

CARERS ASSOCIATION  
OF  
WESTERN AUSTRALIA INCORPORATED

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CONSTITUTION

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**CARERS ASSOCIATION OF WESTERN AUSTRALIA INCORPORATED**  
**CONSTITUTION**  
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CARERS ASSOCIATION OF WESTERN AUSTRALIA INCORPORATED  
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**1. Name**

The name of the association is Carers Association of Western Australia Incorporated.

**2. Definitions and interpretation**

**Definitions**

2.1. The following definitions apply:

- 2.1.1. “**Act**” means the *Associations Incorporation Act 2015 (WA)* as amended.
- 2.1.2. “**Annual General Meeting**” means the annual general meeting of the Association as described in rule 11.
- 2.1.3. “**Association**” means Carers Association of Western Australia Incorporated to which this Constitution applies.
- 2.1.4. “**Board**” means the board of Directors being the management committee of the Association.
- 2.1.5. “**Board Meeting**” means a meeting of the Board.
- 2.1.6. “**Carer**” means an individual or person providing care and assistance to another person or individual that:
  - (i) is living with disability, chronic or terminal illness;
  - (ii) is frail due to age;
  - (iii) has mental ill-health; or
  - (iv) has a drug and/or alcohol dependency,as further defined under the *Carers Recognition Act 2004 (WA)*.
- 2.1.7. “**Chairperson**” means the Director holding office as the chairperson of the Association.

- 2.1.8. “**Chief Executive Officer**” means the person holding the office of chief executive officer of the Association and includes a person appointed by the Board as acting Chief Executive Officer.
- 2.1.9. “**Commissioner**” means the person for the time being designated as the “Commissioner” under Section 153 of the Act.
- 2.1.10. “**Constitution**” means this constitution as amended in accordance with its terms and the Act.
- 2.1.11. “**Co-opted Directors**” has the meaning given in rule 8.6.2.
- 2.1.12. “**Deputy Chairperson**” means the Director holding office as deputy chairperson of the Association.
- 2.1.13. “**Director**” means a person appointed or elected to the office of director of the Association.
- 2.1.14. “**General Meeting**” means an Annual General Meeting or Special General Meeting convened in accordance with rule 11.
- 2.1.15. “**Member**” means an Ordinary Member or any associate member of the Association having the rights described in rule 7.14.
- 2.1.16. “**Ordinary Member**” means a member of the Association described in rule 7.13.
- 2.1.17. “**Special General Meeting**” means a general meeting of the Association other than the Annual General Meeting.
- 2.1.18. “**Special Resolution**” means a resolution passed by Ordinary Members in accordance with Section 51 of the Act.
- 2.1.19. “**Treasurer**” means the Director holding the office as treasurer of the Association.

## **Interpretation**

- 2.2. In this Constitution, except where the context otherwise requires:
  - 2.2.1. the singular includes the plural and vice versa, and gender includes all other genders;
  - 2.2.2. another grammatical form of a defined word or expression has a corresponding meaning;
  - 2.2.3. a reference to a person includes a partnership, joint venture, unincorporated or incorporated association, corporation and a government or statutory body or authority;

2.2.4. a reference to a rule, paragraph, schedule or annexure is to a rule or paragraph of, or schedule or annexure to, this Constitution; and

2.2.5. a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced.

### **3. Financial year**

3.1. The first financial year of the Association was the period notified to the Commissioner.

3.2. Each subsequent financial year of the Association is the period of twelve (12) months commencing 1 July, being the termination of the preceding financial year.

### **4. Purpose of the Association**

The purpose of the Association is the promotion of the interests of Carers by:

4.1. focusing on self-help, self-efficacy, self-advocacy and self-well-being;

4.2. co-ordination of information and support services for Carers, including representation on networks, boards and advisory committees;

4.3. formation of forums, meetings and peer support groups for Carers in need;

4.4. increasing the awareness, recognition, value and role of Carers to community and service providers, local, state and federal governments, health services, the private sector, current and potential funders and volunteer groups;

4.5. providing benevolent relief to and developing innovative solutions and services to meet the needs of Carers;

4.6. increasing focus on the needs and support of Carers in rural and regional areas outside the Perth metropolitan area who are in need of benevolent relief;

4.7. focusing attention and recognition on the need for emerging cohorts of ethnically diverse Carers, first nations Carers, young Carers and Carers from the lesbian, gay, bisexual, transgender, queer, intersex, asexual (and other identities) community;

4.8. developing and providing lectures, classes, workshops, webinars and online activities in furtherance of the purpose;

4.9. liaising and partnering with other organisations, at both a state and national level, with similar purpose;

- 4.10. promoting and delivering opportunities for education and training of Carers;
- 4.11. recognising and promoting the economic wellbeing of Carers in need;
- 4.12. pursuing opportunities to diversify income and revenue to further the purpose of the Association; and
- 4.13. doing all such things which are incidental to the Association's purpose.

## **5. Not-for-profit body**

The assets and income of the Association shall be applied solely to further its purpose and no portion shall be distributed directly or indirectly to Members, except as genuine compensation for services rendered or expenses incurred on behalf of the Association.

## **6. Powers of the Association**

- 6.1. Subject to the Act and this Constitution, the Association may do all things necessary or convenient for carrying out its purpose, and in particular, may:
  - 6.1.1. acquire, hold, deal with, and dispose of any real or personal property;
  - 6.1.2. open and operate bank accounts;
  - 6.1.3. invest its money as trust funds may be invested under the *Trustees Act 1962* Part III or in any other manner authorised under this Constitution;
  - 6.1.4. borrow money upon such terms and conditions as the Association thinks fit;
  - 6.1.5. give such security for the discharge of liabilities incurred by the Association as the Association thinks fit;
  - 6.1.6. appoint agents to transact any business of the Association on its behalf; and
  - 6.1.7. enter into any other contract it considers necessary or desirable.
- 6.2. The Association may, unless this Constitution otherwise provides, act as trustee and accept and hold real and personal property upon trust, but the Association does not have power to do any act or thing as a trustee that, if done otherwise than as a trustee, would contravene the Act or this Constitution.

## **7. Membership**

### **Eligibility and applying for membership**

- 7.1. Any person over the age of eighteen (18) years who supports the purpose of the Association is eligible to apply to become a Member.
- 7.2. A person who wants to become a Member must apply in writing to the Association.
- 7.3. The application must:
  - 7.3.1. include the name of the applicant applying for membership;
  - 7.3.2. be signed by the applicant; and
  - 7.3.3. specify the class of membership to which the application relates.
- 7.4. The Board must consider each application for membership of the Association, in the order received, and decide whether to accept or reject the application.
- 7.5. The Board may delay its consideration of an application if it considers that any matter relating to the application needs to be clarified by the applicant or that the applicant needs to provide further information in support of the application.
- 7.6. The Board must not accept an application unless the applicant is eligible under rule 7.1 and has applied under rule 7.2.
- 7.7. The Board may reject an application even if the applicant is eligible under rule 7.1 and has applied under rule 7.2.
- 7.8. The Board must notify the applicant of their decision to accept or reject the application as soon as practicable after making the decision.
- 7.9. If the Board rejects the application, the Board is not required to give the applicant reasons for doing so.

### **Becoming a Member**

- 7.10. An applicant for membership of the Association becomes a Member when:
  - 7.10.1. the Board accepts the application; and
  - 7.10.2. the applicant pays any applicable membership fees payable to the Association as determined by the Board from time to time.

## **Classes of membership**

- 7.11. The Association consists of Ordinary Members and any associate members provided for under rule 7.14.
- 7.12. The Association may have any class of associate membership approved by resolution at a General Meeting.
- 7.13. An Ordinary Member has full voting rights and any other rights conferred on Members by this Constitution or approved by resolution at a General Meeting or determined by the Board.
- 7.14. An associate member has the rights referred to in rule 7.13 other than full voting rights.

## **Register of Members**

- 7.15. The Board shall keep and maintain at the office of the Association a register of Members in accordance with Section 53 of the Act.

## **Suspension and termination of membership**

- 7.16. The Board may pass a resolution to suspend or expel a Member from the Association, if the Board believes that the Member has:
  - 7.16.1. failed to comply with this Constitution; or
  - 7.16.2. acted in a manner inconsistent with the purpose of the Association.
- 7.17. A resolution of the Board under rule 7.16 does not take effect unless and until the Board serves notice on the Member in accordance with rule 7.18 and either:
  - 7.17.1. the Member does not submit a request to the Board to reconsider the resolution within fourteen (14) days of the date of the notice; or
  - 7.17.2. the Board, having considered the resolution in accordance with rule 7.20, has confirmed the resolution under rule 7.20.3.
- 7.18. If the Board passes a resolution under rule 7.16, it must, as soon as practicable, give notice in writing to the Member setting out the resolution and the grounds on which it is based. The notice must also:
  - 7.18.1. state that the Member may, within fourteen (14) days of the date of the notice, request the Board to reconsider the resolution;
  - 7.18.2. state that if the Member requests the Board to reconsider the resolution, the Board will do so at its next Board Meeting; and

- 7.18.3. inform the Member that the Member may attend the Board Meeting to address the Board, or may provide a written statement supporting the request for revocation of the resolution.
- 7.19. During a period in which termination or suspension of a Member is being considered by the Board, the Member shall abstain from voting until the resolution is confirmed or revoked.
- 7.20. At a meeting held in accordance with rule 7.18, the Board must:
  - 7.20.1. if the Member is present at the meeting, give the Member an opportunity to be heard;
  - 7.20.2. give due consideration to any written statement submitted by the Member; and
  - 7.20.3. determine whether to confirm or to revoke the resolution suspending or expelling the Member.
- 7.21. If a Member is suspended by the Board, the Member:
  - 7.21.1. loses any rights (including voting rights) arising as a result of their membership for the period their membership is suspended; and
  - 7.21.2. is not entitled to a refund, rebate, relief or credit for membership fees paid or payable to the Association.

### **Ceasing to be a Member**

- 7.22. A person ceases to be a Member if the person:
  - 7.22.1. is expelled under rule 7.17;
  - 7.22.2. resigns from their membership by giving written notice of the resignation to the Chief Executive Officer, which takes effect when the Chief Executive Officer receives the notice or, if a later time is stated in the notice, at that later time;
  - 7.22.3. for a Member who is an individual, the individual dies; .
- 7.23. A person who has been expelled or resigned from membership remains liable for any fees that are owed to the Association at the time of resignation.
- 7.24. The rights of a Member are not transferable and end when membership ceases.

## 8. Board

- 8.1. The Board is responsible for fostering and upholding the mission, values, purpose and culture of the Association.
- 8.2. The Board is responsible for the overall governance, management and strategic direction of the Association and for delivering accountable corporate performance in accordance with the Association's purpose.
- 8.3. The Board will work with the Chief Executive Officer to enable the Association to obtain the resources, funds and personnel necessary to implement the Association's strategic objectives.
- 8.4. Subject to the Act, this Constitution, and any resolution passed at a General Meeting, the Board has the power to do all things necessary or convenient to be done for the proper management of the affairs of the Association.
- 8.5. The specific functions of the Board include:
  - 8.5.1. to determine, subject to, and/or in accordance with, the Constitution, the broad nature of the business or activities in which the Association is to engage including to:
    - (i) adopt new policies and/or terminate existing policies;
    - (ii) hold periodic meetings to control the affairs of the Association;
    - (iii) report to each Annual General Meeting;
  - 8.5.2. to establish policy and to plan for the future of the Association within the purpose of the Association including to:
    - (i) determine and oversee policy direction;
    - (ii) formulate and monitor the achievement of the purpose of the Association and plan for the future; and
    - (iii) authorise the Association's strategic plans, funding application documents and ensure that funding contracts are fulfilled subject to powers delegated to the Chief Executive Officer;
  - 8.5.3. to provide the organisational structure and resources, including human resources, necessary for the purpose of carrying on the Association's office activities including to:
    - (i) appoint a Chief Executive Officer to run the Association and to operate as the management arm of the Board;

- (ii) obtain financial resources and approve and monitor budgets;
  - (iii) regularly review at its meetings the financial operations of the Association;
  - (iv) approve the purchase and/or sale of all major capital items and assets;
  - (v) undertake organisational planning and approve a structure to support the operations of the Association's office and its staff;
  - (vi) ensure that the Association's assets are properly looked after;
  - (vii) enter into and exit of contractual arrangements;
  - (viii) maintain and manage the effective operations of the Board itself and any sub-committees; and
  - (ix) exercise discretions authorised by this Constitution and carry out specific duties as set out in this Constitution;
- 8.5.4. to monitor and evaluate the Association's performance and outcomes including to:
- (i) support, resource and monitor the actions of the Chief Executive Officer;
  - (ii) oversee the efficiency, effectiveness and standards of the Association's office; and
  - (iii) determine the broad employment policies and principles for staff;
- 8.5.5. to comply with the legal obligations of the Act and all other local, state and federal legislation and common law relevant to the functioning of the Association; and
- 8.5.6. to ensure that reports to Members, governments and other relevant bodies are provided as required.

### **Composition of the Board**

8.6. The Board will consist of:

8.6.1. six (6) to nine (9) Directors of which:

- (i) each must be an Ordinary Member

- (ii) a majority must have, or have had, a lived Carer experience; and
- (iii) one person may be the Chief Executive Officer if appointed as one of the Directors at the discretion of the Board for the period of their employment; and

8.6.2. up to two persons (“**Co-opted Directors**”) who may be appointed by the Board at its discretion for a period of up to three (3) years and who shall bring to the Board experience and expertise in areas which are beneficial to the Board.

### **Term of office**

- 8.7. A person becomes a Director if they are elected to the Board at a General Meeting by resolution of the Ordinary Members or appointed to the Board by the Board to fill a casual vacancy under rule 8.12.
- 8.8. Subject to rule 8.29, a Director holds office for a term of three (3) years commencing from their election under rule 8.7.
- 8.9. Subject to rules 8.10 and 8.11, a Director may hold office for a period of up to nine (9) consecutive years, excluding any period which that Director has served by way of casual appointment pursuant to rule 8.12.
- 8.10. Directors who have served nine (9) consecutive years are not eligible for re-election as a Director or appointment as a Co-opted Director until twelve (12) months after they ceased to be a Director.
- 8.11. A Director may only hold office for more than nine (9) consecutive years if the Members by Special Resolution approve the holding of office by that Director for more than nine years.

### **Filling casual vacancies**

- 8.12. The Board may appoint a Director who is eligible under rule 8.6 to fill a position on the Board that has become vacant under rule 8.29.
- 8.13. Subject to the requirement for a quorum under rule 8.23, the Board may continue to act despite any vacancy on the Board.
- 8.14. A Director appointed under rule 8.12 holds office up until the next General Meeting at which they may then be elected by resolution of the Ordinary Members.

### **Board Meetings**

- 8.15. The Board shall meet at least six (6) times in each calendar year.

- 8.16. At the first meeting of the Board following each Annual General Meeting the Board shall elect from the Directors the following office holder positions:
  - 8.16.1. Chairperson;
  - 8.16.2. Deputy Chairperson; and
  - 8.16.3. Treasurer.
- 8.17. The Chairperson or at least half of the Board may at any time convene a Board Meeting.
- 8.18. All Directors must be notified in writing as soon as is reasonably possible, and in any event at least forty-eight (48) hours, before the time set for the meeting.
- 8.19. The notice of Board Meeting shall specify the date, time and place of the meeting and will describe the nature of the business to be transacted at the meeting, except business which the Directors present at the meeting unanimously agree to treat as urgent business.
- 8.20. The Chairperson will act as chairperson of Board Meetings but if they are unable to act, the Deputy Chairperson will act as chairperson of the meeting but if the Deputy Chairperson is unable to act, the Board will elect a chairperson from the Directors who are present at the meeting.
- 8.21. The procedure to be followed at a Board Meeting must be determined from time to time by the Board.
- 8.22. No business is to be conducted at a Board Meeting unless a quorum is present.
- 8.23. The presence of half the serving Directors will constitute a quorum at Board Meetings.
- 8.24. If a quorum is not present within thirty (30) minutes after the notified commencement time of the Board Meeting, the meeting is adjourned to the same time, day and place in the following week.
- 8.25. If a quorum is not present within thirty (30) minutes after the commencement time of a Board Meeting under rule 8.24 and at least two Directors are present, those Directors are taken to constitute a quorum.
- 8.26. A Board Meeting may be conducted in person or by telephone or other means of instantaneous communication.
- 8.27. Any resolution agreed to in writing by not less than half of the serving Directors shall have the same effect as and be deemed to be a resolution

passed by the Board. Agreement in writing to any such resolution may be transmitted by email or in writing.

- 8.28. The full Board may at any time, by majority vote, revoke the appointment of a Co-opted Director.

### **Vacancies**

- 8.29. For the purpose of this Constitution, a vacancy in the office of a Director occurs if that Director:

8.29.1. dies or otherwise ceases to be a Director under this Constitution;

8.29.2. resigns from office by written notice given to the Chief Executive Officer or, if the resigning Director is the Chief Executive Officer, given to the Chairperson, or the Board;

8.29.3. is removed from office pursuant to rule 8.30;

8.29.4. becomes ineligible to accept an appointment or act as a Director under Section 39 of the Act;

8.29.5. is absent without the documented consent of the Chairperson from three (3) consecutive Board Meetings;

8.29.6. has, or is, directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of their interest as required by the Act;

8.29.7. is the Chief Executive Officer and their employment contract with the Association is terminated; or

8.29.8. becomes permanently unable to act as a Director because of a mental or physical disability.

### **Removal of Directors**

- 8.30. Ordinary Members in General Meetings may, by resolution, remove any Director from the office of Director before the expiration of that Director's term of office.

- 8.31. When a proposed resolution for the removal of a Director is being considered, the Director concerned shall be given a full and fair opportunity to present in writing the Director's case to the Board after notification in writing of the grounds for expulsion and may ask that the written case be provided to the Members.

## **Payments**

8.32. A Director is entitled to be paid out of the funds of the Association for any expenses incurred in attending a Board Meeting, General Meeting or otherwise in connection with the Associations' business, at an amount to be determined by resolution of the Members.

## **Delegation to committee**

8.33. The Board may, in writing, appoint and delegate to one or more committees (consisting of such persons as the Board thinks fit), the exercise of such of the functions of the Board, other than:

8.33.1. this power of delegation;

8.33.2. a duty imposed on the Board by the Act or by any other law; and

8.33.3. a function imposed on it by a resolution of the Members.

8.34. A function which has been delegated to a committee under rule 8.33 must be exercised by that committee in accordance with the terms of the delegation.

8.35. A delegation under rule 8.33 may be made subject to:

8.35.1. conditions or limitations; and

8.35.2. a time limit;

as determined by the Board.

8.36. Notwithstanding any delegation under rule 8.33, the Board may continue to exercise any function delegated.

8.37. Any act or thing done or suffered by a committee acting in the exercise of a delegation under rule 8.33 has the same force and effect as it would have if it had been done or suffered by the Board.

8.38. The Board may, by instrument in writing, revoke wholly or in part, any delegation under rule 8.33.

## **Voting and decisions**

8.39. A motion arising at a Board Meeting or at any committee meeting shall be determined, on a show of hands, by a majority of the votes of the Directors or committee members (as applicable) present at the meeting.

8.40. Each Director or committee member present at a Board Meeting or any committee meeting (as applicable) is entitled to one vote but, in the event of an equality of votes on any question at a Board Meeting, the chairperson of the Board Meeting may exercise a second or casting vote.

- 8.41. The Board or committee may act notwithstanding any vacancy on the Board or committee.
- 8.42. Any act or thing done or suffered, or purporting to have been done or suffered, by the Board or by a committee, is valid and effectual notwithstanding any defect that may afterwards be discovered in the appointment or qualification of any Director or committee member.
- 8.43. A Director or committee member having any direct or indirect pecuniary interest referred to in Section 42 or 43 of the Act shall comply with that section.

### **Minutes of Board Meetings**

- 8.44. The Board must ensure that minutes are taken and kept of each Board Meeting.
- 8.45. The minutes of the Board Meeting must record the following:
  - 8.45.1. the names of the Directors present at the meeting;
  - 8.45.2. the business considered at the meeting; and
  - 8.45.3. any motion on which a vote is taken at the meeting and the result of the vote.
- 8.46. The minutes of a Board Meeting must be entered in the Association's minute book within thirty (30) days after the meeting is held.
- 8.47. The Chairperson must ensure that the minutes of the Board Meeting are reviewed and signed as correct by the chairperson of the meeting.
- 8.48. When the minutes of a Board Meeting have been signed as correct they are, until the contrary is proven, evidence that:
  - 8.48.1. the meeting to which the minutes relate was duly convened and held;
  - 8.48.2. the matters recorded as having taken place at the meeting took place as recorded; and
  - 8.48.3. any appointment purportedly made at the meeting was validly made.

## **9. Chief Executive Officer**

- 9.1. The Board may appoint any person, including a Director, to the position of Chief Executive Officer for the period and on the terms (including remuneration) that the Board sees fit.

- 9.2. The Chief Executive Officer shall be responsible to the Board for the day-to-day management and affairs of the Association, in accordance with the policies, directions, and strategies established by the Board, and for this purpose may exercise all powers of the Association which are not required to be exercised by the Board.
- 9.3. The Chief Executive Officer shall ensure that the Association complies with all applicable laws and regulations and shall be responsible for the day-to-day operations of the Association, including but not limited to the management of staff, resources, and corporate performance.
- 9.4. The Chief Executive Officer may be appointed as the secretary and public officer of the Association.
- 9.5. The Board may delegate to the Chief Executive Officer such powers and functions as it considers appropriate from time to time.
- 9.6. The Chief Executive Officer will receive notices for, and attend all Board Meetings, unless otherwise directed to withdraw by the Chairperson.
- 9.7. The Board is responsible for:
  - 9.7.1. maintaining a register of Members of the Association and their postal/residential addresses;
  - 9.7.2. maintaining a record of the names and addresses of the Directors, persons who hold any other office of the Association, the person authorised to use the common seal and any persons who act as trustees on behalf of the Association;
  - 9.7.3. maintaining in up-to-date condition the Constitution;
  - 9.7.4. the custody of the records, books, documents and securities of the Association; and
  - 9.7.5. keeping minutes of all proceedings of Board Meetings, committee meetings and General Meetings;
  - 9.7.6. issuing notices of all meetings of the Association and of the Board.
- 9.8. If there is no Chief Executive Officer at the relevant time, any act, matter or thing required to be done by the Chief Executive Officer may be done by the Board (or its delegate) and any notice required to be given to the Chief Executive Officer may be given to the Chairperson (or their delegate).
- 9.9. During any period when there is no Chief Executive Officer or the Chief Executive Officer is unable to act, the Board may appoint an acting Chief Executive Officer who shall assume the responsibilities, powers and

duties of the Chief Executive Officer during the term of office of acting Chief Executive Officer.

## **10. Finance**

- 10.1. The Board shall oversee the financial affairs of the Association.
- 10.2. The Association must maintain an account in the name of the Association with a financial institution from which all expenditure of the Association is made and into which all funds received by the Association are deposited.
- 10.3. Subject to any restrictions imposed at a General Meeting, the Board may approve expenditure on behalf of the Association.
- 10.4. The Board may authorise the Treasurer to expend funds on behalf of the Association up to a specified limit without requiring approval from the Board Meeting for each item on which the funds are expended.
- 10.5. All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Association must be signed by:
  - 10.5.1. two Directors; or
  - 10.5.2. one Director and a person authorised by the Board.
- 10.6. All funds of the Association must be deposited into the Association's account within five (5) working days after their receipt.
- 10.7. The Board should ensure proper accounts be kept in respect to:
  - 10.7.1. all sums of money received and expended by the Association and the manner in respect of which the receipt and expenditure takes place;
  - 10.7.2. all sales and purchases of goods by the Association; and
  - 10.7.3. the assets and liabilities of the Association.
- 10.8. The accounts shall be kept at the office of the Association and are open to inspection by Directors at any time.
- 10.9. The Board shall cause the accounts to be audited annually by a duly qualified auditor.
- 10.10. The Board shall ensure the requirements imposed on the Association under Part 5 of the Act relating to the financial statements or financial report of the Association are met.
- 10.11. Regular financial reports shall be prepared by the Chief Executive Officer for each of the Board Meetings.

10.12. The Treasurer shall provide to the Board expertise and advice (independently of operational management) in respect of the financial affairs of the Association including but not limited to interpretation of financial reports, accounting standards and legislative requirements.

## **11. General Meetings**

11.1. All Members are entitled to receive notice of and attend General Meetings.

### **Annual General Meeting**

11.2. The Annual General Meeting shall be held within six (6) months of the end of the Association's financial year on a day to be determined by the Board.

11.3. Not less than twenty-eight (28) days written notice shall be given of the Annual General Meeting to each Member and shall specify:

11.3.1. the place, date and time of the Annual General Meeting;

11.3.2. the nature of the business to be carried out at that meeting;

11.3.3. if a Special Resolution is proposed, set out the wording of the proposed resolution as required by Section 51(4) of the Act and state that the resolution is intended to be proposed as a Special Resolution; and

11.3.4. that an Ordinary Member may appoint another Ordinary Member as a proxy for the meeting.

11.4. The business of the Annual General Meeting shall be:

11.4.1. the receipt of the Chairperson's report of the previous financial year;

11.4.2. the receipt of the Chief Executive Officer's report for the previous year;

11.4.3. the receipt of the financial statements or financial report of the Association for the preceding financial year presented under Part 5 of the Act and, if required to be presented for consideration under Part 5 of the Act, a copy of the report of the review or auditor's report on the financial statements or financial report, together with the financial budget for the next or current financial year;

11.4.4. presentation of the annual report;

11.4.5. the appointment of an auditor for the following financial year; and

11.4.6. any other business placed on the agenda prior to the commencement of the meeting.

### **Special General Meeting**

11.5. The Chief Executive Officer shall call a Special General Meeting of the Association within twenty-eight (28) days of receiving

11.5.1. a directive from the Board;

11.5.2. a written request of three (3) Directors; or

11.5.3. a written request from 20% of the Ordinary Members.

11.6. The request by Ordinary Members or Directors in rule 11.5 must be signed by the Ordinary Members or the Directors (as applicable) and must specify the business to be carried out at that meeting.

11.7. Not less than twenty-eight (28) days' notice shall be given to each Member of any Special General Meeting. The notice shall specify:

11.7.1. the place, date and time of the Special General Meeting,

11.7.2. the nature of the business to be carried out at that meeting;

11.7.3. if a Special Resolution is proposed, set out the wording of the proposed resolution as required by section 51(4) of the Act and state that the resolution is intended to be proposed as a Special Resolution; and

11.7.4. that an Ordinary Member may appoint another Ordinary Member as a proxy for the meeting.

11.8. If a Special General Meeting is not convened within twenty-eight (28) days, the Ordinary Members who made the request may themselves convene a Special General Meeting as if they were the Board. In such a circumstance, the Ordinary Member or Members convening the Special General Meeting shall be supplied free of charge with the particulars of all Members and the Association shall pay the reasonable expenses of convening and holding the Special General Meeting. The meeting must comply with this Constitution.

### **Quorum for General Meetings**

11.9. The quorum for a General Meeting is 50% of the Ordinary Members present in person or by proxy. If there is no quorum within thirty (30) minutes of the starting time for the meeting, then a majority of Ordinary Members present shall decide to adjourn the meeting for a period of not more than thirty (30) days. The quorum for the adjourned meeting, if less than 50% of the membership, shall be the number of Ordinary Members present thirty (30) minutes after the starting time.

## **Presiding Member and voting at General Meetings**

- 11.10. The Chairperson, or the Deputy Chairperson in their absence, must preside as a chairperson of each General Meeting.
- 11.11. An Ordinary Member may appoint in writing another Ordinary Member to be their proxy and to attend, and vote on their behalf at any General Meeting.
- 11.12. The Ordinary Member appointing the proxy may give specific directions as to how the proxy is to vote on their behalf or, if no instructions are given to the proxy, the proxy may vote on behalf of the Ordinary Member as the proxy sees fit.
- 11.13. An Ordinary Member other than the Chairperson may not be a proxy to more than one (1) other Ordinary Member.
- 11.14. A proxy appointment is of no effect unless a completed proxy form is received by the Association not later than twenty-four (24) hours before the commencement of the General Meeting.
- 11.15. The presence of an Ordinary Member at a General Meeting need not be by attendance in person but may be by that Ordinary Member attending by proxy or by telephone or other means of instantaneous communication.
- 11.16. Each Ordinary Member present in person, by telephone or other means of instantaneous communication, or by proxy, at a General Meeting is entitled to one (1) vote.
- 11.17. Except in the case of a Special Resolution, a motion is carried if a majority of the Ordinary Members present at a General Meeting vote in favour of the motion.
- 11.18. In the case of a Special Resolution, a motion is carried if not less than three-fourths of the Ordinary Members present at a General Meeting vote in favour of the motion.
- 11.19. If votes are divided equally on a motion, the chairperson of the meeting has a second or casting vote.
- 11.20. Voting shall be by a show of hands, however, a secret ballot shall be held if a request is made by an Ordinary Member present. The Chairperson shall determine the manner in which the secret ballot will be conducted, and the result as declared by the Chairperson shall be deemed to be a resolution of the meeting concerned.
- 11.21. If the resolution is a Special Resolution, the declaration under rule 11.20 must identify the resolution as a Special Resolution.

## **Minutes of a General Meeting**

11.22. The Chief Executive Officer, or a person authorised by the Board from time to time, must take and keep minutes of each General Meeting.

11.23. The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.

11.24. In addition, the minutes of each Annual General Meeting must record:

11.24.1. the names of the Ordinary Members who attended the meeting;

11.24.2. any proxy forms given to the Association under rule 11.14;

11.24.3. the financial statements or financial report presented at the meeting, as referred to in rule 11.4.3; and

11.24.4. any report of the review or auditor's report on the financial statements or financial report presented at the meeting, as referred to in rule 11.4.3.

11.25. The minutes of a General Meeting must be entered in the Association's minute book within thirty (30) days after the meeting is held.

11.26. The Chairperson must ensure that the minutes of a General Meeting are reviewed and signed as correct by:

11.26.1. the chairperson of the meeting; or

11.26.2. the chairperson of the next General Meeting.

11.27. When the minutes of a General Meeting have been signed as correct they are, in the absence of evidence to the contrary, taken to be proof that:

11.27.1. the meeting to which the minutes relate was duly convened and held;

11.27.2. the matters recorded as having taken place at the meeting took place as recorded; and

11.27.3. any election or appointment purportedly made at the meeting was validly made.

## **12. Resolving disputes**

12.1. This rule applies to disputes:

12.1.1. between Members; or

12.1.2. between one or more Members and the Association.

### **Parties to attempt to resolve dispute**

12.2. The parties to a dispute must attempt to resolve the dispute between themselves within fourteen (14) days after the dispute has come to the attention of each party.

12.3. If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 12.2, then, subject to rules 12.10, 12.11 and 12.12, any party to the dispute may start the grievance procedure by giving written notice to the Chairperson of:

12.3.1. the parties to the dispute; and

12.3.2. the matters that are the subject of the dispute.

12.4. Within twenty-eight (28) days after the Chairperson is given the notice, a Board Meeting must be convened to consider and determine the dispute.

12.5. The Chairperson must give each party to the dispute written notice of the Board Meeting at which the dispute is to be considered and determined at least seven (7) days before the meeting is held.

12.6. The notice given to each party to the dispute must state:

12.6.1. when and where the Board Meeting is to be held;

12.6.2. that the party, or the party's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both) submissions to the Board about the dispute; and

12.6.3. the matters that are the subject of the dispute.

12.7. If:

12.7.1. the dispute is between one or more Members and the Association; and

12.7.2. any party to the dispute gives written notice to the Chairperson stating that the party does not agree to the dispute being determined by the Board, the Chairperson must notify the Board the Board must not determine the dispute.

12.8. At the Board Meeting at which a dispute is to be considered and determined, the Board must:

12.8.1. give each party to the dispute, or the party's representative, a reasonable opportunity to make written or oral (or both) submissions to the Board about the dispute;

- 12.8.2. give due consideration to any submissions so made; and
- 12.8.3. determine the dispute.
- 12.9. The Board must give each party to the dispute written notice of the Board's determination, and the reasons for the determination, within seven (7) days after the Board Meeting at which the determination is made.
- 12.10. If the dispute includes the Chairperson as a party to the dispute, then the written notice under rule 12.3 must be given to the Deputy Chairperson, who is to carry out the obligations of the Chairperson as set out in rules 12.4 to 12.7 in place of the Chairperson.
- 12.11. If the dispute includes both the Chairperson and Deputy Chairperson, then the remaining Directors who are not included in the dispute must elect a nominee who is to carry out the obligations of the Chairperson set out in rules 12.4 to 12.7 in place of the Chairperson.
- 12.12. If the dispute includes all Directors, then the dispute must be referred to mediation and the mediator must be appointed by the President of the Law Society of Western Australia.

### **13. Service of notices**

- 13.1. For the purpose of this Constitution, a notice may be served by or on behalf of the Association upon any Member either personally or by sending it by post or electronically to the Member at the Member's address shown in the Register of Members, or to an email address provided by the Member.
- 13.2. Where a document is sent to a person by properly addressing, prepaying and posting to the person a letter containing the document, the document shall, be deemed for the purposes of this Constitution to have been served on the person at the time at which the letter would have been delivered in the ordinary course of post or, if being served electronically, the notice is deemed served when sent by the Association.

### **14. Audited accounts and records**

- 14.1. The Board shall appoint an auditor who is not a Member, who shall audit the accounts and records of the Association annually and the Chief Executive Officer shall present to the Annual General Meeting a report as to the financial position of the Association.
- 14.2. The Board shall give to the auditor at all reasonable times full access to the Association's books and accounts and afford the auditor every facility for the purpose of making a correct audit of the Association's financial affairs.

- 14.3. The Association shall ensure proper diligence and protocols regarding privacy of data and information is maintained during the audit process.
- 14.4. Appointment of the auditor for the forthcoming financial year shall be tabled at the Annual General Meeting.

## **15. Inspection of Association records**

- 15.1. Upon reasonable notice to the Chief Executive Officer, any Ordinary Member may inspect:
  - 15.1.1. the Constitution;
  - 15.1.2. the register of Members under Section 54(1) of the Act;
  - 15.1.3. the record of the names and addresses of the Directors, and other persons authorised to act on behalf of the Association under Section 58(2) of the Act; and
  - 15.1.4. other records and documents of the Association,
- 15.2. If the Member wants to inspect a document that records the minutes of a Board Meeting, the right to inspect that document is subject to any decision the Board has made about minutes of Board Meetings generally, or the minutes of a specific Board Meeting, being available for inspection by Members.
- 15.3. The Member may make a copy of or take an extract from a record or document referred to in rule 15.1.4 but does not have a right to remove the record or document for that purpose.
- 15.4. The Member must not use or disclose information in a record or document referred to in rule 15.1.4 except for a purpose:
  - 15.4.1. that is directly connected with the affairs of the Association; or
  - 15.4.2. that is related to complying with a requirement of the Act.

## **16. Common seal and registered office of the Association**

- 16.1. The Association may execute a document without using a common seal if the document is signed by two Directors or one Director and a person authorised by the Board.
- 16.2. The Association shall have a common seal on which its corporate name shall appear.
- 16.3. The common seal of the Association shall not be used without the express authority of the Board and every use of that common seal shall be recorded in the minutes of a Board Meeting.

- 16.4. The affixing of the common seal of the Association shall be witnessed by either the Chairperson, Director or Chief Executive Officer and minuted at the next Board Meeting.
- 16.5. The common seal of the Association shall be kept in safe custody in the office of the Association by the Chief Executive Officer.
- 16.6. The registered office of the Association shall be at such place as determined by the Board of Directors from time to time.

## 17. Alteration of rules

- 17.1. This Constitution may be altered or rescinded, or additional rules may be made, by a Special Resolution passed at a General Meeting and by otherwise complying with Part 3 Division 2 of the Act.
- 17.2. The Chief Executive Officer will notify the appropriate governing body, legislative authority, registration authority and funding organisation of which the Association receives funds, of any changes or alterations to this Constitution within twenty-eight (28) days of such Special Resolution being passed.

## 18. Dissolution

- 18.1. In this rule 18:

18.1.1. “**Surplus Property**” in relation to the Association, means property remaining after satisfaction of:

- (i) the debts and liabilities of the Association; and
- (ii) the costs, charges and expenses of winding up or cancelling the incorporation of the Association,

but does not include Books relating to the management of the Association;

18.1.2. “**Books**” of the Association includes the following:

- (i) a register;
- (ii) financial records, financial statements or financial reports, however compiled, recorded or stored;
- (iii) a document; and
- (iv) any other record of information; and

18.1.3. “**Gifts and Deductible Contributions**” means

- (i) gifts of money or property for the principal purpose of the Association;
  - (ii) contributions made in relation to an eligible fundraising event held for the principal purpose of the Association; and
  - (iii) money received by the Association because of such gifts and contributions.
- 18.2. On cancellation of the incorporation or the winding up of the Association, its Surplus Property, after application of rule 18.3, must be distributed as determined by Special Resolution:
- 18.2.1. by reference to the persons mentioned in Section 24(1) of the Act; and
  - 18.2.2. to another organisation with similar purposes, which is charitable at law and which has rules prohibiting the distribution of its assets and income to its members.
- 18.3. If the Association is wound up or its endorsement as a deductible gift recipient is revoked (whichever occurs first), any surplus of Gifts and Deductible Contributions shall be transferred as determined by Special Resolution:
- 18.3.1. by reference to the persons mentioned in Section 24(1) of the Act; and
  - 18.3.2. to another organisation with similar objects, which is charitable at law and to which income tax deductible gifts can be made.
- 18.4. The Association may, by special resolution, be wound up voluntarily if the Association is solvent and the Act is otherwise complied with.