ACCOUNTABILITY, TRANSPARENCY, AND LIABILITY

As noted in the [chapter on defining governance](#), accountability is about holding an individual, group, or organisation responsible for their actions; it is about being answerable to others. In governance terms, accountability is the responsibility to fulfil the board’s mandate in a manner that maintains others’ trust. Without such trust, the board’s legitimacy, support, relationships, and credibility are at risk. Governments give professions the power to regulate themselves. This is a privilege and when the privilege is violated, and trust is lost, regulatory bodies risk losing powers and becoming accountable to an oversight body for aspects of its work.

The regulatory body is accountable for its actions. It is accountable to the government, donors, the public, and to the professionals it regulates. For example, if it receives funds from individuals or agencies (donations, grants, etc.) those giving the funds expect them to be used for the specified purpose. Accountability to government is exercised through ensuring the regulatory body/council fulfils its mandate effectively and efficiently, and through prompt submission of all required documents and reports. In some countries, regulatory councils are required to submit an annual report to the government; this is particularly the case in parastatal organisations. Usually the report contains financial information as well as an account of activities of the preceding year. In situations where councils are elected, a similar annual report is usually made available to all stakeholders.

The regulatory council fulfils its accountability to the professionals it regulates through ethical and transparent interactions with them and others. Accountability to the public is fulfilled by ensuring only licensed professionals are allowed to practice and by promptly intervening when issues of safe, ethical practice arise. Regular review of the council’s own functioning is part of fulfilling its accountability responsibility.

MEMBERS OF THE BOARD

When an individual joins a board, he/she accepts the board’s legal as well as moral duties. There are three such duties:

- Duty of care
- Duty of loyalty
- Duty of obedience

Duty of care relates to the board member’s obligation to exercise reasonable care when making decisions concerning the council. This means being well informed and confident that the decision is the best one for the organisation. The duty of care also requires the board member to participate fully.
Synonyms for loyalty include trustworthiness, faithfulness, and allegiance—in terms of duty, it means the board member is loyal to the council and puts the interest of the organisation ahead of personal interest or gain. Board members are expected to avoid, where possible, and otherwise declare, any conflict of interest. Board members meet the third duty—that of obedience—by working to fulfil the mission, goals, and strategic plan, and by ensuring the council meets its obligations (e.g., submits reports to government, donors).

Monitoring and reporting on goals and outcomes is an important way to demonstrate accountability as well as measure progress. Developing, monitoring, and reporting regular on indicators and measures should be a routine part of the council’s work and should be applied to all key activities. Nightingale said “no system shall endure which does not march.” If councils are to endure they need to know where they are going (mission and strategic plan), how far along they are (measurement), and how to deal with the challenges along the way. Self-assessments (for individuals and the board as a whole) are important tools to gauge and otherwise address board performance.

LIABILITY AND ACCOUNTABILITY

A board and its members’ individual exposure to liability varies depending on the regulatory model and national laws. It is least likely where regulation is a government service and boards are advisory. In many countries there is a doctrine of sovereign immunity, which means the state cannot be sued for any wrongdoing as it cannot commit a legal wrong. In parastatal and self-regulatory models there are often clauses that protect the board, staff, and volunteers from personal liability if they have undertaken their council activities in good faith. This means the organisation pays—rather than individual board members individual—for legal expenses related to the board activities. However, if the council acts outside the law it can be liable. In this case, restitution is normally a fine. Similarly, contracts with outside agencies usually have a clause with penalties should the contract not be honoured. In these cases, restitution is also generally financial—along with loss of reputation.

The best way to reduce liabilities is to practice good risk protection. At both an individual and organisational level this means employing analysing risk in decisions: asking what is the real or potential harm and how can it be avoided or minimized. As a council, it is important to have sound policies and practices to reduce risk, whether financial, regulatory, environmental, human resource, product, reputational, or otherwise.

Strategies to prevent and minimize risks include governance and management policies and procedures that provide, at a minimum:

- Sufficient insurance coverage (such as fire, water, and theft)
- Bonding insurance for designated staff
- Preventive maintenance for equipment and premises
Financial management that meets national/international auditing standards

Up-to-date financial policies and monitoring and compliance with these

Prompt payment of bills to ensure positive credit rating

Processes to meet government requirements promptly and fully

Programs that ensure staff and volunteers are trained

Procedures that vet staff and volunteers

TRANSPARENCY

From a business perspective, transparency is defined as the full, accurate, and timely disclosure of information. It also means decisions are taken and business is conducted in an open way. Transparency in good governance is reassuring and goes hand-in-hand with trust and accountability.

Transparency means that decisions are taken and enforced in a manner that follows rules and regulations. It also means that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement. It also means that enough information is provided and that it is provided in easily understandable forms and media.

Transparency is often a core value for regulators and associations as well as for business and governments. The government of Canada’s capital city, Ottawa, adheres to the following principles to ensure transparency:

- Open and transparent decision-making
- Conducting all business in an ethical and accountable manner
- Managing financial resources and physical infrastructure in an efficient and effective manner
- Making information accessible and consistent with legislative requirements
- Responding to inquiries, concerns, and complaints in a timely manner
- Ensuring that financial oversight, service standards, and performance reporting, and all other accountability documents, are available, accessible, and written so the public can understand
- Ensuring that every new delegation of power or authority has a corresponding accountability mechanism

Examples of how regulators can be more transparent include:

- Making sure clear statements of roles, powers, rights, and obligations are readily accessible
- Ensuring the organisation is free from influence from political and special interest groups
- Having governance meetings open to media, public, health care professionals, and other interested parties
- Holding disciplinary hearings in public or making the results publicly available
- Making as much information as possible publicly accessible
■ Having a current and easy to navigate website
■ Circulating annual reports widely, including audited statements of accounts
■ Including public members (more than a token number) in the governance structure

*Effective boards function in a climate of trust and candour, a culture of open dissent, individual accountability, and regular evaluation of the board’s performance.* (McDonagh, 2006)

REFERENCES
■ Save the Children UK. *Governance Best Practice*.