

COUNCIL ON THE AGEING (WESTERN AUSTRALIA)  
INCORPORATED

## CONSTITUTION



WESTERN AUSTRALIA  
*for older Australians*



## Table of Contents

1.	NAME.....	3
2.	DEFINITIONS.....	3
3.	PURPOSE.....	4
4.	OBJECTIVES.....	4
5.	POWERS.....	5
6.	NOT FOR PROFIT.....	5
7.	PATRON.....	5
8.	MEMBERSHIP.....	6
9.	AFFILIATIONS AND REPRESENTATION.....	8
10.	COUNCIL RECORDS.....	8
11.	GOVERNANCE.....	8
12.	MEETINGS.....	12
13.	QUORUMS.....	16
14.	FINANCE.....	17
15.	GIFT FUND.....	17
16.	COMMON SEAL.....	18
17.	CHIEF EXECUTIVE OFFICER.....	18
18.	INTERPRETATION AND RULES.....	18
19.	ALTERATION OF THE CONSTITUTION.....	19
20.	DISSOLUTION.....	19
21.	RESOLVING DISPUTES.....	20
22.	MEDIATION.....	21

# COUNCIL ON THE AGEING (Western Australia) Incorporated

## CONSTITUTION

### 1. NAME

**1.1** The name of the organisation shall be the 'Council on the Ageing (Western Australia) Incorporated', herein after called 'the Council'.

**1.2** The Council may also be referred to as 'COTA' or 'COTA (WA)'.

### 2. DEFINITIONS

**The Act** refers to the Associations Incorporation Act 2015 (WA).

**The Association** means the Council on the Ageing (Western Australia) Incorporated.

**Board** means those persons referred to in Section Clause 11 of this Constitution.

**Chief Executive Officer** means that person employed by the Council as Chief Executive Officer under Section Clause 17 of this Constitution.

**Executive** means those persons referred to in 11.4 of this Constitution.

**Grievance Procedure** means the procedures set out in Clause 21.

**Officers** means those persons referred to in 11.4 of this Constitution.

**Member** means those organisations and individuals accepted as members of the association.

**Party to a dispute** includes a person:

- (a) Who is a party to the dispute; and
- (b) Who ceases to be a member within 6 months before the dispute has come to the attention of each party to the dispute.

**Records** means the association's records, books, documents and securities.

**Rules** means the rules of the association as determined by the Board from time to time.

### **3. PURPOSE**

The Council's Purpose is to help all older Western Australians achieve a just, inclusive and equitable society.

### **4. OBJECTIVES**

The objectives of the Council are to provide direct relief of poverty, sickness, suffering, distress, misfortune, disability, or helplessness amongst Western Australian seniors and contribute to and/or facilitate seniors to contribute to policy, planning, research and service delivery for older Western Australians through the provision of services, information, education, policy development and community participation.

The Council will:

- 4.1** Provide direct relief of poverty, sickness, suffering, distress, misfortune, disability, or helplessness.
- 4.2** Contribute to a positive understanding of ageing throughout all sectors of the community.
- 4.3** Promote the positive contribution of older people to their own well-being and to a more just and caring community.
- 4.4** Represent the needs, rights and interests of older people, giving priority to those most disadvantaged or in need of help.
- 4.5** Promote policies and services that advance the well-being of older people and their carers.
- 4.6** Promote and undertake research into matters concerning older people and their carers.
- 4.7** Facilitate collaboration between seniors' organisations, service agencies, community organisations providing services to older people, government and for-profit businesses.
- 4.8** Develop links and actively participate, with local, national and international organisations working to achieve objectives congruent with those of the Council.

## **5. POWERS**

Subject to the provisions of Section 14 of the Act and any other relevant legislation, the Council will have all powers necessary to achieve its Purpose and without limiting the generality of the fore-going, will have the following specific powers:

- 5.1** Elect or dismiss Board members at a properly convened General Meeting.
- 5.2** Formulate and promulgate Rules and policy statements necessary to give effect to this Constitution.
- 5.3** Appoint and dismiss the Chief Executive Officer under such terms and conditions as it sees fit.
- 5.4** Engage in financial and real property transactions.
- 5.5** Develop/undertake revenue generating enterprises congruent with the Council's objectives to enhance the viability of the organisation.
- 5.6** Take such actions as are necessary or desirable for achieving the Council's Purpose or are incidental to it.
- 5.7** Determine the membership and any other fees from time to time.

## **6. NOT FOR PROFIT**

The property and income of the Council shall be applied solely towards the attainment of its Purpose and no part of that income or property may be paid or otherwise distributed, directly or indirectly, to its Members except in good faith as reasonable remuneration for services rendered or reimbursement of authorised expenses incurred on Council's behalf.

## **7. PATRON**

The Board shall have the power to invite, appoint or terminate the appointment of a distinguished resident of Western Australia to be the Patron of the Council.

## 8. MEMBERSHIP

All Members will be bound by this Constitution and Rules as if they had signed documents signifying assent to be so bound.

### 8.1 Eligibility

Individuals and organisations with a commitment to the Council's Purpose and Objectives are eligible to apply for membership.

### 8.2 Categories and Rights of Members

Membership may be conferred by the Board in the following categories:

- (a) Individuals who are not official representatives of service provider organisations.
- (b) Organisations whose objectives are consistent with those of the Council.

Organisational Members may nominate two (2) official representatives for membership of the Council but shall only have one (1) vote at General Meetings and Council elections.

- (c) Honorary Life Member individuals who, having rendered outstanding service to the Council, are nominated by the Board and confirmed by a simple majority vote of Members at a General Meeting.

Members, or their official representatives, shall have the right to:

- (i) A voice and one (1) vote at General Meetings and Council elections.
- (ii) Stand for election to the Board, save that no single organisation may have more than one (1) nominee on the Board.

### 8.3 Exclusions

No political party, branch or subsidiary body of a political party shall be admitted to membership of the Council.

### 8.4 Applications for Membership

- (a) Applications for membership of the Council must be made on the prescribed form, and lodged, accompanied by the annual membership fee, as advised on the said form.
- (b) The Board reserves the right to refuse membership to individuals or organisations whose membership is considered inappropriate.
- (c) An individual or organisation whose application for membership has been refused by the Board may appeal in writing, within twenty-eight (28) days of being notified of non-

acceptance, to the next General Meeting of Members for a decision by a simple majority vote.

#### **8.5** Confirmation of Membership

Members are required to confirm their continuing membership annually by payment of the prescribed fee within three (3) months of receipt of an appropriate notice.

#### **8.6** Register of Members

A register of current Members and their addresses will be maintained in accordance with the Act.

#### **8.7** Termination of Membership

**(a)** Membership of the Council may be terminated by:

**(i)** Written notice of resignation.

**(ii)** Failure to renew membership within a period of three (3) months of the due date.

**(iii)** Resolution passed by a three-quarters (3/4) majority of the Board that the conduct of the Member had been prejudicial to attainment of the Council's Purpose or may bring the Council into disrepute.

**(b)** A person who has received notification that their membership has been terminated by the Board may, within twenty-eight (28) days, lodge a formal appeal to the Board. That person's membership is then suspended pending a final decision at the next General Meeting by a simple majority.

**(c)** A Member who, for whatever cause, ceases to be a Member will have no claim, monetary or otherwise, upon the Council, its funds or property.

## **9. AFFILIATIONS AND REPRESENTATION**

- 9.1** The Council may be affiliated with other organisations whose Purposes are congruent with the Council's Purpose.
- 9.2** If the Council is entitled to representation on another body that representation will be by a Member or employee nominated by the Board.
- 9.3** On public occasions the Council will be represented by the President, a Member or employee nominated by the Executive or the Chief Executive Officer.

## **10. COUNCIL RECORDS**

- 10.1** The Council's Records will be held at the Council's premises or in such other place of safe keeping as determined from time to time by the Chief Executive Officer.
- 10.2** At an agreed time during office hours and at the Council's offices a Member, without charge and under staff or Board member supervision, may:
- (a)** Inspect the Register of Members.
  - (b)** Subject to Board approval, which will not be unreasonably withheld, inspect the Council Records excluding 'Commercial-in-Confidence' and any records containing information covered by the *Privacy Act 1988 (Cth)*.

## **11. GOVERNANCE**

The Exercise of the powers of the Council under this Constitution, both in general and at Law, shall be the responsibility of a Board of Directors, which shall exercise due and proper oversight of continuing implementation of Council's policies.

### **11.1 Board Composition**

- (a)** The Board shall consist of not less than six (6) nor more than nine (9) elected members plus the Chief Executive Officer.
- (b)** The number of nominees representing Organisational Members shall not exceed the number elected as individuals.
- (c)** The elected Board may co-opt up to three (3) Directors whose terms shall cease at the Annual General Meeting following the dates of their co-option.
- (d)** Any person co-opted to the Board shall be either a Member or the nominee of an Organisational Member.
- (e)** The Chief Executive Officer, appointed under Clause 17.1 of this Constitution, shall be an ex-officio member of the Board but without the right to vote.



- (f) The Board will elect from among its numbers a person to act as Chairperson for Board meetings.
- (g) At least two-thirds (2/3) of Board members shall be at least 50 years of age.

### **11.2 Casual Board Vacancies**

- (a) A casual Board vacancy occurs if a Board member:
  - (i) Dies;
  - (ii) Resigns by notice in writing;
  - (iii) Is convicted of an offence under the Act or any criminal offence;
  - (iv) Is permanently incapacitated by mental or physical ill health;
  - (v) Ceases to be a Member;
  - (vi) Becomes bankrupt;
  - (vii) Is absent for three (3) consecutive meetings without formal grant of leave; or
  - (viii) Is removed from office under Clause 11.6.3 of this Constitution.
- (b) The Board may appoint a Member to fill a casual vacancy. The tenure of such Member will cease at the Annual General Meeting following the date of their co-option.

### **11.3 Board Elections**

- (a) The Board will be elected at a General, Annual or Special Meeting.
- (b) Members, as defined under Clause 8.2, will have one (1) vote.
- (c) Elections will be conducted by ballot, whether in a meeting or by post and in accordance with procedures set out in the Rules.
- (d) Nominations, by two (2) Members, shall be made on the prescribed form and lodged with the President at least twenty-one (21) days prior to the General Meeting.

#### **11.4 Board Officers**

- (a) At its first meeting following the Annual, General or Extraordinary/Special Meeting the Board will elect from among its number an Executive consisting:
- (i) A President of Council who shall be at least fifty (50) years of age;
  - (ii) A Vice President who shall be at least fifty (50) years of age, and
  - (iii) Two (2) other members of whom at least one shall be at least fifty (50) years of age.
- who shall hold office until election of their successors at the first meeting of the Board following declaration of election results at an Annual, General or Extraordinary/Special Meeting.
- (b) The Chief Executive Officer shall be an Officer of the Council.
- (c) No person shall hold more than one (1) office on the Board.

#### **11.5 Duration of Appointment**

- (a) Duration of membership of the Board for elected members shall be three (3) years from the date of the Annual General, or Special Meeting at which they were elected unless Board vacancies have occurred during the previous year which have disrupted the orderly succession of Directors intended under Clause 11.5.2, in which case election may be for a period of one or two years. The Directors who will serve for less than 3 years shall be determined by lot.

No person, whether elected or co-opted, may serve on the Board for more than six (6) consecutive years, i.e. two (2) terms unless Directors unanimously agree that there is a need for the continuing service of an individual who will complete six consecutive years in office when elections are next held and recommend to members that the person concerned should be permitted to nominate for re-election until the next ensuing Annual General Meeting. Directors shall not recommend nomination for re-election of any person who has served as a Director for nine consecutive years.

Persons who have completed the permitted period of continuous service as Directors may re-nominate for election after an absence of not less than the interval between two (2) Annual General Meetings.

- (b) At least one-third (1/3) of positions on the Board shall be declared vacant each year.
- (c) No person may hold the office of President for more than three (3) consecutive years.

## **11.6 Powers**

The Board shall have the power to:

- (a) Elect, remove or replace Officers for prescribed periods of time in accordance with the Rules.
- (b) Grant leave to Board members for specified periods and appoint Members to act in their stead, provided that:
  - (i) Not more than two (2) members shall be granted leave at any time;
  - (ii) No term of leave shall exceed four (4) consecutive months; and
  - (iii) Cumulative leave in any term shall not exceed eight (8) months.
- (c) By a vote of two-thirds (2/3) of its members the Board may remove from office a member who fails to attend three (3) consecutive meetings, or one-third (1/3) of the total meetings of the Board in any one (1) year, without leave being granted.
- (d) Delegate such powers, excluding the power of sub-delegation, to committees and sub-committees provided that each of these committees shall act in accordance with the Terms of Reference determined by the Board.

## **11.7 Responsibilities**

- (a) The Board shall ensure that the affairs of the Council are managed at all times honestly and with due diligence.
- (b) A Board member having a direct or indirect pecuniary interest in a matter involving the Council shall declare the nature and extent of that interest as soon as s/he becomes aware of this interest and must not take part in any debate or decision in respect to that matter.

## **11.8 Committees**

- (a) The Board may establish standing and ad hoc committees as set out in the Rules to facilitate conduct of Council's affairs.
- (b) The Board shall determine Terms of Reference for all committees and sub-committees.
- (c) The President and Chief Executive Officer shall be ex-officio members of all committees and sub-committees of the Council.
- (d) All committees shall have at least one (1) Board nominee among their membership.
- (e) Standing committees shall have the power to appoint sub-committees to undertake specific roles or activities subject to endorsement of the Board. Each sub-committee shall be chaired by a member of the committee appointing it.

## **12. MEETINGS**

- 12.1** The conduct of meetings of the Council will conform to the procedures set out in the Rules.
- 12.2** At all meetings of the Council a Member will declare any conflict of interest.
- 12.3** Proxy votes are admissible under the terms set out in the Rules.
- 12.4** The Annual General Meeting will be held within six (6) months of the end of the Council's financial year.
- 12.5** General Meetings of the Council will be held at least once per year.
- 12.6** Extraordinary /Special General Meetings may be convened:
- (a) On the written request of not less than thirty (30) Members or one per cent (1%) of the total individual membership, whichever is the greater.
  - (b) On the written request of the President.
  - (c) By resolution of the Board.
- 12.7** The Board will meet at least four (4) times a year, at intervals of not longer than three (3) months.
- 12.8** The Council's committees and sub-committees will conform to their Terms of Reference as determined by the Board.
- 12.9** Notice of Meetings will be disseminated as follows:
- (a) General Meetings (GM)
    - (i) Notice of Meeting will be not less than twenty-one (21) days prior to the meeting date.
    - (ii) Additional items for inclusion on the agenda should reach Council office at least fourteen (14) days prior to the meeting.
  - (b) Annual General Meeting (AGM)
    - (i) All Members shall be notified of the time, date and place of the meeting at least twenty-eight (28) days prior to the meeting.
    - (ii) The agenda, personal profiles of nominees for Board vacancies and other business papers shall be available at least fourteen (14) days prior to the meeting. The availability and means of obtaining these papers shall be advertised in the notice promulgated in accordance with the fore-going item.
    - (iii) The business of the meeting shall be:

- A. Confirmation of the Minutes of the previous Annual General Meeting;
  - B. Annual report of the President;
  - C. Adoption of Council's Annual Report for the previous financial year;
  - D. Adoption of the Audited Financial Statements and accompanying reports for the previous year;
  - E. Election and declaration of results for membership of the Board;
  - F. Consideration of items of general business from the Board or submitted by Members to the Board not less than three (3) weeks prior to the date of the meeting which the Board, at its sole discretion, shall place on the agenda unless these are inconsistent with Council's Purpose and Objectives;
  - G. Appointment of an Auditor; and
  - H. Endorsement of affiliations.
- (c) Extraordinary/Special General Meetings (SGM)
- (i) SGM's shall be held at a date specified by the Board or, in the case of a meeting requested by thirty (30) Members or one per cent (1%) of the total individual membership, whichever is the greater, not later than eight (8) weeks following the request unless a longer period has been specified.
  - (ii) Notice of Meeting shall be given at least fourteen (14) days before the due date to all Members through either Council's official publication, a public notice or by mail.
  - (iii) Notice of Meeting for a SGM to consider dissolution of the Council will be issued not less than twenty-eight (28) days prior to the meeting date.
  - (iv) Resolutions from a SGM will be considered by the Board at its next meeting following the SGM but shall not be binding on the Board unless expressing 'No Confidence' in the Board, where upon the Board shall immediately resign and hand over to an interim authority appointed by the SGM.

**(d) Board Meetings**

- (i)** Notice of each Board meeting must be given to each Board member at least 48 hours before the time of the meeting.
- (ii)** The notice must state the date, time and place of the meeting and must describe the general nature of the business to be conducted at the meeting.
- (iii)** Unless subrule 12.9(d) (iv) applies, the only business that may be conducted at the meeting is the business described in the notice.
- (iv)** Urgent business that has not been described in the notice may be conducted at the meeting if the Board members at the meeting unanimously agree to treat that business as urgent.

**12.10** The procedure and order of business for each Board meeting will be as followed:

- (a)** The chairperson or, in the chairperson's absence, the deputy-chairperson must preside as chairperson of each Board meeting.
- (b)** If the chairperson and deputy chairperson are absent or are unwilling to act as chairperson of a meeting, the Board members at the meeting must choose one of them to act as chairperson of the meeting.
- (c)** The procedure to be followed at a Board meeting must be determined from time to time by the Board.
- (d)** The order of business at a Board meeting may be determined by the Board members at the meeting.
- (e)** A member or other person who is not a Board member may attend a Board meeting if invited to do so by the Board.
- (f)** A person invited under rule 12.10(e) to attend a Board meeting:
  - (i)** Has no right to any agenda, minutes or other document circulated at the meeting;
  - (ii)** Must not comment about any matter discussed at the meeting unless invited by the Board to do so; and
  - (iii)** Cannot vote on any matter that is to be decided at the meeting.

### **12.11 Minutes of Board meetings**

- (a)** The Board must ensure that minutes are taken and kept of each Board meeting.
- (b)** The minutes must record the following:
  - (i)** The names of the Board members present at the meeting;
  - (ii)** The name of any person attending the meeting under rule 12.10(e);
  - (iii)** The business considered at the meeting;
  - (iv)** Any motion on which a vote is taken at the meeting and the result of the vote.
  - (v)** The minutes of a Board meeting must be entered in the Association's minute book within thirty (30) days after the meeting is held.
  - (vi)** The chairperson must ensure that the minutes of a Board meeting are reviewed and signed as correct by:
    - (vii)** The chairperson of the meeting; or
    - (viii)** The chairperson of the next Board meeting.
- (c)** When the minutes of a Board meeting have been signed as correct they are, until the contrary is proved, evidence that:
  - (i)** The meeting to which the minutes relate was duly convened and held; and
  - (ii)** The matters recorded as having taken place at the meeting took place as recorded; and
  - (iii)** Any appointment purportedly made at the meeting was validly made.

**12.12** Voting at Board meetings will be as followed:

- (a) Each Board member present at a Board meeting has one vote on any question arising at the meeting.
- (b) A motion is carried if a majority of the Board members present at the Board meeting vote in favour of the motion.
- (c) If the votes are divided equally on a question, the chairperson of the meeting has a second or casting vote.
- (d) A vote may take place by the Board members present indicating their agreement or disagreement or by a show of hands, unless the Board decides that a secret ballot is needed to determine a particular question.
- (e) If a secret ballot is needed, the chairperson of the meeting must decide how the ballot is to be conducted.

### **13. QUORUMS**

- 13.1** For an Annual General Meeting, a General or Extraordinary/Special Meeting a quorum will be thirty (30) voting Members, whether present or by proxy, or one percent (1%) of the voting membership, whichever is the lesser.
- 13.2** For a Board Meeting the quorum will be five (5) voting members or at least half of the total Board membership, whichever is the greater, always provided that the number includes two (2) Officers as defined under Clause 11.4.
- 13.3** For the Council's committees and/or working parties the quorums will conform to their respective Terms of Reference.
- 13.4** If, fifteen (15) minutes after the scheduled commencement time of a meeting, a quorum is not present the meeting will be adjourned and reconvened:
  - (a) For Executive, Board and Committee meetings; to a mutually convenient time and date for the majority of members.
  - (b) For all other meetings; at the same time, day and place within the next two (2) weeks.
- 13.5** If, fifteen (15) minutes after the scheduled commencement time of the reconvened meeting, a quorum is not present the meeting will proceed as if a quorum was present.



## **14. FINANCE**

- 14.1** The financial year of the Council will be from 1 July to 30 June the following year.
- 14.2** Income, property and funds shall be under the control of the Council and used solely for the promotion of the Council's Purpose and Objectives.
- 14.3** Such property, income and funds shall not be paid or transferred to any Member or their direct interest, provided that nothing herein shall prevent payment in good faith of proper and reasonable remuneration to any person for services actually rendered or expenses properly incurred on the Council's behalf or in the furtherance of the Purpose of the Council.
- 14.4** All payments from the Council's funds shall be authorised by signature of two (2) Officers.
- 14.5** The Association's accounting records will be maintained in accordance with current, generally recognised accounting standards and in accordance with Section 66 of the Act.
- 14.6** The Auditor of the Council will be appointed on an annual basis by a majority vote of Members present and voting at an Annual General Meeting.
- 14.7** The audited Annual Statement of Accounts, together with the comments of the Auditor, will be presented to the Annual General Meeting.

## **15. GIFT FUND**

- 15.1** A Gift Fund, known as 'Protecting Older Western Australians Gift Fund' shall be established and maintained for receipt of tax-deductible gifts. Its purpose is to provide direct relief of poverty, sickness, suffering, distress, misfortune, disability or helplessness to Western Australian seniors.
- 15.2** Records of contributions to and dispersals from the Gift Fund shall be maintained separately from other Council records.
- 15.3** If the Gift Fund is wound up or if the endorsement of the organisation as a deductible gift recipient is revoked, any surplus assets of the Gift Fund remaining after the payment of liabilities attributable to it shall be transferred to a fund, authority or institution to which income tax deductible gifts can be made in accordance with Australian Taxation Office rulings.

## **16. COMMON SEAL**

- 16.1** The Common Seal will be in the safe-keeping of the Chief Executive Officer.
- 16.2** The Common Seal shall be affixed to any document only with the authority of the Board or in case of emergency by the Executive.
- 16.3** The affixing of the Common Seal shall be witnessed by any two (2) Officers of the Council.
- 16.4** The Chief Executive Officer will maintain a Seal Register which shall record the nature of the document to which the Seal was affixed, the names of the signatories to the document and the date of signing.

## **17. CHIEF EXECUTIVE OFFICER**

- 17.1** The Chief Executive Officer is the principal salaried officer of the Council and shall be appointed by the Board on such terms and conditions as determined by the Board.
- 17.2** Be responsible to the Board for the routine management of the Council's affairs.
- 17.3** Be responsible for the employment and supervision of other paid and voluntary employees of the Council.
- 17.4** Be responsible for keeping the Board informed of issues relevant to the Council.

## **18. INTERPRETATION AND RULES**

- 18.1** The Board shall be the authority for interpretation of this Constitution and of any Rules made there under. The decision of the Board on any question of interpretation shall be final and binding within the Law.
- 18.2** The Board shall establish Rules to govern the conduct of those matters referred to in this Constitution as being set out in the Rules and such other matters as it may determine.
- 18.3** The Rules may be created, amended or deleted by resolution of a majority of the Board provided at least two (2) weeks' notice of such a resolution has been given. In cases of urgency the Board may act without notice provided two-thirds (2/3) of the members so resolve.
- 18.4** Copies of the Constitution and the Rules shall be available to any Member at the Council's office.

## **19. ALTERATION OF THE CONSTITUTION**

This Constitution may be repealed or amended by:

- 19.1** Recommendation of the Board provided at least twenty-eight (28) days' notice of the proposed alteration has been provided in writing to Members and a resolution of three-fourth (3/4) of voting Members present or by proxy and voting at an Annual or Special General Meeting.
- 19.2** The Commissioner for Fair Trading and all statutory bodies and organisations with an interest in the Council will be advised of the amendments within twenty-eight (28) days of the passing of the amendment.

## **20. DISSOLUTION**

- 20.1** The Council may be dissolved if a resolution to that effect is carried in the same manner as a resolution to amend the Constitution as set out in Clause 19 at an Extraordinary/Special Meeting called for that purpose.
- 20.2** If, on the winding up of the Council, any property remains after satisfaction of all debts and liabilities and the costs, charges and expenses of that winding-up, that property shall be distributed to another organisation in Australia which is a public benevolent institution for the purposes of any Commonwealth taxation and having objectives similar to those of the Council, which association shall be determined by special resolution of the Members when authorising and directing the Board to prepare a distribution plan for surplus property of the Council.
- 20.3** If Members cannot agree a suitable recipient for the surplus property of the Council the matter shall be determined by the Commissioner of Fair Trading.
- 20.4** A copy of the resolution shall be lodged with the Commissioner of Fair Trading and the Deputy Commissioner of Taxation in Western Australia within twenty-eight (28) days of the date of the Extraordinary/Special General Meeting.
- 20.5** Members and any other interested parties will be notified of the dissolution within twenty eight (28) days of the date of the Extraordinary / Special Meeting called for that purpose.

## **21. RESOLVING DISPUTES**

**21.1** The procedure set out in this Section (the grievance procedure) applies to disputes:

- (a) Between members; or
- (b) Between one or more members and the association.

**21.2** 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.

**21.3** The grievance procedure is started by:

- (a) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by Clause 21.2, any party to the dispute may start the grievance procedure by giving written notice to the President of:
  - (i) The parties to the dispute; and
  - (ii) The matters that are the subject of the dispute.
- (b) Within twenty-eight (28) days after the President is given the notice, a Board meeting must be convened to consider and determine the dispute.
- (c) The President 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.
- (d) The notice given to each party to the dispute must state:
  - (i) When and where the Board meeting is to be held; and
  - (ii) 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 written and oral) submissions to the Board about the dispute.
- (e) If:
  - (i) The dispute is between one or more members and the Association; and
  - (ii) Any party to the dispute gives written notice to the President stating that the party:
    - A. Does not agree to the dispute being determined by the Board; and
    - B. Requests the appointment of a mediator under Clause 22.1.

The Board must not determine the dispute.

**21.4** Determination of dispute by Board

- (a) At the Board meeting at which a dispute is to be considered and determined, the Board must:
  - (i) Give each party to the dispute, or the party's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the dispute; and
  - (ii) Give due consideration to any submissions so made; and
  - (iii) Determine the dispute.
- (b) 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.
- (c) A party to the dispute may, within fourteen (14) days after receiving notice of the Board's determination under Clause 21.4(a) (iii), give written notice to the President requesting the appointment of a mediator under Clause 22.1.
- (d) If notice is given under Clause 21.4(c), each party to the dispute is a party to the mediation.

## **22. MEDIATION**

**22.1** This Clause 22 applies if written notice has been given to the President requesting the appointment of a mediator. If this Division applies, a mediator must be chosen or appointed under Clause 22.1.

### **22.2** Appointment of a Mediator

- (a) The mediator must be a person chosen by agreement between the parties to the dispute.
- (b) If there is no agreement for the purposes of Clause 22.2, then, subject to Clause 22.2(c) and (d), the Board must appoint the mediator.
- (c) The person appointed as mediator by the Board may be a member or former member of the Association but must not:
  - (i) Have a personal interest in the matter that is the subject of the mediation; or
  - (ii) Be biased in favour of or against any party to the mediation.

### 22.3 Mediation Process

- (a) The parties to the mediation must attempt in good faith to settle the matter that is the subject of the mediation.
- (b) Each party to the mediation must give the mediator a written statement of the issues that need to be considered at the mediation at least five (5) days before the mediation takes place.
- (c) In conducting the mediation, the mediator must:
  - (i) Give each party to the mediation every opportunity to be heard; and
  - (ii) Allow each party to the mediation to give due consideration to any written statement given by another party; and
  - (iii) Ensure that natural justice is given to the parties to the mediation throughout the mediation process.
- (d) The mediator cannot determine the matter that is the subject of the mediation.
- (e) The mediation must be confidential and any information given at the mediation cannot be used in any other proceedings that take place in relation to the matter that is the subject of the mediation.
- (f) The costs of the mediation are to be paid by the party or parties to the mediation that requested the appointment of the mediator.

