

## Guidelines/Policy: In camera and board-only session

### Background and authority

Currently accepted principles of good governance provide that all boards and committees should regularly hold scheduled *in camera* sessions for board members only and also that boards should regularly meet without senior management present.

### Definitions

*In camera sessions*: are sessions involving only independent members of the board (i.e. those who are not members of the senior administration).

*Board-only sessions* are sessions involving all members of the board, including the Chair, but not Executives/CEO and Company Secretary

*The Company Secretary* is the Board Secretary, who reports to the board through the Chair and is prescribed in the bylaws (along with the chair and vice chair) as an officer of the board.

### Purpose of in camera and board-only sessions

The purpose of *in camera* and board-only sessions is

- to provide an opportunity for new and present directors to ask questions and make requests for information that contextualises/assists them to understand the business environment, strategy, operations, finances, executives, staff, culture and risks. Also to test hypotheses.
- to provide an opportunity for the board to discuss particularly sensitive matters within the jurisdiction of the board (such as litigation, labour relations, or management performance)
- to provide an opportunity for the board to discuss sensitive internal board governance matters
- to provide an opportunity for the board to review the performance and compensation of the president, in the absence of resource officers or others who are not members of the board
- to provide a forum in which board members who are reticent or reluctant to speak may indicate this and seek advice on the appropriate way to raise issues of concern
- in the case of internal and external auditors, to safeguard the independence of those officers by providing direct access to the board without members of the administration in attendance

At the commencement of the meeting, an *in camera* or board-only session provides an opportunity for board members to flag any sensitive or contentious agenda items and to agree on how or whether to deal with them in advance. It also provides an opportunity for the board chair or others to advise of confidential information which they have in advance of the meeting. It is also an opportunity for new directors to ask questions that may otherwise be seen to disrupt the meeting agenda or simply ask questions for induction/orientation.

At the end of a meeting, an *in camera* or board-only session provides an opportunity to assess the success of the meeting and the materials provided in support of the meeting, what could have been improved, whether the time was used productively, and to address any issues of dissent or chair or board member performance.

Not all matters that individual board members wish to raise are appropriate to discuss in an *in-camera* session. *In camera* sessions are designed “to address specific sensitive matters that are better initially discussed without notes being taken, or without the harsh light of observers glaring.” They are not designed as a forum to raise personal agendas or special interests, nor to alter a decision that has been presented by management and approved.

## **Principles:**

### *Participation:*

All members of the Board of Governors or its committees, whether internal or external, are full voting members and should not be excluded from discussions of the board except where a conflict of interest is declared or is identified by the chair. However, members of the board should have a regular opportunity to meet in the absence of the Executive/CEO.

### *Making in camera meetings routine:*

Boards should not wait until there is a crisis before calling *in camera* or board-only sessions; opportunities for discussions without Executives/CEO present should be built into regular meetings.

### *Records:*

Board decisions should always be recorded in formal minutes in order to provide a legal record and audit trail. Separate notes taken by the chair or a board member do not constitute a legal record as they are not approved, though they may be discoverable by opposition counsel in litigation. Board members, other than the Chair, should not maintain personal notes of *in camera* sessions. If as occasionally happens it is necessary to record the notes and/or decisions from an *in camera* or board-only session, the secretary should be present to record them, and a separate *addendum* to the minutes which includes the *in camera* or board-only items should be approved and maintained.

If the board has an *in camera* session on their agenda at the beginning of each board meeting to allow for the board to have a regular free discussion, it is considerate to mention to the CEO/Executive any points discussed in the *in camera* session that the CEO could assist the board with.

## **Guidelines:**

### **1. Board agenda**

At each regular meeting of the board, the agenda should include provision for a session for board members only. This item should be scheduled near the beginning of the meeting, and may be waived if no member identifies a need for a board-only session, or may be an *in camera* session if the independent members of the board identify a need to meet without the presence of the Executive/CEO. An *in camera* session for independent board members only may also be scheduled for the end of the meeting.

### **2. Minutes of *in camera* sessions**

In general, board business should not be transacted in an *in camera* or board-only session unless it is minuted. If any business is to be conducted or motions carried at an *in camera* or board-only session, the secretary should be invited to return to the board room to record the decision(s) for the minutes, and the item should be included in a confidential *addendum* to the minutes and brought to the next meeting of the board for approval.

### **3. Role of the chair and vice chair**

Care must be exercised by the chair to ensure that *in camera* sessions remain focussed on appropriate items and do not digress into areas that should be discussed in the presence of management. The board chair must exercise his/her authority as chair to determine the appropriateness and relevance of issues raised *in camera*, and to provide opportunities for all board members to contribute meaningfully to the discussion.

Following each board meeting, the chair of the board and/or the vice chair should meet with the president to de-brief matters raised at the *in camera* session(s), but will take care not to attribute comments to particular board members. The secretary may be invited to join this conversation.