



STEWARDSHIP & RISK

Advocacy Governance: When a Board Speaks for Members It Doesn't Fully Represent

No law requires member approval for most advocacy positions. That is exactly the risk

A board can commit an entire membership's public voice to a contested position through an ordinary board decision, with no formal member vote required at all. This is not a legal loophole. It is how governance authority is structured, and it creates an accountability gap that most associations have never deliberately addressed.

Which rules apply to your association?

The law depends on how your association is set up. A **company limited by guarantee** follows the Corporations Act 2001 (Cth) and its constitution. An **incorporated association** follows its state or territory associations Act and its rules. A **registered charity** also follows the ACNC Act and the ACNC Governance Standards, and some Corporations Act rules are replaced for charities that are companies. Check your own governing documents, and get advice before decisions with legal consequences.

In this resource

1. [Advocacy Is Legitimate, And Clearly Permitted](#)
2. [Where The Actual Governance Gap Sits](#)
3. [Why This Connects Directly To Accountability, Not Just Strategy](#)

Advocacy Is Legitimate, And Clearly Permitted

For registered charities, the ACNC's position is clear: a charity may advocate when working towards its charitable purpose. Under the Charities Act 2013, promoting or opposing a change to any matter of law, policy or practice is a charitable purpose where it furthers or aids another charitable purpose of the charity. For non-charitable associations, the limit is the objects clause in the constitution and the general law. This follows the High Court's earlier recognition, in what is generally known as the Aid/Watch case, that political advocacy consistent with an organisation's charitable purpose is not a barrier to charitable status. The only real constraints are the disqualifying purposes discussed in the objects clause article earlier in this series: unlawful activity, activity contrary to public policy, or promoting or opposing a specific political party or candidate. Advocacy around elections can also trigger Commonwealth and state electoral disclosure obligations for any association, and changes to Commonwealth funding and disclosure rules start on 1 January 2027, so check [AEC guidance](#) before spending on election-period campaigns.

None of this is the governance question this article is about. Whether advocacy is legally permitted and whether a specific advocacy position reflects the membership the organisation claims to represent are two entirely different questions.

Where The Actual Governance Gap Sits

Adopting an advocacy position is, in ordinary circumstances, a management and strategy decision the board makes under the general management power in its constitution or rules, discussed earlier in this quarter, not a matter requiring a formal special or ordinary resolution of members in the way constitutional change or director appointment does. This is entirely appropriate for the great majority of advocacy activity, submissions, research, routine policy engagement, where consensus exists and speed and

expertise matter more than a formal mandate. It becomes a governance risk specifically where the membership is meaningfully divided, and the board's public position, once taken, effectively speaks for members who never agreed with it and were never asked.

A board does not need unanimous membership agreement before speaking publicly. It needs a deliberate answer to a specific question before it does: does this position carry the kind of consensus that makes speaking for the whole membership defensible, or is the board quietly speaking for itself while borrowing the membership's name?

Why This Connects Directly To Accountability, Not Just Strategy

This is where the accountability discipline this series has returned to repeatedly actually bites. A board that adopts a contested advocacy position without meaningful consultation is not just making a strategic choice. It is testing the accountability to members that underpins the AGM process, the member motion rights, and the transparency principles discussed throughout this series. Members who feel a public position was imposed rather than represented are the members most likely to disengage entirely, resign, or challenge the board's legitimacy more broadly, well beyond the specific issue in question.

- Distinguish routine advocacy, clearly aligned with the objects clause and carrying broad consensus, from contested positions that could reasonably divide the membership, and apply different levels of consultation to each.
- For contested positions, build a real consultation step into the process before the position is finalised and made public, even where formal member approval is not legally required.
- Document the board's reasoning for adopting a contested position, connecting to the minute-taking discipline discussed earlier this quarter, since this record is what demonstrates the board considered the membership's likely range of views rather than assuming consensus.
- Clearly separate the organisation's formal position from any individual director's or staff member's personal views, particularly where those individuals are publicly visible, to avoid the organisation being bound by a position it never actually adopted.
- Review contested advocacy positions periodically, since a position adopted with reasonable consensus at one point can become divisive as membership composition and views shift over time.

Advocacy is one of the most legitimate and valuable functions a professional or industry association can perform. It is also one of the areas where the gap between what a board is legally entitled to do and what reflects its membership's mandate is widest, and widest precisely because no law requires the board to close it. This is one of the practical governance topics built into our Board Director course, alongside the papers, tools and frameworks that turn the principle into your board's actual practice. [Explore the course](#)

Annie Gibbins

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BOARDROOM ACTION WORKSHEET

Advocacy Governance: When a Board Speaks for Members It Doesn't Fully Represent

Turn the resource into evidence, a decision and an accountable next step. Keep the completed record in your association's approved board records system.

1 What is the issue or decision?

State the governance question in one clear sentence.

2 What evidence do we already have?

Record the facts, source documents and stakeholder evidence available now.

3 What evidence is still needed?

Identify the legal, regulatory, financial, member or operational information still required.

4 What is the agreed next action?

Capture the owner, timeframe and how the matter will return to the board.

Action owner	Review date	Board decision or resolution

General education, not legal, financial, tax, clinical or governance advice. Confirm specifics at the relevant primary source or with your own qualified adviser. Nexus Leadership is operated by Lipstick Consulting Pty Ltd · ABN 15 619 120 482.

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