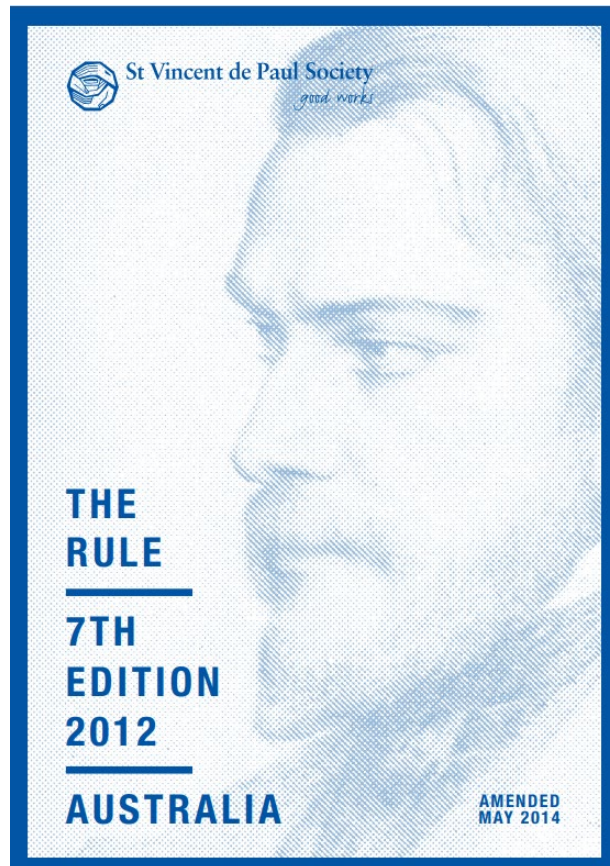




**St Vincent de Paul Society**  
NATIONAL COUNCIL of AUSTRALIA Inc. *good works*

**Proposed Amendments**  
***The Rule Part III***  
**PROCEDURAL GUIDELINES**  
**- Draft 1 -**



**Approved by National Council for circulation to the Members**  
(06 November 2022)

## INTRODUCTION

In 2019 National Council established the Legal and Governance Standing Committee for the purposes of providing advice to National Council on a range of legal subjects including matter relating to constitutions in place and in revision across the Society. The Standing Committee was tasked with reviewing the Rule Part III and making recommendations to National Council.

In August 2021 a discussion paper, prepared by the Standing Committee, was circulated to State and Territory Councils with a request for it to be circulated to all Councils, Conferences and Members seeking comment on what works or does not work in the current Rule Part III.

Feedback was sought by 31 December 2021 but until February 2022 there was minimal feedback and very few comments. Comments continued to flow in until July 2022 and covered a wide range of issues. Any thought that there could be a light touch to the Rule Review was quickly dispelled.

## RULE REVIEW COMMITTEE

A Rule Review Committee was formed consisting of Mr Warwick Fulton (Deputy President of the National Council) Chair, Mr Patrick Wallis (Vice President of the National Council), Ms Alyssa Caplan (NED, SVdP-Vic & Vincent Care; Chair, VincentCare Community Housing) and, Mr Kerry Muir (SVdP-NSW Governance Committee). The National Council's Chief Executive Officer supported the committee and contributed to the drafting process.

The Committee met weekly over three months and worked through up to five drafts of some Articles to come up with a re-draft of Part III that takes account of the feedback on the Rule Part III. Not all comments were implemented but they were all given careful consideration. There is a paper trail for the Articles covering feedback from Members that ran to well over 100 pages.

The Governance Procedures were dealt with in a separate document.

The proposed amendments are presented to Members in three documents:

- (i) a comparison of the current Part III Articles and the proposed re-draft of the Articles;
- (ii) a comparison of the current Part III Procedural Guidelines and the proposed re-draft of the Procedural Guidelines; and
- (iii) an Explanatory Memorandum outlining the reasons for the proposed amendments to the Articles and the Procedural Guidelines.

The document containing the Procedural Guidelines is designed to be read as a printed A4 document or viewed on a video screen with the capacity to show two pages on the screen to allow the reader to see the existing Articles on the left hand page and the proposed amended Procedural Guideline on the right hand page. Where the text of a proposed amended Procedural Guideline requires more than a single page, this text will appear on the next right hand side page; i.e. it will not cascade to the immediate following left hand facing page.

Please note that viewing this document on a laptop will only take this format if the size of the documents well below 100%.

## CONSULTATION WITH MEMBERS

The National Council has approved the distribution of the above three documents. These are being circulated to the Members for comment over the next five months, commencing in late-November 2022. National Council must rely on State and Territory Councils to circulate the documents through their own networks to all Councils, Conferences and Members within their respective jurisdictions.

The Rule Review Committee is requesting that feedback and comments from Members be forwarded through State and Territory Councils.

The Committee wants to try to avoid receiving numerous individual submissions from Members which will make collating common themes very slow and complex. Such a method also risks losing nuances expressed in an individual response due to the volume of submissions to take into account during any redrafting process.

Members are encouraged to provide their feedback to their State or Territory or Regional Council so that these comments can be incorporated into the feedback forwarded by each State and Territory Council.

The proposed approach to provide feedback on a specific Article is outlined below. Responders are asked to indicate their agreement or otherwise for the proposed amended text for each revised Procedural Guideline.

Procedural Guideline: <i>insert title</i>				
<b>Strongly Disagree</b> <input type="radio"/>	<b>Disagree</b> <input type="radio"/>	<b>Neutral</b> <input type="radio"/>	<b>Agree</b> <input type="radio"/>	<b>Strongly Agree</b> <input type="radio"/>
<b>Comments</b>				
<b>Suggested revised text</b> <i>(if possible)</i>				

State and Territory Councils will be provided with a Word version of the draft proposed Articles to allow Councils to track the changes they recommend to the current draft text.

Comments and feedback will be received from State and Territory Councils until **Friday 28 April 2023**.

There will be a further re-drafting by the Rule Review Committee before a set of revised amendments are submitted to National Council for its endorsement in May 2023.

The revised amended documents will be re-circulated in June 2023 for additional comment over a further five months ending in October 2023.

### **PROCESS TO SEEK APPROVAL OF AMENDMENTS TO THE RULE PART III**

The International Territorial Vice President for Oceania is being consulted about the proposed amendments.

The final form of the proposed amendments to Part III will be submitted by the National President to the Permanent Section of the Council General International for approval. This is expected to be around December 2023 if all goes well in the drafting and approval processes.

The Council General International will forward the proposed amendments to the Rules and Statutes Department for review before they are forwarded to the Council General International for approval.

The decision of the Permanent Section of the Council General International will be known some time in 2024.

## Text of current Preamble to the Procedural Guidelines

The following information does not form part of the Rule. It is meant to be a guide in understanding the workings of the Society.

## Proposed text of NEW Preamble to the Procedural Guidelines

### **PREAMBLE**

The Articles contained in The Rule Part III must be followed.

The Procedural Guidelines should be followed unless there are sound reasons not to do so in a particular circumstance and these reasons should be documented.

Where an inconsistency between an Article and a related Procedural Guideline arises, the Article takes precedence.

Any Conference or Council before departing from the Procedural Guidelines first should seek advice from the President of their next higher Council.

## Text of current Procedural Guideline

### **ELECTION OF SOCIETY PRESIDENTS**

**The outgoing President should notify in a timely manner the end date of his or her term of office and invite nominations from eligible members.**

**A period of at least one month should elapse between the nomination of candidates and the ballot. All voters should be informed and all members asked to pray, both personally and in meetings, from the beginning of the nomination process.**

**A candidate needs a clear majority of votes to be elected as a President. Votes should be counted by two persons other than nominees.**

**In the event of a tied election, after a short period of prayer and reflection, a further vote should be conducted at that time between the two candidates with the most votes in the first election.**

**If a stalemate still arises then the President of the Council to which the Conference or Council is attached should appoint a President from those nominees who have the equal number of votes.**

**Where there is only one candidate a vote must still be taken to confirm that the candidate is elected by a majority of electors.**

**If the only (or for that matter all) candidates are unsuitable, then no appointment should be made and a new election called.**

**Electing a president is one of the gravest responsibilities of a Council and all Council members have a clear responsibility to ensure that a suitable person is found and elected.**

**It is proposed to delete this Procedural Guideline**

**~~ELECTION OF SOCIETY PRESIDENTS~~**

## Proposed text of NEW Procedural Guideline

### **CONFERENCE AND REGIONAL COUNCIL PRESIDENT ELECTIONS**

Electing a president is one of the gravest responsibilities of a Conference and Regional Council and all members have a clear responsibility to ensure that a suitable person is found and elected.

The outgoing Conference or Regional Council President should notify in a timely manner the end date of his or her term of office and invite nominations from eligible members.

A period of at least four (4) weeks or 28 days should elapse between the nomination of candidates and the ballot to elect a Conference or Regional Council President. All Conference or Regional Council members should be informed and all members asked to pray, both personally and in meetings, from the beginning of the nomination process.

A candidate needs a clear majority of votes to be elected as a President. Votes should be counted by two persons other than nominees.

In the event of a tied election, after a short period of prayer and reflection, a further vote should be conducted at that time between the two candidates with the most votes in the first election.

If a stalemate still arises then the President of the Council to which the Conference or Regional Council is attached should appoint a President from those nominees who have the equal number of votes.

Where there is only one candidate a vote must still be taken to confirm that the candidate is elected by a majority of electors.

If the only candidate(s) is unsuitable then no appointment should be made and a new election called.

Calling a fresh election in these circumstances might bring forward someone suitable who has not put themselves forward for the first ballot. If there is no-one suitable then perhaps the Conference should be put on hold.

If there is still no member of the Regional Council willing to stand for Regional Council President, then the members of the Regional Council should take it in turns to represent the Regional Council until a new Regional Council President is elected.



## Proposed text of NEW Procedural Guideline

### CENTRAL, STATE, TERRITORY AND NATIONAL COUNCIL PRESIDENT ELECTIONS

Electing a president is one of the gravest responsibilities of a Council and all Council members have a clear responsibility to ensure that a suitable person is found and elected.

#### Notice of Election

The President shall appoint two (2) persons to act as Returning Officers for the election of a new President.

The Returning Officers or the Council Secretary must notify the members of the Society within the geographical boundary of the Council that an election of a President is to occur.

There must be at least seven (7) weeks or 49 days' notice of the date of the election to the members and this notice must: call for nominations for the position of President; and provide the date by which nominations for the position of President are to be received as outlined below.

The Returning Officers shall determine the Nomination Form to be completed by persons nominating for the position of President.

#### Nominations

Nominations must include:

- (i) a Nominee being the person who nominates a Candidate; and
- (ii) a Secunder being the person who seconds the nomination.

A member can self-nominate, that is a person can nominate themselves provided they have a person second their nomination.

A Member who nominates or seconds a nomination must have been a Conference member for at least three (3) years.

Nominations for the position of the President must be received by the Council Secretary no later than 30 days prior to the date of the election of a President.

In accordance with The Rule, persons nominating for the role of President must provide to the Returning Officers evidence that they:

- (i) are baptised into the Roman Catholic Church (Part I, Article 6.5); and
- (ii) have been in a Conference for at least five (5) years or a Council member for at least three (3) years (Part III, Article 18).

Where a member is nominating for the role of National President they must provide to the Returning Officers evidence that they have been a member of a Council in Australia for at least three (3) years (Part III, Article 18).

A Nominee shall provide to the Returning Officers the following documents:

- (i) a reference from a Priest from their State or Territory; and
- (ii) a reference from a current member of their Central Council when nominating for State/Territory Council President, or a reference from a current member of their State/Territory Council when nominating for National President; and
- (iii) their curriculum vitae outlining their involvement in the Society and their understanding of Vincentian spirituality; and
- (iv) a succinct overview of the vision they have for the Society during their term as President.

Together, the two documents cited at (iii) and (iv) above must be no more than four (4) A4 pages in total.

Nominees must forward their documents to the Returning Officers by mail or by electronic means provided the required documents are received by the Returning Officers no later than four (4) weeks or 28 days before the date of the election of the President.

The Returning Officers shall distribute Candidate material to Council members no later than three (3) weeks or 21 days prior to convening the Council meeting to elect a new President.

### **Persons in Attendance at an Election of a President**

The persons present at the election shall be:

- (i) the Presiding Officer who shall be the current President,
- (ii) members of the Council which shall include the Presiding Officer,
- (iii) the Spiritual Advisor,
- (iv) two (2) Returning Officers who shall be appointed by the Presiding Officer and who are drawn from outside the Council provided the person(s) are members of the Society for at least the past five (5) years, and
- (v) the Candidates (if they so desire).

Voting by Proxy is not allowed. If a Council President is not able to be physically present for the election, he or she may nominate a member of their Council to act as the Council representative to the election.

### **Conduct of the Election of a Council President**

The election of a President may be convened using any technology consented to by a majority of the members of National Council as per The Rule Part III, Article 18. The consent may be a standing one<sup>1</sup>.

The conduct of the election shall be under the control of the Returning Officers who shall declare the result of the ballot.

The election shall follow immediately the spiritual exercise and reflection presented by the Spiritual Adviser.

Each Candidate, if he/she desires, shall be afforded an opportunity of addressing the National Council for a maximum of ten (10) minutes prior to the ballot taking place.

The order of addressing the Council shall be in alphabetical order of each Candidate's surname.

Individual members of the Council shall be given the opportunity to ask questions of each Candidate and the total period allowed for question time for each Candidate shall be no more than ten (10) minutes.

The total time a Candidate may present to the Council shall be no more than a total of twenty (20) minutes.

### **Voting**

Voting shall be by secret ballot.

The ballot may be conducted using electronic means provided the Returning Officers are satisfied that each member of the Council:

- (i) has access to the available written information about each of the Candidates; and

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<sup>1</sup> Note: Article 18 makes it clear that there is no provision for a Proxy Vote arrangement

- (ii) can hear any address from each of the Candidates and has an opportunity to ask questions of a Candidate;
- (iii) to follow the conduct of each ballot; and
- (iv) is made aware of the outcome of each ballot; and
- (v) the Returning Officers are satisfied that the voting process can be conducted with strict confidentiality at all times, and
- (vi) the Returning Officers shall ensure all voting papers shall be destroyed at the completion of the election.

The Returning Officers shall distribute to each member of the Council initialled voting paper for each ballot.

A voting paper returned blank, counts as a vote to abstain from choosing a candidate and will be treated as invalid.

After each ballot, the Returning Officers shall recover the voting papers, count them and indicate to the Presiding Officer the result, without divulging any details of the ballot.

The Presiding Officer shall declare the Candidate elected who receives a clear majority of the votes where 'majority' means 50 percent of the valid votes plus one valid vote.

Should a clear majority not be attained in Round 1 of the ballot, there shall be after a further period of prayer and reflection before a second ballot shall be conducted.

The name of the Candidate who receives the least number of votes in Round 1 of the ballot shall be deleted from the election and a vote on the remaining candidates shall constitute the Round 2 of the ballot.

Should a clear majority not be achieved in Round 2 of the ballot, then a third ballot will be conducted. The candidate with the least number of votes in Round 2 will be deleted and a ballot of the remaining candidates will be conducted.

This process shall be followed until a single Candidate receives 50 percent of the valid votes plus one valid vote.

Should a tied vote be the result of the final round ballot, further time for prayer and reflection will be given and a subsequent ballot of the remaining two candidates will be conducted.

Should the outcome of the final round ballot be a tie, then the two Candidates shall be presented to the National President in the case of State or Territory Council President elections and to the International President General in the case of National Council President elections.

Where there is only one Candidate standing for the position of President, a ballot shall be conducted and the Candidate must receive more than 50% of the valid votes cast, to be elected as Council President.

Any ambiguity arising from the conduct of the election shall be resolved by the Presiding Officer in consultation with the Returning Officers.

## Text of current Procedural Guideline

### CONFERENCE MEETINGS

#### Commentary

From the very beginning in 1833, our Society has been much more than a one-dimensional Society. This is how it differs from many other Societies which help those in need. In October 2003, the National Presidents of the World gathered for a General Assembly and decided by an overwhelming majority that the Society should maintain and develop all three of the dimensions described above, which Blessed Frederic Ozanam and the co-founders established under the inspiration of the Holy Spirit. In a fuller way than ever before, these dimensions were enshrined in the International Rule: Chapter 1 describes the first dimension - to help the poor. Chapter 2 describes the spiritual dimension, which, by bringing us closer to Christ, enables us to grow in every aspect of love. Chapter 3 describes the dimension of mutual support, inspiration and friendship. Throughout the history of the Society, the second and third dimensions have been found to be profoundly beneficial for both those we seek to help and the members themselves. By weekly meetings (say 50 times a year) or fortnightly (say 25 times a year), the National Presidents of the world were convinced that this precious heritage – preservation of all three dimensions - could be maintained. If there was only a monthly meeting, which realistically members would attend less than 12 times a year, the second and third dimensions could not, they considered, be fully preserved. The requirement mentioned in the above Article to spend perhaps five minutes in prayer and reflection at any informal gathering in between a monthly meeting, is surely not too much to ask to achieve this very desirable continuity with the spirit of our Society.

**No Change**

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## Text of current Procedural Guideline

### CONFERENCE OFFICE BEARERS

**In the Society every member is equally valued. The assumption of office implies no dignity or honour. It simply means that there are some who, for proper management of the Society, are prepared to accept additional responsibilities. Every member ought in turn be willing to accept the burden of office as part of their Vincentian commitment and should not withdraw from it in a false sense of humility. On the other hand, every assistance should be afforded to office bearers so as to lighten their burden.**

## Proposed text of amended Procedural Guideline

### CONFERENCE OFFICE BEARERS

In the Society every member is equally valued. The assumption of office implies no dignity or honour. It simply means that there are some who, for proper management of the Society, are prepared to accept additional responsibilities. Every member ought in turn be willing to accept an office as part of their Vincentian commitment and should not withdraw from it in a false sense of humility. On the other hand, every assistance should be afforded to office bearers so as to lighten their burden.

All members of a conference should consider taking on leadership roles within the conference to gain leadership experience and to share their skills with the conference for the benefit of the conference, our companions and for the Society. It should not be a burden to take on these roles. The conference should support and encourage any member considering taking a leadership role. The next higher council should offer to provide a mentor or buddy for anyone new to a leadership role in a conference or council.

When considering to take on an office bearer role, especially that of President, a Member should undertake due diligence to be confident that they have the necessary skills and the available time to fulfil the role. It is preferable that office bearer roles are not delegated to other Members during a person's term of holding the office.

Each Conference should have at least a Vice President, Secretary and Treasurer to assist the President in the management of the Conference.

#### Bailly

Presidents of Conferences, and higher Councils in particular acquire experience and knowledge during their term and it is desirable that their knowledge and experience be made available to the incoming president. Also, it can be a daunting experience for an incoming president to take over the leadership role on a Conference or Council and they should have support to assist them to grow confidence in the role. It is recommended that the incoming president of a Conference or a Council consider appointing the outgoing president as the Bailly to the Conference or the Council for the purpose of handing over knowledge and mentoring the new president and supporting the Conference or the Council.

The suggested length of time for this role is determined by the Conference or the Council depending on its needs but would be no longer than six (6) months. The Bailly role is a non-voting role.

The Bailly is an experienced Vincentian (e.g., a former Council President) providing guidance in a non-voting capacity on matters discussed by the Council.

Youth in the Society also engage Baillys who provide Young Adult Conference Members with mentoring and support, particularly for newly appointed Youth Representatives or newly established Youth Conferences where an experienced Member guides the activities and good works conducted by Youth Conferences.

The role takes its name from the Society's first conference president, Emmanuel Bailly (age 39), who provided wisdom to the young members who gathered around Frederic Ozanam (age 19) to found the St Vincent de Paul Society.<sup>2</sup>

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<sup>2</sup> The last two paragraphs are adopted from the advice of National Council's Legal and Governance Standing Committee (29 June 2020) which was shared with State and Territory Councils.

## Proposed text of NEW Procedural Guideline

### NATIONAL COUNCIL'S OVERSEAS PARTNERSHIPS PROGRAM

The International Rule (Part 1, Section 4) requires Vincentians to help others in need overseas. For the Society in Australia, these good works are facilitated by the National Council's Overseas Partnerships Program including the following:

- **Twinning** is the direct link between two Conferences or Councils "consisting of sharing prayer, a profound friendship and material resources". This requires the Conference or Council engaged in twinning to communicate with their twin and provide funding including periodic twinning support, optional Christmas and Easter grants and optional financial support for projects initiated by overseas conferences through their National Councils.
- **Projects** provide a means for Conferences or Councils in our overseas partners to identify projects that support community development and request funding from the Society in Australia via their Superior Councils. Special Vincentian Support Projects provide a means for Superior Councils of our overseas partners to request support for one-off activities to strengthen administration.
- **Assist A Student** provides students in need with one-off support to meet their educational needs in a given year. Recipients are selected by the participating overseas partner countries who administer and report on its implementation.
- **Emergency Relief** can be requested by our overseas partners at times of natural or humanitarian disaster.

As the Superior Council in Australia, the National Council of Australia is the entity responsible for the Overseas Partnerships Program and ensuring it is operated in line with both Vincentian and Australian Government governance arrangements. While the National Council has overarching responsibility for the Overseas Partnerships Program, it is implemented through a Society wide partnership across jurisdictions in Australia.

- The National Overseas Partnerships Advisory Committee is established by the National Council and is responsible to it and reports regularly. The Secretariate provides facilitation, administration and financial support for the Overseas Partnerships Program.
- State/Territory Councils should establish Overseas Partnerships Committees and Administration and Finance teams to support the implementation of the Overseas Partnerships Program at Council and Conference level in their jurisdiction.
- Conferences, Central and Regional Councils may choose to appoint Twinning Officers to support their engagement in the Overseas Partnerships Program.

These national structures are supported internationally and overseas through the following:

- Council General International has International Commissions for Twinning and International Aid and Development. It also has International and Zone Twinning Officers and Territorial Vice Presidents. They coordinate the allocation of countries that the national donor Societies support.
- The Superior Councils of our overseas partners are responsible for engagement in, implementation of, and reporting on Overseas Partnerships Program initiatives for their own country.
- The Councils and Conferences in our overseas partner countries who are engaged in twinning must be: aggregated; not twinned already; and willing to communicate with their Australian twin.



## Text of current Procedural Guideline

### **ECUMENICAL RELATIONSHIPS**

**It is recognised that non-Catholic people may attend Conference meetings and are welcomed; they may elect to become Conference members. It is also recognised that others who volunteer in the various works of the Society may be non-Catholics but are equally welcomed.**

## Proposed text of amended Procedural Guideline

### **ECUMENICAL RELATIONSHIPS**

It is recognised that people from other Christian Churches and ecclesial communities and non-Christian communities may attend Conference meetings and are welcomed; they may elect to become Conference members.

It is also recognised that other people who volunteer in the various good works of the Society may be from other faith traditions and they are equally welcomed.

## Text of current Procedural Guideline

### CONFERENCE FUNDS

**A Conference is normally funded through the members' secret collection, the church collection box, fundraising and donations and is supplemented, where necessary, from its immediate Council our Rule places no restrictions on the raising of funds and members should be looking to do this when the need of the Conference exceeds its capacity to provide. Consultation with the Parish Priest is essential in matters of fundraising within the parish. All fundraising must comply with Government regulations and legislation.**

**Conferences should not hold funds surplus to their requirements. There is always a need for funds elsewhere and they should be made available to the next higher Council.**

**The Society is not a funding organisation and The Rule does not permit Conferences to donate funds to other charitable bodies unless members are directly involved as Vincentians in that activity.**

**Members make a commitment to perform works of charity within the framework of the Society. They fulfil their commitment financially according to their means.**

## Proposed text of amended Procedural Guideline

### CONFERENCE FUNDS

The procedures described below recognise that each State and Territory Council will have different approaches to how Conference funds may be raised, receipted and expended including funds provided to a Conference from the next higher Council.

A Conference is normally funded through the Members' secret collection, the church collection box, fundraising and donations and is supplemented, where necessary, from its immediate Council. Our Rule places no restrictions on the raising of funds and Members should be looking to do this when the need of the Conference exceeds its capacity to provide. Consultation with the Parish Priest is essential in matters of fundraising within the parish. Members make a commitment to perform works of charity within the framework of the Society. They fulfil their commitment financially according to their means.

All fundraising undertaken by a Conference must comply with Commonwealth Government legislation and regulations (e.g. the Australian Taxation Office for tax deductible donations issued in the name of the Society) and State or Territory Government legislation and regulation where these exist.

Any funds received by the Conference are deposited into the State or the Territory Council's collective banking system using the required banking procedure as prescribed by the State or Territory Council's finance section. Where there is a collective banking system, funds are then redistributed back to Conferences for expenditure on good works.

Where there is central accounting system, the Conference may be allocated a budget and would generally be expected to operate within or close to that budget unless there are extraordinary demands on the Conference. In the latter instance the Conference should discuss any projected shortfall in Conference funds with their next higher Council which may reallocate funds from other Conferences or seek additional funds from its next higher council. Funding for Conferences and Councils should be managed by Conferences and by Councils with assistance from the State or the Territory Council and the Council Chief Executive Officer where necessary.

Conferences generally do not generate enough funds to carry out their works of charity. Through the centralised budget arrangements (collective banking), based on historical use of funds, each Conference is allocated its funds from the central collection of funds, which include the types mentioned above but mainly through profits from Vinnies Shops. Conferences also share in the funds donated to the Society from general bequests, special fund raising such as the CEO Sleepouts, general donations from corporations etc...

Funds that are sourced from specific fundraising campaigns (e.g. the theme of the annual CEO Sleepout campaign) must only ever be expended for the purposes for which donors have donated the funds.

Conferences should not hold funds surplus to their requirements. There is always a need for funds elsewhere and they should be made available to the next higher Council.

The Society is not a funding organisation and *The Rule* does not permit Conferences to donate funds to other charitable bodies unless members are directly involved as Vincentians in that activity.

## Text of current Procedural Guideline

### **FESTIVAL MEETINGS**

**To encourage and maintain a unity of both spirit and action among the members, Conferences and Councils celebrate liturgical ceremonies, such as Vincentian festival masses and gatherings, throughout the year.**

**It has been customary to hold a Festival Mass and Meeting of members, associates and volunteers on or about the feast of St Vincent de Paul on 27 September and the feast of the Annunciation on 25 March.**

## Proposed text of amended Procedural Guideline

### **FESTIVAL MEETINGS**

To encourage and maintain a unity of both spirit and action among the members, Conferences and Councils celebrate liturgical ceremonies, such as Vincentian festival masses and gatherings, throughout the year.

It has been customary to hold a Festival Mass and Meeting of members, associates and volunteers on or about the feast of St Vincent de Paul on 27 September and the feast of the Annunciation on 25 March,

However, it is acknowledged that in some jurisdictions it is more desirable to ensure that Festival Masses are dispersed throughout the year to ensure appropriate levels of support. It is anticipated that each Conference and Council would gather at least once per calendar year.

## Text of current Procedural Guideline

### **YOUTH IN THE SOCIETY**

**Young Vincentians reflect the original spirit and charism of the Society by enhancing its mission with their enthusiasm and dynamism.**

**Presidents of Councils, after consultation with young members, appoint a Youth Representative who is able to reflect the opinions of young people in all matters discussed by the Council.**

**Presidents are encouraged to seek out young Vincentians to serve as office bearers of Conferences and Councils.**

## Proposed text of amended Procedural Guideline

### YOUTH IN THE SOCIETY

Young Vincentians reflect the original spirit and charism of the Society by enhancing its mission with their enthusiasm, dynamism and thirst for social justice.

There are no age barriers to membership of the Society. However, as a general rule, Conference Members should be at least 18 years of age. At times, Conference Members have to deal with some confronting issues to assist our Companions and we should not ask Young Adult Conference members to undertake work that they are not comfortable with.

#### **School Based Conferences (Mini-Vinnies and Secondary Conferences)**

Mini-Vinnies has been a successful initiative that engages primary school children in learning about the Society and its works. Secondary School conferences, also known in parts as College Conferences, are a great extension of student's studies of Catholic Social Teaching and should be encouraged and actively supported by a local Conference.

If a good relationship is developed between a school and a local Conference or youth team, then there is a good chance that the students on leaving school will join a Young Adult Conference or may later in life join another form of conference. Ideally Conferences and Members should look to provide pathways that enable school students to engage with the Society at various times of their lives in the future as circumstances permit. In partnership with schools, Conference might reach out to engage the parents of children in mini-Vinnies and in secondary school conferences.

Another area of activity for secondary school students (e.g. children aged between 16 and 18 years of age) might involve volunteering in one of the Society's retail centres or youth programs. The relevant State or Territory Council would have induction, training, safeguarding and supervision procedures to ensure the safety and wellbeing of an individual student.

#### **Young Adult Conferences**

Young Adult Conference Members are typically aged between 18 and 35 years.

Young Adult Conferences generally engage with social justice issues that relate to their own interests and studies. Whilst activities vary, typically Young Adult Conferences are involved in leading youth based activities such as Kids Days Out/Buddies Days, Kids Camps or Tutoring activities.

If in the course of these activities a Young Adult Conference Member(s) encounter issues that they have difficulty understanding or managing, the Conference should feel free to call on other Conferences or Members with particular expertise to mentor these younger Members. Some Councils may even appoint a Bailly member to support youth activities in their area.

When Young Adult Conference Members volunteer in any such activities with children, they must always be mindful of and align to all requirements of the program as well as any civil legislative requirements and associated obligations (e.g. child safeguarding standards).

Presidents of Councils, after consultation with Young Adult Conference Members, appoint a Youth Representative who is able to reflect the opinions of young people in all matters discussed by the Council.

Presidents are encouraged to seek out young Vincentians to serve as office bearers of Conferences and Councils.

**Presidents are encouraged to seek out young Vincentians to serve as office bearers of Conferences and Councils.**



## Text of current Procedural Guideline

### **SPECIAL WORKS**

**Examples of the needs which may be met through the establishment of Special Works include literature distribution, operation of retail centres, nursing homes and hostels for the aged, accommodation and support services for people who have disabilities or are experiencing homelessness, unemployment, mental illness or financial difficulty, and training and employment opportunities for young people and others needing such services.**

**Special works arise from a need in the community observed by Conferences. They provide additional opportunities for direct personal contact between members and those in the community needing support. Where a larger Special Work is found to be necessary, its management should include the provision of close personal contact between Society members and those being supported.**

**Special Works Management Committees should include members of Conferences associated with the Special Work and people with relevant professional expertise. The Society, after consultation with the Conferences and Councils concerned, can transfer a Special Work to another organisation or institution if it is considered that it would be more appropriate for such a body to run the Special Work effectively.**

## Proposed text of amended Procedural Guideline

### **SPECIAL WORKS**

Examples of the needs which may be met through the establishment of Special Works include operation of retail centres, accommodation and support services such as outreach and food vans for people who are experiencing homelessness, unemployment or financial difficulty or people who are in need of specialist mental health support or who need training to overcome disadvantage.

Special works arise from a need in the community observed by Conferences or Councils. They provide additional opportunities for direct personal contact between Members and those in the community needing support. Where a larger Special Work is found to be necessary, its management should include the provision of close personal contact between Society Members and those being supported noting that employees with specialist training will take the lead where appropriate.

Where Society employees are engaged by Special Works because of their expertise or where persons with specialist skills external to the Society are involved to provide specialised assistance to people in need, Members must be aware of and respect the professional boundaries that likely are required when delivering a package of assistance.

Unincorporated Special Works Management Committees should include Members of Conferences or Councils associated with the Special Work and people with relevant professional expertise. The Society, after consultation with the Conferences and Councils concerned, with the approval of the National Council can transfer a Special Work to another organisation or institution if it is considered that it would be more appropriate for such a body to run the Special Work effectively.

## Text of current Procedural Guideline

### **ADVISORY COMMITTEES**

**Advisory Committees assist Councils in managing those activities which require more capability and expertise than the Council members can provide.**

**These Committees provide management and any other relevant advice to facilitate the efficient operation and coordination of Special Works activities such as Retail Centres, facilities for Aged Care, services for the homeless, overseas partnership and development, legal, insurance and occupational health and safety issues, fundraising, migrant and refugees services.**

**Advisory Committees make recommendations to the Council to which they are attached. They cannot make decisions or undertake activities unless specifically authorised to do so by the Council.**

**Advisory Committees should consist of members and others that are well experienced or trained in the work for which the Advisory Committee was established.**

**It is proposed to delete this Procedural Guideline**

**~~ADVISORY COMMITTEES~~**

## Proposed text of NEW Procedural Guideline

### **BENEFACTORS**

Benefactors help the Society by making financial or material donations. Benefactors may be provided regularly with information about the work of the Society to inform them of the work of the Society.

Conferences and Councils should, where appropriate, acknowledge the contributions of benefactors in a manner consistent with the ethos and simplicity of the Society.

Benefactors, especially in bequests, may ask that donations be applied to a particular purpose and this must be respected.

If the donation cannot be applied effectively for the purpose it was given then the matter must be raised with the benefactor or, in the case of a bequest, with the family.

## Text of current Procedural Guideline

### **SOCIETY EMPLOYEES**

**The Society engages employees to assist members to implement tasks which are beyond the capacity of members. They support members in their Vincentian vocation and are valued by the Society for such contribution.**

**All employees are to be engaged under appropriate contracts of employment and are to be provided with adequate induction into the Society's ethos, mission and practices. Employees should be fully informed about the principles under which the Society operates and prevailing government regulation and agree to work consistently within those principles and regulations. Adequate training must be provided to all employees.**

**Employees, who are members of the Society, may not hold any office in the Society where they can influence, or be seen to be able to influence, decisions related to their own employment. Where such a conflict may be identified, clarification from the appropriate State or Territory Council should be sought.**

## Proposed text of amended Procedural Guideline

### SOCIETY EMPLOYEES

The Society engages employees to assist the Society's Members to implement administrative tasks or tasks that require specialist training.(which are beyond the capacity of Members). They support members in their Vincentian vocation and are valued by the Society for such contribution.

Employees are engaged by a State or Territory Council's incorporated body, which may include an incorporated body that operates alongside a State or Territory Council. Some State or Territory Councils operate a number of incorporated bodies.

In general, employees are not Society Members and therefore they do not fall under the provisions of *The Rule* when they carry out their work duties.

Employees are managed by the Chief Executive Officer engaged by a State or Territory Council or its related incorporated body.

Members should never give direction to employees that might create confusion or blur the lines of reporting. Any instruction or request by a Member to an employee should be with the prior agreement of the employee's supervisor in line with any protocol established with the relevant Chief Executive Officer.

All employees are to be engaged under appropriate contracts of employment and are to be provided with adequate induction into the Society's ethos, mission and practices.

Employees cannot give instructions to Members. An exception to this practice is where a Member has been engaged to conduct activities that operate under the incorporated body; i.e. these activities fall outside the regular activities of a Member conducting good works.

Employees must be fully informed about the principles under which the Society operates, which should include an understanding of how *The Rule* applies to Society Members and how Members interact with employees, and prevailing government workplace regulations and agree to work consistently within those principles and regulations. Adequate training must be provided to all employees.

Employees, who are members of the Society, may not hold any office in the Society where they can influence, or be seen to be able to influence, decisions related to their own employment or of management. Where such a conflict may be identified, clarification from the appropriate State or Territory Council should be sought.

Members or volunteers who are engaged in the work of an incorporated body as a volunteer or as an employee report through the management structure to the Chief Executive Officer of the incorporated body and are subject to the governance requirements of that body. (copied from Article 26)

## Text of current Procedural Guideline

### **COMMITTEE MEMBERS OF INCORPORATED BODIES**

**Councils which have the authority to incorporate any element of the Society's work must ensure that all persons appointed to the management committee of that incorporated body know and understand the duties and responsibilities that the law requires of them pertaining to those appointments.**

**In general terms their responsibility is to act ethically, honestly and carefully in the exercise of their duties and in particular to keep themselves adequately informed of the conduct and operations of the incorporated body. It is no defence to actions against them that they did not know something they had a duty to know, nor is it a defence that they acted in an honorary capacity.**

**Prospective committee members should be adequately advised of their duties and responsibilities by a legal practitioner experienced in these matters, and provided with written material detailing those duties and responsibilities. In particular they should be provided with details of the case Commonwealth Bank of Australia v Friedrich & Others 5 ACSR, and have its implications explained to them by a legal practitioner.**



**It is proposed to delete this Procedural Guideline**

~~DIRECTORS OF INCORPORATED BODIES~~

## Text of current Procedural Guideline

### **SOCIETY FUNDS**

**It is a fundamental understanding that varying legal, government and general accountability issues require the Society to direct funds to administrative matters.**

**The interests of the needy are not served by allowing funds to be hoarded at any level within the Society. Any surplus should be passed on to the Council to which the Council or Conference is attached so that it may be used for the best purpose within the Society.**

**Conferences and Councils are to disseminate information on financial needs and how funds are used.**

**It is proposed to delete this Procedural Guideline**

## **SOCIETY FUNDS**

## Text of current Procedural Guideline

### **ACCOUNTABILITY AND REPORTING**

**To provide transparency, and for the benefit of the members, Conferences and Councils are to report on their activities on a regular basis to the next higher Council.**

**State and Territory Councils are to produce an Annual Report to inform members and Society supporters.**

**The role of a Council is to serve - not rule, to educate and to animate.**

## Proposed text of amended Procedural Guideline

### **ACCOUNTABILITY AND REPORTING**

To provide transparency, and for the benefit of the Members, Conferences and Councils are to report on their activities on a regular basis to the next higher Council.

State and Territory Councils are to produce an Annual Report to inform Members and Society supporters.

Where Councils employ central accounting or other management systems to collect Conference financial accounting and activity data, reports from these sources are available to relevant Councils.

The role of a Council is to serve, to educate and to animate Conferences and Members - not rule.

## Proposed text of NEW Procedural Guideline

### MISCONDUCT

The term 'misconduct' includes but is not limited to the following behaviours where a behaviour(s) is alleged to have been carried out by a Member of the Society:

- a behaviour where the consequence is deliberate ignoring of an obligation owed to a matter(s) or a process described in *The Rule*; or
- a behaviour that goes against one or more of the Values expressed by the Society in Australia; or
- a behaviour described as 'unreasonable behaviours' in *Working Together Guidelines* (May 2021); or
- a behaviour that goes against a clause contained in the Constitution of an incorporated body that is attached to the National Council, a State Council or a Territory Council or a policy adopted by an incorporated body where lack of compliance with such a clause has a consequence including bring the name of the Society or the Society brand into disrepute; or
- a matter that falls under the **Fair Work Act 2009**; or
- a matter that falls under the occupational health and safety legislation applicable to the jurisdiction in which alleged behaviour(s) has occurred.

## Proposed text of NEW Procedural Guideline

### APPEALS

#### Procedural Fairness

The term 'procedural fairness' is concerned with the procedures used by a decision maker, rather than the actual outcome reached. It requires that a fair and a proper procedure has been used when making a decision.

The rules of procedural fairness require that the person concerned was given:

- i. a hearing appropriate to the circumstances;
- ii. lack of bias;
- iii. evidence that supports the decision; and
- iv. opportunity to inquiry into matters in dispute (right to respond).

A critical part of procedural fairness is 'the hearing rule'. Fairness demands that a person be told the case to be met and given the chance to reply before a decision-makers makes a decision that negatively affects a right, an existing interest or a legitimate expectation which they hold

The main requirements of the hearing rule are that the person concerned was given:

- an opportunity to reply in a way that is appropriate for the circumstances;
- for their reply to be received and considered before the decision is made;
- an opportunity to receive all relevant information before preparing their reply;

That is, the case to be met must include a description of the possible decision, the criteria for making that decision and information on which any such decision would be based. It is most important that any negative information the agency has about the person is disclosed to that person. A summary of the information is sufficient; original documents and the identity of confidential sources do not have to be provided.

- a reasonable chance to consider their position and to reply;

However, what is 'reasonable' can vary according to the complexity of the issue, whether an urgent decision is essential or any other relevant matter; and

- genuine consideration of any submission they make.

That is the decision maker needs to be aware of everything written or said by the person, and give proper and genuine consideration to that person's case.

At all times, the applicable laws of the land need to be understood and followed.

## Proposed text of NEW Procedural Guideline

### SUBSIDIARITY

The Principle of Subsidiarity is a Catholic Social Teaching. “Subsidiarity ‘protects people from abuses by higher-level social authority and calls on these same authorities to help individuals and intermediate groups to fulfil their duties...because every person, family and intermediate group has something original to offer to the community’ (Compendium, §172, *Laudato Si’*, §15)”<sup>3</sup>.

“Subsidiarity is at work in the Conference structure which says that the conference is closest to the person in need and is best placed to make the decision about how to help. The structure of councils, from regional councils up to national council, is also putting this principle into practice. The Rule tells us that ‘Councils exist to serve all the Conferences they coordinate’. The principles of participation and empowerment are also put into practice each day as we work with people to help them find solutions to their problems.”<sup>4</sup>

This principle recognises that Conferences and Councils are best equipped to respond appropriately to their local needs with knowledge of the environment and circumstances (culturally, socially, politically etc...). In this way, the Society promotes local initiatives within its spirit. This freedom of action of Conferences and Councils faithfully retains the principles that have been kept since the origins of the Society and enables the poor to be assisted spontaneously and effectively.

However, in some matters higher Councils may be better placed to make some decisions where these involve particular matters of expertise or where a higher Council determines that a uniform approach to some aspects of the Society’s presence across a number of local communities, Conferences or Councils is for the benefit of Members or of those we assist (our Companions?); e.g. Conferences and retail centres following decisions and directions made by a State or Territory Council during the COVID-19 pandemic.

Conferences can also seek advice and support from higher councils when they feel underfunded or are restricted in their decision making.

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<sup>3</sup> John Honner, *Dreaming as a Single Human Family*, National Council, Canberra, 2021; p 16.

<sup>4</sup> *op. cit.*, p 17.



## Proposed text of NEW Procedural Guideline

### **MEMBERSHIP AND NEW FORMS OF CONFERENCE**

In 2022 we face the prospect that if we don't change the way we do things we will shortly cease to be a member-based organisation. Relying primarily on parishes as the main source for conference recruitment is failing along with a declining church attendance. We must look to other avenues for membership and be willing to accept and support new forms of conference that are not parish based.

That is not to say that parish conferences are not important to us. They remain the core work of the Society with its home visitation or visiting in Centres of Charity (shops).

In some places conferences undertaking visitations are locality based; e.g. city workers forming a conference to undertake visits after work. A conference may be formed to support a Special Work of the Society such as our shops, homeless shelters, aged care, affordable housing etc. where visitation and a companionship may be just as important as the professional assistance provided by the specialists.

There are already many volunteers in night patrol, soup kitchens or in other Special Works mentioned above. They should be given the opportunity and encouraged to form conferences around their Special Work or volunteering activity. Becoming a Member enables the volunteer to share in the spiritual dimension of the Society at a level they are comfortable with and provides personal support and a chance to socialise with others who have similar values and beliefs. They also become part of the governance structure of the International Confederation of the St Vincent de Paul Society and a say in future direction and the way the Society is managed in Australia.

Only by embracing change can we hope to maintain the core values of the St Vincent de Paul Society in Australia as a member-based organisation.

## Proposed text of NEW Procedural Guideline

### **DISPUTE RESOLUTION COMMITTEE**

Article 27 requires each State and Territory Council to have a Dispute Resolution.

It may be too late to start setting up a Dispute Resolution Committee once a disagreement or dispute arises.

It is recommended that each State and Territory Council set up a Dispute Resolution Committee as a standing committee of the Council with an approved terms of reference. Such terms of reference should be consistent with the principles of Procedural Fairness discussed above under the heading Appeals.

Members of a standing Dispute Resolution Committee should have an appropriate level of training in conflict resolution.

Every attempt should be made to resolve a disagreement or dispute between Members at the local level. Escalating a dispute to a higher level Council should only occur when every reasonable effort to resolve it locally has been undertaken.

Any dispute involving a company member or director of a company should be dealt with in accordance with the company's constitution.

## Proposed text of NEW Procedural Guideline

### STATEMENT OF PRINCIPLES FOR SOCIETY INCORPORATED BODIES

#### Background

During 2019 to 2021, National Council's Legal and Governance Standing Committee undertook a review of clauses in the constitutions of Society incorporated bodies, both incorporated associations and companies limited by guarantee. The purposes of this review were to:

- (i) ensure the constitutions were aligned to *The Rule*; and
- (ii) examine the differences in the text of existing specific clauses of significance to the Society; and
- (iii) in light of (ii), to ascertain whether greater uniformity of the text used in specific clauses of significance to the Society could be achieved.

Specific clauses of significance to the Society included:

- member(s) of an incorporated body
- the preamble that introduces the constitution of an incorporated body
- the objects of the incorporated body
- membership of the incorporated body
- powers of the incorporated body
- reporting protocols contained in the incorporated body's constitution
- wind up provisions contained in the incorporated body's constitution
- dispute resolution referred to and outlined in the incorporated body's constitution.

Further, National Council accepted advice from the Legal and Governance Standing Committee that the default legal structure for incorporate bodies ought to be a company limited by guarantee ('CLG') rather than an incorporated association unless there are particular and valid reasons not to be a company limited by guarantee.

It is anticipated that the Society's present incorporated associations, including National Council's legal entity, will transfer to a CLG in the near future.

#### Significant Clauses in Constitutions

##### 1. Membership of special purpose bodies

National Council has endorsed that special purpose bodies (mainly Special Works) should have only the legal entity that is the State Council or the Territory Council as the sole member of that body. (Approved by National Council, February 2020).

##### 2. Preamble

It is desirable to have a Preamble to the constitution that explains the link between the company and supporting the work of St Vincent de Paul Society Members in carrying out their mission to assist people in need. (Approved by National Council, February 2020).

#### Example of Preamble

The Society Members have been members of an Incorporated Association formed to assist them in carrying out the good works of the St Vincent de Paul Society in (*State/Territory*).

They wish to change that operating structure to a Company Limited by Guarantee.

The Company is established through this Constitution to facilitate:

- i. the spiritual development of Society Members to fulfil their mission to serve the poor; and
- ii. the work Society Members, volunteers and employees do to assist people in need in our society,

which are central to the message espoused by Blessed Frederic Ozanam, Founder of the International Confederation of the St Vincent de Paul Society and which is consistent with social welfare aspects of Catholic Social Teaching.

The primary purpose of the company is to support the Society Members and those who assist them in their work recognising that in responding to those in need specialist skills are required at times to address complex needs and that Special Works may be established to meet those needs.

To assist the work of the Society the company may employ people who are directed by the CEO who is in turn directed by the Board which is responsible to the Members.

#### *Discussion:*

The Preamble does not form part of the formal clauses of the constitution and as such is not legally enforceable. But it will be used by a Court to interpret the reason the company was formed and its purpose.

Given that the Objects of the company should be clear and concise, the objects provision is not the place for a discussion of why the company was formed. The Preamble can give this background.

### **3. Objects:**

The Objects are harmonised across all states/territories in confirming the charitable work of the company and its link it to the work of the Society Members and to the Rule. (Approved by National Council, February 2020).

At present the Objects of the various State Council and Territory Councils whether an incorporated association or a CLG differ. Some of these differences comparatively are major. This is more a historical matter given that some of these entities were formed 80 years ago. Drafting styles are constantly changing.

If the State and Territory primary incorporated bodies (representing the State Council or the Territory Council) exist for the same purpose, then their Objects should be much the same.

There will of course be instances where objects clauses need additional provisions to cater for the needs of a particular entity, e.g. Special Works. Any variation to the common objects should make this clear.

#### Example of Objects

The company is a Catholic, benevolent and charitable organisation which is guided by *The Rule* and whose Objects are:

- (i) To facilitate the spiritual life of members by sharing their skills and talents, and what has been given to the Society, on a person to person basis with those in need and encouraging them to take control of their own future;
- (ii) Recognising that the principle of subsidiarity is a key element of the operation of the Society the company undertakes:
  - (a) to support the spiritual life of Society Members noting that the Society's values and Catholic Social Teachings underpin the work of the members;
  - (b) at the Conference, Regional, Central Council levels and at State/Territory Council level to support those Conferences and Councils both financially and administratively in carrying out their Mission; and
  - (c) at the state/territory level to support the Council in its role of leading the Society and coordinating the work of the Society in the state/territory.
- (iii) To provide relief to persons in necessitous circumstances
- (iv) Other core Objects as determined by the State or Territory Council in consultation with National Council.

#### **4. Membership of an Incorporated Body**

For a CLG, the members should be the State Council or the Territory Council rather than being open to all Society Members. (Approved by National Council, February 2020).

##### *Discussion:*

Many of the State/Territory primary entity constitutions (Associations) have membership provisions that in effect provide that if you are a Society member then you are also a member of the Association. In some cases, this includes associate and volunteer members but in most cases it is not specified.

It is not possible under the Company Code to deem certain persons to be members of a company. They must apply for membership and be accepted. The rules of incorporated associations vary from jurisdiction to jurisdiction but are generally more flexible about who can be a member of the association.

In the case of a CLG it is impractical for all Society Members within the jurisdiction to also be Company Members. The Legal and Governance Standing Committee considers that it is better if the members of the State Council or the Territory Council are the Company Members.

In NSW and Victoria the constitutions for a CLG limit company membership to members of the State Council. In all the other jurisdictions with incorporated associations all Society Members within the jurisdiction are automatically members of the association etc. Note that for a CLG a person cannot automatically become a member of the company. The Corporations Law requires an individual to apply to become a company member.

The Legal and Governance Standing Committee considers that it would be better to limit company membership to those elected or appointed under the Rule to take responsibility for the Society in a particular state or territory namely the State or Territory Council. It also separates the administration and business activities allowing conferences and councils to concentrate on their members and companions.

All members of the State or Territory Council should however be eligible to apply for company membership.

#### **5. Powers**

A powers clause should include:

- A. Specific reference to *The Rule*.
- B. A prohibition on the company issuing shares.
- C. A power to work with and share resources with other charities that are part of the Vincentian family or that have a common mission and set of values that are closely aligned to the Society (refer to the Procedural Guideline for Conference Funds).
- D. A power to share some of the company's resources with twinned countries.

(Approved by National Council, February 2020).

*Discussion:*

The Powers provision is included in some only of the existing State Council and Territory Council constitutions required under state or territory associations incorporations acts. This is no longer relevant to SVdP-Canberra-Goulburn which endorsed a new CLG Constitution in November 2022.

Example of Powers

The company will have all the powers given in the **Corporations Act (2001)** (Cwlth) and in addition the company will have the following specific powers:

The company may do all things necessary and convenient for carrying out the objects or purposes of the Society, while respecting *The Rule* of the Society and in particular, may:

- (a) acquire, hold, deal with and dispose of any real or personal property;
- (b) open and operate bank accounts;
- (c) invest its money –
  - (i) as trust funds may be invested under any relevant legislation governing trustees; or
  - (ii) in any other manner authorised by *The Rule*.
- (d) borrow money upon such terms and conditions as the Society things fit;
- (e) give such security for the discharge of liabilities incurred by the Society as the Society thinks fit;
- (f) appoint agents to transact any business of the Society on its behalf;
- (g) enter into any other contract it considers necessary or desirable;
- (h) subject to the Company having all the powers of a natural person;
- (i) the Company does not have the power to issue shares;
- (j) the powers of the Company are ancillary to the objects of the Company and must be exercised only to pursue the objects of the Company;
- (k) through advocacy the company seeks to cooperate in shaping a more just, compassionate Australia; and
- (l) the company may share the Society's resources with overseas countries twinned to National Council.

Such provision has the advantage of stating some of the important powers the company has without limiting the breadth of the Objects.

## 6. Reporting

There should be at least annual reporting to Society Members by the company. This is not normally a company requirement but it is part of the Procedural Guidelines in the Rule.

It is recommended that a reporting requirement be included in the company constitution, e.g. "The company shall report to the Society Members at least once a year on the company's activities and its financial position."

(Approved by National Council, February 2020).

*Discussion:*

There is a way to enable greater membership representation at the company's AGM. The constitutions for CLGs provide for the company to report at least once a year to Society Members. A provision could be added to provide that the Presidents of the Councils immediately below the State/Territory Council be invited to attend the AGM and to ask questions (but not to vote). For example, in the larger states the Central Council Presidents are eligible to be Company Members so the next level down would be Regional Presidents who would be invited to the AGM.

## 7. Winding up

Winding up provisions of the various State/Territory incorporated bodies vary greatly in their wording and in their effect. For most, there is no certainty that on a wind up surplus funds would be transferred to the National Council. Such surplus could easily be distributed to a non-SVDP charity even if this is not the expectation. The winding up provision should be in a standard form across all Society entities.

Windup provisions are fairly complex and generally lengthy so National Council approach here is to leave the drafting of this clause to the lawyers. National Council states the distribution principle to be reflected in a wind up clause must indicate that any surplus shall be transferred to the following incorporated bodies in line with the following order:

1. National Council
2. Organisation nominated by National Council
3. Organization nominated by members resolution
4. With court approval organization nominated by Board."

(Approved by National Council, February 2020).

### 1. Dispute Resolution and Disciplining of Members

Dispute resolution among Society Members and disciplining of Society Members will be in accordance with *The Rule*. (Approved by National Council Feb 2020).

The November 2022 draft proposed amended Articles address the matter of dispute resolution in detail.

*Discussion:*

Company constitutions have provisions for resolving disputes between members and for disciplining a member who is causing harm to the company. We think that for a SVDP entity we should use the provisions of the Rule.

### 2. Board Membership

*Discussion:* A smaller number of board members is usually more efficient for governing the company and enables some people with particular expertise to be brought onto the Board even if they are not Society or Company Members whilst still keeping a small board.

In the interest of keeping agendas aligned it is important that the directors be appointed by the Company Members rather than by members of the Board. We have seen with incorporated Special Works that over time as the Boards appointed more and more of their own directors their agenda deviated further and further from alignment with State Council.

The Board should be able to recommend appointment of directors (taking into account skill mix, diversity etc) but the Company Members must take the exercise seriously and not just be a rubber stamp, e.g. perhaps they should actually interview recommended candidates for qualified directors?

- The majority of the Board should consist of members who have been elected to the State/Territory Council.

- There should be no more than three qualified directors and they should not be more than one third of the board membership.
- Qualified directors should be appointed by the company membership on the recommendation of the board.
- The Presidents of the councils immediately below the State/Territory Council should be invited to the company's AGM and allowed to ask questions (but not to vote).
- The Council President and the Board Chair should ideally be the same person but in larger jurisdictions it may be desirable to have different persons due to the skill set required to chair the Board of a large operating entity.

### 3. Chair of the Board.

Ideally the State/Territory Council President should also be the Chair of the Board.

#### *Discussion.*

We have seen that having a State Council President and board chair being different people can potentially lead to power struggles, different agendas between the State Council and the Board. In the larger jurisdictions the task of chair of the board may require skills that the president does not feel confident in carrying out. If the chair of the board is to be other than the president then the president and council need to take special care to ensure that there is no mission drift within the board.

#### **One additional matter for consideration**

### 4. Board of Trustees to hold assets

In NSW there is a Board of Trustees (whose membership is the same as the State Council). The Board controls all of the assets of the Society within NSW. The CLG does not have any control of assets. It has been suggested that this protects the assets from a company that may otherwise make a decision to acquire or dispose of assets that the board may not agree with.

SVdP--Canberra/Goulburn was originally set up with the same model but over time the Territory Council decided that Society assets should not be held by a trustee company where they would be beyond the potential reach of a creditor or person injured by the incorporated body.

#### *Discussion:*

This issue has not been considered more widely in the Society as far as we are aware but we should have a national position on this if possible.