing AIHW's objectives, procedural matters, protocol and clarity of roles, and individual performance.

Induction

New members will be provided with a package including instructions and operations of the Board, and various relevant reading materials published by the AIHW.

Professional development

The Chair may seek professional development opportunities relevant to the operations of the Board.

Indemnity of members

The AIHW provides appropriate indemnity for Board members.

Complaints and dispute resolution

Complaints, including complaints about decisions of the Ethics Committee, are to be referred to the Secretary to the Board in the first instance. The Director will advise the Chair on effort to resolve the complaint by mediation. If the complaint cannot be resolved in this way, the Chair may decide on an appropriate mediator to determine the complaint or dispute. The Chair shall advise the Board of any such actions, and the outcome. Disputes remaining unresolved after such a process will be referred to the Board for resolution.

8. Board committees

Ethics Committee

The AIHW Ethics Committee is established under the AIHW Act and has the power to release identifiable data for research purposes. The AIHW is keen to fulfil its function to assist research and analysis of the data which it collects. It recognises that an unduly restrictive data release policy is contrary to the public interest. In recognising these issues the AIHW is also aware of its legislative responsibility to protect the confidentiality of the information it receives, to respect the privacy and sensitivity of those to whom it relates, to maintain high-level data security procedures and, where appropriate, to incorporate the requirements of its information providers in those procedures.

The Ethics Committee considers the ethical acceptability of proposed applications and advises the AIHW as to whether projects satisfy the criteria developed by the committee. Through the committee Secretary, it monitors existing projects annually, and maintains a register of applications for projects. The Ethics Committee provides a yearly report of its operation to both the Institute for inclusion in the annual report and also to the National Health and Medical Research Council for its reporting purposes.

The outcomes of meetings are reported to Board meetings by way of a written summary. At least once a year, the Ethics Committee Chair is invited to a Board meeting to discuss issues related to the work of the Committee.

Committee membership is prescribed by legislation and is consistent with the guidelines established by the National Health and Medical Research Council for Human Research Ethics Committees.

Members of the committee are appointed by the Board for a period of 3 years.

Audit and Finance Committee

The Audit and Finance Committee is established to:

- ensure the internal auditor fulfils the responsibilities required
- approve the strategic, financial and data internal audit plans and annual audit work programs
- consider issues arising from audit reports and monitor and evaluate management's response and action on those reports and recommendations
- review the AIHW's financial position and review quarterly financial reports in a form specified by the committee
- ensure the timely tabling of the annual report before the Board
- report to the Board on any matters arising from either the internal audit or the external audit functions about which the Board needs to be informed

- carry out, or cause to be carried out, any investigation of any matter referred to it by the Board
- meet with the external auditor annually
- advise the Board on delegations and performance
- oversight the risk management strategy and advise the Board accordingly.

Membership comprises four non-executive members of the Board, one of whom is appointed as Chair of this committee. Members are appointed for a term fixed by the Board, but for a period not more than 3 years.

The Institute's Director and relevant staff attend meetings by invitation.

Although the Committee is only required to report to the Board on its activities every six months, the accepted practice is that a meeting is held prior to each Board meeting. This ensures that the Board is fully briefed on the financial and budgetary issues before it considers each quarterly financial report.

Remuneration Committee

The Remuneration Committee advises the Board on the remuneration of the AIHW Director.

The Remuneration Committee provides performance feedback to the Director and considers an annual review of remuneration, i.e. an appropriate percentage increase in total remuneration and an appropriate level of performance pay. The committee works within guidelines issued from time to time by the Remuneration Tribunal.

Membership currently comprises the Board Chair, the Chair of the Audit and Finance Committee and one other Board member.