Problem Statement:

You need to consider how you will identify the range of issues and problems in the following problem statement.

ABC Private Hospital (ABC) ©

Problem statement: Peter Smith is the new CEO at ABC Private Hospital (herein referred to as: ABC) and is located in North Queensland. ABC has been supporting Queenslanders with health care since 1980 and over the years has evolved from a 50-bed facility to a world-class tertiary medical facility offering the latest treatments and first-class patient care. ABC is a 400-bed hospital featuring 12 operating theatres, a 24-hour private emergency service and over 30 specialised clinical services.

ABC prides itself on excellent patient service and is equipped with the most advanced medical, surgical and diagnostic technology. The hospital provides the very best care to patients and covers a geographical region of more than 80,000 square kilometres.

With a consistent and steady profit increase over a period of 5 years including relatively stable management, Peter has worked at ABC for 10 years, his latest role being the Chief Financial Officer before being promoted to the CEO role, replacing Meg Davies. The Board consists of 12 members (there are 10 male and two female) and all Board members enjoyed a good working relationship with Meg. However, since Peter has stepped into his new role, he has consistently complained about ineffective senior management at the hospital indicating that staff were not working to capacity, noted that the number of patient complaints has risen 5% each year for the last three years in a row, and that there was an ineffective quality assurance system in place to deal with and manage patient concerns.

During Meg's 7-year tenure as CEO, she instigated and facilitated the expansion of services to include a new Mental Health Service which was received well and operating effectively over the past two years. This new service was beginning to return a small profit for the first time. Meg's leadership behaviours could be described as relational, personable and inspiring as she facilitated the expansion of this new service. She worked collaboratively with nurses, doctors, allied health professionals and administrative staff to achieve a world-class health service that specialized in post-traumatic stress disorder (PTSD), drug and alcohol, depression and anxiety, and military veteran's mental health. Meg was able to build and staff this new facility in only five years, as she was able to encourage and motivate all stakeholders to achieve the outcomes required.

As the new-CEO, Peter wants to move from a **'relaxed but purposeful'** pace to one that is more focused on the balance sheet, improving profits, reducing the number of patient complaints and improving productivity. To facilitate his 'vision' he has decided to implement a new management information system. The purpose of this new system was to -: gather data to make better decisions; coordinate, control and analyse this data (for example, identifying patient concerns, recording staff and patient incidents - such as falls, medication mistakes and so on); record infection rates and unplanned readmissions. He also wants to implement a new Accreditation scheme to drive safety and quality improvement. Peter's leadership style was observed to be aggressive, getting the job done regardless, and controlling every operational aspect of the hospital.

Peter wants to put strict systems and procedures in place to ensure that ABC is running smoothly and efficiently. He wants to reward employees for the tasks they perform. Peter prides himself on his commitment to patient and staff safety as a priority. He has indicated that the time is right for the hospital to invest in a new management information system which will allow him to gather data about the processes within the hospital with the aim of creating efficiencies and improving and increasing profit. Peter also wants to spend money and allocate resources towards a new Accreditation scheme as well.

Peter's leadership style is different to that of the previous CEO – Meg Davies. Meg was liked by all employees. She was a people person, willing to go the extra mile for her employees when they needed help and they were prepared to work above and beyond to achieve the outcomes required each year. Meg was able to set clear goals and milestones. She was committed to and worked **with**people, encouraging them to 'get the job done'.

Peter believes that the previous CEO Meg was too focused on people and his agenda as the new CEO was to focus on the hospital's financial results. One of the benefits of implementing a new management information system was to streamline processes to ensure efficiencies and cut red tape.

Within the first six months of Peter's tenure as CEO, problems began to appear. Four out of eight senior managers from the top management team had resigned. They indicated that Peter was not collaborative, was making decisions on his own without consultation and they did not understand the reasons why he was so aggressively pursuing the new management information system idea as they were already gathering appropriate data and making informed decisions. In addition, the cost of the new management information system and accreditation scheme were going to be expensive and the top management team did not understand why these were necessary.

Peter met with the Board to explain his 'vision'. However, the Board disagreed with his ideas regarding them as being an unnecessary cost and too expensive. They did not see why these changes needed to be made, as ABC already had a management information system and accreditation scheme in place and minor updates/changes to these existing systems would provide the additional data that he wanted. Peter argued that he wants to improve efficiencies at ABC to provide patients with a good quality health service and he highlighted that this new technology will increase the share price based on higher growth and higher profits leading to stronger profit and growth forecasts by market analysts.

Problems became elevated when during the end of month Board meeting, Peter disagreed vocally with the Chairperson on future hospital strategy. The Chair convinces other Board members that Peter's strategies are too expensive at this time and that his ideas are unnecessary. The Chairperson indicated that whilst they were responsible for operating a private hospital with the aim of making a profit, the Board were primarily concerned with key stakeholders (such as patients). All 12 Board members were concerned with the increasing costs of providing health care and whilst they had no choice but to pass on incremental increased costs to patients each year, they were determined that only the minimum costs were passed onto patients. Their mission was that good health care should remain affordable to all patients. Peter has fears that the Board are not protecting its shareholders who want increasing returns on their investments.

To Peter's credit, he emphasizes the importance of a safe environment for patients and staff and he unveils a detailed future Strategic Plan of hospital activities going forward. However, he does not receive support from the Board. To make matters worse, Peter is confronted with complaints from the top management team who complain directly to the Board about his leadership style. Peter decides that there is significant conflict because of the manner in which he operates.

To manage this situation, Peter decides to consult you as the Hospital's **Director for Leadership and Change**. He seeks your advice about what strategies are open to him in dealing with these issues.

Case study 1 Task required (FOR INFORMATIONAL PURPOSES ONLY – not required to complete)

Based on less than perfect information supplied about ABC problem statement, where you may need to **fill in the 'facts'** by adding more assumptions that you think may assist you in solving case issues, you are required to act as the Hospital's **Director of Leadership and Change** to address the issues and challenges:

1. We can define the role of strategic leaders in terms of their responsibilities for managing resources and capabilities of their firms so as to create and maintain competitive advantage (Iszatt-White & Saunders, 2017). Based on this definition and other definitions of strategic leadership, provide a working definition of strategic leadership and compare/analyse this in relation to CEO Peter Smith at ABC Private Hospital? Use **Reading 2.7 Flood, Hannan, Smith, Turner & Dawson (2000)** in your answer. (700 words)

2. Based on **Selected Readings 1.2 Gerard et al (2017)** and **1.4Allio (2015)** explain the leadership of CEO Peter Smith from the ABC case? How does Peter's leadership approach/ style compare/relate to other leadership styles outlined in these two readings and other literature? (700 words)

3. Advise Peter Smith about any issues he should be aware of with regard to Agency Theory and Stakeholder Theory. You need to use **Solomon (2014) Chapters 1, 2 and 9** in your answer in addition to other literature. (600 words)

Please use the **specific selected readings and chapters** as outlined above. Readings, Chapters and other references from **Modules <u>1 and 2, listed below</u>** <u>including additional references</u>

Please use Harvard AGPS referencing (including page numbers).

Additional Reference that might be useful -:
Australian Institute of Health and Welfare (2016) *How does Australia's health system work?* Australian Government
https://www.aihw.gov.au/getmedia/f2ae1191-bbf2-47b6-a9d4-1b2ca65553a1/ah16-2-1-how-does-australias-health-system-work.pdf.aspx

More marks will be gained by **showing evidence of additional readings and critical analysis in their case answer** by using theory/ies in ways that solve the problem.

<u>**Case Study 2: Tasks Required** – This is the task that needs to be completed</u>

Based on your analysis of ABC in Case Study 1, you are now required to continue your advice to the CEO Peter Smith. Assuming less than perfect information where you may need to **fill in the 'facts'** by <u>adding more assumptions</u> that you think may assist you in solving case issues, you are required to:

1. Based on **Reading 4.1 Chapman (2002)** and **Reading 4.2 Tosey and Robinson (2002)** what are the key strengths of transformational leadership and change and how can Peter Smith use this leadership approach to convince a skeptical Board? (700 words)

2. 'Management by values' is an emerging strategic leadership tool (Dolan & Garcia, 2002, p.101). Discuss 'management by values' as a tool to redesign the organisational culture at ABC? Discuss in relation to **Reading 4.6 Dolan & Garcia (2002).** (600 words)

3. Leadership of the Board is the chairman's primary duty (Tricker, 2015, p. 347). What recommendations would you suggest for ABC that will enhance/promote Board effectiveness? Refer to **Tricker 2015 Chapter 14 and Solomon 2013 Chapter 4** in your response. (700 words)

Note: Please use the **specific selected readings and chapters** as outlined above. Readings, Chapters and other references from **Modules <u>3 and 4, below</u>** <u>including additional references</u>

Please use Harvard AGPS referencing (including page numbers).

More marks will be gained by students **showing evidence of additional readings and critical analysis in their case answer** by using theory/ies in ways that solve the problem. Please see marking criteria below.

Module 1 − Strategic leadership: laying foundations

Overview

The world has become an interconnected place. Just about every event that happens in one part of the world has an impact on the rest of the world. The constantly changing economies in Asia generate problems for low-wage earners in Australia and the U.S. Globally, organisations are faced with ever-evolving contexts. Rapid changes in technology, the global economy, rapid international communication, an extraordinary increase in information, and an international or global environment are forcing leaders to be strategic in their decision- making. The mantra of connectivity has forever changed the world.

In this Module, we first invite you to reflect, in an analytical and critical manner, on what the concept of 'strategic leadership' means and what it encompasses – in theory primarily, but also in practice. As you will learn, we regard corporate governance as a central task of strategic leaders. We hence encourage you to do the same in respect to the concept of 'corporate governance'. At this level of postgraduate studies, the development of analytical and critical thinking abilities is essential and you are thus challenged towards this end. We help you to come to a better understanding of relevant concepts, but we also specifically guide you to apply some analytical and critical thinking as you engage with the essentials of the broad theme/s of this course. The latter revolves around the 'tasks' and challenges of leaders who function at the upper-most echelons of businesses, and organisations more generally. These people are responsible and accountable for the overall leadership of organisations.

Being a leader at the pinnacle of business and organisational life today can almost be likened to leading an army through war. There are numerous 'battlefields', 'campaigns', 'war-zones', 'enemies' and so forth. The 'art of the General' (which is what 'strategists' work is about) revolves around 'winning the war' – and hence the war as a whole is what is at stake at the top level. As we've said, we are primarily concerned in this course about leadership from the perspective of 'the top'. Business and organisational life today, spurred on and facilitated greatly by the information technology revolution, is 'global'. Big picture (holistic) and conceptual thinking is very important at this level. The global world is filled with 'minefields', and the top-level leaders of today are bound to stumble across numerous 'dangers', traps, surprise tactics, unexpected resistance, fierce competitive behaviours, and so on. It should hence come as no surprise to you that the concept and notion of strategy has its origin in the context of the military. Strategic leadership therefore has to do with the decisions and actions of the 'war strategists' – the 'Generals' of organisations (business as well as others). The thinking, behaviour and competencies and capabilities that today's and especially tomorrow's top level leaders will need in order to sustain competitive advantage and success over the long term can somehow be expected to differ from those required in the past. In particular, as you'll discover, we believe that sustainability should be placed central to the task and challenges related to strategic leadership.

Objectives

At the successful completion of this module, you should be able to:

- analyse and critically discuss what is meant by strategic leadership;
- explain the scope of strategic leadership as a field of theory and practice;

- analyse and explain potential areas for future research pertaining to strategic leadership.

Learning resources

Selected readings

1. : Wood, J.M., Zeffane, R.M. Fromholtz, M. Wiesner, R., Morrison, R. Factor, A., McKeown, T., Schermerhorn, J.R Jr., Hunt, J.G. & Osborn, R.N. 2016. 2016, '*OrganisationalBehaviour: Core Concepts & Applications'.* 4th Australasian Edition, Wiley, Milton.

2. : Gerard, L, McMillan, J & D'Annunzio-Green, N 2017, 'Conceptualising sustainable leadership', *Industrial and Commercial Training*, vol. 49, no. 3, pp. 116-126. https://doi.org/10.1108/ICT-12-2016-0079

3. : Dobni, CB, Klassen, M & Sands, D 2016, 'Getting to clarity: new ways to think about strategy', *Journal of Business Strategy*, vol. 37, no. 5, pp. 12-21. https://doi.org/10.1108/JBS-08-2015-0084

4. : Allio, RJ 2015, 'Good strategy makes good leaders', *Strategy & Leadership*, vol. 43, no. 5, pp. 3-9. https://doi.org/10.1108/SL-07-2015-0059

5. : Allio, RJ 2016, 'Learning to be a leader', *Strategy & Leadership*, vol. 44, no. 4, pp. 3-9. https://doi.org/10.1108/SL-06-2016-0041

6. : Nicholls, J 1994, 'The strategic leadership star: a guiding light in delivering value to the customer', *Management Decision*, vol. 32, no. 8, pp. 21–6.

7. : Carpenter, MA, Geletkanycz, MA & Sanders, WG 2004, Upper Echelons Research Revisited: Antecedents, Elements, and Consequences of Top Management. *Journal of Management*, vol. 30, no. 6, pp. 749–778.

8. : Hubbard, TN, Leinwand, P & Mainardi, C 2014, 'The New Supercompetitors', *Strategy and Business*, August 8/Autumn, no. 76. https://www.strategy-business.com/article/00272

1. What 'strategic leadership' means and entails

Consider:

- Sudden and instant market changes such as a rapid rise in oil prices have caused demand for cars in first world countries to shift from SUVs (sport utility vehicles) and gas guzzlers to sedans and hybrids in the space of one year.
- Digital communications are constantly changing the speed of communication within and between organisations and their environments.
- Chinese families are spending one-third of their income on education.

- In China, India, and Thailand, whole villages are making the transfer from poverty to wealth in one generation.
- Countries such as Australia, the United States, and the United Kingdom, now find themselves spending more money importing goods than they make exporting commodities.
- With a population of nearly 21.75 million and growing, Delhi, a city fast becoming the new pollution capital of the world, adds 1400 cars to its roads every day. Over the last decade, the number of vehicles in Delhi has jumped by a phenomenal 97 per cent.
- Although the Islamic State of Iraq and al-Sham (ISIS) is generally seen as a terrorist organisation bent on death and destruction which leads to the perception that the organisation is a radical organisation delivering random acts of terror, ISIS is a strategic actor, with a clear strategic goal, which impacts numerous nations around the world, including Australia.
- Then there is the region's renegade state, North Korea, which is currently developing its own nuclear weapons. US president, Donald Trump faces the task of curbing those ambitions, something which successive US leaders were unable to do. Under President Obama, the policy was called "strategic patience" - squeeze North Korea with sanctions, persuade others to do the same, particularly China, and wait it out. However, Donald Trump's office has released statements saying the ‘era of strategic patience is over’.

These are just a few significant scenarios emphasising the importance of the effective strategic leadership of nations and organisations. Hence, the need for a practical model of strategic leadership that will correct the errors, redirect, and allow for ongoing change even when the road to achieve that change is unclear, is more essential than ever before.

The daily demands on leaders’ time to cope with volatility and shocks, compliance, and an over-emphasis on quarterly results gives organisations little time for sustainable value creation, and yet research reveals that organisations that focus on long-term performance perform better. For those organisations who succeed in balancing their short-term performance and long-term strategy, the 21st century will be filled with opportunity.
Fundamentals such as performance indicators including aspects such as employee satisfaction, innovation and brand health will drive the performance of tomorrow’s enterprise, hence it is essential for organisations to engage with all stakeholders, not just with shareholders, to address the question of trust.

We will shortly, before commencing our journey of learning more about the challenges related to strategic leadership, be asking you the question, ‘What do you think strategic leadership means?’ We will thus take a closer look at the meaning of ‘strategic leadership’.

However, let’s first just contextualise where and how this course fits into the various course offerings we have in the area of leadership. After all – this course is not ‘strategic management’, neither is it ‘team leadership’ – it is about **strategic leadership**.

People enrol in particular courses for a variety of reasons. More importantly, course participants (note that you are regarded as a special kind of ‘student’) bring a diverse set of skills, knowledge and experience to each course and this provides for some interesting views, ideas and comments on specific topics. As you come into this course – wanting to learn and hence being an active participant in the learning experience – you may have your own ideas of what strategic leadership is all about. In all likelihood you have already been exposed to the field of study of leadership here at USQ – or perhaps elsewhere. As mentioned, we offer numerous courses that revolve around leadership. We usually prefer people to first complete the course MGT8038 *Leadership Development* before they embark on the other courses that constitute the leadership stream of our course offerings. In this course you have the opportunity to: reflect on the theoretical value of leadership theories past and present; critically review and think constructively about which leader theories help build adaptive leader-member relationships; apply a range of leadership skills to real world problems across national and international contexts; communicate to a range of audiences the value of leadership skills about a given context; and work with a range of leadership ideas to plan and formulate an applied leadership project.

The other course you might have taken is MGT8037 *Team Leadership*. Whereas MGT8038 is meant to serve as the 'foundation course' – it lays the foundation for further learning and development in the field – MGT8037 focuses on the operational 'mechanics' of being a leader in a team environment. In this course you get the opportunity to: demonstrate understanding of a broad range of introductory concepts related to teams, groups, leadership and group/team leadership; reflect on your experiences of group/team leadership and the associated theory; research and articulate your personal and professional framework for practice as a team leader; and use your team/group framework for practice to develop a response to an applied group/team leadership scenario.

MGT8040 *Entrepreneurship, Innovation and Creativity* has a more narrow focus in a sense – it places emphasis on the entrepreneurial leadership dynamics related to organisations that wish to compete on the basis of innovation and entrepreneurial endeavour. The course provides entrepreneurs and entrepreneurial leaders with the opportunity to explore the nature and challenge of entrepreneurial work and specifically aims at putting into place the initial building blocks for coming to better grips with the exciting and increasingly prominent field of theory and practice related to creativity, innovation and entrepreneurship. You get the opportunity to develop your own capacity to be creative and show how creativity can be put to work in organisational contexts. The nexus between creativity and innovation is considered, and what innovation means and entails and where it comes from. Finally, you are exposed to a number of entrepreneurial leadership challenges including the different ways or options of going into business, how to conduct market research, analyse entrepreneurial opportunities, how to draft a business plan, how to finance new and growing entrepreneurial ventures, and their legal considerations.

This course, MGT8039, also has its focus narrowed down – to strategic level leadership dynamics. We assume you have enrolled in this course because you have the desire to learn more about leadership related dynamics and challenges 'at the top'. But what then do we understand by 'strategic leadership'?

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The debate about the roles related to 'leadership' and 'management' has become pretty prominent over the last decade or so. In organisations the formally appointed leaders are normally referred to as the managers. There may however be many other leaders, who may not be managers. We'll be exploring this issue a bit more in the Assignment. Why not engage in some discussion about this on the course study desk forums?

From a theoretical point of view, there are also some other important issues that can elicit good debate. Which leadership theory or theories, for instance, seem to be most appropriate in reflecting 'real world' dynamics?

2. Leadership' theories: an introductory overview

It is important to be au fait with the different leadership theories. These are covered more comprehensively in other courses – such as in MGT8038 *Leadership Development*. We will now merely briefly refer to the relevant theories to refresh your memory. If you do not have sufficient knowledge about such theories it may serve you well to do some wider reading about these.

Wood et al (2016) discuss various leadership approaches and theories. Some of these are briefly summarised here.

Trait theories

These theories attempt to unravel the distinctive characteristics of 'great' leaders. One of the earliest theories of leadership was the 'Great Man' theory (Stogdill 1974). Popular at the beginning of the century, this theory held that leaders and followers were fundamentally different – that leaders were more capable, possessing a qualitatively different set of personality traits. Despite considerable research, little support has been found for the Great Man theory. The general conclusion is that leaders and followers are not fundamentally different. Furthermore, the obvious diversity among leaders suggests that successful leaders cannot be defined by a single collection of traits (Muchinsky 1993). Nevertheless, some research suggests that certain personality traits generally help leaders to be more successful (DuBrin and Dalglish 2001), and that better leaders do possess certain personality traits (Kirkpatrick and Locke 1991, Goleman 1998).

Certain personality traits of effective leaders are closely associated with task accomplishment even though they appear to be more accurately classified as traits rather than as behaviour.
These traits include (DuBrin and Dalglish 2006, pp. 34–8):

- **Passion for the Work and the People** is a dominant characteristic of effective leaders. Passion for the work is especially evident in entrepreneurial leaders and small-business owners who are preoccupied with growing their business.
- **Emotional Intelligence** refers to how well a person manages his or her emotions and those of others, which influences leadership effectiveness. The qualities of emotional intelligence include understanding one's feelings, empathy for others, and the regulation of emotions to enhance living. Five key factors are included in emotional intelligence:

1) Self-awareness helps you understand your impact on others; 2) Self-regulation helps you control your emotions; 3) Motivation includes passion for the task itself, and resiliency; 4) Empathy is the ability to respond to the unspoken feelings of others; and
5) Social skills centre on interpersonal relationships.

- **Flexibility and Adaptability** is necessary for a leader be able to cope with change, especially because a leader is someone who facilitates change. Flexibility, or adjusting to situations, has long been recognised as an important leadership characteristic.
- **Internal Locus of Control -** People with an internal locus of control believe that they are the primary cause of events happening to them. A leader with an internal locus is perceived as more powerful than one with an external locus because he or she assumes responsibility for events.
- **Courage** is necessary for leaders to take risks and to take the initiative. Courage in the present context refers to behaviours such as prudent risk-taking, facing responsibility, and a willingness to put one's reputation on the line.

Overall, it seems that the evidence is quite strong that good leaders possess different personal characteristics from those of 'non-leaders'. A knowledge of the traits associated with leadership effectiveness helps in the selection of leaders. Awareness of these characteristics can also point a person toward the right developmental experiences, such as learning to become more assertive. The current emphasis on emotional intelligence, which is really a group of traits and behaviours, reinforces the importance of the trait approach. The trait approach is limited, because it does not specify which traits are indispensable in varying leadership situations and how much of each trait is needed.

Certain traits increase the probability of a person becoming an effective leader, but the situation often influences which traits are more important. Further, leaders need balance in tempering one trait with another (Yukl 1998, p. 258).

The behavioural theory paradigm of leadership

The perspectives that can generally be said to belong to this theory paradigm attempt to explain distinctive 'styles' of behaviour used by leaders, or to describe the nature of the work of leaders.

The search for a better understanding of leadership later moved on to concentrate not only on traits but to identify patterns of behaviour that enable leaders to influence others. This implied that leaders could learn appropriate behaviours. It was the basis for many of the behaviour-shaping and behaviour-modelling training that is still prevalent in many organisations' leader training programs.

Many/most of the organisations in which leadership style research was undertaken in the 1960s and 1970s were very hierarchical organisations. Generally, people's expectations of effective leaders' behaviours have undergone some serious change since the 1960s and 1970s. Leadership styles must now also reflect the realities of the 'knowledge era' and not only the old 'control' style of the mechanistic organisations that promoted hierarchical and autocratic environments. The knowledge era requires leadership behaviours, which permeate the organisation holistically, horizontally, vertically and throughout the functions and processes.

There are two classical two-dimensional leadership theories. The Ohio State studies identified two dimensions (by means of factor analysis) that accounted for 85 percent of the variance in descriptions of leadership behaviour in organisations. The first dimension, i*nitiating* *structure*, is the degree to which the leader organises and defines relationships in the group by activities such as assigning specific tasks, specifying procedures to be followed, scheduling work, and clarifying expectations. *Consideration*, as the second dimension, is the degree to which the leader creates an environment of emotional support, warmth, friendliness, and trust. Leaders who score high on the consideration factor typically are friendly, trustful, earn respect, and have a warm relationship with team members.

An important output of the research on *initiating structure* and *consideration* was to categorize leaders with respect to how much emphasis they place on the two dimensions.

A leader's combination of attitudes and behaviours leads to a certain regularity and predictability in dealing with group members. Leadership style is the relatively consistent pattern of behaviour that characterises a leader. Most classifications of leadership style are based on the dimensions of initiating structure and consideration.

Participative leadership style

Sharing decision-making with group members, and working with them side-by-side, has become the generally accepted leadership approach. Participative leaders share decision- making with group members. The style encompasses three subtypes: 1) consultative leaders confer with group members before making a decision, but retain the final authority; 2) consensus leaders strive for consensus; and 3) democratic leaders confer final authority on the group. The participative style has also been referred to as trickle-up leadership because the leader accepts suggestions for managing the operation group members.

The participative style is well suited to managing competent people who want to get involved in making decisions and giving feedback to management. However, the style often results in extensive and time-consuming team meetings and committee work.

Leadership grid® styles

The Leadership Grid is a framework for simultaneously specifying concern for production and concern for the people dimensions of leadership. Grid styles are based on the extent of a person's concern for production and people: Authority-Compliance (9,1); Country Club Management (1,9); Impoverished Management (1,1); Middle-of-the-Road Management (5,5); and Team Management (9,9).

The ideal position is the 9,9 orientation, which integrates concern for production and concern for people. This team management style usually results in improved performance, low absenteeism and turnover, and high employee satisfaction. The manager should use principles of human behaviour to size up the situation.

The contingency and situational leadership theory paradigm

Contingency approaches to leadership point out that situational variables affect leadership outcomes. Each of these perspectives seeks to systematically address the relationship between leaders and the context in which they have to function. The components of leadership style, subordinate or associate characteristics and

situational elements are interdependent and impact on each other. The situational component consists of a number of subcomponents
such as: task structure; leader-member relationships; formal authority system; rewards available in the organisation or environment; potential decision structures or even location.

Situational leadership theory led to the development of leadership models that have been widely used as a training device in many large organisations. Originally developed by Hersey and Blanchard (2003), contingency theory argues that leaders should modify their behaviour according to the level of commitment and maturity of the followers they have in those particular circumstances. Contingencies that are relevant to the analysis of leadership are:

- the characteristics of the leader;
- the task(s) and objective(s) to be achieved;
- the individuals and subordinates who are the object of the leadership process;
- the group or team that is the object of the leadership process;
- the context within which the leadership process is to take place;
- role expectations.

According to this paradigm, any leader has the option of using one of various leadership styles in various circumstances or situations.

The Path-Goal theory of leadership effectiveness

The Path-Goal theory of leadership effectiveness, proposed by House (1971) and House and Mitchell (1974), is a contingency theory that integrates job satisfaction, motivation, and leadership (Muchinsky 1993). The theory specifies leader behaviours necessary to achieve high productivity and morale, and assist subordinates to attain their goals. Path-Goal theory is based on Expectancy Theory (Vroom 1964).

The Hersey-Blanchard Situational Leadership model

The situational leadership model matches leadership style to the readiness of group members. The key contingency factors are thus group member characteristics and leader behaviours.

Task behaviourdescribes the extent to which the leader spells out the duties and responsibilities of an individual or group, including goal setting and direction. **Relationship behaviour**describes the extent to which the leader engages in two-way or multi-way communication, such as providing encouragement, listening and coaching. Combinations of task and relationship behaviours fall into four quadrants as follows:

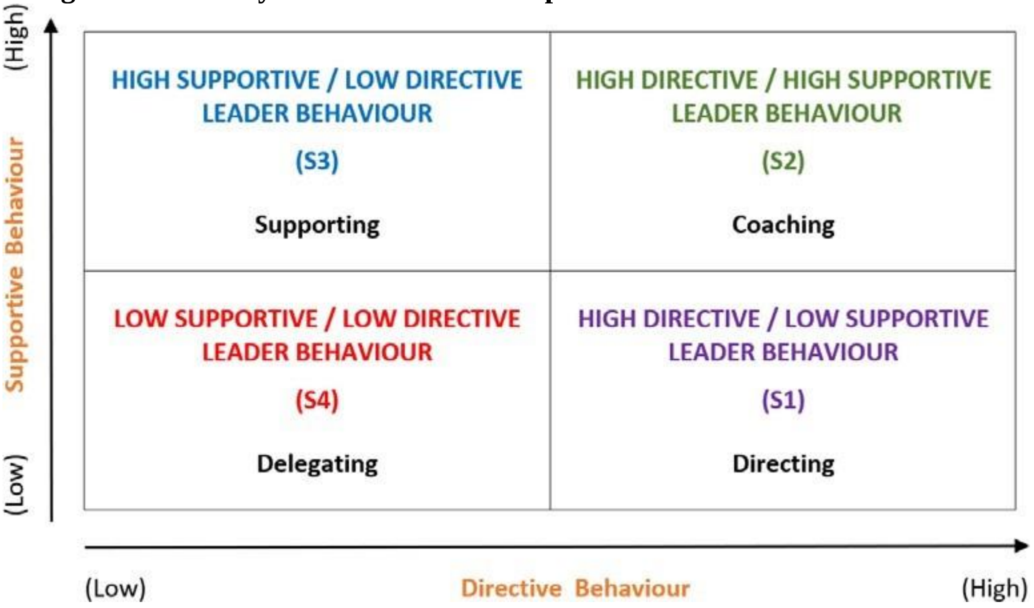
Style 1 - High task and low relationship. The ‘telling’ style is directive;

Style 2 - High task and high relationship. The ‘selling’ style is also directive but in a more persuasive, guiding manner;

Style 3 - High relationship and low task. In the ‘participating’ leadership style, there is less direction and more collaboration between leader and group members;

Style 4 - Low relationship and low task. In the ‘delegating’ style, the leader delegates and is kept informed of progress (Figure 1.1).

Figure 1. 1: **Hersey Blanchard Leadership Grid**



According to this theory the most effective style of leadership depends on the readiness level of group members. Readiness is the extent to which a group member is able and willing to accomplish a specific task. It has two components: ability and willingness. Ability is the skills, knowledge and abilities an individual or group brings to a particular activity.
Willingness refers to the extent to which an individual or group has the motivation, confidence, and commitment to accomplish a specific task. In Figure 1.1, possibly S3 has the most potential for leaders.

When there is a high level of group member readiness, a leader can rely more on relationship behaviour and less on task behaviour.

Some perspectives of an ‘integrative’ leadership theory paradigm

The theories under this ‘umbrella’ seek to blend and combine various aspects related to and stemming from the trait, behavioural and contingency theory perspectives to explain the dynamics underlying successful leadership. As you would have gathered thus far, leadership is rather complex and that is also why we believe it is useful to learn about leadership and develop one’s understanding of leadership as a point of departure for not only learning about strategic leadership, but also for management in general.

Charismatic leadership

Charisma is a Greek word meaning divinely inspired gift (Yukl 1998). In the study of leadership, charisma is a special quality of leaders whose purpose, powers and extraordinary determination differentiate them from others. (Conger & Kanungo

1988, cited in the text page 62). Charisma is a positive and compelling quality of a person that makes others want to be led by that person.

The late 20th century has been characterised by high levels of uncertainty, turbulence, rapid change and intense competition. Many organisations are struggling with the need to manage change – internal and external – to reinvent their businesses, to restructure, to adopt or invent

new technologies, and empower organisational members. These challenges have renewed interest in transformational and charismatic style of leadership.

Gardner and Avolio (1998) applied the term 'Charisma' to leader constituent relationships in which the leader has an exceptional gift for inspiration and non-rational communication.
Charismatic leaders work consciously at cultivating the relationship with group members through impression management. These leaders recognise that the perceptions of constituents determine whether they function as charismatics. Further, Gardner and Avolio contend that charismatic leaders, to a greater extent, than non-charismatic leaders, value and pursue interrelated sets of images: trustworthy, credible, morally worthy, innovative, esteemed and powerful. An implication of the impression management analysis of charismatic leaders is that they are skilful actors, presenting a charismatic face to the world.

It appears likely that a situation that encourages the followers to willingly obey the leader encourages them to be emotionally involved in the mission of the charismatic leader and their own goals. The followers must have a strong desire to identify with the leader.

Charismatic leaders tend to have unique characteristics, and many of these characteristics apply to a transformational leader – one who brings about positive, major changes in an organisation. We'll return to this theme shortly, and again in the last module of this course. Charismatic leaders are typically (and amongst others) said to include the following:

- are visionary;
- have masterful communication skills;
- have the ability to inspire trust;
- are able to make group members feel capable;
- have energy and an action orientation;
- have emotional expressiveness and warmth;
- romanticise risk;
- use unconventional strategies;
- have a self-promoting personality;
- challenge, prod, and poke;
- are dramatic and unique.

Transformational leadership

Burns (1978) suggested that power and leadership were two different things. Power-wielders were those individuals who used their power to influence followers to behave in such a way as to accomplish the leader's goals. Power wielders often saw followers as a means to an end and treated them accordingly. According to Burns, leadership is inseparable from the follower’s needs and goals. From his perspective all leaders were power wielders but not all power wielders were leaders. Burns also believed that leadership could take two forms – transactional leadership and transformational leadership.

Transactional leadership is characterised by leaders and followers being in an exchange relationship (your text, page 105). Transactional leadership is very common and tends to be transitory, for the duration of the transaction.

Transformational leadership (your text, page 104) focuses on what the leader accomplishes rather than on the leader’s personal characteristics and relationships with group members. The transformational leader facilitates major change. In contrast, the transactional leader focuses on more routine transactions and rewarding group members for meeting standards.

How transformation takes place

The transformational leader attempts to bring about change through altering the organisations culture. Seven ways in which the leader brings about such transformations are:

1. raise people’s awareness;
2. help people look beyond self-interest;
3. Help people search for self-fulfilment;
4. help people understand the need for change;
5. invest managers with a sense of urgency;
6. commit to greatness;
7. adopt a long-range perspective and observe organisational issues from a broad rather than a narrow perspective.

Qualities of transformational leaders

There are four qualities that are particularly useful in enabling them to bring about transformation (Burns 1978):

- Charisma – above all, transformational leaders are charismatic – they have vision and a sense of mission. They also have the respect, confidence and loyalty of group members.
- Inspirational leadership – part of the inspiration derives from communicating a vision with fluency and confidence. By giving emotional support and making emotional appeals, transformational leaders inspire group members to exceed their initial expectations.
- Intellectual stimulation - transformational leaders provide intellectual stimulation by encouraging group members to examine old problems and methods in new ways. The transformational leader creates an atmosphere that encourages creative thinking and problem solving.
- Individualised consideration – transformational leaders demonstrate individualised consideration by giving personal attention to group members.

According to Burns (1978), these behaviours have to take place with a specific value system and include change that involves followers’ participation in activities motivated by end values.

3. ‘Leadership’: concluding remarks_

Our aim at this point is to develop some common understanding about the concept of ‘strategic leadership’. As you can gather, when we refer to organisational leadership more generally, we are essentially concerning ourselves with leadership ‘in’ organisations. When we move into the domain of strategic leadership, there is a shift in focus though. We return to this later.

(We wish to again stress that you are strongly encouraged to read much more extensively about leadership if you do not already have a firm grasp from previous studies).

4. ‘Strategic’ as a concept_

You can’t have strategy without leadership, since they are inseparable. You can develop a sound strategic plan, but to do something meaningful with it requires courageous leadership. Having a great vision and setting a clear direction for the organisation and team lies at the very heart of leadership, and organisations that are filled with leaders who think and act strategically will be more successful than businesses with precious few leaders of this type - there’s just no question about it (Stowell & Mead, 2016).

The term ‘strategic’ derives from the noun ‘strategy’. Strategy as a concept and notion is in fact very ancient. For thousands of years rulers of nations have been thinking ‘strategy’ issues. Sun Tzu’s book *The art of war*, referred to strategy some 2500 years ago – in a military context. Machiavelli wrote about political strategy in his book *The prince* in 1513. In the nineteenth century, a famous Prussian military theorist, Carl von Clausewitz, also wrote extensively about strategy in a military context in the book *On war*. Not surprisingly, therefore, Franks (1987, p. 33), in referring to the concept of strategy, suggests it is ‘...important to review its origins in the art of war’.

In war it is important to be able to ‘compete’ and to ‘out-manoeuvre’ the enemy. In the business world it is likewise important to do the same and to ‘beat the competition’ – but it may mean that one has to collaborate with certain competitors. In the context of war it is essential to mobilise and orchestrate the military resources towards ‘winning the war’. In business contexts organisations must mobilise, develop and steer all their resources towards competitive advantage over rival organisations. Sometimes this may entail taking over resources of competitors – or even the whole of the competitor. It may mean allowing to be taken over by another organisation or a merger with a former competitor. Here we are clearly thinking of things such as take-overs, mergers and acquisitions. Sometimes it becomes necessary to get rid of certain resources – e.g. when there are decisions to downsize or ‘right- size’ organisations. This often is accompanied by changing structures. Whereas in the military context the structure or organisational form is typically very hierarchical and top- down in terms of decision-making and authority with heavy emphasis on command-and-control types of processes and systems, modern-day business organisations are not all configured around highly centralised, hierarchical, top-down structures. In fact, as you probably already know – there is a trend towards designing organisations’ structures around the organic mode – towards flexible design. Also, the essential goal of war is normally to ‘defeat the enemy’. The world of business competition is seldom that drastic. In the complex world of business rivalry the competitive spirit is usually such that there is room left for co- existence, and hence the aim is not so much the complete ‘destruction’ of ‘enemy’ organisations.

Given the similarities (especially in relation to the idea of ‘competing to survive and ultimately win’) it is little wonder that when the concept of strategy first entered the management context, it also closely resembled its military counterpart. In the context of the management of organisations and business, it was not until the mid-twentieth century that the concept of strategy was utilised and applied. In 1962, in his classic book entitled ‘Strategy and Structure’ Chandler (1962, p. 13) defined strategy as ‘the determination of the basic long- term goals and objectives of an enterprise, and the adoption of courses of action and the allocation of resources necessary for these goals’.

This is the classical view of strategy, and up until today there is a strong managerial school of thought ascribing primarily to this view of strategy. The top level military leaders (Generals) analyse the map of the ‘war-zone’ or ‘territory’ as a whole, and rationally determine and plot out a structured and directive ‘plan’ of how to mobilise all the resources. In a similar way, the top managers of companies are viewed as the strategic planners of organisations who determine the overall goals, direction and overall plans of mobilising resources towards goal accomplishment. They are the ones viewed as being able and responsible for doing the extensive long-term rational planning for the organisation as a whole. Because of its rational, analytical and structured characteristics, this view is also referred to as the ‘design school’ of strategy. The top-level managers are the strategists and they are the people who will objectively analyse the organisation’s external and internal environments, and based on these analyses they’ll make rational choices and decisions, they will formulate objectives, craft strategy and design a blueprint of the organisation’s required infrastructure resources (sometimes referred to as the organisational ‘architecture’). They will then also, according to this classical viewpoint, take certain actions to get this ‘overall game plan’ implemented in order to achieve the formulated objectives or goals.

It should however be noted that over time scholars and practitioners alike have learned that this neat and tidy view of strategy is not fully reflected in the ‘real world’. As Hill and Jones (2001, p. 5) explain: ‘Although the view of strategy as the product of a rational planning process driven by top management has some basis in reality, it is not the whole story …not

all of an organisation’s strategies result from formal strategic planning exercises. Valuable strategies often emerge from deep within the organisation without prior planning.’

Whittington (1993) refers to the so-called evolutionary, processual and systemic perspectives of strategy which, over time, have come to augment our views of what strategy is all about. The evolutionary perspective holds that strategy ‘emerges’ in response to turbulent environments. The environment is hence viewed as dominant, dictating how organisations will ‘respond’. Organisations and their ‘strategy’ (if it can be called that at all) are viewed as being relatively reactive, and they simply co-evolve with their environments. The processual perspective builds on this view, but proposes that strategy emerges as part of and from much more complex processes. It is not merely a case of rational, top-down decision-making.

Organisations are seen as being far too complex for such a simplified viewpoint. Strategy, according to this perspective, is seen as evolving from and emerging as a complex process of pragmatic interactivity and compromise between various organisational stakeholders, role- players and constituents. Both the processual and evolutionary perspectives therefore view strategy, and the processes of strategy-making and 'making-strategy-work', as containing elements of what is often called 'emergence', 'incrementalism' or 'logical incrementalism'. These processes are viewed as being less structured, not all-rational, often non-deliberate and much more diffused. There is also much less emphasis on the clear-cut distinction between strategy formulation and its implementation. Viljoen and Dann (2000, pp. 63-4) explain:

> *'Logical incrementalism (as the incremental approach is normally termed) requires management to move towards change in an evolutionary way… it does not require a sequential model of strategy (analysis, choice, implementation, evaluation) such as the formal mode… Rather, strategy implementation is the continual testing of small-scale projects, and the adoption of the scaling up of those projects that work… the incremental approach does not imply an ad hoc approach. The organisation still needs a solid sense of purpose and direction …'*

Thus, there are different authors with different scholarly backgrounds ascribing to different 'schools of thought'. This we have to accept. Even so, we don't have to accept any single definition of 'strategy' as the absolute truth if we want to come to a better understanding of what it entails. What we can do rather, is to scrutinise some of the relevant literature and build up our own understanding of what strategy means. Then we can go on and try to make more sense of what the concept 'strategic leadership' means and what it should revolve around. Let's begin by looking at different literature-based definitions of the concept of strategy in a business or organisational context.

Pettigrew (2003, p. 333) explains that 'affective' (in the form of action) concepts of organising and strategizing are necessary for capturing the momentum of continuous improvement toward managerial action and success. Thompson and Strickland (2001, p. 3) also describe strategy as 'game plan management for staking out a market position and conducting its operations. It entails managerial choices among alternatives and signals organisational commitment to specific markets, competitive approaches, and ways of operating. It consists of a combination of competitive moves and business approaches to please customers, compete successfully, and achieve organisational objectives.' From this definition the support for the classical viewpoint of strategy can clearly be detected.

Johnson and Scholes (2002, p. 10) in turn define the term strategy as: 'the direction and scope of an organisation over the long term, which achieves advantage for the organisation through its configuration of resources within a changing environment and to fulfil stakeholder expectations.' Johnson and Scholes (2002, p. 10) also list the following five consequential

characteristics of strategy: Strategy and strategy-related decisions are **complex**, made under conditions of **high uncertainty** in general and mostly **involve change**. Furthermore strategy related issues and decisions require an **integrated** approach because it involves cross- functional issues and views. Lastly, they mention that strategy goes beyond the boundaries of the organisation, and hence **involve relationships and networks outside the organisation**.

Singh and Useem (2016) provide the example of IKEA to illustrate setting company strategy.

Company strategy can be defined as setting the firm's general direction and identifying what creates sustainable value and advantage for the firm. And underpinning the strategy is a broader vision with aspirational goals, providing both an overarching trajectory for the firm and an inspiration for employees to achieve it. Consider by way of example the vision statement of IKEA, the Swedish-based home furnishing company with more than 350 stores in 46 countries and annual revenue of more than $30 billion in 2015: "At IKEA our vision is to create a better everyday life for many people. Our business ideas support this vision by offering a wide range of well-designed, functional home furnishing products at prices so low that as many people as possible will be able to afford them." The company's strategy is to provide exceptionally low prices that other providers cannot sustain, making IKEA's products more affordable to more customers. At the same time, the company promises a smaller sacrifice in the aesthetics of its less costly products, stressing that the products will be well designed and the company not stigmatized as a cut-rate brand. And in "creating a better everyday life for many people," IKEA has included its own employees, not just customers, paying workers above market wages.

Setting company strategy, in the way that IKEA has, requires that leaders devote time and thought to five sets of questions:

***Vision**. Do you have an inspirational statement of purpose and direction for the organisation? What is your winning aspiration? How does this drive your organisation's goals, sense of purpose, and approach to competition and achievement of ambition?*

***Competitive positioning.** How is the firm positioned in its markets? The time-proven concepts of competitive strategy are of primary concern here, including the influence of suppliers, the likelihood of new entrants, and the threat of substitutes.*

***Value proposition**. What are the company's own features that create value - or destroy value - that are subject to a manager's discretion? Competitive advantage. Given the external and internal factors, what decisions by a manager can create additional advantage for the enterprise in the market? Expressed negatively, what bad decisions or cases of indecision can result in disadvantage?*

***Strategic redirection.** In light of answers to the prior questions, is the enterprise due for a course correction?*

From this discussion we can now try to arrive at a summary of 'strategy' in our own organisational context.

We reckon that any definition/description of strategy in an organisational context must somehow also refer to the overall and unifying way/s in which organisationsmobilise all resources to compete, survive and thrive over the long run, within complex and ever- changing environments, to optimally satisfy all stakeholders.

Strategy is the primary concern of top-level managers mainly. This doesn't mean that strategy is not also the concern of other managers and employees though. Quite to the contrary – one of the key challenges for top-level leaders is exactly that: to make organisational strategy filter throughout the organisation so that each and every member of the organisation feels that they 'own' part of the strategy and take part actively in its formation as well as execution or implementation.

In this course we therefore take a distinct perspective of leadership. The leadership topics or themes covered in this course are pitched primarily at the upper echelons of organisational leadership. This requires us to consider leadership through a strategic lens, rather than an operational lens. There are, as mentioned earlier, other courses that focus on more operational issues that are important for the day-to-day practice of leadership in organisations. MGT8039 however, requires thinking about the leaders and leadership issues that are the primary concern of the most senior organisational leaders. We concern ourselves with leadership dynamics that go beyond the 'management' of the organisation, dynamics pertaining to the relationship between the organisation, its top-level management and also the owners, other key stakeholders and the general environment of the organisation. The latter dynamics thus include in particular also the whole issue of organisational purpose and governance. In all of this, the underlying theme is strategic thinking.

Strategic thinking relates to thinking about the competitive advantage of an organisation and how to achieve it. Strategic leadership relates to steering the organisation towards achieving long-term visions by creating competitive advantage. Top-down leadership and bottom-up management practices are essential in this quest.

Johnson and Scholes (2002, p. 44) explain that managers as human beings 'are able to function effectively not least because they have the cognitive capability to make sense of problems or issues … when they face a problem they make sense of it in terms of the mental models which are the basis of their experience.' Important however, as these same authors argue, is the fact that these mental models not only help and guide our strategic thinking and decisions but it may also limit or constrain our ability to make sound strategic choices and decisions that are appropriate in terms of time and place. It is in this context that Rosabeth Moss Kanter (1998, pp. 3-4), in her article 'Rethinking Your Strategy', says the following:

> *Today's leaders must change their strategic thinking if they are to guide their companies to success…To succeed in the global economy, businesses need the best and latest ideas and technologies…they must create new concepts to change the rules of the game, deliver higher value, and constantly innovate … The new strategic planning process must unlock the power of imagination of people so they can contribute ideas to improve and redefine the business concept…People don't become assets until what they know is deployed on behalf of the customer…That knowledge is valuable only when it is passed on…through the rapid spread of best practices and then used on behalf of the customer.*

Strategic thinking is therefore central to strategic leadership – and strategic management.

It is now perhaps the appropriate time to draw the distinction between strategic management and strategic leadership.

In essence, from the perspective of the design school of thought, strategic management entails two distinct but closely intertwined sets of tasks, namely that of 'strategy-making', and that of 'making strategy work'. Some distinguish between **strategy formulation or formation and strategy implementation or execution**. Others refer to the former as strategic planning. As we have explained already, in practice these two sets of 'tasks' are closely intertwined with boundaries between them mostly being vague and fuzzy, rather than clear-cut and rigid. Is strategic leadership concerned with strategy-making? Does it concern itself with strategy execution or implementation? Where and how do these two connect or relate – strategic management and strategic leadership? Or don't they at all? These are important questions to guide your own thinking about this field. We trust that as the course further unfolds throughout the semester, you will gain greater clarity in your own mind about these (and related) issues/questions.

In 1984 Wernerfelt's classical conceptual article published in *Strategic Management Journal* entitled: 'A resource-based view of the firm', stating that, 'for the firm, resources and products are two sides of the same coin.' (Wernerfelt 1984, p. 171), it is clear that from the perspective of the resource-based view of strategy, people form a key building block of developing the competitiveness of organisations.

Building on this early conceptual work Dierickx and Cool (1989, p. 1504) for instance reminded scholars and practitioners of strategy, that managers often fail to recognise that a bundle of assets, rather than a particular product market combination chosen … lies at the heart of their firm's competitive position. Barney (1991) also contributed to this then- evolving school of thought and made an in-depth analysis of the resource-based-view of strategy, illustrating that organisational resources are the key determinants underlying the performance of organisations – in particular when these organisational resources are unique and firm-specific, valuable, rare or scarce, difficult to imitate, difficult to transfer and non- substitutable. This, the resource-based view of strategy proposes, forms the best platform on which to craft and build strategy that can yield sustainable competitive advantages over rival organisations in the long run. In a very similar vein and at about the same time, Robert Grant wrote an article in *California Management Review* (1991, pp. 114–35) entitled 'The resource-based theory of competitive advantage: implications for strategy formulation'. Grant (1991 in Zack 1999, pp. 5–7) explains:

> *The starting point for the formulation of strategy must be some statement of the firm's identity and purpose ... Typically the definition of the business is in terms of the served market ... But in a world where customer preferences are volatile, the identity of customers is changing, and the technologies for serving customer requirements are continually evolving, an externally focused orientation does not provide a secure foundation for formulating long-term strategy. When the external environment is in a state of flux, the firm's own resources and capabilities may be a much more stable basis for strategy ... While resources are the source of a firm's capabilities, capabilities are the main source of its competitive advantage.*

As Grant (1991) explains (in Zack 1999, p. 10): 'Creating capabilities is not simply a matter of assembling a team of resources: capabilities involve complex patterns of coordination between people and between people and other resources.'

From the foregoing it should be quite clear that with the coming of this school of thought, renewed impetus has been given to the notion that it is, to a large extent, the people of an organisation, and what they know and can do, and how all of this is harnessed – that forms the cornerstone of creating sustainable competitive advantage. This puts the human resource and the leadership capabilities of any organisation squarely at the centre-stage of strategy and the competitiveness or organisations. According to our approach, strategic leadership is meant to bring about this emphasis on the people side of the strategic dynamics of organisations.

You should now embark on some further reading – blending what your own views were or still are, with what you have read thus far and then, crucially, also with the perspectives of others below.

1.2 Synthesis: ‘strategic leadership’ – meaning, scope and perspectives

When we are focussing on strategic leadership we are concerning ourselves with the leadership ‘of’ organisations – because the emphasis falls on leading any organisation as a whole. This is in line with Storey’s (2005) approach. Let’s now try to summarise what we regard as strategic leadership.

The literature on strategic leadership is summarised in Table 1 (Duursema, 2013, p.50):

Table 1: Literature review on strategic leadership according to Duursema (2013, p.50)

Author(s)	Definition/description of Strategic Leadership
Hosmer (1982)	*Strategic leadership is a consistent analytical and development approach to strategy, structure and systems of an organisation and is the true responsibility of the general manager of that organisation.*
Schendel (1989)	*Mounting evidence suggests operating leadership differs from strategic leadership. The set of responsibilities each term implies differs substantially, in scope of the organisation covered, in the kind of choices to be made, the basic irreversibility of these choices, and therefore in the risks incurred, the size of the resources committed, and the overall importance and complexity of the tasks covered.* *Despite these differences, those who are charged with leading the total organisation must see to both operating and strategic leadership responsibilities.*
Shrivastava and Nachman (1989)	*Strategic leadership of organisations remains an under-researched topic, and a sacred cow restricted predominantly to upper echelons of organisations (Hambrick and Mason, 1984). This study challenges the assumptions that only chief executives provide strategic leadership in organisations. Strategic leadership refers to the creation fo an overall sense of purpose and direction which guide integrated strategy formulation and implementation in organisations (Hosmer, 1982).* *Strategic leadership involves interaction among individuals in dyads, and groups (micro-level variables) and organisations (macro-level variables).*
Vicere (1992)	*The notion of strategic leadership as a focal point for redefining executive development and organisational competitiveness can help create the dynamic tension essential to learning – the ability to stay the course while ‘rocking the boat’ to enhance organisational readiness and competitiveness in an unpredictable environment.*
Hitt et al (1994)	*One of the most critical characteristics of effective downsizing is sustaining strategic leadership. Firms undergoing restructuring and downsizing encounter the paradox of attempting to improve short-term efficiency while maintaining long-term competitiveness. Strategic leadership entails the ability to integrate short- and long-term visions of the firm.*
Wilson (1996)	*Strategic leadership goes beyond mere managerial competence. Not that we should now embrace leadership at the expense of abandoning management, any successful organisation needs both.*

Boal & Hooijberg (2001)	*Supervisory theories of leadership are about leadership 'in' organisations. Strategic theories of leadership are concerned with leadership 'of' organisations (Hunt, 1991) and are 'marked by a concern for the evolution of the organisation as a whole, including its changing aims and capabilities' (Selznick, 1984, p.5). Strategic leadership focuses on the people who have overall responsibility for the organisation and includes not only the titular head of the organisation but also members of what is referred to as the top management team or dominant coalition (Cyert and March, 1963).*
Rowe (2001)	*Strategic leadership is the ability to influence others to voluntarily make day-to-day decisions that enhance the long0term viability of the organisations, while at the same time maintaining its short-term financial stability. Working through the paradox of leading and managing is demanding and difficult. Executives should start thinking of themselves as strategic leadership who have to accept and merge the visionaries and managerial leaders in their organisations.*

Hitt et al. (2002)	*A new type of strategic leadership is required to help firms successfully navigate the dynamic and uncertain environment in which they compete today. The strategic leadership needed in 21st century firms is involved with building company resources and capabilities with an emphasis on intangible human capital and social capital. Strategic leadership is a person's ability to anticipate, envision, maintain flexibility, think strategically, and work with others to initiate changes that will create a viable future for the organisation. Leaders at all levels of the organisation should develop this ability, indicating the fact that strategic leadership can be exercised by first, middle- and top level managers.*
Sosik et al. (2005)	*To fully connect people and technology systems requires top executives to display outstanding strategic leadership that focuses on both strategy and people. The phase 'strategic leade4rship' emerged from work on strategic management and consists of: 1) determining strategic direction; 2) exploring and maintaining unique core competencies; 3) developing human capital; 4) sustaining an affective organisational culture, 5) emphasizing ethical practices; and 6) establishing balanced organisational controls.*
Taylor-Bianco and Schermerhorn (2006)	*Strategic leadership involves activating agendas that infuse organisations not just with change visions, but also with sustained capacity for change implementation. Therefore, the leadership needs to accept the change/stability paradox in order to understand the complexity of change as a collective and multi-level organisational competency (Denis et al. 2001).*
Boal and Schultz (2007)	*Strategic leadership pushes organisations to the 'edge of chaos' and 'out of stasis' without it no significant change can emerge. Strategic leadership promotes 'strange attraction' in organisations, providing balance between the inertia of Weberian-style bureaucracy and anarchy. To appreciate the ways in which strategic leadership impacts organisations, it is useful to discuss organisations as complex adaptive systems with strategic leadership providing the balance between complete stability and unmanageable disorder.*
Crossan et al. (2008)	*More research is needed on what leaders do to deal with the unique challenge posed by highly dynamic contexts. Adopting a cross-level mixed effect model, this study proposes transcendent leadership as a framework for the key responsibilities of strategic leaders in today's dynamic contexts. A transcendent leader is a strategic leader who leads within and amongst the levels of self, other and organisation.*

Rowe and Nejad (2009)	*The ability to influence others in the organisation to voluntarily make day-to-day decisions that lead to the organisation's long-term growth and survival and maintain its short-term health.*
Jansen et al. (2009)	*Strategic leadership is important in pursuing exploration and exploitation, by means of influencing organisational learning and innovation.*

The following conclusions can be deducted from the literature (Duursema, 2013): Some argue that 'leaders at all levels of the organisation should develop this ability,
indicating the fact that strategic leadership can be exercised by first-, middle, and top-level managers" (Hitt and Ireland, 2002, p.4). Others focus on the people who have overall responsibility for the organisation and includes not only the titular head of the organisation but also members of what is referred to as the top management team or dominant coalition.

Effective strategic leadership is about the tension between short-term and long-term, change and stability, bureaucracy and anarchy.

Strategic leadership is about the ability to synthesise short- and long-term visions of the organisation.

'Strategic leadership is the ability to influence others to voluntarily make day-to-day decisions that enhance the long-term viability of the organisation, while at the same time maintaining its short-term financial stability' (Rowe, 2001, p.81-82).

'Strategic leadership involves activating agendas that infuse organisations not just with change visions, but also with sustained capacity for change implementation. Therefore, the leadership needs to accept the change / stability paradox in order to understand the complexity of change as a collective and multi-level organisational competency' (Taylor- Bianco and Schermerhorn, 2006, p.459).

'Strategic leadership promotes "strange attraction" in organisations, providing balance between the inertia of Weberian-style bureaucracy and anarchy. To appreciate the ways in which strategic leadership impacts organisations, it is useful to discuss organisations as complex adaptive systems with strategic leadership, providing the balance between complete stability and unmanageable disorder' (Boal and Schultz, 2007, p.412).

These descriptions point to the continuing and all-encompassing issue that an organisation's long-term success depends on its ability to exploit its current capabilities while simultaneously exploring fundamentally new competencies (Duursema 2013).

A more recent perspective is that strategic leadership is encompassed by two main things:

- Fulfilling ones regular leadership responsibilities in a proactive, forward-thinking way.

- Incorporating a specific collection of qualities and characteristics into your leadership style as you lead your team and execute strategic objectives and plans.

(Stowell and Mead 2016)

Generally, there are only a few differences between normal, day-to-day leadership and strategic leadership, but theses differences are distinctive and large. It really has to do with the way leadership principles are applied. Both fulfilling today's expectations, and a deep care about defining and focusing on a future agenda that focuses upon the few things that really matter, are the domain of strategic leadership. Outlining a long-term vision for your organisation helps the strategic leader allocate scarce resources wisely and channel the collective effort of the organisation and its teams. This enables the strategic leader to seize opportunities, head off threats, and achieve better results down the road.

Thinking, planning, and acting strategically aught not be considered solely a responsibility of senior leadership. All leaders, at all levels, are responsible for envisioning what they want in the future. These leaders hep their team members see the long-term vision clearly and create a strategy and plan for what can be called their business-within-the-business. This is done by exploiting new opportunities to create and leverage new sources of competitive advantage and unique, value-added offerings for their customers.

However, in this course there is a greater emphasis on the perspective that strategic leadership is primarily on the upper-most leader echelons of organisations, and their abilities and efforts to mobilise all the relevant people, other resources and stakeholders to collaboratively work towards organisational success and sustainability over the long term.

These upper-most leaders typically work as senior managers in their organisations and are often part of leadership structures like Boards of Directors (BoD's in short) and top management teams (TMT's). However, keep in mind as pointed out above, that even though we focus on role-players like executive and non-executive directors, Chief Executive Officers (CEO's) and those chairing BoD's, we are not hereby saying that strategic leadership is limited to these highest organisational levels of leadership. We are indeed of the view that a key challenge of strategic leadership is the art distributing appropriate leadership dynamics throughout organisations. In line with Hughes and Beatty (2005) we regard it as central to strategic leadership to get as many as possible people who are involved with an organisation, to think and behave or act in ways that have the effect of positively and constructively influencing other people and resources toward making organisations successful over the long term, and contributing to sustainability.

Hence, there has been a significant shift of organisations to expect their leaders to be much more forward-thinking and proactive than they ever have before. Stowell and Mead (2016) observed that there are a handful of important characteristics that differentiate strategic leaders from leaders of other types, and that organisations often have a leadership- competency model with a dimension that addresses the ability to think and act strategically. Some examples taken from real organisations and their expectations, highlights the necessity of strategic leadership today. Some of these Leadership-Competency Models according to Stowell and Mead (2016), include:

Organisation 1

Thinks and acts strategically

- Sees the big picture

- Ensures alignment with overall strategies
- Understands long-term priorities
- Recognizes emerging patterns and trends
- Creates a compelling vision
- Courageously drives change
- Thinks creatively
- Is insightful and sees things from a new angle
- Is willing to experiment
- Anticipates customer needs

Organisation 2

Leading growth: Makes strategic decisions

- Makes decisions to drive long-term success
- Considers the future in making decisions
- Translates strategy into practical steps for execution
- Uses strategy to set and explain priorities
- Seeks innovative ways to contribute to the growth of the business

Organisation 3

Acts strategically

- Is future-focused and sees the big picture, business trends, and implications
- Is a source of fresh perspectives and challenges 'the way it has always been done' objections

Organisation 4

- Thinks and acts strategically
- Thinks about future trends and consequences which highlight opportunities to take action and shape the organisation's future
- Seeks to understand the business's strategic direction
- Identifies and articulates a compelling strategy and strategic vision for the future

- Demonstrates a big-picture view of the business
- Anticipates future business trends accurately and responds quickly and effectively
- Identifies new business processes that are key to future success

We regard strategic leaders as simultaneously ‘dream-makers’, ‘path seekers’, ‘path finders’, ‘path travellers’ and ‘path makers’. Finding and crafting ‘the path’ is considered by most to be the first fundamental challenge of strategic leadership. In terms of Nicholls’ (1994) ‘strategic leadership star’ this is the first point of the five-point star – defining the purpose of the organisation – its ‘reason for being’ – or ‘raison d’etre. You should now embark on some further reading – blending what your own views were or still are, with what you have read thus far and then, crucially, also with the perspectives of others.

1.3 Future research and trends

In terms of future research, we quote from Storey’s article (2005):

> *Given the collective and political nature of governance, leadership and strategic management at senior group level, there are limits to the value of studies which focus entirely on the demographic characteristics and personality traits of CEOs or other individual corporate leaders such as chairman, managing director, director general or president. ... The recommendation in this paper has been some shift ... As has been noted ‘leadership interaction style has received, so far, the most attention in the literature’ ... The main unit of analysis has been the relationship between a leader and his/her followers.*
> *The purpose of this article has been to show how other units of analysis and other thematics deserve at least equal attention. Storey (2005, p. 102).*

Thus, it is suggested that a future research agenda for upper echelon leadership could and should comprise some systematic analysis of the following themes:

- Power and spheres of influence at top levels. The way in which leaders are embedded within webs of influence, constraints, alliances and politics requires much more study than has so far been undertaken.

- Leadership as one means of handling the conflictual nature of organisational life. This theme would examine leaders discourse, most especially the way leaders derive their influence from drawing on appropriate (i.e. the most persuasive at the time) wider set of regimes of truth.
- What are the valued (or expected) functions of the senior group? What, at minimum, do their different stakeholders judge should be the contributions which they are expected to make? How does the bounded, relational nature of leaders of organisations’ roles shape the exercise of those roles and crucially, to what extent, and how can some players break free of, or at least stretch, these boundaries?
- What competences are required in order to discharge these expected functions effectively?
- Comparative interpretations and sense-making – how top group members think and act. In particular, how do those in senior leadership positions interpret their roles? What do they think people in their positions should be doing? What range of beliefs and assumptions do members of the senior group have?”

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Module 2 - Corporate governance: issues and perspectives

Overview

In the first module our aim was to introduce you to strategic leadership and discuss some issues and challenges associated with this subject area. In this module we introduce the topic of corporate governance and where corporate governance fits with strategic leadership. We start this module by discussing what corporate governance means and the three prominent theoretical perspectives that pertain to corporate governance. In the rest of the module we provide the opportunity to take a more in-depth look at corporate governance.

Objectives

At the completion of this module, you should be able to:

- explain the scope of corporate governance
- analyse and critically discuss various top-level leadership roles and structures
- engage in meaningful discussion and debate about corporate governance failure
- provide an overview of corporate governance from international perspectives
- analyse and critically discuss the role of transparency in corporate governance

Learning resources

Texts

Solomon, J 2014, *Corporate governance and accountability*, 4th edn, John Wiley & Sons, Chichester.

Selected readings

1. : Carroll, AB & Buchholtz, AK 2000, ‘The stakeholder management concept’, chapter 3 in *Business & Society*, South-Western College Publishing Ohio, pp. 63–90.

2. : Mallin, CA 2007, ‘Shareholders and stakeholders’, chapter 4 in *Corporate governance*, Oxford University Press, Oxford, pp. 49–59.

3. : Waine, P 2002, The chairman and the CEO’, in *The board game: a director’s companion for winning in business*, Wiley, Chichester, UK, pp. 2–20.

4. : Howe, F 2004, *The nonprofit leadership team: building the board-executive director partnership, extracts/chapters*, Jossey-Bass, San Francisco, pp. 3–7, 9–15, 17–21, 23–6.

5. : Kriger, M &Zhovtobryukh, Y 2013, ‘Rethinking strategic leadership: stars, clans, teams and networks’, *Journal of Strategy and Management*, vol. 6, no. 4, pp. 411-432, https://doi.org/10.1108/

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8. : Maitlis, S 2004, ‘Taking it from the top: how CEOs influence (and fail to influence) their boards’, *Organization Studies*, vol. 25, no. 8, pp. 1275–311.

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2.1 Corporate governance: an introduction

Some argue that corporate governance is the core of strategic leadership. In your prescribed textbook, Solomon (2014) explains that the term governance comes from the Latin word gubernare which means ‘to steer’. It thus essentially refers to steering the organisation in a particular direction. There are many different definitions of corporate governance.

2.2 Corporate governance: different top-level role-players, structures, dynamics, and contexts

Solomon (2014) argues that for an organisation to be successful it must be governed well and effectively and she explains that ‘executive management’ should be monitored by company Boards. Thus, w efind different roles and role-players ‘at the top’. We will now firstly take a closer look at some of the role-players and structures involved in strategic leadership.

2.2.1 The Board and its role

In the first section of this module, you have been exposed to the issue of separation of ownership and control. You have learned about positive agency theory. Can you recall these?

In terms of this theory, one should be mindful that generally Boards of Directors protect the interests of the owners of organisations (in the case of companies, the shareholders) – they govern – they direct and control on behalf of the owners. The CEO and his/her Top Management Team (TMT) (together with all the other managers) are typically not owners, but they are employed as employees who have to manage and control the resources of the organisation to the best of their ability in order to achieve what the Board of Directors, on behalf of the owners, set out to achieve. According to this perspective, the Board’s role is to set out ‘**what**’ needs to be achieved (the ‘ends’, or expected and desired ‘results’), the CEO and his/her management cadre have the responsibility to set out ‘**how**’ to achieve these (the ‘means’) and to actually work towards achieving these as best as they possibly can.

Carver and Oliver (2002) put forward a particular model for the role of the corporate Board (Boards of profit-seeking organisations – companies or corporations in particular). According to this model, the structural design for top-level leadership should serve to facilitate the separation of ownership and control of companies. They argue that if one wants to know what the role of a Board is, one has to ask the basic question, 'Why do Boards exist'? Carver and Oliver (2002, p. 3) argue that one needs to determine where the Board's authority come from, what the reason is for the Board being given that authority, and what the nature of that authority entails. These authors then go on to explain that the source of Board authority is the owners (or shareholders) of companies. As they (Carter & Oliver 2002, p. 5) put it: '...the notion of Board authority as a distinct kind of authority occurs only when there is a gap between the ownership of assets and the management of those assets. The Board's position is, therefore, to act as the link between owners and management - directing and controlling the company on the owners' behalf'. These authors conclude that 'a Board is a body accountable to the owners as a whole that operates as the highest initial authority in a company, and therefore the value it creates is 'translating the owners' wishes into company performance' (Carver & Oliver 2002, pp. 7–8).

In reflecting on the role/purpose of the Board above, you are challenged to think 'where does the customer fit into all of this' (the second point of the strategic leadership star)? Or, 'what do the owners or shareholders really want at the end of the day'? It is absolutely essential to reflect on these kinds of issues and questions because these and similar issues/questions will stimulate the kind of strategic thinking that is required by strategic leaders. We need to reflect on such issues/questions in order to grasp what the role of the Board is. Carter and Lorsch (2004, p. 18) suggest that Boards 'must go back to the basic questions starting with their roles'. They argue that in reality the diversity of shareholders (or 'owners') makes it largely a matter of strategic choice left to the Board as to what role it should play. They suggest that it is not an unimaginable fact that the only role of Boards is to enhance shareholder value (Carter & Lorsch 2004, p. 55): 'Boards need to recognise that they have a choice to make in defining the goals of their activities. Beyond shareholders, Boards do also accept responsibility to other stakeholders. This broader approach is not necessarily inconsistent with their responsibility to shareholders.

In order to further reflect on this whole issue of the role of Boards, and specifically in the context of organisational purpose, you should now engage in some further reading.

First, read **Selected Reading 2.1** which is chapter 3 as extracted from the book 'Business and Society' by Archie Carroll and Ann Buchholtz (2000). The purpose of this reading is to facilitate some baseline understanding of what this whole concept and notion of 'stakeholder' and the stakeholder view of the company entail.

Now read the following quotation from Dunphy, Griffiths and Benn (2003, pp. 3–5):

We are faced with an extraordinary situation. Never before in the history of the world has the viability of much of the life on this planet been under threat from humanity; never before have so many of the world's people experienced such material wealth and so many others lived in abject poverty; never before have so many had such interesting and fulfilling work and so many others such degrading work or no work at all. If we are to live healthy, fulfilling lives on this planet in the future, we must find new life-affirming values and forge new patterns of living and working together.

The critical situation in which we find ourselves has been brought about by multiple causes but one important contributing factor is the rise of the corporation.
Corporations are the fundamental cells of modern economic life and their phenomenal success in transforming the earth's resources into wealth has shaped the physical and social world in which we live. The powerful dynamism of modern organizations has transformed nature and society. The central question to be answered in this century is whether the current model of the corporation needs to be

> *modified to contribute to the continuing health of the planet, the survival of humans and other species, the development of a just and humane society, and the creation of work that brings dignity and self-fulfilment to those undertaking it. And if so, how?*
>
> *In this book we argue that some traditional organizational values and forms are not sustainable and, unless significantly reshaped, will continue to undermine the sustainability of society and the planet. Corporations have contributed to the problems outlined above and they must therefore be part of the answer. Fortunately their transformation is already underway, driven in part by the changing demands of modern society and also by the leadership of far-sighted and responsible people within and outside corporations who see the need for change. Some of the most important changes in history have been created by people of vision and imagination who were not content simply to react to events about them, but to envisage the possibility of a different world and to initiate action to bring the new reality into being.*
>
> *In our view, many corporations need to change significantly the way they do business However, we are not arguing that corporations are the enemy. We are arguing that new circumstances require new responses. The crises faced by humanity can only be resolved by the use of concerted corporate action.*

Corporations are instruments of social purpose, formed within society to accomplish useful social objectives. If they do this, they have a right to a continued existence, a licence to use resources, and a responsibility to produce socially beneficial products and services. However, if they debase human life, act with contempt for the community of which they are part, plunder and pollute the planet, and produce 'bads' as well as 'goods', they forfeit their right to exist. They become unsustainable because they are unsustaining. The single-minded pursuit of short- term profitability for shareholders or owners does not justify a 'couldn't care less' approach to people and the planet. Responsible resource stewardship is a universal requirement for all of us, individually and collectively.

For those who are prepared to act with purpose and direction in reshaping the organizational world, this is perhaps the most exciting period in human history. Each generation faces its challenges. But this and the next two or three generations will be decisive in determining whether more humans, than have ever lived on this planet, can create the collaborative institutional forms needed for our survival and the survival of those other precious life forms who share this planet with us. And beyond survival, to create innovative institutional forms to provide us all, and those who come after us, with a quality of economic, social and cultural life that nurtures and develops our human capabilities.

You should now read **Selected Reading 2.2** by Mallin, which is an extract of most of chapter 4 from her book 'Corporate Governance'. Take note of the guidance that she points to in relation to how corporate governance systems might accommodate and balance the interests of various stakeholder groups.

Do you believe that corporate governance and those responsible for it should focus solely on the interests of the shareholders – or should it go beyond that?

This is an important issue from a strategic leadership perspective and we return to it later in the course.

You should by now be starting to shape your own perspective and views about organisational purpose and the role of the Boards of companies. Next, we can briefly reflect on the roles of, and some dynamics related to, the Chief Executive Officer (CEO), the Chair of the Board of

Directors (or, as Carver & Oliver (2002) propose – the Chief Governing Officer), and top management teams.

2. The Chairman, the chief executive officer (CEO), top management teams (TMTs), and non-executive Directors

Dailey and Schwenk (1996, p. 185) state categorically that the 'concept of strategic leadership would include the roles of CEOs, groups of highly ranked members of the corporation, more widely defined as top management teams (TMTs), and Boards of Directors'. There is, however, a particular aspect related to these roles that has been subjected to continuing research, debate and controversy – namely the role of the CEO, and that of the Chairperson of the Board and, in particular, the relationship between these two (if not combined and fulfilled by one person). As Carter and Lorsch (2004, p. 98) say: 'No aspect of Board practice creates more debate than the question of whether the Chairman and CEO roles should be separate or combined'. Let's get you into some more reading about this issue (as well as some other aspects).

Reading activity 2.5

You should now read the adapted extracts below that come from the book of Carver and Oliver (2002):

- The section 'The role of the Chair' (Carver & Oliver 2002, pp. 35–7)
- Appendix B from Carver & Oliver (2002, pp. 127–9)
- Appendix C from Carver & Oliver (2002, pp. 131–6).

The role of the Chair

We believe that the Chair's role is one of the most important keys to unlocking Board potential, and we are therefore going to give it considerable attention. To begin with, we return to our point that noone in a company or on a Board has any authority, or indeed any role at all, unless the Board grants it. Governing authority is vested in a group of equals in which no one member has authority over another and certainly no one member has any authority over the group as a whole. But, given this fact, by what process then will the Directors all have their say and their opportunity to convince? By what discipline beyond the persuasiveness of members' arguments will individuals be prevented from dominating the group? Who will safeguard the integrity of the process while members are engaged in forceful and thoughtful interchange?

*The most obvious, and we believe most logical, mechanism for protecting and advancing the Board in its work as a responsible group is the office of the Chair. (We are reluctant to use the word **Chairman** due to its gender specificity and the word **Chairperson** due to its awkwardness. Please indulge our use of the almost equally awkward **Chair**.) We are talking here about the role of the Chair in relation to the Board's process,* **not** *to the supervision of management. (We deal later with removing any management supervision connotations the role has acquired.)*

Dealing with groupness**. The Chair role is created by an authoritative group that is unwilling to default on its group responsibility and that recognizes default will be likely if it* *operates without a leader. Necessary though the Chair role is, however, if it is given too much authority, it can undermine the group's responsibility. Even when the Board does not formally overempower the Chair, there is the danger that it may do so unintentionally. In other words, the most common solution to the undisciplined tendencies of* ***groupness *is itself the greatest threat to achieving a responsible group. The purpose of the Chair position is not to relieve the group of its difficult groupness but to help it deal competently with its group nature. The Chair who 'saves' the Board from its responsibility is undermining the entire reason for the Board's existence. A competent Chair who keeps the Board to its word is priceless.*

Providing servant-leadership*. The Chair works for the Board, not the reverse. He or she becomes servant to the Board in order to fulfil its group need for leadership. The Chair's role is, on behalf of the Board, to see to it that the Board gets its job done. Philosophically, the guiding concept should be that of* ***servant-leadership****, as conceived by Robert Greenleaf. The Board Chair is a leader, to be sure, but his or her leadership is legitimized only by its underlying servanthood. The Chair sees to it that the Board runs itself, but he or she has authority only when acting within the domain delegated by the group. Directors, in effect, demand that the Chair act in such a way that they as individuals can transform themselves into a responsible body.*

Wielding the gavel*. Perhaps it is possible for a group without a leader to talk as a group, decide as a group, and discipline its interactions entirely as a group, but for most groups of assertive, energetic persons these accomplishments are unrealistic. Group paralysis, disarray, or dominance by a single powerful personality are almost inevitable dangers. The Board needs assistance to achieve the discipline and integrity to which it is committed but for which as a leaderless group it would scarcely have the capability. The Board needs the Chair to wield the gavel and enforce the Board's commitment to discipline while at no time becoming the group's superior.*

(Carver & Oliver 2002, pp. 35–7)

Appendix B

The case for a CGO

In much of the corporate world, the term ***CEO (Chief Executive Officer)*** *is used to designate the top management role. Almost as familiar are the terms* ***COO (Chief Operating Officer)****,* ***CFO (Chief Financial Officer)****, and even* ***CIO (Chief Information Officer)****. A good case can be made for also adopting the term* ***CGO (Chief Governance Officer)****.*

One reason for using this new term is merely the cosmetic argument: it fits nicely with the other terms in widespread use. Another benefit is that CGO avoids the verbal struggle between Chair, Chairman, Chairwoman, and Chairperson. However, we have more substantive reasons for our proposition.

Chairman is an ambiguous title

The title of Chairman (and its less gender-specific equivalents) has so frequently incorporated an executive component that it does not distinguish governance leadership absolutely from management leadership. This is especially true when one person plays both roles, but even when separate persons wear the titles of Chair and CEO, it is not uncommon for the Chair to exercise CEO authority anyway.

Such ambiguity in what the title stands for is no problem when it reflects a tolerated overlap between the functions of governance and management. But maintaining a distinction between *governance and management is essential in the Policy Governance model, so an ambiguous title for this Board role is inappropriate. Using CGO focuses everyone's view of the job on a specific role, one not confounded with any other role.*

The Chair's for more than Chairing

In Policy Governance the job of Chairing Board meetings is merely one part of the Chair's larger responsibility to see that the Board gets its job done. This 'first among equals' must interpret and carry into fruition those policies created by the Board that govern its own job. Some of those policies, as we discussed earlier, relate to the discipline to which the Board has committed itself, some to the mechanics of the Board-CEO connection, some to more philosophical matters.

When the CGO part of a traditional Chair's job is isolated, as it is in Policy Governance, it can be seen to consist primarily of making decisions about governance (not management), always of course within a reasonable interpretation of what the Board itself has said in its policies on Governance process and Board-management delegation. The role engages the Chair in fleshing out many decisions about the way the Board will operate, how its committees will function, its manner of self-evaluation, the mechanism of shareholder input, the mechanics of CEO reporting, and whatever else the breadth of Board policies in these areas has left to be decided. In short, the Chair in Policy Governance is a guarantor of governance integrity, and the term CGO speaks to the fact that the Chair has these important and time-consuming demands in addition to the lesser responsibility of Chairing meetings.

Given this view of the job, it follows the CGOs ideally will be chosen for their ability to be servant-leaders in the governance environment and for their capacity to attend rigorously to the job of interpreting and fulfilling the requirements of governance that the Board has adopted. They might or might not be good with the gavel.

Gavel competence is a subsidiary CGO skill, not the central one. A CGO might even choose to appoint someone else to Chair single meetings or might rotate the gavel among Directors. As Sir Adrian Cadbury has pointed out, 'from a statutory point of view there is no need for a company to have a continuing Chairman…the law looks on the post of Chairman as one which is exercised meeting by meeting'. Of course, because the CGO is accountable to the Board for all aspects of proper governance (that is, for ensuring that governance proceeds in a way consistent with Board policies), the CGO remains accountable for an appointee's performance as meeting Chair.

It takes more than a title to clarify a position

Of course, as anyone who has ever been given a fancier title instead of a raise can attest, titles do not necessarily clarify roles. ***President****, for example, does not necessarily denote* ***CEO****. That is why, when it does denote the CEO function, companies commonly add 'and CEO' to it. Similarly, the title* **Chair** *is not self-explanatory; it might imply and 'CEO' whether that addendum is present or not.*

Using the term ***CGO*** *as the title for the position we have been describing here will help clarify that role, at least for as long as company usage can avoid confounding the role of CGO with the role of CEO (as has happened to the Chair role and is now reflected in Chair as a title). Thus we believe that adopting the term* ***CGO*** *will be of notable usefulness for any Board working on governance development. Nevertheless, what is most important is achieving role clarity, whatever the title used.*

Conclusion

No one doubts that the words we all use, though objects of our creation, have the power both to channel and facilitate our thoughts and to impede and block them. To paraphrase Churchill, first, we create our words; then they create us. First, we assign words to our concepts; then our words restrict and, perhaps unnecessarily, narrow our concepts. The term Chair is one that now takes our thoughts in directions that often lead away from proper governance.

Proper governing Boards need a point-person for their discipline; a servant-leader for their commitment. Advanced governance requires a specialised role neither, as the Chair's role may be, confounded with management nor reduced to only one of the office's functions. ***Chief Governance Officer*** *is a term with the potential to focus the office holder and the Board on fulfilling their proper governance functions.*

(Carver & Oliver 2002, pp. 127–9)

Appendix C

Chair and CEO
One person or two?

The Policy Governance model absolutely requires that the ***roles*** *of* ***Chief Governance Officer*** *(called the* ***Chair****) in today's Boards, see Appendix B) and* ***Chief Executive Officer*** *be separated. The power of the model requires that everyone understands which of the roles is being spoken from at every moment. Therefore we argue that an important part of avoiding role confusion is assigning these roles to two different people.*

Others also recognise the importance of this step. Mills maintains that 'the Chairman is the Chairman of the Board. He is not Chairman of the company'. Leighton and Thain say the CGO role 'requires independent leadership, commitment, focus, time and talent', and that 'it is fundamentally important that [these roles] be separated and not confused'. Cadbury notes the difficulty of playing both roles well. Carlsson questions how the Board's 'independence and ability to carry out its governance role [can] be guaranteed if the Chairman, the head of the Board, is supposed to govern himself as CEO?' Lorsch and MacIver charge that the 'power reversal between the CEO and the Board' is 'rife with ambiguity and complexity' and that there is a 'major need to diminish the CEO's power as leader of the Board'. Dayton, long-term Chairman of Dayton-Hudson, opines, 'All my experience and study have convinced me that the Chairman of the Board should not be the CEO. A Chairman/CEO wears two hats at the same time and you just can't do that and look good in both roles'. The formidable list of those who argue for separation also includes Knowlton and Millstein, Whitehead, Gogel, Williams, and Patton and Baker.

A growing number of national governance codes also argue – albeit often weakly – for separating these very different offices. A recent survey of three hundred CEOs showed that two-thirds thought the positions should be separated. A McKinsey Investor Opinion Survey found that investors see separation of the positions to be a key factor in Board performance, ranking it as important as having a majority of outside directions.

However, in spite of this strong body of opinion, the practice of combining the roles in one person continues to be common practice in several parts of the world. For example, among large U.S. firms, more than 90 percent use the combined position, according to a 1999 Korn-Ferry survey. France requires that companies with a single-tier Board combine the role in one person – the Président Directeur Générale. Indeed, it has been pointed out that combining the senior management and Board leadership roles in one person is so *commonplace that the title 'Chairman' and its less gender-specific equivalents virtually mean 'Top Executive' to many ears.*

We find that the published reasons for combining the CGO and CEO roles in one person can be grouped into six (not precisely separable) categories.

Arguments for combining the CGO and CEO roles in one person

- ***It avoids extra baggage.*** *Separating the CGO and CEO roles results in extra communication layers and inefficiency as the CEO is forced to engage in internal lobbying, taking time away from more important matters. For example, a separate CEO can spend an inordinate amount of time aligning a separate Chairman with the CEO's strategy.*

- ***It sidesteps clashes of authority****. Inasmuch as 'no Chairman is wholly non-executive', separate positions 'would dilute the power of the CEO to provide effective leadership of the company'. Besides, the Chair position has a 'natural power' that can clash with a separate CEO's power. The 2001 conflict at Ford between CEO Jacques Nasser and Chairman Bill Ford Jr. exemplifies such a skirmish. Heidrick and Struggles find that many successful nonexecutive Chairmen are nonexecutive in name only, causing the separate CEO to be CEO in name only.*

- ***It keeps accountability clear****. A separate CGO may 'shield' [a separate] CEO from being held accountable by the Board. In any case, having two separate positions creates confusion and blurs accountability.*

- ***It prevents external confusion****. In current public perception, 'Chairmen have become Chairmen of their companies and not simply of their Boards. The position of Chairman has no particular* ***legal*** *significance, but it has acquired* ***public*** *significant. Moreover, separating the CGO and CEO roles could lead to third parties taking advantage of public disagreement between two public spokespersons. At the very least, 'outsiders might begin to wonder who is really in charge'.*

- ***It presents no problems that cannot be easily solved****. Admittedly, a single CGO-CEO position reduces Board independence from management, but easily available solutions are outsider committees and lead Director roles.*

Committees of outside Directors*. The Board does not need freedom from CEO domination because Board members can gather in subgroups (for example, compensation and audit committees) that are neither dominated by insiders nor attended by the CEO.*

A lead Director*. An outside Director can be chosen by other outside Directors (or may simple emerge) to be more or less a shadow Chair. If the person in the combined role falters, the lead Director can step in to save the day. A notable case in recent history was the ouster of Chairman and CEO Robert Stempel at General Motors, a skirmish led by outside Director John Smale.*

- ***It is supported by history, social expectations, and a pragmatic view that organizations would be unlikely to accept separate positions****. Bowen states, for example, 'Persuaded as I am of its intrinsic appeal, I am convinced that the notion of a separate Chairman on corporate Boards is not an idea whose time has come'. He believes that a Board is 'unlikely to do battle with an effective CEO over such an issue', and recognizes that 'as long as the concept of a separate Chairman is so rarely embraced by the corporate world, it will inevitably have more than a slight hint of the unseemly about it'. To be sure, under the rules of the game as now played, CEOs who are not appointed to be CGO as well may perceive that the Board is sending them a message of no confidence.*

Policy Governance offers effective responses to all these arguments. All the reasons for combining the CEO and CGO roles are based on Boards behaving the way they traditionally have, not on the way they should behave. In fact, we believe that every ***single objection to filling the separate positions with separate people evaporates if the Board governs in the more responsible manner that we have described****.*

How policy governance resolves the impasse

- ***It institutes a proper chain of command****. When the Board plays its proper governance role, there are no extra communication layers and inefficiency because the CEO neither reports to the CGO nor needs to convince any single Director with his or her strategy. The chain of command is Board to CEO, not Board to CGO to CEO.*
- ***It supplies clear delegation of authority****. If Directors shoulder their responsibility with group integrity, the CGO can have only as much authority as the Board explicitly grants. Therefore there can be no clash of authority unless the Board has set the stage for it. The most common error by Boards that have ostensibly separated the roles is to allow the CGO to act like a CEO anyway, overruling or instructing the real CEO.*
- ***It establishes clear accountability****. A separate CGO can 'shield a [separate] CEO' from accountability only when the Board chooses* ***not*** *to exercise its authority by holding the CEO directly to account. Confusion and blurred accountability arise not from separate roles but from poor delegation at the outset.*
- ***It eliminates ambiguity for everyone, including outsiders****. Although the public currently perceives that Board and executive leadership are inseparable because that is what many companies have long been teaching, once Boards teach themselves something else, public perception will follow. Public confusion begins not when outsiders 'wonder who is really in charge' but when Directors wonder who is really in charge and then pass on their ambiguity.*
- ***It preserves the Board's wholeness****. Committees are subordinate to the whole Board. It defies common sense to maintain that whatever is suspect about the composition of the whole can be cleansed by integrity in its subordinate parts. Policy Governance causes the Board to bear group responsibility and to understand that all Directors work for shareholders.*
- ***It preserves authority of the CGO's role****. The supposed solution of having a lead Director who can take over from a faltering CGO who is also a CEO exemplifies the all-too-human tendency to go to great lengths to avoid fixing a real problem – a compromised role that makes it difficult for the CGO to fulfil certain challenges when the chips are down. The CGO role in Policy Governance is not weak or unimportant; the CGO is not reduced to being percussive with a gavel. It is a role central to the Board's responsibility to act as an authoritative group. With an adequate CGO who helps the Board maintain its Policy Governance discipline, the lead Director is not needed. Relying on a lead Director is much like attending with great care to one's emergency parachute while putting very little thought into the design of the primary one.*
- ***It makes change more desirable than going along with tradition****. An effective Board would not countenance inertia as a reason for not making necessary change in management; it should not accept it in governance either. Sociopolitical reasons for maintaining the status quo have* ***nothing to do with pursuing the integrity of Board leadership****.*

It is true that current research has failed to show a difference in corporate performance between companies with separated roles and those with combined roles. But as long as separate chains are so frequently de facto CEOs (thereby rendering the positions separate in name only), the research has not in fact addressed the question.
Combining the CEO and CGO roles in one person is a rational action only as long as corporate governance is an underdeveloped role. Once the Board attains group responsibility, it requires

undiluted governance leadership, and that is best achieved by a separate chief governance officer.
(Carver & Oliver 2002, pp. 131–6)

Reading activity 2.6

Now you should read the following:

- Pages 77–96 of your prescribed textbook by Solomon, stopping just before the section heading 'Executive remuneration' on page 96. Note that we'll again address relevant issues in Module 4 when we turn our focus in greater detail to the development of better functioning Boards.
- **Selected Reading 2.3**, 'The Chairman and the CEO'– chapter 1 as extracted from *The board game: a director's companion for winning in business* (Waine 2002, pp. 1–20).

Take particular note in the last reading regarding the different required sets of competencies attached to these two roles as seen by Waine (2002). Also, pay close attention to the dynamics that might be at play when it comes to the relationship between the CEO and the Chair (or – in Carver & Oliver's terms – the CGO or Chief Governance Officer).

As you can gather from all that you have read thus far – this theme is rather complex and requires proper attention. The leadership dynamics are particularly challenging and as such we will have to again return to this in Module 4, in much greater detail. We now wish to present you with some additional perspectives, in particular also about governance in non-business contexts.

3. Governance in different contexts

Our focus has thus far been on business organisations – and in particular large corporations and public companies. You may wonder about governance issues in not-for-profit and public sector organisations. Although this course is mainly concerned with business enterprises, we deemed it expedient to also include some perspectives on governance related issues pertaining to non-profit organisations and the public sector.

Reading activity 2.7

You should now read **Selected Reading 2.4**, which contains the following sections that have been extracted from *The nonprofit leadership team* (Howe, 2004):

Chapter 1: 'What a Board expects of the executive' (pp. 3–7)
Chapter 2: 'What an executive expects of the Board' (pp. 9–12)
Chapter 3: 'What Board members and the executive expect of the Chair' (pp. 13–15) Chapter 4: 'The importance and challenges of personal relationships' (pp. 17–21) Part II: 'The responsibilities of shared leadership' (pp. 23–6).
Next you should read **Selected Reading 2.6** 'Whereto from here with public sector governance?', by Jane Tebbatt of the Audit Office of the government of New South Wales in Australia.

Do you have any other information and/or experience of top-level leadership roles and structures in public sector and/or non-profit organisations? Knowledge and experience in this regard of any other kinds or types of organisation would also be relevant. If so, why not post some of these on the Discussion Board? Let's make this a learning experience of sharing our knowledge and information. Take note also of the 'Useful resources' provided by Jane Tebatt at the end of the article. You are encouraged to access (some of) these.

There are obviously other contexts that will have peculiar challenges pertaining to governance as well. What about small business organisations for instance? And what about governance in the case of a family business? Do you perhaps have
any experience and/or any ideas/views? Perhaps you know others who might have and can engage in discussions with them about these. Again, share these with fellow course participants on the electronic discussions platform. In addition, why not engage in some further research on this topic? Surf the web! Use the library sources to do a search for online available articles.

The 'managerial elite' of organisations would ultimately be the organisations' TMTs (top management teams). The chief executive (CEO, also sometimes referred to as the company President) would typically be the formal leader of this relatively small group of highly influential executives at the very top level of managerial leadership in organisations. This group typically consists of the CEO and the organisation's top-level executives that report directly to the CEO. This group would be held responsible for the overall performance of the organisation as a whole. However, at the end of the day it would be the CEO who, as a member of the BoD, would be held accountable by the BoD (Board of Directors). Strategic decisions are, therefore, often made in the context of TMTs, but not always. Sometimes decision-making at the apex of organisational leadership takes place in the context of smaller sub-groups, and sometimes it may even happen that the CEO takes unilateral decisions. This brings us to the issue of the 'Great Leader's' versus the 'Great Group's' views of strategic leadership. In terms of the latter, the unilateral role of the CEO in respect of strategic leadership is diminished because the strategic leadership role is shared with others in the organisation – such as the TMT (and even lower levels).

Reading activity 2.8

To find out more about the notion of beyond TMT's, read **Selected Reading 2.5** by Kriger &Zhovtobryukh about rethinking strategic leadership: stars, clans, teams and networks. This paper aims to advance strategic leadership theory by acknowledging that strategic leadership process goes beyond the TMT, especially when the firm is large and complex and the external environment is turbulent. It also discusses the internal and external environments through economic variables such as competitive forces and costs of internal organisation, important drivers of firm performance. The paper also looks at networks of actors, an approach that has come to be included under the terms shared or distributed leadership. This paper extends the research on shared leadership by introducing four generic forms of strategic leadership (stars, clans, teams, and networks).

Reading activity 2.9

You should now read **Selected Reading 2.7** Flood et al. (2000) report on a research study undertaken involving high technology firms in Ireland and the US. The focus is on the leadership style of the CEO and how this interplays with top management team effectiveness and consensus decision-making. Please note that for the purpose of your formal studies for this course, the section dealing with research methods is not really all that important (you will not be examined or otherwise assessed on research methods).

Next you should read **Selected Reading 2.8** by Sally Maitlis (2004), 'Taking it from the top: how CEOs influence (and fail to influence) their Boards'.

Maitlis (2004) made an in-depth study of some behavioural dynamics that underpin the influence that CEOs have over their Boards, in the context of two non-profit organisations, namely two British symphony orchestras. Note that a set of four key influence processes are identified, namely: 1) exploiting key relationships; 2) managing impressions; 3) managing information; and 4) protecting formal authority. The focus of her research and article is on how CEOs influence (or fail to influence) their fellow Directors in relevant decision- making. It is shown that each of these four processes is a uniquely important influence mechanism, but it is also shown that each forms part of a broader configuration of interrelated and contextually embedded influence behaviours which all work together to shape the relationship between the CEO and the Board and the organisation's governance processes. It is found that while context and structure may well provide important variables or 'resources' on which CEOs may draw, 'how CEOs influence their Boards is shown to be critically concerned with the ways in which they manage these resources' (Maitlis 2004, p. 1305).

Also read **Selected Reading 2.9** by de Villiers et al, who suggest that 'potential agency problems in management pursuing strong environmental performance, which effective Boards can address with increased monitoring. Managers can also underemphasise environmental issues because they may lack knowledge and resources. According to resource dependence theory, the appointment of experienced and knowledgeable Directors can provide environmental advice and access to environmental opportunities to firms' (2011 p. 1655).

You have now been exposed to some of the issues and challenges relating to top-level leadership role-players and structures and concomitant dynamics. This has included an opportunity to consider issues in different contexts. We now take the issue pertaining to different contexts a step further to take a look at corporate governance in different international contexts.

2.3 Corporate governance in different international contexts

Different countries have different systems of corporate governance and these influence the strategic leadership dynamics within the different countries. Thus far you have read mostly about perspectives from countries such as the UK and the USA. As you would know, your prescribed book by Solomon (2014) is a perspective offered by a UK author. Nevertheless, as you would have discovered in section 3.1 already, the book does cover perspectives from a more international perspective as well. For instance, in countries such as Germany (and the Netherlands), two-tier Board structures are required. In such systems 'there is a formal division of power with a management Board made up of the top executives and a distinct supervisory Board made up of non-executives, with the task of monitoring and steering the management Board' (De Wit and Meyer 2004, p. 598). We will now offer you the opportunity to learn some more about corporate governance in different countries.

Reading activity 2.10

First read chapter 7 in Solomon (2014). Take note of the insider/outsider categorisation schema of corporate governance systems, the international research and also the issue of global convergence in corporate governance.

Do you think the application of blanket ‘codes of practice’ across international boundaries pose any merits? Do you think it can work? Why/not?

You are encouraged to engage in some dialogue and healthy debate about this issue on the electronic discussions platform.

The next chapter (8) in Solomon illustrates an ongoing process of corporate governance reform in countries from all around the world. You can now proceed to read this chapter, entitled ‘A reference dictionary of corporate governance systems’.

Solomon (2014) arranges the different countries covered in chapter 8 in alphabetical order – which may make it handy to quickly get to the country/countries you may be interested in most, first (if you wish). You must read about all the countries though and make sure that you will be able to address an examination question on any of these. You’ll note, as you read this chapter, that Solomon (2014) covers some countries in more depth/detail than others.

As we’ve said before, the prescribed textbook has a very strong focus on the UK context. For our purposes in this course you don’t have to develop any in-depth understanding of corporate governance in the UK context though. Similarly you can read more about the Canadian context – and again, the same principles apply in relation to assessment. To us, it is more important that you develop a sense of appreciation for the fact that although there may be some convergence in terms of corporate governance trends internationally – the diversity is very real nonetheless.

Why not get some activity going on the Discussion Board about some of these?

4. Corporate governance failure and the role of transparency

In this section we turn our attention to that which strategic leaders do not seek to happen: corporate failure - due to lack of proper corporate governance. While there are many such cases in Australia (HIH and One.Tel come to mind for instance), probably one of the most prominent cases internationally must be the collapse of the US company Enron, in 2001.

In this section we take an-depth look at this case for instance, and we also cursorily look at the importance of transparency in corporate governance, most notably the role played by audit committees and internal control systems.

To see current and previous investigations by the Independent Commission Against Corruption (ICAC), see http://www.icac.nsw.gov.au/investigations

While cases of failure hold very important lessons – the key message is that good and proper corporate governance is essential for the success of any organisation. The Board of Directors is legally responsible and accountable for this. As Kiel and Nicholson (2004, p. 39) explain: ‘Boards and senior executives are increasingly held accountable for corporate failures … The Directors of One.Tel, HIH and Harris Scarfe have had their homes raided and assets frozen due to possible breaches of the *Corporations Act*.' They go on and state it categorically that in Australia the 'Corporations Act clearly establishes that the Board (as a group) bears ultimate responsibility for the company that it governs … In the Australian context (along with the US, UK and most Commonwealth nations) we have seen the development of a unitary Board structure where all Directors are assumed equal and accept responsibility for the performance and liabilities' of the companies they govern (Kiel & Nicholson 2004, pp. 101–2). The same authors thus accentuate the important aspects of and complexities pertaining to the legal framework 'that places enormous responsibilities on Directors … it draws attention to the monitoring and compliance responsibilities of the Board' (Kiel & Nicholson 2004, p. 96).

We now afford you with the opportunity to focus more on some of these kinds of challenges.

Reading activity 2.11

You should now read chapter 2 of Solomon (2014) attentively. Make sure you can achieve the objectives as set out for this chapter (on page 27).

Reading activity 2.12

There's no doubt that part of Enron's corporate governance problems related to the monitoring and compliance responsibilities of the Board – which means that corporate disclosure and transparency were/are very relevant issues. Next, you must now read chapter 6 of Solomon (2014). Make sure you can achieve that chapter's objectives as spelled out on page 151.

5. The governance role of boards and directors: a closer look at some additional (mainly Australian) perspectives and issues

From what you have been exposed to thus far in this Module we are quite certain you are becoming increasingly familiar with the wide range of issues pertaining to the work and responsibilities of Boards of Directors and in particular their corporate governance role. We'd like to round off this module by providing you with some additional information about this very important theme, more from an Australian perspective – and as taken (and slightly adapted) from Kiel and Nicholson (2004, pp. 101–22) and the AICD (2007).

Reading activity 2.13

You should now read the material that follows below, taken (and slightly adapted) from Kiel and Nicholson (2004, pp. 101–22).

‘Directors are considered the mind or brain of the organisation and, in a modern context, are seen to undertake a variety of roles’. Tricker’s model of the Board, shown in figure 2.1, provides a useful taxonomy of Directorial roles.

The dual roles of the Board of Directors are:

1. ensuring compliance (through monitoring of the company and self-regulation of the conduct of Directors individually and collectively as the Board); and
2. improving the performance of the corporation they are charged with overseeing through strategy formulation and policy making.

Table 2. 1: **Tricker’s model of corporation governance**

<table>
<tr><td></td><td>Compliance roles</td><td>Performance roles</td></tr>
<tr><td>External role</td><td>Provide accountability</td><td>Strategy formulation</td></tr>
<tr><td></td><td colspan="2">Approve and work with and through the CEO</td></tr>
<tr><td>Internal role</td><td>Monitoring and supervising</td><td>Policy making</td></tr>
<tr><td></td><td>Past and present oriented</td><td>Future oriented</td></tr>
</table>

(Source: Tricker, RJ 1994, *International corporate governance: text, readings and cases*, Prentice Hall, Sydney, p. 149.)

While the regulatory or compliance role of the Board is well established both in management literature and at law, the responsibility of the Board for corporate performance remains a subject of continuing debate. This was particularly highlighted in the influential AWA case where Rogers CJ found that Directors should bring an ‘informed and independent judgment’ to bear on the various matters that come to the Board for decision. He went on to delineate what he saw as the four key tasks of the Board:

1. Set the goals of the corporation;

2. Appoint the company’s CEO;

3. Oversee the plans of management for the acquisition and organisation of financial and human resources;

4. Review, at reasonable intervals, the company’s progress towards those goals.

This is the first legal case in Australia where, as well as the monitoring and appointment roles, the court found that the task of setting the goals for the company was a part of the Board's responsibility. The idea that Directors should be actively involved in strategy formulation is receiving growing support. Good corporate governance is now seen to include both a compliance and a performance aspect.

The compliance and performance aspects of the Board's role have been recognised in three significant reports on corporate governance practices: *Strictly boardroom; Improving governance to enhance company performance; Where were the directors*?; and *Corporate practices and conduct*. Based on these reports and on our own research, we have identified nine key Board roles. These roles are set out in table 2.2.

Table 2. 2: **Major roles of the Board**

1. Strategy formulation and approval, including the development of major goals and strategies in conjunction with the senior management team
2. CEO selection, monitoring, evaluation, mentoring, remuneration and, when necessary, removal
3. Monitoring of organisational performance
4. Overview of risk management policies, practices and performance
5. Overview of compliance policies and practices
6. Ensuring an appropriate top-level policy framework exists, and ratifying specific policies
7. Networking on behalf of the organisation to assist in achieving organisational goals
8. Communication with key stakeholder groups, in particular, shareholders
9. Exercising control of the organisation in times of crisis

While this list represents a clear role set for Boards to enact, it is important to note that the emphasis individual Boards will place on each role is not the same. The emphasis a Board places on the execution of each role will vary from corporation to corporation, and will be contingent on a variety of factors including company size, corporate life cycle, experience of the management team, dynamics of the company's operating environment, stability of the company's current operations (or crisis level) and strategy. Thus, while there is a universal set of roles the Board must fulfil, the emphasis on each of these nine items needs to be refined on a case-by-case basis by each Board and will necessarily vary over time.

Having outlined the broad roles of the Board, it is necessary to examine what Boards actually do (and/or should do). While it is clear that Boardroom practice varies from company to company, the fact that the corporate governance system is as much a function of a common legal and regulatory environment as of the particular circumstances that face individual corporations means that there are similarities in the practices of good Boards.

A key requirement of the Board is to understand its role as the 'governor' (i.e. the body that issues directions) of the company, not its manager. To paraphrase Lord Denning, the Board is the mind of the company and the management team its hands. While the activities pursued will vary from Board to Board, the intent or philosophy that guides them need to be stated clearly in the charter document. The delineation between directing and managing is the starting point in an effective governance system. It sets the tone and boundaries for the Board's relationship with management, makes apparent the Board's expectations of the CEO and the management team, and should also take into account management's reciprocal expectations of the Board.

The separation between the Director and Manager roles can be confusing where there are predominantly (or even all) executive Directors serving on the Board. Yet maintaining this distinction is perhaps even more valuable in this situation. It serves as a reminder that executive Directors wear two hats, and that they must adopt a more objective stance when carrying out the Directorial rather than the Managerial role. Executive Directors need to ensure that they are appropriately questioning of strategy, aware of the implications of their decisions and generally considering the ‘broader picture’ when considering decisions from a Directorial perspective.

The requirement for a broad perspective means that an effective Board cannot be bound by the familiar taboos associated with some organisations. The Board’s role is to question and offer insight into management plans and strategies. This means that individual Directors and their Boards must be prepared to ‘rock the boat’. Rather than sitting passively during rehearsed management presentations, Board members should be actively questioning their CEO. This need not be an adversarial process. Rather, Directors should be seeking clarification of points they do not understand fully, and expressing any reservations that they hold as a means of opening up dialogue with management. A key feature of effective Boards is open information and open dialogue. The responsibility for developing this key resource rests as much with the CEO as the Board itself. Senior management must seek Board input and actively encourage the participation of Board members in strategic decisions. The real value of a Board lies in its ability to look at issues from a different perspective from the management team, and to make its collective knowledge and experience available to the company.

Clear guidelines on relevant processes and policies are necessary if the Board is to carry out its fundamental duties and enact its stated governance philosophy. Board members need to be made aware of their legal responsibilities and of performance expectations. It is important for the Board as a whole to discuss collectively and agree how it will undertake both the compliance and performance roles. Effective corporate governance needs to reflect the transparency and flexibility required of modern companies by both internal and external company stakeholders.

It is important to address the overall philosophy of governance that the Board is adopting. Does the Board see itself in a purely ‘monitoring’ role? How involved in operations will Board members become? How does the Board see its role in relation to the management role? Since many management activities can begin and end in the Boardroom (particularly for small organisations), it is important for the Board to articulate clearly where it sees its role ending and management’s role beginning.

This distinction not only affects smaller organisations. Certain functions (e.g. the ability to undertake capital expenditure without Board approval) can be a source of role conflict in larger organisations. The charter can act to head off any such conflicts before they take place because it should clearly document the Board’s role. A well-written charter will also assist in the long-term planning of an organisation by specifying the Board’s role in the strategic planning process.

Other key activities that a Board should outline as part of its charter include the Board’s role in:

- setting goals and objectives
- the strategic planning process
- appointing the CEO and other senior executives
- approving and monitoring budgets
- approving capital expenditure
- approving operating expenditure and outside budgets

- reviewing progress.

While the above description of the Board's role relates to normal everyday activities, there are circumstances in which the Board is required to take a much more active role in guiding the affairs of the organisation. This occurs in the event of a crisis. Lorsch and McIver identify two sets of conditions under which a Board will move from its normal operating mode into crisis mode. These are in response to sudden, cataclysmic events, such as the death of a CEO or an unexpected takeover bid or, alternatively, when the Board needs to respond to a more gradual decline in company performance, typically financial performance.

Boards tend to respond to crises in different ways, depending on whether they are internal events or are prompted by actions from outside the firm.

When a sudden crisis occurs, the Board is in a position to understand both the nature of the problem and the problem's importance to the organisation. As a result, it can act quickly to implement previously agreed plans (such as a succession plan in the case of the death of the CEO) or define a course of action and engage necessary specialists (such as lawyers and consultants in the case of a hostile takeover). The common theme in sudden crises is that the Board reviews a clear signal that action is required and understands its response will be scrutinised by the business community.

Conversely, gradual crises are far more difficult for the Board to recognise and are not associated with the same degree of urgency. While these changes can be driven by both external forces (e.g. industry decline or new competitors) or internal forces (e.g. CEO failure or management dissension), it is most likely that the crisis will result from a combination of the two – for example, a CEO's failure to respond to new competitors. In any event, the symptom of ongoing poor corporate performance should act as a warning to the Board. Whatever the origin of the crisis, it is important for the Board to assume a leadership role to guide the organisation until stability is restored.

Additionally, your Board will need to consider the relative skills and experience required in the Board role and recruit Directors accordingly. Sometimes it may be necessary to recruit Directors with particular stakeholder contacts (e.g. government, suppliers). In general, however, there are certain skills that are important to all Boards. For example, Directors with inside knowledge of the company are necessary, and it is also helpful if there are Directors who understand the broader industry environment. Boards also need Directors who have a sound understanding of financial matters, the law and compliance issues. Clearly, individuals will possess a greater degree of expertise in some areas than others, but breadth of experience, and the preparedness to develop it further, are the key requirements.

While there is a generic set of skills appropriate to all Boards, there is important evidence to indicate that Board composition is closely linked to changes in the external environment. Changes in Board composition over time reflect the changing resource requirements of the firm. For example, a firm intending to move into a new area of business activity may well decide to recruit a Director with specific expertise in that area. Similarly, a company that has had bad publicity over an environmental accident may recruit a widely respected community leader to bring legitimacy to the firm and improve its corporate image.

Table 2.3 provides an example of the sorts of expertise provided by different types of Directors.

Table 2. 3: **The resource dependence roles of Directors**

Director category label	Areas of resource needs provided	Types of Directors in Category
Insiders	• Expertise on the firm itself as well as general strategy and direction • Specific knowledge in areas such as finance and law	• Current and former officers of the firm
Business experts	• Expertise on competition, decision- making and problem-solving for large firms • Serve as sounding Boards for ideas • Provide alternative viewpoints on internal and external problems • Channels of communication between firms • Legitimacy	• Current and former senior officers of other large for-profit firms • Directors of other large for-profit firms
Support specialists	• Provide specialised expertise on laws, banking, insurance and public relations • Provide channels of communication to large and powerful suppliers or government agencies • Ease access to vital resources, such as financial capital and legal support • Legitimacy	• Lawyers • Bankers (commercial and investment) • Insurance company representatives • Public relations experts
Community influentials	• Provide non-business perspectives on issues, problems and ideas • Expertise about and influence with powerful groups in the community • Representation of interests outside competitive product or supply markets • Legitimacy	• Political leaders • University faculty • Members of clergy • Leaders of social or community organisations

(Source: Hillman, AJ Cannella, Jr AA & Paetzold, RL 2000, ‘ Table I: The resource dependence roles of Directors’, The resource dependence role of corporate Directors: strategic adaption of Board composition in response to environmental change’, *Journal of Management Studies*, vol. 37, no. 2, p. 240.)

What skills do Directors need?

Having considered the requirements of the Board as a whole in terms of skills, it is then necessary to consider requirements in terms of the skills of individual Directors.

The qualities that make a successful Director can be divided into two categories. The first of these consists of the skills that are required to perform the job efficiently; the second relates to the kind of personal qualities that make for first class Directors and high-performing

Boards. First of all, Directors must be familiar with their individual duties and responsibilities. This includes being aware of, and complying with, legal, ethical, fiduciary and financial responsibilities. At the practical level, this means being able to understand company balance sheets, profit and loss accounts, sources and methods of funding, cash flow and other financial data. It also means knowing the legal responsibilities of Directors. These include familiarity with company law, contract law and the *Trade Practices Act,* as well as the relevant industry and company codes of practice.

Directors also need to have a full understanding of the workings of the Board and the roles of their fellow Directors. They must be aware of the relationship between the Board and the various stakeholders in the company. Last of all, it helps to be up-to date with current thinking on management and business practice, especially in the areas of strategy, risk management, compliance and performance measurement.

Board composition also needs to reflect a balance of personalities and temperaments. Leaders, strategic thinkers and visionaries are important for a Board because their 'big picture' outlook and enthusiasm encourages others. There is also an important role for practical individuals who have a strong commercial focus, and for people who are analytical and pay close attention to detail. However, possessing these skills will only lead to improved firm performance if the Board is able to communicate its message effectively. People who are good communicators and team players are found on the most effective Boards.

Apart from particular skills and a readiness to develop them further, there are three further requirements that are essential if a Director is to perform his or her role effectively. These requirements are:

- access to appropriate, timely, and accurate information
- sufficient time to enable the Director to carry out his or her duties
- a willingness, to ask questions that go to the fundamental core of the issue, and to pursue independent lines of inquiry.

While access to information is a function of the Boardroom process, Directors need to be persistent if they feel that management is not providing them with sufficient information. There is no room for passivity. Directors need to insist that necessary information is supplied. Similarly, the job at hand can only be undertaken if adequate time is set aside for the tasks. Although the amount of time Directors will need to set aside will vary greatly on a case-by-case basis, for most larger organisations it is recommended that a minimum of two days per month plus meeting and travelling time be allocated to ensure adequate attention to the role.

Any policy on Board structure should also include policies on terms of appointment and Directorial rotation. The terms (length) of appointment will most likely be contained in your constitution. Common practice indicates that the standard duration of appointments is from two to five years. Since it takes a year for a Director to experience the full Board cycle, anything less than two (and possibly three) years is likely to underutilise the skills of the individuals involved. Similarly, by presenting an upper limit of around five years, the Board guards against Directors becoming entrenched.

Related to length of term is the number of terms that a Director can be expected to serve. Some Boards find it helpful to ensure a constant supply of 'new blood' to the Board to maintain Board engagement, relevance and vigour. But this must be balanced with the need to protect the corporate memory of the Board. To that end, Boards often find it helpful to stipulate a maximum number of terms a Director may serve. Generally, Boards who set a maximum term tend to stipulate two or three terms (for a three- to four-year term of appointment). The exception to this general rule is the Chairperson. It is often appropriate to provide for an additional term of office for this role.

It may be an idea to specify a retirement age for Boards' members. To some extent, this will be determined by the requirements of the Corporations Act. Under s. 201 C Directors of public companies and their subsidiaries who are aged seventy-two must be re-elected annually. A person who has turned seventy-two may be appointed or reappointed as a Director to hold office until the company's next annual general meeting (AGM) by way of a special resolution. The resolution must state the person's age and the notice of the meeting must state that the person who is a candidate has turned seventy-two (s. 201 C (8)). In the case of a company limited by guarantee where the constitution allows for a postal ballot for the election of Directors, the candidate must be elected by 75 per cent of the members who are entitled to vote in the ballot. If your company wishes to stipulate a retirement age of less than seventy-two, this should be documented in your charter.

Finally, a Board may wish to consider some specifics with respect to Board structure. For example, a stated policy on heterogeneity, especially gender balance or the use of ex-executives, can be important for many Boards. Heterogeneity can be a vexed topic. Directors from a variety of backgrounds can provide substantial benefits to the Board (as long as they possess the appropriate skills), however, there can be problems if Directors are recruited solely on the basis of their perceived differences from traditional Board members. While supportive of the benefits of diverse Boards, we concur with Bosch and would caution against assembling a 'Noah's Ark' Board based on diversity alone. Similarly, a Board will need to carefully consider appointing ex-executives to the Board, particularly the previous CEO (i.e. one who has served in the past five years). Such an appointment can fundamentally challenge any new management structure and undermine the Board-Management relationship. In conclusion, Board structure is a complex and important element of your governance system. It requires serious discussion by all Board members to determine the most effective structure for your organisation. Similarly, the role of individual Directors and the balance of skills required on the Board are best established by discussion around the Boardroom table.

Duties of Directors: some legal perspectives

According to the *Corporations Act* the following are the duties of Directors:

- a duty to act in good faith (s181)
- a duty not to gain advantage by improper use of the position (s182)
- a duty not to misuse information (s183)
- a duty to act with care and diligence in the performance of these duties (s180)
- a duty not to trade while insolvent (s588G).

The legal relationship between a company and a Director is defined as a fiduciary duty – one based on trust, honesty and care. As part of this general fiduciary duty, Directors have a duty to act in good faith – that is, they must act, at all times, in the best interests of the company they represent. Directors are held personally, legally responsible for the way in which a company conducts its affairs. Similarly, a Director has a duty not to misuse his or her position for personal gain or to the detriment of the company, and a duty not to misuse confidential information. Breaches of these provisions are civil offences, attracting fines of up to $220 000. However, under a recent major amendment to the Corporations Act, reckless or intentionally dishonest breaches are now a criminal offence, imposing fines of up to $220 000 and/or five years in gaol.

As part of acting in good faith, Directors also have an overall duty to avoid conflict of interest, defined as a 'material personal interest, (S. 191 (1)). It is well recognised in case law that a Director does not live in 'an area of detached altruism' (Mills v. Mills), but will have interests outside of the company. Inevitably, this raises the possibility of conflict of interest for Board members. Conflict of interest causes more difficulties for Directors than any other single issue and is the area where intentional or unintentional breaches of the law are most likely. Therefore, a conflict of interest policy deserves specific attention by Boards. General guidelines that can be adopted should a conflict, or potential for a conflict, occur include:

- A Director must notify the Board of any conflict or potential conflict as soon as it occurs.
- The Board should keep a register of Directors' interests.
- If a Director cannot or will not remove the conflict of interest, they must remove themselves from the decision-making process (including discussion of the issue at hand).

The duty to disclose personal interests applies both to proprietary and publicly listed companies. Directors must describe the nature and extent of the interest and its relation to the affairs of the company, and details must be recorded in the minutes. It is also possible for Directors to issue a standing notice of conflict of interest before a Board meeting if a potentially conflicting issue is scheduled for discussion. Failure to declare a conflict of interest (under the conditions set out in s. 191 (1)) incurs criminal penalties of fines or imprisonment for a period of up to three months.

The implications of this duty to disclose a material personal interest are summarised in Table 2.4.

Table 2. 4: **Implications of duty to disclose a material personal interest**

Proprietary companies	**Public companies**
Directors must disclose interests at first possible meeting	Directors must disclose interests at first possible meeting
The Director may be present and vote on the issue (s. 194), but it would be advisable to note the conflict in the minutes	Director may not vote or be present when the matter is discussed, unless those Directors with no interest pass a resolution identifying the conflict and stating that they are satisfied that the conflict should not prohibit the Director from voting (s. 195)

Directors must disclose similar information to company members in the case of related party transactions. Therefore, it is advisable that your charter outlines what will, in the Board's view, constitute a conflict of interest or a related party transaction.

Apart from acting in good faith and avoiding conflict of interest (either via misuse of one's position or of confidential information), a Director also has a legal duty to act with due care and diligence (i.e. a duty to bring a reasonable level of expertise and dedication to the position). This involves the judgment that the Director truly believes that any action he or she takes is in the best interests of the corporation. This duty of care is owed to the company as a whole. Finally, under the *Corporations Act*, Directors also have a duty not to allow a company to trade when it is insolvent. Penalties for breaches of this section are serious and include fines, disqualification from managing a company, and, in the event of dishonesty, imprisonment.
As well as the *Corporations Ac*t, the framework for modern corporate practices also incorporates other legislation that places added responsibilities on Directors. There are several areas where governments have intervened to regulate corporate activity, notably occupational health and safety legislation, taxation laws and environmental laws. Certain industries, in particular mining and construction, are obliged to ensure compliance with a vast body of laws, regulations and industry codes of practice. For Boards, this has resulted not

only in an increasingly complex set of regulatory requirements, but also a substantial personal liability being imposed on individual Directors to ensure compliance. One example of the complex nature of legal obligations is environmental legislation in New South Wales where there are eleven separate pieces of legislation that impose personal liability on Directors for breaches.

Overall it is clear that the general regulatory environment is adding to the duties of Directors, both by direct legislative intervention and through the continuing establishment of government instrumentalities. In order to provide accountability for the companies they govern and minimise exposure to personal liability, Directors need to ensure they are familiar with all of the legislation that impacts on the operations of their particular business. Thus, meeting all legal obligations is a major factor shaping the role and direction of the Board.

In addition to these fiduciary and statutory duties, Directors also need to ensure that they have exercised due care and diligence. While the 'business judgment rule' provides some protection with respect to commercial decisions, Directors need to be aware of the steps they must take to meet its standard (e.g. be informed of the subject and make the decision in the best interests of the company). Given the serious nature of the legal expectations of Directors, it is important for Boards to ensure that their members are fully aware of their responsibilities under the law, and to provide new members of the Board with up-to-date information on their legal duties. Therefore Boards should ideally have stated policies on Director conduct that refer specifically to their legal obligations. It is also recommended that the company's legal representatives examine this section of the charter to ensure compliance with the law.

Director conduct and policy

Legal compliance is only one aspect of the responsibilities of a Director. Directors also need to lead by example. The way that Board members conduct themselves sends a strong signal to staff about the behaviour that is expected of everyone in an organisation. Accordingly, specific expectations in terms of Director conduct should be incorporated in your charter.

These requirements will vary from company to company, but may include explicit statements of Board expectations concerning:

- how much time Directors are expected to commit to the position
- the extent of their authority to make decisions on behalf of the organisation
- special requirements for Directors who are representatives of a specific shareholder group/s.

The charter may also include expectations relating to individual Director behaviour. For example, it may be a stated policy that Directors are expected to use their outside contacts to benefit the firm, be active contributors to Boardroom debate and participate in ongoing Director development. The charter may also state specific requirements in terms of Director skills (e.g. that Directors must possess a particular level of financial knowledge).

By formalising standards of behaviour for Directors, the Board is explicitly stating the values that it wants the company to share. Director conduct guidelines also tell other stakeholders such as financiers and shareholders that the company takes the matter of personal conduct seriously and that it will only accept the highest standards of honesty, integrity and ethical behaviour from its members. When guidelines for Director conduct are part of your charter, Directors are served notice of the standards expected of them. Moreover, when policies are in place for dealing with ambiguous or potentially damaging situations, Directors will not be able to plead ignorance. The easiest way to present these issues in your charter is to list explicit guidelines for dealing with conflict of interest situations and to prepare a code of conduct.

A Board should state explicitly the legislative and common law requirements of a Director, as well as specific behaviours that the company expects of Directors. Areas to be covered may include:

- the duty to act honestly in the best interests of the whole company; the need to use due care and diligence in performing the functions of the office
- using the powers of the office for a proper purpose; stating that the Director owes the duty to the company as a whole
- not making improper use of information
- avoiding conflicts of interest
- the need to exercise independent judgment
- the need to treat confidential information as the property of the company
- stating that a Director may not engage in conduct liable to bring the company into disrepute
- complying with the spirit as well as the letter of the Corporate Governance Charter
- the importance of acting appropriately in Board meetings.

A good example of a code of conduct can be found in the articles of association of the Australian Institute of Company Directors (the AICD). These are:

1. A Director must act honestly, in good faith and in the best interests of the company as a whole.
2. A Director has a duty to use due care and diligence in fulfilling the functions of office and exercising the powers attached to that office.
3. A Director must use the powers of office for a proper purpose, in the best interests of the company as a whole.
4. A Director must recognise that the primary responsibility is to the company's shareholders as a whole but should, where appropriate, have regard for the interests of all stakeholders of the company.
5. A Director must not make improper use of information acquired as a Director.
6. A Director must not take improper advantage of the position of Director.

5. Make timely and balanced disclosure – Promote timely and balanced disclosure of all material matters concerning the company.
6. Respect the rights of shareholders – Respect the rights of shareholders and facilitate the effective exercise of those rights.
7. Recognise and manage risk – Establish a sound system of risk oversight and management and internal control.
8. Encourage enhanced performance – Fairly review and actively encourage enhanced Board and management effectiveness.
9. Remunerate fairly and responsibly – Ensure that the level and composition of remuneration is sufficient and reasonable and that its relationship to corporate and individual performance is defined.
10. Recognise the legitimate interests of stakeholders – Recognise legal and other obligations to all legitimate stakeholders.

Another source may be Standards Australia's Good Governance Principles (Australian Standard 8000-2003) which provides 'a blueprint for the development and implementation of a generic system of governance suitable for a wide range of entities' including public and private companies, government entities, trustee companies and not-for-profit organisations. The Good Governance Principles are based on the OECD's Principles of Good Governance and are divided into five parts:

1. The role, powers and responsibilities of the Board (Clause 3.2)
2. Disclosure and transparency obligations (Clause 3.3)
3. The rights and equitable treatment of shareholders (Clause 3.4)
4. The responsibilities of shareholders (Clause 3.5)

5. The role of stakeholders in corporate governance (Clause 3.6).

The OECD released its first *Principles of Corporate Governance* in 1999 and a revised version in 2004. The *OECD Principles* assist countries to evaluate and improve their legal, institutional and regulatory frameworks for corporate governance and to provide guidance and suggestions for stock exchanges, investors and corporations in the process of developing good corporate governance. Since their initial release, the *OECD Principles* have been adopted as a benchmark in both OECD member and non-OECD member countries. The *OECD Principles* cover the following areas:

1. Ensuring the basis for an effective corporate governance framework;
2. The rights of shareholders and key ownership functions;
3. The equitable treatment of shareholders;
4. The role of stakeholders;
5. Disclosure and transparency; and
6. The responsibilities of the Board.

The AICD (2007) also provides some information about the consequences when there is a breach of duties in respect of corporate governance, as below.

Civil penalty

Where there has been a breach of a C*orporations Act 2001* civil penalty provision, ASIC may apply to the court for a declaration that there has been a contravention. Once there has been a declaration, the court may order the payment of a pecuniary penalty and there can be an order made disqualifying a person from acting as a Director.

This concept of a civil penalty is a cross between civil and criminal law, with the advantage of following civil procedures, and applying the lower civil burden of proof. However, the *High Court in Rich v ASIC* (2004) held that the civil penalty has characteristics of a criminal matter and evidence will be considered under stricter rules than would apply for usual civil matters.

Interestingly, it has been suggested that there may be an inclination towards an increasing use of civil penalties (fines etc). In *Australian Securities and Investment Commission v Petsa*s (2005) FCA 88, the Federal Court said:

> *There are good reasons why parliament and enforcing authorities are moving towards the use of civil sanctions (such as injunctions, forfeiture, restitution and civil fines) in preference to criminal sanctions especially in the regulatory sphere, regardless of whether the proscribed conduct is regarded as essentially criminal.*
>
> *The main reason for the move is that proceedings that are 'civil' in nature are likely to be cheaper and more efficient than criminal proceedings. Civil proceedings are cheaper and more efficient because the rules of evidence are less strict, the protections afforded to defendants are not as great and the level of certainty required to secure a conviction (the standard of proof) is lower. There is another benefit derived from the use of civil proceedings. If there is a greater likelihood of obtaining a conviction, enforcing authorities may be more inclined to take action in doubtful, or potentially doubtful, cases.*

Criminal penalty

Some breaches of duties (particularly where there is dishonesty or recklessness) carry a criminal penalty and the court may order the payment of a fine or imprisonment.

Injunctions

A court may make an injunction order restraining a person from doing something or ordering them to do something.

Compensation

A court may order a person to compensate a corporation for damage suffered by the corporation or scheme if:

- the person has breached a civil penalty provision in relation to the corporation
- the damage resulted from the breach.

In determining the damage suffered by the corporation for the purposes of making a compensation order, the court may include profits made by any person resulting from the contravention or the offence.

Disqualification of Director

There is an automatic disqualification from managing a company for some breaches. In other cases, a court or ASIC may disqualify a Director.

Factors considered in imposing penalty

In *ASIC v Vizard* (2005), Justice Finkelstein made a number of important general points about the factors relevant to the penalty to be imposed for breaching the duties outlined above (in that case, there had been an improper use of information contravening sec 183(1)). He said:

> *The governing principle of 'sentencing' in cases of the kind with which we are concerned is general deterrence. The sentence must be exemplary and sufficient so that members of the business community are put on notice that if they break the trust which has been reposed in them they will receive a proper punishment. It is vital not only in the interests of the business community but in the interests of society that leaders of that community will act honestly in all their dealings. Any slip from the high standards demanded of Directors can put at risk the fortunes of their company and also the fortunes (large or small) of those who invest in them. In extreme cases, the misconduct can affect the economy as a whole.*

While good character cannot be ignored, it should only play a minor role in sentencing for most white collar corporate crime. In *R v Rivkin* (2004), the NSW Court of Criminal Appeal said that

> *The relevance of good character is of lesser significance for white-collar crimes, since it is that factor which normally places the offender in a position whereby he or she is able to commit the offence.*

In *ASIC v Vizard*, the judge felt that:

> *At a general level, corporate crimes committed by prominent business people have a tendency to erode the moral base of the law and provide an opportunity for other offenders to justify their misconduct. At a more immediate level corporate crime is diffuse in its impact, is easily concealed with seemingly legitimate business transactions and is difficult to detect, control and punish. Corporate crimes are usually committed to accumulate wealth and power and are almost always the result of deliberate and calculated conduct. I have said in another context that, for this kind of offence, it is the*

nature of the offence rather than the character of the offender that should be the principal consideration for the punishment to be imposed. I continue to hold that view.

Factors which were taken into account in mitigation were:

- great damage to the defendant's reputation
- early acknowledgement of wrongdoing
- co-operation with investigation
- a 'guilty plea'
- the company of which he was a Director did not suffer any harm.

In addition, the AICD (2007) provides the following information pertaining to the rights and powers of Directors.

'Directors have been given a wide range of rights and powers to enable them to fulfil their duties and responsibilities. The *Corporations Act 2001* provides that 'the business of a company is to be managed by or under the direction of the Directors' and that 'the Directors may exercise all the powers of the company except any powers that this Act or the company's constitution (if any) requires the company to exercise in general meeting' (s198A).

Delegation

Unless the company's constitution provides otherwise, the Directors of a company may delegate any of their powers to anyone (s 198D, *Corporations Act 2001*). The delegation must be recorded in the company's minute book.

If the Directors delegate a power, s190 makes the Directors responsible for the exercise of the power by the delegate as if the power had been exercised by the Directors themselves.

However, a Director will not be responsible for things under the delegation if:

- the Director believed on reasonable grounds at all times that the delegate would exercise the power in conformity with the duties imposed on Directors of the company by the *Corporations Act 2001* and the company's constitution (if any);
- the Director believed on reasonable grounds and in good faith, after making proper inquiry if the circumstances indicated the need for inquiry, that the delegate was reliable and competent in relation to the power delegated.

Delegation does not excuse a Director of their duty of care and diligence.
Matters to be considered in deciding whether there are 'reasonable grounds' for relying on the delegate include:

- the function that has been delegated is such that 'it may properly be left to such officers';
- the extent to which the Director is put on inquiry, or given the facts of a case, should have been put on inquiry;
- the relationship between the Director and delegate must be such that the Director honestly holds the belief that the delegate is trustworthy, competent and someone on who reliance can be placed. Knowledge that the delegate is dishonest or incompetent will make reliance unreasonable;
- the risk involved in the transaction and the nature of the transaction;
- the extent of steps taken by the Director – for example, inquiries made or other circumstances engendering 'trust'.

Example

In proceedings brought by ASIC against Mr Williams, Mr Adler and others concerning HIH, Mr Williams sought to be excused from liability for breach of his duty of care on the basis that they had delegated authority to Mr Adler and to the General Manager of Finance.

The court found that Mr Williams was not entitled to rely upon delegation to Mr Adler in circumstances where Mr Adler evidently had a conflict of interest. Nor could he rely on delegation to the General Manager of Finance when Mr Williams allowed a $10 million transaction to proceed contrary to the approval process required. In all the circumstances, 'Mr Williams could not simply leave it to others to ensure that the approval process was carried out'.

ASIC v Adler & Ors (2002) 41 ACSR 72

In relation to access to documents and information, the AICD (2007) provides the following:

Directors have a common law right to inspect and to take copies of documents belonging to the company, as long as the Director is acting for a proper purpose and while he or she remains on the Board. Other rights can be written into the constitution but important rules apply:

- *A Director has the right to receive information concerning the company's affairs in a timely manner.*
- *A Director has the right of indemnity from his or her colleague Directors for obligations under the legislation and at common law. This right arises where a particular Director is (or Directors are) sued for breaches of duty.*
- *In certain circumstances, it may be necessary for Directors to demand detailed financial information from management. If the information requested is not forthcoming, a Director has the right – under the Corporations Act – to seek an order from the court appointing a registered company auditor to inspect the accounting records. The auditor is not required to disclose the information found to any person other than the Director who sought the order.*

If a Director has shares in the company, he or she also has the rights of a shareholder.

The *Corporations Act 2001* in s198F gives Directors a right to have access to company documents. The right needs to be approved by the shareholders and this is usually done through a 'Deed of Access'. This right continues for seven years after the person has ceased to be a Director. There is also a right to copy the books.

Directors should ensure that the company keeps a complete set of Board materials in chronological order and in suitable, secure custody during the access period, that is, from the date a Director joined the company until seven years after he or she has resigned, allowing copies to be made at company expense.
Regarding access to professional advice, the AICD (2007) gives the information below.
In an attempt to strengthen the independence of non-executive Directors and the rigour of
Board decision-making, the issue of Directors' access to independent advice, that is, from a source other than that provided by the company, has become important. The Australian Stock Exchange listing rules require companies to state whether Directors have access to professional advice and whether that advice is at company expense. Earlier approval is usually required.

In legal proceedings brought to determine whether a Director has performed a duty, the reasonableness of the Director's reliance on information or professional or expert advice can be an issue. Section 189 of the Corporations Act 2001 provides that the Director's reliance on the information or advice is taken to be reasonable unless the contrary is proved if:

a. the Director relies on information, or professional or expert advice, given or prepared by:

i. an employee of the corporation whom the Director believes on reasonable grounds to be reliable and competent in relation to the matters concerned

ii. a professional adviser or expert in relation to matters that the Director believes on reasonable grounds to be within the person's professional or expert competence

iii. another Director or officer in relation to matters within the Director's or officer's authority

or

iv. a committee of Directors on which the Director did not serve in relation to matters within the committee's authority.

b. the reliance was made in good faith and after making an independent assessment of the information or advice, having regard to the Director's knowledge of the corporation and the complexity of the structure and operations of the corporation.

'Expert', in relation to a matter, means a person whose profession or reputation gives authority to a statement made by him or her in relation to that matter.

The report from the Corporations and Markets Advisory Committee on 'Corporate Duties below Board Level' reviewed the personal duties and liabilities under the *Corporations Act 2001* of corporate officers, employees and other individuals below Board level. The Committee recommended that sec 198 should apply to any Director, officer or other person who takes part, or is concerned, in the management of a corporation.

6. Concluding module 2

The focus of this module has been on the challenges connected to the corporate governance role of the top-level leaders of organisations – in particular business organisations, companies or 'corporations' (but also other kinds of organisations). We challenged you to think about governance issues in different contextual settings – which align with situational and contingency theories of leadership. After having been introduced to the top-level leadership structures and roles, such as the Board of Directors, the CEO or company president, the Chair of the BoD and Directors (including non-executive Directors), you were challenged to develop a better understanding of corporate governance from international perspectives. Poor governance has great consequences. The bulk of the focus was on the Enron debacle in the US at the start of this millennium. You also had to consider the role of transparency related issues in corporate governance. We ended this module by taking a closer look at some of the legalities and other issues pertaining to the governance role of Boards of Directors and individual Directors from an Australian angle.

The next module focuses on the work and leadership dynamics and challenges of strategic leadership as manifested at Board level, and we will examine ways to improve the performance of Boards of Directors.

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