



GOVERNANCE RISK & OPERATIONS

Unpaid to Paid: The Decision Process Before the Disclosure Rules Apply

Paying directors trades away volunteer liability protections. Most boards weigh the fee without weighing that first

This series has already covered the disclosure obligations that apply once a board decides to pay its directors. What it has not yet covered is the different question a board faces first: the actual decision process for moving from an all-volunteer board to a remunerated one, and the specific, easily missed consequences that decision carries beyond the fee itself.

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. [The First Question, And Why Most Boards Answer It Wrong By Default](#)
2. [The Consequence Most Boards Do Not See Coming](#)
3. [The Additional Regulatory Layer Some Boards Miss](#)
4. [The Two-Step Approval Structure Worth Building In Deliberately](#)

The First Question, And Why Most Boards Answer It Wrong By Default

Many association constitutions either expressly prohibit director remuneration or say nothing about it. If yours is silent, do not assume you can pay directors: depending on the entity type, default rules or the not-for-profit clause may apply, so get advice and consider an express clause. Before a board can consider paying directors, it must confirm whether its own constitution actually allows this, and in many associations, it does not. Changing this requires a special resolution, typically needing a seventy-five percent majority of members voting at a meeting, connecting directly to the constitutional amendment discipline discussed throughout this series. A board whose constitution prohibits payment cannot lawfully pay directors until it is amended, regardless of how strong the internal consensus to do so might be.

The Consequence Most Boards Do Not See Coming

Moving to paid status carries a specific legal consequence beyond simply receiving a fee. The civil liability protections volunteers enjoy under state legislation, connecting directly to the volunteer protection discipline discussed earlier in this series, may cease to apply once a director is paid, depending on how your state or territory defines a volunteer. Directors who move from unpaid to remunerated status are trading a specific legal protection for the payment they receive, and a board weighing this decision should understand this trade-off explicitly rather than discovering it only after the change has already taken effect. Directors' fees generally attract PAYG withholding and superannuation guarantee contributions, and may affect payroll tax and workers' compensation, so confirm the full cost with your accountant or the ATO. A director accepting payment for the first time is not simply gaining income. They are exchanging the volunteer liability protections this series has already established as real and valuable for a fee that needs to be weighed against what is being given up.

The Additional Regulatory Layer Some Boards Miss

Beyond the constitutional amendment, additional regulatory approval can apply depending on your association's specific activities and location. Charities fundraising in New South Wales, for example, must obtain the NSW Minister's written approval, through NSW Fair Trading, before paying a board member, and this also applies to interstate organisations fundraising in NSW, a specific requirement distinct from the constitutional change itself. A board should also review existing grant and funding agreements for any restriction on paying directors, connecting directly to the grant compliance discipline discussed earlier in this series, since a funding condition can prohibit director remuneration even where the constitution and general law would otherwise allow it.

The Two-Step Approval Structure Worth Building In Deliberately

Best practice separates the decision to permit remuneration in principle from the decision setting the actual amount. The constitutional amendment establishes that directors can be paid at all. A separate resolution, ideally also requiring member approval even where not strictly mandated, should then determine the specific remuneration structure and figures. This two-step process gives members an opportunity to weigh in on both the principle and the practical detail separately, rather than being asked to approve an open-ended power in a single vote.

- Confirm what your constitution currently says about director remuneration before any substantive discussion proceeds, and if it is silent, get legal and tax advice rather than assuming payment is permitted.
- Communicate transparently and continuously with members throughout the process, rather than presenting a fully drafted constitutional amendment for approval only at the AGM itself.
- Understand explicitly that moving to paid status may remove the volunteer civil liability protections discussed earlier in this series, and weigh this trade-off deliberately rather than discovering it afterward.
- Check every existing grant and funding agreement for restrictions on director payment, and confirm whether any state-specific regulatory approval, such as ministerial approval for charities fundraising in NSW, applies.
- Separate the constitutional amendment permitting remuneration in principle from the subsequent resolution setting the actual amount, giving members a distinct opportunity to weigh in on each, with a fee benchmark and an assessment of the effect on volunteer protections in the board paper.

The decision to begin paying directors is a governance transformation, not a simple budget line item. It changes the legal protections directors hold, may trigger new compliance obligations, including showing that payments are reasonable and further the association's purposes, and requires a transparent process with members well before the disclosure rules this series has already covered ever come into play.

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

Founder and CEO, Nexus Leadership

BOARDROOM ACTION WORKSHEET

Unpaid to Paid: The Decision Process Before the Disclosure Rules Apply

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.

CONTINUE YOUR LEARNING

Turn governance principles into practical board action.

Self-paced courses, editable resources and practical support for association boards and CEOs at nexusleadership.com.au.