



Webinar

Board code of conduct

How to set policies up for success and
how to embed the code into your board
meetings

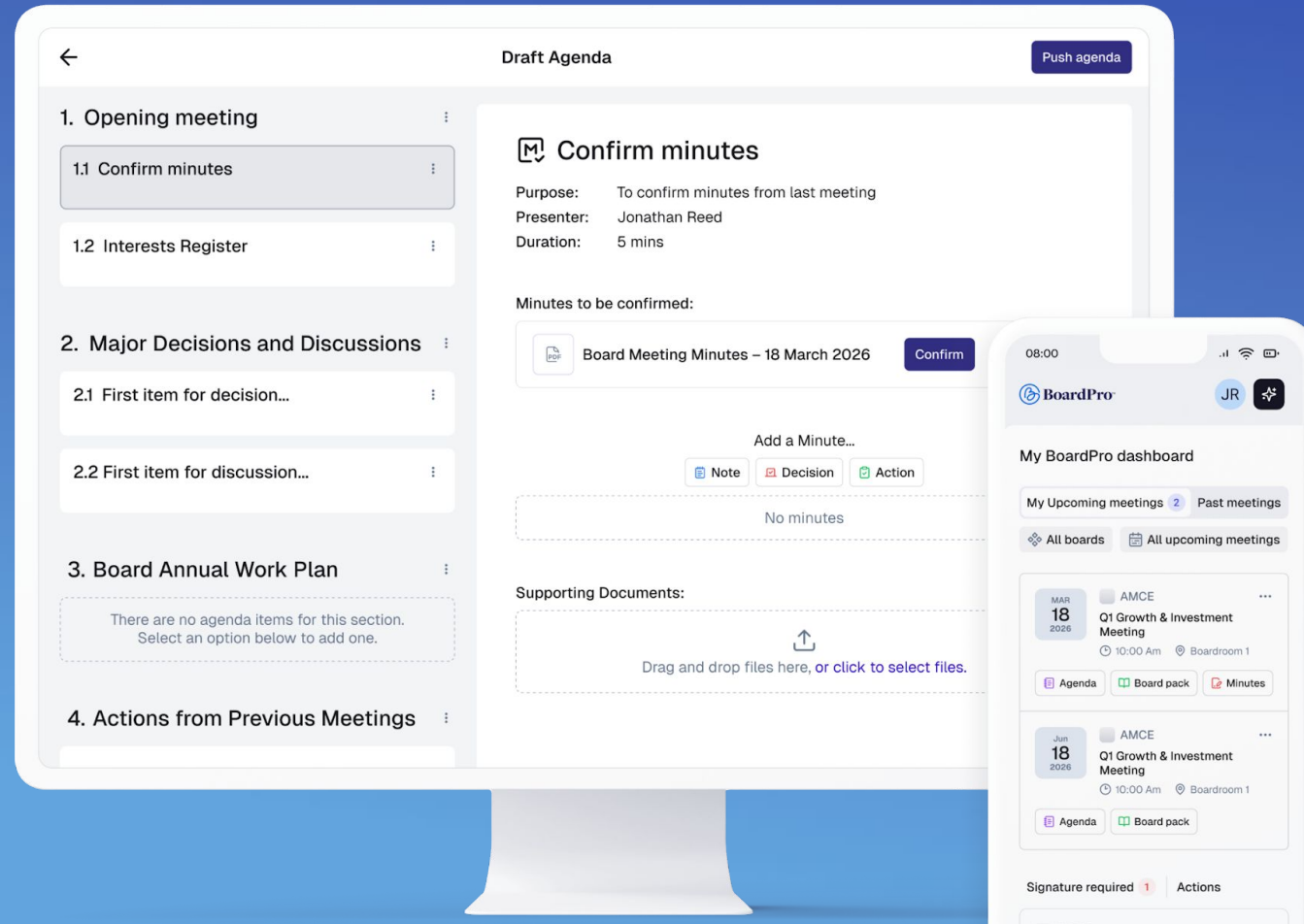
With Special Guest Steven Bowman







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Topic



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**Slides, webinar video, and
transcript will be sent to you.**



Steven Bowman

Managing Director
Conscious Governance



**Julie Garland
McLellan**

Managing Director
Directors Dilemma



What is it?



Standard for how directors are expected to behave (especially when the pressure's on)



Shapes the tone of the board.



Reinforces integrity, good judgement, and professionalism.



Example 1

01	Personal behaviour
02	Communication and official information
03	Use of resources
04	Safe environment
05	Legal compliance and conflicts of interest
06	Breaches
07	Policy integration

Legislation:

Corporations Act

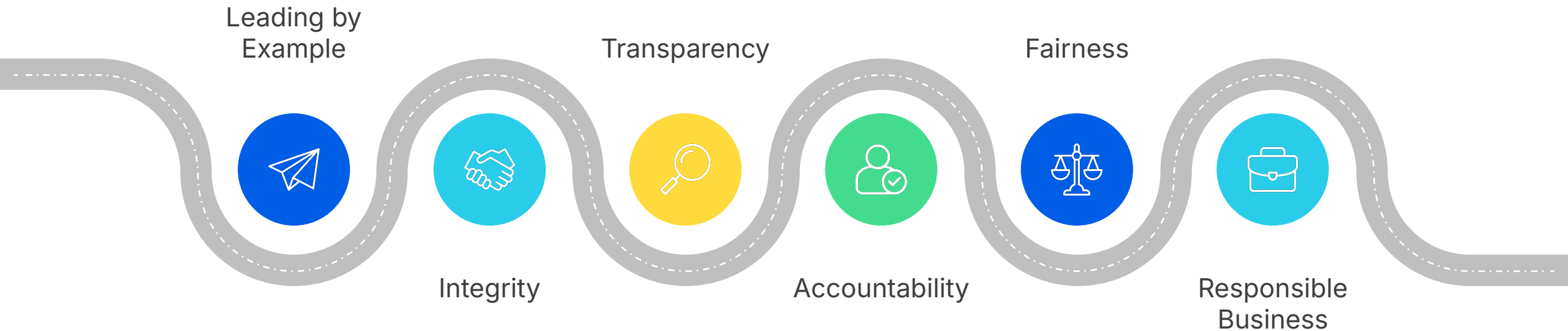
Organisational Documents:

- Constitution
- Employee Handbook
- Conflict of Interest Policy
- Harassment / Bullying Policy
- Diversity, Equity and Inclusion Policy
- Whistleblower Policy
- Workplace Health and Safety Policy



Example 2: IOD UK

A roadmap that can help individual directors make the right decisions for themselves and their organisations





Example 3: AICD

A framework for decision making and a guide to the actions and standards of conduct we expect of each other.





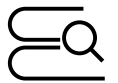
The Chairs' Role

- modelling behaviours
- reinforcing standards
- encouraging respectful disagreement
- managing dominant personalities
- drawing out quieter directors
- intervening early

Case Study



Major Health Charity





The Chairs' Role when no-one agrees

Australian Olives Ltd v Livadaras [2008] FCA 1407

A chairman must make decisions in real time, sometimes with less than perfect information. Even if a court might reach a different decision after hearing all the evidence, the chairman's decision will survive challenge if it was made in good faith, was reasonable and did not involve an error of law.



The Chairs' Role when no-one agrees

Excerpt from commentary to Recommendation 2.5 of the ASX Corporate Governance Principles and Recommendations:

The chair of the board is responsible for leading the board, facilitating the effective contribution of all directors and promoting constructive and respectful relations between directors and between the board and management. The chair is also responsible for setting the board's agenda and ensuring that adequate time is available for discussion of all agenda items, in particular strategic issues.

Indian Zoedone Company [1884] 26 Ch 70; Corpique (No 20) Pty Ltd v Eastcourt Ltd (1989) 15 ACLR 586

Even if a decision is made by the chair in connection with the proper conduct of a meeting that does not have the protection of an express constitutional provision, courts have indicated that the decision should be regarded as correct unless the contrary is proved by a person objecting to it.

But wait, there's more

*...the Chair is responsible for ensuring “workable and harmonious relations” between executive and non-executive directors and between the Board and executive management. **The Chair must also manage unhelpfully disruptive directors;***

...the chair may have greater responsibility for ensuring that the Board sets and implements an appropriate corporate culture and corporate governance structure within the organisation;

Justice Beach: Australian Securities and Investments Commission v Mitchell (No 2) [2020] FCA 1098 (31 July 2020)



Who should write it?



Who should enforce it?



What are the consequences?

- Minor issues
- Repeated behaviours
- Serious misconduct
- Escalation process
- Chair conversations
- Governance Committee
- Independent review
- Removing directors where necessary

Stress: Address behaviour early.
Many governance problems begin as small behavioural issues.

Case study: RACP





Embedding the Code into Every Board Meeting



Before Meetings

- Board papers reminder (especially controversial items)
- Conflict declarations
- Preparation expectations (Chair and agenda techniques)



During meetings

- Respectful dissent
- Listening
- Strategic focus
- Question quality: "Strategic Questions for the Board to consider"



End of meeting

- Five-minute reflection



9 Practical Actions

01 Review the Code annually.

02 Directors sign annually.

03 Chair references it regularly.

04 Add Code reminder to every agenda.

05 Review after meetings.

06 Include Code questions in Board evaluations.

07 Discuss behavioural expectations before difficult decisions

08 Celebrate positive behaviours.

09 Key part of Induction

<https://www.consciousgovernanceinsights.com/induction-insights-for-directors>





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Bowman**

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