

Draft Governance Policy for Diocesan Organisations

Explanatory notes on revised draft

Background

1. At its session in 2010, the Synod passed resolution 43/10 as follows –

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

 - (a) refers the draft policy to the Standing Committee to be revised in a manner which reflects the in-principle decisions made by the Synod in 2010 concerning the draft policy, and
 - (b) requests that a copy of the revised form of draft policy together with any explanatory report be sent to each member of the Synod and to the board of each diocesan organisation for comments back to the Diocesan Secretary by 31 March 2011 (or such later time as the Diocesan Secretary permits), and
 - (c) requests that a further revised form of the policy be brought back to the Synod in 2011 incorporating, as appropriate, comments made by Synod members and the boards of diocesan organisations, and the work of the Archbishop's Strategic Commission on Structure, Funding and Governance, and
 - (d) requests that draft guidelines on the role and functioning of boards of diocesan organisations also be brought to the Synod in 2011.”

 2. The ‘in-principle decisions made by the Synod in 2010’ in paragraph (a) of the resolution refer to the consideration given by the Synod to the following questions of principle –
 1. *Questions regarding the limitation the length of continuous tenure*

In the policy –

 - (a) Should there be a limitation on the length of continuous tenure that an elected or appointed member should serve on the board of a diocesan organisation?
 - (b) Should there be a limitation on the length of continuous tenure that an elected or appointed member should serve in the one board office (e.g. chairman)?

 2. *Questions regarding the signing of the ‘statement of personal faith’ or a ‘statement of support for the Christian ethos and character of the school’*

In the policy –

 - (a) Should it be a requirement that all board members (of all diocesan organisations) who are elected by the Synod, appointed by the Archbishop or appointed by the board itself sign the ‘statement of personal faith’?
 - (b) If so is it sufficient that any member of the board of a school who is elected by an alumni association sign a ‘statement of support for the Christian ethos and character of the school’ rather than the ‘statement of personal faith’?
 - (c) Should it be a requirement that the Chief Executive Officer of each diocesan organisation sign the ‘statement of personal faith’?

 3. Synod provided an affirmative answer in relation to the questions of principle in 1(a), 1(b), 2(a) and 2(c). However the Synod gave a negative answer in response to the question of principle in 2(b).

 4. At its meeting on 28 March 2011, the Standing Committee considered a revised draft of the policy which reflected the in-principle decisions made by the Synod and other changes made to the draft in light of the debate at Synod and comments made since Synod.

 5. These notes provide an explanation of the more significant changes made to the form of the draft policy sent to Synod members, the boards of diocesan organisations and the Archbishop's Strategic Commission for comment in accordance with Synod resolution 43/10. The Standing Committee has requested that comment on this revised draft be sent to the Diocesan Secretary by 6 June 2011.
- Name of draft policy**
6. The draft policy has been renamed “Governance Policy for Diocesan Organisations” to make it clear that the policy applies only to diocesan organisations (as defined in paragraph 14 of the draft policy) and not to other structures within the Diocese.

Introduction to the draft policy

7. An introduction has been included in the draft policy (at paragraphs 1 to 9) which provides a brief summary of the legislative framework in which the Synod operates in constituting and otherwise passing ordinances in respect of diocesan organisations. The introduction also –
- (a) draws on relevant sections of the report to the Synod last year about Synod's expectations in respect of diocesan organisations, and
 - (b) provides an explicit acknowledgement of the legitimate interests of a range of stakeholders in diocesan organisations, for example the pupils, parents, staff and alumni of a school.

Guiding principles

8. A series of "guiding principles" (at paragraphs 15 to 18) have been included in the draft policy. Unlike the policy "standards" which may not always apply to specific diocesan organisations, the draft policy provides that the guiding principles apply to all diocesan organisations (paragraph 12). The guiding principles are –
- the principle of godly leadership shaped by the Bible
 - the principle of mission alignment
 - the principle of board member responsibility

Alumni representation on school boards

9. The general principle that there should be no more than 2 persons elected to a school board by any representative alumni association has been preserved (paragraph 19(f)(ii)). However because of the particular historical context in which existing arrangements for alumni representation have arisen for a limited number of schools, these existing arrangements have been preserved as a qualification to the general principle.

Statements of faith

10. At its session in 2010, the Synod decided as a matter of principle that all persons who wish to be elected, appointed or to remain as members of a diocesan board need to sign a personal statement of faith.
11. In view of this decision, paragraph 19(h) of the draft policy has been amended accordingly. However given the importance of this matter, it is proposed that an alternative paragraph 19(h) be provided to the Synod at its session in 2011 to enable the Synod to consider again whether alumni elected members on school councils should be able to sign a statement of support for the Christian ethos and charter of the school as an alternative to a statement of faith.

Maximum continuous tenure of board members and board renewal

12. The draft policy previously provided that the maximum continuous tenure of board members should be 12 years. However in light of comments made during and after debate on this matter at the Synod, paragraph 19(k) has been amended to read as follows –

"In the absence of an organisation having an effective policy for board renewal, the maximum continuous tenure for a board member should be 12 years. For this purpose, tenure is taken to be continuous unless it is broken by a period of at least 12 months."

Chairman of school boards

13. The draft policy previously provided that the minister of a parish should usually not be the chairman of the board of a school. In view of comments made during and after debate on this matter at the Synod, this provision has been omitted from the draft policy. Instead, paragraph 19(n) provides as follows –

"A person should not be the chair of the board of a diocesan organisation if a member of the person's immediate family is employed by the diocesan organisation, unless the board has considered the circumstances and agreed to it unanimously by secret ballot."

Circular resolutions

14. The provision for circular resolutions (at paragraph 19(u)) has been amended to address potential uncertainty as to the timeframe within which an objection to a circular resolution can be made and within which the requisite support for a circular resolution can be expressed to enable it to be passed.

Information provided to Synod members about candidates

15. The information to be provided to Synod members when electing members to the boards of diocesan organisations has been expanded (see paragraph 20). In particular, for nominations to positions on the boards of diocesan organisations, nominators may and, if the diocesan organisation is a body corporate, must provide –
- (a) a brief précis on the qualifications, skills, experience and Christian ministry involvement of the candidate, and

- (b) where the candidate has been a member of the board, information about the period(s) already served by the candidate on the board and the candidate's attendance record at board meetings.

- 16. Further, the Synod is to be informed of the church attended by the candidate in any Synod election (paragraph 21).

Standing Committee's decision concerning access to annual reports

- 17. The Standing Committee has agreed that a copy of the annual report and annual audited financial statements of each diocesan organisation be made available for a reasonable fee to any member of Synod on request made to the Diocesan Secretary, after review by the Finance Committee, on condition that the member of Synod agrees to treat all such information as confidential unless the relevant diocesan organisation has itself made the information publicly available.
- 18. Paragraph 25 of the draft policy has been amended to reflect this decision.

Guidelines for the role and functioning of boards

- 19. The guidelines on the role and functioning of boards referred to in paragraph 32 may not be necessary, at least in the short term. Accordingly the draft policy indicates that such guidelines may be provided by the Synod (rather than will be provided).

Discussion on corporate governance models

- 20. A discussion of corporate governance models has been included in the draft policy as a new appendix A. Much of the material in this discussion is drawn from the report to Synod last year. However additional comment is included on the stakeholder concept. It is intended that the information in appendix A provide a broader context in which the governance policy should be understood.

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Diocesan Secretary

6 April 2011

Draft Governance Policy for Diocesan Organisations

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Introduction

1. Representative members of the Anglican Church of Australia in New South Wales meet in synods to attend to governance needs arising from membership in the unincorporated association known as The Anglican Church of Australia. The New South Wales Parliament has provided a legislative framework for the seven New South Wales Anglican Diocesan Synods to carry out responsible and effective governance. The *Anglican Church of Australia Constitutions Act 1902* empowers each New South Wales Anglican Synod to make ordinances for the order and good government of the Anglican Church of Australia within that diocese. The *Anglican Church Australia Trust Property Act 1917* gives a synod the power –

- (a) to vary the trusts on which church trust property is held,
- (b) to appoint and remove trustees of such property, and
- (c) to constitute councils and committees to govern and control the management and use of such property.

In addition the *Anglican Church (Bodies Corporate) Act 1938* gives an extraordinary power to a synod to constitute such councils and committees as bodies corporate for the management and governance of an organisation of the Anglican Church or for holding, managing or dealing with church trust property.

2. In the context of the Diocese, a significant number of diocesan organisations are incorporated under the *Anglican Church (Bodies Corporate) Act 1938*. One effect of incorporation is that many parts of the *Corporations Act 2001* will apply to the church corporation. In particular, the extensive provisions in the *Corporations Act 2001* which apply to directors will apply to church corporation board members. There is little doubt that members of the corporate bodies constituted by the Synod are aware of these duties and responsibilities and have taken steps on their own boards to ensure proper and effective board governance. Nevertheless, the Synod as the “parliament of the diocese” has a responsibility to the wider community, to adopt a *synod* policy on corporate governance which will act as a template and benchmark for diocesan organisations, both incorporated and unincorporated, constituted by the Synod.

3. 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.

4. Consistent with Synod’s responsibility to the wider community –

- (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.

5. The Synod has two broad expectations for diocesan organisations.

6. 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 shareholders of for profit organisations.

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

8. 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 or the synod. 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.

9. The literature on corporate governance theory discloses work on a number of models seeking to anchor sound principles of corporate governance on a justifiable philosophy of corporate life. In particular, developments in corporate governance theory now recognise the legitimate interests of a range of stakeholders in the wellbeing of a corporation, for example, in some circumstances, creditors. In the context of corporations constituted by the Synod, due recognition should be given to the legitimate interests of groups other than the Synod. Examples would be the residents of a

retirement village and the pupils, parents, staff and alumni of a school. A short discussion about the literature on corporate governance models is set out in Appendix A.

Application of policy

10. In support of the mission of the Diocese, this policy sets out the guiding principles and standards the Synod expects will usually apply to the governance of diocesan organisations.

11. The Synod will use these guiding principles and 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”.

12. While the Synod regards the guiding principles as applicable to all diocesan organisations, 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 for an explanation.

13. The Synod anticipates that it will amend this policy from time to time in order to better align the guiding principles and policy standards with the purposes of the Diocese. For this purpose the Synod encourages on-going input from boards.

14. 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.

Guiding principles

The Principle of Godly Leadership shaped by the Bible

We have different gifts, according to the grace given us. If one's gift is ... leadership, then govern diligently. Romans 12:6-8

15. Leadership is a gift of God for the purposes of governing both diligently and with integrity. Among the people of God, Christian leaders are called by God to the teaching, discipline and modelling of godliness to those under their care. The boards of Christian organisations must have biblical standards of diligence and integrity with respect to their governance responsibilities.

The Principle of Mission Alignment

Whatever you do, do it all for the glory of God. 1 Cor 10:31

16. 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 board of each diocesan organisation must therefore ensure that the mission of the organisation is aligned with the mission of the Diocese.

The Principle of Board Member Responsibility

Each of you should use whatever gift you have received to serve others, as faithful stewards of God's grace in its various forms. 1 Peter 4:10

17. 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.

18. Within the parameters of the diocesan organisation's constituting ordinance, board members are responsible for the proper governance of the organisation and the organisation's strategic direction. This means that the people, programs, services and assets of the organisation should be carefully planned, managed, monitored and evaluated to ensure the use of the organisation's resources in a way which effectively serves the purposes of the Diocese and the organisation. It will also involve board members taking responsibility for matters such as ongoing financial sustainability, compliance with legal obligations and management of risk.

Policy standards

Constituting diocesan organisations

19. 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 –
- (i) no more than two persons appointed by the board, and
 - (ii) subject to existing arrangements for alumni representation on school boards, no more than 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. The initial form of such statement is set out in Appendix B.

Alternative form of paragraph (h) if the “two statement option” is adopted

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 Appendix B.

- (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 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,

Alternative form of subparagraph (i)(viii) if the “two statement option” is adopted

fails to sign the statement of personal faith or statement of support for the Christian ethos and charter of the school, as applicable, or declares that he or she is no longer able to subscribe to the applicable 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) In the absence of an organisation having an effective policy for board renewal, the maximum continuous tenure for a board member should be 12 years. For this purpose, tenure is taken to be continuous unless it is broken by a period of at least 12 months.
- (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.

Chair and other office holders

- (m) The chair 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.

Additional paragraph if the “two statement option” is adopted

A person is not eligible to be appointed or elected as the chair of a board 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 Appendix B.

- (n) A person should not be the chair of the board of a diocesan organisation if a member of the person's immediate family is employed by the diocesan organisation, unless the board has considered the circumstances and agreed to it unanimously by secret ballot.

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 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 Appendix B.

Board meetings

- (r) Meetings of the board may be convened by the chair 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 a reasonable timeframe within which members may indicate their support for or objection to the proposed resolution is specified, and
 - (ii) at least 75% of board members indicate within the specified timeframe that they support the proposed resolution being passed, and
 - (iii) no board member objects within the specified timeframe 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 from time to time.
- (cc) The investments of a diocesan organisation should be restricted in the manner specified by the Synod from time to time.

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

20. In a Synod election to fill a vacancy on a board of a diocesan organisation, the nominator(s) may and, if the diocesan organisation is a body corporate, must –

- (a) provide Synod members with a brief précis setting out the relevant qualifications, skills, experience and Christian ministry involvement of the candidate, and
- (b) if the candidate is or has been a member of the board, inform Synod members of –
 - (i) the date the candidate was first elected or appointed to the board and the period or periods during which the candidate has held office on the board as a member, and
 - (ii) the candidate's attendance record at meetings of the board since last elected or appointed.

21. In a Synod election to fill a vacancy on a board of a diocesan organisation, the nominator(s) must inform Synod members of the church attended by the candidate.

22. The board of a diocesan organisation should have the opportunity to provide the Standing Committee with a statement about the qualifications, skills and experience 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

23. 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.

24. A copy of the annual report should be tabled at each ordinary session of the Synod.

25. A copy of the annual report should also be made available to any member of the Synod for a reasonable fee on request made to the Diocesan Secretary, after review by the Standing Committee, on condition that the member of the Synod agrees to treat all such information as confidential unless the relevant diocesan organisation has itself made the information publicly available.

26. 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

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

28. 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 chair and the Chief Executive Officer (or equivalent office holder), and
- (b) acting on complaints about non-compliance with the terms of the constitution of the diocesan organisation.

29. 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.

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

31. 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

32. The Synod may from time to time issue guidelines on the role and functioning of the boards of diocesan organisations. Such 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.

Appendix A

Corporate Governance Model Discussion

1. Corporate Governance is a relatively recent term in the lexicon of business, management, and corporate life.¹ 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?

Managerialist theory

2. In the classic study of the 1930s, Berle and Means² 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

3. 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

4. More recently, Bottomley³ 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

5. Specifically in the not for profit context, Carver puts forward a Policy Governance Model⁴ around the claim that the not for profit 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.”⁵

¹ 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.

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

³ Bottomley S, *The Constitutional Corporation*, Ashgate Publishing Ltd, Aldershot, UK, 2007

⁴ <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

6. 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.

The Stakeholder Concept

7. In essence, a corporation is only a legal fiction supported by relevant legal rules. One legal rule is that decisions must be made 'in the best interests of the company' and this is usually taken to mean the shareholders. More recently, the courts have gone beyond the interests of shareholders to recognise the interests of creditors where the corporation is insolvent or near insolvency. In other words, there is recognition of stakeholders apart from owners. Some American states have modified their corporations legislation to recognise the interests of stakeholders apart from stockholders. In the United Kingdom, the *Companies Act 2006* requires a director to have regard to stakeholders such as employees, suppliers, customers, the community and the environment.⁶

⁵ Ibid at page 2

⁶ See *Corporate Governance Theories Principles and Practice*, 3rd ed. John Farrar Oxford University Press, 2008 pp29-31

Appendix B

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)

Date:

Include Statement of support for Christian ethos if 2 statement option is adopted.

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: