

# **CROYDON OUT OF SCHOOL CARE ASSOCIATION INCORPORATED (COSCARE INC.)**

## **CONSTITUTION 2026**



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## Contents

|               |                                                                              |           |
|---------------|------------------------------------------------------------------------------|-----------|
| <b>Part 1</b> | <b>Preliminary.....</b>                                                      | <b>4</b>  |
| 1             | Definitions .....                                                            | 4         |
| 2             | Objectives .....                                                             | 4         |
| <b>Part 2</b> | <b>Members of Association .....</b>                                          | <b>4</b>  |
| 3             | Membership generally .....                                                   | 4         |
| 4             | Membership applications.....                                                 | 5         |
| 5             | Register of members .....                                                    | 5         |
| 6             | Fees and subscriptions .....                                                 | 6         |
| 7             | Members' liabilities .....                                                   | 6         |
| 8             | Disciplinary action against members .....                                    | 7         |
| 9             | Right of appeal against disciplinary action.....                             | 7         |
| 10            | Resolution of internal disputes .....                                        | 8         |
| 11            | Membership entitlements not transferable .....                               | 8         |
| 12            | Member resignation.....                                                      | 8         |
| 13            | Cessation of membership.....                                                 | 8         |
| <b>Part 3</b> | <b>Committee .....</b>                                                       | <b>8</b>  |
| 14            | Functions of committee .....                                                 | 8         |
| 15            | Composition of committee.....                                                | 9         |
| 16            | Election of committee members.....                                           | 9         |
| 17            | Terms of office.....                                                         | 9         |
| 18            | Vacancies in office .....                                                    | 10        |
| 19            | Secretary.....                                                               | 10        |
| 20            | Treasurer .....                                                              | 11        |
| 21            | Public Officer .....                                                         | 11        |
| 22            | Executive of the committee .....                                             | 11        |
| 23            | Delegation to subcommittees .....                                            | 11        |
| 24            | Committee meetings .....                                                     | 12        |
| 25            | Notice of committee meeting .....                                            | 12        |
| 26            | Quorum .....                                                                 | 12        |
| 27            | Presiding committee member.....                                              | 12        |
| 28            | Voting .....                                                                 | 13        |
| 29            | Special Resolutions.....                                                     | 13        |
| 30            | Acts valid despite vacancies or defects .....                                | 13        |
| 31            | Transaction of business outside meetings or by telephone or other means..... | 13        |
| <b>Part 4</b> | <b>General meetings of Association .....</b>                                 | <b>14</b> |
| 32            | Annual general meetings.....                                                 | 14        |
| 33            | Special general meetings.....                                                | 14        |
| 34            | Notice of general meeting.....                                               | 15        |
| 35            | Quorum .....                                                                 | 15        |
| 36            | Adjourned meetings.....                                                      | 15        |
| 37            | Presiding member .....                                                       | 16        |
| 38            | Voting .....                                                                 | 16        |
| 39            | Postal, electronic or combined ballots.....                                  | 17        |
| 40            | Transaction of business outside meetings or by telephone or other means..... | 17        |
| <b>Part 5</b> | <b>Administration .....</b>                                                  | <b>17</b> |
| 41            | Change of name, objects or constitution .....                                | 17        |
| 42            | Funds .....                                                                  | 17        |
| 43            | Insurance .....                                                              | 18        |

|    |                                              |    |
|----|----------------------------------------------|----|
| 44 | Non-profit status .....                      | 18 |
| 45 | Service of notices .....                     | 18 |
| 46 | Custody of records and books.....            | 19 |
| 47 | Audit .....                                  | 19 |
| 48 | Inspection of records and books .....        | 19 |
| 49 | Financial year.....                          | 20 |
| 50 | Distribution of property on winding up ..... | 20 |

## Part 1 Preliminary

### 1 Definitions

(1) In this constitution:

**association** means Croydon Out of School Care Association Incorporated.

**committee member** means an office-bearer or ordinary committee member.

**exercise** a function includes perform a duty.

**function** includes a power, authority or duty.

**office-bearer** means a committee member who is elected to an office referred to in clause 15(1)(a)(i) - (iv).

**ordinary committee member** means a committee member who is not an office-bearer.

**register of members** means the register of members maintained under clause 5.

**management committee member** means a member of the committee who is an office-bearer of the Association.

**secretary**, of the Association, means:

- (a) the person holding office under this constitution as secretary, or
- (b) if no person holds that office -the public officer of the Association.

**special general meeting**, of the Association, means a general meeting of the Association other than an annual general meeting.

**subcommittee** means a subcommittee established under clause 23.

**the Act** means the *Associations Incorporation Act 2009*.

**the Regulation** means the *Associations Incorporation Regulation 2022*.

**Note:** The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this constitution.

(2) The *Interpretation Act 1987* applies to this constitution as if it were an instrument made under the Act.

**Note:** The Act, Part 4 deals with various matters relating to the management of associations.

### 2 Objectives

The objectives of the Association shall be to provide a quality out of school (OSHC) and vacation service which extends the play, creative and community engagement opportunities for children from Kindergarten to Year 6 in their leisure time, which is not for profit.

## Part 2 Members of Association

### 3 Membership generally

(1) An individual is taken to be a member of the Association if:

- (a) the person applied to be a member under clause 4(1) and the application has been approved, and

- (b) the person is a parent or guardian of a child enrolled at and/or attending Coscare, or
  - (c) the person is a parent or guardian of a child awaiting enrolment at Coscare, or
  - (d) the Director of Coscare, or
  - (e) the person has a particular interest, knowledge or other personal or professional qualifications which the Management Committee may consider to be of assistance to the Association in achieving its objectives.
  - (f) the person is not financially in arrears for fees that are determined by the Management Committee. These fees shall include membership fees, fees for childcare and other fees as considered necessary by the Management Committee.
- (2) A person who is not an individual is not eligible to be a member of the Association.

#### **4 Membership applications**

- (1) An application by a person to be a member of the Association must be:
  - (a) made in writing, and
  - (b) in the form determined by the Management Committee, and
  - (c) lodged with the Director of the Association.
- (2) The committee may determine that an application may be made or lodged by email or other electronic means.
- (3) The Director must refer an application to the committee as soon as practicable after receiving the application.
- (4) The committee must approve or reject the application.
- (5) As soon as practicable after the committee has decided the application, the Director must:
  - (a) give the applicant written notice of the decision, including by email or other electronic means if determined by the committee, and
  - (b) if the application is approved - inform the applicant that the applicant is required to pay the entrance fee and annual membership fee payable under clause 6 within 28 days of the day the applicant received the notice.
- (6) The Director must enter the applicant's name in the register of members as soon as practicable after the applicant pays the entrance fee and annual membership fee in accordance with subclause (6)(b).
- (7) The applicant becomes a member once the applicant's name is entered in the register.

#### **5 Register of members**

- (1) The Director must establish and maintain a register of members of the Association.
- (2) The register:
  - (a) may be in written or electronic form, and
  - (b) must include, for each member:
    - (i) the member's full name, and
    - (ii) a residential, postal or email address, and
    - (iii) the date on which the person became a member, and

- (iv) if the person ceases to be a member - the date on which the person ceased to be a member, and
- (c) must be kept in New South Wales:
  - (i) at the Association's main premises, or
  - (ii) if the Association has no premises - at the Association's official address, and
- (d) must be available for inspection, free of charge, by members during business hours, and
- (e) if kept in electronic form - must be able to be converted to hard copy.
- (3) If the register is kept in electronic form, the requirements in subclause (3)(c) and (d) apply as if a reference to the register is a reference to a current hard copy of the register.
- (4) A member may obtain a hard copy of the register, or a part of the register, on payment of a fee of \$5, or as determined by the committee, for each page copied.
- (5) Information about a member, other than the member's name, must not be made available for inspection if the member requests that the information not be made available.
- (6) A member must not use information about a member obtained from the register to contact or send material to the member, unless:
  - (a) the information is used to send the member:
    - (i) a newsletter, or
    - (ii) a notice for a meeting or other event relating to the Association, or
    - (iii) other material relating to the Association, or
  - (b) it is necessary to comply with a requirement of the Act or the Regulation.

## **6 Fees and subscriptions**

- (1) A member of the Association must, on admission to membership, pay to the Association an amount determined by the management committee.
- (2) In addition to any amount payable by the member under subclause (1), a member of the Association must pay to the Association an annual membership fee as determined by the management committee, which shall accompany the annual re-enrolment of their child/children into the service, and
- (3) Pay other fees as determined by the management committee. These fees shall include fees for child care and other fees as considered necessary by the management committee.

## **7 Members' liabilities**

The liability of a member of the Association to contribute towards the payment of the debts and liabilities of the Association or the costs, charges and expenses of the winding up of the Association is limited to the amount, if any, unpaid by the member in respect of membership of the Association as required by clause 6.

## **8 Disciplinary action against members**

- (1) A person may make a complaint to the committee that a member of the Association has:
  - (a) failed to comply with a provision of this constitution, or
  - (b) willfully acted in a way prejudicial to the interests of the Association.
- (2) The committee may refuse to deal with a complaint if the committee considers the complaint to be trivial or vexatious.
- (3) If the committee decides to deal with the complaint, the committee must:
  - (a) serve notice of the complaint on the member, and
  - (b) give the member at least 14 days from the day the notice is served on the member within which to make submissions to the committee about the complaint, and
  - (c) consider any submissions made by the member.
- (4) The committee may, by resolution, expel the member from the Association or suspend the member's membership if, after considering the complaint, the committee is satisfied that:
  - (a) the facts alleged in the complaint have been proved, and
  - (b) the expulsion or suspension is warranted.
- (5) If the committee expels or suspends the member, the Director must, within 7 days of that action being taken, give the member written notice of:
  - (a) the action taken, and
  - (b) the reasons given by the committee for taking the action, and
  - (c) the member's right of appeal under clause 9.
- (6) The expulsion or suspension does not take effect until the later of the following:
  - (a) the day the period within which the member is entitled to exercise the member's right of appeal expires, or
  - (b) if the member exercises the member's right of appeal within the period - the day the Association confirms the resolution under clause 8.

## **9 Right of appeal against disciplinary action**

- (1) A member may appeal against a resolution of the committee under clause 8 by lodging a notice of appeal with the Director within 7 days of being served notice of the resolution.
- (2) The member may include, with the notice of appeal, a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- (3) The Director must notify the committee that the Director has received a notice of appeal.
- (4) If notified that a notice has been received, the committee must call a general meeting of the Association to be held within 28 days of the day the notice was received.
- (5) At the general meeting:
  - (a) no business other than the question of the appeal is to be transacted, and
  - (b) the member must be given an opportunity to state the member's case orally or in writing, or both, and

- (c) the committee must be given the opportunity to state the committee's case orally or in writing, or both, and
  - (d) the members present must vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (6) The appeal is to be determined by a simple majority of votes cast by the members.

## **10 Resolution of internal disputes**

- (1) The following disputes must be referred to a Community Justice Centre within the meaning of the Community Justice Centres Act 1983 for mediation:
- (a) a dispute between 2 or more members of the Association, but only if the dispute is between the members in their capacity as members, or
  - (b) a dispute between 1 or more members and the Association.
- (2) If the dispute is not resolved by mediation within 3 months of being referred to the Community Justice Centre, the dispute must be referred to arbitration.
- (3) The Commercial Arbitration Act 2010 applies to a dispute referred to arbitration.

## **11 Membership entitlements not transferable**

A right, privilege or obligation that a person has because the person is a member of the Association:

- (a) cannot be transferred to another person, and
- (b) terminates once the person ceases to be a member of the Association.

## **12 Member resignation**

- (1) A member of the Association may resign from being a member by giving the Director written notice of at least 2 weeks of the member's intention to resign.
- (2) The member ceases to be a member on the expiration of the notice period.

## **13 Cessation of membership**

A person ceases to be a member of the Association if the person:

- (a) dies, or
- (b) resigns from being a member, or
- (c) is expelled from the Association, or
- (d) fails to pay the annual membership fee payable under clause 6(2) by the first day of the school calendar year.

# **Part 3 Committee**

## *Division 1 Constitution*

### **14 Functions of committee**

Subject to the Act, the Regulation, this constitution and any resolution passed by the Association in general meeting, the committee:

- (a) is to control and manage the affairs of the Association, and

- (b) may exercise all the functions that may be exercised by the Association, other than a function that is required to be exercised by the Association in general meeting and
- (c) has power to do all things that are necessary or convenient to be done for the proper management of the affairs of the Association.

## **15 Composition of committee**

- (1) The committee must have 7 members, as elected in accordance with clause 16, consisting of:
  - (a) the following office-bearers:
    - (i) the President,
    - (ii) the Vice-President,
    - (iii) the Secretary,
    - (iv) the Treasurer, and
  - (b) at least 3 ordinary committee members.

**Note** - The Act, section 28 contains requirements relating to membership eligibility and composition of the committee.

- (2) An office-bearer may hold up to 2 offices, other than both the offices of President and Vice-President.

## **16 Election of committee members**

- (1) Any member of the Association may be nominated as a candidate for election as an office-bearer or ordinary committee member.
- (2) The nomination must be:
  - (a) made in writing, and
  - (b) signed by at least 2 members of the Association, not including the candidate, and
  - (c) accompanied by the written consent of the candidate to the nomination, and
  - (d) given to the Director at least 7 days before the date fixed for the annual general meeting at which the election is to take place.
- (3) If insufficient nominations are received to fill all vacancies:
  - (a) the candidates nominated are taken to be elected, and
  - (b) a call for further nominations must be made at the meeting.
- (4) A nomination made at the meeting in response to a call for further nominations must be made in the way directed by the member presiding at the meeting.
- (5) Vacancies that remain after a call for further nominations are taken to be casual vacancies.
- (6) If the number of nominations received is equal to the number of vacancies to be filled, the members nominated are taken to be elected.
- (7) If the number of nominations received is more than the number of vacancies to be filled, a ballot must be held at the meeting in the way directed by the committee.

## **17 Terms of office**

- (1) Subject to this constitution, a committee member holds office from the day

the member is elected until immediately before the next annual general meeting.

- (2) A member is eligible, if otherwise qualified, for re-election.
- (3) There is no limit on the number of consecutive terms for which a committee member may hold office.

## **18 Vacancies in office**

- (1) A casual vacancy in the office of a committee member arises if the member:
  - (a) dies, or
  - (b) ceases to be a member of the Association, or
  - (c) resigns from office by written notice given to the Director, or
  - (d) is removed from office by the Association under this clause, or
  - (e) is absent from 3 consecutive meetings of the committee without the consent of the committee, or
  - (f) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth, or
  - (g) is prohibited from being a director of a company under the *Corporations Act 2001* of the Commonwealth, Part 2D.6, or
  - (h) is convicted of an offence involving fraud or dishonesty for which the maximum penalty is imprisonment for at least 3 months, or
  - (i) becomes a mentally incapacitated person.
- (2) The Association in general meeting may, by resolution:
  - (a) remove a committee member from office at any time, and
  - (b) appoint another member of the Association to hold office for the balance of the committee member's term of office.
- (3) A committee member to whom a proposed resolution referred to in subclause (2) relates may:
  - (a) give a written statement, of a reasonable length, to the President or Director, and
  - (b) request that the committee send a copy of the statement to each member of the Association at least 7 days before the general meeting at which the proposed resolution will be considered.
- (4) If the committee fails to send a copy of a statement received under subclause (3)(a) to each member in accordance with a request made under subclause (3)(b), the statement must be read aloud by the member presiding at the general meeting at which the proposed resolution will be considered.
- (5) The committee may appoint a member of the Association to fill a casual vacancy other than a vacancy arising from the removal from office of a committee member.
- (6) Subject to this constitution, a member appointed to fill a casual vacancy holds office until the next annual general meeting.

## **19 Secretary**

- (1) As soon as practicable after being elected as Secretary, the Secretary must lodge a notice with the Association specifying the Secretary's address.
- (2) The Secretary must keep minutes of:

- (a) all elections of committee members, and
  - (b) the names of committee members present at a meeting of the committee or a general meeting, and
  - (c) all proceedings at committee meetings and general meetings.
- (3) The minutes must be:
- (a) kept in written or electronic form, and
  - (b) for minutes of proceedings at a meeting -signed, in writing or by electronic means, by:
    - (i) the member who presided at the meeting, or
    - (ii) the member presiding at the subsequent meeting.

## **20 Treasurer**

The Treasurer of the Association must ensure—

- a. all money owed to the Association is collected, and
- b. all payments authorised by the Association are made, and
- c. correct books and accounts are kept showing the financial affairs of the Association, including full details of receipts and expenditure relating to the Association's activities.

## **21 Public Officer**

The committee shall appoint a Public Officer.

- a. The Public Officer may be a committee member, or any other person regarded by the Committee as suitable for the position.
- b. When a vacancy occurs in the position of Public Officer, the Committee shall within 28 days notify NSW Fair Trading (or such other body as may assume the powers) and appoint a person to fill the vacancy.

## **22 Executive of the committee**

- (1) An Executive of the management committee may be formed by
- (a) the President, the Vice-President, Secretary and Treasurer, or
  - (b) the President and any two others of the Vice-President, Secretary and Treasurer.

## **23 Delegation to subcommittees**

- (1) The committee may:
- (a) establish 1 or more subcommittees to assist the committee to exercise the committee's functions, and
  - (b) appoint 1 or more members of the Association to be members of the subcommittee.
- (2) The committee may delegate to the subcommittee the exercise of the committee's functions specified in the instrument, other than:
- (a) this power of delegation, or

- (b) a duty imposed on the committee by the Act or another law.

**Note:** The *Interpretation Act 1987*, section 49 deals with various matters relating to delegations.

## Division 2 Procedure

### 24 Committee meetings

- (1) The committee must meet at least 6 times in each 12-month period at the place and time determined by the committee.
- (2) Additional meetings of the committee may be called by any committee member.
- (3) The procedure for calling and conducting business at a meeting of a subcommittee is to be determined by the subcommittee.

**Note:** The Act, section 30(1) provides that committee meetings may be held as and when the association's constitution requires.

### 25 Notice of committee meeting

- (1) The Director must give each committee member oral or written notice of a meeting of the committee at least 48 hours, or another period on which the committee members unanimously agree, before the time the meeting is due to commence.
- (2) The notice must describe the general nature of the business to be transacted at the meeting.
- (3) The only business that may be transacted at the meeting is:
  - (a) the business described in the notice, and
  - (b) business that the committee members present at the meeting unanimously agree is urgent business.

### 26 Quorum

- (1) The quorum for a meeting of the committee is 3 committee members.
- (2) No business may be transacted by the committee unless a quorum is present.
- (3) If a quorum is not present within half an hour of the time the meeting commences, the meeting is adjourned:
  - (a) to the same place, and
  - (b) to the same time of the same day in the following week.
- (4) If a quorum is not present within half an hour of the time the adjourned meeting commences, the meeting is dissolved.
- (5) If the number of committee members is less than the number required to constitute a quorum for a committee meeting, the committee members may appoint 1 or more members of the Association as committee members to enable the quorum to be constituted.
- (6) A committee member appointed under subclause (5) holds office, subject to this constitution, until the next annual general meeting.
- (7) This clause does not apply to the filling of a casual vacancy to which clause 18 applies.

**Note:** The Act, section 28A provides for the filling of vacancies on the committee to constitute a quorum.

## **27 Presiding committee member**

- (1) The following committee member presides at a meeting of the committee:
  - (a) the President,
  - (b) if the President is absent - the Vice-President,
  - (c) if both the President and Vice-President are absent - 1 of the members present at the meeting, as elected by the other members.
- (2) The member presiding at the meeting has:
  - (a) a deliberative vote, and
  - (b) in the event of an equality of votes - a second or casting vote.

## **28 Voting**

A decision supported by a majority of the votes cast at a meeting of the committee or a subcommittee at which a quorum is present is the decision of the committee or subcommittee.

## **29 Special resolutions**

- (1) A special resolution must be passed by a General Meeting of the Association to effect the following:
  - (a) a change of the Association's name,
  - (b) a change of the Association's rules,
  - (c) a change of the Association's objects,
  - (d) an amalgamation with another incorporated Association,
  - (e) voluntary winding up of the Association and distribution of its property,
  - (f) an application for registration as a company or a co-operative.
- (2) A special resolution may only be passed by the Association in accordance with section 39 of the Act that states a three quarter majority is required.

## **30 Acts valid despite vacancies or defects**

- (1) Subject to clause 24(1), the committee may act despite there being a casual vacancy in the office of a committee member.
- (2) An act done by a committee or subcommittee is not invalidated because of a defect relating to the qualifications or appointment of a member of the committee or subcommittee.

## **31 Transaction of business outside meetings or by telephone or other means**

- (1) The committee may transact its business by the circulation of papers, including by electronic means, among all committee members.
- (2) If the committee transacts business by the circulation of papers, a written resolution, approved in writing by a majority of committee members, is taken to be a decision of the committee made at a meeting of the committee.
- (3) The committee may transact its business at a meeting at which 1 or more committee members participate by telephone or other electronic means, provided a member who speaks on a matter can be heard by the other members.

- (4) The member presiding at the meeting and each other member have the same voting rights as they would have at an ordinary meeting of the committee for the purposes of:
  - (a) the approval of a resolution under subclause (2), or
  - (b) a meeting held in accordance with subclause (3).
- (5) A resolution approved under subclause (2) must be recorded in the minutes of the meetings of the committee.

**Note:** The Act, section 30(2) and (3) contains requirements relating to meetings held at 2 or more venues using technology.

## **Part 4      General meetings of Association**

### **32 Annual general meetings**

- (1) The Association must hold the Association's first annual general meeting within 18 months of the day the Association was registered under the Act.
- (2) The Association must hold subsequent annual general meetings within:
  - (a) 2 months of the last day of the Association's financial year, or
  - (b) the later period allowed or prescribed in accordance with the Act, section 37(2)(b).
- (3) Subject to the Act and subclauses (1) and (2), the annual general meeting is to be held at the place and time determined by the committee.
- (4) The business that may be transacted at an annual general meeting includes the following:
  - (a) confirming the minutes of the previous annual general meeting and any special general meetings held since the previous annual general meeting,
  - (b) receiving reports from the committee and Director on the Association's activities during the previous financial year,
  - (c) electing office-bearers and ordinary committee members,
  - (d) receiving and considering financial statements or reports required to be submitted to members of the Association under the Act.
  - (e) to appoint an auditor for the forthcoming year.

**Note:** The Act, section 37(1) and (2) provides for when annual general meetings must be held.

### **33 Special general meetings**

- (1) The committee may call a special general meeting whenever the committee thinks fit.
- (2) The committee must call a special general meeting if the committee receives a request made by at least 5% of the total number of members.
- (3) The request:
  - (a) must be in writing, and
  - (b) must state the purpose of the meeting, and
  - (c) must be signed by the members making the request, and
  - (d) may consist of more than 1 document in a similar form signed by 1 or more

members, and

- (e) must be lodged with the Director, and
  - (f) may be in electronic form and signed and lodged by electronic means.
- (4) If the committee fails to call a special general meeting within 1 month of the request being lodged, 1 or more of the members who made the request may call a special general meeting to be held within 3 months of the date the request was lodged.
- (5) A special general meeting held under subclause (4) must be conducted, as far as practicable, in the same way as a general meeting called by the committee.

### **34 Notice of general meeting**

- (1) The Director must give each member notice of a general meeting:
- (a) if a matter to be determined at the meeting requires a special resolution - at least 21 days before the meeting, or
  - (b) otherwise - at least 14 days before the meeting.
- (2) The notice must specify:
- (a) the place and time at which the meeting will be held, and
  - (b) the nature of the business to be transacted at the meeting, and
  - (c) if a matter to be determined at the meeting requires a special resolution - that a special resolution will be proposed, and
  - (d) for an annual general meeting - the meeting to be held is an annual general meeting.
- (3) The only business that may be transacted at the meeting is:
- (a) the business specified in the notice, and
  - (b) for an annual general meeting - business referred to in clause 28(4).
- (4) A member may give written notice to the Director of business the member wishes to raise at a general meeting.
- (5) If the Director receives a notice under subclause (4), the Director must specify the nature of the business in the next notice calling a general meeting.

### **35 Quorum**

- (1) The quorum for a general meeting is 5 members of the Association entitled to vote under this constitution.
- (2) No business may be transacted at a general meeting unless a quorum is present.
- (3) If a quorum is not present within half an hour of the time the meeting commences, the meeting:
- (a) if called on the request of members - is dissolved, or
  - (b) otherwise - is adjourned:
    - (i) to the same time of the same day in the following week, and
    - (ii) to the same place, unless another place is specified by the member presiding at the meeting at the time of the adjournment or in a written notice given to members at least 1 day before the adjourned meeting.
- (4) If a quorum is not present within half an hour of the time an adjourned

meeting commences, but there are at least 3 members present, the members present constitute a quorum.

### **36 Adjourned meetings**

- (1) The member presiding at a general meeting may, with the consent of the majority of the members present, adjourn the meeting to another time and place.
- (2) The only business that may be transacted at the adjourned meeting is the business remaining from the meeting at which the adjournment took place.
- (3) If a meeting is adjourned for at least 14 days, the Director must give each member oral or written notice, at least 1 day before the adjourned meeting, of:
  - (a) the time and place at which the adjourned meeting will be held, and
  - (b) the nature of the business to be transacted at the adjourned meeting.

### **37 Presiding member**

- (1) The following member presides at a general meeting:
  - (a) the President,
  - (b) if the President is absent - the Vice-President,
  - (c) if both the President and Vice-President are absent - 1 of the members present at the meeting, as elected by the other members.
- (2) The member presiding at the meeting has:
  - (a) a deliberative vote, and
  - (b) in the event of an equality of votes - a second or casting vote.

### **38 Voting**

- (1) A member is not entitled to vote at a general meeting unless the member:
  - (a) is at least 18 years of age, and
  - (b) has paid all money owed by the member to the Association.
- (2) Each member has 1 vote, except as provided by clause 37(2)(b).
- (3) A question raised at the meeting must be decided by:
  - (a) a show of hands, or
  - (b) if clause 40 applies - an appropriate method as determined by the committee, or
  - (c) a written ballot, but only if:
    - (i) the member presiding at the meeting moves that the question be decided by ballot, or
    - (ii) at least 5 members agree that the question should be determined by ballot.
- (4) If a question is decided using a method referred to in subclause (3)(a) or (b), either of the following is sufficient evidence that a resolution has been carried, whether unanimously or by a majority, or lost, using the method:
  - (a) a declaration by the member presiding at the meeting,
  - (b) an entry in the Association's minute book.
- (5) A written ballot must be conducted in accordance with the directions of the member presiding.

- (6) A member cannot cast a vote by proxy.
- (7) Prior to considering any questions and the making of decisions members must declare potential conflicts of interest, whether real or perceived, and excuse themselves from the voting.
- (8) Conflicts may exist where a member may;
  - (a) have business or personal interests that constitute a conflict of interest with the proposed resolution
  - (b) be related by birth or marriage to a person who may be engaged to deliver services to the Association, whether paid or unpaid, as a result of the poll
  - (c) have a pre-existing close relationship with a person who may be engaged to deliver services to the Association, whether paid or unpaid, as a result of the poll.

### **39 Postal, electronic or combined ballots**

- (1) The Association may hold a postal, electronic or combined ballot, as determined by the committee, to decide any matter other than an appeal under clause 9.
- (2) The ballot must be conducted in accordance with Schedule 2 of the Regulation.

### **40 Transaction of business outside meetings or by telephone or other means**

- (1) The Association may transact its business by the circulation of papers, including by electronic means, among all members of the Association.
- (2) If the Association transacts business by the circulation of papers, a written resolution, approved in writing by a majority of members, is taken to be a decision of the Association made at a general meeting.
- (3) The Association may transact its business at a general meeting at which 1 or more members participate by telephone or other electronic means, provided a member who speaks on a matter can be heard by the other members.
- (4) The member presiding at the meeting and each other member have the same voting rights as they would have at an ordinary meeting of the Association for the purposes of:
  - (a) the approval of a resolution under subclause (2), or
  - (b) a meeting held in accordance with subclause (3).
- (5) A resolution approved under subclause (2) must be recorded in the minutes of the meetings of the Association.

**Note:** The Act, section 37(3) and (4) contains requirements relating to meetings held at 2 or more venues using technology.

## **Part 5 Administration**

### **41 Change of name, objects or constitution**

An application for registration of a change in the Association's name, objects or constitution made under the Act, section 10 must be made by:

- (a) the Public Officer, or

- (b) a committee member.

## **42 Funds**

- (1) Subject to a resolution passed by the Association, the Association's funds may be derived from the following sources only:
  - (a) the childcare fees and annual membership fees payable by members,
  - (b) donations,
  - (c) other sources as determined by the committee.
- (2) Subject to a resolution passed by the Association, the Association's funds and assets must be used to pursue the Association's objects in the way that the committee determines.
- (3) As soon as practicable after receiving money, the Association must:
  - (a) deposit the money, without deduction, to the credit of the Association's authorised deposit-taking institution account, and
  - (b) issue a receipt for the amount of money received to the person from whom the money was received.
- (4) A cheque or other negotiable instrument must be signed by 2 authorised signatories.

**Note:** The Act, section 36 provides for the appointment of authorised signatories.

## **43 Insurance**

The Association may take out and maintain insurance as appropriate for the Association's assets and liabilities.

## **44 Non-profit status**

- (1) Subject to the Act and the Regulation, the Association must not conduct the Association's affairs in a way that provides a pecuniary gain for a member of the Association.

**Note:** See the Act, section 40.

- (2) With the exception of the Director, a member of the committee shall not be appointed to any salaried office of the Association or any office paid by fees, and no remuneration or other benefit in money or money's worth shall be given by the Association to any member of the Committee except for:
  - (a) payment for out-of-pocket expenses,
  - (b) interest at a rate not exceeding interest at the rate for the time being which is or would be charged by the Association's bankers on money lent to the Association, and
  - (c) reasonable and proper rent for premises let to the Association.

## **45 Service of notices**

- (1) For the purposes of this constitution, a notice may be given to or served on a person:
  - (a) by delivering the notice to the person personally, or
  - (b) by sending the notice by pre-paid post to the address of the person, or

- (c) by sending the notice by electronic transmission to an address specified by the person for giving or serving the notice.
- (2) A notice is taken to have been given to or served on a person, unless the contrary is proved:
  - (a) for a notice given or served personally - on the date on which the notice is received by the person, or
  - (b) for a notice sent by pre-paid post - on the date on which the notice would have been delivered in the ordinary course of post, or
  - (c) for a notice sent by electronic transmission:
    - (i) on the date the notice was sent, or
    - (ii) if the machine from which the transmission was sent produces a report indicating the notice was sent on a later date—on the later date.

## **46 Custody of records and books**

Except as otherwise provided by this constitution, all records, books and other documents relating to the Association must be kept in New South Wales:

- (a) at the Association's main premises, in the custody of either of the following persons, as determined by the committee:
  - (i) the Public Officer,
  - (ii) a member of the Association, or
- (b) if the Association has no premises - at the Association's official address, in the custody of the Public Officer.

## **47 Audit**

- (1) Auditor or Auditors shall be elected at the Annual General Meeting. They shall examine all accounts, vouchers, receipts, files, etc. and furnish a report thereon to the members at the Annual Meeting. Audits shall be conducted at regular intervals of not more than twelve (12) months.
- (2) An auditor shall not be a member or closely related to a member of the Committee.
- (3) Subject to Rule 47(4) notice of the intention to nominate an auditor to replace the current auditor shall be given to the Secretary at least twenty one (21) days before the Annual General Meeting. The current auditor shall be entitled to attend the Annual General Meeting and if they so wish to be heard at such Annual General Meeting.
- (4) Where the current auditor submits their resignation, or notifies the Secretary of their intention not to seek re-election as auditor, Rule 47 (3) shall not apply.

## **48 Inspection of records and books**

- (1) The following documents must be available for inspection, free of charge, by members of the Association at a reasonable time:
  - (a) this constitution,
  - (b) minutes of committee meetings and general meetings of the Association,
  - (c) records, books and other documents relating to the Association.
- (2) A member may inspect a document referred to in subclause (1):
  - (a) in hard copy, or

- (b) in electronic form.
- (3) A member may obtain a hard copy of a document referred to in subclause (1) on payment of a fee of not more than \$1, as determined by the committee, for each page copied.
- (4) The committee may refuse to allow a member to inspect or obtain a copy of a document under this clause:
  - (a) that relates to confidential, personal, commercial, employment or legal matters, or
  - (b) if the committee considers it would be prejudicial to the interests of the Association for the member to do so.

## **49 Financial year**

The Association's financial year is:

The period commencing on the date of incorporation of the Association and ending on the following 30 June, and

- (a) each period of 12 months after the expiration of the previous financial year, commencing on 1 July and ending on the following 30 June.

**Note:** The Regulation, section 21 contains a substitute clause 44 for certain associations incorporated under the *Associations Incorporation Act 1984*.

## **50 Distribution of property on winding up**

- (1) Subject to the Act and the Regulation, in a winding up of the Association, the surplus property of the Association must be transferred to another organisation:
  - (a) with similar objects, and
  - (b) which is not carried on for the profit or gain of the organisation's members.
- (2) In this clause:

***surplus property*** has the same meaning as in the Act, section 65.