

Organisation Support Program (OSP)

Constitutions and Gender Equity

Ian Fullagar
Lex Sportiva

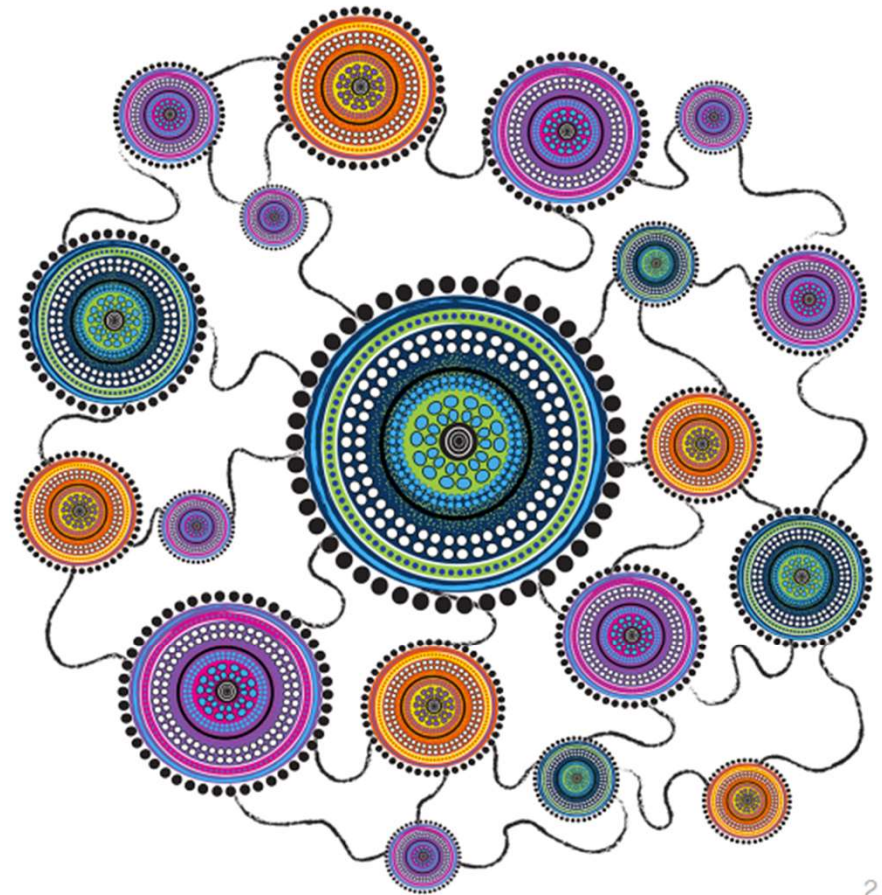
October 2024



Acknowledgement of Country

The Office of Sport acknowledges and celebrates the Traditional Custodians of the lands and waters of NSW where we work, live and play.

We pay our respects to Elders past and present, and recognise their strengths, knowledge, and continuing connection to Country.



National Gender Equity in Sports Governance Policy



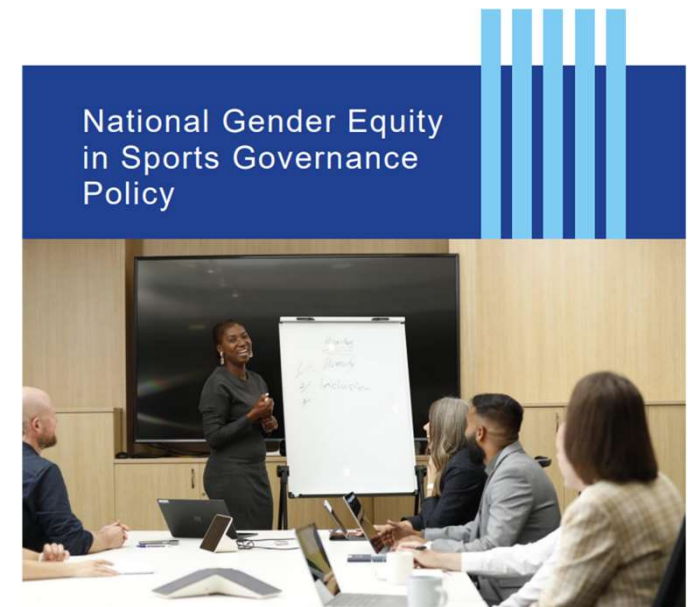
By no later than 1st July 2027, all NSW SSOs & SSODs will have achieved:

- 50% of all board directors are women and/or gender diverse

In NSW, a 40:40:20 gender balance is recognised as a pathway to compliance.

Information on the policy can be found at:

<https://www.clearinghouseforsport.gov.au/networks/gender-equity>



Constitutions and Gender Balance

OSP Information
Session

Ian Fullagar
Lex Sportiva

30 October 2024



Constitutions and Gender Equity

Outline

National Gender Equity in Sports Governance Policy

Effects

- Constitutional
- Policy
- Processes

Other matters

Conclusions



National Gender Equity in Sports Governance Policy



Sports Governance Standard 4.3: the Board should be composed in a manner such that no one gender accounts for more than 50% of the total number of directors.

Applies to all NSOs/NSODs/SSOs/SSODs and organisations receiving funding from relevant Government agencies .

By no later than 1 July 2027:

- 50% of all board directors are women and/or gender diverse
- 50% of chairs are women and/or gender diverse
- 50% of specified sub-committee (Noms & Finance) members are women and/or gender diverse
- A woman or gender diverse person as either the organisation's Chair or Deputy Chair

National Gender Equity in Sports Governance Policy



Where uneven number of individuals on a board/ sub-committee women and/or gender diverse people must account for a minimum of one fewer than half the total number of individuals (i.e., for a board of nine directors, women and/or gender diverse people must comprise at least four directors).

Where operating across multiple jurisdictions (e.g an NSO/D with a unitary structure or an SSO/D that operates in multiple territories) that organisation will be required to comply with the requirements of each relevant Government Agency.

Workplace safety and inclusion.

Recruitment.

Reporting via self-assessment to relevant agency (gender equity and systems).

Accountability.

Effects – Constitutional

Proposed “objects” related clause:

Gender equality at all levels

- (a) *It is an objective of the SSO that the 50/50 Principle is reflected within:*
- (i) *all its Members and Directors, and its various committees; and*
 - (ii) *all bodies and committees of other stakeholders of SSO in NSW.*
- (b) *To facilitate the achievement of the objective under paragraph (a) above, SSO commits to providing support to all stakeholders of [the Sport] in NSW to assist stakeholders adopt and implement the 50/50 Principle including by monitoring each stakeholder’s progressive adoption and implementation of the 50/50 Principle.*

50/50 Principle means that no one gender accounts for more than 50% of the total number of directors.

Effects – Constitutional



Proposed board composition clause:

Board composition shall be determined by the 50/50 Principle. The Board shall (as far as practicable depending on numbers of Directors (eg 7 or 9 Directors) comprise 50% women and/or gender diverse and 50% men. For avoidance of doubt this means that in some years only male directors or only female or gender diverse Directors may be elected or appointed.

Effects – Constitutional



Proposed committees composition clause:

The composition of any committee appointed by the Board shall be determined by the 50/50 Principle. A committee shall (as far as practicable depending on numbers of committee members (eg 7 or 9 committee members)) comprise 50% women and/or gender diverse and 50% men.

Effects – Constitutional



Committees discussion point:

Nominations and Finance committees

Effects – Constitutional

Proposed Elections composition clause

Nominations for elected Director positions shall be called for forty-eight (48) days prior to the AGM. When calling for nominations:

- (a) details of the necessary qualifications and job descriptions for the positions; and*
 - (b) current Board gender composition;*
- shall also be provided to ensure gender balance under the 50/50 Principle.*

Effects – Constitutional



Elections discussion points

A consequence of the amendments will more than likely be that in certain elections only male or female positions might be vacant and therefore only nominees of a certain sex could be called for. It may be that only men or women candidates with particular skills set nominate. For example the Board may require financial or marketing skill sets. This happens now and is not unconstitutional.

Effects – Constitutional



Proposed Appointed Director composition clause

Noting always the 50/50 Principle the elected Directors may appoint up to two (2) appointed Directors.

Any adjustment to the term of appointed Directors appointed under this Constitution necessary to ensure rotational terms under this Constitution, shall be determined by the Board noting always 50/50 Principle.

Effects – Constitutional



Proposed Casual Vacancy clause

Subject always to the 50/50 Principle any casual vacancy occurring in the position of Director may be filled by the remaining Directors from among appropriately qualified persons. Any casual vacancy may only be filled for the remainder of the Director's term under this Constitution.

Effects – Constitutional



Casual Vacancy discussion point

Again, the Board's ability to fill a casual vacancy may be limited (to either male or female) depending on the gender composition of the Board at the relevant time.

Consequence when directors are removed or NOT elected.

Effects – Constitutional

Proposed Chair & Deputy Chair clause:

The Board shall appoint a chair and deputy chair from among its number. The chair and deputy chair must be different genders. For example, if the chair is female the deputy chair must be male. The chair shall be the nominal head of the Club and will act as chair of any Board meeting or General Meeting at which they are present. If the chair is not present or is unwilling or unable to preside at a Board meeting the Deputy Chair will preside as chair for that meeting only. If the chair and deputy chair are not present or are both unwilling or unable to preside at a Board meeting remaining Directors shall appoint another Director to preside as chair for that meeting only.

Effects – Policy

The 50/50 Principle will need to be implemented into relevant policies including:

- All committees' terms of reference
- Board governance charter
- All Board and committee induction material
- Diversity and inclusion policies
- Succession planning

Effects – Processes



Sports will need to consider the inclusion and implementation of key amendments and more particularly their timing to facilitate a smooth transition.

Ideally transition will be done openly and with the full input and agreement with the Board.

Members and stakeholders should be advised and the proposed changes communicated; particularly if such changes are to be applied at Club level

Education and training needs to be implemented so the changes are embraced culturally as well as legally.

Other matters - amendments

The Constitution shall not be altered except by Special Resolution (s 39 AIA).

(1) A resolution is passed by an association as a **special resolution**—

- (a) *at a meeting of the association of which **notice has been given to its members no later than 21 days before the date on which the meeting is held, or***
- (b) *in a postal, electronic or combined ballot conducted by the association, or*
- (c) *in such other manner as the Secretary may direct,*

if it is supported by at least three-quarters of the votes cast by members of the association who, under the association's constitution, are entitled to vote on the proposed resolution.

(2) A notice referred to in subsection (1) (a) must include the terms of the resolution and a statement to the effect that the resolution is intended to be passed as a special resolution.

(3) A ballot referred to in subsection (1)(b) must be conducted in accordance with the regulations (see Sch 2 – AI Regs 2022) (<https://legislation.nsw.gov.au/view/whole/html/2024-05-31/sl-2022-0522#sch.2>).

(4) A direction under subsection (1) (c) may not be given unless the Secretary is satisfied that, in the circumstances, it is impracticable to require votes to be cast in the manner provided by subsection (1) (a) or (b).

Other matters - amendments

The change must be consistent with the Act and the rest of the constitution.

The association must apply to register the changes within 28 days of the special resolution being passed. The application must:

- be made on [Form A6 Application to register change of objects or constitution \(PDF, 998.33 KB\)](#)
- include details of the proposed change
- include a copy of the special resolution as passed
- include payment of the prescribed fee.

A change to the constitution is effective when it is registered by Fair Trading.

An application may be refused if it:

- does not comply with the Act
- is not in the approved form
- is lodged more than 28 days after passing the special resolution.

An association representative must certify that the constitution complies with the Act.

Other matters - amendments

Motion to amend:

MOVED as a special resolution under clause # of the Constitution of SSO and section 10 of the Associations Incorporations Act 2009 (NSW) THAT:

- *The Constitution of SSO be amended as follows:*

[INSERT INDIVIDUAL PARAGRAPHS SETTING OUT AMENDMENTS]

OR

- *The Constitution of SSO be amended and replaced with Constitution provided with the notice of this General Meeting/made available to the members at [INSERT LINK] and marked with the letter “A”.*

Recap



Under OOS' Organisation Support Program (OSP), the OOS will require all **recognised** SSO/Ds to implement an action plan each year to progress their SSO/D towards gender equity in governance, as a condition of OSP funding.

By no later than 1 July 2027, the ASC desires Australian sport to have achieved:

- 50% of all board directors are women and/or gender diverse
- 50% of chairs are women and/or gender diverse
- 50% of specified sub-committee members are women and/or gender diverse

In NSW, a 40:40:20 gender balance is recognised as a pathway to compliance and helps account for odd numbered Boards & people identifying as non-binary.

Conclusions



-
- Communication, consultation and education
 - Inclusion
 - Time and transition
 - Assessment

Questions?

Thanks

Contact



Ian Fullagar
Lex Sportiva

ifullagar@lexsportiva.au

0428 082 087

Office of Sport Resources



The screenshot shows the Office of Sport website. At the top left is the NSW Government logo and the text "Office of Sport". To the right are icons for search, contact, subscribe, and language. Below this is a navigation menu with items: Home, About, Centres and Venues, Our work, Funding, Tools and resources, Get active, and Events and Training. The breadcrumb trail reads: Home > Running your State Sporting Organisation > Governance > Model Constitutions and Templates. The main heading is "Model Constitutions and Templates". Below it is a paragraph: "The Sport Governance Capability Framework includes practical templates for State Sporting Organisations, State Sporting Organisations for people with Disability, associations, clubs and other sporting organisations. The templates include model constitutions templates for State Sporting Organisations, Associations and Clubs." Another paragraph follows: "The Templates are easy to use and can be tailored to suit the cultural, strategic and structural requirements and context of each sport." At the bottom, there is a list of three items, each with a dropdown arrow: "Model Constitution Templates", "Sport Structures", and "Annual Reporting Guides".

<https://www.sport.nsw.gov.au/running-your-state-sporting-organisation/governance/model-constitutions-and-templates>

Gender Equity in Sports Governance Compliance for 2025/26



All SSOs/SSODs will be required to demonstrate movement towards/achieving the gender equity target by June 2025

On application:

All applicants for OSP must declare a commitment to work towards Gender Equity on their Boards (or maintain if already achieving) over the funding period (2024-2026).

Milestone reporting February 2025:

All funded SSOs/SSODs must provide a Gender Equity in Governance plan to achieve GE targets by 2027 in February as a milestone report.

Stage Gate reporting June 2025:

All funded Organisations must demonstrate how they have moved toward GE targets.

Failure to meet the stage-gate requirements will result in reduced OSP funding in 2025/26 to funding at 2023/24 levels.

Application of the Policy to Uneven Numbers Resources

“Where an organisation has an uneven number of individuals on a board or sub-committee women and/or gender diverse people must account for a minimum of one fewer than half the total number of individuals (i.e., for a board of nine directors, women and/or gender diverse people must comprise at least four directors).”



