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|  | **Name of Item**  Briefing on the definition of membership in the CAUL constitution | **Agenda Item**  (office use only) |
| **Paper for CAUL Executive 2018/6**  **28 November, 2018** | **From:** Harry Rolf  **Name of Sponsor:** | |
| **Draft resolution(s):**   1. that CAUL proceeds to incorporate under its current hybrid membership model, and, 2. that the objectives of the organisation are updated to reflect the dual representation of individual and organisational interests. | | |
| Briefing on membership This briefing describes the outcomes of my investigation into whether the university librarian (an individual responsible for the library) or the university (the organisation) should be the member of CAUL.  To prepare this briefing I have read the Associations Incorporation Act (1991), reviewed the constitutions of several[[1]](#footnote-1) other associations, and sought advice from the Associations Forum and ECU’s legal team with the help of Constance Wiebrands.  I have established that CAUL’s membership model is a hybrid of the professional and industry association models but closer to an industry association (an association founded and funded by organisations that operate in a specific industry i.e. university libraries) than a professional association (one that seeks to further a particular profession and the interests of individuals engaged in that profession).  It is hybrid because the member is an individual, but the individual is tied to the role that they play in the institution i.e. the person responsible for the library. Membership is not open to any individual/s in the organisation, and only one person from the organisation can be the CAUL member. If the member were the organisation, CAUL would not necessarily be in any position to influence who represented that organisation at CAUL.  I have not found any reason that prevents CAUL from incorporating under its current hybrid model. While there is a risk that universities might have an issue with the current membership model (particularly in regards to paying fees for the librarian or equivalent to join CAUL), I believe that there is a greater unknown risk in changing the membership model at this time without a proper review of what a new model looks like. If problems arise with the membership model during or after incorporation then this issue can be revisited, following incorporation it would be sensible to assess and review CAUL’s membership model regardless time permitting.  The important point here is that CAUL is currently able to function under its membership model.  My **recommendation** is that CAUL proceeds to incorporate under its current hybrid membership model and that the objectives of the organisation are updated to reflect the dual representation of individual and organisational interests. Background investigation Membership of CAUL is described under part 2 of the constitution, section 2.1 clause 2.1.1 as being ‘open to the University Librarian (or equivalent) of institutions which have representation on Universities Australia.’ This is consistent with how CAUL currently operates.  However although we have individuals as members, our fees are indicative of organisational membership. For example, $13,000 for an individual membership may be considered unusual. In other similar incorporated associations such as CAUDIT members are the universities.  So the question arises - who should the CAUL member be and is there a correct approach?  In my review of the issue I have not found any rule in the Associations Incorporation Act 1991 which says who the member must be, and in reviewing the constitutions of other similar associations and corporations I have only found that incorporated associations tend to designate the organisations as member ([such as CAUDIT](https://www.caudit.edu.au/corporate-documents)), and in corporations it may vary, in some cases there are provisions for both, such as in the constitution of the [Australasian Society of Association Executives](https://ausae.org.au/Constitution).  I have also sought advice on this matter. With assistance from Constance Wiebrands I sent a letter to ECU’s legal team, and I have contacted the Associations Forum with a similar request for advice.  I have sought advice from ECU’s legal team with the assistance of Constance Wiebrands and the Associations Forum an organisation that specialises in providing advice to associations on matters of constitution drafting and incorporation in Australia. ECU Legal’s response [1] Do your university’s rules prevent an individual in a position such as ‘the librarian’ being a representative member of a peak professional association, and under what circumstances would this be problematic?  ***[Response]*** *ECU’s ‘Consultancy Policy’ sets out some of the considerations.  Assuming CAUL’s run as a not-for-profit then membership should not be a problem but obviously it could become a performance issue if ECU’s resources were being diverted to a third party in a manner which is not reasonable.*  [2] Does your university have a preferred membership model for associations like CAUL?   1. If so, what factors would influence your university’s preference for individual membership vs organisational membership?   ***[Response]*** *From one perspective, organisational membership is perhaps slightly cleaner because it makes it clear that the university has the relevant relationship with CAUL, not the individual persons, particularly given there is an annual fee.  If there were no fee then individual memberships would perhaps appear more appropriate from another perspective.*  [3] If you have some experience of the Associations Incorporation Act 1991, can you see any reason why individual membership would not be appropriate? Or would the choice of individual membership conflict with any of the Act's requirements.  ***[Response]*** *I seem to recall that the Society of University Lawyers (SOUL) was an incorporated association with the ACT, which had a requirement for annual statutory audits (although not necessarily by a qualified auditor).  Around 2015, SOUL decided to shift to becoming a company limited by guarantee and registered with the ACNC which provided an exemption from any reporting obligations while under $250k annual revenue.  I think it cost around $15k to get an external legal firm to do all of the work.*  *I don’t recall that the ACT’s reporting obligations were too onerous though.  From an administrative perspective CAUL might want to consider its own tax and reporting requirements.* Advice from the Associations Forum I discussed the questions of CAUL’s membership with Kathy from the Associations Forum. To summaries our conversation it seems that CAUL’s membership follows a hybrid model with CAUL operating as both a professional association (the individual librarians) and industry association (the libraries).  We discussed a number of questions to try and determine the kind of organisation:   1. Can anyone who is a university librarian (part of the profession) join CAUL? 2. Who nominates the individual to be a member of CAUL? 3. If a member leaves their university, does their membership go with them? 4. Would a member take a view contrary to their university?   The distinguishing features of CAUL are:   1. Technically yes, but only one person per university. Other kinds of librarian’s that work in a university library are represented but are not eligible to be members. 2. The person holding the position of university librarian (or equivalent) is essentially determine by the university. 3. Membership does not transfer with a person if they leave the position but remains with the position; 4. The person holding the position of member would be unlikely to take a view that dissents from that of their institution, although this option is available.   Answers to these questions suggest that CAUL is closer to an industry association than a professional association. Some thoughts on altering CAUL’s current membership model Based on this feedback it seems that CAUL’s members should ideally be the university libraries, but since they are organisational units rather than independent entities (an organisation separate to the university) this is not possible. It must be the university that becomes the member if CAUL’s membership model is to be that of an industry association. This is the model used by CAUDIT.  Alternatively, if CAUL preferred to move closer to a professional association the membership could be widened to allow more than a single person from an institution to be a member, the eligibility criteria could be widened and different categories of membership could be introduced. This would make CAUL closer to ALIA than CAUDIT.  I think that the right way to address this question is to review the membership model, looking at how other models are constructed and which would be most suitable. This would include fees, types of membership and benefits. A question could then be put to the members with a recommendation on the most appropriate model if it was different to the current one. | | |
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1. [CAUDIT](https://www.caudit.edu.au/corporate-documents), [ACGR](https://www.acgr.edu.au/about/acgr-constitution/), [ALIA](https://www.alia.org.au/node/426/laws) [↑](#footnote-ref-1)