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WEBINAR SERIES



Governance & director duties: What does it mean for small FAPs

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4 September 2020

Re-cap of Previous Session

- Technology to make your business more effective
- Addressed changing consumer expectations, an integrated office, and selecting the right options
- Available to watch again on the FSC Professional Advice Knowledge Hub (getinshape.nz)



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Agenda

- You already have obligations under the Companies Act
- What is required of a director of a FAP (including authorised bodies)
- Small FAP challenges
- What not to do
- What you could do – practical solutions
- Governance and the FMA

What is governance?

- Governance
- Oversight body
- Governance framework
- Company constitution





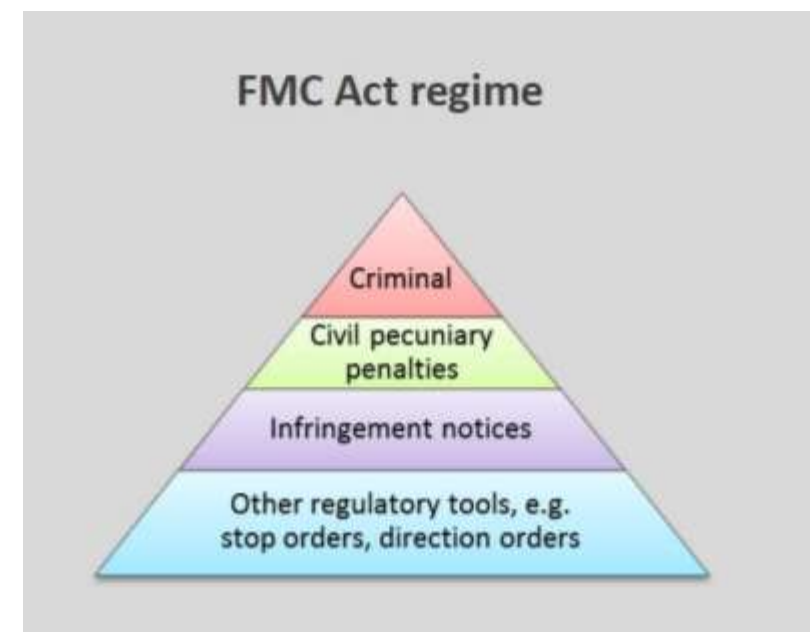
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You already have legal obligations

- **Companies Act 1993**
- Determining and implementing policies and making decisions
- Preparing and filing statutory documents
- Maintaining and keeping records
- Binding the company with suppliers, lenders and others
- **Fair Trading Act, Consumer Guarantees Act, Privacy Act, Financial Advisers Act, FSP Act, HSWA & others.**

FAP (incl AB) director responsibilities

- Ensure the business and all those under its licence are compliant with legislation, regulation, code, good conduct, FAP standard conditions and contract obligations
- Maintain fit and proper status
- Oversee the financial advice provided to clients
- Potential penalties under the FMC Act

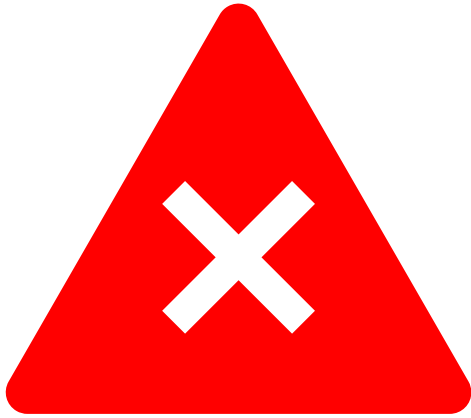


Challenges for small FAP's

Most governance material relates to larger organisations with boards & separation of duties

- How do I get independence and oversight if I am the director, manager and adviser?
- How do I hold meetings with myself and why draft reports to myself?
- How do I get time to do all this governance stuff and still make a living?
- Do I need a board and if so when and how to make it work?



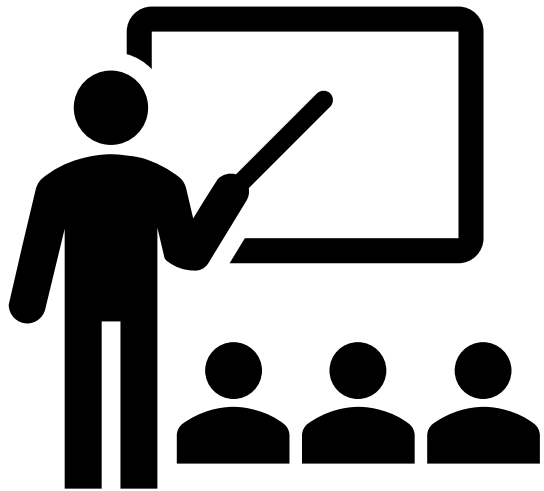


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What not to do

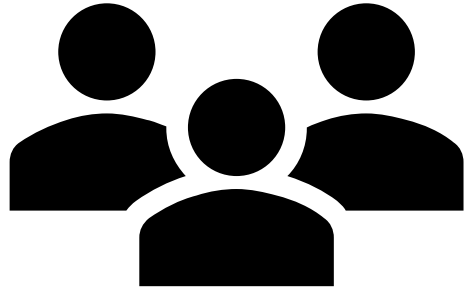
- Ignore the issue – the problem is not going away
- Appoint spouse to the board to make up numbers
- Appoint people who do not meet ‘fit and proper’ test
- Build a structure and documents you don’t intend to follow
- If building a board – appointing people just like you
- Have a complicated business structure – KISS

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What you could do practical solutions

- Upskill yourself as the director – Institute of Directors, Governance NZ, CPD modules
- Advisory board
- Business adviser
- If an AB – use FAP resources to attend your board meetings
- Carefully draft your operations manual/licence application to describe how the business meets its obligations

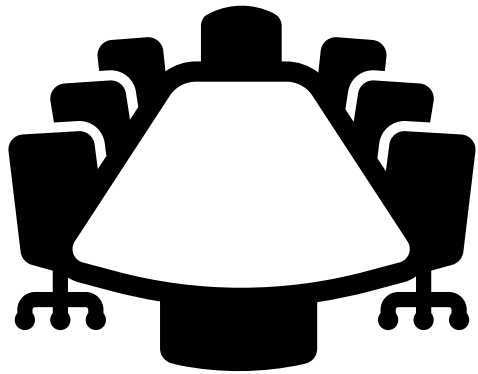


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What you could do - considerations

- ✓ Selecting the right director or adviser is critical
(quality/experience beats quantity)
- ✓ KISS – it should be proportional to your business size
- ✓ Diversity of skills is important
- ✓ Expand remit of current providers (e.g. compliance, IT, product providers, accountants, lawyers)
- ✓ Understand the resources involved (who does what & when; skills required)

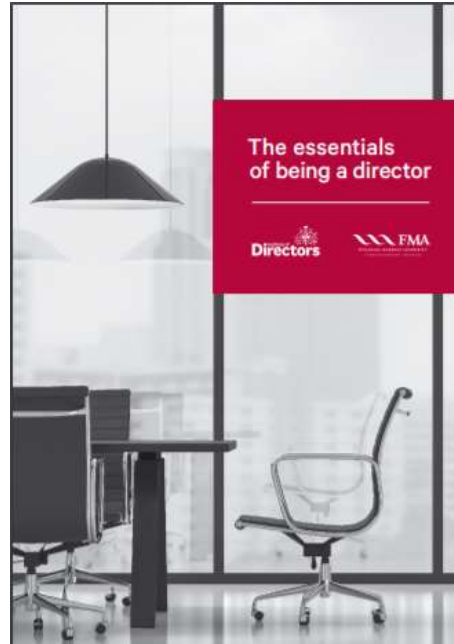
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As your business grows

- Why do larger businesses engage independent directors
- When to appoint a board
- Test for independence
- Deemed directors
- Issue with appointing staff as fellow directors
- Re-evaluate periodically

Governance and the FMA

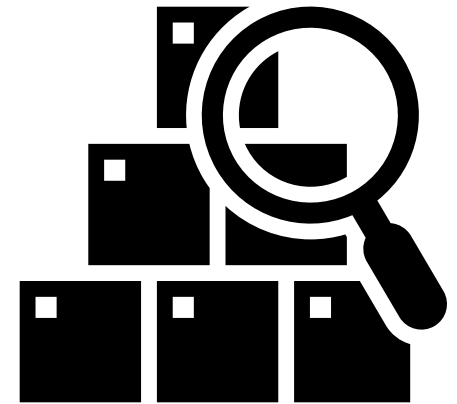


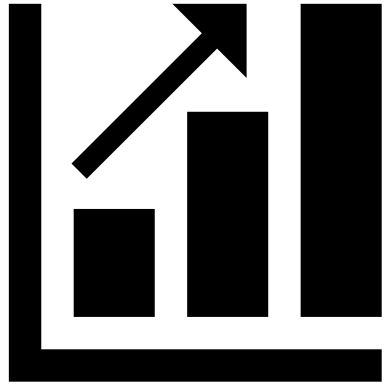
- [FMA governance guidance note and the essentials of being a director](https://www.fma.govt.nz/assets/Guidance/180913-The-essentials-of-being-a-director.pdf)
- <https://www.fma.govt.nz/assets/Guidance/180913-The-essentials-of-being-a-director.pdf>
- <https://www.fma.govt.nz/assets/Guidance/170202-A-guide-to-the-FMAs-view-of-conduct.pdf>

Summary

- FAP directors oversee and are responsible for all those under the licence
- Know your obligations
- KISS
- Sort the issue now

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Next Steps

- Seek advice
- Upskill yourself

Next Webinar

- Risk management- determine your desired level of risk & implement a risk framework
- About: Identifying business risk & how you want to manage it
- 18 September 2020, 10 am
- Registration details will be sent via FSC emails and on the FSC's Professional Advice Knowledge Hub ([getinshape.nz](https://www.getinshape.nz))