Australian Government
Office of the Registrar of Indigenous Corporations

ORIC Oracle

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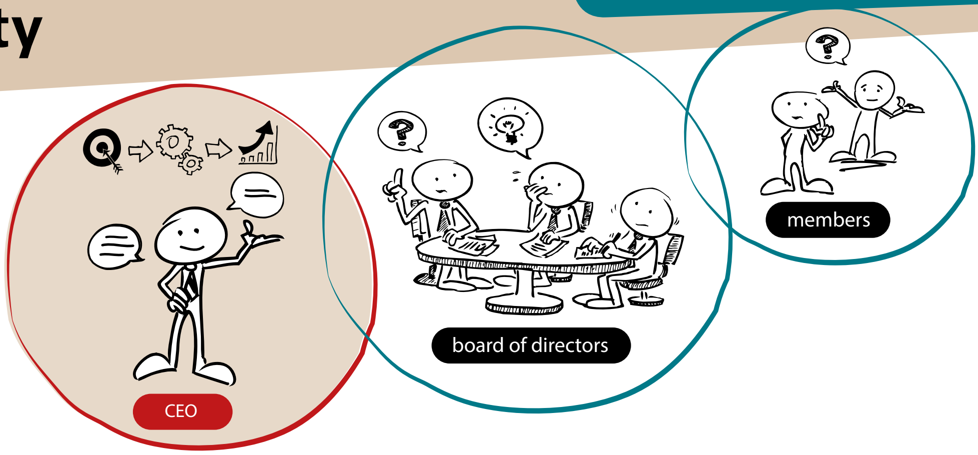
CEO accountability



Two in every three cases where ORIC has taken legal action on wrongdoing have involved a senior officer of a corporation. In total, 15 people in these positions have been prosecuted over the past eight years. This issue of the *ORIC Oracle* is all about CEO accountability.

Today, corporations are expected to **perform to a higher standard**, and to **be more accountable**, than ever before. (Governments and the mainstream corporate sector—who provide funding and other assistance—have raised their standards, but so too have members and communities.) If you're a director, you're probably feeling the pressure. After all, it's directors who are expected to protect member, stakeholder and public interests, and make strategic decisions to drive corporate performance.

You might hire a CEO to look after day-to-day operations and give them responsibility for achieving strategic objectives and for complying with laws and agreements. But you can't just leave them to it. You need to oversee the business story, and make sure the CEO is performing well.

Maybe your CEO is very knowledgeable and highly skilled. It might be tempting to relax. But as a director it's not enough to believe things are going well. It's your responsibility to know they are. Remember:

- A CEO has a lot of control and can heavily influence the success (or failure) of a corporation.
- Directors have a legal responsibility to monitor their corporation's affairs—that is their duty of care and diligence—so they can make good strategic decisions.

CEO stands for 'chief executive officer', but when we talk about a corporation's CEO we mean whoever is the most senior staff member. Some corporations call this position the coordinator; others call it the executive director or manager.

Trust and accountability

It's the directors' job to keep an eye on the CEO's work, so they can identify and respond to risks and—if need be—adjust the business strategy. But they should take care not to cross the line; they should allow the CEO to make operational decisions. In other words, the CEO needs their **trust**.

The more open a CEO is, the more they will be trusted. They need to always have an answer to questions the board or a funding body will ask, such as: What income have you generated? How much have you spent, on what? Have you met milestone targets? Then, in turn, directors will have answers to questions from members.

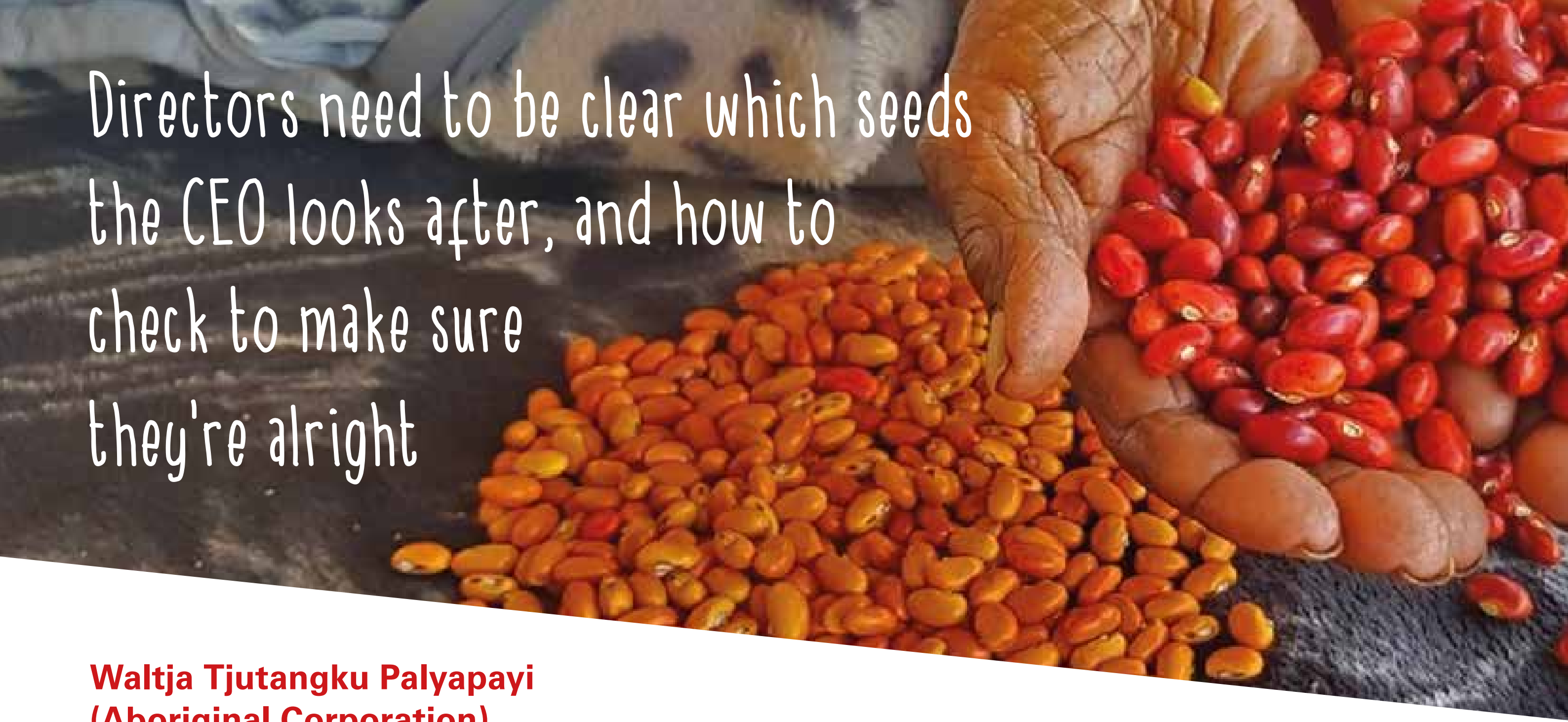
Ask questions

Operations can be complex and you may have less business acumen than your CEO. Maybe you hesitate to ask a question because it might cause discomfort or make you seem unsure. **Our advice? Always ask!** As a director you have a legal responsibility to understand so you can make the best decision. And more than likely, the response to your question will clarify things for the whole board—maybe even the CEO too.

For directors and CEOs alike the ultimate question is:

Do the directors know enough about operations and performance **to make good decisions** for the future of the corporation?

Everything else flows from there. If the CEO seems reluctant to share information, ask questions. If an audit comes back with a qualification from the auditor, ask about it. Whether the news is good or bad, directors need to hear it. Then they are best positioned to serve the members.



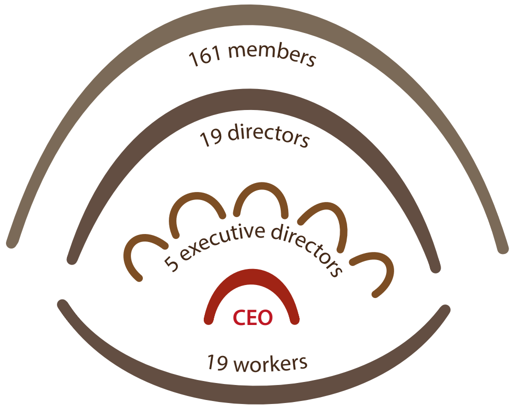
Waltja Tjutangku Palyapayi (Aboriginal Corporation) serves an area of 900,000 kilometres with an estimated population of 13,000 people. Its name is a Luritja term meaning families; for a big lot/ everybody; really good together—and its governance is award-winning.

Waltja's agenda is set by a board of 19 directors, all Aboriginal women aiming to improve outcomes for families in communities across the bottom of the Northern Territory. The corporation generates income through competitive tenders with government, philanthropic grants and an art-based social enterprise, Tjukurrpa Tjutangku.

Because the service area is so large and diverse, the governance structure is multi-layered—and for it to work, it needs to be tight.

As in most corporations, the CEO is the funnel for translating the directors' vision into action. What makes Waltja special is that the directors have a strong presence on the ground where the work is being done—in their home communities.

Waltja CEO Sharijn King (right) with Marilyn Nangala



Waltja directors have a voice and a close relationship with the workers, and there's a full circle of accountability, as a program manager suggests:

> *You've got to have good leadership, and* ***the leaders have to know what's going on****. With Waltja we've got two levels. We've got directors who come from every community that Waltja works with. Those women elect five directors to form the executive—the chairperson and four others—to work with and support our CEO to manage Waltja's operations. That makes a really strong structure. Then, when we go out with our workers, to work on different programs on community, those directors are looking after the workers. They're helping everyone to understand and be involved. And that means our programs work well. So our governance is from the top, from the directors and the executive, and also from the bottom, from the programs where the directors are helping.*

Waltja's CEO is at the centre of the operation, but the directors are deeply interconnected, and the workers become part of the family, as executive director Irene Nangala explains:

> *Waltja learns what's happening in the community from the directors. Directors talk to exec. Exec talks with workers. Waltja workers are invited by the*

Photo (top of page): Ininti seeds from the bat wing coral tree. Waltja sells ininti seeds, necklaces and bracelets online—waltja.org.au/artstore. Courtesy of Waltja Tjutangku Palyapayi (Aboriginal Corporation)

directors to come to the community. They stay; they meet the directors and their families. They make friends. They become family. They listen to all people in the community with the directors, young and old, men and women. We work together, Anangu/Yapa and Kardiya, workers and directors and community. It gives Waltja a better understanding of community and what people need, and gives us a strong voice with communities and with government. We make family from far and near. That's why we called the organisation Waltja—family.

Executive director, Irene Nangala

Because of the information they receive from members, community and the CEO, it's relatively easy for Waltja directors to see that the CEO is doing a good job.

However your corporation works, your directors have to **keep an eye on the work**. It's their job to ask the CEO what they need to know to be sure the corporation is on track; and it's the CEO's job to **report on the work** in just enough detail that the directors can make good decisions.

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Separate roles and responsibilities

Clarifying the line between director and management roles is essential for good governance. A CEO or other executive who is also a director is likely to face regular conflicts of interest. Realistically, in corporations with few or no staff, one person might perform both director and management duties. The risk—which those corporations must manage—is that the two kinds of role become blurred. So anyone who performs both roles must be mindful of wearing different hats at different times.

Regardless of how your corporation assigns duties, you will have better accountability if everyone is clear on their roles and responsibilities, and they are kept separate.

The **directors' role** is to:

- **recruit the CEO** and induct them into the culture of the corporation and the people it represents
- share their vision and **support** the CEO to translate it into action—setting goals, strategies and policies
- **monitor** the corporation's performance
- regularly **assess** (and document) the CEO's performance.

Remember: directors are not involved in hiring or directing junior staff—the CEO does that.

The **CEO's role** is to realise the directors' vision and enable them to see what progress has—and hasn't—been made:

- **be the champion**—generate enthusiasm for the work among staff, funding bodies and other stakeholders
- convert the vision into a step-by-step **plan** and secure staff and resources to carry it out
- **track** progress (and income and expenditure) and notice any problems as soon as they arise
- regularly **report**—the good and the bad—to *all* the directors.

Remember: the CEO might request a directors' meeting or make a recommendation, but it's directors who steer the corporation and make the important decisions—not the CEO.

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A healthy relationship

One key to success for your corporation is a healthy relationship between the directors and CEO.
To establish such a relationship it will help to have a signed employment contract or agreement between the CEO and the directors of the corporation.
Such an agreement should clearly state:

- the CEO's **responsibilities** (their duties and obligations as an officer of the corporation)
- the CEO's **entitlements** (pay and other conditions of their employment)
- what **behaviours** are required of the CEO (e.g. leadership qualities and a code of conduct)
- what **achievements** you expect of the CEO—and by when.

A CEO should never be involved in drafting or finalising their own contract, and any contract should be signed or at least sighted by *all* the directors.

Recipe for success

When a board and CEO have a good relationship, the corporation can thrive. Ideally, the board and CEO:

- **have a shared understanding** of the corporation's values and purpose—and what success looks like
- **know what to do** and when to seek clearance or help
- involve each other as needed but otherwise **trust each other**.

Directors should keep an eye on their CEO's work, but allow them to make operational decisions.

Feedback

It's essential that both the board and the CEO feel comfortable giving feedback to each other. A CEO will benefit from any updates the board can provide as to its expectations. A board can also gain valuable insight from their CEO on whether their strategy is working and how well they are performing from an operational perspective.

Performance reviews

As well as frequent opportunities to give and receive feedback, it's important to have a formal evaluation process, usually six-monthly or annually.

If the board is not involved in the day-to-day running of the corporation, it can be challenging to evaluate how your CEO is going. You can look at financial performance of the corporation over time, milestones met in delivering corporate objectives, quality of services delivered, and so on. But these are external measures. They may indicate whether or not the corporation is performing well, but they don't necessarily tell you if it was the CEO's performance that led to those results.

A good set of performance criteria will cover a mix of corporation results, effectiveness in managing staff, achievement of set goals, and general leadership behaviours. The board may involve other stakeholders such as employees to gather information about how the CEO is performing. The board should also involve the CEO to understand their point of view on how they've performed.

See **templates** for a CEO's employment contract and performance review at **oric.gov.au/ceo**

Responding to poor performance

It can be tricky to manage problems with your CEO's performance, but the future of your corporation may depend on it. If you're a director, it's one of your responsibilities. Remember, ORIC has no authority to censure a CEO—or to monitor their performance. Only directors do. Some tips:

- **Address warning signs early.** Even if it turns out to be 'a storm in a teacup' it's better to have looked into a problem than to have left it to escalate.
- **Speak openly** with your CEO. Maybe it's a non-issue. Maybe they already have a plan to sort it out. Or maybe you need to rein them in, or nudge them to do more—for the sake of the corporation and the members.
- If the issue is under-performance rather than wrongdoing, **set some goals and a timeframe** for improvement. (If it's more serious, you need to take immediate action to minimise the damage.)
- **Document everything**. For the sake of all parties, it's a good idea to have all the activity in writing.

If all else fails, seek legal advice.

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