



# Governance in Uniting Church Schools and Residential Colleges





The Uniting Church in Australia  
QUEENSLAND SYNOD

Uniting Church Schools and  
Residential Colleges Commission

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### **Acknowledgement**

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### **Disclaimer**

This document provides information about governance in Uniting Church schools and residential colleges in Queensland. It has been developed by the Uniting Church Schools and Residential Colleges Commission as a guide only and the information within it is provided in good faith.

This document does not constitute legal advice. It quotes and interprets various laws but in doing so does not purport to be the definitive position on matters relevant to board and council members. In complex matters each board or council should rely on its own legal advice, the advice of its management, or should consult directly with the Queensland Synod.

### **Related documents**

This document is to be read in conjunction with the following:

- *The Basis of Union*
- *Introducing The Uniting Church in Australia* by Andrew Dutney
- Uniting Church regulations and Queensland Synod By-Laws.



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# Introduction

This booklet is designed to assist the boards and councils of Uniting Church schools and colleges to understand their governance responsibilities in the context of the particular role they play as part of the overall mission of the Uniting Church. It assumes a basic understanding of the Uniting Church's structure and recognises the relationship between Uniting Church schools and colleges and the Uniting Church Synod. It is not intended to be a definitive guide to governance.

Uniting Church schools and colleges are an important part of the mission of the Uniting Church and the Synod is committed to providing the necessary support to ensure that this mission is fulfilled. This is co-ordinated through the Schools and Residential Colleges Commission and the Schools and Residential Colleges Commission Executive Officer.

The relationship between the Synod and Uniting Church schools and colleges in Queensland is a partnership with each supporting the other towards a common goal. The Synod respects the responsibilities of boards and councils and values the many people who give of their time as members of these bodies.

Part of the Synod's role is to ensure that boards and councils are equipped to fulfil these responsibilities. In particular, the Synod is committed to making available resources which support boards and councils to operate within the ethos of the Uniting Church, to understand the Uniting Church regulations, to fulfil

the requirements of their constitutional documents and to practise good governance.

To that end, the Synod makes the following commitments:

## Uniting Church ethos and regulations

The Synod is committed to supporting schools and colleges by articulating the ethos of the Uniting Church and supporting the organisation as it seeks to apply Uniting Church regulations.

## Constituting documents

The Synod is committed to ensuring that boards and councils operate within the terms of the constituting documents and will provide necessary support to enable this to occur. The Synod will fulfil the particular responsibilities it is given in these documents in a timely manner: these responsibilities may include approving constitutional amendments, appointing members to the governing body and the appointing of a Moderator's alternate.

## Governance responsibilities

The Synod is committed to ensuring that the membership of boards and councils includes the range of gifts and skills required to govern effectively. It will assist boards and councils to access information and training in relevant areas such as governance, the ethos of the Uniting Church, financial obligations and risk management so that they may be better equipped to fulfil their responsibilities.

Boards and councils are responsible for understanding the range of legislation with which the organisation must comply but the Synod will make available advice regarding legislative responsibilities if requested by the organisation.

The Synod values the relationship with schools and recognises that reading annual and financial reports and responding appropriately is an important part of building this relationship.

Boards and councils, and the Synod, need to understand the manner in which schools have been established and the nature of this relationship, including the responsibilities and the potential liability that may exist as a result of this relationship.

## Role of schools and residential colleges

One of the ways in which the Uniting Church and its founding churches have engaged in Christ's mission is by establishing schools and colleges as instruments through which Christ may work to bring about reconciliation and renewal.





# Who is the Uniting Church

## Who we are

The Uniting Church in Australia was formed on 22 June 1977 as a union of three churches: the Congregational Union of Australia, the Methodist Church of Australasia and the Presbyterian Church of Australia.

In uniting, the members of those bodies testified to “that unity which is both Christ’s gift and will for the Church” (*Basis of Union*, paragraph 1). Ecumenism remains a vital aspect in all of the Uniting Church’s life and work – in congregations, national commitments to work together with other churches and relationships and partnerships with churches of various denominations in Asia and the Pacific.

## The Uniting Church is a multi-cultural church

The Uniting Church in Australia includes people of many and varied cultural backgrounds.

The Uniting Church in Australia believes that “the fullness of Christ” can be known only as Christians with different cultural backgrounds are enabled to contribute their own insights and experiences to the life and fellowship of Christ’s church. The increasingly multi-ethnic character of our society offers tremendous opportunities for the enrichment of our Christian life and fellowship in the church. The Uniting Church aims to be a fellowship in Christ which transcends race, colour and ethnic

origins. It has a special concern for and commitment to the indigenous people of Australia through the Uniting Aboriginal and Islander Christian Congress.

## The Uniting Church is an open church

All who seek to know Christ and to make Him known are invited to share in its life by participating in its worship, witness and service. The doors of the Uniting Church are open outward - so that its members may take with them into their daily round and common tasks, and into the life of the community, the love and truth they have found in Christ for the salvation and healing of the world and its peoples.

## The Uniting Church is a missional church

The Uniting Church does not exist for its own sake. Missional statements are the order of the day for all kinds of organisations. They are intended to state the primary purposes for which the organisation exists. The Constitution of the Uniting Church declares that the purposes of the Uniting Church are: to promote the worship of God; to proclaim the Gospel of the Lord Jesus Christ; to promote Christian fellowship; to nurture believers in the Christian faith; to engage in mission; to assist human development, and to meet human need through charitable and other

services; and to do such other things as may be required in obedience to the Holy Spirit. The Uniting Church's mission is both local and global.

***The Uniting Church exists to be part of God's mission, which is to reconcile and renew the whole creation.***

## What we believe

The Uniting Church's beliefs are drawn from the Bible and from the Apostles' and Nicene Creeds. The Uniting Church also takes heed of the Reformation Witness in the *Scots Confession of Faith* (1560), the *Heidelberg Catechism* (1563), the *Westminster Confession of Faith* (1647), the *Savoy Declaration* (1658) and of the preaching of John Wesley in his *Forty-four Sermons* (1793).

The Uniting Church affirms the place of ongoing theological, literary, historical and scientific study. The Church's foundational document, the *Basis of Union* (1971), brings together aspects of these writings and traditions and sets out the Uniting Church's way of living and being.

## The Uniting Church is an evangelical church

It affirms that the good news of the Gospel for all people is that God's grace extends to all without discrimination.

This grace is not deserved, and it cannot be earned by our 'good works'. As this grace of God is received through faith, it results in liberation and new life for people. Corporately, the Uniting Church exists to give expression to this central truth of the Gospel in all its activities, and to invite people, through personal faith and commitment, to realise what it may mean in their living.

## What we do

The Uniting Church's commitment to love of God and neighbour has sometimes drawn it into controversial situations. It has long taken a role in the political arena, encouraging moral, social and ethical integrity. The Uniting Church has been at the forefront of Aboriginal rights issues including the Native Title debate and reconciliation.

It has taken a stand on environmental issues, and supports the equality and dignity of marginalised people such as ethnic minorities, disabled people and homosexual people.

However, only some of the Uniting Church's discipling is viewed in public. Much of its role is to stand alongside

the individual, both inside and outside the church. Its congregations nurture spiritual, social and educational growth. Lay people are encouraged in leadership roles, including preaching the Word and leading congregational worship.

## How we relate

In accordance with the understanding that God loves all people equally and works in and through all God's people, the Uniting Church's approach to world mission has moved from a patriarchal model of 'knowing and giving what we think is best' to a model of standing alongside those in need.

The Uniting Church's mission co-workers immerse themselves in local culture, seek to hear the voice of the local people, and respond by offering support, encouragement and empowerment. This is particularly so in the area of human rights, where the dignity of people made in the image of God must always be respected, however different their way of life may be from that of the mission co-worker.

This model has mutual benefits – mission co-workers learn about themselves as well as others, through their experiences. Inevitably, they have revealed to them new and life-changing aspects of God which they are able to share on their return to Australia.

The Uniting Church constantly seeks to affirm its biblical and theological understanding that "Christians in Australia are called to bear witness to a unity of faith and life in Christ which transcends cultural and economic, national and racial boundaries" (*Basis of Union* paragraph 2).

***The Uniting Church's disposition is not one of domination, but of service.***

As the Lord came, not to be served, but to serve, so the Uniting Church seeks to use its resources – both personal and material – in service to humankind. In its brief existence the Uniting Church has demonstrated its concern for social justice, identifying with the disadvantaged, and being an advocate for those who are marginalised in society. It has demonstrated a strong commitment to community service, providing an extensive range of services throughout the nation. In co-operation with people of goodwill in other caring agencies, the Uniting Church has sought to create in Australia a caring and responsive community. Thus it aims to express the Gospel in deed as well as in word.



***The Uniting Church  
recognises that the gifts  
that God's Spirit bestows  
on his people are many  
and varied.***

There is no stereotype of Christian experience. The Uniting Church endeavours to help people to recognise the gifts with which people are endowed, and to provide opportunity for those gifts to find expression for the enrichment of the life of the church in its worship, witness and service. The Uniting Church affirms that all Christians are called to ministry (the New Testament word means 'service') – both within the Uniting Church's life and in the life of the wider community – and it seeks to enable and support its members as they serve in the name and spirit of Christ.

## **Government in the Uniting Church**

The Uniting Church recognises that responsibility for government in the Church belongs to the people of God by virtue of the gifts and tasks which God has laid upon them. The Uniting Church therefore so organises its life that locally, regionally and nationally. Government will be entrusted to representatives, men and women, bearing the gifts and graces with which God has endowed them for the building up of the church.<sup>1</sup>

## **Leadership**

"The Uniting Church acknowledges that Christ has commanded his Church to proclaim the gospel both in words and in the two visible acts of Baptism and the Lord's Supper" (*Basis of Union*, paragraph 6). It baptises those who confess the Christian faith and children presented for baptism. It takes responsibility for their instruction and nourishment in the faith. It ordains those it believes God has called to be Ministers of the Word and Deacons. It commissions lay people it believes God has called to be elders, lay preachers, youth workers and community ministers.

The emblem of the Uniting Church shows the cross of Jesus Christ in its light and truth, standing over a darkened world - redeeming it through grace and truth. By that cross people are bound to Christ and each other.

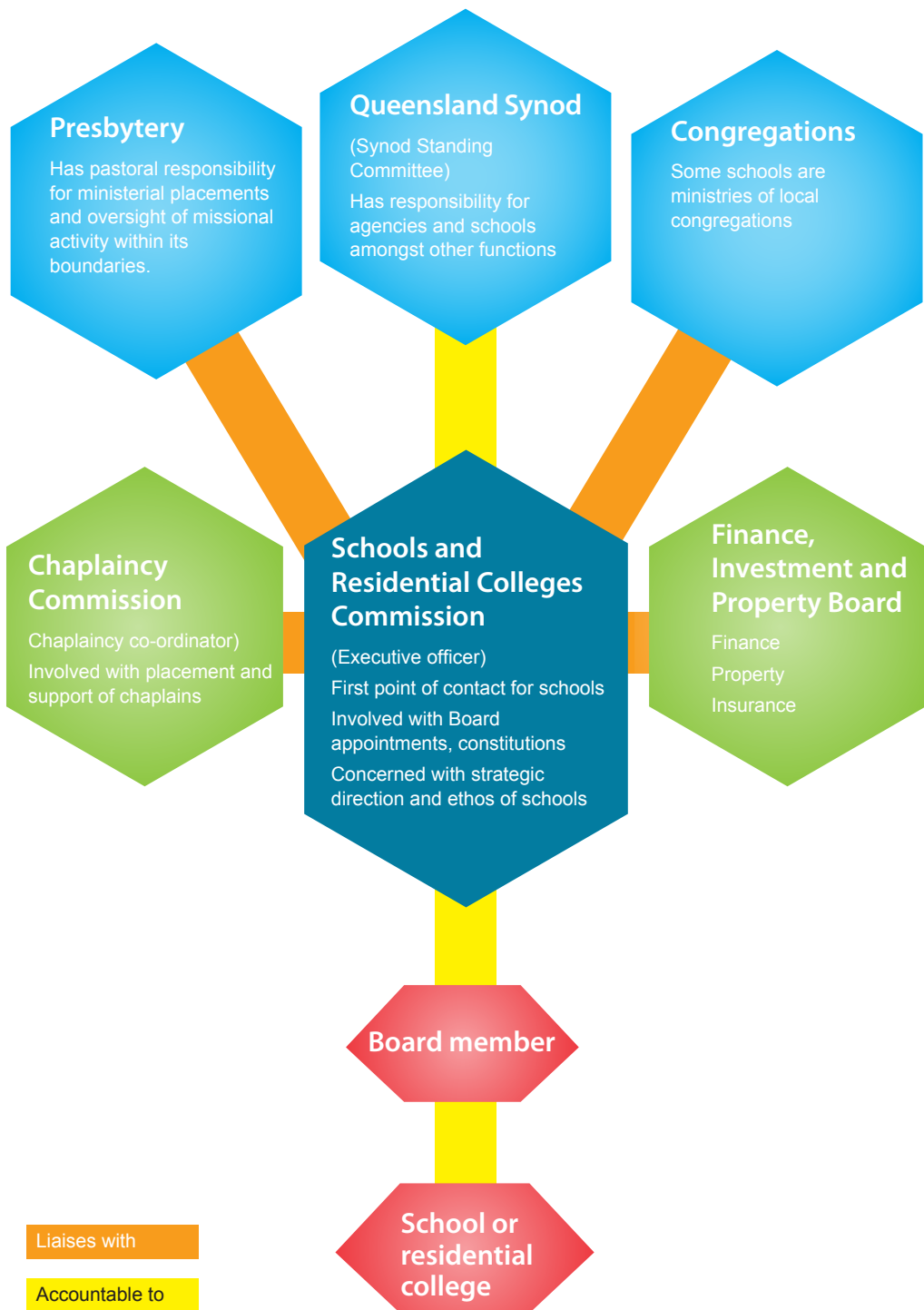
The Holy Spirit, symbolised by the dove with the wings of flame, empowers us to be witnesses to Jesus Christ.

The wide 'U' at the bottom points to the fact that we are uniting; as a semi-circle it also reminds us that the renewing of both church and world are as yet incomplete.



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<sup>1</sup> The *Basis of Union*, Paragraph 15





# Governance in Uniting Church organisations

The Uniting Church values the service of many hundreds of thousands of people who give their time in a voluntary capacity in diverse roles. These roles include serving as members of boards, councils, and committees of schools and colleges. Regardless of the size of the organisation the governance responsibilities are no less challenging.

Being a member of a Uniting Church governing body carries similar responsibilities to those carried by people who serve on the boards of Australia's largest companies. **However, there are also some responsibilities which are particular to being a member of a Uniting Church governing body.**

## Uniting Church ethos

The Uniting Church is called upon to join in God's mission of reconciling and renewing the whole creation.<sup>2</sup> Schools and colleges have been established as one way of delivering the Uniting Church's mission and values through action.

While in Queensland some schools and colleges have individual legal entities and, in some cases, are operated in partnership with other churches, their governance is underpinned by the ethos of the Church (Churches). The constituting documents of schools and colleges articulate their relationship

with the wider Uniting Church and ensure the ongoing engagement of the school or college with the wider church and the wider church with the school or college.

Everything undertaken by the Uniting Church is measured against the overall goal of bringing about reconciliation and renewal. It is our response to God's love for the world and our desire for reconciliation and renewal that dictate that our engagement must always be safe, legal, ethical and best practice. It is this same understanding that requires us at all times to leave people (whether board members, staff, students, residents, the church or community) in a better space as a result of our engagement.

Governing bodies are responsible for ensuring that the school or college lives out the mission and values of the Uniting Church in all they do. This requires each member of the governing body to be familiar with and understand the character of the church and the way it functions. It also requires governing bodies to be able to articulate how the ethos is instilled throughout the organisation and how it relates to the programs and services which they operate and the decisions they make.

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<sup>2</sup> The *Basis of Union*, Paragraph 3

## Government in the Uniting Church

The Uniting Church in Australia governs itself through inter-conciliatory councils such as Church Council (local), Presbytery (Regional), Synod (State) and Assembly (National). This is not a hierarchy; each has its specific functions and each is required to listen to one another.

In contrast, within the Uniting Church regulations, schools or entities which have been established by the Synod (regardless of whether they are named as such in their constitution) are classified as 'Institutions of the Church' as this is the only process by which the Synod can establish or enter into a partnership with an entity. As such, they are accountable through different processes. The accountability of a school/college is set out in a constitution. Relevant provisions of a constitution will typically contain clauses referring to the purpose and objects of the institution, powers, the Moderator having 'visitor' status, submission of annual reports, appointment of board members, and requirements for Synod approval for amendments to constitutions.

## Constituting documents

In Queensland, there are a number of documents which constitute the Uniting Church and its various parts. The following documents bind the Synod and the manner in which it operates.

- The *Basis of Union*;
- The Uniting Church in Australia Constitution and Regulations;
- The Uniting Church in Australia Act 1976-77 which establishes the Uniting Church and creates the legal entity known as the Uniting Church in Australia Property Trust(Qld);
- Synod By-Laws;
- Resolutions, determinations and decisions of the Assembly, Synod and Presbytery;
- Schools and college constitutions, rules and regulations or statutes.

While the Synod must comply with all the items above, separately incorporated bodies are generally required to comply with these documents only if they are specifically referred to in their constitution, rules and regulations or statutes. In many cases, organisations must also comply with additional documents not listed above, such as the Associations Incorporation Act 1985. Organisations



which utilise Property Trusts' incorporation are required to comply with the Uniting Church constitution and Regulations, as well as Synod by-laws.

It is the responsibility of each organisation to understand and comply with all aspects of its constituting documents

## Responsibility of the Synod

The constituting documents of most schools give the Queensland Synod particular responsibilities. This reflects the establishment of these organisations by the Uniting Church in Australia or one of the predecessor denominations, and enables the Uniting Church to effectively operate as the 'member' or 'shareholder' of the organisation.

While schools are bodies of the whole Uniting Church, in this context the church is represented by the Synod and its standing committee which usually have similar responsibilities to 'shareholders' or 'members' on other organisations, such as:

- appointing members to the board or council;
- receiving annual and financial reports;
- approving constitutional changes.

Where the Synod has particular responsibilities specified in the constituting documents, it is responsible for carrying these out and cannot delegate them to others.

## Liability and separate incorporation

Most schools and colleges are separate legal entities. However, the manner in which schools and colleges have been created, their ongoing relationship as part of the Church, and the continuing role of the Synod as outlined above, mean that in some circumstances, liability and responsibility will not be limited to that particular school. It is possible that liability may flow from a school to the Synod via the Property Trust or that the Property Trust may be joined in a legal action. It is important that each board and council member understands the relationship and the potential implications that arise from this relationship, in particular the altered fiduciary duties referred to below. As well as the risks associated with legal action, there are many situations where the Church's reputation may be affected by activities or events at a school or college.

## Responsibilities of Uniting Church board and council members

The board or council is responsible for acting in the best interest of the organisation on behalf of the Church, within the limits of the organisation's constitution and any applicable Church regulations.



## **Altered fiduciary duties – responsibility to the organisation and the Uniting Church**

It is important to note that, just as board and/or council members in some organisations have responsibilities to their members or shareholders, those appointed by the Synod are subject to altered fiduciary duties which entitle the board and/or council member to act with consideration of the best interests of their appointers. As a result, board and council members appointed by the Queensland Synod are responsible to act in the best interests of the organisation to which they are appointed and to the Church as the body which appointed them.

## **Communication**

On a day-to-day basis, communication between the governing body and the Synod is usually undertaken via the chairperson of the governing body and the Synod Schools and Residential Colleges Commission executive officer. It is important that the chairperson brings to the notice of the Schools and Residential Colleges Commission executive officer and seeks guidance when there has been

or is likely to be a significant violation of Uniting Church values, or any action that could threaten the organisation's viability or the Uniting Church's good name in the community. Similarly, should the Schools and Residential Colleges Commission executive officer become aware of any such matter he/she will bring it to the attention of the chairperson of the governing body.

## **Personal liability**

It is also important for each board and council member to understand that there are some circumstances in which he/she can be held personally liable for his/her actions, regardless of the incorporated status of the organisation or the relationship as part of the Uniting Church. Personal liability may arise if a board or council member:

- allows the organisation to trade while insolvent;
- allows the organisation to breach the Occupational Health and Safety and Welfare Act 1995 (Qld);
- makes improper use of his/her position, such as committing an act with the intent of deceiving or defrauding the organisation, or the creditors of the organisation, or for any other fraudulent purpose;

- makes improper use of information so as to directly or indirectly benefit or gain advantage or to cause disadvantage to the organisation;
- is negligent.

It is not possible to insure against these actions and in each of the above examples as well as in other cases, a board or council member can be personally liable and can be prosecuted individually, with some of the offences punishable by imprisonment.

It is imperative that each board and council member is aware of and understands the mechanisms and processes in place within the organisation which ensure that the organisation does not trade while insolvent and that it complies with the Workplace Health and Safety Act 1995 (Qld)

Of particular significance for individuals participating in the life of the Uniting Church is S36 of the Act which provides indemnification of certain persons:

“A member of the Trust, and any other person, exercising a power or performing a duty in relation to trust property pursuant to this Act or pursuant to any resolution or direction of the Assembly, and his executors and administrators, shall be entitled to be indemnified out of trust property against all expenses or liabilities incurred by him in connection with the exercise by him of the power and

the performance by him of the duty unless incurred in the course of fraudulent or negligent breach of trust.”

## Insurance

The Risk and Insurance team is an internal operation within the Uniting Church in Australia, Queensland, operating under Finance and Property Services (FAPS).

The Risk and Insurance team assists all entities operating under The Uniting Church in Australia Property Trust (Q.) (UCAPTQ) by arranging and administering all general insurance requirements for UCAPTQ and its entities along with helping monitor, manage and mitigate some of the operational risks and exposures of UCAPTQ and its entities.

Because of the way insurance policies are written and potential legal ramifications, insurance policies can often be difficult to interpret and in some instances also be daunting.

The following summary of some of the key liability insurance covers is not intended to take the place of the relevant policy documents, but rather to simplify broader details in respect of some of the



insurance policies put in place to protect the insurable interests of UCAPTQ.

The following policies are renewable annually and the terms of each renewal are dependent on the underwriting criteria and parameters of the insurer at the time. In the event of a claim, it will always be determined based upon the finer detail contained within the appropriate policy wording.

### **The insured**

The Uniting Church in Australia Property Trust (Q.) which includes the Uniting Church in Australia Queensland Synod and associated bodies whether incorporated or unincorporated and/or affiliated bodies.

### **The business**

Principally religious, charitable, educational, hospital, aged-care, disability and welfare organisations, property owner and any other activity incidental thereto.

### **General and products liability insurance summary**

General and products liability insurance indemnifies UCAPTQ and its agencies and associated bodies against its legal liability to pay compensation in respect of:

- injury to any person;
- damage to property;
- advertising injury.

It covers:

1. Occurrences on your premises or at an officially organised activity anywhere in Australia which gives rise to personal injury or damage to someone's property.
2. Includes legal liability of clergy, officers, executives, voluntary workers and employees, but only while they are acting in the course of their duties in such capacity.



### **Professional indemnity insurance summary**

Professional Indemnity Insurance covers the legal liability to compensate third parties (including legal expenses incurred) who have sustained financial loss due to a breach or alleged breach of professional duty on the part of the Insured or their employees.

### **Directors' and officers' liability insurance summary**

Covers damages (not fines or penalties) and legal expenses incurred due to a breach or alleged breach of duty, misleading statement or wrongful act (as defined in the policy) by a director or officer acting in that capacity.

### **Employment practices liability insurance summary**

Covers damages and defence costs in the event of actions taken by employees (including volunteers) relating to wrongful dismissal, discrimination.

## **Important disclosure requirement**

It is a condition of many of UCAPTQ's insurance policies that each Insured and/or any persons at their direction or on their behalf shall not disclose the existence of any Coverage Section, its Limits of Liability, the nature of the liability indemnified, or the premium payable under it to any third party except to the extent that:

1. they are required by law to do so;
- or
2. the insurance company consents, in writing, to such disclosure.

If you require any further clarification in respect of these requirements or have any questions or issues you wish to discuss in respect of UCAPTQ's insurance program please contact the Risk and Insurance team on 07 3377 9725 or by email [insurance@ucaqlld.com.au](mailto:insurance@ucaqlld.com.au)



# Queensland Synod and presbytery processes and support

## **Process for creating and amending constitutional documents**

Members of governing bodies need to be aware of the manner in which their organisation is constituted and the process by which their constituting documents may be amended. This includes understanding the legislative framework under which their organisation is constituted (this may be a specific Act of Parliament or the Incorporations Act) and any particular requirements of this legislation.

The Queensland Synod is committed to providing the necessary assistance to organisations seeking to amend their constituting documents. Where amendments require Synod approval, it is useful to commence discussions with the Schools and Residential Colleges Commission at the earliest opportunity, as amending constituting documents can be a complex process with long lead times. In addition, from time to time, the Synod may request that particular clauses be considered for inclusion when constituting documents are amended. Early discussions provide the best opportunity for both the Synod and the organisation to work together and ultimately for the Schools and Residential Colleges Commission to submit amendments to the Synod Standing Committee in a timely manner.

The Synod Standing Committee can approve amendments which become effective at a date in the future; however, amendments do not come into effect until approved by the appropriate body in line with the organisation's constitution.

The Synod Schools and Residential Colleges Commission is committed to ensuring that organisations are provided with written copies of the relevant decisions as soon as possible. Where applicable, organisations are responsible for submitting amendments to the office of consumer and business affairs within one month of the date of the Standing Committee decision.

The Schools and Residential Colleges Commission on behalf of the Queensland Synod has responsibility for developing policy in relation to constitutional creation and amendments.

## **Process for nominating governing body members**

Members of governing bodies need to be aware of the process by which members are appointed to the board or council. Where the Synod is responsible for appointing board and council members, nominations should be forwarded to the Schools and Residential Colleges Commission on the designated nomination form. Where applicable this should be accompanied by written confirmation

of the board or council decision which confirmed the nomination.

Nominees or applicants will be interviewed by the Schools and Residential Colleges Commission and recommendations will be submitted to the Synod Standing Committee for approval or otherwise.

The Synod Standing Committee will not knowingly appoint board or council members who are forbidden from holding these positions according to their constitution.

Nominees to governing bodies are not officially members until the Synod Standing Committee makes the decision to appoint them and this needs to be considered before any involvement in board or council decision making.

## **Board member evaluation**

The Schools and Residential Colleges Commission seeks to ensure boards and councils are operating effectively. This occurs through meetings between the executive officer and board chairs, through visitations to board meetings, conversations with principals and board workshops with the Schools and Residential Colleges Commission. In some cases, also, it includes reviewing board papers. Boards and councils are expected to undergo full board evaluations at least every two years.

## **Process for re-appointments**

All Synod approved board or council members will be required to undergo an evaluation process conducted by the Schools and Residential Colleges Commission if they are seeking re-appointment.

## **Synod support for Uniting Church governing bodies**

In addition to the above assistance, the Queensland Synod supports school and college governing bodies by:

- articulating the ethos of the Uniting Church and providing resources to assist organisations to understand how the Uniting Church ethos applies to their organisation;
- recognising and respecting that the board or council is responsible for governing the organisation;
- providing resources and training on the Uniting Church's legal relationship with its schools and colleges, its expectations of boards and council members, and an overview of the responsibilities of governing bodies;
- providing information on the Uniting Church regulations and any other relevant policy or decision;

- providing tools to assist boards and councils in reviewing their performance, promoting continuous improvement and providing model documentation to assist boards and councils wishing to establish governance policies;
- providing access to advice on legislative responsibilities, risk management, the adequacy of insurance cover and financial management, when they are unable, for whatever reason, to contract such support through their own efforts;
- maintaining appropriate records, including the current constitution document, current membership of the governing body and annual financial reports;
- facilitating exchange of information between schools;
- assisting with the training and placement of effective chaplains.





# General governance responsibilities

In addition to the expectations that are specific to Uniting Church governing bodies, board and council members are also expected to fulfil the same governance responsibilities that apply to any other governing body.

“Corporate governance generally refers to the processes by which organisations are directed, controlled and held to account. It encompasses authority, accountability, stewardship, leadership, direction and control exercised in the organisation in pursuit of organisational objectives.”<sup>3</sup>

## Overview of corporate governance

Corporate governance focuses attention on the governing body’s role with regard to strategy formulation, policy making, providing accountability, and monitoring and supervising. These roles are carried out by:

- setting organisational objectives;
- monitoring organisational performance;
- controlling financial performance;
- monitoring executive staff performance.

Following is a brief overview of these responsibilities. However, each governing body should seek additional information when considering how it will exercise its governance responsibilities.

## Setting organisational objectives

The governing body provides leadership by establishing and regularly reviewing the mission, goals, aims, objectives, strategic plan and policy parameters of the organisation. This should be undertaken in line with community needs and expectations as well as Church and organisational policy.

An effective board or council will:

- establish and monitor the ongoing implementation of policy;
- engage in formal strategic planning that, at a minimum, looks forward three to five years, and includes specific goals, objectives, risk assessments and a regular review process;
- consult with and involve key stakeholders in current planning and inform them of future plans;
- ensure that the organisation is responsive and accessible to external stakeholders, other similar local services, relevant peak bodies and other industry groups.

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<sup>3</sup> *Principles and Better Practices Corporate Governance in Commonwealth authorities and companies*, discussion paper, Australian National Audit Office, 1999

An effective corporate governance environment encourages a high level of accountability and the highest ethical standards on the part of board or council members. It may include the development of a code of governance ethics that provides a framework for all board or council actions and behaviours.

## Monitoring organisational performance

The governing body is responsible for monitoring the overall performance of the organisation, including the activities which ensure that the organisation achieves its objectives. It is also responsible for ensuring that the organisation complies with all legislative and accreditation requirements and identifying major areas of risk and taking steps to mitigate this risk.

Risk is defined as “the effect of uncertainty on objectives”.<sup>4</sup> The governing body is responsible for identifying the areas of uncertainty which may affect the organisation’s ability to meet its objectives, for establishing policies and actions to protect the organisation and for actively monitoring them to ensure that they are being carried out. These policies should ensure that the organisation will meet its legal responsibilities, protect people, protect property, and maintain high ethical standards of operation.

Insurance is another mechanism for mitigating risk. The governing body should ensure that the organisation has appropriate insurance coverage, including insurance to protect staff, board and council members, e.g. directors’ and officers’ liability insurance.

Governing bodies are also responsible for ensuring compliance with the Workplace Health and Safety Act 1995. The penalties for failing to comply with the Act can be severe and members can be held personally liable for non-compliance.

A commitment to high quality and continuous improvement should be central to the operation of any governing body. The momentum for and commitment to high quality begins at board or council level, but then must be promoted, fostered, and followed through at all levels of the organisation.

Survival in a rapidly changing environment requires vigilance, critical review of the information provided by staff and others, and a healthy sense of inquisitiveness to gain all the facets and facts of the organisation’s operations. It is essential that complete and accurate information is provided to board and council members with sufficient notice to enable members to prepare thoroughly for meetings.

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4 AN/NZS ISO 31000:2009, Risk Management – Principles and Guidelines



## Controlling financial performance

The governing body is responsible for establishing and monitoring key financial objectives and ensuring that the organisation has the resources necessary for fulfilling these objectives. This will include:

- ensuring that all board and council members have the financial analysis skills and knowledge necessary for effective financial governance;
- utilising robust criteria to determine that the organisation is at all times solvent and able to meet debts incurred in its normal course of business;
- ensuring that the governing body receives accurate and current financial reports from executive staff and acts promptly on any matters requiring remedial or corrective action;
- undertaking financial, contractual and project risk assessment for all projects and integrating controls into tendering, contract and project management processes;
- ensuring that the governing body has a sound understanding of the full extent of the obligations contained in contracts prior to signing and that it complies with and meets all obligations, including those contained in employment contracts.

The board or council is also responsible for ensuring that appropriate financial and audit processes are in place, and for approving and monitoring:

- the annual operational budget;
- the financial, operational and compliance risk exposures of the organisation;
- the operational and financial delegations of executive staff;
- the current financial position of the organisation.

The governing body must appoint a qualified, independent auditor and ensure that the accounts are audited annually. The auditor's report should specify the scope of the audit and the level of compliance with relevant accounting standards. The accounts should be approved by formal resolution of the governing body, signed by at least two members of the governing body and submitted to the relevant bodies, including the Synod, funding and legislative bodies.

To ensure that the organisation remains viable, governing bodies need a clear understanding of the business in which they are involved. Understanding evolves from learning, reading, attending relevant educational sessions and keeping abreast of changes in legislation.



## Monitoring executive staff performance

In most cases, the governing body is responsible for appointing executive staff; usually this is the chief executive officer or principal but, in some instances, it may include other executive staff. The governing body is responsible for managing this relationship, for example, by:

- establishing recruitment, selection and appointment procedures and determining an appropriate remuneration package;
- negotiating the contract and annual performance plan, and reviewing and monitoring the duties, responsibilities and performance;
- providing support;
- ensuring that there is a documented grievance procedure should the executive staff member have a grievance against the governing body or vice versa.

## Common law obligations of board and council members

In addition to the obligations in the organisation's constituting documents and in the legislation under which the organisation is established, the organisation is also likely to have obligations under other federal and state legislation and in common law. Common

law is the body of precedent arising from judgements within case law, much of which has now been written into the statutes.

In common law, the members of a governing body owe the organisation fiduciary duties of good faith and duties of skill and care.

## Fiduciary duties of good faith

The generally accepted Australian definition of what constitutes a fiduciary relationship is a relationship in which "one person is obliged or has undertaken to act in relation to a particular matter in the interests of another and is entrusted with power to affect those interests in a legal or practical sense."<sup>5</sup>

Common law imposes a fiduciary responsibility on each board or council member to discharge the duties of his/her position in good faith, in a manner which he/she reasonably believe to be in the best interests of the organisation (and in the case of Uniting Church organisations, also in the best interests of the Church), and with the care that an ordinary prudent person in a like position would exercise in similar circumstances.

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<sup>5</sup> 154 CLR 178 at 199, Deane, J in *Chan v Zacharia* (1984), High Court of Australia



The fiduciary duties require each board or council member to:

- act only within his/her powers as directed and to act only within those powers for the purposes for which they are conferred;
- act with due care and diligence;
- avoid conflicts of interest;
- retain his/her discretion or to not limit the exercise of future discretion (for example, an agreement to vote in a particular way at future meetings would limit the exercise of discretion);
- act for the benefit of the organisation and not to act in self interest;
- not use the information acquired as a board or council member for personal gain;
- retain his/her objectivity as an individual board or council member.

## Duties of skill and care

Board or council members need to consider the commercial reasonableness of the manner in which they and their colleagues reach decisions on matters of importance. Courts have generally focused on the behaviour and mental condition of the board or council member at the time when decisive action was taken and have placed less weight on the actual outcome of the decision.

In terms of skill, a board or council member has a duty greater than that of simply representing a particular field of experience. That duty involves becoming familiar with the business of the organisation and how it is run, and ensuring that the governing body has the means to audit the management of the organisation so that it can satisfy itself that the organisation is being properly run.

In terms of diligence, the responsibilities of board and council members require that they take reasonable steps to place themselves in a position to guide and monitor the management of the organisation.

One important way of ensuring that each member of the governing body is in a position to govern the organisation is to provide a comprehensive induction for each new member. This should include information about:

- the organisation and the range of services which it provides;
- the range of legislation with which the organisation must comply;
- the legal and administrative requirements of the role;
- the commonly accepted duties and responsibilities of directorship;
- the manner in which the governing body operates, including policies and processes.



# Essential governance resources

## Checklist for all board and council members

### General

- Does each member of the governing body have a copy of the organisations' constitution, statutes or rules and regulations?
- Is a copy of the legislation under which the organisation is constituted available to all members of the governing body?
- Are the rules used for managing the organisation different from those in the constituting document?

### Governing body

- Does each member know the names of the governing body's office bearers, e.g. chair, treasurer and secretary?
- Were all office bearers appointed as set out in the constituting document?
- How does the governing body ensure that each person nominated for appointment to the board or council meets the requirements of the constitution?
- Is the seal register sighted at each meeting?
- Are all documents to which the seal is affixed approved by members in the manner required by the constituting document?

## Fiduciary duties

- Are members appointed by the Queensland Synod to the governing body aware that they are to act in the best interests of the organisation and of the Uniting Church as the body which appointed them?

## Meetings

- Are meetings held at a place and time that is convenient for the governing body?
- Are all members notified of each meeting date well in advance (at least two weeks)?
- Are these held regularly?
- Do all members know the minimum number of people (quorum) for the meeting to be legal?
- Are decisions that need to be made by a vote undertaken as stated in the constituting document?
- Is a financial statement presented at each meeting?

## Minutes

- Are minutes recorded for each meeting?
- Are the previous meetings minutes confirmed as correct at the commencement of each meeting?
- After each meeting are copies of the minutes sent to all members?
- Is a signed copy of the minutes kept securely where the meetings are usually held?

## Finances

- Do all members know and understand the processes for assessing the ability of the organisation to pay its debts as and when they fall due?
- Are these processes robust and utilised prior to entering into each new financial commitment?
- Do all members understand the liability, including personal liability, should the organisation trade while insolvent?
- Are all monies banked as soon as possible after being received?
- Are all funds that come into the organisation used in ways that are consistent with the objects of the organisation?
- Does the treasurer or business manager keep accounts to show where and when money comes into the organisation and how it is spent?
- Does each member know the financial delegations in place for executive staff?
- Are all payments beyond the delegations of executive staff authorised by at least two members of the governing body?
- Has a copy of the organisations annual and financial report been sent to the Queensland Synod for all previous financial years?

## Audit

- Is a financial report prepared and audited each year?
- Are copies of the audited accounts, auditor's statement, and management letter provided to each member?
- Does the governing body formally approve the accounts and are they signed by two members?
- Does the governing body appoint the auditor annually?
- Does each member of the governing body understand the qualifications required by the auditor?
- Does each members of the governing body understand the qualifications required for the auditor and the circumstances which preclude someone from being appointed as auditor?

## Property

- Does the governing body have a list of assets owned by the organisation?
- Does the list show the current value of each asset?
- Does the list show where the property is located?



# Points to Remember

The governing body is a collective authority. Members do not have individual authority and cannot individually direct management to act. Each member bears equal responsibility for decisions regardless of experience, knowledge or specific expertise.

If board members are not certain they must ask questions. Questions are one way of becoming informed and ensure that issues are clearly understood by all members and explained by those who raise them.

It is important that board and council members understand their fiduciary duties and act in the best interests of the organisation and the Uniting Church.

Members are responsible collectively for ensuring that there is an appropriate performance assessment process for current members and recruitment process for new members, and for ensuring the timely succession of members when terms conclude.

It is important to avoid situations that may give rise to an ongoing conflict of interest. This may occur if a board or council member serves on the governing body of more than one organisation, or is on the governing body of one organisation and employed in another, if the best interests of these organisations could be seen to compete with one another. Any conflict of interest must be declared and recorded in writing and the person involved must withdraw from the discussion and deliberation.



# Glossary

**Assembly:** the national council of the Uniting Church in Australia, whose responsibilities include doctrine, worship, government and discipline

**The Basis of Union:** The document that sets the platform for how the Congregational Union of Australia, the Methodist church of Australasia and the Presbyterian Church of Australia came together in 1977 to form the Uniting Church in Australia. It outlines the roles of the different councils of the Church including the presbyteries, the synods and the National Assembly. It states the central affirmations of the Christian faith and is a guide to what is central in the life of the Uniting Church.

**Board or council:** The governing body responsible for setting the strategic direction of the school or college. This body may be known variously as a board, board of governors, council or an equivalent term.

**Chief executive officer (CEO)/principal**  
This position, usually appointed by the governing body, is responsible to them for the management of the school or residential college, within the policy parameters defined by the board or council. This position may be entitled chief executive officer, principal, head, director or equivalent term.

**Church:** The Uniting Church in Australia, which includes congregations, agencies, schools, residential colleges, Presbyteries, synods and the National Assembly

**Constitution, statutes, Act of Parliament, by-laws, rules and regulations:** The document that constitutes the organisation and sets out the manner in which the specific school or residential college will operate.

**General secretary:** The chief executive officer of the Queensland Synod. The general secretary provides vision and leadership to the Church; ensures the implementation of agreed Synod policy; ensures that the Synod meets its corporate governance and financial management responsibilities and its legal and statutory obligations; and provides administrative leadership to the Synod and its staff.

**Governance:** The processes by which organisations are directed, controlled and held to account. It encompasses authority, accountability, stewardship, leadership, direction and control exercised in the organisation.

**Governing body:** The board, council, committee or other body identified in the constituting document which has, or is delegated, the responsibility for governing the organisation. Note that the NSSAB recognises the Property Trust as the Legal Entity for some schools. The Trust has delegated the responsibility for governance to the school councils.

**Inter-conciliar:** The form of governance exercised by the Uniting Church. The Uniting Church is governed by inter-

related councils each of which has specific responsibilities. It relies on each council recognising and fulfilling their respective responsibilities and, at the same time, recognising the limitations of their authority and giving heed to the other councils and bodies within the church which have related or relevant responsibilities.<sup>1</sup>

**Moderator:** The person elected by the Synod for a three-year term who is responsible within Queensland for leadership; vision; assisting and encouraging the expression and fulfilment of the church's mission and witness; chairing meetings of the Synod and standing committee; representing the Church on public occasions and speaking on behalf of the church, providing counsel and advice; interpreting decisions; and administering the discipline of the church.

#### **National Schools Consultative**

**Committee:** a body of the National Assembly responsible for relating to Uniting Church schools on behalf of the national Uniting Church

**Presbytery:** The council of the Church which has oversight of the life and mission of the church within its bounds. In Queensland there are eight presbyteries: Bremer Brisbane, Calvary, Central Queensland, North Queensland, Mary-Burnett, Moreton Rivers, South Moreton and The Downs.

**Property Trust:** The Uniting Church in Australia Property Trust (Q) which is constituted as the legal entity for the Uniting Church in Queensland under *The Uniting Church in Australia Act 1976-1977*.

**Regulations:** The regulations of the Uniting Church in Australia made and amended by the National Assembly from time to time.

**Residential Colleges:** Colleges providing accommodation on behalf of the Uniting Church in Queensland.

**Risk Management:** Policies procedures and actions designed to protect the organisation and the Church against adverse events or circumstances.

**School:** Schools providing educational programs on behalf of the Uniting Church in Queensland.

#### **Schools and Residential Colleges**

**Commission:** A body appointed by the Uniting Church in Australia (Queensland Synod) to nurture and support the work of schools and to ensure that the Synod's responsibilities in relation to schools, as outlined in the regulations is fulfilled.

**Synod:** The council of the Church which has oversight of the life and witness of the church within its bounds.

**Uniting Church Act:** *The Uniting Church in Australia Act 1976-1977* which is the act of Parliament that formally created the Uniting Church from the three previous denominations and constituted the Uniting Church in Australia Property Trust (Q) as the legal entity.

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<sup>1</sup> The Basis of Union, Paragraph 15



# Some statistics

The Uniting Church is the third largest Christian denomination in Australia. It has around 2800 congregations, 51 presbyteries and seven synods. Uniting Church members number 300,000 while 1.3 million Australians claim an association.

The Uniting Aboriginal and Islander Christian Congress is the Aboriginal arm of the church, with 10,000 to 15,000 Aboriginal and Islander people involved.

From 5-7 per cent of Uniting Church members worship in languages other than English, in 25 different language groupings plus various Aboriginal tribal languages.

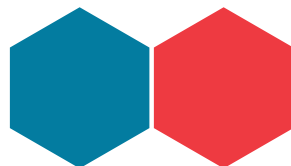
The church is diverse, with a range of views and practices in theological and spiritual emphasis, worship style, social opinions and mission focus.

It has 48 schools, ranging from long-established schools with large enrolments to small recently established low-fee schools.

More than 20,000 people are employed by the church in community services work, particularly in aged care, Lifeline, hospitals, nursing, family support services, youth services, and care for the homeless.

A national agency guides the way the church tries to live with understanding, peace and harmony with people of other faiths.

The church is an active member of the National Council of Churches in Australia, the World Council of Churches [wcc-coe.org/wcc/english.html](http://wcc-coe.org/wcc/english.html), the Christian Conference of Asia, the World Alliance of Reformed Churches <http://warcc.ch>, and the World Methodist Council.





The Uniting Church in Australia  
QUEENSLAND SYNOD

Uniting Church Schools and  
Residential Colleges Commission

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