



# Governance Charter

For ISMAPNG and its Incorporated Ministries

Verson: 1.1  
Creation Date: March 2015  
Review Date: March 2017  
Prepared: by Jonathan Campton  
Designed and Produced by Fraynetwork Multimedia

Please consider the environment before printing this document

# Contents

---

<b>1</b>	<b>Introduction.....</b>	<b>4</b>	<b>4.4</b>	<b>Role of the Board.....</b>	<b>28</b>
<b>1.1</b>	Purpose of the Governance Charter.....	5	<b>4.4.1</b>	To determine the mission and vision of the company.....	28
<b>1.2</b>	Parties and Governance Structure.....	5	<b>4.4.2</b>	To ensure effective strategic planning.....	29
<b>1.3</b>	Scope and Application of Governance Charter.....	6	<b>4.4.3</b>	To select, support and assess the performance of senior staff.....	29
<b>1.3.1</b>	Application.....	6	<b>4.4.4</b>	To ensure adequate resources.....	30
<b>1.3.2</b>	Application to a co-sponsored ministry.....	6	<b>4.4.5</b>	To manage resources effectively .....	30
<b>1.3.3</b>	Amendment or Repeal of the Governance Charter .....	6	<b>4.4.6</b>	To approve and monitor programs and services.....	30
<b>1.4</b>	Definitions.....	7	<b>4.4.7</b>	To enhance the public profile and reputation of the organisation.....	30
<b>2</b>	<b><i>Taking the Principal Path</i>.....</b>	<b>8</b>	<b>4.4.8</b>	To ensure legal and ethical integrity and maintain accountability.....	31
<b>2.1</b>	<i>...In Company with Catherine</i> .....	9	<b>4.4.9</b>	To comply with ISMAPNG policies and procedures.....	31
<b>2.2</b>	<i>...To Australia</i> .....	11	<b>4.4.10</b>	To recognise and manage risk.....	31
<b>2.3</b>	<i>...For the Sake of God's Mission</i> .....	12	<b>4.4.11</b>	To orient new directors.....	32
<b>2.3.1</b>	Early Amalgamations.....	12	<b>4.4.12</b>	To form Directors.....	32
<b>2.4</b>	<i>...To Papua New Guinea</i> .....	13	<b>4.4.13</b>	To evaluate Board performance.....	32
<b>2.4.1</b>	Growth of Community in Papua New Guinea.....	13	<b>4.5</b>	Responsibilities of Directors.....	33
<b>2.5</b>	<i>...Towards Deeper Unity</i> .....	14	<b>4.5.1</b>	Directors' Duties.....	33
<b>2.5.1</b>	Institute of Sisters of Mercy of Australia.....	14	<b>4.5.2</b>	ACNC Governance Standards.....	34
<b>2.5.2</b>	Institute of Sisters of Mercy of Australia and Papua New Guinea.....	15	<b>4.6</b>	Role of the Chairperson.....	35
<b>2.6</b>	<i>...Through Institutional Ministries</i> .....	16	<b>4.7</b>	Director Protection.....	36
<b>2.6.1</b>	Shared Responsibility.....	16	<b>4.7.1</b>	Insurance.....	36
<b>2.7</b>	<i>...Through the Ministry of Stewardship</i> .....	17	<b>4.7.2</b>	Access to Board papers .....	36
<b>2.7.1</b>	The Trust of Governance.....	17	<b>4.8</b>	Director Remuneration.....	37
<b>3</b>	<b>Canonical Governance</b> .....	<b>18</b>	<b>4.8.1</b>	Directors' fees.....	37
<b>3.1</b>	Background.....	19	<b>4.8.2</b>	Reimbursement of Expenses.....	37
<b>3.2</b>	Sponsorship.....	20		Annexure 1.....	38
<b>3.3</b>	The Exercise of Canonical Obligations.....	21			
<b>3.4</b>	Reserved Powers.....	21			
<b>3.5</b>	Ecclesiastical Property.....	22			
<b>3.6</b>	Canon Law and ISMAPNG Constitutions.....	22			
<b>4</b>	<b>Civil Governance</b> .....	<b>23</b>			
<b>4.1</b>	Governance Structure.....	24			
<b>4.2</b>	Members.....	26			
<b>4.3</b>	Powers of the Board.....	26			
<b>4.3.1</b>	Board Committees.....	27			

# ① Introduction

---

- 1.1 Purpose of the Governance Charter
- 1.2 Parties and Governance Structure
- 1.3 Scope and Application of Governance Charter
- 1.4 Definitions



# 1.1

---

## Purpose of the Governance Charter

The Governance Charter is prepared for Board members of incorporated ISMAPNG ministries.

The Charter:

1. Describes the context and overall governance structure in which the ISMAPNG incorporated ministries operate;
2. Identifies the roles and the relationships between the various layers of this governance structure;
3. Establishes the role of the board and the delineation between governance and management;
4. Articulates expectations and provides operational guidelines to facilitate the efficient operation to achieve these expectations;
5. Facilitates right relationships between all of the parties;
6. Establishes canonical and civil delegations between ISMAPNG and its ministries;
7. Enhances the board's understanding of the governance of a church based organisation; and
8. Promotes learning and support structures for ministries within ISMAPNG for ministries.

# 1.2

---

## Parties and Governance Structure

See Annexure 1 for a list of corporations that are ISMAPNG ministries subject to this Governance Charter.

The nature and operation of the Institute Property Association Limited (IPAL), McAuley Property Limited (MPL) and The Sisters of Mercy Papua New Guinea Inc. (SOMPNG Inc.) are such that they do not come within the scope of this governance charter.

# 1.3

---

## Scope and Application of Governance Charter

### 1.3.1 Application

The Governance Charter applies to all ISMAPNG incorporated ministries as listed in Annexure 1 as varied from time to time. For each incorporated ministry this Governance Charter must be read in conjunction with the constitution of that company.

### 1.3.2 Application to a co-sponsored ministry

This Governance Charter applies to any co-sponsored ministry regardless of legal status of that ministry. It applies in consultation with any Charter or Manual for that specific entity and of the other co-sponsors. Any conflict ought be resolved by the Institute leader and other co-sponsors.

### 1.3.3 Amendment or repeal of the Governance Charter

The Governance Charter can only be amended or repealed by the Institute Leader.

# 1.4

## Definitions

---

**Canon Law** means broadly, all the laws of the Catholic Church, divine and ecclesiastical, universal and proper, and more narrowly the laws expressed as canons in the Code of Canon Law which was promulgated in 1983 and which is binding on all Catholics

**Chapter** means a regular gathering of the elected delegates and ex-officio ISMAPNG members called to discuss important matters relating to the Institute and to elect the office bearers. When in session it is the highest authority in the Institute according to the Constitutions. C631

**Chapter Act** means a norm or directive issued under the authority of the Chapter. C631§1

**Chief Executive Officer (CEO)** means the person howsoever termed, who is accountable to the Board for the day to day operation of the company.

**Constitution** means the constitution (rules) of an incorporated entity.

**Council means** the advisors to the Institute Leader designated according to the Institute's own law who have a certain specific governance role but no personal authority over members of the Institute. C627

**Incorporated Ministry** means any ministry that is sponsored or co-sponsored by ISMAPNG but which in civil law is separately incorporated

**ISMAPNG** means the Institute of Sisters of Mercy of Australia and Papua New Guinea, a pontifical religious institute established by decree of the Holy See on 12 December 2011.

**ISMAPNG Constitution** means the Constitution of ISMAPNG Part 1 and 2 approved by the Holy See and the Directory as amended from time to time by the ISMAPNG Chapter.

**Institute** means ISMAPNG

**Institute leader** means the present leader of ISMAPNG

**Juridical Person** means an aggregate of persons established by the competent ecclesiastical authority to carry out the mission of the Church. Cc113-123, 634

**Public Juridical Persons** means those juridical persons established to fulfil the specific task entrusted to them for the public good. Other juridical persons are private. Cc116.

**Ministry** means a work carried out by a religious institute in conformity with its Constitution and its charism, thus being an expression of its mission. This ministry is exercised in the name of the Church and in communion with the Church. (Canon Law uses the term 'apostolate' but current language used by religious institutes refers to this as ministry)

**Mission** means the overall purpose of the Institute defined in its Constitution

**Reserved Powers** means, in a corporate entity, those powers of governance which are retained by the sponsoring body or owners and which are not delegated to boards.

## ② *Taking the Principal Path...*

---

- 2.1 *...In Company with Catherine*
- 2.2 *...To Australia*
- 2.3 *...For the Sake of God's Mission*
- 2.4 *...To Papua New Guinea*
- 2.5 *...Towards Deeper Unity*
- 2.6 *...Through Institutional Ministries*
- 2.7 *...Through the Ministry of Stewardship*



## 2.1

# ...In Company with Catherine

The Institute of Sisters of Mercy of Australia and Papua New Guinea was established on December 12, 2011 but its story begins in Ireland 180 years earlier to the day, when Catherine McAuley, along with two companions, Anna Maria Doyle and Elizabeth Harley, professed their vows and became the first Sisters of Mercy.

Much is written about why in 1831 Catherine, at the age of 53, founded a religious order. Here it is enough to say that, while religious life was not her first preference, she recognised it as God's way of enabling her and the several women who had joined her, to continue their work, radical for its time, among the most destitute people of Dublin.

That work began systematically in 1827 with the opening of the House of Mercy which Catherine had built with her inheritance from William Callaghan. With his wife, also named Catherine, William had invited Catherine in 1809 to live with them in their home in Coolock, a small village about five miles north of Dublin city. The Callaghans loved Catherine and cherished her companionship. They also understood her desire to help people who suffered severe and unremitting disadvantage in ways that could foster their chances for self-determination. They had no doubt that if they left her their considerable wealth, it would be fruitfully used. So when William died in 1822, three years after his wife, Catherine became a very rich heiress. And hardly was the matter of receiving the inheritance settled when she embarked on her bold project of 'investing' it in those held bound by poverty and ignorance.

“

Dedicated to Mary the Mother of Mercy and given over to works of mercy, the first House of Mercy, established on Dublin's fashionable Baggot Street, was quickly enlivened as a centre to which people came day and night for refuge and from which Catherine and her friends went regularly into the streets and hovels ministering among the dispossessed of the city.

”

In a real way, the House of Mercy witnessed to Catherine's life-time concerns. Influenced by her father, James, a man of faith and refined social conscience, from early childhood she had demonstrated deep sensitivity to people shamed by grinding deprivation. As an adult her heart was with those she knew who were denied the security of home, daily food, basic education, the self respect of decent employment, or any real opportunity to realise a fair quality of life.

There is a sense in which Catherine and the women she inspired to join her could be regarded as social reformers. In a society marred by socio-political forces that protected the privileged and oppressed the poor, they spent themselves and their resources trying to confront the causes of chronic poverty and to alleviate its demeaning effects of ignorance, ill health and homelessness. And while their outreach was to all, they had a special care for young women and girls vulnerable to exploitation.

---

However, before they were social reformers, these Sisters of Mercy were women of Christian faith. They believed that God, in whose image every person is created, is the source of human dignity; that God, self-revealing in Jesus, is full of compassion; that no-one is unworthy of God's love. They were convinced that when leaders in society were guided by God's wisdom and justice, no person need be excluded from life-giving opportunities.

Catherine exemplified such faith. It animated all the ways in which she carried out 'the corporal and spiritual works of mercy'. And it was her enthusiastic commitment to serving those who longed for God's mercy that encouraged other women to share in her life's work.

Catherine died in 1841. By then she had made ten autonomous foundations of Sisters of Mercy throughout Ireland and two in England. Wherever they were, the sisters tried to respond to human needs too long neglected. They established schools and clinics, ministered to the sick and dying in their homes, consoled the bereaved, provided refuge for homeless people, and befriended prisoners and their families.



## 2.2

### *...To Australia*

**In 1846, just five years after Catherine's death, Sisters of Mercy made a foundation in Perth, Western Australia. The leader of this first Mercy community in Australia was Ursula Frayne who had known Catherine well and, in fact, was with her when she died.**

Over the next few decades other foundations were made in Australia. All of these had been invited by bishops striving to nurture the Church in this vast land where British colonization began in 1788, when Catherine was about ten years old. The foundations came from different places in Ireland, two came from England and one from Argentina. Every one of them traced its origin to Catherine's first foundation in Dublin. In time, some of the Australian groups made their own foundations throughout the country so that by the early years of the twentieth century there were 53 autonomous Mercy congregations in Australia.

Although they were independent of each other, all the Australian congregations were united by the original Rule and Constitutions of the Sisters of Mercy. Most of this had been written by Catherine herself and was confirmed by Pope Gregory XVI on June 6, 1841. The sisters in Australia were also of one mind and heart in their commitment to the tradition of ministerial religious life which Catherine had begun. This meant that wherever they found themselves, in growing

cities or towns or remote 'outback' places, they tried to respond to desperate needs for evangelisation, education, health care, and a myriad of welfare and pastoral services.

The legacy of these faithful women who literally 'left all' and crossed the seas to begin life anew for the sake of the Gospel in a strange land, is immeasurable.

“

**How many women, men and children did they help to find faith in the God of Mercy? How many realised their gifts for learning or found hope and healing through the sisters' ministries?**

”

How many were able to contribute to the growth of the Australian Church and to the rise of a compassionate, fair society through sharing with their families, social networks and workplaces the gifts of God's mercy - justice, compassion, peace, forgiveness - which the sisters had helped to awaken in them?

## 2.3

---

# *...For the Sake of God's Mission*

### 2.3.1 Early Amalgamations

**In 1905, prompted by the expanding needs of new dioceses, the Third Australian Plenary Council of Bishops addressed the challenge of consolidating the preparation of teachers for Catholic schools. At this time, teacher training was mostly conducted in novitiates or colleges of the congregations.**

The bishops recognised that although such arrangements were effective enough, they were too disparate and did not have a viable future. Consequently they urged congregations of common origin to unite so that their capacity for the vital work of Catholic education, as well for as other ministries, would be strengthened. Also they saw the desirability of very small congregations merging in the interest of good formation and healthier communion of life among the sisters. Thus, within the next ten years or so a large number of the 53 Mercy congregations amalgamated.

It is noteworthy that these amalgamations were to be the first of several developments among the Australian Mercy congregations in their movement towards full unity. In fact, a substantial framework for understanding the history of the Institute of Sisters of Mercy of Australia and Papua New Guinea (ISMAPNG) is the major changes in structure and governance which took place in Australia and Papua New Guinea, particularly from the 1950s until 2011 when ISMAPNG was formed.

“

And significantly, the primary motivation for each of those changes was ‘for the sake of the mission’

”

## 2.4

---

### *...To Papua New Guinea*

In 1955 the Apostolic Delegate to Australia and Oceania, Archbishop Romolo Carboni, requested the Sisters of Mercy to establish a mission in Papua New Guinea (PNG).

The response was quick and generous: four sisters went to Goroka in the Eastern Highlands in 1956; seven went to Kunjingini in the Diocese of Wewak in 1957; and five went to Torembo in 1958.

These pioneer sisters in PNG established a tradition of works of mercy through catechetics, primary, secondary and tertiary education, health care and a range of pastoral services. Since the 1950s their work has been continued and expanded by other sisters from Australia, approximately 200 by 2014, who have served in various ministries throughout the country.

#### 2.4.1 Growth of Community in Papua New Guinea

By the late 1970s young PNG women were expressing interest in joining the Sisters of Mercy. While canonical matters to do with membership were addressed in Australia, thankfully the leaders at the time believed that candidates for religious life in PNG should be formed in their own Melanesian culture.

Thus, the formation programme was established initially in Wewak and subsequently in Goroka. The first PNG sisters were professed in 1983 and there has been a steady growth in membership since

then. Educated in health care, teaching, community development and pastoral practice the sisters are well placed to minister God's mercy among the local people most of whom, even today, suffer compounded injustices related to severe poverty and social unrest.

## 2.5

---

# ...Towards Deeper Unity

### 2.5.1 Institute of Sisters of Mercy of Australia

As mentioned above, there has been a movement towards full unity since early in the twentieth century. And like most movements involving potentially radical changes, it has had periods of inertia and periods of vigour.

One of the most important initiatives from the vigorous years was the creation of the Institute of Sisters of Mercy of Australia (ISMA - not to be confused with ISMAPNG) in 1981. This was a federation of the seventeen Australian congregations in which each one retained its own autonomy. PNG joined ISMA as its eighteenth member when the Holy See gave it status as an autonomous region in 2006.

For thirty years ISMA engaged fruitfully in God's mission, particularly through the sisters of its member congregations who ministered in 'cutting edge' situations among Australia's Indigenous people, in Papua New Guinea, in refugee camps of South East Asia, in Pakistan and East Timor, and in Australian detention centres for asylum seekers. ISMA also fostered a vibrant spirit of sisterhood, encouraged professional collegiality among women and men who worked for mercy institutions, and took Australia and PNG into 'global mercy' through its integral involvement with the Mercy International Association.

Yet notwithstanding its rich contribution to mercy life and mission, the governance structure of ISMA could not generate the mature union for which sisters throughout Australia and PNG had hoped in 1981. That is to say, the inherent tension between the worthy ideals of acting as one institute, and the autonomy of each of its members, often hampered the most effective exercise of authority and limited ISMA's potential for Gospel witness.

“

By the time of ISMA's fifth chapter (2004) the Sisters of Mercy were ready to engage again with the provocative question of unity.

”

In a world that seemed to be longing for God's mercy with ever increasing urgency, how might the members of ISMA, with their considerable institutional ministries, reconfigure themselves 'for the sake of the mission'?



---

## 2.5.2 Institute of Sisters of Mercy of Australia and Papua New Guinea

The chapter's question, in various forms and contexts, was the subject of wide-ranging exploration for six years.

Eventually, in light of tested outcomes from several probing consultations and the results of due canonical processes, fifteen members of ISMA, namely the Congregations of Adelaide, Ballarat East, Bathurst, Cairns, Goulburn, Grafton, Gunnedah, Melbourne, Perth, Rockhampton, Singleton, Townsville, West Perth and Wilcannia-Forbes and the Autonomous Region of Papua New Guinea chose to form a single canonical entity. This meant that each one, as well as ISMA itself, was dissolved. In their place one new congregation was created by decree of the Holy See on December 12, 2011. Significantly this was the 180th anniversary of the founding of the Order of Mercy by Venerable Catherine McAuley in Dublin.

The new congregation is known as Institute of Sisters of Mercy of Australia and Papua New Guinea (ISMAPNG).

The other three members of ISMA, the Congregations of Brisbane, North Sydney and Parramatta, remain independent of ISMAPNG and each other. However, close bonds of sisterhood remain among the four congregations. Also they continue to share in a number of important initiatives, including the critical ministry of Mercy Works Ltd, which enables community development projects in Australia, PNG and beyond.

## 2.6

---

# *...Through Institutional Ministries*

As noted, from the beginning of their time in Australia, and then in PNG, Sisters of Mercy have served God's mission through diverse ministries. In order to flourish and expand and to comply with requirements of church and state, some of these ministries needed the stability of an institutional structure. Consequently, over the years Sisters of Mercy established many institutions - schools, hospitals, facilities for the frail aged, 'at risk'

women and children, community outreach, and so on. The fact that ISMAPNG has inherited a relatively large number of institutional works from the former congregations means that it is in a strong position for continuing the tradition of Mercy service begun by Catherine and her first companions.

### 2.6.1 Shared Responsibility

**A significant character of the institutions is their appeal to people from the wider church and society who wish to participate in them.**

Whether motivated by religious conviction, humanitarian ideals, preference for engagement in a not-for-profit organisation, or a simple desire for meaningful work, these women and men, with their dedication and professional talent, are pivotal to a culture of authentic Mercy service.

This is not a new development. It is another rich gift to ISMAPNG from the former congregations whose institutions had been increasingly directed and staffed by lay people, at least since the 1980s.

Here it must be stated that ISMAPNG is glad and grateful to acknowledge, as the Second Vatican Council clearly affirmed, that service of 'the faithful', with their baptismal graces and their own vocational commitment, is essential for the promotion of God's mission. Within the Catholic tradition of faith, this is a fundamental belief.

In practical terms, that belief compels lay people and the sisters collectively to share the responsibilities of gospel stewardship for ISMAPNG's present and future institutional ministries in a spirit of interdependence.

## 2.7

---

# ...Through the Ministry of Stewardship

Stewardship, of course, is more than astute economic management of each work, necessary as that is. Indeed the Scriptures teach that stewardship itself is a ministry crucial for the service of God's mission in any given time or place on the earth. In a biblical sense, it can be regarded as the work of co-creation with God.

For ISMAPNG, the competence of the ministry of stewardship depends on a robust mix of 'gifts differing' to honour civil and ecclesial obligations, to lead each

work according to the deep values of its purpose, and to animate every aspect of the works with qualities which are at the heart of God's mercy. These qualities include reverence for all creation, justice, hospitality, compassion, wisdom and forgiveness.

### 2.7.1 The Trust of Governance

Those who are invited to the ministry of stewardship for ISMAPNG, religious and laity alike, are entrusted with governance of the institutions. In effect this governance, which can thrive only on the mutuality of trust and respect, is the chief means by which the ministry of stewardship is exercised. That is to say, governance is the authorising power which, according to defined areas of responsibility and accountability, must ensure that the institutional ministries of ISMAPNG exist and operate according to all legitimate requirements, that they are true agents of God's mission, and that, in their endeavours to be always relevant and viable, they are faithful to the founding inspiration of Catherine McAuley.

“

God's mercy to us is the heart of our service to others. Manifesting the great mercy of God, Jesus came to bring good news to the poor and freedom to those who are oppressed. When we discover what it means to belong to God's people, and to receive through them God's love, then may we reach out to the women and men in our day, as mercifully as Catherine McAuley did in hers.

”

- ISMAPNG Constitution 4.01

The role of governance of ISMAPNG's institutional works, with all pertinent detail, is specified in the following chapters.

## ③ Canonical Governance

---

- 3.1 Background
- 3.2 Sponsorship
- 3.3 The Exercise of Canonical Obligations
- 3.4 Reserved Powers
- 3.5 Ecclesiastical Property
- 3.6 Canon Law and ISMAPNG Constitutions

Canon Law is at the foundation of the governance of Catholic organisations. It is vital that directors have a sound understanding of the principles of canon law so far as these impact upon the ministries of ISMAPNG and the obligations of the CEO, the directors and the members of the company.

# 3.1

---

## Background

**Canon Law holds any church entity (religious institute, parish, diocese or any other public juridic person) responsible for any ministry it conducts even when the ministry is separately incorporated under civil law. The ensuing canonical obligations on the entity and its assets are twofold:**

1. Faith obligation – the entity and its sponsored ministries are dedicated to act or to be used in accordance with the authentic religious and moral teaching of the Church as set out in the canons; and
2. Administration obligation – the acquisition, use and alienation of the property of the entity including that of its sponsored ministries whether separately incorporated or not, must be consistent with the method of Church property administration decreed by the canons.

Just as civil law has created the company as an artificial person so too in Canon Law the public juridical person is an artificial person. These artificial persons need human agents to act for them. In civil law the Directors of a company fulfil this need and in canon law where the juridical person is a religious institute it is the Institute Leader and Council.

**The implications of the fact that a ministry even if separately incorporated, is canonically part of ISMAPNG need to be fully understood by all who are involved in the governance of ISMAPNG ministries – the members of the company, the Directors and the CEO of the ministry.**

## 3.2

# Sponsorship

---

**Through its ministries ISMAPNG gives expression to its mission of mercy so the ministries which ISMAPNG sponsors are an intrinsic part of ISMAPNG.**

The members, directors and the CEO of a company must understand this relationship of sponsorship between ISMAPNG and its ministries.

Although not defined in Canon Law, the word ‘sponsorship’ is commonly used to define the canonical responsibility of the sponsor (a religious institute, a diocese, a parish or another established Public Juridic Person) for a ministry. This canonical responsibility includes both the “ecclesiastical property” that is, property or goods used for the ministry, and the faithful oversight and administration of the works. It implies that the sponsor is publicly identified with, supports, has influence on, has responsibility for and makes certain resources available to the ministry

Sometimes the word ‘stewardship’ is used rather than the word ‘sponsorship’ but the meaning is the same. The notion of sponsorship or stewardship carries with it three concepts:

1. The concept that the fiduciary relationship between the Institute Leadership and the Institute is a position of trust;
2. The concept that property and goods are being held by one for the benefit of others and the best use possible will be made of these for the true owner; and
3. The concept that one has been charged by a higher authority to look after the affairs of others who cannot do so for themselves.

These concepts appear in many of the scriptural stories regarding stewards entrusted to look after the affairs of an absent master.

As a religious institute explores how it may structure for the future and how its mission in the Church will continue, the potential of sponsorship as partnership is a concept being explored. This evolution is seen in the partnerships at Board and managerial leadership level. At this time canonical responsibility rests with the Institute Leader and Council, however if at some point in the future a new canonical structure is created then the canonical responsibility for the faithfulness to the mission and values inherent in the ministry may shift to the new canonical structure.



## 3.3

---

# The Exercise of Canonical Obligations

**It is usual for a church entity to exercise its canonical obligations of faith and administration through reserved powers written into the constitution of an incorporated ministry.**

This is in addition to a general requirement in the objects clause of that ministry's constitution for the entity to operate in conformity with Canon Law and the ethos of the sponsoring body. These reserved powers vest in the Institute Leadership Team of a religious institute. However, if the membership of an incorporated ministry is restricted solely to the Institute Leadership Team the constitution may reserve these

powers to the members of the incorporated ministry. Canonical responsibilities exist whether the ministry is incorporated or unincorporated and whether it is solely or jointly sponsored.

When a Ministry is co-sponsored the sponsors equally share the canonical responsibilities for that ministry. If ISMAPNG owns the property out of which this co-sponsored ministry operates there will also be a separate and discrete set of canonical responsibilities in regard to the Institute's property and its use.

## 3.4

---

# Reserved Powers

The reserved powers under Canon Law must be clearly identifiable in the civil constitution of each ministry. In general terms, the reserve powers require an incorporated ministry to seek the approval of the Institute Leadership Team for certain specified events which have a significant effect upon the control or strategic direction of the organisation. These reserved powers cover:

- ensuring the catholic identity of the ministry
- approval of the ministry's strategic plans
- amendment of the constitution

- appointment of board members, board chair and certain key positions
- approval of certain property dealings
- approval of budget
- approval of any merger or dissolution of the corporation entity

## 3.5

# Ecclesiastical Property

All property (real estate) owned by ISMAPNG or any of its incorporated ministries is considered to be ecclesiastical (Church) property and as such is subject to Book V of the Code of Canon Law.

Whilst there is no restriction on the prudent acquisition of property once acquired there are strict requirements as to its use and disposal. In particular the sale or granting of any kind of security (e.g. mortgage, lease)

against a property is considered alienation. Such action must be approved by the Institute Leader. If the value of the property to be sold or the value of the security is above the amount specified from time to time by the Australian Bishops' Conference permission must be sought from the Holy See.

## 3.6

# Canon Law and ISMAPNG Constitutions

Although not an exhaustive list the following references to the Code of Canon Law and the ISMAPNG Constitutions are relevant in regard to the sponsorship and operation of ISMAPNG ministries.

### ISMAPNG Constitutions

Part 1	4.00	Our Ministry
Part 2	4.00	Our Ministry and in particular J4.11, J4.21, J4.31, J4.33, J4.34
	6.00	Our Unifying Leadership and in particular J6.40
Directory		D4.30, D5.40

### Code of Canon Law

C 113-123, 627, 631, 634, 675, 678, 680  
Book V The Temporal Goods of the Church  
C1254 – 1310  
C793-806 for Catholic education



## **④ Civil Governance**

---

- 4.1 Governance Structure**
- 4.2 Members**
- 4.3 Powers of the Board**
- 4.4 Role of the Board**
- 4.5 Responsibilities of Directors**
- 4.6 Role of the Chairperson**
- 4.7 Director Protection**
- 4.8 Director Remuneration**

# 4.1

## Governance Structure

ISMAPNG is an unincorporated association registered under the Australian Charities and Not for Profits Commission Act 2012 (ACNC Act 2012) as a “basic religious charity”. ISMAPNG is led by the Institute Leader and the Institute Council.

The Institute Property Association Limited (IPAL) holds property for the use of the sisters in Australia, The Sisters of Mercy Papua New Guinea Incorporated (SOMPNG Inc) holds property in Papua New Guinea and McAuley Property Ltd (MPL) holds property for the use of ISMAPNG’s ministries. The Institute Leader and the Institute Council are both the members and directors of IPAL, SOMPNG Inc and MPL.

All ministry activities are conducted through specific ministry corporations. However, McAuley Ministries Ltd (MML) is responsible for the activities of a number of operations (heritage, conference and education centres) and for work undertaken by individual sisters for which ISMAPNG formerly had direct responsibility (spiritual direction, consulting, facilitation, therapy etc). In most cases, each of the institutional ministries is incorporated as a public company limited by guarantee under the Corporations Act 2001 (Cth) (Corporations Act 2001). This is the structure preferred by ISMAPNG for the incorporation of its ministries. For consistency across its ministries and ease of amendment, ISMAPNG also has a preference for the use of a generic Constitution.

For historical reasons, in some cases a ministry may be incorporated as an association under relevant State legislation and regulated in part by a State government department (eg Fair Trading). In this section of the Governance Charter, the term “company” refers to both ministries incorporated as public companies or as incorporated associations.

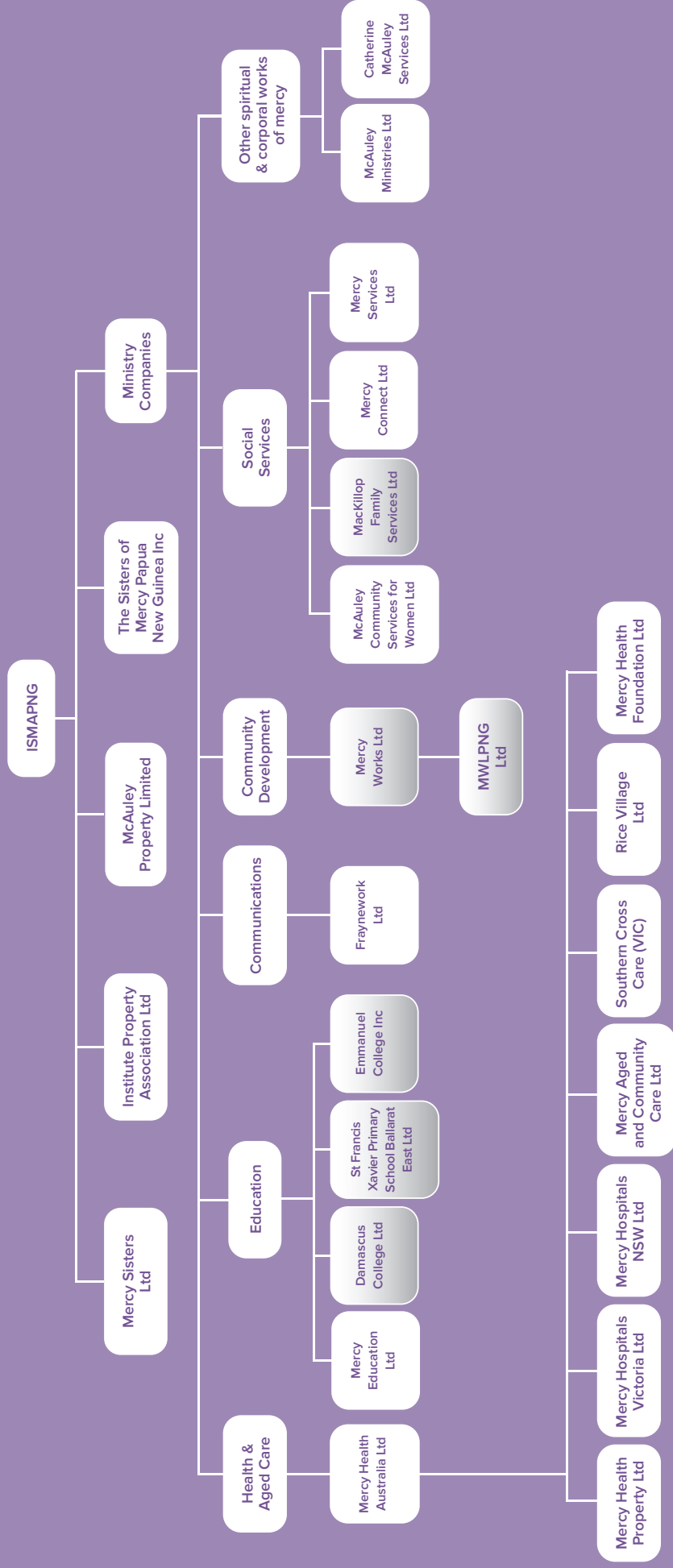
“

Whether incorporated as a public company limited by guarantee, or an incorporated association, each of the institutional ministries is a not-for-profit entity and is registered as a charity under the ACNC Act 2012.

”

This registration enables the ministries to access the various tax concessions available to charities through the Australian Taxation Office.

The civil governance structure of ISMAPNG and its ministries as at March 2017 is set out in the diagram on page 25.



Shaded boxes represent co-sponsored ministries.

## 4.2

---

# Members

The members of each of the companies are the Institute Leader and Council. For incorporated associations, due to legislative requirements, membership of the association also includes board members.

Under the terms of each Constitution, the members retain a number of reserve powers including the power to modify or repeal the Constitution and to appoint and

remove directors. In an incorporated association where the membership of the association extends beyond the Institute Leader and the Institute Council, the reserved powers vest in the Institute Leader and Council.

## 4.3

---

# Powers of the Board

Each board governs the activities of the company subject to its Constitution, the Governance Charter, ACNC Legislation and the Corporations Act 2001 (or relevant State legislation governing incorporated associations, as the case may be).



---

## 4.3.1 Board committees

**A board may delegate any of its powers to a committee of directors.**

The constitution of ministries allows a board to delegate its powers to a director, committee of directors or an employee.

In areas where more time or technical proficiency is required or where it is necessary to supplement the skills of directors or employees of the company, the Board may appoint a member of a committee who is not a director of the company. Unless the board determines otherwise, a committee member who is not a director of the company does not have a vote in any matter determined or recommended by that committee.

The Board may convene standing subcommittees or ad hoc committees or taskforces to provide advice or operate as working parties for the Board. Typical committees are:

- Audit and compliance
- Mission and Ethos
- Finance
- Nomination and Remuneration
- Risk
- Fundraising

The Board must determine the terms of reference for each Committee. A committee provides recommendations to the Board and cannot make decisions on behalf of the Board.

## 4.4

---

# Role of the Board

Each board is responsible for ensuring the organisation fulfils the objects and purposes of the company as detailed in the Constitution, within the limits of the reserve powers, through appropriate governance, management and accountability structures.

In fulfilling its governance role, the Board must ensure that the company operates as part of the mission of the Catholic Church in conformity with canon law and with the ethical framework of ISMAPNG as supported by the constitution of ISMAPNG.

The way in which each Board will operate will depend upon its size and the stage of its development, however, in broad terms each board is responsible for the company's:

- **performance** (direction of the organisation, its operations and the development of appropriate strategy) and

- **compliance** (monitoring the work of the organisation to ensure it is achieving its performance objectives and is operating in accordance with its legal and regulatory obligations).

The day to day work of the organisation is carried out by its CEO, management and staff. It is the role of the board to govern, not manage, the company.

The specific responsibilities of the board are:

### 4.4.1 To determine the mission and vision of the company

The Board is responsible for stating the organisation's mission (why the organisation exists) and its vision (what it is striving to be or achieve) in accordance with the company's objects as expressed in the company's Constitution. The mission and vision statements should serve as a guide to strategic and organisational planning and should be reviewed periodically for

alignment with the mandates of the Institute. Board decisions which involve establishing new ministries, closing ministries or material changes to long range strategic plans require written approval of the Institute Leader.

---

## 4.4.2 To ensure effective strategic planning company

The Board is responsible for developing an appropriate strategic plan which defines the direction and activities of the organisation. The strategic planning process enables the Board and staff in collaboration to translate the broad mission of the organisation into objectives and goals that can be measured and accomplished.

The strategic plan should include the following elements:

- Statement of Mission and Vision
- Strategic Objectives – both short and long term
- Analysis of the organisation’s “landscape” and implications

- Core strategies to achieve objectives
- Strategic tools
- A means of measuring, reporting and evaluating progress

The Board should formally approve the strategic plan following an extended period of consultation and an opportunity for revision. The Board must monitor the implementation of the strategic plan and review it on at least an annual basis.

The establishment or material amendment to the strategic long range plan requires the written approval of the Institute Leader.

## 4.4.3 To select, support and assess the performance of senior staff

The Board is responsible for the selection of the CEO.

The Board must establish clear objectives and long term priorities for these appointments including preparation of a detailed position description.

The appointment of certain senior executives will require the written approval of the Institute Leader before any decision is effected to make the appointment. In all cases the appointment of a CEO will require the approval of the Institute Leader. From time to time the Institute Council may also specify other senior executive appointments requiring the

approval of the Institute Leader. The CEO is entitled to receive consistent moral and substantive support from the Board.

The CEO and the Chair should agree on a process for annual performance review of the CEO. It is the responsibility of the Board to consider and endorse the outcome of the CEO performance appraisal.

---

#### 4.4.4 To ensure adequate resources

The Board must ensure that the organisation has adequate resources to carry out its activities. The Board may be required to ensure the securing of government funding or the attraction of corporate or philanthropic gifts and grants.

The Board must ensure that the organisation's current revenues are stable and encourage the cultivation of sources of revenue that are sustainable for the long term.

#### 4.4.5 To manage resources effectively

The Board must approve an annual budget prior to the beginning of each financial year and ensure that appropriate financial and other controls are in place to protect the organisation's assets. The Board must

ensure adequate cash management controls and appropriate external auditing, purchase adequate liability insurance, monitor delegations for financial decision making and oversee investments.

#### 4.4.6 To approve and monitor programs and services

The Board must ensure that current and proposed programs are consistent with the mission, vision and objectives of the organisation.

#### 4.4.7 To enhance the public profile and reputation of the organisation

Each Board member is an ambassador, advocate and community representative for the organisation. The Board has a right and responsibility to ensure a healthy and accurate public image for the organisation. Board members may be required to meet

with government officials, community groups and to represent the organisation at forums and conferences as appropriate.

---

## 4.4.8 To ensure legal and ethical integrity and maintain accountability

The Board is ultimately responsible for ensuring compliance with legal and regulatory requirements and ethical norms. The Board must protect the organisation from legal action, promote a safe and ethical working environment and safeguard the organisation's integrity in pursuit of its mission. The Board must develop

policies to guide the organisation in ensuring legal and ethical integrity and accountability including appropriate delegation policies. The Board must also ensure that management develop appropriate personnel policies and procedures and grievance protocols.

## 4.4.9 To comply with ISMAPNG policies and procedures

Each board must ensure compliance with the ISMAPNG policies and procedures as directed by the Institute Leader and Council from time to time.

## 4.4.10 To recognise and manage risk

The Board must ensure that there are appropriate policies and procedures in place to in order to establish a sound system for determining risk appetite, oversight, management, treatment and control. The number, type and significance of risks vary from

organisation to organisation; however, each board must consider the scope and impact of strategic, compliance, financial, governance, operational, environmental and brand and reputational risks.

---

## 4.4.11 To orient new directors

The Board has responsibility to provide appropriate orientation to new Board members. New directors should be suitably supported in their efforts to become familiar with the requirements of the board position,

board protocols and to understand the organisation's mission, strategic objectives, programs and services within the broader context of ISMAPNG and the Church.

## 4.4.12 To provide formation to directors

Within each ministry of ISMAPNG there is a commitment to providing a compassionate and just response to people in need. Each Board is responsible for the ongoing formation of its directors through inclusion of formation as part of the agenda and attendance at Formation sessions as arranged by

time to time with the Mercy Ethos team. In order to continually improve Board performance, all Directors are encouraged to undergo continual professional development. Directors who wish to undertake a professional development activity at the company's expense should approach the Chair.

## 4.4.13 To evaluate Board performance

The Board must periodically and comprehensively review its overall effectiveness at least every two years. The Board self assessment should address the Board's composition, the process of identifying and recruiting prospective board members, committee structure, meeting, relationships with key stakeholders

and how the overall performance of the Board can be strengthened. The Institute Leader may request that the Board undergo an external evaluation of the board's performance.



## 4.5

---

# Responsibilities of Directors

### 4.5.1 Directors' duties

Directors are required to comply with the Australian Institute of Company Directors Code of Conduct.

The relationship between the directors and the members of the organisation is a fiduciary relationship based on trust, honesty, care and responsibility. The fiduciary duty owed to the members and the obligations which flow from that duty exist as common law duties, separate from duties created under legislation.

The duties of directors of not-for-profit organisations created under legislation vary depending on whether the organisation is incorporated pursuant to the Corporations Act 2001 or in accordance with State Acts regulating associations, and whether the organisation is registered as a charity under the ACNC Act 2012.

For public companies limited by guarantee which are registered as charities, the duties of directors reflect both the common law and duties created under the Corporations Act 2001 and are principally set out in Governance Standard 5 of the ACNC Governance Standards.

Directors are required to:

- 3.6.1 Act with reasonable care and diligence
- 3.6.2 Ensure that financial affairs are managed responsibly
- 3.6.3 Act honestly in the best interests of the charity and for its purposes
- 3.6.4 Not misuse their position or information
- 3.6.5 Disclose any actual or perceived conflict of interest
- 3.6.6 Not allow a charity to operate while insolvent

---

## 4.5.2 ACNC Governance Standards

In order for a company to maintain its status as a registered charity with the ACNC, the board must ensure the company continues to meet the ACNC Governance Standards:

### **ACNC Governance Standard 1 –**

#### **Purposes and not for profit nature of a registered entity**

Charities must be not-for-profit and work towards their charitable purpose. They must be able to demonstrate this and provide information about their purpose to the public.

### **ACNC Governance Standard 2 –**

#### **Accountability to members**

Charities that have members must take reasonable steps to be accountable to their members and provide their members adequate opportunity to raise concerns about how the charity is governed.

### **ACNC Governance Standard 3 –**

#### **Compliance with Australian laws**

Charities must not commit a serious offence under any Australian law or breach a law that may result in a penalty of 60 penalty units or more.

### **ACNC Governance Standard 4 –**

#### **Suitability of responsible persons**

ACNC Governance Standard 4 requires registered charities to take reasonable steps to ensure each director is not disqualified from managing a corporation and has not been disqualified by ACNC. To ensure compliance with ACNC Governance Standard 4 each director is required to make a “Responsible Person declaration”.

### **ACNC Governance Standard 5 –**

#### **Duties of responsible persons**

Charities take reasonable steps to make sure that responsible persons understand and carry out the duties set out in standard 5.

## 4.6

# Role of the Chairperson

The Chairperson is appointed by the members who may also appoint a Deputy Chair.

The Chairperson's role is a pivotal one within the company. The Chairperson is considered the "lead" Director and utilises experience, skills and leadership abilities to facilitate the governance processes and to act as the critical interface in the relationship between the Board, the CEO, the Institute Leader and Council and ISMAPNG more broadly.

The Chairperson:

- sets the boardroom culture and builds the Board as a team;
- designs and manages the Board meeting agenda;
- leads the board's meetings;
- develops the board's effectiveness;
- supports the Board and CEO or EO relationship;
- mentors the directors and the CEO or EO;
- oversees the relationship between ISMAPNG and the organisation;
- represents the Board as required in public meetings and in dealings with government; and

- ensures the Institute Leader is appraised of significant events and special issues (eg. claims and litigation, media exposure, major strategic issues) which have the capacity to harm the reputation of ISMAPNG or to impact negatively upon the mission of the company or ISMAPNG.

The Chairperson is required to meet with the Institute Leader on an annual basis, to provide an annual report and to discuss the outcome of any internal or external evaluation of the Board's performance with the Institute Leader.

# 4.7

---

## Director Protection

### 4.7.1 Insurance

On appointment, each director will be provided with a copy of the Directors and Officers (D&O) policy and any changes to that policy.

### 4.7.2 Access to Board papers

A complete set of board papers is to be held by the Company Secretary for a period of 7 years.

#### 4.7.2.1 Current serving directors

The Corporations Act 2001 provides that currently serving directors have the right to inspect financial records at all reasonable times. They may also inspect company books, other than financial records,

at all reasonable times for the purposes of a legal proceeding to which they are a party or wish to bring against other or believe may be brought against them.

#### 4.7.2.2 Former directors

A Director who is to cease, or has already ceased to be a Director may make a written request to the Board for access to and inspection of any financial records of the company, relating to the time during which the person was a Director for any bona fide purpose relating to the time during which the person was a Director and subject to maintaining confidentiality in relation to the records.

The Board may determine that that the Director is permitted to have access to the financial records provided the request is for a bona fide purpose relating to the time during which the person was a Director and subject to the Director maintaining confidentiality in relation to the records.

## 4.8

---

# Director Remuneration

### 4.8.1 Directors' fees

The company must not pay a director any fee for any services performed as a director, unless the members have authorised such payment in writing.

### 4.8.2 Reimbursement of expenses

Where out of pocket expenses are incurred by Directors in the conduct of their board duties, they are reimbursed on the provision of appropriate receipts. The CEO facilitates payment of reimbursements countersigned by the Chair.

# ANNEXURE 1

---

## ISMAPNG Ministries

Mercy Health and Aged Care Inc (and related entities)  
Mercy Services Ltd  
Mercy Education Ltd  
Fraynetwork Ltd  
Mercy Works Ltd  
McAuley Community Services for Women Ltd  
Mercy Connect Ltd  
McAuley Ministries Ltd  
Damascus College Ltd  
St Francis Xavier Primary School Inc  
Emmanuel College Inc  
MacKillop Family Services Ltd  
Catherine McAuley Services Ltd



