

## Diocesan Corporate Governance

(A report from the Standing Committee.)

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### Background

1. At its meeting on 7 December 2009, the Standing Committee appointed a committee comprising Bishop Glenn Davies, Dr Bryan Cowling, Mr Steve McKerihan, Mr Peter Kell, Dr Laurie Scandrett, Mr Robert Tong, Mr Bruce York and Mr Robert Wicks to prepare a paper on Corporate Governance for Diocesan organisations generally, the issues to be covered to include, but not be limited to, the following matters –

- (a) whether, for all persons appointed by the Archbishop or elected by the Synod, the Standing Committee or other Diocesan entity to Diocesan boards, councils and committees, there should be a limitation on the continuous tenure of the persons so appointed or elected, and, if so, a recommendation on what that should be and how it should be administered,
- (b) the role of the Archbishop on Diocesan organisations,
- (c) whether the non ex-officio Members of the Boards of particular Diocesan organisations should be financially remunerated for the time commitment and level of expertise they are expected to provide,
- (d) whether the Chief Executive Officers of Diocesan organisations should, or should not, be ex-officio members of their Boards,
- (e) conflict of interest matters,
- (f) the matters raised by Synod resolution 23/09 concerning the scope of restrictions on the power of diocesan

organisations to incur financial indebtedness and the scope of the investment powers of diocesan organisations,

- (g) the matter raised by Synod resolution 29/09 concerning the possible payment for the services of members of the Glebe Administration Board and the boards of other diocesan organisations, and
- (h) the matter raised by Synod resolution 32/09 concerning the provision of further information about candidates in Synod elections for membership on the boards and councils of diocesan organisations,

with the intention that the Standing Committee would propose to the 2010 Synod a “Diocesan Corporate Governance Policy” that would enable the matters contained therein to be applied consistently across all Diocesan organisations.

2. The committee has met on numerous occasions. The committee elected Dr Scandrett as chairman. Mr Steve McKerihan resigned as a member in April 2010 on ceasing to be the CEO of the Secretariat.

3. The immediate background to Standing Committee’s request was the implementation of the recommendations of the external review of the Glebe Administration Board following significant capital losses in 2008 and a number of subsequent Synod resolutions both in response to these losses (17/09) and in relation to broader issues of corporate governance (23/09, 29/09, 32/09).

4. This report provides an overview of the committee’s deliberations in this matter and includes as an attachment to this report an exposure draft of a diocesan corporate governance policy for consideration at the Synod session in October 2010.

### **Models of corporate governance**

5. Corporate Governance is a relatively recent term in the lexicon of business, management, and corporate life.<sup>1</sup> Conceptually, it addresses the relationship between the board of directors, management, owners/shareholders and other stakeholders. It asks the question, what are the specific responsibilities of participants in an enterprise and how are they accountable to each other?

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<sup>1</sup> An early use of the term *corporate governance* is by Richard Eells in *The Meaning of Modern Business: An Introduction to the Philosophy of Large Corporate Enterprise* Columbia University Press 1960 at p 108 to describe ‘the structure and functioning of the corporate polity.’ The ‘corporate government’ concept itself is older and was already used in finance textbooks at the beginning of the 20th century. The first academic journal in this area, *Corporate Governance: An International Review* was only begun in 1993.

*Managerialist theory*

6. In the classic study of the 1930s, Berle and Means<sup>2</sup> argued that where ownership and control are separated, the owners (shareholders) rely on the board of directors to represent their interests. Over time the board becomes so dominated by management that their supervisory role becomes ineffective. Executives have the final say. This “managerialist” theory of the corporation focuses on the exercise of corporate management and its power. Because the owners are not able to effectively monitor management, legislation is needed to protect the interests of owners, impose duties and obligations on directors and managers and require proper disclosure of corporate activities.

*Contractual theory*

7. Since the late 1970s, corporate law theory has been dominated by economic analysis which argues that the corporation is a nexus of contracts. This economic analysis has been used to drive corporate law reform. Under this “contractual” theory, competitive markets are more important than mandatory legal rules insofar as they provide managers with incentives to maximise owner (shareholder) wealth. This does not imply the absence of legal rules, but rather that market forces require managers to act in the interest of the owners.

*Constitutional theory*

8. More recently, Bottomley<sup>3</sup> has suggested that instead of a nexus of contracts, the corporation should be seen as a body politic with a constitutional framework in which decisions are made. The constitution of the corporation, and not contract, is the foundation for corporate governance. Under this approach, the corporation’s owners are encouraged to be actively involved in the corporation as members rather than investors. Such involvement may involve raising concerns about the governance of the corporation in relation to matters which are not necessarily financial or commercial. This understanding of the place of a corporate entity resonates with “not for profit” corporations whose object is to further some aspect of civil society rather than provide a financial return to owners.

*Policy governance model*

9. Specifically in the not for profit context, Carver puts forward a Policy Governance Model<sup>4</sup> around the claim that the not for profit

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<sup>2</sup> Berle A and Means G, *The Modern Corporation and Private Property*, Harcourt Brace & Company, New York, 1932.

<sup>3</sup> Bottomley S, *The Constitutional Corporation*, Ashgate Publishing Ltd, Aldershot, UK, 2007

<sup>4</sup> <http://carvergovernance.com/pg-np.htm> This is a republication of an original article in 2001 by John Carver and Mirian Carver in *Gouvernance – revue internationale* Vol 2 No 1

board exists to represent and to speak for the interests of the owners. This representative role is described in the following terms -

“The Policy Governance model conceives of the governing board as being the on-site voice of that ownership. Just as the corporate board exists to speak for the shareholders, the nonprofit board exists to represent and to speak for the interests of the owners.

A board that is committed to representing the interests of the owners will not allow itself to make decisions based on the best interests of those who are not the owners. Hence, boards with a sense of their legitimate ownership relationship can no longer act as if their job is to represent staff, or other agencies, or even today's consumers (we will use that word to describe clients, students, patients, or any group to be impacted). It is possible that these groups are not part of the ownership at all, but if they are, it is very likely they constitute only a small percentage of the total ownership.

We are not saying that current consumers are unimportant, nor that staff are unimportant. They are critically important, just as suppliers, customers, and personnel are for a business. It is simply that those roles do not qualify them as owners. They are due their appropriate treatment. To help in their service to the ownership, Policy Governance boards must learn to distinguish between owners and customers, for the interests of each are different. It is on behalf of owners that the board chooses what groups will be the customers of the future. The responsible board does not make that choice on behalf of staff, today's customers, or even its own special interests.

Who are the owners of a nonprofit organization? For a membership organization, its members are the owners. For an advocacy organization, persons of similar political, religious, or philosophical conviction are the owners.”<sup>5</sup>

10. The Policy Governance Model requires that the board's primary relationship be outside the organisation – that is, with the owners. On behalf of the owners the board has total authority over the organisation, including over the CEO, and total accountability for the organisation.

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<sup>5</sup> Ibid at page 2

### **Implications for diocesan organisations**

11. The committee considers that each of these theories and models of corporate governance raise matters of considerable importance in understanding the rationale for making a diocesan corporate governance policy and how such a policy should be constructed.

12. In particular, the committee considers that there is a need to understand and address the following matters –

- (a) Identifying the “owner” of diocesan organisations.
- (b) Understanding what the owner’s expectations are for each diocesan organisation.
- (c) Ensuring that the board retains total authority over the organisation and total accountability for the organisation on behalf of the owner.
- (d) Ensuring that management and, in particular, the CEO, are accountable to the board and not vice versa.

13. Each of these matters is addressed below.

### **Synod as the “owner” of diocesan organisations**

14. The committee considers that the Synod is properly regarded as the owner of each diocesan organisation on behalf of the Anglican community in the Diocese of Sydney.

15. The Synod’s role as a representative owner on behalf of the Anglican community is established by the legislation under which the Synod itself is constituted and by which the Synod is given certain powers to constitute diocesan bodies and to make provision for the governance and property of diocesan bodies.

16. In particular –

- (a) the Synod is constituted as the meeting of members of the Anglican Church of Australia in the Diocese (clause 1(1) Schedule to the Anglican Church of Australia Constitutions Act 1902 (the “1902 Constitutions Act”)) and has power to make ordinances for the order and good government of the Diocese (clause 2(1) Schedule to the 1902 Constitutions Act), and
- (b) the Synod has power to make ordinances for governing and controlling the management and use of church trust property including constituting councils, committees and other bodies for such purposes (section 24 of the Anglican Church of Australia Trust Property Act 1917 (the “1917 Act”)), and
- (c) the Synod has power to declare that it is expedient that the members of such bodies should be constituted a

body corporate for the purposes of managing, governing or controlling any institution or organisation of the Anglican Church or for holding, managing or dealing with any church trust property (section 4(2) Anglican Church of Australia (Bodies Corporate) Act 1938 ("1938 Act")), and

- (d) the constitution of such a body corporate does not affect the powers of the Synod to make ordinances for or with respect to the institution or organisation for the management, government or control of which the body corporate was constituted or any church trust property vested in the body corporate (section 10 1938 Act).

17. In order to understand the scope of the Synod's powers, it is important to understand what is entailed by the term "church trust property". This is a key concept in defining the scope of such powers. In short, church trust property means any property subject to any trust for the use, benefit, or purposes of the Diocese. The purposes of the Diocese include the religious, educational, cemetery, and all other purposes of the Anglican Church, whether such purposes are within or beyond the Diocese or the State (section 4 1917 Act).

18. There are currently about 60 diocesan organisations constituted or otherwise regulated by the Synod. These organisations pursue diocesan purposes through a wide range of activities, including welfare, aged care, schooling, youth work, theological education, and administrative, secretarial and investment services.

19. Consistent with Synod's role as owner –

- (a) diocesan organisations which manage church trust property are required to provide an annual report to the Synod including its financial statements and auditor's report,
- (b) the constituting ordinances for each diocesan organisation usually provide for a majority of members of the diocesan organisation to be elected by the Synod, and
- (c) from time to time the Synod amends the constituting ordinances of diocesan organisations.

20. The committee considers that the legitimacy of the Synod formulating a diocesan governance policy fundamentally hinges on the Synod being properly regarded as the owner of each diocesan organisation.

### **Synod's expectation as the owner**

21. In terms of corporate governance, the committee considers that the Synod should have two broad expectations for diocesan organisations.

22. The first expectation is that those responsible for governing diocesan organisations will seek the highest standards of corporate governance. This expectation is one that is shared with the owners (ie. shareholders) of for profit organisations. This expectation is addressed in various places in the draft diocesan corporate governance policy and will be further addressed in guidelines to be made under the policy concerning the role and functioning of diocesan boards.

23. However the first expectation is not an end in itself.

24. The second expectation addresses the end to which the highest standards of corporate governance are to be put. Since diocesan organisations are not for profit, the end cannot be maximising the financial return to the organisation's owners. Rather the end is maximising the extent to which a diocesan organisation meets the object for which it is constituted. The object of any diocesan organisation is to advance one purpose or another of the Diocese. Ultimately such purposes seek to promote the kingdom of Christ and give glory to God. The committee believes that this should be the Synod's second broad governance expectation for diocesan organisations. This expectation is articulated in the preamble to the draft governance policy.

25. In order to ensure that this second "missional" expectation is met, the draft policy makes provision, at a constitutional level, for the following fundamental parameters within which each diocesan organisation must operate –

- The object or objects of the diocesan organisation should be clearly expressed. Such objects must advance the religious, educational or other charitable purposes of the Diocese.
- The diocesan organisation should have the duty to carry out its object or objects.
- A majority of the board members are to be elected by the Synod.
- The membership of the board should include at least 2 clergy.
- Any person who wishes to be elected or appointed or to remain as a board member must sign a statement of personal faith, except that in the case of a school board, a statement of support for the Christian ethos and

charter of the school may be signed as an alternative statement by alumni elected members.

- The minister of a parochial unit should usually not be elected as chair of the board of a school.
- The usual relationship of the Archbishop to the board should be as a "Visitor". One of the entitlements of the Visitor should be to address the board on any pastoral or policy issue concerning the Anglican Church of Australia as it applies to the diocesan organisation.

26. The proposed policy standards of particular significance relate to the signing of a statement of personal faith by all members (except alumni elected members on school boards who may instead sign a statement of support for the Christian ethos and charter of the school), the suggestion that ministers of parochial units should usually not chair school boards and the Archbishop's role as Visitor.

27. In relation to the statement of personal faith, the committee recognises that at present there may be a small number of persons holding office as members of diocesan organisations who would be unable to comply with this policy requirement. The committee nonetheless considers that requiring all persons who serve on diocesan boards to share the Christian faith as expressed through Anglican doctrines and formularies is generally essential to ensuring that such boards remain focussed on fulfilling their objects and thereby meeting Synod's expectations as owner. However a concession is made in relation to alumni elected members on school boards who may instead sign a statement of support for the Christian ethos and charter of the school.

28. In relation to a minister's involvement on a diocesan board, the committee considers that while ministers often play a valuable role as board members, the time commitment involved in chairing a diocesan board will usually be inconsistent with growing their parish ministries. However the Standing Committee considers that this is a particular issue for those chairing school boards and accordingly only the particular issue is addressed in the draft policy.

29. In relation to the Archbishop, the committee considers that it is important to find an appropriate balance between maintaining the Archbishop's relationship with each diocesan organisation and the need to ensure that the Archbishop is not unduly exposed to the duties that arise at law by virtue of membership of a board of a diocesan organisation. The committee believes that the concept of Visitor, which is well recognised at law, provides a suitable balance in these matters. Over time, consideration will need to be given as to which diocesan organisations should be asked to amend their constituting ordinances to give effect to a relationship with the Archbishop as Visitor.

**Board authority over and accountability for diocesan organisations**

30. The committee considers that it is important to ensure that a board of a diocesan organisation are given full authority to govern the organisation on behalf of the Synod and have full accountability for the organisation to the Synod.

31. In terms of board authority over a diocesan organisation, the draft policy provides that the constituting ordinance should ensure the following matters –

- (a) the diocesan organisation should have such powers and authorities as are necessary for it to carry out its objects, and
- (b) the board, as the governing body for the diocesan organisation, should exercise all the powers and authorities of the diocesan organisation.

This reflects equivalent provisions in the Corporations Act for the exercise of all powers of a company by its board of directors other than those reserved to be exercised by the members of the company.

32. The draft policy provides that the board should have power to delegate the performance of its functions to one or more committees. However the board remains answerable for the exercise of such delegated authority. As a safeguard, the draft policy provides that such a committee should be chaired by a board member and must report the exercise of delegated functions to the next board meeting.

33. In terms of accountability, the policy provides that –

- (a) the board should submit to the Synod an annual report and such other reports in the form and manner prescribed by the Synod,
- (b) the board should make a presentation to the Synod about the fulfilment of its objects if required to do so by the Archbishop or the Synod, and
- (c) that a copy of the annual report should be tabled at each ordinary session of the Synod and should also be made available to any member of the Synod after tabling for a reasonable fee on request made to the Diocesan Secretary.

**Management accountability to the board**

34. The committee considers that it is important that the management of an organisation remains accountable to the board.

35. The policy addresses this issue through the provisions which deal with the CEO as the principal manager for any diocesan organisation. In particular, the draft policy provides that –

- (a) the board should have the power to appoint and remove its CEO and that the CEO is responsible to the board for the management of the diocesan organisation,
- (b) the CEO should not be a member of the board,
- (c) the CEO should have a right to attend and speak at board meetings unless the board determines that he or she should not be present.

36. In relation to the proposal that the CEO should not be a member of a diocesan board, the committee notes that in the for profit context, the CEO is often a member of the board. The committee considers that CEO board membership may be appropriate as part of the incentive arrangements often given to CEOs to maximise shareholder wealth (see contractual theory of governance above). However the committee was not convinced that CEO membership on diocesan boards is necessary or even desirable to achieve the missional objectives of diocesan organisations.

#### **Other good governance standards**

37. There are a number of other provisions in the draft policy which are intended to reflect good governance standards.

##### *Board size*

38. Current best practice for the size of boards in the for profit context indicates a range of between 8 to 10 members. It is commonly recognised that decision-making is better handled by a small number of well informed and actively engaged members. However, it is also recognised that in the not for profit sector there are more stakeholders, thus requiring a slightly larger number of board members, without unduly affecting the decision-making capacity of the board. For example, where in the profit sector, people of business, legal and accounting expertise are useful additions to a board, in diocesan organisations it is useful, if not necessary, also to have clerical members who provide a theological perspective as board decisions often affect matters of Christian ministry. For these reasons, the draft policy provides that boards of diocesan organisations ought to have a range of between 9 to 14 members.

##### *Tenure of members and office holders*

39. The committee considers there is a need to ensure that boards are refreshed on a regular basis in a way which ensures a proper mixture between experience and new ideas. To this end, the committee proposes that there should be a maximum continuous tenure policy of board members of 12 years with members being elected or appointed for a term not exceeding 3 years. A similar suggestion is made in relation to members holding the office of chair or other offices on the board who should be elected for a term of 3 years

and should not serve in the same office for more than 9 consecutive years.

*Remuneration of members*

40. The committee considers that remuneration of board members is not warranted. The committee has reached the view that remuneration is inconsistent with the culture of service in diocesan organisations and will not of itself lead to an increased quality or commitment of members serving on diocesan boards. The draft policy therefore provides that board members are not to be remunerated except for out of pocket expenses.

*Conflicts of interest*

41. The committee is particularly concerned to address issues of conflicts of interest and perceived conflicts of interest. In respect of conflicts of interest, the committee suggests that the constituting ordinance of each diocesan organisation should include a provision which requires a board member who has a material personal interest in a matter that relates to the affairs of the board to disclose that interest to the board and not to participate in any consideration of that matter by the board unless the board, by resolution, notes the interest and permits the member to participate. Such conflicts include situations where a board member has a material interest in a matter that relates to both the affairs of the board and the affairs of another organisation for which he or she is a member or director.

42. There are also areas in which a perceived conflict may arise. For example, a member of clergy who obtains the benefit of a clergy discount at a diocesan school may be perceived to have a conflict simply by being a member of the school council. In this example there would be no actual conflict unless the member of the clergy was involved in setting or raising level of the clergy discount. While the policy does not address perceived conflicts, the committee notes the need for care in dealing with matters of perception.

*Borrowing limits*

43. The committee proposes that the Synod's existing role in specifying the borrowing limits for some diocesan organisations be reflected as a policy standard for all diocesan organisations.

*Restrictions on investments*

44. Similarly, the committee proposes that the Synod should as a matter of policy be able to identify particular types of asset or business in which a diocesan organisation should not invest. Currently the businesses which have been disapproved by the Standing Committee for investment purposes are –

- (a) the manufacture, promotion, distribution or sale of armaments,

- (b) a business which is illegal or immoral,
- (c) the manufacture, promotion, distribution or sale of tobacco,
- (d) the business of gambling or betting or directly connected therewith,
- (e) the manufacture, promotion, distribution or sale of liquor,
- (f) production, sale or distribution of 'X' or 'R' rated video or digital images, videos or films.

**Other matters**

45. The committee proposes that the draft policy be considered by the Synod in 2010 with a view to a revised version being brought to the Synod in 2011 for adoption.

46. Following the adoption of any policy in 2011, the committee notes that it would also be appropriate at that time to amend the Diocesan Education Policy to ensure consistency with the statements to be signed by persons before becoming members of diocesan boards.

47. The committee also considers that it would be appropriate at that time to commend any diocesan governance policy to organisations within the Diocese which are Anglican but which are not necessarily diocesan organisations.

48. As indicated above, the draft policy focuses on relevant standards of governance at a constitutional level rather than dealing with the role and functioning of individual boards. The draft contemplates that the Synod will from time to time issue guidelines on the role and functioning of the boards of diocesan organisations which will seek to express principles of best practice in the diocesan context including how boards should evaluate and report on their effectiveness in governing their organisations. The committee intends to prepare draft guidelines for consideration by the Synod in 2011.

**Standing Committee's response to draft policy**

49. The Standing Committee requested that the following motion be moved at Synod "by request of the Standing Committee" –

"Synod receives the report on Diocesan Corporate Governance and, noting the draft Diocesan Corporate Governance Policy attached to the report –

- (a) requests that Synod members provide comments on the draft Diocesan Corporate Governance Policy to the Diocesan Secretary by 31 March 2011, and
- (b) requests that a copy of the report and draft policy be sent to the board of each diocesan

organisation for comments back to the Diocesan Secretary by 31 March 2011, and

- (c) requests that a revised form of the Diocesan Corporate Governance Policy be brought to the Synod in 2011 incorporating, as appropriate, comments made by Synod members and the boards of diocesan organisations, and
- (d) requests that draft guidelines on the role and functioning of boards of diocesan organisations also be brought to the Synod in 2011."

50. To facilitate consideration of the draft Diocesan Corporate Governance Policy at Synod in 2010, the Standing Committee requested that the following procedural motion be moved "by request of the Standing Committee" –

"Synod agrees, for the purposes of considering the motion appearing at item X on today's business paper, to a time for questions about the draft Diocesan Corporate Governance Policy after the motion has been moved and seconded but before any debate on the motion commences and suspends so many of the business rules as would prevent these arrangements."

For and on behalf of the Standing Committee

DR LAURIE SCANDRETT  
*Chairman of the Committee*

29 July 2010

## **Draft Diocesan Corporate Governance Policy**

Leadership is a gift of God for the purposes of order and good government. Among the people of God, church leaders are gifted by God for the teaching, discipline and modelling of godliness to those under their care. Secular leaders are likewise accountable to God for their governance, which is for the good of the community they serve, since they act as “God’s servants” (Rom 13:4). Boards of Christian organisations should therefore have similar standards of integrity, truth and commitment with respect to their governance responsibilities. In particular, Jesus’ use of the imagery of both shepherd and servant for his own ministry, as well as that of his apostles, ought to characterise those who would govern Christian organisations.

In the context of the Diocese, the Synod has constituted a range of diocesan organisations to advance the purposes of the Diocese. Ultimately these purposes all seek to promote the kingdom of Christ and give glory to God.

The Synod acknowledges and gives thanks for the board members of diocesan organisations who give generously of their time, energy and skills to exercise the governance responsibilities with which they have been entrusted.

The Synod encourages board members to work in partnership with the Synod in seeking the highest standards of corporate governance. Such standards are to be underpinned by sacrificial service, a dependence upon God for wisdom and a proper regard to best practice so that decisions made will enhance the organisation’s effectiveness to promote the kingdom of Christ and give glory to God.

### **Preliminary**

1. This policy sets out the standards the Synod expects will usually apply to the governance of diocesan organisations.
2. The Synod will use these standards as the basis for assessing and, as appropriate, changing (or seeking changes to) the ordinances, policies and procedures that apply to diocesan organisations. In this way the policy will operate as a governance “blue print”.
3. The Synod recognises that it may not be appropriate to apply all the policy standards to some diocesan organisations. However where a board of a diocesan organisation believes any standard should not apply, the Synod may ask the board to explain why.
4. The Synod anticipates that it will amend this policy from time to time in order to better align the policy standards with the purposes of

the Diocese. For this purpose the Synod encourages on-going input from boards.

5. In this policy –

“board” means the body of persons responsible for governing a diocesan organisation.

“body corporate” means a diocesan organisation incorporated by or under the Anglican Church of Australia Trust Property Act 1917 or the Anglican Church of Australia (Bodies Corporate) Act 1938.

“Diocese” means the Anglican Church of Australia in the Diocese of Sydney.

“diocesan organisation” means a body –

- (a) constituted by ordinance or resolution of the Synod, or
- (b) in respect of whose organisation or property the Synod may make ordinances,

but excludes the Synod, the Standing Committee and any of their subcommittees.

“Synod” means the Synod of the Diocese or, while the Synod is not in session, its Standing Committee.

### **Constituting diocesan organisations**

6. An ordinance constituting a diocesan organisation which is a body corporate should conform to or make provision for the following standards –

#### *Objects*

- (a) The object or objects of the diocesan organisation should be clearly expressed. Such objects must advance the religious, educational or other charitable purposes of the Diocese whether such purposes are within or beyond the Diocese or the State.

#### *Board size and composition*

- (b) The total number of board members should be no less than 9 and no more than 14.
- (c) A majority of board members must be elected by the Synod.
- (d) The membership of the board should not include the Chief Executive Officer (or equivalent officer holder).
- (e) The membership of the board should include at least two clergy.
- (f) The membership of the board should include no more than –
  - (i) two persons appointed by the board, and

- (ii) two persons elected by any representative alumni association.

*Election, appointment and term of office of board members*

- (g) A board member should be elected or appointed for a term not exceeding 3 years. One third of Synod elected members (being the longest serving members since last being elected) should therefore retire at each ordinary session of the Synod or, in the case of members elected by the Standing Committee, at the first meeting of the Standing Committee following each ordinary session.
- (h) Any person who wishes to be elected, appointed or to remain as a board member must sign a statement of personal faith in a form determined by the Synod, except that in the case of a school board, a statement of support for the Christian ethos and charter of the school may be signed as an alternative statement by alumni elected members. The initial forms of such statements are set out in the attachment to this policy.
- (i) A person should be disqualified from being elected or appointed or remaining as a board member if the person –
  - (i) dies,
  - (ii) resigns in writing to the chairman of the board or to the Diocesan Secretary,
  - (iii) is an insolvent under administration,
  - (iv) is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the laws relating to mental health or is otherwise incapable of acting,
  - (v) is convicted of an offence punishable by imprisonment for 12 months or longer,
  - (vi) is subject to a recommendation from the Diocesan or Disciplinary Tribunal that he or she be prohibited from holding or should be removed from office as a board member ,
  - (vii) is absent without leave for 3 consecutive meetings of the board and the board resolves that the person's membership should cease,
  - (viii) fails to sign the statement of personal faith or declares that he or she is no longer able to subscribe to such statement,
  - (ix) ceases to hold any qualification which is necessary for the person being elected or appointed as a board member.

- (j) Casual vacancies arising for Synod elected members should be filled by the Standing Committee. The person who fills the casual vacancy should hold office until the day on which the person whose vacancy he or she has filled would have retired had the vacancy not occurred.
- (k) The maximum continuous tenure of a board member should be 12 years.
- (l) Board members are not to be remunerated for their service as board members except by way of reimbursement for reasonable out-of-pocket expenses.

*Chairman and other office holders*

- (m) The chairman and any other officer of the board should be elected by board members for a term not exceeding 3 years. Such persons are eligible to stand for re-election but should not serve in the same office for more than 9 consecutive years.
- (n) The minister of a parochial unit should usually not be elected as chairman of the board of a school.

*The Chief Executive Officer (or equivalent office holder)*

- (o) The board should have the power to appoint and remove the Chief Executive Officer.
- (p) The Chief Executive Officer is to be responsible to the board for the management of the diocesan organisation.
- (q) A person is not eligible to be appointed as the Chief Executive Officer unless he or she has first signed a statement of personal faith in a form determined by the Synod. The initial form of such a statement is set out in the attachment to this policy.

*Board meetings*

- (r) Meetings of the board may be convened by the chairman or a specified number of board members.
- (s) Board members should be able to attend meetings either personally or by suitable electronic means.
- (t) A quorum for meetings of the board should be no less than one half of its members.
- (u) The Board should be able to pass resolutions without a meeting if –
  - (i) a copy of the proposed resolution is sent to all board members, and
  - (ii) at least 75% of board members indicate they support the proposed resolution being passed, and

- (iii) before the 75% majority is reached, no board member objects to the proposed resolution being passed.
- (v) A board member who has a material personal interest in a matter that relates to the affairs of the board should disclose that interest to the board and should not participate in any consideration of that matter by the board unless the board, by resolution, notes the interest and permits the member to participate.
- (w) The Chief Executive Officer (or equivalent office holder) should have the right to attend and speak at board meetings unless the board determines that he or she should not be present.

*Duties, powers, authorities and limitations*

- (x) The diocesan organisation should have the duty to carry out its object or objects and such powers and authorities as are necessary for the diocesan organisation to do so.
- (y) The board should, in governing the diocesan organisation, exercise all the powers and authorities of the diocesan organisation.
- (z) The board should have the power to delegate the performance of any of its functions to one or more committees provided any such committee is chaired by a board member and reports the exercise of its delegated functions to the next board meeting.
- (aa) Any mortgage, charge, debenture or other negotiable instrument given by the diocesan organisation over property vested in or held by it (other than a cheque drawn on a bank account held by the diocesan organisation) should include a provision limiting the liability of the diocesan organisation to the amount available to be paid in the event it is wound up.
- (bb) The amount of borrowings of the diocesan organisation should be limited as specified by the Synod.
- (cc) The investments of a diocesan organisation should be restricted in the manner specified by the Synod.

*Winding-up*

- (dd) Where the diocesan organisation has been endorsed as a deductible gift recipient, there should be a provision on winding-up to enable the board to determine the transfer of surplus assets to a fund which comprises church trust property or another diocesan organisation which in either case –

- (i) has objects similar to the diocesan organisation, and
- (ii) is endorsed as deductible.

#### **Election of board members by the Synod**

7. The nominator(s) of each candidate in a Synod election to fill a vacancy on a board of a diocesan organisation should have the opportunity to provide a brief précis setting out the relevant qualifications, skills, experience and Christian commitment of the candidate.

8. The board of a diocesan organisation should have the opportunity to provide the Standing Committee with a statement about the qualifications, skills, experience and Christian commitment it is seeking in any person elected by the Standing Committee to fill a vacancy on the board.

#### **Reporting of diocesan organisations to the Synod**

9. The board of a diocesan organisation which manages church trust property should prepare and submit to the Synod an annual report and such other reports in the form and manner prescribed by the Synod.

10. A copy of the annual report should be tabled at each ordinary session of the Synod and should also be made available to any member of the Synod after tabling for a reasonable fee on request made to the Diocesan Secretary.

11. The board of a diocesan organisation should make a presentation to the Synod about the fulfilment of its objects if requested to do so by the Archbishop or the Synod.

#### **Role of the Archbishop in relation to diocesan organisations**

12. The usual relationship of the Archbishop to the board of a diocesan organisation should be as Visitor to the organisation.

13. The duties of the Visitor should be those prescribed by law for a visitor and should include (without limiting the generality of such duties) –

- (a) resolving disputes between board members and between the chairman and the Chief Executive Officer (or equivalent office holder), and
- (b) acting on complaints that the terms of the constitution of the diocesan organisation have not been complied with.

14. The entitlements of the Visitor should be those prescribed by law for a visitor and should include (without limiting the generality of such entitlements) –

- (a) attending board meetings, and
- (b) addressing the board on any pastoral or policy issue concerning the Anglican Church of Australia as it applies to the diocesan organisation including in connection with the appointment of a Chief Executive Officer (or equivalent office holder) for the organisation.

15. The Archbishop should be able to delegate to any person the exercise of these duties and entitlements.

16. The chairman of the board should have the discretion to invite the Archbishop to preside at any board meeting at which the Archbishop attends.

**Role and functioning of boards of diocesan organisations**

17. The Synod will from time to time issue guidelines on the role and functioning of the boards of diocesan organisations. The guidelines will seek to express principles of best practice in the diocesan context including how boards should evaluate and report on their effectiveness in governing their organisations.

**Attachment**

**A. Statement of personal faith**

1. I believe and hold to the truth of the Christian faith as set forth in the Nicene Creed, as well as the Apostles' Creed as set out below –

*I believe in God, the Father Almighty,  
maker of heaven and earth;  
and in Jesus Christ, his only Son our Lord,  
who was conceived by the Holy Spirit,  
born of the virgin Mary, suffered under Pontius Pilate,  
was crucified, dead, and buried.  
He descended into hell.  
The third day he rose again from the dead  
He ascended into heaven,  
and is seated at the right hand of God the Father almighty;  
from there he shall come to judge the living and the dead.  
I believe in the Holy Spirit;  
the holy catholic church;  
the communion of saints;  
the forgiveness of sins;  
the resurrection of the body,  
and the life everlasting.*

2. In particular I believe –

- (a) There is only one way to be reconciled to God which is through his Son, Jesus Christ, who died for our sins and was raised for our justification; and
- (b) That we are justified before God by faith only.
- (c) That God's word written, the canonical Scriptures of the Old and New Testaments, is the supreme authority in all matters of faith and conduct.

3. I shall endeavour to fulfil my duties as a member/the Chief Executive Officer [*delete whichever is not applicable*] of the [*insert name of board*] in accordance with its Christian ethos and its constituting ordinance.

4. I agree that my continuance as a member/the Chief Executive Officer [*delete whichever is not applicable*] of the [*insert name of board*] is dependent upon my continuing agreement with this statement and I undertake to resign if this ceases to be the case.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Full name (in block letters)

**B. Statement of support for the Christian ethos and charter of the School**

1. I acknowledge that the School to whose Council I am elected aims to educate young people in ways consistent with the teaching of the Bible and the gospel of Jesus Christ, and to this end I support the Council's commitment to maintain and uphold the Christian faith in teaching and practice.
2. I shall endeavour to fulfil my duties as a member of the School Council to which I am elected in accordance with its Christian ethos and the charter of the organisation.
3. I agree that my continuance as a Council member is dependent upon my continuing agreement with this statement and I undertake to resign if this ceases to be the case.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Full name (in block letters)

Date: