

Considering inclusive governance?

Many organisations supporting people with physical, sensory and psychosocial disabilities already include people with disability on their boards. Fewer organisations include people with intellectual disability, although a number of advocacy and peak bodies have successfully done so for many years.

This handout largely – although not exclusively - focuses on the inclusion on boards of people with intellectual disability. It is based on a panel discussion at the CEO's Meeting 2021 by Dr Alan Hough and Dr Bernadette Curryer, where their perspectives and views on Inclusive Governance were presented.



Alan is from Purpose at Work, a consulting team that helps human service organisations bring their purpose and values to life. Alan completed his doctorate in the governance of non-profit organisations. He created *Right on Board: Governing and managing for human rights, quality and safeguarding*.



Bernadette is a Research Officer at Side By Side Advocacy. She is undertaking qualitative research, utilising a phenomenological¹ approach, to guide identification of board structures and processes that support inclusion of people with intellectual disability. This research is part of a 3-year Information, Linkages and Capacity-building project funded by the Australian Government Department of Social Services. The research component of this project is still being conducted, therefore any information is based on preliminary findings.

Q. 1: Why include people with disability on boards?

- Having directors (board members) with disability can reflect your organisation's commitment to human rights and inclusion. The UN Convention on the Rights of Persons with Disabilities (preamble paragraph (o)) clearly identifies the right and importance of inclusion:

persons with disabilities should have the opportunity to be actively involved in decision-making processes about policies and programmes, including those directly concerning them.

- Like other directors, people with disability will bring with them a range of knowledge, skills, abilities and networks of influence that can be of value to your organisation.
- People with disability can also enrich board discussions with a lived experience perspective.
- Inclusion on the board can be a symbol of the organisation's values.

¹ A phenomenological approach is a form of qualitative research that emphasizes experiential, lived aspects of the matter under investigation.

- Inclusion helps prevent ‘othering’ where some people without disability treat people with disability as unlike themselves. It can help challenge ableism.
- Inclusion helps meet the Quality Indicators for the NDIS Practice Standards:

Opportunities are provided by the governing body for people with disability to contribute to the governance of the organisation and have input into the development of organisational policy and processes relevant to the provision of supports and the protection of participant rights.
- To meet calls by advocates for ‘Nothing about us without us’.

Q. 2: Why include people with intellectual disability on boards?

- For all the above reasons.
- People with intellectual disability may have different life experiences and may therefore bring a different perspective to the board than people with other types of disability or people without disability.

Q. 3: But can people with intellectual disability effectively participate in the complex and fast-moving discussions that sometimes occur in boardrooms?

Whether the person has an intellectual disability or not, all directors should meet the relevant legal requirements of having the capacity to:

- understand the information relevant to the decisions that they will have to make in performing their role
- retain that information to the extent necessary to make those decisions
- use and weigh that information as part of the process of making decisions, and
- communicate the decisions in some way.²

Whether the person has the capacity to engage in discussions and make decisions depends on the environment, the decisions being made, and on the individual’s skills and experiences. An inclusive board culture, individualised support, clear information, and sufficient time will provide an environment in which many people with intellectual disability will be able to meet their obligations.

Q. 4: Can’t parents and siblings of people with disability bring their lived experience to the board room?

Parents, siblings and other carers can bring valuable insight into the issues before boards as well. This has been recognised by inquiries such as The Royal Commission into Victoria’s Mental Health System. Many directors who are family members make invaluable contributions to the work of their boards.

² Australian Law Reform Commission, 2014. *Equality, Capacity and Disability in Commonwealth Laws* (ALRC Report 124).

However, just as people without disability are likely to have different perspectives and views from their parents and siblings, the same is true for people with disability. The presence of family members does not negate the benefits, on both an individual, organisational and societal level, of inclusion of people with disability.

Q. 5: When might the argument for the deliberate inclusion of people with disability not work?

- For multiservice providers (for example, those providers operating disability, aged care and youth services), there can be questions about the practicality of including, on the board, someone from each of the constituencies supported. However, it might be possible to include someone from the primary constituency or who has mixed life experiences. Inclusion should not be confused with representation.
- In law, a director cannot act as a representative of a particular constituency but must govern in the interests of the organisation and its purpose.³
- One person should not be expected to 'represent' the views of a particular constituency. Further, a person with disability will have a range of life experiences - in addition to their disability - depending on 'intersectional' experiences such as gender, race, socio-economic status, sexuality, etc.
- The experiences of people with say physical or sensory disabilities is likely to be quite different to the experiences of people with moderate or profound intellectual disability, although it should be acknowledged that they might well have keener insights into ableism than people without disability.

Q. 6: Should clients be directors?

The law does not prevent clients being included as directors, although the potential or actual conflicts of interest would need to be managed in accordance with legislation, the organisation's constitution and organisational policies.

Some providers deliberately seek directors with disability who are not clients as a way of avoiding conflicts of interest.

Q. 7: How do we avoid tokenism? What support should we consider providing to directors with intellectual disability?

Most providers appear to be keen to avoid tokenism when it comes to appointing people with disability to their boards. For directors with intellectual disability, some ways of avoiding tokenism are:

- including more than one director with disability on the board
- making reasonable adjustments by:
 - resourcing the person with transport and any other supports they need

³ *Bennetts v Board of Fire Commissioners of New South Wales*.1967) 87 WN (Pt 1) (NSW).

- appointing and funding a skilled person to support the director, such as a person to help the director read and understand the agenda papers and to help identify points they want to contribute to the discussion
- ensuring that agenda papers are distributed prior to the meeting, giving sufficient time for review, and are as easy to read as practicable (which will help all directors in their role)
 - when meeting, the board's Chair using techniques such as round-robins (asking each director for their views) when there are important decisions to be made
 - slowing down discussion and decision-making to permit inclusion, and
 - the board Chair periodically checking-in with the director on a one-on-one basis about the director's experience and whether additional or different support is required.

The last point might be challenging at times, for example, when quick decisions must be made. Extra support may need to be offered to allow a timely response.

Q. 8: How do I find potential directors with disabilities?

There are many ways of finding potential directors:

- the Disability Leadership Institute offers a [Find a Leader service](#) at reasonable prices
- using networks to find suitable candidates
- creating pathways for recruitment, for example, creating an advisory committee or a panel of co-trainers with disabilities and identifying people who might have an interest in becoming directors.

Q.9 What are options for inclusive governance in addition to directorships?

Corporate governance is more than just an organisation's board and includes the entire system for directing and managing organisations. It includes structures, policies and procedures, and practices for the control of organisations.

Of course, ensuring that a person being supported is at the centre or leading their support delivery is fundamental and needs to be part of the organisation's practice for every person being supported.

Inclusive Governance needs to be part of a **holistic inclusion strategy**, not an isolated practice. Besides inclusion in the boardroom, other options to support inclusive governance include:

- having people with disability in board-level and management-level committees, such as client advisory committees
- establishing focus groups of people receiving support when key issues are being decided

- establishing panels of people receiving supports who can be called upon as individuals when needed to provide comments on important draft documents, and
- considering other ways that people with disability can be involved in the organisation
 - recruiting people with disability as employees, and
 - including people receiving supports in other roles, such as co-trainers when training is being delivered to staff.

Broad inclusion throughout an organisation also provides experiences and learning opportunities for people with intellectual disability that may well encourage their participation at a board level, developing additional skills and experiences to draw on in a director role.

Where people with disability are included in these ways, they should be remunerated on the same basis as people without disability. Reasonable adjustment measures, such as described in the answer to question 7, might also be required.

Q. 10: Should we notify our insurer of our decision to include a director with intellectual disability?

This is up to the organisation to decide, having regard to the requirements under its insurance policies.

This is an area that is still being explored. If you do notify your insurer, we would be interested to hear of their response.

Q. 11: What about boards that are dysfunctional and might not be safe or enjoyable for a person with intellectual disability?

Boards which are dysfunctional are not usually a safe or enjoyable experience for *any* director. There are two options:

- the board can address and attempt to solve the dysfunction before inviting *any* additional directors to join the board, or
- the board Chair or another organisational representative can flag the issue to the prospective director and let them make the choice about whether they wish to participate.

It might even be that the presence of a person with disability on the board could help re-focus the board and help move it away from conflict and towards achieving the organisation's mission. The support person should also have skills to assist the board member to identify and address any problematic behaviours they encounter.

Q, 12: What is the research evidence about inclusion of people with disability – and people with intellectual disability – on board and organisational effectiveness?

At this stage, the research evidence is very limited. We don't know what effect the inclusion of people with disability on boards, including people with intellectual disability, has on board and organisational effectiveness.

The results of the US National Beyond Tokenism Study, conducted by Dr. Mark Friedman, Dr. Ruthie-Marie Beckwith and Dr. James Conroy can be found in the special edition of the American Association on Intellectual and Developmental Disabilities journal, *Inclusion*, volume. 4, no. 3, September 2016. However, these articles focus on the mechanisms of inclusion and on the experience of people with intellectual disability on boards. They do not consider impacts on board and organisational effectiveness.

Some research has looked at the involvement of people with intellectual disability on government advisory bodies (Frawley and Bigby, 2011) and in strategic planning (Fyson and Fox, 2014). For other forms of diversity, such as gender and race, the adoption of specific diversity policies and practices at the Board level, and inclusive behaviours of Board members themselves, were the two mechanisms most likely to support effective Board outcomes (Buse, Bernstein & Bilimoria, 2014).

Although single case studies need to be treated with caution, the case of the UK [Royal National Institute of Blind People](#), demonstrates that having a board entirely composed of people with disability does not guarantee that the organisation provides quality and safe supports. Further, it demonstrates that all boards should be concerned with quality and safeguarding.⁴ Boards need to include some directors with expertise in these issues, and lived experience does not guarantee expertise in quality and safeguarding.

Q. 13: Where can I obtain further information?

Check out these websites:

- [Side By Side Advocacy](#) – as the Inclusive Governance Project progresses, resources will be developed, uploaded and freely available to all
- [Voice at the Table](#), and
- [On Board With Me](#).

References

Buse, K; Bernstein RS; Bilimoria, D., (2014) *The Influence of Board Diversity, Board Diversity Policies and Practices, and Board Inclusion Behaviors on Nonprofit*

⁴ See Purpose at Work's program: '[Right on Board](#): Governing and managing for human rights, quality and safeguarding'.

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