



THE 4TH ANNUAL LAW OF RELIGIOUS INSTITUTIONS CONFERENCE

Church Risk Management: How Well Does Your Board Manage Risk?

Religious Freedom in Australia: A Reality Check

Relationship Between PBIs and Religious Institutions

The Corporatization of Religious Entities

Religious Institutions as Employers

Regulating Employee Behaviour out of Hours

Responding to Complaints Against Clergy

Reopening Settled Abuse Claims

Religious Institutions and Vicarious Liability

Responding to Family Violence

Privacy and Confidentiality

Cyber Safety and Religious Institutions

A Two-day Conference

Thursday 20 & Friday 21 October 2022

Melbourne Marriott Hotel

Feedback from last year's conference:

- “The conference has ‘brought me up to speed’ on a number of significant legal matters relevant to our church body, and has given me further contacts if I have more questions at a later date.”
- “Very focussed on the religious institution perspective of these topics which is unique.. The papers are extensive and an excellent resource for key stakeholders in the religious organisation.”
- “Great speakers with a lot of expertise in the field.”



Leaders in online CPD for Lawyers & Accountants

DAY 1 - THURSDAY 20 OCTOBER 2022

MORNING THEME: GOVERNANCE CHALLENGES

9.00 - 9.10am

Introduction and welcome

9.10 - 9.55am

Session 1: Church Risk Management: How Well Does Your Board Manage Risk?

Managing risk is a board responsibility which can often be neglected to other, more urgent matters. However, failure to properly manage risk can lead to significant consequences down the track. How well does your religious institution manage risk? This session will provide practical guidance on ensuring your governance frameworks are up to the task, including:

- Governance and risk – understanding the inherent dynamic
- The right governance frameworks – not a one size fits all approach
- Best practice guidance on risk management checklists
- Board composition to best deal with risk
- The role of the constitution in governance and risk management
- Purpose as the guiding light: ensuring alignment between organisational objectives and operations

Speaker: Rebecca Lambert-Smith, Practice Leader, Moores, Melbourne

9.55 - 10.05am Panel Comments and Questions

10.05 - 10.50am

Session 2: Religious Freedom in Australia? A Reality Check

The question of religious freedom in Australia has been front and centre in Australia in recent years. However, confusion abounds regarding what our laws do and don't do in a religious context. This session examines the key issues, including:

- What protections are available for religious freedoms in Australia?
- Dealing with religiously framed speech and discrimination
- Understanding where the gaps are in the current legislative framework
- What form should exemptions for religious institutions take?
- How should religious bodies respond to the current debate and where to for future reform?
- Lessons from recent case studies

Speaker: George Kolliou, Director, Human Rights Alliance Ltd, Canberra

10.50 - 11.00am Panel Comments and Questions

11.00 - 11.25am Networking Break and Morning Tea

DAY 1 - THURSDAY 20 OCTOBER 2022

11.25am - 12.10pm

Session 3: Dotting the i's and crossing the t's in the Relationship Between Public Benevolent Institutions and Religious Institutions

The ACNC has ramped up its reviews of PBIs amid its concerns that such an entity cannot have both a religious purpose and meet the ACNC requirements for charitable registration as a PBI. This session provides a detailed guide to meeting the PBI requirements set by the ACNC and provides tips for avoiding deregistration, including:

- The traditional characteristics and purpose of a PBI – have these been changed under ACNC requirements?
- What is a “religious purpose” and when will a PBI fail to comply with the ACNC requirements?
- Dissecting the meaning of:
 - Benevolent relief
 - Operation in Australia
- What activities does a PBI need to be undertaking to be registered as a charity?
- Distinguishing religious purpose from a benevolent relief purpose – cases and examples
- Relationship management between a religious institution and related PBI – how to maintain the dividing line
- Recent cases, including *Women's Life Centre Inc. v Commissioner of the ACNC* [2021] AATA 500, *Global Citizen Ltd v Commissioner of ACNC* [2021AATA 3313], *Australians for Constitutional Recognition for Indigenous People*

Speaker: Murray Baird, Principal Murray Baird Advisory and Consultant Prolegis Lawyers, Melbourne

12.10 - 12.20pm Panel Comments and Questions

12.20 - 1.05pm

Session 4: The Corporatization of Religious Entities – Religion at the Crossroads?

Religious institutions have steadily embraced the corporatization of church entities as a way in which to minimize legal risks, ensure fiscal responsibility and good governance. This session examines this recent trend and the key issues it creates for religious institutions, including:

- The adoption of corporate models for churches – when is this a good idea?
- Religious institutions and the operation of substantial commercial enterprises – should you incorporate?
- What risk factors emerge in the corporatization of the church?
- Does the corporate mindset act as a spiritual impediment?
- Understanding the role of the corporate veil
- Financial imperatives – separating church mission from church business
- Does church corporatization improve legal compliance?
- Case studies

Speaker: Anne Robinson, Principal, Prolegis Lawyers, North Sydney

1.05 - 1.15pm Panel Comments and Questions

1.15 - 2.15pm Luncheon

DAY 1 - THURSDAY 20 OCTOBER 2022

AFTERNOON THEME: WORKPLACE ISSUES

2.15 - 3.00pm

Session 5: Religious Institutions as Employers: Practical HR Issues in Management Control

Employing and managing staff comes with many challenges. This practical session provides a guide to the key employment law issues religious institutions face and what they must do to ensure compliance with obligations, including:

- Why characterising employment relationships matters and the consequences of getting it wrong
- Characterising the legal relationship between religious institutions and clergy
- What are the characteristics of an employment relationship? How is an independent contractor distinguished?
- How to define the status of other relationships including assistants and volunteers engaged in religious service
- The move to flexible workplaces – what is best practice and how can the risks be managed?
- Lessons from recent cases

Speaker: Adam Foster, Principal Lawyer, Macpherson Kelley, Melbourne

3.00 - 3.10pm Panel Comments and Questions

3.10 - 3.55pm

Session 6: The Fine Line Between Work and Play: Regulating Employee Behaviour Out of Hours

Increasingly employers are grappling with challenges of managing staff behaviour and opinion outside the workplace, and for religious institutions this dilemma is compounded by their adherence to specific moral and ethical codes. This session will examine how formerly “private” behaviour and opinion is being increasingly viewed through the employment lens, and the options for religious institutions in managing it, including:

- Is there a right to free speech and freedom of expression?
- How far can employment contracts and policies be used to manage opinion and behaviour outside the workplace?
- Lessons from recent examples of extension into private beliefs and life
- Are staff codes of conduct and social media policies an effective tool for behaviour modification or is more needed?
- Tips for contractual terms, cyber scrutiny, policy development and other effective management tools

Speaker: Alistair Macpherson, Managing Director, Corney & Lind Lawyers, Brisbane

3.55 - 4.05pm Panel Comments and Questions

4.05 - 4.25pm Networking Break and Afternoon Tea

4.25 - 5.10pm

Session 7: Responding to Complaints Against Clergy: Best Practice Guidance

A complaint has been made against a member of the clergy. What next? This practical session provides best practice guidance on managing complaints, including:

- Immediate steps to take when a complaint is received
- Dealing with the investigation process
- Restorative justice and engagement – what this means within current processes?
- Procedures for investigating clergy and lay leaders
- Dealing with regulatory and legal authorities where allegations involve a criminal offence
- Decision-making and outcomes, including disciplinary action and referral to external authorities
- Communications management both internally and externally
- Complaints mechanisms – is your system clear and thorough?

Speaker: Fiona Manderson, Director of Compliance and Risk, Inhouse Counsel, Hillcrest Christian College, Qld

5.10 - 5.20pm Panel Comments and Questions

DAY 2 - FRIDAY 21 OCTOBER 2022

MORNING THEME: LITIGATION AND SAFETY

9.00 – 9.05am

Introduction and welcome

9.05 - 9.50am

Session 8: Reopening Settled Abuse Claims: Trends and Recent Cases

Recent developments across the country have made it easier for plaintiffs to set aside previous settlements and proceed with further claims for damages. This session examines recent trends and their lessons for religious institutions, including:

- When can a plaintiff proceed with further claims for damages for a previously settled case? A look across the jurisdictions
- The church as a separate legal entity – what is the correct position?
- The Victorian experience – abolishing the ‘Ellis defence’ and church immunity
- Church insurers in financial trouble – the future of civil action against the church
- Revisiting Royal Commission findings – its influence on future claims
- Is pre-litigation negotiation non-existent now and should it be?
- Lessons from recent cases

Speaker: Luke Geary, Partner, Mills Oakley, Brisbane

9.50 - 10.00am Panel Comments and Questions

10.00 - 10.45am

Session 9: Religious Institutions and Vicarious Liability

The question of church vicarious liability has squarely arisen in the recent Bird case. This session looks at its implications and how religious institutions should respond, including:

- Church liability for child abuse by clergy – explaining parameters of vicarious liability
- The nature of employment relationship between clergy and church
- What other factors influence vicarious liability of church for priest actions
- Examining the pastoral role of the church as an element of liability
- Is the ‘closeness’ of the relationship between parties the key factor?
- Extent of church duty of care as a result of recent case law developments
- Case study – DP (a pseudonym) v Bird [2021] VSC 850

Speaker: Charles Harrison, Special Counsel, Carroll & O’Dea Lawyers, Melbourne

10.45 - 10.55am Panel Comments and Questions

10.55 - 11.15am Networking Break and Morning Tea

11.15 - 12.00pm

Session 10: Responding to Family Violence

Faith based organisations have obligations as employers, and generally and spiritually to the church community. How far this obligation extends legally in relation to family violence is examined in this session. It includes:

- Understanding and identifying the differing forms of family violence
- Family violence and the church – the extent of current legal obligation
- Where legal obligation and church loyalties conflict - the correct and only path
- Church support for victim and perpetrator – is this an inherent conflict scenario?
- The role of church leaders in responding to the crisis
- Developing church policies and procedures to deal with family violence

Speaker: Eustacia Yates, Managing Lawyer, New Way Lawyers, Brisbane

12.00pm - 12.10pm Panel Comments and Questions

12.10 - 1.10pm Lunch

DAY 2 - FRIDAY 21 OCTOBER 2022

AFTERNOON THEME: DATA AND CYBER SECURITY

1.10 - 1.55pm

Session 11: Privacy and Confidentiality: The Religious Institution and Sensitive information

The issue of confidentiality and privacy is a pressing one for the modern church. This session looks at the key legal issues they raise and what the church should be doing about it. It includes:

- How are religious institutions treated under privacy laws?
- General use and disclosure of personal information – key church obligations
- To whom may churches disclose personal information
- How should sensitive and personal be managed by churches?
- Sharing information – externally and internally: extent of church obligation
- Is religious belief sensitive information?
- Extent of church obligation to keep personal information secure
- Case study - Subpoenas and material confidentiality in church environment

Speaker: Sonya Parsons, Partner, Mills Oakley, Sydney

1.55 - 2.05pm Panel Comments and Questions

2.05 - 2.50pm

Session 12: Cyber Safety and Religious Institutions

Cyber safety and security has emerged as a major issue in the workplace, and religious institutions are not immune. How this should be handled in the religious institutions sector is examined in this session, including:

- Who would attack a religious institution? – The reality of risk
- Understanding the life cycle of a data breach
- Identifying where things can go wrong in your organization
- Governance and cyber-security – role of board
- Setting up the cyber-safety response plan – some key essentials:
 - Multi – fact authentication
 - Classifying data
 - Educating employees and volunteers
 - Developing cyber security skills training
 - Data access and restriction
- Case study – privacy law and data breach response check list

Speaker: Simone Herbert-Lowe, Director, Law & Cyber, Sydney

2.50 - 3.00pm Panel Comments and Questions

3.00pm Conference Close

GENERAL INFORMATION

Conference Registration Fee

The registration fee includes attendance at the conference and conference papers. Refreshment breaks and lunch on both conference days are included for those attending the conference in person.

TEN will be live streaming the conference. Delegates have the option of attending the conference in person or attending it online.

All delegates will receive recordings of all sessions regardless of registration type.

Conference Papers

TEN will not provide printed copies of the conference papers or Powerpoints. Access to the papers & Powerpoints will be available online to all delegates as they come available in the lead-up to the conference.

CPD

Lawyers (except WA): 11 CPD units (substantive law).

WA Lawyers: 6 CPD points (substantive law). WA practitioners can claim 6 CPD points being the maximum allowable by the LPBWA per event. TEN is an accredited QA provider.

CPD Certificate

All delegates attending the conference will receive a CPD Certificate confirming attendance.

The Conference Venue

Melbourne Marriott Hotel

Corner Exhibition & Lonsdale Streets
Melbourne

Travelling to the Conference Venue

Delegates are advised to make their own travel arrangements.

Conference Dress

Smart casual attire is suitable (note: the temperature in the conference rooms can vary depending on where you are sitting. Short sleeves/summer tops are generally OK, but it is advisable that you bring a jacket/long sleeved top just in case you need it).

TERMS AND CONDITIONS

1. In these terms,
 - a. "TEN" means Television Education Network Pty Ltd
 - b. "you" means the person who has registered to attend or the person or persons who attend[s] the conference (if different from the person registered)
 - c. "Plan" means the COVID-Safe Plan for the conference described below.
 - d. "conference" means the live face to face or live or recorded online educational event or which you have registered (by whatever name called and includes conferences, masterclasses, webinars and webinar series).
 - e. "live conference" means a conference other than a recorded conference.
 - f. "recorded conference" means a recording of a presentation or a series of presentations which you can view at a time of your choosing
 - g. "online" in relation to a conference means a conference you attend by viewing the conference over the Internet
 - h. "face to face" in relation to a conference means a conference held in an external venue where you view the conference in the conference room

General – all conferences

2. TEN may change the program for a live conference as described in the brochure you have downloaded or in the TEN website without notice to you in any manner and at any time.
3. The information and opinions of presenters at the conference are not necessarily those of TEN and are in the nature of general information and not professional advice and you rely on these at their own risk. TEN is not responsible for the accuracy of the information or the correctness of the opinions offered by presenters at the conference.
4. TEN is not responsible for any financial or other losses incurred by you or for injury or damage to persons or property which occur at or in connection with the conference.

COVID SAFE PLAN – FACE TO FACE CONFERENCES

What happens if you are diagnosed with COVID-19 or you are otherwise unwell?

5. If the conference is held face to face, TEN will conduct the conference in accordance with a COVID Safe Plan. You agree to comply with that Plan at the conference. If you fail to comply with the Plan, you agree to leave the conference immediately at the request of a TEN staff member or venue staff member. If you leave under these circumstances, you will not be entitled to a refund of any part of the registration fee. TEN will not be responsible for any travel or accommodation costs or fees incurred by you in relation to the conference or as a result of you leaving the conference early.
6. The COVID safe plan will prevent your attendance at a face to face conference if you are diagnosed with COVID-19 prior to or during the conference and the infection has not been cleared by two negative PCR tests, if you have a fever (ie raised temperature) at the time of registration or if you have a respiratory illness (including a cold or cough) at the start of or during the conference. In these circumstances:
 - a. You will be entitled to attend the live online version of the conference and/or recorded online version if that is offered; or
 - b. If not, you will be entitled to a full refund of the registration fee paid or a credit equal to that fee to use for a future purchase of a TEN product.

Conversion of face to face conferences to live online conferences

7. If the conference is being held face to face or face to face AND online, TEN reserves the right to convert the conference on no less than 24 hours' notice to a solely online conference or to cancel the conference or to postpone the conference to a later date if TEN determines that it is unable to hold the conference face to face on the date/s advertised for any one or more of the following reasons:
 - a. State or national border closures
 - b. Restrictions on movement of persons imposed on persons by any responsible authority in Australia
 - c. The inability or refusal of one or more presenters or TEN team members to attend the conference to present
 - d. In its opinion, it is unsafe to hold the conference face to face for any reason.
8. If TEN converts the conference from face to face only or to face to face and online to online only or postpones the conference or cancels the conference, TEN will not be responsible for any loss or damage you suffer as a result including any travel costs relating to the conference.
9. If TEN converts the conference from face to face to online or postpones the conference and as a result you are not able to attend you will be entitled to a full refund of registration fee paid or a credit equal to that fee to use for a future purchase of a TEN product.

Copyright

10. The copyright in materials prepared by presenters at a conference and made available to you by TEN is and remains the property of each presenter.
11. You are entitled to use those materials for private study and research only.
12. The copyright in the live stream and in any recording of a conference offered online is the property of TEN.
13. You are entitled to watch a conference for private study and research only.

Conference cancellation by TEN – all conferences

14. TEN reserves the right to cancel a conference for any reason.
15. If TEN cancels the conference, you will be entitled either to a refund of the registration fee you have paid or to a credit equal to that fee which you can use to purchase another TEN product within 12 months of the first day of the cancelled conference.

Cancellation by You – all conferences

16. Refunds for registration cancellation by you other than under Clause 6(b):
 - a. If notice of cancellation is actually received by TEN more than 10 days before the first day on which the conference is to be held, 85% of the registration fee you have paid
 - b. Otherwise, no refund.

Governing Law – all conferences

17. The agreement between TEN and you is governed by the laws in force in the State of Victoria and the courts and tribunals of that State have sole jurisdiction to determine disputes arising in relation to it.

