

THE 2ND ANNUAL LAW OF RELIGIOUS INSTITUTIONS CONFERENCE

OUR REGULAR TWO DAY CONFERENCE
DELIVERED **ONLINE** IN FOUR PARTS
OVER FOUR HALF DAYS

Part 1: Governance and Compliance

Tuesday 8 September 2020 [10am to 12.50pm]

Part 2: Managing Risk in Religious Institutions

Wednesday 9 September 2020 [10am to 12.50pm]

Part 3: Employment Law Issues Affecting Religious Institutions

Tuesday 15 September 2020 [10am to 12.50pm]

Part 4: Safety, Liability and Crisis Management

Wednesday 16 September 2020 [10am to 12.50pm]

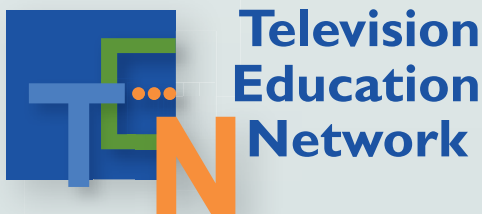
FEEDBACK FROM LAST YEAR'S CONFERENCE:

"I just wanted to congratulate you and your team on an excellent conference, in fact one of the best I've ever attended. The quality and varied content of the papers and speakers were all of a consistently high standard."

"Covered current areas of concern with relevant and up to date information. Great to have faith based speakers in the legal governance & HR areas."

"The content was pitched at both lawyers and non-lawyers. Very relevant to those of us working in religious organisations."

"Good quality speakers used comprehensive content, sticking to time & material available which is detailed & helpful, content is specific and to the point."



Leaders in online CPD for lawyers

PART 1: TUESDAY 8 SEPT 2020

CHAIR PART 1: TO BE ADVISED

THEME: GOVERNANCE AND COMPLIANCE

10.00am - 10.05am

Introduction and welcome

10.05 - 10.45am

Session 1: All on Board: Characteristics of Well Performing Boards in Religious Institutions

The key factor in good governance is a Board that is able and prepared to meet the challenges and opportunities that confront the organisation in both the short and long term. This session looks at what makes a board successful, and what religious organisations can do to ensure they have a board that functions in an effective and compliant way in an increasingly complex regulatory environment. This session will look at:

- Checking constituent documents: do they meet the current needs and functions of the religious organisation? Do they provide for a best practice board/ decision-making body?
- What is the role of a board member? The theory, law and putting it into practice
- Structuring boards and composition of membership: the importance of skill set and diversity
- Board engagement with leadership, clergy and external stakeholders
- Decision-making, reporting and asking the right questions
- Personal liability of Board members
- Conducting Board health checks, reviews and implementing strategies for performance improvement

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

10.45 - 10.55am Questions and Discussion

10.55 - 11.00am

Short break

11.00 - 11.40am

Session 2: The Wisdom of Solomon: Dispute Resolution in Faith Based Organisations

History is littered with disputes between members of a congregation over direction and ideology, sometimes resulting in the establishment of new religions or the split-up of entities and congregations. But how should such disputes ideally be managed and what processes should take place before ending up in court asking a judge to divide the baby? This session will look at options for dispute resolution, and how to ensure institutions are prepared to effectively manage disagreements within their ranks, including:

- Proactive strategies for anticipating and managing disputes - constituent documents, processes and policies
- Heading disputes off at the pass: options for early stage resolution
- Drafting an effective dispute resolution policy
- Balancing faith-based culture and values with desired outcomes and behaviours during a dispute
- Upskilling leadership to negotiate effectively and manage disputes
- Avoiding litigation: Alternative dispute resolution options
- When is it time to call in the lawyers?
- Split ups and split offs - dividing the spoils
- Case studies: Faamate & Ors v Congregation Christian Church in Samoa-Australia [2019] QSC 194; Moala & Ors v Free Wesleyan Church of Tonga in Australia (Victoria) Inc [2019] VSC 205

Speakers: Chris Mills, Associate and Dr Matthew Turnour, Chairman, Neumann & Turnour Lawyers, Brisbane

11.40 - 11.50am Questions and Discussion

11.50 - 12pm

Short Break

PART 1: TUESDAY 8 SEPT 2020

12.00 - 12:40pm

Session 3: The Long Reach of the Law: External Conduct Standards, Religious Organisations and Overseas Activity

Registered charities that conduct overseas activity need to be aware of and comply with the ACNC's External Conduct Standards, which regulate activity overseas, including the sending of money and missionaries. This session will provide a deep-dive into the standards and provide guidance on how religious organisations can meet them. Key elements covered include:

- What are the standards and what areas and activities do they cover?
- When are religious institutions subject to the standards?
- Checking your overseas activities including third parties and organisations they work with - assessing contracts, memorandum of understandings, sub-contractors, financial links, human resource arrangements, banking arrangements
- Are there any exemptions for religious institutions?
- What evidence does a religious institution have to show that it is complying with the standards? What are "reasonable steps"?
- Assessing risk to determine future actions and strategies
- Documenting compliance: what do you need to do?
- Managing ACNC requests for information
- Relevance of Taxation Ruling TR 2019/6 on the "in Australia" test
- Enforcement options and consequences of failure to comply with the standards
- A toolkit for compliance

Speaker: Nina Flewell-Smith, Director, Corney & Lind Lawyers, Brisbane

12.40 - 12.50pm Questions and Discussion

12.50pm

Part 1 Close

PART 2: WEDNESDAY 9 SEPT 2020

**CHAIR PART 2: MARK FOWLER,
PRINCIPAL, FOWLER CHARITY LAW,
SYDNEY**

**THEME: MANAGING RISK IN RELIGIOUS
INSTITUTIONS**

10.00am - 10.05am

Introduction and welcome

10.05 - 10.45am

Session 4: Risky Business: Managing Risk in a Non-Traditional Environment

Religious institutions are increasingly operating in non-traditional or commercial environments, with associated exposure to new types of risks. Whether it's an opportunity shop, retirement village, hiring out facilities or providing language classes, the process for undertaking a risk assessment and implementing strategies is similar. This session will provide a practical guide to ensuring your organisation has undertaken effective and optimal risk management planning, including:

- The importance of establishing a risk framework and embedding a risk aware culture
- Determining roles and responsibilities for risk management within the organisation
- Managing and minimising the risks:
 - Assessment tools
 - Risk registers
 - Risk policies
- Don't leave the mice in charge of the cheese: incorporation of effective controls
- The role of insurance, and reliance on your broker
- Disaster management and business recovery: are you prepared?

Speaker: Harold Downes, Safety, Employment & IR Partner, Mills Oakley Lawyers, Brisbane

10.45 - 10.55am Questions and Discussion

10.55 - 11.00am

Short break

11.00 - 11.40am

Session 5: When Do You Need to Know? Allowable Disclosures under the Privacy Act

Religious institutions have important legal obligations relating to their collection and use of personal information. When it comes to disclosing such information, there can be confusion about the law and to what extent this information can be made available to third parties. This session will clarify the privacy obligations of your organisation and provide guidance on what to do when circumstances arise which require the provision of personal information, including:

- A refresher on the key elements of the Privacy Act:
 - What is personal information?
 - What is sensitive information?
 - What information can be collected?
 - Understanding the difference between access, use and disclosure
- In what circumstances can you disclose personal information and to whom?
- How consent can affect the ability to disclose information
- Exemptions and when they apply
- The role of privacy in investigations, reporting obligations and litigation
- Is your Privacy Policy compliant? Guidance on managing privacy process and requests for disclosure

Speaker: Leah Mooney, Special Counsel, Minter Ellison, Brisbane

11.40 - 11.50am Questions and Discussion

11.50 - 12pm

Short Break

PART 2: WEDNESDAY 9 SEPT 2020

12.00 - 12:40pm

Session 6: A Safe Pair of Hands: Is Your Religious Institution Meeting Its Obligations?

Management of a large and disparate workforce brings with it not only obligations of safety but also the risk of liability when things go wrong. With the duties to keep workers and others safe extending to the highest levels of the organisation, this session will provide a refresher on your responsibilities, particularly in the current pandemic environment, including:

- Duty of care in religious institutions - dealing with structure and hierarchy in determining workplace obligations
- Identification and management of risks - are your risk management processes up to date?
- Obligations to clergy and volunteers - do they differ from "employees" for work safety purposes?
- Stress and mental illness claims: tips for case management
- Bullying and harassment claims against the clergy - who is liable and what action can be taken?
- Recent prosecutions and the focus of the regulator
- Case study: safety obligations and COVID-19

Speaker: Catherine Brooks, Consultant, Law Squared, Melbourne

12.40 - 12.50pm Questions and Discussion

12.50pm

Part 2 Close

PART 3: TUESDAY 15 SEPT 2020

**CHAIR PART 3: ROBERT GOOT AO
SC, BARRISTER, STATE CHAMBERS,
SYDNEY**

**THEME: EMPLOYMENT LAW ISSUES
AFFECTING RELIGIOUS INSTITUTIONS**

10.00am - 10.05am

Introduction and welcome

10.05 - 10.45am

**Session 7: Religious Institutions as Employers:
Navigating the Changing Employment Landscape**

One of the challenges faced by religious institutions is managing a large workforce and complying with the ever-changing complex regulatory requirements. This session will provide information on some recent developments in employment law which have the potential to impact on employment policies and practices, including:

- Recent cases on the ability of casual employees to be back-paid leave entitlements in certain circumstances
- When it may be illegal to use fixed term contracts and not renew them at the end of the term
- Developments in regulation of labour-hire and the effect on temporary and accessible short-term labour
- National whistle-blower laws which protect employees and what corporations need to have in place
- Long service leave - developments in portability

Speaker: Adam Foster, Senior Associate, Macpherson Kelley, Melbourne

10.45 - 10.55am Questions and Discussion

10.55 - 11.00am

Short break

11.00 - 11.40am

Session 8: Optimising Your Volunteer Workforce

Religious institutions rely heavily on their volunteers to be able to operate widely in the community. However, the use of volunteers brings specific challenges that need to be carefully managed. This session will highlight some of the major issues that arise from having volunteers working with your organisation, and how both the risks and rewards to both parties can be managed for optimal outcomes, including:

- Understanding the nature of the volunteer relationship
- When is it appropriate to use volunteers and when not?
- A volunteer policy as a roadmap for use and management
- Recruitment of volunteers - what information do you need to know? Safety, security, discrimination and privacy issues
- Organisational obligations to volunteers
- Using volunteer agreements to document the relationship and expectations, including performance and termination
- Volunteer liability issues - when are volunteers personally liable? What can be done to better protect volunteers from liability?
- Legislative developments in volunteer protection

Speaker: Adrian Barwick, Director, WilliamsonBarwick, Sydney

11.40 - 11.50am Questions and Discussion

11.50 - 12pm

Short Break

12.00 - 12:40pm

Session 9: Staff Employment and Religious Freedoms

The intersection between religion and employment is complex and brings with it many challenges. This session will consider a number of issues religious institutions need to deal with when employing and managing staff, including:

- Faith as a key selection criteria for appointment - the application of exemptions in anti-discrimination law
- Can you discipline or terminate a staff member for holding or sharing views contrary to organisational belief and ethos? The Ballarat Christian College case
- Controlling staff statements - how far can you go? Does this extend to staff conduct outside the workplace, including social media?
- Employment contracts, codes of conduct and statement of faith statements as management tools

Speaker: David Ford, Partner, Carroll & O'Dea, Sydney

12.40 - 12.50pm Questions and Discussion

12.50pm

Part 3 Close

PART 4: WEDNESDAY 16 SEPT 2020

**CHAIR PART 4: PHILIP BATTYE,
PARTNER, HWL EBSWORTH
LAWYERS, MELBOURNE**

**THEME: SAFETY, LIABILITY AND CRISIS
MANAGEMENT**

10.00am - 10.05am

Introduction and welcome

10.05 - 10.45am

Session 10: Current Issues in Civil Law Claims for Historical Sexual Abuse

Historical child sexual abuse claims have flooded the court system, particularly following legislative changes stemming from the Royal Commission that have made the claims process more accessible to victims. This session will highlight a number of issues that have arisen during the legal process, providing advice and warning to those on both sides of what they may face by pursuing a claim through the courts, including:

- Who is liable? Effect of the abolition of the Ellis defence and finding the proper defendant
- The removal of the limitation periods on historical claims - opening the floodgates?
- Ability of the court to set aside past settlements: TRG v The Board of Trustees of the Brisbane Grammar School [2019] QSC 157
- Evidence issues due to effluxion of time and increases in permanent stay applications: Moubarak by his tutor Coorey v Holt [2019] NSWCA 102; The Council of Trinity Grammar School v Anderson [2019] NSWSC 102; Ward v The Trustees of the Roman Catholic Church for the Diocese of Lismore [2019] NSWSC 1776
- An analysis of settlements: timing and quantum
- Impact of numbers of filed cases on litigants and court processes

Speaker: Luke Geary, Partner – Not For Profit, Mills Oakley Lawyers, Brisbane

10.45 - 10.55am Questions and Discussion

10.55 - 11.00am

Short break

11.00 - 11.40am

Session 11: Dealing with Abuse Claims: The Investigation Process from Go to Woe

The recent and ongoing Royal Commissions have highlighted the prevalence of abuse in institutions, including schools, aged care facilities, hospitals and other institutions for the vulnerable, and made recommendations about complaint handling and investigations. This session will provide a practical guide to investigating an allegation of abuse in accordance with best practice and legislative requirements, including:

- First steps to take when an allegation of abuse is received
- Reporting to the relevant authority - what is required and when?
- Enforcement and consequences of non-compliance
- Investigation processes:
 - Scope and terms of reference
 - Appointment of an investigator - qualifications, independence, role
 - Special consideration for interviewing children and other vulnerable people
 - The role of lawyers, for both the organisation and the victim
 - Principles of procedural fairness and natural justice
 - Making findings and recommendations - evidence evaluation, standards of proof and witness credibility issues
- Decision-making and outcomes, including disciplinary action and referral to external authorities
- Communications management both internally and externally

Speaker: Cathy Lyndon, Special Counsel, Minter Ellison, Brisbane

11.40 - 11.50am Questions and Discussion

11.50 - 12pm

Short Break

PART 4: WEDNESDAY 16 SEPT 2020

12.00 - 12:40pm

Session 12: Mea Culpa: Legal and Risk Issues in Crisis Management

All organisations will, at some point, face some sort of public relations crisis. The way an organisation responds can cause significant harm to stakeholders, losses to the organisation or even end its existence. This session will provide practical guidance religious institutions on dealing with a crisis in a manner that will seek to minimise risk to the organisation, as well as enhance its reputation, including:

- Being prepared and avoiding knee-jerk reactions
- Having a crisis management plan as an essential element of a risk management framework
- Who is on your crisis management team? Who is authorised to speak?
- Communicate, communicate, communicate - stakeholders, members and the general community
- Responsibility, transparency and cover-ups - how to respond and take control of the narrative
- Should you apologise? Legal implications of saying sorry and the value of an apology
- Protecting and repairing reputation and managing media/social media fallout
- The consequences of failing to walk the talk: the undermining of faith-based values and restoring public confidence
- Case studies

Speakers: Amanda Ryding, Partner, Colin Biggers & Paisley, Sydney and Tracey Cain, Chief Executive Officer, Australian Public Affairs.

12.40 - 12.50pm Questions and Discussion

12.50pm

Part 4 Close

GENERAL INFORMATION

Conference Registration Fee

The registration fee includes attendance at the conference, online access to the conference materials and recordings of each of the sessions provided after the conference.

Conference Materials

Access to the conference materials (papers and Powerpoints) will be available online to all delegates in the lead-up to the conference (as the materials become available), during the conference and for 30 days after the conference. The materials will be available in .pdf format for easy download to your local computer or portable device.

CPD

Lawyers (except WA): 7 CPD units (substantive law)

WA Lawyers: 6 CPD points (substantive law)

CPD Certificate

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

Online Conference Delivery

The conference will be delivered online. Delegates will receive a link to login and attend each of the 4 parts of this online conference.

This online conference will be delivered in a style similar to a live conference. There are Chairs for each part to introduce speakers and facilitate question time and the online portal allows delegates to pose questions to the speakers via the chat facility.

Cancellation Policy

Cancellations must be received in writing at least 10 days prior to the Conference for a 85% refund. Substitute delegates accepted at any time.

If a registration was purchased as part of a group discount the cancellation of that registration may affect the discount level for other members of the group. The amount of the refund will be adjusted to recoup any adjustment required to the overall registration fees for that group.

Conference Terms

Program subject to change without notice. The information and views presented in the conference are not necessarily those of TEN and participants rely on these at their own risk. TEN is not responsible for any financial or other losses incurred by delegates or for injury or damage to persons or property. TEN's maximum liability for conference cancellation or any other loss or liability is the refund of the registration fee paid.

TEN is not responsible for financial loss incurred by you as a result of the cancellation or postponement of the conference as a result of strikes, public health emergencies, natural disasters, and other Acts of God.

