



Practical Guide to IT Governance

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Disclaimer



The information contained in this presentation is intended as general commentary and should not be regarded as legal advice. Should you require specific advice on the topics or areas discussed please contact the presenter directly.



Agenda



- > What the law says
- > What to do in response
- > Summary



What the law says



Directors' duties



- > *Corporations Act 2001* imposes on company directors duties to:
 - > act in good faith in the best interests of the company and for a proper purpose
 - > exercise care and diligence
 - > avoid conflicts between the interests of the company and the director's personal interests



Centro case - facts



- > Board approved financial statements which:
 - > incorrectly classified \$1.5 billion as non-current liabilities; and
 - > failed to disclose \$1.75 billion in guarantees
- > Management and external auditor failed to identify errors
- > Directors needed to read and comprehend 1,180 pages of board documents



Centro case – court's decision



- > Each director aware of liabilities and guarantees
- > They breached their duty of care and diligence
 - > Failed to read and understand financial statements
 - > Failed to apply the knowledge they had or should have acquired to perform the task
 - > Failed to make appropriate inquiries
 - > Failed to have apparent errors corrected
- > Also breached their financial reporting obligations



Centro case – relevant quotes



- > Directors cannot wholly rely on management advice
 - > *“Directors cannot substitute reliance upon the advice of management for their own attention and examination of an important matter that falls specifically within the Board’s responsibilities as with the reporting obligations.”*
- > Directors must have at least a basic understanding of business and activities
 - > *“A director should acquire at least a rudimentary understanding of the business of the corporation and become familiar with the fundamentals of the business in which the corporation is engaged; a director should keep informed about the activities of the corporation”*
- > Directors must do more than represent their field of expertise
 - > *“A board should be established which enjoys the varied wisdom, experience and expertise of persons drawn from different commercial backgrounds. Even so, a director, whatever his or her background, has a duty greater than that of simply representing a particular field”*



What to do in response



Centro's lessons



- > The board of directors do not need to become ICT experts
- > Basic understanding of business means directors should understand the role of technology in the company's business
- > Two levels to this understanding
 - > The strategic
 - > The project



Importance of an ICT strategy



- > An ICT strategy sets framework for meeting the business' future ICT needs
- > Helps avoid ad hoc approach to ICT
- > Addresses challenges of changing ICT and commercial environments
- > Interfaces with business' other strategic initiatives



ICT strategy and the board



- > To be effective, the board must:
 - > endorse strategy
 - > monitor compliance with the strategy
 - > ask questions of management and test assumptions rather than rely wholly on their advice and recommendations
 - > endorse regular updates to the strategy



ICT project governance

- > Second element focuses on project governance
- > The board normally delegates day-to-day responsibility to project sponsor and project manager
- > A transformative or expensive project may use a steering committee with a director involved
 - > Director then reports to board generally



ICT project governance

- > Before signing a contract understand what the procurement should deliver
- > If you don't know, how can you expect a vendor to know?
- > Recipe for delay, dispute and cost blow-out



HOW THE CUSTOMER EXPLAINED



HOW THE PROJECT MANAGER UNDERSTOOD



HOW THE ANALYST DESIGNED



HOW THE PROGRAMMER CODED



WHAT WAS INSTALLED AT USER'S SITE



WHAT THE CUSTOMER REALLY WANTED

ICT project governance

- > All projects should be governed by robust, written contracts
- > Be careful about accepting a vendor's contract at face value
 - > Vendors seek to significantly limit their liability to customers
 - > Does the contract deal with delivery, resourcing and delay?
 - > Are project management terms included?
 - > Does the contract effectively address change management?
 - > How can the customer exit the contract if reality does not meet expectations?



ICT project governance



- > A contract alone is not a panacea
- > Project governance (including contract management) key to successful project
 - > Progress reporting and project meetings
- > Change management and cost control
- > Alternate ways to project management
 - > Agile methodology built on 'sprints'
 - > Master arrangement with purchase orders



The board's role in ICT project governance



Issue	Question(s) to ask
The cost of inertia	What will it cost the business if we <u>DON'T</u> proceed with this project?
The fit	Does this fit with our ICT and corporate strategies?
The vendor	How do we select a vendor?
The outcome	How do we know when we're done? What are we prepared to accept as the final product? Are there staggered releases?
Project inputs	Who is responsible for what? When do we need to meet our responsibilities? Do we need to engage external resources?
Timely decisions	How do we combat 'scope creep'? How do we avoid unnecessary delays?
Cost control	Can we afford this project? Should we start smaller/segment the project?
Timescales	Is this project open-ended?



The board's role in ICT project governance



- > If the project does not proceed to plan, the board must be decisive
- > The best interests of the company may require the board to end the project before completion
- > Be mindful of legal consequences



Summary



Summary



- > Directors' duties apply to ICT project governance
- > Duty to act with due care and diligence in the company's best interests
- > Avoid ad hoc approach to ICT procurement – prepare, implement and monitor an ICT strategy
- > To the best of your ability, know what you want to procure before you go to the market
- > Contracts set the framework for your procurement but don't accept vendor's terms at face value
- > Board needs to remain informed on the project's progress and be ready to act if the project is not proceeding as expected



Thanks and Q & A



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