Society of St Vincent de Paul in Australia Corporate Governance Structure

FREQUENTLY ASKED QUESTIONS

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

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Introduction

From time to time the Society of St Vincent de Paul in Australia (**the Society**) receives queries from Society Members and others about our corporate governance structure and their place in it. Importantly, Society Members also want to understand how the Society protects Society Members and others who work with us, in the important roles they play as volunteers, employees, Directors and in some cases members of incorporated bodies.

In this 'frequently asked questions' document, we have provided some answers, noting of course that each State and Territory is free to choose how they structure their own arrangements providing they comply with *The Rule*. As a result, the answers may differ slightly across the country.

What is the key governing document for the Society?

The key governing document for the Society and all persons associated with it is *The Rule* of the Society of St Vincent de Paul (*The Rule*). Where *The Rule* is inconsistent with any applicable Commonwealth, State or Territory legislation, the latter prevails (refer Part III, Article 31).

The Rule is the foundation document of the Society. Following *The Rule* is an essential part of being a Vincentian. It is the Society's primary governance document and defines what the Society is and how Society Members govern themselves as an organisation.

The Rule has three parts:

- Part I describes the Society, its origins, values and principles, outlines Vincentian spirituality and our purpose as Society Members
- Part II defines the international governance structures of the Society
- Part III allows each National Council to define its governance structures and processes which must not contradict Parts I and II.

Part III guides the way the Society operates in Australia in ways that align the Society with civil, legal and cultural contexts. Part III guides Councils on the development of policies for the operation of Councils and Conferences. It is subordinate to and is interpreted according to Parts I and II of *The Rule* and is treated together with them as a single legal document.

The Articles in Part III apply to all Conferences and Councils within Australia and to incorporated bodies to the extent expressly stated in the Articles to apply to such bodies.

To read Part III of *The Rule* for Australia and its accompanying Procedures and Annexures please refer to www.vinnies.org.au/about-us/the-rule

What are the key elements of the Society's governance structure?

The name of the Society worldwide is "Society of St Vincent de Paul". In Australia it is known as St Vincent de Paul Society.

In each State and Territory in Australia, the Society operates through various incorporated bodies. The registered names of these incorporated bodies is either 'St Vincent de Paul Society' or another name that has been approved by a State or Territory Council.

National Council, as the superior Council defined under *The Rule*, together with the State and Territory Councils, are the stewards of the Society in Australia.

In Australia, the following groups have the following roles:

National Council

The national representative body of the Society in Australia which comprises of the Presidents of the State and Territory Councils, the National President and the following members appointed by the National President: Deputy President, a Secretary, a Treasurer, a Vice-President -Youth and up to two other Vice Presidents from among Society Members and a Spiritual Adviser. The Spiritual Adviser is not a voting member of National Council. (*The Rule*, Part III, Article 26)

National Council Trustees are the members of National Council (excluding the Spiritual Adviser) (refer Part I, Article 6.5 & Part III Article 11 with related Procedure).

State and Territory Councils

A representative body of the Society in a State or Territory which comprises the Presidents of the Councils in that location, or in the Northern Territory the Conferences, and Members appointed by the State or Territory Council President and a Spiritual Adviser.

The geographical boundaries of the Councils align with the boundaries of the Roman Catholic in Australia Archdioceses and the Darwin Diocese, and these diocesan boundaries align with Australia's civil jurisdictions for the six states and the Northern Territory. The boundary of the Canberra-Goulburn Territory Council aligns with the Archdiocese of Canberra-Goulburn which extends into parts of New South Wales (refer Part III, Articles 17-19).

Central or Diocesan Councils

Some State Councils have established additional Councils in Dioceses within a Province (state) (refer Part III, Articles 17-19).

Regional Councils

The bodies responsible for promoting the work of the Society in a particular locality (e.g. a diocese) and are comprised of the Presidents of the Conferences within that locality.

Conferences

The Society's primary Membership unit that is mainly based in parishes, but may be adapted to other circumstances (e.g. hospitals, schools, Special Works, etc.) (refer to Part III, Articles 5 – 10).

Special Works

Initiatives that are organised to provide a particular service(s) to a defined group of persons or in response to an identified need and which are wholly the responsibility of the Society (refer to Part III, Article 29).

Young Vincentians (i.e. Mini Vinnies, Youth Conferences, etc.)

Any Conferences, Councils or projects established specifically to promote the involvement of younger persons. These activities are accountable to the Council under which they operate in the same way as any other activity of a Conference or Council.

How has the Society in Australia organised its governance structure?

In Australia, the Society has organised its governance structure so that Councils have responsibilities for defined geographic areas which assist the effective coordination of the Society's Mission and its activities. The formal institution of these Councils must be endorsed by National Council.

What does being a Society Member of St Vincent de Paul Society mean?

Every Society Member is a member of the Society worldwide.

The Society is comprised of Members who work in Conferences, Special Works and Councils.

The Society also has many individuals who are not Society Members, and groups who engage with and freely commit their time and talents to deliver the Society's Mission and its activities.

Society Members can also be volunteers or can be employees of particular incorporated entities in each State and Territory. When Society Members are in the roles of volunteer or employee, they fall under the supervision of the Chief Executive Officer who is engaged by the Board after approval of the company (or Association) in general meeting. The role of the Chief Executive Officer is to manage the corporate affairs of the Council's legal entity and align all activities to the Society Mission and *The Rule*.

There are two categories of Society membership; Conference Member and Associate Member as per below.

Conference Member

A Conference Member is a person who embraces and is committed to the Catholic ethos of the Society, who attends Conference meetings, and who seeks to live out their faith and commitment in action through taking part in the work of the Society in service to people in need in their local community. A Conference Member has received the required information and training and accepts Parts I, II and III of *The Rule*.

Conference Members are registered by a procedure established by the relevant State or Territory Council. Conference Members are eligible to vote for the Conference President.

Associate Member

Associate Members are people who are committed to the Catholic ethos, Mission, vision and the values of the Society, and who seek to live out their commitment by assisting in the works of the Society. Associate Members are not required to attend Conference meetings.

Associate Members are always welcome to attend Conference meetings and to participate in any formation programs. Associate Members are registered by a procedure established by the relevant State or Territory Council.

Associate Members are not eligible to vote for the Conference President. Associate Members cannot take up office-holding positions in the Society. Associate Members can be involved in decision making processes that relate to matters concerning the Conference and any Special Work in which the Conference is involved. All Society Members in Australia are members of the worldwide St Vincent de Paul Society.

What corporate governance exists for any unincorporated associations such as Councils and Conferences?

In line with *The Rule*, Councils and their Conferences exist as unincorporated associations. They are governed by *The Rule*. *The Rule* sets out all the principles and some procedures unincorporated groups are required to take account of when they operate.

What corporate governance exists for incorporated entities?

Every Society incorporated legal entity has a Constitution/Articles of Association that outlines its objects, powers and how it will operate. The Constitution/Articles of Association must refer to *The Rule* and must not be inconsistent with *The Rule*.

National Council and each State and Territory Council has established an incorporated entity (a company limited by guarantee or an incorporated association) which allows each of the Councils to operate in the civil environment; i.e. to enter into contracts, engage employees and deliver services – see below for an example.

Whom do volunteers undertake activities for?

Volunteers are volunteers for the broader Society, even though their activities may be under the auspice and direction of particular Councils, Conferences or incorporated entities. Volunteers may or may not be Society Members.

Volunteers are not Conference Members or Associate Members by reason of their volunteering but are encouraged to become Conference Members or Associate Members. Volunteers may participate in Conference activities and they may provide volunteer services to assist the Society to deliver Special Works and other voluntary activities.

Society Members can be employees or volunteers of the National Society or a State or Territory organisation.

Whom should contracts be with?

All contracts and legal relationships that relate to a State or Territory Council can only be in the name of the relevant incorporated organisation. Incorporation can take the form of an incorporated Association under the Associations Incorporation Act in a jurisdiction or a Company Limited by Guarantee under the *Commonwealth Corporations Act (2001)*.

Conferences do not have the required legal status to own assets or to enter into contracts including employment agreements.

For example, in the case of Tasmania, the incorporated entity St Vincent de Paul Society (Tas) Limited holds assets and liabilities, enters into contracts and employs people across Tasmania. However, the State Council of Tasmania, Regional Councils and Conferences as unincorporated entities, have no legal status to hold assets and liabilities, and cannot enter into contracts or employ people.

Who owns the assets and liabilities?

For States/Territories

All assets and liabilities are held in the name of the incorporated entity or other related incorporated entities that have been established by a State or a Territory Council; i.e. all assets and liabilities are held in the name of the jurisdiction's incorporated association or company, whichever is the relevant entity a State or Territory Council has determined.

Nationally

All assets and liabilities that relate to National Council and its related legal entity are held in the name St Vincent de Paul Society National Council of Australia Inc.

How are Society Members protected from personal liability?

Personal liability has two facets – the first is liability for debts and liabilities of an organisation and the

second is liability for a person's own acts or omissions when assisting the Society.

This question is best answered by dividing it into three categories of Society Members:

1. persons who are Directors of a company or an incorporated association;
2. persons who are volunteers of an incorporated entity; and
3. persons who are Members of an incorporated entity,

as they are all slightly different.

Persons who are Directors of incorporated entities

Society Members and others, who are Directors of incorporated entities, have all normal Directors' duties under the law (this will typically be the duties outlined by the Australian Charities and Not for Profits Commission Governance Standard No. 5) and obligations pursuant to the legislation under which they are incorporated. The Directors must ensure good governance and legal compliance of the entity. Directors can be legally responsible for their own acts and omissions in their role and those of the entities they oversee in certain cases. Board members and the other officers of the incorporated entity (such as the Chair and the Chief Executive Officer) are the persons most likely to be liable for any such debts and liabilities of the entity as they owe the duties to the entity and hold positions of power that can impact the entity the most.

Incorporated entities generally have the power to indemnify Directors from the risks of their role if their acts and omissions were in good faith and they did not commit a breach of their duties to the entity. This indemnity is typically contained in their Constitution.

Incorporated entities also hold insurance typically known as Management Liability Insurance or Directors and Officers Liability insurance to support this indemnity. This forms a good basis of protection for Directors when acting in that role. In addition, each entity takes out insurance as it deems necessary to protect the entity itself from risks.

Persons who are Volunteers of an incorporated entity

Volunteers engaged by the Society may or may not be a Society Member.

Individuals may be volunteering with a Special Work or other activities delivered by an incorporated entity, this may include amongst other things visiting people in need, undertaking works that support those in need or working in Vinnies' stores. There are many ways people contribute to the Society's mission.

It would be extremely rare and highly improbable that a person, who is not a Director of the legal entity that operates a Special Work or other facility (such as a Vinnies retail shop), would be held responsible for the debt and liabilities of an entity that organises their volunteer activity or the debts and liabilities of the Society generally. There would need to have been some type of egregious behaviour. Typically, as long as a volunteer acts within their scope of work and acts in good faith, an organisation will be vicariously liable for their acts and omissions in undertaking that work and no action would proceed against them for something that goes wrong. Volunteers are also protected from liability on a similar basis for community work done in good faith by civil liability laws in each State and Territory.

Incorporated entities within the Society also have insurances such as voluntary workers (personal accident insurance), public liability and statutory liability insurances to help protect the entity and its workers and volunteers.

Persons who are members of an Incorporated entity

If a Society Member, in addition to being registered as a member by the relevant Council[1], is a registered member of an incorporated entity (e.g. an incorporated Association or a Company) their liability for their role as a member and the debts and liabilities of the entity is limited under each piece of governing legislation. The liability is limited to the member subscription amount specified in the rules or Constitution for that entity, and is typically a nominal amount such as $10.

[1] Society Members must be registered as a Society Member by the relevant Council in the State/Territory in which they reside and they are considered to be a Member of the broader Society not of a particular Council or Conference.

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