

YESHIVAH CENTRE – GOVERNANCE REVIEW PANEL

Explanatory memorandum accompanying proposed structure document

Shvat 5776

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This memorandum is provided to assist in understanding the Governance Review Panel's (**GRP**) proposed restructure for the Yeshivah Centre.

The GRP

The GRP was appointed in July 2015 by the “trustees” of the Yeshivah Centre (that is, the members of the legal associations comprising the Yeshivah Centre) to propose a new structure

The members of the GRP are:

- Mrs Leah Balter
- Mr Ray Finkelstein QC
- Dr Hugo Gold
- Mr Yosi Loebenstein
- Mr Marcus Solomon SC

The GRP engaged in a process of public consultation. To that end ;

- (a) it opened a website providing information about the GRP;
- (b) it prepared an Issues Paper directing attention to the issues that it was to consider and placed the Issues Paper on the website;
- (c) it invited and received submissions from interested persons;
- (d) it engaged in direct consultation with stakeholder groups and individuals in Melbourne in the periods 11 August to 14 August 2015 and 8 September to 10 September 2015.

Present situation

The Yeshivah Centre is a large and complex organisation that provides a comprehensive range of educational, religious and welfare facilities to the Melbourne Jewish community.

The Yeshivah Centre is presently comprised of three legal entities. These entities are “associations” incorporated under relevant legislation. These associations are:

- (a) Chabad Institutions of Australia Inc (**CIA**). This entity operates all the religious functions and activities of the Yeshivah Centre, including the religious studies programme of the schools, the Shul and satellite minyonim, Chabad Youth, the Kollel and Ohel Chana. It also operates the Gurewicz Early Learning Centre.
- (b) Yeshivah Beth Rivkah Colleges Inc (**YBR**). This entity operates the “secular” arm of the schools. There is a requirement that two separate entities carrying on the secular and religious components of the School. The requirement is a feature of the Commonwealth Government funding scheme for the private school sector. It applies to all Jewish schools in Australia.
- (c) Chabad Properties Inc (**CP**). This entity owns or leases all the properties in which the Yeshivah Centre’s activities are undertaken.

Over several decades the Yeshivah Centre has developed into a significant enterprise and has become one of the foremost institutions of the Melbourne Jewish community.

Nonetheless there exist several governance features that should be changed to reflect community expectations for good governance:

- notwithstanding the significant number of people associated with the Centre, only a very small number of select individuals were entrusted with the management of the Centre and the preservation of its ethos. These people are usually referred to as “trustees”
- the board or “Committee of Management” was selected from the small trustee group. There was often not a clear demarcation between the trustees and the management of the associations;

- the three associations were in effect managed as one entity with the same board dealing with all issues. That small group of people managed, on a voluntary basis, an extremely significant range of responsibilities. In addition it was difficult for stakeholders to understand how the different interests of the various organisations within the Centre were managed or accommodated;
- the rules for YBR and CP make no reference to any religious ethos or objective. The rules for CIA contain one objective relating simply to the Jewish religion and Orthodox Jewish education. There is no reference in any of the rules to a Chabad ethos or religious philosophy. There is no provision enshrining the purposes of the association to protect them from being amended.

GRP conclusions

The GRP benefited greatly from the written and oral submissions provided and takes the opportunity to thank all of those people who took considerable time and thought to prepare and present submissions. To a considerable degree the submissions shaped the form of the proposed structure .

The GRP came to the following general conclusions:

- incorporated associations are no longer the most appropriate vehicle for the operation of the Centre. It would be preferable to move to a company structure which provides for a greater degree of flexibility, regulation and accountability. This also reflects the trends in other Australian Jewish day schools;
- the schools (and the GELC) should be separately managed from the other organisations within the Centre;
- there should be a ‘roof body’ to oversee governance and management of the Centre as a whole and to manage and resolve the competing priorities between the various organisations. That roof body should contain equal representation from the schools and the other organisations together with an independent president. It should also have other independent directors. The roof body should control the property holdings and the

centralised administrative services for the Centre and engage a Corporate CEO for the corporate and financial management of the Centre as a whole;

- there needs to be constitutional and structural protection of the Centre’s Chabad-Lubavitch ethos. In that regard, contemporary standards of governance and accountability indicate that the safeguarding of the ethos cannot be vested in select individuals but needs to be enshrined in binding rules and processes;
- there are many divergent views about the manner in which the Chabad ethos should be orientated and implemented. Apart from general statements in the Constitution of the new companies it is not possible to prescribe in rules how the ethos should be implemented. Ultimately that is a matter for the Melbourne Chabad-Lubavitch community itself to determine through the processes proposed in the new structure;
- it must be recognised in any new structure that the Centre and its constituent organisations “belong” to the Chabad-Lubavitch community. The organisations have cultivated an inclusive and embracing attitude towards the broader community and it is important to maintain that approach. Nevertheless, structural recognition of the ultimate ownership by the Chabad-Lubavitch community is more important;
- there is a critical need to provide for representation of the stakeholders of the Centre in its management. That requires broadening very considerably the membership and board representation of the various organisations while at the same time ensuring that the Centre’s ethos is safeguarded;
- broadening the membership base and moving to a company structure will provide a much greater degree of transparency, accountability and due process, all of which are necessary to satisfy contemporary standards of governance;
- it is important that the new structure provide for continuity and the maintenance of both religious and corporate knowledge and experience;
- the new structure should require that the boards contain a minimum number of people with relevant qualifications.

Proposed structure

The GRP proposed structure is designed to give effect to these conclusions. It is set out in the accompanying document and summarised in 2 flowcharts, a summary diagram and more detailed one.

In essence the proposal involves the following:

- the Centre will comprise three companies, each with its own board of management
- each company will have a statement in its rules enshrining the commitment to being a Chabad-Lubavitch organisation;
- one company will be the “roof body” (Yeshivah Centre Limited or “YCL”), one will run the schools (Yeshivah Beth Rivkah Schools Limited or “YBRSL”) and a third representing *Anash* (members of the Chabad Lubavitch community) generally will operate the other organisations within the Centre such as the Shules, Chabad Youth, the Kollel, Ohel Chana etc (Chabad Institutions of Victoria Limited or “CIVL”);
- YCL’s board will be made up of 3 directors appointed by the YBRSL board, 3 directors appointed by the CIVL board and an independent president selected by a three quarters majority of the YCL board. In addition, to ensure continuity:
 - for the first two terms (i.e., 6 years) the trustees of the old associations as at 31 December 2015 will appoint 2 independent directors and after that time the 2 independent directors will be appointed by YCL’s board;
 - for the first term (i.e., 3 years) the trustees may appoint an additional person who served on the Interim Committee of Management under the old system (this will also apply to the other companies where up to 2 additional former members of the Interim Committee may be appointed for the first term);
 - Rabbi Chaim Tzvi Groner will be a permanent non-voting member of the board;
- YCL will control the properties, oversee the financial management of the Centre (including approval of budgets) and resolve any competing interests between the various parts of the Centre. To assist in this, it will provide centralised administrative services for the Centre, and will engage a Corporate CEO and company secretary. Its board will

contain people with relevant expertise including at least one lawyer, accountant, “*Klei Kodesh*” Chabad Rabbi, a business person or other relevant professional and a person experienced in educational or organisational management;

- YBRSL will operate the schools and the Gurewicz Early Learning Centre. All parents whose assessed fees are paid up will be entitled to membership and voting rights. It will have a board of 9. Five will be appointed by YCL with one of those to be a Chabad Rabbi. Four will be elected by parents with one of those also to be a Chabad Rabbi. The board will have a minimum number of people with relevant expertise;
- CIVL will operate the other organisations within the Centre. All paid up shomer Shabbat members of the minyonim within the Centre will be entitled to membership and voting rights. This company is intended to be the organisation for *Anash*. Therefore any person in Victoria self-identifying as an adherent of Chabad-Lubavitch will be entitled to membership, subject to a limit on increase in membership in any one year. CIVL will have a board of 9 elected by its membership. The board will have a minimum number of people with relevant expertise. The board will establish sub-committees for each constituent organisation.