

Purpose

The Minimum Standards and Requirements for School Registration contained in the Education and Training Reform Regulations 2017 (Vic.) (ETR Regulations) require that in a non-government school all responsible persons must be fit and proper persons (clause 15(2) Schedule 4 of the ETR Regulations).

The purpose of this policy is to identify the responsible persons in Melbourne Archdiocese Catholic Schools Ltd (MACS) with respect to its operation of MACS schools for the purposes of the ETR Regulations and set the requirements and obligations for disclosures on appointment and on an ongoing basis to ensure compliance with the probity requirement under the Minimum Standards and Requirements for School Registration.

Under the Australian Charities and Not-for-profits Commission (ACNC) Governance Standard 4, MACS must ensure that responsible persons that are directors of MACS also satisfy probity requirements that apply under the *Corporations Act 2001* (Cth) (Corporations Act) and the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) (ACNC Act). The reference to 'responsible persons' is informally used in relation to members of a governing body of a charity for the purposes of charity registration, and the ACNC Act formally defines them as responsible entities. This policy ensures disclosure of those additional probity requirements that apply only to directors of MACS.

Scope

This policy applies to all responsible persons of MACS. In accordance with regulation 5 of the ETR Regulations, **responsible persons** for the purposes of this policy include:

- the sole member of MACS, being the Archbishop of the Archdiocese of Melbourne
- each director of MACS
- each member of MACS Board Committees
- the Executive Director of MACS and any other person who is concerned in, or takes part in, the management of MACS in accordance with the Delegations and Authorities Protocols such as members of the Executive Leadership Team (ELT), general and regional general managers and the Chief Planning and Infrastructure Officer
- each principal, deputy principal in each MACS school and each other person who is concerned in, or takes part of the management of, a MACS school in accordance with the Delegations and Authorities Protocols
- the Chief Financial Officer or a person holding a similar position in MACS or any other person with responsibility for managing MACS schools' finances in accordance with the Delegations and Authorities Protocols
- a business manager or person holding a similar position in each MACS school and each other person with responsibility for managing the school finances in accordance with the Delegations and Authorities Protocols
- any other person who by the person's conduct assumes a position of authority over the governance or management of a MACS school.

Definitions

ACNC Act

Australian Charities and Not-for-profits Commission Act 2012 (Cth)

Corporations Act

Corporations Act 2001 (Cth)

MACS

Melbourne Archdiocese Catholic Schools Ltd

ETR Regulations

Education and Training Reform Regulations 2017 (Vic.)

School or MACS school

A school which operates with the consent of the Catholic Archbishop of Melbourne and is owned, operated and governed by MACS, where formation and education are based on the mission of Jesus and where teachers are faithful in their witness to and service of that mission.

VRQA

Victorian Registration and Qualifications Authority

Principles

MACS is committed to compliance with all laws including specifically for the purposes of this policy the Minimum Standards and Requirements for School Registration.

MACS will ensure that all responsible persons comply with the probity requirements in the ETR Regulations at all times. MACS will also ensure that responsible persons who are directors comply with the probity requirements in the Corporations Act and the ACNC Act.

Policy

1. Legislative requirements

- 1.1. The Minimum Standards and Requirements for School Registration impose a requirement on MACS, as the proprietor of schools, to ensure that each responsible person in MACS be a fit and proper person, which is defined as a person who:
 - 1.1.1. is able to carry out their responsibilities in relation to the operation of the relevant school in compliance with the laws of Victoria, the Commonwealth, another state or a territory relating to the provision of school education
 - 1.1.2. has not been found guilty of an offence which is (or which would if committed in Victoria) be an indictable offence
 - 1.1.3. has not been:
 - 1.1.3.1. in the case of an individual, insolvent under administration (for example, declared bankrupt), or
 - 1.1.3.2. in the case of a body corporate, is not, or has not, been an externally administered body corporate
 - 1.1.4. is not a represented person as that term is defined in the *Guardianship and Administration Act 1986 (Vic.)*
 - 1.1.5. if the person is given an assessment notice under the *Working with Children Act 2005 (Vic.)* in relation to the school, complies with:
 - 1.1.5.1. all requirements under that Act on the person as a holder of an assessment notice

- 1.1.5.2. all requirements under that Act where the assessment notice is revoked or suspended
- 1.1.6. has not been the subject of, or associated with an adverse finding or other action taken by a court, tribunal, commission of inquiry, professional discipline body or regulatory authority (in Victoria or elsewhere) where the adverse finding relates to:
 - 1.1.6.1. dishonest, misleading or deceptive conduct, or
 - 1.1.6.2. non-compliance with a legal obligation relating to the provision of education, or
 - 1.1.6.3. a breach of duty (including a duty of disclosure).

Note: In this item 1.1.6, an adverse finding or action may include a decision by a registering body to limit, suspend or cancel a registration or permit granted to a responsible person individually, or to a body or entity that the responsible person has been associated with governing.

- 1.2. ACNC Governance Standard 4 requires MACS to take reasonable steps to be satisfied that the responsible persons who are directors of MACS satisfy the following probity requirements:
 - 1.2.1. they must not be disqualified from managing a corporation, within the meaning of the Corporations Act; and
 - 1.2.2. they must not be disqualified by the Australian Charities and Not-for-profits Commissioner at any time during the previous 12 months from being a responsible entity (meaning a member of a governing body) of a registered charity, within the meaning of the ACNC Act.

2. Probity declaration of responsible persons

- 2.1. Each responsible person at the time of their appointment to the relevant position must complete a Fit and Proper Person Statutory Declaration, in the form published by the VRQA from time to time.
- 2.2. In addition to the requirement in clause 2.1, each director of MACS at the time of their appointment must sign a declaration to the effect of the declaration in Appendix 1. The Company Secretary must undertake a search of the ASIC Disqualified Persons Register and the ACNC Register of Disqualified Persons for each proposed director to verify their declaration.
- 2.3. All declarations made by responsible persons under clauses 2.1 and 2.2 must be submitted to the Company Secretary or delegate of MACS within 7 days of recruitment of a responsible person and verified by:
 - 2.3.1. the Company Secretary in relation to all responsible persons other than school-based employees;
 - 2.3.2. the principal in relation to all responsible persons who are school-based employees; and
 - 2.3.3. the regional general manager in relation to all principals of MACS schools.
- 2.4. MACS must keep a copy of all declarations made by a responsible person for 7 years from the date of the declaration before archiving or disposing of it in accordance with MACS' document retention policy.

3. Continual disclosure

- 3.1. Each responsible person is required to provide notification of a 'notifiable disclosure event' being defined in the ETR Regulations as an event that occurs if the responsible person is the subject of:
 - 3.1.1. an adverse finding or other action by a court, tribunal, professional discipline or regulatory body (in Victoria or elsewhere) where the adverse finding or the action relates to the responsible person's:
 - a. dishonest, misleading or deceptive conduct; or
 - b. non-compliance with a legal obligation relating to the provision of education; or
 - c. breach of duty; or
 - 3.1.2. the commencement of legal or disciplinary proceedings in relation to the conduct of the responsible person that means the responsible person is not a fit and proper person within the meaning of clause 15(5) of Schedule 4 of the ETR Regulations.

- 3.2. By way of an example, the definition of 'notifiable disclosure event' in the ETR Regulations provides that the VRQA must be notified if a responsible person is:
 - 3.2.1. charged with an indictable offence; or
 - 3.2.2. the subject of bankruptcy proceedings; or
 - 3.2.3. the subject of proceedings to enforce compliance with an applicable professional or registration standard; or
 - 3.2.4. the subject of proceedings for breach of a legal or fiduciary duty that applies to the responsible person.
- 3.3. The notification of a 'notifiable disclosure event' by a responsible person under clause 3.1 must be made within 48 hours of the occurrence of a notifiable disclosure event to the following MACS personnel:
 - 3.3.1. in the case of the member of MACS, the directors of MACS, the MACS board committee members or the Executive Director, to the Chair of the MACS Board
 - 3.3.2. in the case of any non-school employee of MACS or any principal of a MACS school, to the Executive Director of MACS (or relevant delegate)
 - 3.3.3. in the case of any school employee of MACS, to the principal of the MACS school who shall in turn immediately notify the Executive Director (or relevant delegate).
- 3.4. The Board will ensure that there are processes in place to notify in writing the VRQA via the Catholic Education Commission of Victoria Ltd (CECV) within 30 days of occurrence of a notifiable disclosure event with respect to a Responsible Person.
- 3.5. In addition to the requirement in clause 3.1, each responsible person who is a director of MACS must notify the Chair of the Board within 48 hours if they become disqualified from managing a corporation, within the meaning of the Corporations Act or they become disqualified by the Australian Charities and Not-for-profits Commissioner from being on the governing body of any charity.

4. Induction process for responsible persons

- 4.1. MACS requires all responsible persons to be introduced to their respective roles through informed consultation and orientation to relevant policies and procedures, with access to documentation that:
 - 4.1.1. enables the responsible person to be fully informed of their obligations and duties.
 - 4.1.2. will ensure that the responsible person is made aware of the person's primary governance and other responsibilities in relation to the operation of the school in compliance with the Victorian and Commonwealth laws relating to the provision of school education.
- 4.2. MACS will ensure there are procedures in place to ensure that a register of the induction program for each new responsible person is maintained by:
 - 4.2.1. the Company Secretary, with respect to responsible persons that are the MACS directors and board committee members, the Executive Director and other non-school employees of MACS; and
 - 4.2.2. the principal of each MACS school, with respect to responsible persons that are employees in that MACS school,

in a form to the effect of that set out in Appendix 2 which records their name, the date of becoming a responsible person, role, qualifications and receipt of induction documents which will differ depending on the role of the responsible person.
- 4.3. The Company Secretary and each principal (as applicable) must ensure that each entry in the relevant register of induction program is maintained for seven years from the date of entry before archiving or disposing of in accordance with MACS' document retention policy.
- 4.4. The Company Secretary may on reasonable notice to a principal of a MACS school request a copy of the register of induction program maintained by the principal for responsible persons of that MACS school.

5. Responsible Persons Register

- 5.1. MACS will ensure there are procedures in place to ensure that a Responsible Persons Register is maintained in a form to the effect of that set out at Appendix 3 by:
 - 5.1.1. the Company Secretary, with respect to responsible persons that are the MACS directors and board committee members, the Executive Director and other non-school employees of MACS; and
 - 5.1.2. the principal of each MACS school, with respect to responsible persons that are employees in that MACS school.
- 5.2. The Responsible Persons Register must be updated annually or on a more frequent basis if required.
- 5.3. The Responsible Persons Register will, as a minimum, record the following information in relation to each responsible person of MACS:
 - 5.3.1. confirmation that the probity declarations required under clause 2 of this policy have been received by the responsible person
 - 5.3.2. confirmation that the annual Conflicts of Interest Disclosure Statement under the Conflict of Interest Policy for Responsible Persons has been received
 - 5.3.3. confirmation that the Related Party Transactions Register under the Related Party Transactions Policy has been updated to reflect the annual disclosure statement by responsible persons
 - 5.3.4. confirmation that the Register of Professional Learning Register has been updated to reflect the annual disclosure statement
 - 5.3.5. confirmation that, if the responsible person has been appointed that year, the Induction of Responsible Persons Register has been completed (not applicable if the responsible person has not been appointed in that year).
- 5.4. The Company Secretary and each principal (as applicable) must ensure each entry in the Responsible Persons Register is retained for seven years following the date of the entry in the register before archiving or disposing of in accordance with the MACS' document retention policy.
- 5.5. The Company Secretary may on reasonable notice to a principal of a MACS school request a copy of the Responsible Persons Register maintained by the principal for responsible persons of that MACS school.

6. Professional learning for responsible persons

- 6.1. At the commencement of each year, MACS will determine which areas of professional learning are relevant to the needs, skills and experience of its responsible persons, especially in relation to compliance, risk management, finance, legal obligations, conflict of interest, related parties and education.
- 6.2. MACS will approve a minimum of twelve hours of professional learning with regard to governance issues for each responsible person over each three-year period (beginning from the time a person commences as a responsible person).
- 6.3. MACS will ensure there are procedures in place to ensure that a register of each responsible person's professional learning is maintained in a form to the effect of that set out at Appendix 4 of this policy by:
 - 6.3.1. the Company Secretary, with respect to responsible persons that are the MACS directors and board committee members, the Executive Director and other non-school employees of MACS; and
 - 6.3.2. the principal of each MACS school, with respect to responsible persons that are employees in that MACS school.
- 6.4. The Professional Learning Register must record the name of the responsible person, their role, date, nature and hours of professional learning and must be updated annually.

- 6.5. The Company Secretary and each principal (as applicable) must ensure each entry in the responsible persons' Professional Learning Register is retained for seven years following the date of the entry in the register before archiving or disposing of in accordance with the MACS document retention policy.
- 6.6. The Company Secretary may on reasonable notice to a principal of a MACS school request a copy of the Professional Learning Register maintained by the principal for responsible persons of that MACS school.

7. Dealing with persons who do not satisfy probity requirements

- 7.1. MACS will take all necessary steps to ensure that:
 - 7.1.1. a person who does not satisfy the probity requirements outlined in this policy is not appointed to the relevant position of a responsible person;
 - 7.1.2. a responsible person that ceases to satisfy the probity requirements does not continue to hold that position.

8. Review

- 8.1. This policy will be reviewed regularly by the Board and at least once every three years, and may be revised to improve existing procedures or reflect changes in any applicable legislation. The Chair of the Board is responsible for ensuring that this policy, and any related documents, are updated when necessary to reflect changes in the law or when otherwise appropriate.
- 8.2. Any changes to this policy must be communicated to responsible persons in a timely manner.

External references

Education and Training Reform Regulations 2017 (Vic.) (ETR Regulations)

VRQA Guidelines to the Minimum Standards and Requirements for School Registration
<https://www.vrqa.vic.gov.au/schools/Pages/standards-guidelines-requirements-for-schools.aspx>

ACNC Governance Standard 4

Responsible director	Director, Governance and Strategy
Policy owner	Company Secretary
Approving body/individual	MACS Board of Directors
Approval date	September 2021
Date of next review	September 2024

POLICY DATABASE INFORMATION	
Related documents	
Superseded documents	
New policy	New

Appendix 1: Corporate Probity Declaration by a Director of MACS

I, [name]

of [address]
.....
.....,

declare that:

- I am not disqualified from managing a corporation, within the meaning of the *Corporations Act 2001* (Cth)
- I have not been disqualified by the Australian Charities and Not-for-profits Commissioner at any time during the previous year from being a responsible entity (a member of the governing body) of a registered charity.

While I am a director of Melbourne Archdiocese Catholic Schools Ltd (**MACS**), I agree to notify the Board of MACS as soon as possible if I become disqualified from managing a corporation within the meaning of the *Corporations Act 2001* (Cth) or if am disqualified by the Australian Charities and Not-for-profits Commissioner.

Declared at: [location]
.....
.....

On: [date]
.....

Signature:
.....

Name:
.....

Position:
.....

Appendix 2: Induction of Responsible Persons Register

Name	Date appointed as responsible person	Position of responsibility	Qualifications/ experience	Received induction documents
				YES/NO

