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# Civil Engineering Foundation Governance Guide

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## **THE FOUNDATIONS OF THE UNIVERSITY OF SYDNEY**

For over 50 years, the University of Sydney's Foundations have harnessed the generosity of donors and benefactors across the community, securing vital funding for research and education in virtually all the University's active fields.

To ensure the ongoing success of its Foundations, the University has developed policies and procedures to guide Foundation activities. These guidelines exist to ensure the University, through the actions of its Foundations, continues to meet both its legal requirements and the expectations of the community with respect to the transparent and accountable operation of a public institution.

These policies and procedures are part of a governance framework which derives its authority from the *University of Sydney Act 1989*, an act of the NSW Parliament. As a member of a University Foundation Council, you are obliged to comply with this Act and any University by-laws or Rules.

This guide provides an overview of the governance issues that are particularly relevant to your role as a Foundation Councillor. It comes with a kit of the relevant Rules, policies and procedures to which you will need to refer during your time in office.

Some members of Foundation Councils also have roles as University staff; those members who are not staff are acknowledged as Affiliates of the University. Whether staff or Affiliates, the University recognises the contribution of all Foundation Councillors, who give up their time to further the aims of the Foundation and the University as a whole. Councillors are encouraged to make the most of being a part of the University's vibrant intellectual life, and will receive invitations to a wide range of University programs and events.

The University also provides access to a range of services to assist you in your work with the Foundation. Beyond governance advice provided by the Office of General Counsel, the University's Development and Advancement teams stand ready to assist with fundraising and donor management, while Web & Print Production can help with brand guidelines and templates, and creating and maintaining websites and printed material. Councillors are also covered by the University's Directors' and Officers' (D&O) insurance and Public Liability insurance.

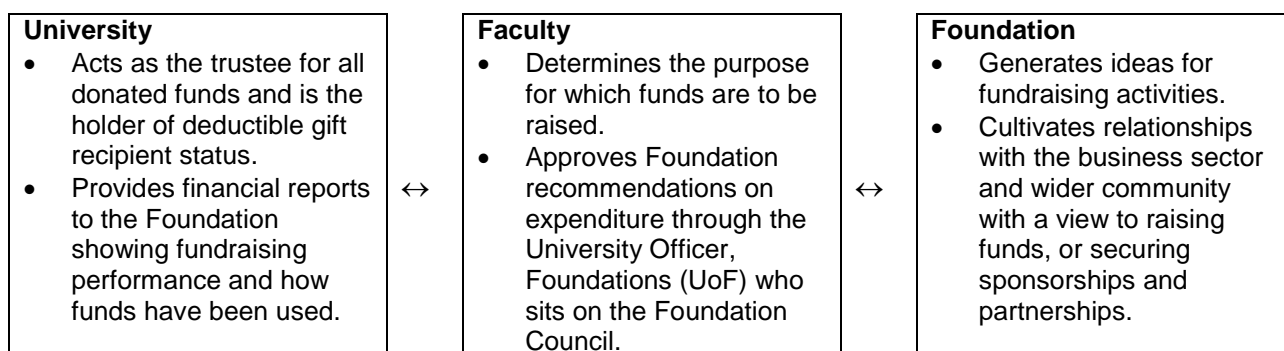
## **THE CIVIL ENGINEERING FOUNDATION**

The object of the Civil Engineering Foundation is to increase the resources of the University (by fundraising or by otherwise securing gifts and grants or by securing the provision of services or other non-financial contributions, including community engagement) to assist the Senate and the Vice-Chancellor in the promotion of the object of the University in relation to the field of civil engineering through the School of Civil Engineering.

## THE ROLE OF FOUNDATIONS

The Foundations' purpose is to increase the resources of the University by fundraising or by otherwise securing gifts and grants or by securing the provision of services or other non-financial contributions. The governance structure supporting Foundations has been designed to allow Foundation Councils to focus on this task.

As illustrated below, the University and Faculty are responsible for matters such as trustee obligations, determining fundraising aims, and approving Foundation expenditure. This frees up the Foundation's time and energy to concentrate on fundraising.



Foundations are governed by model Rules approved by Senate. The Rules establish the role of Foundations in the following terms → **Rule 4.2:**

- (a) seek to acquire by gift, bequest or devise to the University, property (including money, land, goods, services and other rights or benefits) (**Resources**) subject to prior written approval of each acquisition (being an approval of the specific acquisition or approval of a program of acquisitions of which the specific acquisition forms part), in accordance with the University's (Delegations of Authority - Administrative Functions) Rule 2010 (as they may be from time to time);
- (b) provide advice to the School of Civil Engineering about the application of any Resources;
- (c) provide opportunities for admission as Members of the Foundation and participation in the Foundation's activities as Members, in accordance with these Rules, of any persons including, but not restricted to, alumni of the University, representatives of industry, the professions, government or the community, staff and students of the University;
- (d) recommend to the University Officer (Foundations) particular purposes (within the scope of the Foundation's Object) for which the Foundation may seek to acquire Resources, including for example (but not limited to) libraries, conferences, seminars, lectures, publications, scholarships, grants to undergraduate or post-graduate students, travelling scholarships, travel by scholars, researchers or teachers, secondments, visiting scholar programs, acquisition of equipment, relationships with alumni, industry, the professions, government or the community, the purchase or construction of buildings or other facilities;
- (e) encourage philanthropy and other charitable activity in support of the Object; and
- (f) arrange or conduct activities such as lectures, seminars, conferences, publications or any other such activities, consistent with the object of the University, for which a charge is made or free of charge, on condition that approval of the University Officer (Foundations) is given either to the specific activity or to a program which includes the specific activity.
- (g) arrange sponsorship with external organisations consistent with the Object, on condition that approval is given either to the specific sponsorship activity or to a program which includes the sponsorship activity in accordance with the Delegations of Authority – Administrative Functions Rule (as they may be from time to time);

- (h) arrange partnerships with external organisations or bodies consistent with the Foundation's Object, on condition that approval is given to the partnership in accordance with the Delegations of Authority – Administrative Functions Rule (as they may be from time to time).

Fundraising activities must only be conducted with written approval in accordance with the *University of Sydney (Delegations of Authority – Administrative Functions) Rule 2010* (the Delegations) → **Rule 9.1**.

Gifts and bequests must only be accepted in accordance with the Delegations → **Rule 9.2**. Refer to the University's *Gift Acceptance Policy* and *Gift Acceptance Procedures* for guidance on what this means.

Sponsorship arrangements with external organisations must be approved by the Provost.

Partnerships with external organisations must be approved in accordance with the Delegations.

Further information is available on the Foundations website:

<http://sydney.edu.au/legal/foundations/index.shtml>

## ROLES AND RESPONSIBILITIES WITHIN FOUNDATIONS

A Foundation's internal workings are governed by its Rules. Key points are outlined below. Refer to your Foundation's Rules for full details.

### FOUNDATION COUNCIL MEMBERS

Each Foundation has a Council of between six and 18 members → **Rule 6.1**.

All Council members are to be selected on the basis of their capacity to contribute to the effective working of the Council (including at least one member having financial expertise<sup>1</sup>).

Given that the purpose of Foundations is to increase the resources of the University, the "effective working of the Council" will be measured against its success in achieving this goal.

**Rule 6.2** gives further details of the University's expectations of members of Foundation Councils:

Members appointed to the Council should be selected on the basis of their capacity to contribute to the effective working of the Council by having necessary expertise and experience, an appreciation of the role, values and independence of the University and the capacity to appreciate what the University needs from the external community, and the external community needs from the University, through the activities of the Foundation. It is essential that, unless Senate otherwise agrees:

- (a) at least one member of the Council has financial expertise (as demonstrated by relevant qualifications and experience<sup>1</sup>);
- (b) at least half of the members of the Council are not University employees, agents or contractors or former University employees, agents or contractors and less than three (3) years have passed since ceasing employment or engagement with the University; and,
- (c) a majority of the members of the Council be independent of any business or other relationship that could materially interfere with, or could reasonably be perceived to materially interfere with, the exercise of their judgement in the interests of the University.

The remaining clauses of Rule 6 provide direction on such matters as:

- Categories of Foundation Councillors → **Rule 6.3**.
- The status of ex officio members → **Rules 6.4 and 6.5**.
- Length of members' terms and eligibility for re-election → **Rule 6.16**.
- Nomination committee → **Rule 6.11**.

### THE COUNCIL

The Council's role is to ensure the Foundation is managed effectively to achieve its objectives. This includes formulating strategies and procedures, and identifying and managing risk.

In particular, a Foundation Council is responsible for:

- advising the UoF on the performance and operation of the Foundation;
- ensuring the preparation of an annual budget → **Rule 9.5**; and,
- ensuring the preparation of an annual report and consolidated financial statements, detailing the Foundation's strategy for achieving its objectives, its progress, and its financial performance → **Rule 9.6**.
- ensuring the Foundation meets all costs of its operations without drawing on, depending on or committing other University income or capital resources except as approved in writing in advance by the UoF or Provost & Deputy Vice Chancellor (DVC) → **Rule 9.9**.

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<sup>1</sup> It is not expected that this person be at CPA or CA level, but it is expected that they be someone who has studied finance and/or accounting and has actually applied that study with experience in a financial or accounting role. For example an MBA alone would not be adequate unless the person had experience in applying that knowledge in a finance- or accounting-related role.

The Senate will take note of, but is not bound by, any resolution of the Council → **Rule 6.18.**

## **Compliance**

All Council members are required to comply with the University's *Code of Conduct* in respect of their activities relating to or impacting upon the University and/or its staff or students.

The Council will comply with the *University of Sydney Act*, University policies, guidelines and Delegations, and all other relevant laws including the *Charitable Fundraising Act* (NSW).

## **Annual reports and financial statements**

The accounts of the Foundation must be made available to all Foundation members at least **21 days** prior to the annual general meeting (AGM) → **Rule 9.7.**

The annual report and financial statements must be approved by Council and forwarded to the University's Chief Financial Officer for submission to the Senate<sup>2</sup> within three months of the end of the financial year → **Rule 9.6.**

Divisional Foundations need to report to the Council of their umbrella Foundation by **28 February** each year to enable consolidated reporting by the umbrella Foundation.

## **Expenses**

No Council member is entitled to receive remuneration for acting in that capacity except reasonable remuneration on a basis which has been approved in writing by the Vice-Chancellor on the recommendation of the University Officer (Foundations) → **Rule 6.13.**

A Council member may be reimbursed for reasonable expenses incurred with the prior consent of the University Officer (Foundations). All reimbursements to Council members should be noted in the formal minutes of the Council → **Rule 6.14.**

## **Council meetings**

Refer to the Rules for guidance on the following:

- When and how to hold Council meetings → **Rule 6.8.**
- Formal requirements for meeting minutes → **Foundation Procedures, clause 5.**

## **Relationship with the University Officer, Foundations (UoF)**

Council will advise the UoF on the following: → **Rule 6.1**

- the performance of the Foundation;
- the operation of the Foundation;
- the management of the Foundation's activities and resources;
- the strategies, policies and procedures to be adopted by the Foundation;
- strategies for ensuring the financial viability and sustainability of the Foundation;
- Foundation budgets;
- the identification and management of actual or contingent risks to the University associated with the activities of the Foundation including risks of:
  - adverse financial loss or consequences;
  - legal liability, including liability in relation to occupational health and safety and discrimination;
  - damage to the University's reputation;

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<sup>2</sup> In practice, submission of the Foundation's report to Senate is to go to the Chief Accountant at Margaret Telfer Building K07, for consideration by the Senate's Audit and Risk Management Committee. (Copies are not sent to Senate directly or to Fellows Directly).

- impairment of the University's ability properly to perform its functions; and
- real or apparent maladministration, corruption or lack of probity.

## **THE CHAIR**

Schedules A and B to the Rules set out the role of the Chair and how meetings are to be conducted.

### **Appointment**

The Chair may be appointed by the Council or elected by the members of the Foundation → **Rule 7.1 and 7.4.**

The Chair's term of office will be determined by the Council in accordance with the Rules → **Rule 7.2.**

### **Role**

Chair all meetings of Councillors and/or members. (In the absence of the chair, the deputy chair or, in absence thereof, a person elected by members present, may act as the Chair).

### **Duties**

Determine the conduct of each meeting of the Foundation and the procedures to be adopted at the meeting, including, if applicable, the procedure for the conduct of the election of any elected members of the Council.

### **Disputes**

If there is a dispute at a meeting about a question of procedure, the Chair may determine the question and no vote may be taken by members on such determination.

### **Adjournments**

The Chair may adjourn a meeting and must adjourn the meeting if the meeting directs the Chair to do so. (An adjournment must not be for a period exceeding 30 days).

### **Decide Method of Voting**

The Chair may direct that instead of a show of hands, that a poll will be taken and the manner of that poll. A resolution put to the vote of a meeting is to be decided on a show of hands unless a poll is directed by the Chair of the meeting.

The Chair does not have a casting vote. Every member has one vote on a show of hands and on a poll.

The Chair may determine any dispute about admission or rejection of a vote, and such determination will be final and conclusive.

A resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.

## **OFFICE BEARERS**

**Rule 7** enables a Foundation to appoint various internal office bearers.

Foundation office bearers do **not** have the authority to approve any of the following activities:

- accepting gifts or bequests by the Foundation or the University;
- expending funds;
- engaging staff; or,
- making contracts or agreements binding the Foundation or the University.

This authority rests with the University Officer, or an officer senior to the UoF, or the Senate itself, depending on the monetary amount involved in any given case.

The Council may determine office bearers' titles → **Rule 7.5.**

## **SUB-COMMITTEES**

The Council will establish a nominations committee → **Rule 6.11.**

The Council may establish sub-committees or consultative or advisory committees. Each committee must include at least one Council member → **Rule 6.10.**

The Council must determine the name, terms of reference and procedures of any sub-committee or consultative or advisory committee → **Rule 6.10.**

Committees or consultative or advisory committees may not be delegated the responsibilities or role of the Council.

## **DIRECTOR**

The Council may appoint a Director of the Foundation, who may but need not be the same person as the UoF. The appointment, role, responsibility and remuneration of the Director must first be approved by the DVC → **Rule 7.6.**

## UNIVERSITY OFFICER FOUNDATIONS (UoF)

University Officer (Foundations) means a person appointed in accordance with **Rule 8.1**.

### Appointment

A “University Officer (Foundations)” will be appointed to each Foundation by the DVC. The UoF has the important duties of exercising relevant powers under the Delegations and ensuring compliance with the University’s policies and procedures.

The UoF must be an officer of the University who is a delegate of the Senate, authorised to exercise functions pursuant to the Delegations. It will usually be the Dean most closely linked with a particular Foundation, but after consultation with the Council, the DVC may appoint a Head of School or other person to that role → **Rule 8.1**.

### UoF attendance at Council meetings

The quorum for a Council meeting shall be no less than four (4) Council members of whom at least one must be the University Officer (Foundations) (or his or her representative), or shall be such larger number of Council members (always including the University Officer (Foundations) or his or her representative) as the Council may determine → **Rules, Schedule A, 2.1**.

The UoF needs to attend each Council meeting. If the appointed UoF takes leave from their position at the University, the person appointed to act in that position has full delegation of the position and is also, by holding the position, the UoF during that time.

If a UoF is unable to make a meeting due to illness or other commitment, she or he may verbally or in writing assign a representative who will be the UoF for the meeting. That person however won’t carry delegated authority, so approvals under University Delegations would be referred to the appointed UoF after the meeting.

### Duties

The UoF is responsible for:

- exercising any functions of administrative authority delegated by Senate as appropriate in accordance with the University’s Delegations → **Rule 8.2**.
- ensuring that the Foundation’s conduct is in accordance with the University’s policies and procedures → **Rule 8.3**.
- ensuring that any agreement, representation or purpose specified in relation to each fundraising activity is fully complied with → **Rule 8.4**.
- ensuring that a register of members of the Foundation is maintained, stating each member’s name and address (as notified by the member from time to time), class of membership (if applicable) and the date on which that member became, or ceased to be, a member → **Rule 10.4**.

**Rule 9.4** requires the UoF to:

- ensure that all funds raised by or through the Foundation and monetary gifts are deposited promptly to the credit of bank accounts of the University as specified by the Chief Financial Officer;
- establish and maintain proper accounting records and systems of financial control, in accordance with University policies and procedures from time to time, and as directed by the Chief Financial Officer; and
- cause the accounts of the Foundation to be prepared and made out as at the end of the financial year of the University preceding the next annual general meeting of the Foundation.

The UoF may, in consultation with the Council, appoint or engage persons or entities to assist the Foundation in its operations → **Rule 8.5**.

## MEMBERS OF FOUNDATIONS

In addition to and distinct from Councillors, a Foundation can allow any number of individuals or organisations to become members of the Foundation. Councillors are members of the Foundation where applicable.

**Rule 10** gives the Council discretion to admit members, create different categories of membership, and determine the circumstances under which membership ceases.

Two important points about members:

- Membership confers no legally enforceable rights, benefits, or entitlements → **Rule 10.3**.
- Members are entitled to vote at annual general meetings → **Schedule B, 5.6**.

Refer to the clauses of **Rule 10** for direction on such matters as:

- Maintaining a register of members → **Rule 10.4**.
- Representatives of corporate members → **Rule 10.5**.

### Membership fees versus donations

Membership fees are always subject to GST, they are **not** donations, and they are **not** tax-deductible as gifts.

For tax purposes, a “gift” is defined as follows:

- There is a transfer of a beneficial interest in property (including cash). This beneficial transfer must be unconditional.
- The transfer is made voluntarily.
- The transfer arises by way of a benefaction (i.e. the University is advantaged in a material sense).
- No material benefit or advantage is received by the giver in return. The University might thank a donor or mention their name in print, but if, for example, a donor’s name was to be prominently displayed on the campus, the “donation” may be deemed not a donation but a payment for a right to advertise.

### Membership renewals

A membership fee to join is normally mandatory. A gift, on the other hand, is voluntary.

On membership renewal forms and receipts, mandatory membership fees must be clearly distinguished from voluntary gifts. It should be made clear that donations are tax deductible, membership fees are not.

Gifts must be given **voluntarily**. If you put a donation section on a membership form, you do so on the basis that respondents are able to become members without any gift.

If your Foundation does not provide any benefit for its membership fee, you might choose to not call it a membership fee but simply ask for a donation instead.

Always state on your donation area that the donation will be used for the objects of the Foundation. For further advice on membership/donation forms, contact the Group Secretary’s Office.