Understanding Objects, Bylaws, Policies, and Procedures

Board Leadership Lethbridge, April 27, 2019
What attracted you to this session?
Presentation in a Nutshell

1. Legal context
2. Overview of the difference between objects, bylaws, policies and procedures
3. Key considerations for each of above
4. Questions
Ladder of Authority

- Legislation
- Regulations
- Objects*
- Public Officials
- Public Officials*
- Bylaws
- Members
- Policy
- Board
- Procedures
- Staff

Legal document – above the level
Possesses authority – below the level
Legal Context

Incorporators create the first set of objects – contained in the application.

Objects/Bylaw changes are not legal until approved by Corporate Registry.
**Corporate Status – Statutory Law**

<table>
<thead>
<tr>
<th>Societies Act (Alberta)</th>
<th>Companies Act, Part 9 (Alberta)</th>
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<tbody>
<tr>
<td>CNCA: Canada Not-for-Profit Corporations act</td>
<td>Other</td>
</tr>
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</table>
# Constitutional Documents

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Statute - Law</th>
<th>Constitutional Documents</th>
</tr>
</thead>
</table>
| Alberta      | Societies Act R.S.A. S-18 | • Application for Incorporation  
|              | Corporate Registry | • Bylaws  
|              |                | • Certificate of Incorporation  |
| Alberta      | Companies Act R.S.A. 1980, c. C-20 | • Memorandum of Association  
|              | Corporate Registry | • Articles of Association  |
| Federal      | Canada Not-for-Profit Corporations Act S.C. 2009 c.23 | • Articles of Incorporation  
|              | Industry Canada | • Certificate of Incorporation  
|              |                | • Bylaws  |
Statutory Provisions

• Requirements or “musts” listed in the Act
• Should be directly addressed or re-stated in your bylaws

25 - Annual general meeting
• A society shall hold an annual general meeting in Alberta and shall present at that meeting a financial statement setting out its income, disbursements, assets and liabilities, audited and signed by the society’s auditor.
Objects

1. Describe the objective/s or reason/s [the ‘WHY’] of the organization
2. Authorize the parameters of the organization’s operation
3. Must be in the incorporating documents
4. Can only be changed with membership approval
The Act Stipulates . . .

- **16(1)** A society may, by **special resolution**, **alter its objects**
  - (a) to include some object or objects that may conveniently or advantageously be combined with the existing objects of the society, or
  - (b) to restrict or abandon an object specified in its application, but the resolution does not take effect until the Registrar has approved and registered it.

- **17(2)** The **funds and property of the society** shall be used and dealt with **for its legitimate objects only** and in accordance with its bylaws.

- **18(1)** For **the purpose of carrying out its objects**, a society may borrow or raise or secure the payment of money in any manner it thinks fit, and in particular by the issue of debentures.

Adhering to your objects is critical to compliance with the Act.
Objects & Charitable Status

• To be a registered charity, the corporation’s objects must fit under one of the following headings:
  
  • Relief of Poverty;
  • Advancement of education;
  • Advancement of religion; and
  • Other purposes not falling under any of the above but are beneficial to the community as determined by the courts.

• Must be exclusively charitable

• Once your organization gains charitable status, the objects can only be changed with Canada Revenue approval.

Bylaws

- Your organization’s governing rules and regulations
- Tell your members how your organization will be managed and how decisions will be made
Bylaw minimums required by law

• 9(4) bylaws...shall contain provisions for all the following:

  a) admission of members and their rights and obligations
  b) the conditions of withdrawal or expulsion of members
  c) the mode and time of calling general and special meetings and number constituting a quorum at those meetings, as well as rights of voting
  d) the appointment and removal of directors and officers as well as their duties, powers and remuneration
  e) the exercise of borrowing powers
  f) the audit of accounts
  g) the custody and use of the seal of the society
  h) the manner of making, altering and rescinding bylaws
  i) the preparation and custody of minutes of proceedings of meetings of the society and of the directors, and other books and records of the society
  j) the time and place at which the books and records of the society may be inspected by members
Revising Bylaws

• Two copies of your updated by-laws to Service Alberta, Registries along with the special resolution of the members

• See Section 15, Societies Act:
  1) The bylaws of a society shall not be rescinded, altered or added to except by special resolution
  2) No rescission or alteration of or addition to a bylaw has effect until it has been registered
  3) If the Registrar is of the opinion that a bylaw is not in accordance with the application for incorporation or that it contains anything contrary to law, the Registrar shall refuse to register it.

21 days/75%
Dissolution

• Neither the Societies Act nor the Companies Act require a dissolution clause in your bylaws. The Acts do, however outline dissolution processes to follow.
• If your organization wishes to apply for registered charitable status under the Income Tax Act, a dissolution clause is required in your bylaws.
• This clause will reference:
  • that the assets of a charity cannot be distributed to its members at any time, including upon dissolution; and
  • that upon wind-up or dissolution, all remaining assets after the payment of debts will be distributed to one or more eligible donees (i.e. other registered charities)
How these documents are related

**Bylaws**
The governing rules and regulations

**Policy**
Lays out the “why” and “what”

**Procedures**
Lay out the “how”

Directors are entitled to claim reasonable expenses for organization-related travel

Director travel **must** be approved in advance by the Chair or Board

Director expenses are submitted on the fifth day of the month.
What is Policy?

- Form the written basis of operation secondary to legislation and the organization's bylaws
- Explain the rules or laws related to the group's overall mission, goals and objectives
- Provide the parameters, terms, or conditions to guide the actions of the board, committees, staff and volunteers
- Prescribe limits and pinpoints responsibilities within the organization
Who Develops Policies?

- A Board and its committees work with the staff to develop policy
- Input to policy can be provided by a number of different people in addition to the board; i.e. staff, volunteers, committees, consultants, the public, etc.
- The Board is the only body authorized to approve policies
- Staff develop procedures to implement approved policy
Benefits of Policy at the Board Level

- Fosters stability and continuity in planning and decision-making
- Enhances board/staff efficiency
- Serves as a storehouse of wisdom
- Clarifies governing styles, roles, responsibilities and expectations
- May reduce liability
- Assists in the orientation of new Board members
- Helps shift organization from a reactive to a proactive position
Benefits of Policy For Staff and Volunteers

- Helps everyone understand the values, vision and mandate (purpose) of the Board
- Clarifies responsibilities and defines lines of communication and accountability
- Provides a structure for sound management
- Promotes consistency and continuity in the way the organization operates and how decisions are made
- Ensures continuity over time and from staff to staff

An organization’s board and staff, confidently implementing a well thought-out set of policies, is an effective team.
## Types of Policy

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<th>Framework</th>
<th>Board Self-Governance</th>
<th>Operational</th>
<th>Advocacy</th>
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<tr>
<td>Vision</td>
<td>Making Policies</td>
<td>Program development</td>
<td>Organization’s stand / position on relevant issues</td>
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<tr>
<td>Mission</td>
<td>Board Recruitment, Orientation and Training</td>
<td>Safety for clients / staff</td>
<td>Linkages with the community</td>
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<tr>
<td>Values</td>
<td>Board / Committee Positions</td>
<td>Advocacy</td>
<td>Linkages with other organizations</td>
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<tr>
<td>Strategic Plan</td>
<td>Code of Conduct</td>
<td>Board relationship to executive director</td>
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<tr>
<td>Planning Cycle</td>
<td>Conflict of Interest</td>
<td>Authority of ED</td>
<td></td>
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<tr>
<td>Work Plan</td>
<td>Confidentiality</td>
<td>Roles &amp; Resp. of ED</td>
<td></td>
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<tr>
<td>Annual Report</td>
<td>Bylaw Review</td>
<td>Policies for salaries</td>
<td></td>
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<td></td>
<td>In-camera Board Discussions</td>
<td>Policies for volunteers</td>
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<td></td>
<td>Board meetings</td>
<td>Budgeting and financial reporting</td>
<td></td>
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<td></td>
<td>Board liability insurance</td>
<td>Fundraising</td>
<td>Policies related to social issues, public awareness, media</td>
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</tbody>
</table>


Policy from a Risk Perspective

- Governance
- Information and Technology
- Operational / Program
- Financial
- Compliance
- Reputational
- Eternal
- Strategic

Risk Lens
The Function of Policy

- Are there policies every organization should have?
- Where do policies start to differentiate your organization from others?

Tailor your policies to meet your organizational needs
Effective Policy Development

Purpose
Know what you are trying to achieve – the “Why”

Prepare
Understand the policy environment, needs, risks, problems to solve, etc.

Structure
Roles: research, draft, write, implement and review. Create format, access and monitoring

Enact
Communicate, monitor, learn

Evolve
Evaluate, integrate learning, adapt
How these documents are related

Bylaws
The governing rules and regulations

Policy
Lay out the “what” and “why”

Procedures
Lay out the “how”

Board
Board/Staff
Staff
Procedures

- Step by step instructions that bring a policy to life
- Narrow application i.e. policy specific
- Define what needs to be done and who will do it.
- Easily adaptable to accommodate system change
- Some organizations integrate statement of policy and procedure rather than separating them
What goes where?

You each have three cards.

- **Yellow** is bylaw
- **Blue** is policy
- **Green** is procedure
• Quorum for general meetings
Which form to use for board member expense claims
• Expectations in the case of a conflict of interest
• How often the board of directors meet in a year.
• The type of decisions that can be made by the Party Planning committee
• How directors are appointed and removed from the board
• That the board will protect the confidentiality of individuals who make good-faith reports in case of whistleblowing
The Executive Director, Director of Operations, and the Board Treasurer will present a draft budget to the Finance Committee at least 60 days prior to the end of the fiscal year.
• All employees will obtain appropriate authorization and use appropriate processes when purchasing goods or services.
• The rules or processes used for board and member meetings
In alignment with its organizational values of innovation and excellence, the organization encourages continuous learning by employees.
• How committee chairs are appointed or elected.
If time permits...

MORE ON POLICIES
Policy Cycle

1. Plan & Prepare
2. Draft
3. Approve
4. Implement
5. Review & Evaluate

The cycle continues with each step, indicating a continuous process.
Plan and Prepare

1. Conduct a policy audit
2. Identify issues and underlying concerns
   • What policies do we have?
   • What policies do we need?
3. External Research – What are others doing?
4. Internal Research – board, staff, volunteers, etc.
5. Have we covered all our bases?
Drafting

Policy & Procedure

• It’s a process: write, edit, re-write, edit, re-write
• It takes time – plan for it
• Don’t expect perfection. A policy manual is a “living” document
• Start with the general and move to specific
• Policies should be simple and straightforward
• Apply 3 C’s – clear, concise, coherent
**Formatting Policy**

- Category of Policy *i.e. Board Governance*

- Title of Policy *Board Member Remuneration*

- Sequential or linked in categories

- Why do we have or need this policy? *According to the bylaws, Board members are entitled to remuneration around specific expenditures.*

- What are we hoping to achieve? *Adherence to bylaws, resource management, board member satisfaction.*

- Policy intention clearly stated. *Board members are entitled to reimbursement for legitimate, receipted board business expenditures.*
Questions to inform your policy development process

1. What is the policy’s purpose? *(Bylaw Adherence?)*
2. What does the policy address? *(Finance?)*
3. What informs the policy *(input from board, staff, vendors, contractors, accountant/bookkeeper, legislated requirements?)*
4. Is the policy clear, concise and coherent?
5. Have we addressed any challenges around implementation of this policy?

Clear, effective, up-to-date policy is a fundamental and fiduciary duty of the board.
Monitoring

- What forms can feedback take?
- How can we be intentional about feedback?
Evaluate (Review & Revise)

How do we know our policies are still relevant?

What has changed in our environment that could / should influence our policies?
- New legislation, standards, practices, risks
  (recent example: Anti-Spam)

What have we learned about how the policies are working?
- Are they having the desired effect?
- Are we experiencing any unintended consequence?

Approved: 15/07/2018
Review Date: 15/07/2019 (calendar/agenda)
Knowledge/experience sharing

What would you recommend to ensure a positive and useful policy experience?
Resources

Organizing Your Corporate Documents

Understanding Your Corporate Documents

Governing Documents: Policies and Procedures
http://www.charitycentral.ca/office/AB-EN/Section6-AB-EN.pdf

Governing Good: Sample Policies
http://www.governinggood.ca/resources/sample-policies-dalhousie-collection/

HR Council: HR Toolkit
http://hrCouncil.ca/hr-toolkit/home.cfm

Imagine Canada Standards Program for Canada’s Charities and Non-Profits

Chartered Professional Accountants Canada – 20 Questions Series
https://www.cpacanada.ca Search ‘20 questions’
Questions?
Thank you!

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angelo.murphy@gov.ab.ca

Community Development website:
http://culture.alberta.ca/communitydevelopment/default.aspx

The Board Development Program
http://culture.alberta.ca/bdp/default.aspx
Presented by:

Community Development Unit

www.culture.alberta.ca/communitydevelopment

To request services email: CommunityDevelopment@gov.ab.ca