

# Council

## Charter

May 2023

# Council Charter

*As approved by the Queensland Law Society Council on 27 April 2023 and effective as of 3 May 2023.*

## 1. Role

- 1.1. The Council of the Queensland Law Society (QLS) is established by s685 of the *Legal Profession Act 2007* (LPA 2007). The content of this charter is to be read subject to the related provisions of the LPA 2007.
- 1.2. The Society is a statutory body for the purposes of the *Financial Accountability Act 2009* (FAA 2009) and the *Statutory Bodies Financial Arrangements Act 1982* (SBFAA 1982). Council's responsibilities in relation to planning, reporting and financial oversight for the Society are carried out within the framework set by those Acts.

## 2. Responsibilities

- 2.1. Council's role includes:
  - 2.1.1. setting the strategic direction of the Society;
  - 2.1.2. identifying and determining a position on issues of importance to our members and the solicitors' branch of the Queensland legal profession;
  - 2.1.3. making rules (subordinate legislation) on a range of matters including fixing fees, levies and subscriptions relating to membership of the Society;
  - 2.1.4. selection and appointment of a Councillor/s to fill a casual vacancy on Council (Part 5, *Society Rules*);
  - 2.1.5. selection and appointment of the Chief Executive Officer (CEO), determining their conditions of service and monitoring their performance against agreed objectives;
  - 2.1.6. monitoring the financial outcomes and the integrity of reporting, ensuring the preparation of accurate financial reports and statements and approving the annual budget;
  - 2.1.7. ensuring the effective execution of the Society's regulatory role in relation to solicitors' trust accounts and matters of professional conduct;
  - 2.1.8. reporting to members and stakeholders on the performance and state of the Society;
  - 2.1.9. overseeing executive succession planning (in particular for the CEO) on a regular and continuing basis;
  - 2.1.10. monitoring the performance of the Society's activities through reports on achievements against the Society's strategic and corporate plans and annual budget;
  - 2.1.11. ensuring the Society has good corporate governance structures in place and promoting a healthy, positive and ethical corporate culture;
  - 2.1.12. overseeing risk management and risk mitigation;
  - 2.1.13. oversight of any subsidiary of the Society; and
  - 2.1.14. safeguarding the integrity of corporate reports.
- 2.2. In performing these responsibilities Council acts at all times:
  - 2.2.1. in a manner designed to create and build sustainable value for members;
  - 2.2.2. in accordance with the Society's values and Code of Conduct; and
  - 2.2.3. in accordance with the duties and obligations imposed upon it by law, including the LPA 2007, FAA 2009, SBFAA 1982, *Legal Profession (Society) Rules 2007* (Society Rules), *Queensland Law Society Administration Rule 2005* and *Queensland Law Society Indemnity Rule 2005* and other legislative obligations.

### 3. Authority

- 3.1. In addition to matters expressly required by law to be approved by Council, powers specifically reserved for Council are:
  - 3.1.1. appointing and removing the CEO and determining the role's terms and conditions of employment (including remuneration);
  - 3.1.2. reviewing and ratifying:
    - 3.1.2.1. the QLS Code of Conduct;
    - 3.1.2.2. systems of risk management, internal control and legal compliance;
    - 3.1.2.3. financial, audit and other reporting;
    - 3.1.2.4. major capital expenditure, capital management, the investment policy for the Society, management of its statutory accounts (i.e. the Law Claims Levy Fund and Legal Practitioners Fidelity Guarantee Fund) and those of its entities, and acquisitions and divestitures;
  - 3.1.3. any matters in excess of powers that, from time to time, it may have delegated to the CEO and senior management (for instance, in relation to capital expenditure);
  - 3.1.4. approving:
    - 3.1.4.1. the strategic (four-year) and operational (one-year) plan;
    - 3.1.4.2. the annual budget;
    - 3.1.4.3. the approval of the appointment and, where required, the approval of the removal of the Corporate Secretary;
    - 3.1.4.4. significant changes to organisational structure;
    - 3.1.4.5. the acquisition, establishment, disposal or cessation of any significant business of the Society or its entities.
- 3.2. Council delegates to the CEO responsibility for implementing the strategic direction and for managing the day-to-day operations of the Society.
- 3.3. Council also delegates a range of its powers to committees and staff of the Society to ensure the efficient management of the Society's responsibilities.

### 4. Composition (s685 LPA 2007)

- 4.1. Council comprises 7-12 members including:
  - 4.1.1. an Australian legal practitioner appointed by the Attorney-General;
  - 4.1.2. the President, Deputy President and the Vice President;
  - 4.1.3. members of the Society, elected or appointed under the Society Rules.
- 4.2. The immediate past President of the Society is also a Councillor for no longer than one year after ceasing to hold the office of President.
- 4.3. Letters of appointment and Council Induction are provided to each newly elected Councillor to the Council, and annually for the President, which set out the key terms and conditions relative to the appointment.

## **5. President and deputy/vice President (s686 LPA 2007)**

- 5.1. The President, deputy President and vice President are elected by the members in accordance with the Society Rules.
- 5.2. The President holds office for a term of one calendar year after which the Deputy President assumes the office of President.
- 5.3. The President presides over Council meetings and general meetings of members.
- 5.4. The President is responsible for leading and managing Council in the discharge of its duties.
- 5.5. The Deputy President (in the first year of a two-year term) and Vice President (in the second year of a two-year term) is responsible for supporting and representing the President as necessary.

## **6. Meetings (ss690 – 692 LPA 2007, rules 49-51 Society Rules)**

- 6.1. Council meets, adjourns and otherwise regulates its meetings as appropriate and necessary with regard to the strategic direction of the Society and circumstances at the time. Council meets not less than six times a year.
- 6.2. Council papers are provided to Councillors, wherever possible, five working days prior to the relevant meeting.
- 6.3. It is the Society's policy to encourage the participation of Councillors in meetings by appropriate means, including by facilitating and encouraging attendance by phone or electronic or digital means where attendance in person is not possible or inconvenient.
- 6.4. The President presides at all Council meetings at which the President is present. If the President is not present at a Council meeting, the deputy President shall preside. If both the President and deputy President are not present at a Council meeting, the vice-President shall preside. If no Presidential member is present at a Council meeting, a member chosen by the Councillors present at the meeting will preside.
- 6.5. A quorum of the Council consists of a majority of Councillors for the time being holding office.

## **7. Voting (s693 LPA 2007)**

- 7.1. A question at a Council meeting is decided by a majority of the votes of the Councillors present. Each Councillor present at a Council meeting has a vote on each question to be decided and, if the votes are equal, the Councillor presiding also has a casting vote.
- 7.2. A Councillor present at a Council meeting who abstains from voting is taken to have voted for the negative.

## **8. Flying Minutes (s693(6) LPA 2007 and rule 53 Society Rules)**

- 8.1. Council may make resolutions via flying minute where:
  - 8.1.1. the Corporate Secretary or representative emails Councillors giving notice of a motion for a resolution for consideration and determination by Council; and
  - 8.1.2. the majority of Councillors for the time being holding office submit a vote on the motion by email.
- 8.2. Resolutions passed by flying minute will be noted by Council at the next Council meeting and will be recorded in the minutes of that meeting.

## **9. Conflicts of Interest (s695 LPA 2007)**

- 9.1. Councillors are required on appointment and on an ongoing basis to declare details of any companies, firms or trusts in which the Councillor is an officer, member, partner, proprietor or beneficiary, whether the interest arises prior to or during their term as Councillor.
- 9.2. If a Councillor has a personal interest, or a direct or indirect financial interest, in an issue being considered or about to be considered by Council and the interest could conflict with the proper performance of the Councillor's duties about the consideration of the issue, the Councillor must disclose the nature of the interest to a Council meeting.
- 9.3. Unless the Council otherwise directs, the interested Councillor must not be present when Council considers the issue or take part in any decision of Council about the issue.
- 9.4. The interested Councillor must not be present when Council is considering whether to excuse them from Council discussions on the issue.
- 9.5. If a Council member is not present at a Council meeting for considering or deciding an issue or whether to give a direction under 9.3 and there is not a quorum, the remaining Council members present are a quorum of the Council for considering or deciding the issue or deciding whether to give a direction under 9.3.
- 9.6. Any disclosure of a conflict of interest must be recorded in the minutes of the meeting.

## **10. Confidentiality**

- 10.1. The deliberations of Council are confidential. Consequently:
  - 10.1.1. all Council and business papers, including those distributed in advance of a Council meeting must be treated as confidential, and must not be disclosed to any unauthorised person, until Council, at the meeting to which the papers relate, has determined which items should not remain confidential to Council;
  - 10.1.2. circulation of confidential papers and reference to those matters on the Council agenda, is to be restricted to Councillors and those staff entitled and invited to attend Council's sessions.
- 10.2. Failure to maintain appropriate confidentiality of Society information and Council discussions may breach section 705 of the LPA 2007.

## **11. In Camera Meetings**

- 11.1. Council may decide to hold part of its meeting "in camera" to discuss confidential or sensitive issues. If a decision is to be made in this part of the meeting, Council should ensure it has all information to make an informed decision on the issue. Generally decisions will not be made in an in camera session but if decisions are made, it will be recorded in the general minutes of the meeting immediately following the in camera session.
- 11.2. The President or Councillor wishing to discuss an issue in camera shall decide whether papers will be distributed for the in camera session.
- 11.3. Councillors with a conflict of interest will not be in attendance at an in camera session without the permission of the Council.
- 11.4. Council may permit staff and officers of the QLS to attend in camera sessions for the purpose of providing information to Council about the issue to be discussed.
- 11.5. Minutes of the in camera session should include details about the Councillors present, the text of all resolutions, the results of votes and the time of commencement and adjournment.
- 11.6. Minutes are generally not needed for an in camera session as any decision will be recorded in the general minutes of the Council meeting. If minutes are required, they will be maintained separately to the general minutes of Council.

## 12. Committees (s683 LPA 2007 and rule 57A Society Rules)

- 12.1. Council from time to time establishes committees to help carry out its responsibilities or to carry out other business of the Society.
- 12.2. Council approves charters setting out matters relevant to the composition, responsibilities and administration of such committees, and other matters that Council may consider appropriate. Council also determines membership of committees.
- 12.3. Council may delegate, revoke or vary any power delegated to the committee as Council considers appropriate for the committee to operate effectively and efficiently.
- 12.4. Council receives reports from each of its committees at least annually and reviews the performance and charter of committees from time to time.

## 13. Filling a casual vacancy (Part 5 Society Rules)

- 13.1. Council from time to time may be required under Part 5, *Society Rules* to fill a casual vacancy on Council.
- 13.2. In the event a casual vacancy arises which the Council is required to fill under Part 5, *Society Rules*, the Council will:
  - 13.2.1. resolve the criteria for assessment of potential candidates ('Council criteria');
  - 13.2.2. notify the membership of the vacancy and invite Expressions of Interest and any further information the Council considers relevant for the Notice ('Notice of Vacancy');
  - 13.2.3. establish a sub-committee to consider potential candidates against the Council criteria and prepare a short list of recommended candidates for Council;
  - 13.2.4. consider the recommendation or recommendations of the sub-committee of a potential candidate/s for appointment; and
  - 13.2.5. appoint a candidate to Council.
- 13.3. In considering the Council criteria, Council may have regard to:
  - 13.3.1. creating or reviewing the Council skills matrix and practice and skills gaps on Council;
  - 13.3.2. the QLS role description;
  - 13.3.3. the QLS External Nominations and Appointments Policy; and
  - 13.3.4. any other QLS policy or external governance document as necessary.

## 14. Media

- 14.1. The President, or a person nominated by the President, is the primary spokesperson for the Society.
- 14.2. In line with the Society's media policy, no Councillor should speak to the media or make any comment on behalf of the Society without specific approval of the President.

## 15. Stakeholder Liaison

- 15.1. The President must approve any correspondence or communication that contains a position, recommendation, opinion or view of Council or of the Society. Such correspondence or communication must be sent out under the President's hand.
- 15.2. Councillors may liaise with stakeholders on behalf of Council provided they have the President's or Council's approval.
- 15.3. Any stakeholder liaison by Councillors in that capacity must be conducted in accordance with the

Society's core values of respect, integrity and service.

## 16. Guests

- 16.1. Council may, through the President, Chief Executive Officer or Corporate Secretary, invite guests to attend Council meetings to observe and/or provide information, a report and advice or to bring relevant perspectives and expertise on matters under consideration. Common guests will include relevant staff of QLS and Prospective Councillors. Prospective Councillors include Councillors who have been elected or appointed to QLS Council but are yet to commence their term.
- 16.2. Guests do not have an automatic right of access to Council's papers (which includes agendas and minutes). Access to Council's papers is at the discretion of the Corporate Secretary, in consultation with the President and Chief Executive Officer.
- 16.3. Guests (including QLS staff) have no voting rights at meetings.

## 17. Secretariat Duties

- 17.1. The Corporate Secretary supports the effective operation of Council by:
  - 17.1.1. monitoring the implementation and application of Council policies and procedures;
  - 17.1.2. coordinating the completion and dispatch of Council agendas and papers; and
  - 17.1.3. preparing and keeping minutes of Council meetings.
- 17.2. The Corporate Secretary is responsible to Council, through the President and CEO, for all governance matters.
- 17.3. The Corporate Secretary is the returning officer for Council elections and is responsible for the conduct of Council elections in accordance with the Society Rules.
- 17.4. The Corporate Secretary is responsible for providing notice of annual general meetings in accordance with the Society Rules.

## 18. Minutes (s694 LPA 2007)

- 18.1. Minutes must be prepared by the Corporate Secretary, approved by the chair and circulated to Councillors as soon as possible and not later than two weeks after any Council meeting. At the following Council meeting, the minutes must be ratified by the Councillors and signed by the President.

## 19. Access to Advice

- 19.1. Council has access to the advice of external experts, at the expense of the Society, when required. Councillors may request such advice at Council meetings. Advice obtained is made available to the whole Council.
- 19.2. External advice will be facilitated by relevant officers of the QLS or, if the matter is considered to be confidential to Council, external advice will be facilitated in a manner considered appropriate by Council.
- 19.3. Councillors with a conflict of interest regarding the matter for which external advice is obtained will only be provided with a copy of the advice at the discretion of the President or, if the Councillor is the President, the Deputy or Vice President.

## 20. Common Seal (rules 78-79 Society Rule)

- 20.1. The common seal is held in safe custody by the Corporate Secretary and is not to be affixed except by the authority of a resolution of Council or a committee of Council duly authorised by the

Council.

- 20.2. Every instrument to which the seal is affixed must be signed by at least one Councillor and counter signed by another Councillor, the secretary or another person appointed by Council to counter sign that document.

## **21. Access to Staff**

- 21.1. It is acknowledged that open discussion with staff is likely to be positive and helpful for both Councillors and the Society. Councillors should therefore have access to staff of the Society. However in order for both Council and staff to operate effectively and fulfil their respective roles and responsibilities, the following protocol is to be followed.
  - 21.1.1. Councillor concerns about any policy issues or the CEO should be raised with the President.
  - 21.1.2. Councillor chairs should raise committee issues directly with the responsible QLS staff assisting their committee.
  - 21.1.3. Councillor concerns about any management and administrative issues, including staff, must be raised with the CEO and not directly with staff.
  - 21.1.4. Councillor concerns about governance framework matters, risk management, Council papers and agendas, administrative matters concerning Council meetings and other Council procedures should be raised with the corporate secretary.
  - 21.1.5. Councillor concerns regarding the Society's corporate status and legal obligations should be raised with the general counsel or corporate secretary.

## **22. Reviews**

- 22.1. Council undertakes a biennial self-assessed performance evaluation that:
  - 22.1.1. compares the performance of Council with the requirements of its charter; and
  - 22.1.2. effects any improvements to Council operations or the Council charter deemed necessary or desirable.
- 22.2. The performance evaluation is conducted in such manner as Council deems appropriate.