

Aged & Community Services

Western Australia

Western Australia's leading representative body for the aged and community care sector



Aged & Community Services
Western • Australia • Incorporated

Constitution & Rules

CONSTITUTION AND RULES

AGED & COMMUNITY SERVICES WESTERN AUSTRALIA INCORPORATED
formerly known as Aged Care Western Australia Incorporated;
Aged Care Australia (Western Australia) Incorporated;
the Voluntary Care Association of Western Australia Incorporated, and originally
called the Voluntary Residential Care Association of Western Australia Incorporated

NAME AND REGISTERED OFFICE

1. The Association shall be an incorporated Association and shall be called Aged & Community Services Western Australia Incorporated.
2. Its registered office shall be situated at such place as the Board shall from time to time determine.

INTERPRETATION

3. These Rules shall be the Rules of the Association and shall be binding on all Members; and unless there is something in the subject matter or context inconsistent therewith:
 - a) "The Association" shall mean Aged & Community Services Western Australia Incorporated.
 - b) "The Board" shall mean the Board of Directors of Aged and Community Services Western Australia Incorporated.
 - c) "Annual Meeting" shall mean the Annual General Meeting.
 - d) "Business Day" shall mean a day that is not a Saturday, Sunday or any other day which is not a gazetted public holiday in Western Australia.
 - e) "Special Meeting" shall mean a meeting convened pursuant to Clause 63.
 - f) "member" shall mean a member of the Board or committee.
 - g) "Member" shall mean an organisation that is a Member of the Association.
 - h) "Honorary Individual Life member" shall mean an individual member designated as such pursuant to Clause 7(c)
 - i) "Duly Authorised Representative" means an individual appointed by their organisation as their authorised representative pursuant to Clause 17.
 - j) "Contributions" means
 - (i) a contribution of money or property as described in column 2 of item 7 of the table contained in section 30-15 of the ITAA97 in relation to a fundraising event; or
 - (ii) a contribution of money as described in column 2 of item 8 of the table contained in section 30-15 of the ITAA97 in relation to a successful bidder at an auction that was a fundraising event, held for the purpose of The Association.
 - k) "Gifts" means a gift as described in item 1 of the table in section 30-15 of the ITAA97 to The Association.
 - l) "ITAA97" means the Income Tax Assessment Act 1997 (Cth).
 - m) "Act" means the Associations Incorporation Act 1987 (WA).
 - n) "Registered Public Benevolent Institution" has the meaning contained in section 995(1) of the ITAA97.

ROLE

4. To achieve excellence in representing and supporting Members of the Association in the provision of their services to the elderly and people with disabilities.

OBJECTS

5. The Objects of the Association shall be:
 - a) To engage in, promote and encourage investigation and research into the provision of all types of accommodation, and support services provided for the elderly and people with disabilities;
 - b) To promote the welfare of, and encourage co-operation and understanding between, Members of the Association and related bodies;
 - c) To obtain, present and distribute information and knowledge and give assistance and advice to Members on matters concerning, or in any way related to, the provision of accommodation, care or support to the elderly and people with disabilities;
 - d) To promote and encourage community awareness and knowledge of the needs of elderly persons and of the work, aims and needs of Association Members;
 - e) To distribute information concerning existing and proposed legislation and government controls, administrative and financial matters affecting the interests of Members of the Association;
 - f) To make representations and submissions to governments, courts, boards, commissions, committees and any other body or tribunal on matters affecting the interests of or the interests to all or any Members of the Association;
 - g) To make public statements and issue publications in any form whatsoever on any matters relating to the provision of accommodation, care or support of the elderly and people with disabilities;
 - h) To represent the not-for-profit sector in the provision of their services to the elderly and people with disabilities;
 - i) To uphold the principle that the elderly or people with disabilities including those who are disadvantaged or marginalised have access to and a choice of a diverse range of Members' services that meet their needs and enhance their quality of life; and
 - j) To receive funds to further the Objects of the Association.

POWERS

6. The Association may, in addition to the powers conferred by the provisions of the Associations Incorporation Act 1987 exercise all or any of the following powers. Namely, it may take steps and do such things including the acquisition and disposal of property both real and personal as are desirable for, or incidental to, the full attainment of all or any of the Objects set out in Clause 5 hereof and without limiting the generality of this rule it may:
 - a) Conduct, foster, promote and encourage conferences, discussions, seminars and tours of inspections for the purpose of education or research;
 - b) Become a member of, affiliate with, or co-operate with any organisation, association or national association with similar Objects to the Objects set out in Clause 5 hereof provided that such membership, affiliation or co-operation does not prejudice the right of individuality of the Association or its Members;
 - c) Prepare and publish any statements, papers, articles, speeches, lectures, findings or facts concerned in any way with the Objects of the Association;
 - d) Do any things necessary or desirable to foster the public reputation and image of the Association and its Members;

- e) Promote investigation into, establish and/or maintain group services or purchase facilities for the benefit of Members;
- f) Do all things necessary or desirable to promote, assist, or encourage the extension and improvement of accommodation and care facilities used by, or available to, the elderly and people with disabilities;
- g) Borrow money on the security of the whole or any portion of the real and personal property of the organisation with security or without security for same;
- h) Invest all or any of the funds of the organisation in any security for the time being authorised by laws for the investment of trust funds and from time to time to vary such investment; and may
- i) Make by-laws, rules or regulations and any other proceedings for the due maintenance of the organisation and for regulating the duties, control and conduct of persons in the employ or under the care or control of the organisation.

MEMBERSHIP, FEES AND LEVIES

7. Membership of the Association shall be open, upon payment of the prescribed membership fee, to the headquarters of such charitable, public benevolent institution, not-for-profit association or similar organisation in Western Australia:
 - a) Which owns, manages or conducts a retirement village, community care service, residential care facility or hospital to support or care for seniors, the elderly and/or people with disabilities.
 - b) Any organisation that provides services to, or is involved in, the provision of services for the elderly and people with disabilities, consistent with the Objects of the Association, and
 - c) Individuals who shall be designated "Honorary Individual Life Member" by the Board, provided that such Members will carry no voting rights but shall have access to such information of the Association as may be deemed appropriate by the Board from time to time.
8. Honorary Individual Life membership shall be open to natural persons:
 - a) Who have rendered valuable service to the Association;
 - b) who are invited by the Board or nominated at any general meeting of the Association to become Life Member, as the case may be; and
 - c) who agree to accept the nomination.
9. The financial year of the Association shall be from 1 July to 30 June and the annual membership fees, at rates recommended by the Board and approved at a General Meeting held before 30 June, shall become payable in advance from 1 July.
10. In determining the annual membership fee the Board may use such formulae as may be deemed appropriate from time to time.
11. A levy for a specific purpose may be imposed upon Members on the recommendation of the Board and approved at a General Meeting.

ACCEPTANCE INTO MEMBERSHIP

12. Every application for membership shall, unless it is impractical to do so, be considered by the Board at its first regular meeting following the lodging of the application. The Board may, in its absolute discretion, accept or reject an application for membership and shall (through the Secretary or otherwise) advise the applicant of its decision, but is not bound to give any reason for the rejection of any application. The Board's decision shall be final, conclusive and binding on the applicant and shall not be subject to any challenge or review whatsoever.
13. When a person has been accepted or invited to become a Member the Secretary shall forthwith send to the applicant a request for payment of the entrance fee (if any) and first annual subscription fee (if any).

14. Every person who, being eligible to become a Member in accordance with the provisions of clause 7:
 - a) agrees in writing to become a Member;
 - b) pays such entrance fee or annual subscription as are required under clause 7 and
 - c) in the case of an application for membership, whose application for membership has been approved by the Board in accordance with clause 12, becomes a Member.
15. The Board may authorise the Secretary, or any other person, to receive and give preliminary acceptance to applications for membership of the Association, but all such applications and acceptances shall be subject to final acceptance by the Board in the manner provided by clause 12.

TERMINATION OF MEMBERSHIP

16. Members shall cease to be Members when they:
 - a) Fall in arrears with their fees by more than three (3) months; or
 - b) In the opinion of the Board no longer support the Objects of the Association; or
 - c) Give 30 days notice of their intention to cease membership, such notice being in writing and being accompanied by payment of all fees due and owing.

AUTHORISED VOTING REPRESENTATIVES

17. Each Member of the Association, other than an Individual Honorary Life member, may nominate not more than two (2) Duly Authorised Representatives who may vote and act on its behalf at any General Meeting, Annual Meeting, or Special Meeting of the Association, or be elected to the Board, provided that such Duly Authorised Representative(s) shall be:
 - a) An employee of a Member of the Association, or;
 - b) A member of the committee of management of a Member of the Association.
18. Each Duly Authorised Representative has one deliberate vote but may cast 3 proxy votes on behalf of other Duly Authorised Representative.

BOARD

19. The control of the Association shall be vested in the Board.
20. The Board of the Association shall consist of the four (4) Office Bearers more particularly described in Clause 46, plus no more than six (6) other members.
21. The Board members shall be elected at the Annual General Meeting of the Association and shall hold office for a period of two (2) years and in accordance with Clause 25 and Clause 26
22. At the conclusion of the two year term of appointment referred to in Clause 21 a member of the Board will cease to be a member but shall be eligible for re-election to the Board.
23. Nominations and elections to the Board shall be carried out in accordance with Clause 51.
24. Every member of the Board shall be eligible for re-election in accordance with Clause 22.
25. Any member of the Board shall hold office only whilst a Duly Authorised Representative of a Member of the Association.
26. The terms of office of a minimum of three (3) Board members shall expire at the Annual General Meeting.
27. Where necessary those members to retire in a particular year will be determined by a ballot by the Board.
28. Any member of the Board failing to attend three (3) consecutive Board meetings shall, unless leave of absence has been approved or such absence has been excused by the Board, cease to be a member of the Board.

29. Any casual vacancy arising in the Board shall be filled by selection by the Board.
30. Any person so appointed to fill such a vacancy shall hold office until the expiry of the term of the Board member he/she replaced.
31. The Board shall meet at such times as the Board itself shall determine but no less than three times a year.
32. For the purpose of these Rules, the contemporaneous linking together in oral communication by telephone, audio-visual or other instantaneous means ("telecommunication meeting") of a number of the members not less than the necessary quorum is deemed to constitute a meeting of the Board. The following provisions apply to a telecommunication meeting:
 - (a) all the members for the time being entitled to receive notice of a meeting of the Board are entitled to notice of a telecommunication meeting;
 - (b) all the members participating in the telecommunication meeting must be linked by telephone, audio-visual or other instantaneous means for the purpose of the telecommunication meeting;
 - (c) notice of the telecommunication meeting may be given on the telephone or other electronic means;
 - (d) each of the members taking part in the telecommunication meeting must be able to hear and be heard by each of the other members taking part at the commencement of the telecommunication meeting and each member so taking part is deemed for the purposes of these Rules to be present at the telecommunication meeting;
 - (e) at the commencement of the telecommunication meeting each member must announce his or her presence to all the other members taking part in the telecommunications meeting;
 - (f) a member must not leave a telecommunication meeting by disconnecting his or her telephone, audio-visual or other communication equipment unless that member has previously notified the Chairperson;
 - (g) a member is presumed to have been present and to have formed part of the quorum at all times during a telecommunication meeting unless that member has previously obtained the express consent of the Chairperson to leave the meeting; and
 - (h) a minute of the proceedings of the telecommunication meeting is sufficient evidence of the proceedings of the observance of all necessary formalities if the minute is certified to be a correct minute by the Chairperson.
33. The Board may provide minutes, notice of agenda items and recommendations for voting ("**Notices**") thereon to members by electronic mail and/or facsimile, subject to such safeguards as the Board determines from time to time. If Notices are sent or delivered in the manner provided in this Clause 33 they must be treated as given to and received by the member to which it is addressed:
 - (a) if sent by facsimile before 5pm on a Business Day at the place of receipt, on the day it is sent and otherwise on the next Business Day at the place of receipt; or
 - (b) if sent by electronic mail before 5pm on a Business Day at the place of receipt, on the day it is sent and otherwise on the next Business Day at the place of receipt.
34. If all the members have signed a document containing a statement that they are in favour of a resolution of Board in terms set out in the document, then a resolution in those terms is deemed to have been passed at a meeting of the Board. The meeting is deemed to be held on the day on which the document was signed and at the time at which the document was last signed by a member, or if the members signed the document on different days, on the day on which and at the time at which the document was last signed by a member.
35. For the purposes of Clause 34, 2 or more separate documents containing statements in identical terms, each of which is signed by one or more members will together be deemed to constitute one document containing a statement in those terms signed by those members on the respective days on which they signed the separate documents.
36. A reference in Clause 34 to all members does not include a reference to a member who, at a meeting of the Board, would not be entitled to vote on the resolution.

37. A quorum of the Board shall be not less than four members formally appointed at that time.
38. In the case of an equality of votes, the Chairman of the Board or Acting Chairman shall have a second or casting vote.
39. The responsibility for the affairs of the Association shall vest with the Board.
40. The Board may, unless otherwise directed by the Members of the Association at a duly convened Annual General Meeting, Special Meeting or General Meeting of the Association, exercise all or any of the powers referred to in Clause 5 and Clause 6 of these Rules..
41. The Board may conduct a postal ballot of members, if so determined by the Board, the Chief Executive Officer will act as the Returning Officer to conduct and manage the ballot. All such ballots will be governed by these Rules and the By-Laws adopted by the Board.
42. The Board may from time to time appoint individuals to assist the Board by the provision of independent specialist advice to the Board.
43. Co-opted individuals may be invited to attend meetings but at such meetings of the Board and Committees they have no voting rights.
44. The Office of the Association for the purpose of correspondence shall be the office of the Secretary of the Association.

TERMINATION OF MEMBERSHIP OF THE BOARD

45. Should any member of the Board resign or be unwilling to act upon the Board, become incapable to act, die, resolve to reside permanently out of the State of Western Australia or for any reason whatsoever cease to act as a member of the Board, then such members as remain upon the Board shall appoint a new member or members so as to meet the membership requirements as stated in Clause 20.

OFFICE BEARERS

46. The Office Bearers shall be the Chairman; Deputy Chairman; Treasurer and Secretary.
47. The Chairman; Deputy Chairman; and Treasurer shall be appointed by the Board at the first Board meeting after the Annual General Meeting.
48. The Chief Executive Officer shall be the Secretary and Public Officer of the Association.
49. The Board may, from time to time, delegate to the Office Bearers and members of the Board such powers, duties or functions as it thinks fit.

NOMINATIONS TO THE BOARD

50. At least seven weeks prior to the Annual General Meeting the Chief Executive Officer shall call for nominations from the authorised representatives of Member organisations for election as a member of the Board of the Association.
51. Such nominations shall be in writing and shall be signed by the person nominated to signify acceptance of the nomination and by the proposer who shall be another authorised voting representative and shall be sent to reach the Chief Executive Officer not less than twenty (20) Business Days before the date fixed for the Annual General Meeting.
52. Both nominee and nominator must be financial members at the time of the call for nominations.
53. The Chief Executive Officer shall circulate a full list of nominations received, together with the written notice of the Annual General Meeting in accordance with clause 59 and clause 62.

If nominations for any office exceed the number of vacancies an election by ballot shall be held at the Annual General Meeting.

COMMON SEAL

54. The Association shall have a Common Seal which shall not be used unless a resolution of the Board authorising such use has been passed.

SEAL HOLDERS

55. The Common Seal shall be affixed to documents by a resolution of the Board or by an authorised committee and applied by any two of the following persons, Chairman of the Board, Deputy Chairman of the Board, Treasurer or Chief Executive Officer.
56. A register of the applications of the Seal shall be maintained.

GENERAL MEETINGS

57. At least two General Meetings shall be held in each calendar year.
58. The Secretary shall give written notice of the time and place of each General Meeting to each Member of the Association not less than ten (10) Business Days prior to such meeting.

ANNUAL GENERAL MEETING

59. The Annual General Meeting of the Association shall be held annually within 4 months after the end of the Associations' financial year.
60. Board vacancy nominations shall close twenty (20) Business Days prior to the Annual General Meeting.
61. The Board shall appoint the auditor. The appointment will be reviewed at no more than yearly intervals.
62. Notice of the Annual General Meeting will be posted to members no less than ten (10) Business Days prior to the Annual General Meeting.

SPECIAL GENERAL MEETINGS

63. A Special General Meeting of the Association may be called at the request of the Chairman or any three Office Bearers of the Association or any five of the Duly Authorised Representatives of Member organisations. The Secretary shall convene such a meeting within twenty-eight (28) days of receipt of the request.
64. The Secretary shall as per clause 63, post to each Member at least ten (10) Business Days prior to the Special General Meeting the time and place of such Special Meeting and the business to be conducted thereat provided however that if the Chairman or authorised Deputy Chairman decides an emergency exists, twenty-four (24) hours notice will suffice.

COMMITTEES

65. The Board may establish such committees as deemed necessary to assist it in its functioning. The Chairman, Deputy Chairman and Chief Executive Officer shall be ex-officio members of all committees.

REGIONAL BRANCHES

66. Regional Branches of the Association may be established on the authority of the Board which shall be empowered to take appropriate steps to have an inaugural meeting convened and interim Office Bearers appointed.

67. Membership of Regional Branches shall be limited to Members of the Association.
68. The Constitution shall be binding upon Regional Branches, the administration of which shall be in conformity with provisions herein.
69. The Association, by majority decision in a General Meeting, may make Rules for the conduct of Regional Branch meetings. Such Rules shall be in conformity with the provisions of this Constitution and shall be binding on all members of the Branch.

PROXIES

70. Voting by proxy is permitted at any General Meeting, Annual General Meeting or Special General Meeting other than any meeting convened for the expressed purpose of winding up the Association as described in Clause 78.
71. Every instrument of proxy shall be in writing signed by the Duly Authorised Representative and forwarded to the Secretary by the time the meeting is to commence.
72. A person shall not be appointed as a proxy unless that person conforms with the provisions of Clause 7 and Clause 17 hereof.

QUORUM: MEMBERS MEETINGS

73. At least seven (7) representatives from not less than four (4) Member organisations shall constitute a quorum at any Annual General Meeting, Special Meeting or General Meeting.

INCOME PROPERTY AND ACCOUNTS

74. The income and property of the Association from whatever course derived, shall not be used for any purpose inconsistent with the Objects of the Association specified in Clause 7.
75. No portion of the income or assets of the Association may be transferred either directly or indirectly by any means whatsoever to any member of the Association except by way of payment for bonafide services rendered or expenses incurred on behalf of the Association.

PECUNIARY INTERESTS

76. A member of the Board who has a direct or indirect pecuniary interest in a contract or proposed contract made by or in the contemplation of the Board shall, as soon as he or she becomes aware of his or her interest, disclose the nature and extent of his or her interest.
77. Where a member of the Board has a direct or indirect pecuniary interest in any matter which is for discussion before the Board, committee of the Board or a General Meeting or a Special Meeting or an Annual Meeting, that member shall not vote on that matter, nor, unless approval has been given by the other members of the Board, committee, or a General Meeting or Special General Meeting, take part in the deliberations or discussions on that matter.

WINDING UP

78. The Association shall be dissolved and the operations of the Association shall cease and be wound up if a Special Resolution to that effect is carried by a seventy five per cent (75%) majority of Authorised Voting Representatives present at an Annual General Meeting or a Special General Meeting of the Association convened to consider the question.

79. If, upon The Association winding up, there remains, after satisfaction of all its debts and liabilities, any assets whatsoever, the same must not be paid to or distributed among the Members or the members of The Board, but must be transferred to one or more associations which:
- (a) are incorporated under the Act and have objects similar to the objects of The Association;
 - (b) are endorsed as a deductible gift recipient and are a Registered Public Benevolent Institution; and
 - (c) prohibit distribution of its income and property among its members to an extent at least as great as is imposed on The Association by clause 75.
- 79A. If, upon the revocation of The Association's endorsement as a deductible gift recipient, there remains any Gifts, Contributions or money received because of such Gifts and Contributions, the same must not be paid to or distributed among the Members or the members of The Board, but must be transferred to one or more associations which:
- (a) are incorporated under the Act and have objects similar to the objects of The Association;
 - (b) are endorsed as a deductible gift recipient and are a Registered Public Benevolent Institution; and
 - (c) prohibit distribution of its income and property among its members to an extent at least as great as is imposed on The Association by clause 75.
- 79B. The identity of the association or associations referred to in clauses 79 and 79A must be determined by resolution of the Members.

VARIATION AND INTERPRETATION OF RULES

- 80. The Constitution from time to time may be amended, rescinded or added to by a special resolution made by seventy five per cent (75%) of the Duly Authorised Representatives represented at an Annual General Meeting or at a Special General Meeting called for the specific purpose of a change to the Constitution.
- 81. A notice in writing to Members of intention to alter, add or amend this Constitution is required to be posted to each member at least ten (10) Business Days prior to the Special Meeting or Annual General Meeting.
- 82. The Board shall be the authority for the interpretation of these Rules and the decision of the Board upon any question of interpretation of these Rules shall be final.
- 83. Where the Board resolves any question of interpretation of these Rules it shall note such resolution and interpretation in the Minutes of the Board.
- 84. No alterations shall be made to this Constitution which shall authorise the utilisation of the Association's funds for any purpose other than a purpose as defined in the Income Tax Assessment Public Charitable Purpose Act in force in Australia.

(Amended to incorporate all amendments up to and including all amendments including those approved at the Special General Meetings on 26 February; 4 August 1989, 24 April 1990; paragraphs 15 and 16 amended on 26 February 1991; 22 June 1993; 26 July 1994; 22 November 1994 [Including legislative requirement to clause 20.1]; 23 April 1996, 26 October 1999; 14 December 1999; the Annual General Meeting of 18th November 2003, 26th October 2004 and 24th October 2006: the Special General Meeting of 12th June 2013 and the Annual General Meeting of 22nd October 2013).

Approved: _____

Signed: _____

Date: _____