

June 2016

The Selwyn Foundation Constitution

*Quality Christian Care
of older people*





1. Name

The name shall be “The Selwyn Foundation” (the “Foundation”).

2. Office

The office of the Foundation shall be in the City of Auckland or at such place as determined by the Foundation.

3. Objects

The Foundation is established for the following objects within New Zealand:

- (a) To establish, take over, conduct and carry on at such places in New Zealand as the Foundation may from time to time determine - homes, night shelters and other refuges for aged, needy or helpless persons;
- (b) To win souls for Christ by:
 - (i) Ministering to those in need of spiritual and material help;
 - (ii) Providing trained social workers and other lay agents.
- (c) To supply the physical needs of sick, aged and any other needy person;
- (d) Generally to promote the welfare of the needy and the relief of distress.

The spiritual work of the Foundation shall be conducted according to the doctrines and principles of the Anglican Church in Aotearoa, New Zealand and Polynesia (“the Anglican Church”).

4. Principles

The Foundation shall provide support to the elderly as appropriate within church, community and residential settings having regard to the following principles:

- (a) Aged care is an essential component of Christian mission;
- (b) Every individual is equal before God and worthy of the highest quality of individual care;

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- (c) Christian faith and love should be reflected in the quality of care which is given;
 - (d) Care should embrace the cultural, spiritual, physical, social and emotional needs of the whole person;
 - (e) Services should be delivered in a way that enhances the spirituality, cultural diversity and wellness of each person;
 - (f) Services should be carried out in accordance with national Anglican Care guidelines;
 - (g) The Foundation should seek to act at all times in accordance with the highest ethical standards.

5. Powers

The Foundation shall have the following powers:

- (a) To purchase, take on, lease, hire or otherwise acquire (including by devise, bequest or gift) or hold any real or personal property and any right and privileges necessary or convenient for the purpose of the Foundation;
- (b) To erect, hold, maintain and alter any buildings upon any land held by or belonging to the Foundation for any estate or interest and to provide the same with all proper and necessary fixtures, furniture, fittings, apparatus, appliances, conveniences and accommodation;
- (c) To take such steps by personal or written appeals, public meetings or otherwise, as may from time to time be deemed expedient for the purposes of procuring contributions to the funds of the Foundation in the shape of donations, annual subscriptions or otherwise;
- (d) To borrow or raise money at interest with or without security and on the issue of or upon bonds, debentures, debenture stock, bills of exchange, promissory notes or other obligations or securities of the Foundation or upon mortgage or charge of the property of the Foundation or otherwise, in such manner as may seem expedient, and in particular to receive monies on deposit



from persons or on behalf of persons desiring accommodation in homes established or conducted by the Foundation upon such terms as the Foundation may from time to time and at any time determine;

- (e) To undertake and execute any trusts or any agency business which may seem directly or indirectly conducive to any of the objects of the Foundation;
- (f) In furtherance of the objects of the Foundation, to print and publish any newspapers, periodicals, books or leaflets and to manufacture, buy, sell, supply and deal in clothing, provisions and goods of all kinds;
- (g) To invest and deal with the investment assets of the Foundation not immediately required for any of the objects in such manner as the Foundation may think fit;
- (h) To sell, improve, manage, develop, lease, mortgage, exchange, dispose of, turn to account or otherwise deal with, all or any part of the property and rights for the time being of the Foundation;
- (i) To hold any personal property, notwithstanding that such property may be of a wasting, speculative or reversionary nature and not authorised by law for the investment of trust funds;
- (j) To take any action or other proceedings, legal or otherwise, that may be necessary or proper in connection with any property vested in it or to which the Foundation is entitled or in which the Foundation is in any way interested or concerned;
- (k) To establish or acquire interests in such unincorporated bodies or body corporates solely or jointly to further the objects of the Foundation;
- (l) To do all such other lawful things as are incidental or conducive to the attainment of the above objects.

6. Application of Income and Property

The income and property of the Foundation shall, subject to the provisions of any express trust, be applied solely towards the promotion



of the objects of the Foundation. No person shall make any private pecuniary profit from the activities of the Foundation. No portion shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise, by way of profit to the members of the Foundation.

Nothing shall prevent: the payment in good faith of reasonable and proper remuneration to any officers or employees of the Foundation, or to any member, or any other person in return for any services actually rendered to the Foundation; full reimbursement for all expenses properly incurred by the Board members in connection with the Board's affairs; payment of interest at a rate not exceeding retail bank current rates of interest on any money borrowed from any member of the Foundation; or exclude any member of the Foundation from the benefit of any grant made to further the objects of the Foundation.

7. Trusteeship of Property

- (a) All real and personal property which is now or shall be held by the General Trust Board of the Diocese of Auckland on behalf of the Foundation may be held in the name of the Foundation upon the trusts affecting the same.
- (b) All expenses whatsoever rightfully incurred by the General Trust Board shall be defrayed by the Foundation.
- (c) The General Trust Board shall not deal in such real or personal property held by it without the prior consent of the Foundation and the Diocesan Council of the Diocese of Auckland (“the Diocesan Council”), nor save in accordance with the terms of any trust affecting the same; provided, however, that neither the General Trust Board nor any member acting upon the directions of the Foundation and the Diocesan Council shall incur any personal liability for any act or thing so done.

8. Disposal of Property on Dissolution

If at any time the Foundation shall be dissolved or cease to exist other than for the purposes of being reconstituted with the consent of the Diocesan Council, then the whole of the property of the Foundation



remaining after the satisfaction of all its debts and liabilities shall be held or applied by the General Trust Board in accordance with the trusts then affecting the same or insofar as there is no express trust affecting the same for objects similar to those for which the Foundation was established or for such other work of the Anglican Church in the Diocese of Auckland as the Synod of the Diocese shall direct and no part of the funds or property of the Foundation so remaining shall be paid to or distributed amongst the members of the Foundation.

9. Membership

The members of the Foundation shall consist of the following persons:

- (a) All Board members of the Foundation while they hold office as Board members;
- (b) Life members appointed by the Foundation in recognition of outstanding service;
- (c) Persons who have been admitted as members by the Board on terms and conditions established by the Board;
- (d) Residents residing in any home, institution or accommodation owned or operated by the Foundation;
- (e) The Bishop of the Diocese of Auckland being the President of the Foundation.

All members except residents in paragraph 9(d) above shall be entitled to vote on any matter or question at any Annual Meeting or Extraordinary Meeting of the Foundation. The Foundation shall keep a register of members.

10. The Board

- (a) The Foundation shall be governed by a Board of Trustees, to be known as “the Board”. The Board shall consist of up to 10 members and not less than 5 members. If the number of Board members is less than 5 members, then the Diocesan Council shall appoint members to increase the number to the minimum. Those appointments shall remain in effect until the next Annual Meeting of the Foundation.

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- (b) Each member of the Board shall occupy a “seat”. Each seat is designated an individual number from 1 to 10 based on the manner of appointment set out below.
 - (c) The Board shall comprise the following members who shall occupy the following designated seats:
 - (i) A Chairperson appointed for a 3 year term by the Bishop of the Diocese of Auckland (Seat 1);
 - (ii) Six members appointed by the Auckland Diocesan Council, each for a three year term with a new appointment to be made at the Annual Meeting starting from:
 - year 2003 for seats 2 and 3;
 - year 2004 for seats 4 and 5;
 - year 2005 for seats 6 and 7; and
 - (iii) Two members nominated by the Board for seats 8 and 9, and elected at the AGM, each for a 3 year term.
 - (d) Board members may be reappointed for a maximum of nine years.
 - (e) All Board members in seats 1 – 7 shall be communicants in the Anglican Church at the time of their appointment. Board members appointed to seats 8 – 10 shall either be communicant Anglicans or, if they are not, shall declare their support for the ethos and mission of The Selwyn Foundation.
 - (f) Any member may resign by writing to the Chairperson of the Board.
 - (g) The Board may co-opt one member to seat 10 who has special skills or abilities. This member may be appointed on an annual basis for a maximum of three years on such terms and conditions as the Board shall approve and may or may not have voting rights at the Board’s discretion.
 - (h) If any member of the Board:
 - (i) becomes bankrupt or insolvent;
 - (ii) becomes a protected patient under any applicable Mental Health legislation;

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- (iii) is convicted of an indictable offence;
 - (iv) is prohibited by law from being an officer of a charity;
 - (v) is absent for more than three consecutive meetings of the Board without leave of absence;
 - (vi) dies;
 - (vii) resigns office (see 10.f);
 - (viii) ceases to be a communicant in the Anglican Church (in the case of seats 1 – 7);
 - (ix) is removed by notice in writing to that member and to the Chairperson of the Board, by the appointer of that member, following due process and natural justice principles;
then the office of that member shall become vacant.
- (i) If any member resigns or the seat is declared vacant, the vacant seat may be filled by the Board, subject to confirmation by Diocesan Council, the appropriate appointing or electing body. Any person appointed to that seat shall hold office until the end of the term of the original member who has resigned or whose seat has been declared vacant and may at the end of that term offer themselves for reappointment.

11. Officers

The Foundation shall have the following officers, who shall conduct the work of the Foundation, namely:

- (a) A President, who shall be the Bishop of the Diocese of Auckland for the time being and who shall have the right to chair any meeting of the Foundation;
- (b) A Chairperson, appointed by the Bishop of the Diocese of Auckland;
- (c) A Deputy Chairperson, who shall be appointed by the Board for such term of appointment as the Board may determine. The Board may at any time by ordinary resolution remove the Deputy Chairperson;
- (d) A Chief Executive Officer, who will be an employee of the Foundation:

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- (i) The Chief Executive Officer shall implement the Foundation's objects having regard to the principles of this Constitution and ensure that all legal obligations, secretarial and financial functions are carried out to the Board's satisfaction;
 - (ii) The Chief Executive Officer shall be appointed by the Board and is liable to be dismissed or removed by the Board;
 - (iii) The Chief Executive Officer shall be appointed either for a fixed term or without any limitation on the term;
 - (iv) The Chief Executive Officer shall not have a right or claim to continue in office contrary to the will of the Board.
- (e) Such other officers as may be appointed and subject to removal by the Board;
 - (f) An Auditor or Auditors who shall be appointed by members of the Foundation at each Annual Meeting to hold office until the next Annual Meeting. The Auditor or Auditors may be reappointed at that Annual Meeting.

12. Meetings

There shall be three kinds of meetings for the Foundation: the Annual Meeting, Extraordinary Meetings and Board Meetings.

13. Annual Meeting

- (a) The Annual Meeting of the Foundation shall be held not later than four calendar months after balance date and no later than 15 months after the previous Annual Meeting at a place appointed by the Board.
- (b) The Bishop of the Diocese of Auckland (or appointee) shall chair every Annual Meeting.
- (c) Notice of the Annual Meeting of the Foundation shall be made known to members of the Foundation, using such forms of written or electronic communication as the Board shall determine, at least two weeks prior to the date fixed for the meeting.

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- (d) The Annual Meeting shall give consideration to the following: the Foundation's financial statements and annual reports of the Board and Auditors, the appointment or reappointment of the Auditor, the election of two members of the Board and the receiving of nominated members of the Board by the Auckland Diocesan Council.
 - (e) No business shall be transacted at an Annual Meeting unless a quorum of members is present at the time when the meeting proceeds to business.
 - (f) 15 members shall be a quorum for an Annual Meeting.
 - (g) At any Annual Meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least five members; and unless a poll is so demanded, a declaration by the chairperson that a resolution has on a show of hands been carried, or carried unanimously, or by a particular majority, or lost and an entry to that effect in the book of proceedings of the Foundation shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against that resolution.
 - (h) If a poll is duly demanded it shall be taken in such manner as the chairperson directs and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
 - (i) If the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place, or at which the poll is demanded, shall be entitled to a casting vote.

14. Extraordinary Meetings

- (a) An Extraordinary Meeting shall be convened when:
 - (i) The Board determines; or
 - (ii) Upon the request in writing to the President by a minimum of 20 members.



Such a request must state the purpose of the meeting, must be signed and must be deposited at the registered office of the Foundation.

- (b) If the Board does not proceed to cause a meeting to be held within one month from the date of the requisition being deposited the requisitionists, or a majority of them, may themselves convene the meeting but any meeting so convened shall not be held after three months from the date of the deposit of the requisition.
- (c) Any Extraordinary Meeting should be convened and run in the same manner with the same rules as that of the Annual Meeting.

15. Powers and Duties of the Board

- (a) The Board shall have all the powers necessary for managing the affairs of the Foundation to further the objects of the Foundation in accordance with these rules.
- (b) The Board may delegate any of its powers to a committee of the Board, a Board member or an employee of the Foundation, or any other person.
- (c) The Board shall have the power to cause the Foundation to insure or indemnify Board members as it considers appropriate for any liabilities, not being criminal liabilities, which Board members incur as a result of their actions or omissions in their capacity as Board members.
- (d) The Foundation shall execute deeds and contracts and enter into commitments and undertakings in such manner as the Board may specify from time to time.

16. Meetings and Proceedings of the Board

- (a) Subject to the following procedures, the Board may meet together from time to time when and as required for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit.

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- (b) A meeting of the Board may be summoned at any time by the chairperson and shall be so summoned at any time upon the request of any two members of the Board. Three clear days' notice in writing must be given to the members of the Board of any such meeting, that is to say three clear days must elapse between the date of posting the notices and the date of the meeting. Notice shall be given in such manner as the Board may from time to time determine to the address of the Board member, which must include an address within New Zealand.
 - (c) The Chairperson shall chair each Board meeting. If the Board resolves a Deputy Chairperson shall be elected who will chair the Board meeting in the absence of the Chairperson.
 - (d) No business shall be transacted at any meeting of the Board unless a quorum of members is present at the time when the meeting proceeds to business. The quorum shall be 5 Board members, provided that a minimum of 3 of those members present must occupy seats 1 – 7.
 - (e) The continuing members of the Board may act, notwithstanding any vacancy, but if and so long as their number is reduced below the minimum number, the continuing members may act for the purpose of requesting the Auckland Diocesan Council to appoint a member or members to increase the number of members to the required number, but for no other purpose.
 - (f) A meeting of the Board may be held by means of audio, or audio and visual, communication by which all members participating and constituting a quorum can simultaneously hear each other throughout the meeting.
 - (g) A Board member must disclose to the Board the fact he or she is interested in a transaction or proposed transaction with the Foundation and the nature and extent of that interest. For this purpose, a Board member is “interested” in a transaction where the Board member is a party to, or will or may derive a material financial benefit from the transaction, or is directly or indirectly materially interested in the transaction.

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- (h) Questions arising at any meeting shall be decided by a majority of votes. Each Board member has one vote. A Board member must not vote on a matter relating to a transaction in respect of which that member is interested but shall be counted for the purpose of the quorum.

In the case of an equality of votes, the Chairperson, or the Deputy Chairperson in the absence of the Chairperson, shall have a casting vote.

- (i) A resolution in writing, or by electronic means, including in separate counterparts, signed or assented to by all the members of the Board and dated by the last signatory shall be as valid and effectual as if it has been passed at a meeting of the Board, duly called and constituted.
- (j) The Board may establish sub-committees consisting of two or more members of its body (together with such other person or persons not being members of the Board as it may think fit) to investigate and report to the Board. The sub-committee may conduct its investigations as directed by the Board and shall present a written or verbal report to the Board. No expenditure of money or approval of expenditure of money shall be made without the express authority of the Board.
- (k) All acts done by any meeting of the members of the Board, or by any person acting as a member of the Board, shall (notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such members or persons, or that they or any of them were disqualified) be as valid as if every such person had been duly appointed and was qualified to be a member of the Board.
- (l) The Board shall cause minutes to be made in a book provided for the purpose called “Selwyn Foundation Board of Trustees Minute Book”, of the names of the members of the Board present at each meeting of the Board and of all resolutions and proceedings at all meetings of the Board.



17. Accounts

- (a) The Board shall cause accounting records to be kept:
 - (i) Of the results of the operations and cashflows of the Foundation; and
 - (ii) Of the financial position of the Foundation.
- (b) The books of account shall be kept at the office of the Foundation or at such other place or places as the Board thinks fit and shall always be open to the inspection of the members of the Board and of the Auditors during business hours.
- (c) The Board must ensure that, within 4 months after the balance date of the Foundation, financial statements that comply with applicable financial reporting legislation are completed in relation to the Foundation and that the balance date is dated and signed on behalf of the Board by two Board members.
- (d) At the Annual Meeting the Foundation shall lay before the members present financial statements showing the results of the operations and cashflows for the period ending on the balance date and the financial position as at that date. The financial statements shall be accompanied by a report of the Board as to the state of the Foundation's affairs. The balance date shall be 30 June or such other date that has been agreed by the Board of the Foundation.
- (e) A copy of the financial statements shall, 14 days prior to the Annual Meeting, be available for inspection by members of the Foundation at the office of the Foundation or at such other place or places as the Board thinks fit during business hours.
- (f) The Auditors shall make a report to the members of the Foundation on the financial statements examined by them and laid before the Foundation at the Annual Meeting during their tenure of office and such report shall state:
 - (i) Whether or not they have obtained all the information and explanations they have required; and

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- (ii) Whether, in their opinion, proper accounting records have been kept by the Foundation so far as appears from their examination of those records; and that
 - (iii) The financial statements shall be audited in accordance with applicable legislation.

18. Reports

The Board shall furnish yearly to the Synod of the Diocese of Auckland a report compiled and furnished in compliance with Title F Canon III Clause 4 of the Canons of the General Synod of the Anglican Church in Aotearoa, New Zealand and Polynesia.

19. Amendment to Rules

These Rules may be altered, added to or repealed by a resolution passed by the Foundation at an Annual Meeting or an Extraordinary Meeting, provided however that no amendments would result in the Foundation losing its exclusively charitable status. Furthermore, any amendments to clauses 3, 4, 8, 9, 10, 11, 13, 18 and 19 shall only be effected with the consent of the Synod of the Diocese of Auckland.

