

CONSTITUTION OF HEARING PROFESSIONAL CONDUCT AND COMPLAINTS BODY LTD

Australian Company Number (ACN) 678 866 183
Australian Business Number (ABN) 11 678 866 183

A company limited by guarantee

Table of contents

Contents

Table of contents	2
Definitions and interpretation	3
Preliminary.....	4
Charitable purposes and powers	4
Members.....	5
Dispute resolution	5
General meetings of members	6
Members’ resolutions and statements.....	9
Voting at general meetings.....	10
Directors	10
Powers of directors.....	12
Duties of directors	13
Directors’ meetings.....	14
Ethics Officer	15
Company Secretary.....	15
Minutes and records.....	16
By-laws.....	16
Notice.....	17
Financial year	18
Indemnity, insurance and access.....	18
Winding up.....	18

Definitions and interpretation

1. Definitions

In this constitution:

ACNC Act means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth)

company means the **company** referred to in clause [4](#)

Corporations Act means the *Corporations Act 2001* (Cth)

appointed chairperson means a person appointed by the members to be the **company's** chairperson under clause [37](#)

company secretary, under clause [54](#)

Ethics Officer, under clause [53](#)

general meeting means a meeting of members and includes the annual **general meeting**, under clause [19](#)

member means and incorporated entity which is a peak body of the disciplines of audiology and audiometry

initial member means an entity who is named in the application for registration of the **company**, with their consent, as a proposed member of the **company**

member present means, in connection with a **general meeting**, a **member present** by representative at the venue or venues for the meeting

registered charity means a charity that is registered under the **ACNC Act**

special resolution means a resolution:

- i. of which notice has been given under clause [20.5\(c\)](#), and
- ii. that has been passed by all members

surplus assets means any assets of the **company** that remain after paying all debts and other liabilities of the **company**, including the costs of winding up.

2. Reading this constitution with the Corporations Act

2.1 The replaceable rules set out in the **Corporations Act** do not apply to the **company**.

2.2 While the **company** is a **registered charity**, the **ACNC Act** and the **Corporations Act** override any clauses in this constitution which are inconsistent with those Acts.

2.3 If the **company** is not a **registered charity** (even if it remains a charity), the **Corporations Act** overrides any clause in this constitution which is inconsistent with that Act.

2.4 A word or expression that is defined in the **Corporations Act**, or used in that Act and covering the same subject, has the same meaning as in this constitution.

3. Interpretation

In this constitution:

- (a) the words 'including', 'for example', or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression, and
- (b) reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations).

Preliminary

4. Name of the company

The name of the **company** is Hearing Professional Conduct and Complaints Body Ltd (the **company**).

5. Type of company

The **company** is a not-for-profit public **company** limited by guarantee which is established to be, and to continue as, a charity.

6. Limited liability of members

The liability of members is limited to the amount of the guarantee in clause [7](#).

7. The guarantee

Each member must contribute an amount not more than \$10 (the guarantee) to the property of the **company** if the **company** is wound up while the member is a member, or within 12 months after they stop being a member, and this contribution is required to pay for the:

- a) debts and liabilities of the **company** incurred before the member stopped being a member, or
- b) costs of winding up.

8. Definitions

In this constitution, words and phrases have the meaning set out in clauses [1](#) and [3](#).

Charitable purposes and powers

9. Object

The **company's** object is to pursue the following charitable purpose(s):

To advance health through:

- promoting ethical hearing service practice to audiologists, audiometrists, members of the public and others, and
- handling complaints regarding the provision of hearing services by audiologists and audiometrists who are members and/or clinically certified by Audiology Australia and the Australian College of Audiology Incorporating HAASA.

10. Powers

Subject to clause [11](#), the **company** has the following powers, which may only be used to carry out its purpose(s) set out in clause [9](#):

- a) the powers of an individual, and
- b) all the powers of a **company** limited by guarantee under the **Corporations Act**.

11. Not-for-profit

11.1 The **company** must not distribute any income or assets directly or indirectly to its members, except as provided in clauses [11.2](#) and [70](#).

11.2 Clause [11.1](#) does not stop the **company** from doing the following things, provided they are done in good faith:

- a) paying a member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the **company**, or
- b) making a payment to a member in carrying out the **company's** charitable purpose(s).

12. Amending the constitution

- 12.1 Subject to clause [12.2](#), the members may amend this constitution by passing a **special resolution**.
- 12.2 The members must not pass a **special resolution** that amends this constitution if passing it causes the **company** to no longer be a charity.

Members

13. Membership and register of members

- 13.1 The members of the **company** are:
- Audiology Australia Ltd, and
 - Australian College of Audiology Incorporating Hearing Aid Audiology Society of Australia Ltd.
- 13.2 The **company** must establish and maintain a register of members in accordance with the requirements of the Corporations Act.
- 13.3 Should any of the members outlined under clause [13.1](#) cease to be a member through merger with, or acquisition by, another member, the **company** will continue to operate in accordance with this Constitution.
- 13.4 The **company secretary** must give current members access to the register of members.
- 13.5 Information that is accessed from the register of members must only be used in a manner relevant to the interests or rights of members.

14. Member Fees

Members shall, annually pay a sum proportionate to the size of their membership to support the operations of the company according to an agreed activity based budget.

15. When an incorporated body stops being a member

An incorporated body immediately stops being a member if they:

- are wound up or otherwise dissolved or deregistered,
- resign, by writing to the **company secretary**, or
- have not responded within three months to a written request from the **company secretary** that they confirm in writing that they want to remain a member.

Dispute resolution

16. Dispute resolution

- 16.1 The dispute resolution procedure in this clause applies to disputes (disagreements) under this constitution between a member or director and:
- one or more members
 - one or more directors, or
 - the **company**.
- 16.2 Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
- 16.3 If those involved in the dispute do not resolve it under clause [16.2](#), they must within 10 days:
- tell the directors about the dispute in writing
 - agree or request that a mediator be appointed, and
 - attempt in good faith to settle the dispute by mediation.

- 16.4 The mediator must:
- (a) be chosen by agreement of those involved, or
 - (b) where those involved do not agree:
 - i. for disputes between members, a person chosen by the directors, or
 - ii. for other disputes, a person chosen by either the Commissioner of the Australian Charities and Not-for-profits Commission or the president of the law institute or society in the state or territory in which the **company** has its registered office.
- 16.5 A mediator chosen by the directors under clause [16.4\(b\)\(i\)](#):
- (a) must not have a personal interest in the dispute, and
 - (b) must not be biased towards or against anyone involved in the dispute.
- 16.6 When conducting the mediation, the mediator must:
- (a) allow those involved a reasonable chance to be heard
 - (b) allow those involved a reasonable chance to review any written statements
 - (c) ensure that those involved are given natural justice, and
 - (d) not make a decision on the dispute.

General meetings of members

17. General meetings called by directors

- 17.1 The directors may call a **general meeting**.
- 17.2 If any **member** makes a written request to the **company secretary** for a **general meeting** to be held, the directors must:
- (a) within 21 days of the members' request, give all members notice of a **general meeting**, and
 - (b) hold the **general meeting** within 2 months of the members' request.
- 17.3 The member who makes the request for a **general meeting** must:
- (a) state in the request any resolution to be proposed at the meeting
 - (b) sign the request, and
 - (c) give the request to the **company secretary**.
- 17.4 Separate copies of a document setting out the request may be signed by members if the wording of the request is the same in each copy.

18. General meetings called by members

- 18.1 If the directors do not call the meeting within 21 days of being requested under clause [17.2](#), the **member(s)** who made the request may call and arrange to hold a **general meeting**.
- 18.2 To call and hold a meeting under clause [18.1](#) the members must:
- (a) as far as possible, follow the procedures for **general meetings** set out in this constitution
 - (b) call the meeting using the list of members on the **company's** member register, which the **company secretary** must provide to the members making the request at no cost, and
 - (c) hold the **general meeting** within three months after the request was given to the **company secretary**.
- 18.3 The **company** must pay the members who request the **general meeting** any reasonable expenses they incur because the directors did not call and hold the meeting.

19. Annual general meeting

- 19.1 A **general meeting**, called the annual **general meeting**, must be held:
- (a) within 18 months after registration of the **company**, and
 - (b) after the first annual **general meeting**, at least once in every calendar year.
- 19.2 Even if these items are not set out in the notice of meeting, the business of an annual **general meeting** may include:
- (a) a review of the **company's** activities
 - (b) a review of the **company's** finances
 - (c) auditor's report (if required)
 - (d) the appointment of directors, and
 - (e) the appointment and payment of auditors, if any.
- 19.3 Before or at the annual **general meeting**, the directors must give information to the members on the **company's** activities and finances during the period since the last annual **general meeting**.
- 19.4 The chairperson of the annual **general meeting** must give members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the **company**.

20. Notice of general meetings

- 20.1 Notice of a **general meeting** must be given to:
- (a) each member entitled to vote at the meeting
 - (b) each director, and
 - (c) the auditor (if any).
- 20.2 Notice of a **general meeting** must be provided in writing at least 21 days before the meeting.
- 20.3 Subject to clause [20.4](#), notice of a meeting may be provided less than 21 days before the meeting if for an annual **general meeting**, all the members entitled to attend and vote at the annual **general meeting** agree beforehand.
- 20.4 Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
- (a) remove a director
 - (b) appoint a director in order to replace a director who was removed, or
 - (c) remove an auditor.
- 20.5 Notice of a **general meeting** must include:
- (a) the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this)
 - (b) the general nature of the meeting's business
 - (c) if applicable, that a **special resolution** is to be proposed and the words of the proposed resolution
 - (d) a statement that members have the right to nominate which individual is authorised to represent their **incorporated body** at the **general meeting** according to clause [23](#).
- 20.6 If a **general meeting** is adjourned for one month or more, the members must be given new notice of the resumed meeting.

21. Quorum at general meetings

- 21.1 For a **general meeting** to be held, all members (a quorum) must be present for the whole meeting.
- 21.2 No business may be conducted at a **general meeting** if a quorum is not present.

- 21.3 If there is no quorum present within 30 minutes after the starting time stated in the notice of **general meeting**, the **general meeting** is adjourned to the date, time and place that the chairperson specifies.
- 21.4 If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

22. Auditor's right to attend meetings

- 22.1 The auditor (if any) is entitled to attend any **general meeting** and to be heard by the members on any part of the business of the meeting that concerns the auditor in the capacity of auditor.
- 22.2 The **company secretary** must give the auditor (if any) any communications relating to the **general meeting** that a member of the **company** is entitled to receive.

23. Representatives of members

- 23.1 A member may appoint as a representative one individual to represent the member at meetings and to sign circular resolutions under clause [30](#),
- 23.2 The appointment of a representative by a member must:
- be in writing
 - include the name of the representative
 - be signed on behalf of the member, and
 - be given to the **company secretary** or, for representation at a meeting, be given to the chairperson before the meeting starts.
- 23.3 A representative has all the rights of a member relevant to the purposes of the appointment as a representative.
- 23.4 The appointment may be standing (ongoing).

24. Using technology to hold meetings

- 24.1 The **company** may hold a **general meeting** at two or more venues using any technology that gives the members as a whole a reasonable opportunity to participate, including to hear and be heard.
- 24.2 Anyone using this technology is taken to be present in person at the meeting.

25. Chairperson for general meetings

- 25.1 The **appointed chairperson** is entitled to chair **general meetings**.
- 25.2 The members present and entitled to vote at a **general meeting** may choose a director or member to be the chairperson for that meeting if:
- there is no **appointed chairperson**, or
 - the **appointed chairperson** is not present within 30 minutes after the starting time set for the meeting, or
 - the **appointed chairperson** is present but says they do not wish to act as chairperson of the meeting.

26. Role of the chairperson

- 26.1 The chairperson is responsible for the conduct of the **general meeting**, and for this purpose must give members a reasonable opportunity to make comments and ask questions (including to the auditor (if any)).
- 26.2 The chairperson does not have a vote at a **general meeting**.

27. Adjournment of meetings

- 27.1 If a quorum is present, a **general meeting** must be adjourned if a majority of **members present** direct the chairperson to adjourn it.
- 27.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.

Members' resolutions and statements

28. Members' resolutions and statements

- 28.1 Members may give:
- (a) written notice to the **company secretary** of a resolution they propose to move at a **general meeting** (members' resolution), and/or
 - (b) a written request to the **company secretary** that the **company** give all of its members a statement about a proposed resolution or any other matter that may properly be considered at a **general meeting** (members' statement).
- 28.2 A notice of a members' resolution must set out the wording of the proposed resolution and be signed by the members proposing the resolution.
- 28.3 A request to distribute a members' statement must set out the statement to be distributed and be signed by the members making the request.
- 28.4 Separate copies of a document setting out the notice or request may be signed by members if the wording is the same in each copy.
- 28.5 If the **company secretary** has been given notice of a members' resolution under clause [28.1\(a\)](#), the resolution must be considered at the next **general meeting** held more than two months after the notice is given.
- 28.6 This clause does not limit any other right that a member has to propose a resolution at a **general meeting**.

29. Company must give notice of proposed resolution or distribute statement

- 29.1 If the **company secretary** has been given a notice or request under clause [28](#):
- (a) in time to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, it must do so at the **company's** cost, or
 - (b) too late to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, then the members who proposed the resolution or made the request must pay the expenses reasonably incurred by the **company** in giving members notice of the proposed members' resolution or a copy of the members' statement. However, at a **general meeting**, the members may pass a resolution that the **company** will pay these expenses.
- 29.2 The **company secretary** does not need to send the notice of proposed members' resolution or a copy of the members' statement to members if:
- (a) it is more than 1000 words long
 - (b) the directors consider it may be defamatory
 - (c) in the case of a proposed members' resolution, the resolution does not relate to a matter that may be properly considered at a **general meeting** or is otherwise not a valid resolution able to be put to the members.

30. Circular resolutions of members

- 30.1 Subject to clause [30.3](#), the directors may put a resolution to the members to pass a resolution without a **general meeting** being held (a circular resolution).
- 30.2 The directors must notify the auditor (if any) as soon as possible that a circular resolution has or will be put to members, and set out the wording of the resolution.
- 30.3 Circular resolutions cannot be used:
- (a) for a resolution to remove an auditor, appoint a director or remove a director.
 - (b) for passing a **special resolution**, or
 - (c) where the **Corporations Act** or this constitution requires a meeting to be held.

- 30.4 A circular resolution is passed if all the members entitled to vote on the resolution sign or agree to the circular resolution, in the manner set out in clause [30.5](#) or clause [30.6](#).
- 30.5 Members may sign:
- (a) a single document setting out the circular resolution and containing a statement that they agree to the resolution, or
 - (b) separate copies of that document, as long as the wording is the same in each copy.
- 30.6 The **company** may send a circular resolution by email to members and members may agree by sending a reply email to that effect, including the text of the resolution in their reply.

Voting at general meetings

31. How many votes a member has

Each member has one vote.

32. Passing resolutions at general meetings

A resolution at a **general meeting** must be passed by a unanimous vote of all **members** at a general meeting.

33. How voting is carried out

- 33.1 Voting must be conducted and decided by:
- (a) a show of hands,
 - (b) a vote in writing, or
 - (c) another method chosen by the chairperson that is fair and reasonable in the circumstances.
- 33.2 On a show of hands, the chairperson's decision is conclusive evidence of the result of the vote.
- 33.3 The chairperson and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

34. When and how a vote in writing must be held

- 34.1 A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:
- (a) at least one **member**, or
 - (b) the chairperson.
- 34.2 A vote in writing must be taken when and how the chairperson directs, unless clause [34.3](#) applies.
- 34.3 A vote in writing must be held immediately if it is demanded under clause [34.1](#):
- (a) for the appointment of a chairperson under clause [25.2](#), or
 - (b) to decide whether to adjourn the meeting.
- 34.4 A demand for a vote in writing may be withdrawn.

Directors

35. Number of directors

- 35.1 The company must have at least five and no more than nine directors comprising:
- An **appointed chairperson**,
 - Three nominees of Audiology Australia,
 - Three nominees of the Australian College of Audiology Incorporating Hearing Aid Audiology Society of Australia Ltd, and
 - Two lay or community persons.

- 35.2 The directors must have the qualifications and/or experience outlined in the Complaints Management and Resolution Procedure by-law.
- 35.3 Should any of the members outlined under clause [13.1](#) cease to be a member through merger with, or acquisition by, another member, the allocated positions for nominee directors of **members** will be equally distributed across each of the remaining **members**.

36. Appointment of directors

- 36.1 The initial directors are the people who have agreed to act as directors and who are named as proposed directors in the application for registration of the **company**.
- 36.2 Apart from the initial directors and directors appointed under clause [36.4](#), the members may appoint a director by a resolution passed in a **general meeting**.
- 36.3 A person is eligible for appointment as a director of the **company** if they:
- (a) are nominated by a member of the **company**,
 - (b) are nominated by the **company's appointed chairperson** in the case of lay or community persons,
 - (c) give the **company** their signed consent to act as a director of the **company**, and
 - (d) are not ineligible to be a director under the **Corporations Act** or the **ACNC Act**.
- 36.4 The directors may appoint a person as a director to fill a casual vacancy if that person:
- (a) is a certified professional member of a member of the **company**,
 - (b) is a suitably qualified community or lay person,
 - (c) gives the **company** their signed consent to act as a director of the **company**, and
 - (d) is not ineligible to be a director under the **Corporations Act** or the **ACNC Act**.
- 36.5 If the number of directors is reduced to fewer than four the continuing directors may act for the purpose of increasing the number of directors to four (or higher if required for a quorum) or calling a **general meeting**, but for no other purpose.

37. Appointment of chairperson

The members must appoint an independent director as the **company's appointed chairperson** by passing a resolution.

38. Term of office

- 38.1 At each annual **general meeting**:
- (a) any director appointed by the directors to fill a casual vacancy or as an additional director must retire, and
 - (b) at least two of the remaining directors must retire.
- 38.2 The directors who must retire at each annual **general meeting** under clause [38.1\(b\)](#) will be the directors who have been longest in office since last being appointed. Where directors were appointed on the same day, the director(s) to retire will be decided by lot unless they agree otherwise.
- 38.3 Other than a director appointed under clause [36.4](#), a director's term of office starts at the end of the annual **general meeting** at which they are appointed and ends at the end of the annual **general meeting** at which they retire.
- 38.4 Each director must retire at least once every three years.
- 38.5 A director who retires under clause [38.1](#) may nominate for appointment or re-appointment.
- 38.6 A director cannot serve more than two consecutive terms as a director.
- 38.7 A director who has served a maximum period under clause 38.6 is not eligible to be a director for three years following the completion of their last term.

39. When a director stops being a director

A director stops being a director if they:

- (a) give written notice of resignation as a director to the **company**,
- (b) die,
- (c) are removed as a director by a resolution of the members,
- (d) are a nominee of a member, and that member stops being a member,
- (e) are a nominee of a member, and the member notifies the **company** that the person is no longer their nominee,
- (f) are absent for 2 consecutive directors' meetings without approval from the directors, or
- (g) become ineligible to be a director of the **company** under the **Corporations Act** or the **ACNC Act**.

Powers of directors

40. Powers of directors

- 40.1 The directors are responsible for managing and directing the activities of the **company** to achieve the purpose(s) set out in clause [9](#).
- 40.2 The directors may use all the powers of the **company** except for powers that, under the **Corporations Act** or this constitution, may only be used by members.
- 40.3 The directors must decide on the responsible financial management of the **company** including:
 - (a) any suitable written delegations of power under clause [41](#), and
 - (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.
- 40.4 The directors cannot remove a director or auditor. Directors and auditors may only be removed by a members' resolution at a **general meeting**.

41. Delegation of directors' powers

- 41.1 The directors may delegate any of their powers and functions to a committee, a director, an employee of the **company** or any other person, as they consider appropriate.
- 41.2 Any delegation under [41.1](#) must be recorded in the **company's** minute book.

42. Payments to directors

- 42.1 The **company** must not pay fees to a director for acting as a director.
- 42.2 The **appointed chairperson** may receive an honorarium in recognition of their service to the **company** in achieving its charitable purpose(s) set out in clause [9](#) that is:
 - (a) of no sizeable or significant personal benefit to the **appointed chairperson**,
 - (b) approved by the directors, and
 - (c) approved by annual resolution of the members at the **general meeting**.
- 42.3 The directors who are lay or community persons may be remunerated in the form of a 'sitting fee' for attendance at meetings at a rate that is:
 - (a) No greater than the daily fee set out in the Australian Government's *Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination*, and
 - (b) approved by the directors.

- 42.4 The **company** may also:
- (a) pay a director for work they do for the **company**, other than as a director, if the amount is no more than a reasonable fee for the work done, or
 - (b) reimburse a director for expenses properly incurred by the director in connection with the affairs of the **company**.
- 42.5 Any payment made under clause [42.4](#) must be approved by the directors.
- 42.6 The **company** may pay premiums for insurance indemnifying directors, as allowed for by law (including the **Corporations Act**) and this constitution.

43. Execution of documents

The **company** may execute a document without using a common seal if the document is signed by:

- (a) two directors of the **company**, or
- (b) a director and the **company secretary**.

Duties of directors

44. Duties of directors

The directors must comply with their duties as directors under legislation and common law (judge-made law), and with the duties described in governance standard 5 of the regulations made under the **ACNC Act** which are:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the **company**,
- (b) to act in good faith in the best interests of the **company** and to further the charitable purpose(s) of the **company** set out in clause [9](#),
- (c) not to misuse their position as a director,
- (d) not to misuse information they gain in their role as a director,
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clause [45](#),
- (f) to ensure that the financial affairs of the **company** are managed responsibly, and
- (g) not to allow the **company** to operate while it is insolvent.

45. Conflicts of interest

- 45.1 A director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution):
- (a) to the other directors, or
 - (b) if all of the directors have the same conflict of interest, to the members at the next **general meeting**, or at an earlier time if reasonable to do so.
- 45.2 The disclosure of a conflict of interest by a director must be recorded in the minutes of the meeting.
- 45.3 Each director who has a material personal interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution) must not, except as provided under clauses [45.4](#):
- (a) be present at the meeting while the matter is being discussed, or
 - (b) vote on the matter.

- 45.4 A director may still be present and vote if:
- (a) their interest arises because they are a member of the **company**, and the other members have the same interest,
 - (b) their interest relates to an insurance contract that insures, or would insure, the director against liabilities that the director incurs as a director of the **company** (see clause [67](#)),
 - (c) their interest relates to a payment by the **company** under clause [66](#) (indemnity), or any contract relating to an indemnity that is allowed under the **Corporations Act**,
 - (d) the Australian Securities and Investments Commission (ASIC) makes an order allowing the director to vote on the matter, or
 - (e) the directors who do not have a material personal interest in the matter pass a resolution that:
 - (i) identifies the director, the nature and extent of the director's interest in the matter and how it relates to the affairs of the **company**, and
 - (ii) says that those directors are satisfied that the interest should not stop the director from voting or being present.

Directors' meetings

46. When the directors meet

The directors may decide how often, where and when they meet.

47. Calling directors' meetings

- 47.1 A director may call a directors' meeting by giving reasonable notice to all of the other directors.
- 47.2 A director may give notice in writing or by any other means of communication that has previously been agreed to by all of the directors.

48. Chairperson for directors' meetings

- 48.1 The **appointed chairperson** is entitled to chair directors' meetings.
- 48.2 The directors at a directors' meeting may choose a director to be the chairperson for that meeting if the **appointed chairperson** is:
- (a) not present within 30 minutes after the starting time set for the meeting, or
 - (b) present but does not want to act as chairperson of the meeting.

49. Quorum at directors' meetings

- 49.1 Unless the directors determine otherwise, the quorum for a directors' meeting is at least five people comprising:
- (a) the **appointed chairperson**,
 - (b) three directors who are nominees of the members and must be from more than one member, and
 - (c) a director who is a lay or community person.
- 49.2 A quorum must be present for the whole directors' meeting.

50. Using technology to hold directors' meetings

- 50.1 The directors may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the directors.
- 50.2 The directors' agreement may be a standing (ongoing) one.
- 50.3 A director may only withdraw their consent within a reasonable period before the meeting.

51. Passing directors' resolutions

A directors' resolution must be passed by a majority of the votes cast by directors present and entitled to vote on the resolution.

52. Circular resolutions of directors

- 52.1 The directors may pass a circular resolution without a directors' meeting being held.
- 52.2 A circular resolution is passed if all the directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause [52.3](#) or clause [52.4](#).
- 52.3 Each director may sign:
- (a) a single document setting out the resolution and containing a statement that they agree to the resolution, or
 - (b) separate copies of that document, as long as the wording of the resolution is the same in each copy.
- 52.4 The **company secretary** may send a circular resolution by email to the directors and the directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.
- 52.5 A circular resolution is passed when the last director signs or otherwise agrees to the resolution in the manner set out in clause [52.3](#) or clause [52.4](#).

Ethics Officer

53. Appointment and role of the Ethics Officer

- 53.1 The Ethics Officer is an employee of the **company** and is delegated by the directors the powers and functions outlined in the Complaints Management and Resolution Procedure and any other powers and functions delegated by the directors in accordance with this constitution.
- 53.2 The Ethics Officer must be appointed by resolution of the directors.
- 53.3 After appointment, the Ethics Officer reports to the **appointed chairperson** as an employee of the **company**.

Company Secretary

54. Appointment and role of Company Secretary

- 54.1 The **company** must have at least one **company secretary**, who may be the **Ethics Officer**.
- 54.2 A **company secretary** must be appointed by the directors (after giving the **company** their signed consent to act as **company secretary** of the **company**) and may be removed by the directors by passing a resolution.
- 54.3 The directors must decide the terms and conditions under which the **company secretary** is appointed, including any remuneration.
- 54.4 The role of the **company secretary** includes:
- (a) maintaining a register of the **company's** members, and
 - (b) maintaining the minutes and other records of **general meetings** (including notices of meetings), directors' meetings, and circular resolutions.

Minutes and records

55. Minutes and records

- 55.1 The **company** must, within one month, make and keep the following records:
- (a) minutes of proceedings and resolutions of **general meetings**,
 - (b) minutes of circular resolutions of members,
 - (c) a copy of a notice of each **general meeting**, and
 - (d) a copy of a members' statement distributed to members under clause [29](#).
- 55.2 The **company** must, within one month, make and keep the following records:
- (a) minutes of proceedings and resolutions of directors' meetings (including meetings of any committees), and
 - (b) minutes of circular resolutions of directors.
- 55.3 To allow members to inspect the **company's** records:
- (a) the **company** must give a member access to the records set out in clause [55.1](#), and
 - (b) the directors may authorise a member to inspect other records of the **company**, including records referred to in clause [55.1](#) and clause [56.1](#).
- 55.4 The directors must ensure that minutes of a **general meeting** or a directors' meeting are signed within a reasonable time after the meeting by:
- (a) the chairperson of the meeting, or
 - (b) the chairperson of the next meeting.
- 55.5 The directors must ensure that minutes of the passing of a circular resolution (of members or directors) are signed by a director within a reasonable time after the resolution is passed.

56. Financial and related records

- 56.1 The **company** must make and keep written financial records that:
- (a) correctly record and explain its transactions and financial position and performance, and
 - (b) enable true and fair financial statements to be prepared and to be audited.
- 56.2 The **company** must also keep written records that correctly record its operations.
- 56.3 The **company** must retain its records for at least 7 years.
- 56.4 The directors must take reasonable steps to ensure that the **company's** records are kept safe.

By-laws

57. Enactment of by-laws

- 57.1 By-laws may be enacted by the **company** to give effect to this constitution.
- 57.2 Members and directors must comply with by-laws as if they were part of this constitution.

58. Complaints Management and Resolution Procedure by-law

- 58.1 The Complaints Management and Resolution Procedure by-law outlines the approach to managing and directing the activities of the company to achieve the purpose(s) set out in clause [9](#).
- 58.2 The Complaints Management and Resolution Procedure by-law must be passed by a resolution at a **general meeting** to give effect to this constitution.

59. Code of Conduct for audiologists and audiometrists by-law

- 59.1 The Code of Conduct for audiologists and audiometrists by-law outlines the responsibilities that can be considered as potentially breached in the handling of complaints according to the Complaints Management and Resolution Procedure.
- 59.2 The Code of Conduct for audiologists and audiometrists by-law must be passed by a resolution at a **general meeting** to give effect to this constitution.

60. Other by-laws

- 60.1 Other than for the by-laws outlined in clauses [58](#) and [59](#), the directors may pass a resolution to make by-laws to give effect to this constitution.

Notice

61. What is notice

- 61.1 Anything written to or from the **company** under any clause in this constitution is written notice and is subject to clauses [62 to 64](#), unless specified otherwise.

62. Notice to the company

Written notice or any communication under this constitution may be given to the **company**, the directors or the **company secretary** by:

- (a) delivering it to the **company's** registered office,
- (b) posting it to the **company's** registered office or to another address chosen by the **company** for notice to be provided, or
- (c) sending it to an email address or other electronic address notified by the **company** to the members as the **company's** email address or other electronic address.

63. Notice to members

- 63.1 Written notice or any communication under this constitution may be given to a member:
- (a) in person,
 - (b) by posting it to, or leaving it at the address of the member in the register of members or an alternative address (if any) nominated by the member for service of notices,
 - (c) sending it to the email or other electronic address nominated by the member as an alternative address for service of notices (if any), or
 - (d) if agreed to by the member, by notifying the member at an email or other electronic address nominated by the member, that the notice is available at a specified place or address (including an electronic address).
- 63.2 If the **company** does not have an address for the member, the **company** is not required to give notice in person.

64. When notice is taken to be given

A notice:

- (a) delivered in person, or left at a the recipient's address, is taken to be given on the day it is delivered
- (b) sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs
- (c) sent by email or other electronic method, is taken to be given on the business day after it is sent, and
- (d) given under clause [63.1\(d\)](#) is taken to be given on the business day after the notification that the notice is available is sent.

Financial year

65. Company's financial year

The **company's** financial year is from 1 July to 30 June, unless the directors pass a resolution to change the financial year.

Indemnity, insurance and access

66. Indemnity

- 66.1 The **company** indemnifies each officer of the **company** out of the assets of the **company**, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the **company**.
- 66.2 In this clause, 'officer' means a director or **company secretary** and includes a director or **company secretary** after they have ceased to hold that office.
- 66.3 In this clause, 'to the relevant extent' means:
- (a) to the extent that the **company** is not precluded by law (including the **Corporations Act**) from doing so, and
 - (b) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).
- 66.4 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the **company**.

67. Insurance

To the extent permitted by law (including the **Corporations Act**), and if the directors consider it appropriate, the **company** may pay or agree to pay a premium for a contract insuring a person who is or has been an officer of the **company** against any liability incurred by the person as an officer of the **company**.

68. Directors' access to documents

- 68.1 A director has a right of access to the financial records of the **company** at all reasonable times.
- 68.2 If the directors agree, the **company** must give a director or former director access to:
- (a) certain documents, including documents provided for or available to the directors, and
 - (b) any other documents referred to in those documents.

Winding up

69. Surplus assets not to be distributed to members

If the **company** is wound up, any **surplus assets** must not be distributed to a member or a former member of the **company**, unless that member or former member is a charity described in clause [70.1](#).

70. Distribution of surplus assets

- 70.1 Subject to the **Corporations Act** and any other applicable Act, and any court order, any **surplus assets** that remain after the **company** is wound up must be distributed to one or more charities:
- (a) with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause [9](#), and
 - (b) which also prohibit the distribution of any **surplus assets** to its members to at least the same extent as the **company**.

- 70.2 The decision as to the charity or charities to be given the **surplus assets** must be made by a **special resolution** of members at or before the time of winding up. If the members do not make this decision, the **company** may apply to the Supreme Court to make this decision.