



CURRENCY HOUSE

## **What Makes a Good Arts board?**

**Free, fearless and frank advice**

**Summary of a public seminar held at Currency House on 30 March 2003**

### **Speakers**

#### **Peter Collins (Chair)**

State Liberal Member for Willoughby 1981–2003; Shadow Minister for the Arts 1981–88; Minister for the Arts 1988–1995; Opposition Leader and Shadow Minister for the Arts 1995–98.

#### **Kevin Golding**

Arts Development Finance and Reporting Analyst at the Australia Council with 20 years' experience in small to medium non-for-profit organisations as a board member and in management. He provides analysis and policy advice to art-form boards and to arts organisations on issues such as governance, financial management, taxation and insurance.

#### **Paul Marx**

Group Chief Executive of the Albert Group of Companies and a solicitor. He has been Chairman of the Australian Music Centre since 2001 and is Custodian of Blue Mountains City of the Arts Trust. Was legal counsel to Radio 2UW 1981–83.

#### **Tony Scotford**

Senior Partner of Ebsworth & Ebsworth, Lawyers; a member of the board of the Sydney Theatre Company 1986–92 and Chairman for four of those years. A member of the board of the Australian Theatre for Young People 1985–91, of the Stage II Committee at NIDA 1997–2002 and solicitor to the Sydney Festival 1998–. A Councillor of the Australian Business Arts Foundation since 2002.

#### **Yana Taylor**

Lecturer in the acting program of the School of Contemporary Arts at the University of Western Sydney. Chair of Urban Theatre Projects 1997–2002 and currently a board member. A member of the Dance Committee and the Western Sydney Committee of the NSW Arts Ministry in 2002.

**In December 2002 the *Sydney Morning Herald* conducted a survey of 40 arts boards to determine who runs our arts organisations. These were their findings:**

Just under 12 per cent of the directors were practising artists, former artist or teachers in the arts.

The 40 boards comprised 356 directors, of whom 42 are artists, artistic directors or teachers of an art form.

The nation's arts boards were dominated by marketing executives, investment bankers, professional company directors, media personalities and accountants. But the most favoured arts board profession was the law. The boards include at least 26 lawyers or judges...

Nine women chaired arts boards. Women were better represented than in corporate Australia, holding more than a third of arts board positions.

The Australian Ballet and Australian Ballet School were both chaired by accountants, of whom there were 16 on the boards surveyed. This compares with 19 investment bankers and 15 media personalities.

Few arts boards had their artistic director on the board and even fewer their chief executive. The major exception was Circus Oz. On its board were two circus performers, a musician and a photographer.

Some directors of arts boards were of the view that artists were the worst people to sit on boards, arguing they ruled themselves out by their personalities, competitiveness and conflicts of interest.

*Extrapolated from Valerie Lawson in Sydney Morning Herald Weekend Review, 21–22 December 2002*

**Peter Collins in the Chair** opened by quoting the above article and drawing attention to the current concerns it highlighted:

The fact that not many arts boards had their company's artistic director as a member as it seemed artists were not considered good for boards, being regarded as too temperamental; the intriguing business of getting the membership mix right; and the tension between creative endeavour and financial accountability.

**Kevin Golding's** responsibility at the Australia Council, he said, was to report on some 150 companies in the small to medium sector who were Council triennial clients across all art forms. From examining their budgets and balance sheets he could tell a great deal about how well an organisation was functioning and the contribution of the board.

how often the board meets,  
who attends and how regularly, their skills and expertise  
how good the teamwork  
how well it uses its people resources.

In each case he looked at the specific needs of the organisation which varied according to size and art form. The key to understanding the way forward was that governance meant people. Certain things were required by law but equally important was how everyone worked together to achieve a common goal.

He acknowledged differences between companies at the big and small ends of town. At the small end the board would need to be more hands-on because staff was limited and board members needed to bring practical skills. Larger companies could afford specialist personnel. With smaller organisations he had a concern about systems for the transfer of information between staff and board. What kind of information was the board getting in order

to do its job? Would it know if there were financial problems? Boards must ensure they are getting unfettered information about the finances and overall operation. It needed to reserve the right to intervene.

Boards were the parliaments of their organisation – they set the rules and needed to define the boundaries between artistic freedom, artistic independence and governance. Then it's all about how people work together. Every board needed to sit down and talk about the boundaries and the times when they challenge artistic decisions for the good of the company. Strength came from constant communication and evaluation. However much expertise a board might have, success was finally came from people working together and their willingness to share their skills.

**Tony Scotford** began by noting that good governance was a hot topic in the business world and large arts organisations were businesses facing the same challenges. While some of his observations might not apply to small organisations, there was a great deal of commonality to be discussed.

He confided that he had known very little about the theatre when invited onto the board of the Sydney Theatre Company in 1986. He had been taken under the wing of then artistic director, Richard Wherrett – ‘a good and immediate tutor’ who showed him what to do and not to do. Both the artistic director and the CEO were board members and there were two other arts practitioners on the board. The STC had a strict rule that a Chairman served a maximum of two terms of 18 months, after which he ceased to be Chair. However, because of a vacancy he found himself appointed Chair before he was really ready to take on the role and the post was extended. In both cases it was because the succession had not been sufficiently prepared. Over the years he had gained experience, and for him a good board needed:

leadership: to be cohesive a board must have a leader who can accept responsibility for being the public face of the board, working alongside the artistic public face;

learning by its members: you need to learn quickly to be credible to the company and the public. He had found it necessary to learn about the repertoire and the company's production processes;

patience to deal with inevitable tensions between balance sheets and artistic passion and other difficult situations that arise;

understanding of the company and how it operates: to be available and accessible but have a light touch. He had been a hands-off Chair but Richard Wherrett had encouraged him to be seen and known by all the company. There should be no reason for board members to make artistic decisions;

legal awareness: if yours is a company limited by guarantee then directors have exactly the same duties and responsibilities as directors of BHP or AMP. There are legal responsibilities in relation to creditors, public funding, subscribers' advance funds; a not-for-profit company confronts many of the same legal issues as profit making organisations;

objectivity – a big picture view of your company's mission – the independence of board members is essential. You must not unreasonably push the interests of your particular constituency;

preparedness to plan for succession: managing appointments and departures is very important – ‘Boards should help to create themselves’;

passion: you have to love the art form for which you are responsible. It takes an enormous amount of time, so don't do it for socially acceptable reasons.

In short – Passion, Balance, Leadership, Duty, Knowledge.

**Paul Marx** agreed with Tony Scotford's approach and addressed the following:

*The size of a board.* Small boards were the most manageable but when a large number of representatives was appropriate (as in a national organisation like the Australian Music Centres) administration could be facilitated by an efficient system of committees. Such committees could be structured as standing committees to deal with regularly occurring matters (such as financial issues) or as ad hoc committees to deal with special issues. The formation of committees also enabled certain decision making to be delegated, at least in the first instance, to groups of directors. The number and nature of such committees should be reviewed by the board at regular intervals.

*What is an arts board's role?*

The company watchdog, the Australian Securities and Investment Commission (ASIC) provided some useful help at its website ([www.asic.gov.au](http://www.asic.gov.au)). It provided guidance on what the law expected of directors personally. It outlined what work a director must do and what records a director must ensure are kept by the company.

As a director, a person must be 'honest and careful at all times' and know what his/her company was doing. The duty to act honestly was imposed by Section 181 of the Corporations Law and that statutory duty was similar to the general law fiduciary duty of good faith.

- Be fully up to date on what your company is doing;
- Find out for yourself how any proposed action will affect your company's business performance especially if it involves a lot of the company's money;
- Get outside professional advice when you need more details to make an informed decision;
- Question managers and staff about how the business is going; and
- Take an active part in directors' meetings.

Consistent with these observations, the ASIC cautioned potential directors as follows:

Avoid any company where someone offers to make you a director or secretary on the promise that 'you won't have to do anything' and 'just sign here.'

He stressed the importance of having board members with legal, accounting and marketing expertise, even above artistic knowledge. 'I also believe that it is important to have some members of the board who have no direct connection with the company's area of activity. Such people promote independent deliberation and decision making and protect management from vested interests. The real challenge is to get the mix of all those skills correct.'

He recommended the Australia Council document, 'Building Sustainability Through Better Governance', which stressed the importance of

a sufficient mix of skills at board level: artistic, entrepreneurial, leadership, public relations/marketing, accounting/financial/legal, people management, community/government relations and fund raising.

However, he was

'not entirely comfortable with the proposition that suitable candidates should be persons whose main qualification is seen to be 'deep pockets'. As tantalising as it may be to appoint a person considered likely to make a large financial contribution to the

organisation, I believe that such a criterion should be very low on the list of qualifications. I say so because I am concerned that if that criterion is readily embraced, such persons will be appointed at the expense of persons with more important skills.'

In summary, a 'good' arts board was one constituted in a manner which enabled it to perform its functions in an efficient, suitable and competent manner. That required:

membership of the board to be constituted of an appropriate mix of artistic, entrepreneurial, leadership, public relations/marketing, accounting/financial/legal, people management, community/government relations and fund raising skills.  
the members of the board to act in an honest and careful manner at all times, having regard to the legal and other duties and obligations imposed on them;  
the board to be comprised of persons who have sufficient time to devote to the position. Membership of an arts board should not be regarded as a useful vehicle for fraternising with like-minded individuals interested in some aspect of the arts. It is not to be regarded as an opportunity for self-promotion;  
the mechanism for appointment of board members to be sufficiently flexible to permit the skills of elected directors to be complemented by the specialised skills of co-opted directors;  
consideration be given to establishing committees comprised of smaller groups of directors with specialised skills to deal with specific areas, such as financial matters. If such committees are established, they regularly report their deliberations to the board as a whole;  
consideration to be given to inserting in the constitution or rules mechanisms to avoid the views of the board becoming entrenched and stagnant; and  
the implementation of systems to enable the board to be supplied by management with essential details of the entity's operations (particularly financial information) in a comprehensive and timely manner.

**Yana Taylor** described Urban Theatre Projects as a small company without infrastructure and with a total staff of four. They therefore needed to buy in services and to call on board member skills. This situation helped to define the role and responsibilities of the board. The company was reliant for its existence on public funding, and called on substantial participation from people working in a variety of arts fields. For this they relied on good will and effective networking.

Contemporary artists had to be accountable in all their activities in life and in work and therefore had a strong investment in their company. UTP's Western Sydney base was an area bigger than Adelaide and its board members needed a real understanding of that context. The company worked in an environment of cultural diversity but was not a community arts organisation in the ordinary sense of this term. It constantly took artistic risks in the creation of new works.

The criteria for board membership for small organisations should include people with a rich mix of skills rather than specific professional expertise. In time everyone develops skill in reading balance sheets etc. There was a danger in simply checking off a list of skills required – ie accountant, lawyer etc. Everyone on the board should develop skills for assessing the financial situation to ensure it was not just the accountant or lawyer making the decision. The collective responsibility of the board in all these issues has to be paramount.

UTP's board members therefore needed:

a great deal of hope, commitment and preparedness to learn on the job;  
efficiency directed to a purpose;

good prudential attention to the company and its work;  
support and monitoring skills – ‘hands on up to the elbows’ and willingness to raise all conflicts of interest as they occur;  
responsibility towards the audience and understanding of the cultural context in which the company works;  
the ability to read a spread sheet and understand how money flows through the company to ensure there are reserves;  
to have a regular relationship with the company;  
a vested interest in the artistic outcomes;  
preparedness to have healthy debate and argument;  
to know they can ask stupid questions without fear and to understand without panic;  
to attend ten to twelve meetings a year;  
to have a close, open relationship with all of the company in order to give free, fearless and frank advice.

The company’s board members had included people with production management experience, arts administration experience and community health advocacy. They had brought some legal knowledge with them. In addition the presence of artists themselves on the board helped it play a role in advocacy for artists. It was important to be mindful of the economic circumstances in which most artists exist and to take this into account in budgetary and salary decisions. In other words, the board needed to have good relations with the stakeholders of the company. There needed to be constant questioning and re-considering of relationships within the company and this must be a respectful process.

In the light of the extreme busy-ness of people involved in service to the arts she proposed the idea of an arts reserve whereby the government supported the release of workers in the middle range sectors of business and public service, to work with arts organisations as a community service. Perhaps 5% to 10% of an arts reservist’s workload could be to provide skills to an arts board. (*see Tony Scotford, below.*)

### **Audience discussion points:**

*Should arts boards set policy or implement policy?*

**Yana Taylor:** A good board in her experience tacked between setting and implementing policy. The board should be setting and monitoring their own policy, in relation to its funding organisations and performance agreements in which the aims of the company were clearly and constantly evaluated. If a board failed its own performance reviewing it might be more part of the problem than the solution. UTP took considerable time to evaluate the process involved in the creation and presentation of each work.

**Kevin Golding:** the big question for the Australia Council was always: to what extent does the board control or actively monitor artistic direction? At what point does a board say: ‘Hang on a minute, are we going the wrong way?’ before they reached the place where they can’t turn back?

*Where does the buck stop with regard to the artistic direction of the company?*

**Tony Scotford** considered the buck stopped with the board. The company had to do what the law required. The board had to have an overview of its responsibilities, after that it was the way it dealt with those responsibilities that mattered. Tension between artists and non-artists had to be worked through with a common appreciation of each other’s skills and catastrophes dealt with as they occurred. ‘At one time the Australia Council had appointed an accountant to examine the STC board because of a dire financial situation. We didn’t deal with it by policing artistic policy; the artistic director knew the situation and was working realistically.

The board is an arbiter and needs to be analytical and to ask questions while understanding the nature of the “product”.’

**Paul Marx** agreed that a board could not abrogate its responsibilities. ‘What the board says as a whole must stand. It was important to structure the board in such a way that you don’t end up with unresolved conflict. Unresolved artistic tension becomes hypothetical in the face of the fact you must survive financially as a company.’

**Tony Scotford** said that at no time had the STC board required a play to be changed – the artistic team knew it had to be viable to be put up in the first place. Ultimately responsibility for governance lay in getting the job done and the board needed the ability to extract solutions before they become problems.

Mary Jo Capps (Musica Viva) commented that she had observed an apparent shift to the appointment of corporate CEOs to some arts organisations and expressed concern that there should always be some tension between the creative process and ‘nuts and bolts’ activity. An example was given of the advertising for a new general manager of the Sydney Sydney Orchestra, which emphasised business skills rather than musical knowledge.

*Was this a trend and was it being held up as a good model for management of companies?*  
The panel saw no trend but discussion led to a general discussion on prudence versus risk. Governance issues for arts boards were about taking risks all the time. This raised the further question:

*What should be the role of the board in relation to new or unknown (loss-making) material?*

**Tony Scotford** responded that the percentage of risk was never a starting point for the STC board. Projects needed to be within the charter of the organisation. Although individual artistic directors brought their own emphasis, there had always been a recognition that the company did a balance of classical work, contemporary Australian plays and so on and the current artistic director brought together a program along these lines. It should never be a calculation that began at the box office. You look at what is sustainable within your artistic objectives, using your subscriber base, expected funding, sponsorship goal and gaps that need work. All companies had in common the desire to be around tomorrow.

*What is the responsibility of the artistic director to the board? Is it consulting or reporting?*

The panel agreed without question that the artistic director should be on the board to directly discuss and justify decisions regarding the well being of the company. There must be a dialogue between artists and managers. In addition, the general manager and financial director (or other key executives) should be on the board.

The board needed to support the artistic director in a way that understood his/her direction. Hands-on was not a good thing for all organisations as it could be intrusive and a nuisance. The Chair had a significant leadership role in building a real collaboration.

**Yana Taylor** agreed that if the artistic director could effectively account for the artistic policies to the board then the wider world would understand too. An artistic director with a place on the board would give regard to a company director’s obligations.

*How does one remove inefficient people from a board?*

**Peter Collins.** For federal and state government-supported bodies, there was provision for the arts minister to step in to re-constitute a board. However, he could not recall any instance, although during his time as Arts Minister there had been some close sailing to the wind.

**Mary Jo Capps** (Musica Viva) advised there was a structural way: board performance criteria and assessment could be put in place with annual reviews. This helped directors understand what was expected of them and to respond accordingly.

**Yana Taylor.** Retirement after a fixed period was best built into the board's processes – there were ways to keep good people involved even if they were no longer on the board. They could form committees in response to need.

**Tony Scotford** thought it better that 'once you're off, you're off and should stay off.' He had stayed for a while at the STC to help his successor but then left for good.

**Kevin Golding** recommended a recent article, '*What Makes Great boards Great*' from the *Harvard Business Review*, September 2002 as reading for everyone and the hottest current article about governance.

## Conclusion

The panel reiterated that good boards were all about people. The board was the custodian of a company's values and had a duty to hand them on. Succession planning was important to ensure the transference of values.

On Peter Collins three points the meeting agreed:

The artistic director (and other key executives) should always be members of an arts board;

Getting the mix right was difficult but essential to the success of an arts board

Tension between artistic and financial management was healthy and inevitable.

*The meeting ended with Tony Scotford advising about the work of the Australian Business Arts Foundation. It had already considered the possibility of a bank of board talent for the arts, of the kind Yana Taylor had proposed. Its current projects were:*

Advice Bank – offering the skills of business people to arts companies – a national program launched with KPMG sponsorship;

Board Bank - through which organisations, especially at the smaller end of the arts spectrum, could seek assistance in finding board members with the qualifications they needed. This was in recognition that there were many arts organisations needing this kind of help.

He invited seminar participants to talk with the representatives from ABAF who were at this seminar. ABAF was set up to facilitate an exchange between the two sectors.

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