

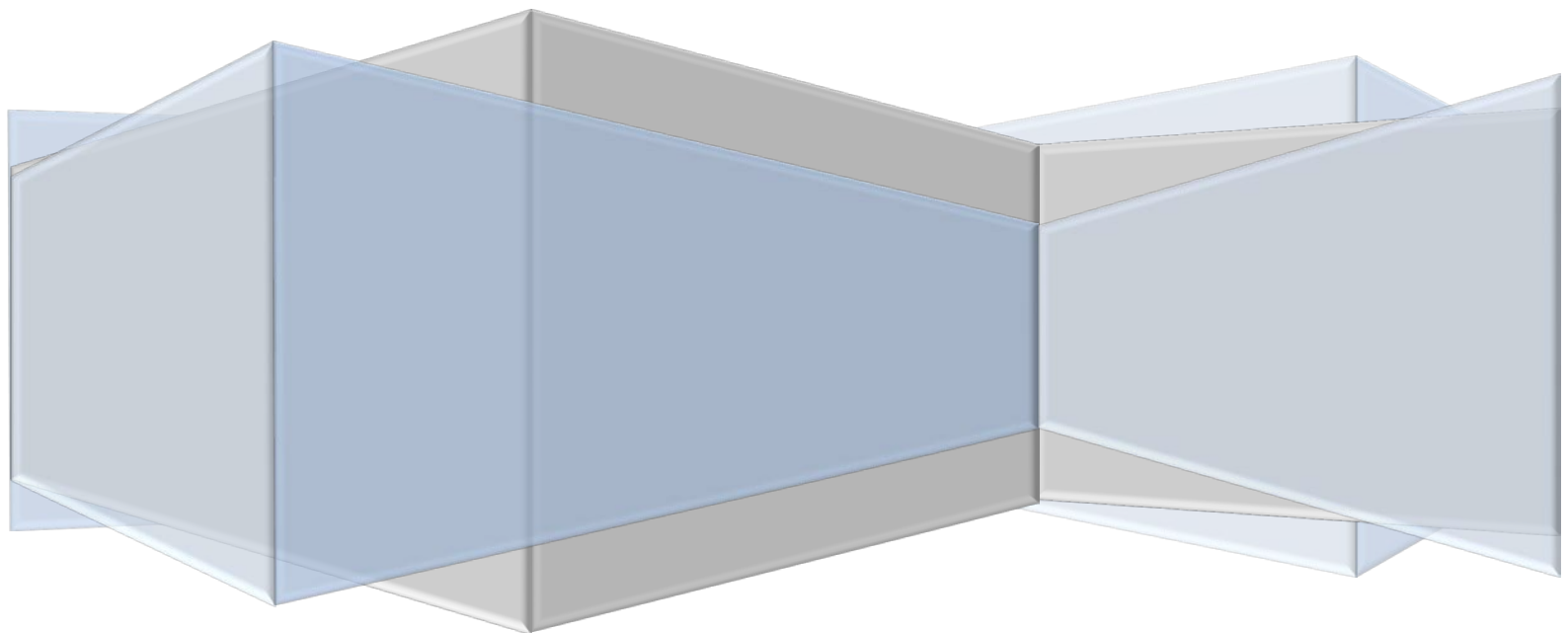


**Health**

Northern Sydney  
Local Health District

# Board Charter

Northern Sydney Local Health District



## Table of Contents

<b>1. Purpose</b> .....	<b>1</b>
<b>2. Governance</b> .....	<b>1</b>
Minister.....	2
The Secretary .....	2
2.1 Board Composition .....	2
2.2 Board Structure.....	3
<b>3. Role of the NSLHD Board</b> .....	<b>4</b>
<b>4. Role of the Board Chair</b> .....	<b>5</b>
4.1 Role of the Deputy Chair.....	5
<b>5. Role of the Board Directors</b> .....	<b>5</b>
Compliance with Law and Policy Directives.....	5
Fiduciary duties of good faith .....	6
Duty to act honestly and properly for the benefit of the organisation .....	6
Duty to disclose interest .....	6
Duty not to misuse the organisation’s property, information or opportunities .....	6
Duty of care and diligence .....	6
<b>6. Role of the Chief Executive</b> .....	<b>7</b>
<b>7. Meeting Times and Procedures</b> .....	<b>7</b>
7.1 Confidentiality.....	7
7.2 Publication of Board Minutes .....	8
<b>8. Induction, Development and Evaluation</b> .....	<b>8</b>
8.1 Board Indemnity .....	8
<b>Appendix 1</b>	
Board Code of Conduct.....	9

# Northern Sydney Local Health District (NSLHD) Board Charter

## 1. Purpose

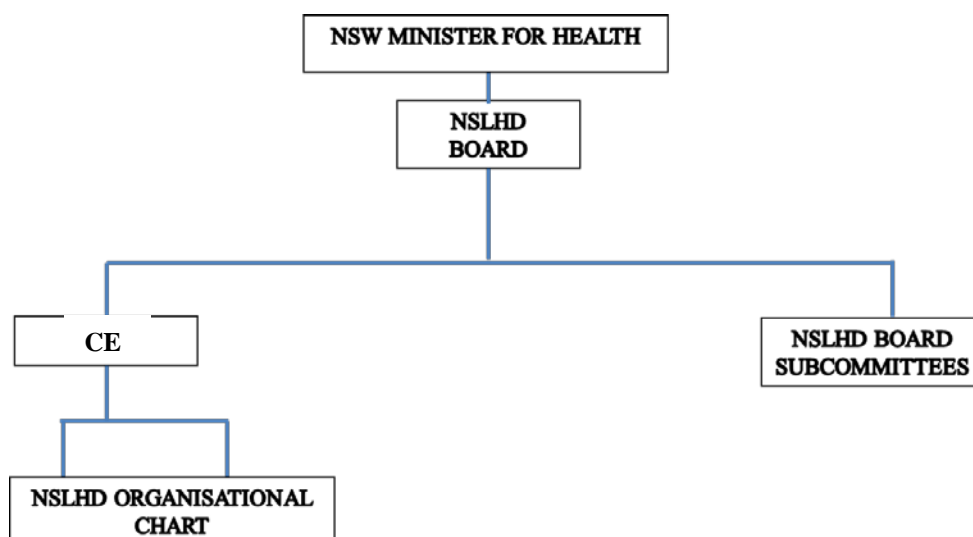
This Charter sets out the framework for governance within the NSLHD and defines the roles, responsibilities and authorities of the Board of Directors. The roles and responsibilities of the Board and Chief Executive are defined in the *Health Services Act 1997 No 154* (current version November 28<sup>th</sup> 2014) and in the Corporate Governance and Accountability Compendium for NSW Health (December 2012; latest amendment Sept 25<sup>th</sup> 2014). In the event of any inconsistency between this Charter and the Legislation, the Legislation takes precedence.

For information NSW Legislation <http://www.legislation.nsw.gov.au/>

For information on the NSW Health Corporate Governance and Accountability Compendium <http://www.health.nsw.gov.au/policies/manuals/Pages/default.aspx>

## 2. Governance

NSLHD is a local health district established as an individual statutory corporation constituted under section 17 of the *Health Services Act 1997 No 154* (current version November 28<sup>th</sup> 2014). The principal reason for constituting local health districts is to facilitate the conduct of public hospitals and health institutions and the provision of health services for residents of the areas of the State in respect of which the districts are constituted. The board is subject to the control and direction of the Minister, except in relation to the content of a recommendation or report to the Minister. This function has been delegated to the Secretary. The Minister may direct a local health district to establish or close a hospital or other health service, or give directions as to the range of services to be provided.



The Minister and Secretary each have important governance roles in relation to the local health districts and specialty networks refer for NSW Health Organisation Chart <http://www.health.nsw.gov.au/about/nswhealth/pages/chart.aspx>.

### ***Minister for Health and Minister for Medical Research***

The Minister is responsible for the appointment and dismissal of individual board members. The Minister may also remove the entire board and appoint an administrator in their place. Where an administrator is appointed, the Minister is required to make a statement to Parliament that sets out the basis for that decision.

These provisions are required to enable action to be taken where a local health district is failing and urgent intervention is required.

The Chairs of Local Health District Boards and Specialty Networks come together on a regular basis as the Council of Board Chairs to confer with the Minister for Health and the Secretary, NSW Health. The Council provides a key leadership group for NSW Health.

### ***The Secretary, NSW Health***

The Secretary is responsible for the overall governance, oversight and control of the NSW public health system and public health organisations, including public health system performance.

In this capacity, the Secretary has the function of giving directions to local health districts, to ensure that they fulfil their statutory and financial obligations and to assist the State meet its own obligations as system manager.

The Secretary is also responsible for entering into performance and Service Agreements with local health districts and employing staff of local health districts on behalf of the State.

The Performance framework of the NSLHD is set out under 7.3 of the Corporate Governance and Accountability Framework of NSW Health (2012).

## **2.1 Board Composition**

All Local Health District boards consist of 6 to 13 members appointed by the Minister.

The Minister is to select the membership of a local health district board so that the membership of the board has an appropriate mix of skills and expertise required to oversee and provide guidance to the district, including members who:

- (a) have expertise and experience in health management, business management and financial management, and
- (b) have expertise and experience in the provision of clinical and other health services, and
- (c) where appropriate, are representatives of universities, clinical schools or research centres, and
- (d) have knowledge and understanding of the community served by the district, and
- (e) have other backgrounds, skills, expertise, knowledge or experience appropriate for the district.

A local health district board is to have at least one member who has expertise, knowledge or experience in relation to Aboriginal health.

A member of a local health district board holds office for such period (not exceeding 4 years) as may be specified in the member's instrument of appointment.

A member whose term of office expires is eligible (if otherwise qualified) for re-appointment, but may not be appointed so as to hold office for more than 8 years in total (whether or not the appointments are consecutive).

One of the members of a local health district board is, by the relevant instrument of appointment or by a further instrument signed by the Minister, to be appointed as the chairperson of the board.

A member of a local health district board is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

Subject to this section, the constitution and procedure of a local health district board are to be as prescribed by the regulations.

## 2.2 Board Structure

The NSLHD Board is to establish the following committees to provide advice or other assistance to enable the Local Health District perform its functions under the Act. Those committees are to include:

- (a) audit and risk management;
- (b) finance and performance;
- (c) health care safety and quality;
- (d) such other committees as the Board determines.

The criteria under which these structures and forums function are set out in the Corporate Governance and Accountability Compendium (2012) and in the NSW Health Model Bylaws.

To effectively discharge its duties, the Board has additionally established the following Board Subcommittees:

- The Peak Community Participation Committee
- Capital Assets Committee
- Primary Health Network and NSLHD Executive Council

Each of these committees has established Terms of Reference.

The Board is also required to establish a medical and dental appointments advisory committee that advises the Chief Executive on issues related to medical appointments. Subcommittees of that committee (eg credentialing committees) may be established with limited delegated authorities.

The Local Health District (under the auspices of the Chief Executive) is to establish the following structures and forums to provide input for medical, nursing and allied health staff:

- (1) Medical Staff Councils and Medical Staff Executive Councils
- (2) Hospital Clinical Councils and Joint Hospital Clinical Councils
- (3) A Local Health District Clinical Council

The criteria under which these structures and forums function are set out in the Model Bylaws (currently under review in Jan 2015).

### 3. Role of the NSLHD Board

The functions of the NSLHD Board are defined in Section 28 of the *Health Services Act* and in the Corporate Governance and Accountability Compendium for NSW Health is as follows:

- to ensure effective clinical and corporate governance frameworks are established to support the maintenance and improvement of standards of patient care and services by the local health district and to approve those frameworks,
- to approve systems:
  - to support the efficient, effective and economic operation of the local health district, and
  - to ensure the district manages its budget to ensure performance targets are met, and
  - to ensure that district resources are applied equitably to meet the needs of the community served by the district
- to ensure strategic plans to guide the delivery of services are developed for the local health district and to approve those plans,
- to provide strategic oversight of and monitor the local health district's financial and operational performance in accordance with the State-wide performance framework against the performance measures in the service agreement for the district,
- to make recommendations for the appointment of the chief executive of the local health district and, where it considers it appropriate to do so, to make recommendations concerning the removal of the chief executive,
- to confer with the chief executive of the local health district in connection with the operational performance targets and performance measures to be negotiated in the service agreement for the district under the National Health Reform Agreement (NHRA)
- to approve the service agreement for the local health district under the NHRA
- to seek the views of providers and consumers of health services and of other members of the community served by the local health district, as to the district's policies, plans and initiatives for the provision of health services, and to confer with the chief executive of the district on how to support, encourage and facilitate community and clinician involvement in the planning of district services,
- to advise providers and consumers of health services and other members of the community served by the local health district, as to the district's policies, plans and initiatives for the provision of health services,
- to endorse the local health district's annual report,
- to liaise with the boards of other local health districts and specialty network governed health corporations in relation to both local and State-wide initiatives for the provision of health services,
- such other functions as are conferred or imposed on it by the regulations.

These functions are in the nature of governance oversight, not a day to day management and operational role. The Board chair also has an oversight role in respect of the Chief Executive. In addition to making recommendations as to appointment of the Chief Executive, the Board chair also enters into the annual performance agreement with the Chief Executive and undertakes their annual performance review as provided for under the Health Executive Service Framework.

#### **4. Role of the NSLHD Board Chair**

The Chair is the leader of the Board, the official representative and spokesperson for the Board and the principal link between the Board and the Chief Executive. The role of the Board Chair is specified in the NSW Government Boards and Committees Guidelines, (July 2013) and are as follows:

The Chair is responsible for leading the activities of the board or committee. The Chair's responsibilities include:

- Ensuring that the board or committee performs its functions, acting within any relevant statutory powers, legal obligations and complying with approved policies relevant to the entity (including whole of government policies)
- Facilitating the conduct of meetings to allow frank and open discussion
- Ensuring individual members make an effective contribution
- Developing the capability of the board or committee and its members
- Facilitating the flow of information to members and stakeholders
- Liaising with the relevant Ministers, Secretary and Chief Executives
- Reviewing the performance and contribution of members

##### **4.1 Role of the Deputy Chair**

One of the Directors on the NSLHD Board is nominated by the Chair and approved by the Minister to act as Deputy to the Chair. If the Chair is unavailable, the Deputy may take on the responsibilities of the Chair on a temporary basis.

#### **5. Role of the Board Directors**

Board members are appointed for the good of the organisation and are not there to represent the group or interest that nominated them. The role of the board member is not one of direct representation of any particular sectional interest, rather they must carry out their role and functions in the interests of the organisation and the community it represents as a whole.

Directors are expected to be forthright in meetings, to be adequately prepared and consider all aspects of any issue that influences the strategic direction of the organisation. The Board Directors must respect the NSLHD Executive's operational role in Execution of the Board strategy. Outside the Boardroom Directors must support all Board decisions to stakeholders. The Board members are required to be bound by an agreed Code of Conduct (**Appendix 1**).

The Corporate Governance and Accountability Compendium for NSW Health defines the roles and responsibilities for Directors in Section 3.4.

### ***Compliance with Laws and Policy Directives***

- Requirement to comply with relevant legislation including regulations
- Requirement to comply with the Department of Premier and Cabinet Conduct Guidelines for Members of NSW Government Boards and Committees, and the NSW Health Code of Conduct.

### ***Fiduciary duties of good faith***

- Duty to act honestly and properly for the benefit of the organisation.
- Duty to disclose interests in matters before the board, including potential conflicts of interest.
- Duty not to divert (without properly delegated authority) the organisation's property, information and opportunities.

### ***Duty to act honestly and properly for the benefit of the organisation***

- A board member must not act in self-interest and must at all times avoid any conflict between their duty to the board and the health organisation, and their own or third party interests.
- A board member has an overriding and predominant duty to serve the interests of the board and the health organisation, in preference, wherever conflict arises, to any group of which he or she is a member or which elected him or her.
- A board member has a duty to demonstrate leadership and stewardship of public resources.

### ***Duty to disclose interest***

- A board member must disclose to the board any direct or indirect interest the member has in a matter before them.
- A statutory form of this duty is set out in the *Health Services Act 1997*. It requires a board member to remove themselves from deliberation and voting on a matter in which they have a direct or indirect pecuniary interest.

### ***Duty not to misuse the organisation's property, information or opportunities***

- Duty of confidentiality of information about the affairs of the board or its organisation obtained as a board member.
- Release of information by a board member must be both lawful and either required by law or authorised by the board.
- The use of the organisation's property, information or opportunities must be authorised by the board and be for the benefit of the organisation.

### ***Duty of care and diligence***

- Board members are required to exercise care and diligence in the exercise of their powers.
- A board member need show no greater skill than may reasonably be expected from a person of his/her knowledge and experience.
- A board member is not required to give continuous attention to the organisation's affairs – the duties are intermittent to be performed at and in preparation for board meetings.
- Where duties may properly be left to an officer of the organisation, a board member is justified in trusting the officer to perform the duties honestly.



## 6. Role of the Chief Executive

The Chief Executive is not a member of the Board, but under the *Health Services Regulation* is entitled to attend board meetings ex officio (Corporate Governance and Accountability Compendium 3.1.2). Under the By-Laws the Board may have a closed meeting excluding the Chief Executive for the purpose of evaluation of Chief Executive performance.

Under Section 24 of the *Health Services Act*, the Chief Executive:

- (1) Manages and controls the affairs of a local health district
- (2) Any act, matter or thing done in the name of, or on behalf of, a local health district by its chief executive is taken to have been done by the district.

The Chief Executive can commit the District contractually and legally and is the employer delegate for all staff working in the organisation.

In the exercise of his/her functions, under section 24 of the *Health Services Act* is accountable to the local health district board constituted for the district.

## 7. Meeting Times and Procedures

The Corporate Governance and Accountability Compendium (2012) details that at least six ordinary meetings of the Board must be held at regular intervals and an annual public meeting must be held between 1 July and 31 December each year.

The Northern Sydney Local Health District should establish procedures for the board and each of the board approved committees, in accordance with the Act, Regulation and by-laws. The procedures should be documented and readily accessible and cover matters such as (but not limited to):

- distribution of minutes, reports to be received (and frequency), types of matters that must be approved; types of matters that should be noted,
- declarations of conflicts of interest
- matters to be dealt with in confidence
- media spokespersons
- training and development; attendance at conferences specific to board roles and responsibilities
- remuneration and petty cash reimbursements
- fundraising activities

### 7.1 Confidentiality

The principles of Confidentiality are discussed in the Corporate Governance and Accountability Compendium, 2013.

The maintenance of confidentiality at board meetings is an essential aspect of good governance. It ensures trust and supports open and honest discussion of matters so that those in attendance can frankly express their views. Information discussed in board meetings will often also be information that is not otherwise in the public domain, or which is subject to protections or restrictions such as legal privilege, commercial in confidence obligations, or privacy rules.

At an operational level, it is the responsibility of the Board to ensure minutes of the meeting are publicly available and there is proper level of transparency with their community and clinicians, while also observing an appropriate level of confidentiality in respect of their internal discussions on board business and confidential or sensitive information provided to

them to assist in the conduct of their business. For these reasons, it is appropriate for a board to determine the extent of release of information discussed at, and provided to, the board, either on a case by case basis, or through guidelines tailored to the business of a particular board.

For further information <http://www.health.nsw.gov.au/lhdboards>

## 7.2 Publication of Board Minutes

The Minutes of Board Meetings are required to be publicly available. NSW Health policy on board minutes however, also makes it clear that where there are substantial and genuine reasons for maintaining confidentiality such as commercial sensitivity, adverse effect on law enforcement, prejudice to current litigation or negotiations or interference with the right to privacy of third parties, it would be appropriate to excise the confidential information.

## 8. Induction, Development and Evaluation

The Chair, the Chief Executive and Board secretary are expected to contribute to the induction of all new Directors of the Board. Development activities for the Board as a whole and on an individual basis will be available from time to time.

The Board considers the ongoing development and improvement of its performance as critical to effective governance. Hence the Board will regularly review the effectiveness of meetings and undertake an annual review of the Board, including composition, achievements and operations annually. From time to time an external advisor will assist.

For further information <http://www.health.nsw.gov.au/lhd/boards/pages/default.aspx>

### 8.1 Board Indemnity

The Corporations Law does not apply to local health districts and specialty networks. As such, board members are not subject to the criminal and civil penalty regimes under that legislation.

Section 133B of the *Health Services Act 1997* provides additional protection from personal liability for the board, a member of the board or a person acting under the direction of the board or organisation, in relation to acts or omissions done in good faith for the purposes of executing that or any other Act.

The Treasury Managed Fund Contract for Coverage for public health organisations includes directors and officers cover, which provides an indemnity for actions committed by board members or committees in good faith for the purpose of discharging their governing board or committee duties.