

Bond University

Enterprise Governance eJournal

Editorial Commentary (Non-peer-reviewed)

2019

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GOVERNANCE OVERHAUL: GET READY SCHOOL BOARDS, HERE IT COMES!

GARY BRADY*

Governance is back in the news and not necessarily in a good way. Successive Royal Commissions and government investigations have uncovered grave omissions and errors of judgement (indeed criminal activity) by Boards and those who report to Boards. Public trust in governance frameworks has been steadily eroded as more of these incidences have come to light (many in schools and many of a criminal nature).

There is a widely held public view that the current regulation of enterprise governance is insufficiently rigorous and inadequately administered to effectively hold enterprises, including Schools, and their boards and leadership, to appropriate standards. We are thus likely to see a tightening of regulation and an increase in penalties for failure to properly govern enterprises. It is already being suggested that an increase in ASIC's powers is warranted, and that criminal penalties for individual and corporate misbehaviour should be increased. The regulation of directors' and officer's legal duties and obligations is likely to become more transparent and more onerous, and directors and officers will be held more accountable for their own actions and for the actions of their organisations.

These governance frameworks do not just sit with exchange listed entities. Increasingly, government agencies, not for profit enterprises, charitable and mission based organisations will be bought under stricter controls. School Boards will not be immune. We should expect a flow-on effect from ASIC led regulatory tightening to including agencies that regulate not for profits and mission-based enterprises, including schools.

School boards and leadership teams face a myriad of governance and compliance issues, many with a complexity misunderstood outside of the sector. Privacy, data breach, compulsory reporting, bullying, cyber security and protection of children are all high visibility areas for schools; on top of the usual matters relating to financial sustainability, capital infrastructure management, student recruitment, teaching workload management and fundraising (to name just a few). The governance framework within schools is often complex; school board members, and the Principals and leadership teams who work with them, will need to understand better the governance framework and statutory obligation that applies to them.

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We are entering an era where governance transparency will increase significantly; penalties will be applied more forcefully; and directors and committee members will be personally exposed to a greater degree than we have seen before. One can argue the risk will be, and should be, too high to carry forward a lack of knowledge in general governance understanding.

In the face of all this, there is a clear and pressing need for better education of directors, officers and enterprise leaders, particularly in relation to their understanding of their legal and ethical obligations. A comprehensive understanding of the legal regulation of enterprises and their leadership is the foundation of good governance. This doesn't mean we all need to be lawyers; but we do need to understand the legal, regulatory and compliance framework within which (school) governance operates.

As members of the governance community, we are obligated to educate ourselves in matters important to boards. Anything less exposes both our enterprises (and ourselves) to un-necessary risk, at a time when the regulatory framework around that risk is being tightened.