

ASSOCIATIONS INCORPORATIONS ACT 1985

CONSTITUTION

FOR

**SOUTH AUSTRALIAN NETWORK OF DRUG AND
ALCOHOL SERVICES (SANDAS)**

November 2016

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1. PRELIMINARY

1.1 Definitions

In this Constitution, unless otherwise defined or the context requires otherwise:

“**AOD**” means Alcohol, Tobacco and Other Drugs;

“**Act**” means the *Associations Incorporation Act 1985* (SA) as amended from time to time;

“**Annual General Meeting**” means a meeting of the Members of the Association held at least once every calendar year and convened in accordance with rule 12.1 of this Constitution;

“**Association**” has the meaning given in rule 2 of this Constitution;

“**Board**” means the governing body of the Association;

“**core business**” means the primary or main type of business conducted by an organisation;

“**drugs**” means either illicit drugs, or prescription drugs which are used outside of prescription;

“**Executive**” means the Executive of the Association appointed in accordance with rule 10 of this Constitution;

“**Executive Officer**” means the Executive Officer of the Association appointed in accordance with rule 8.1.3 of this Constitution;

“**general meeting**” means a general meeting of members of the Association convened in accordance with this Constitution;

“**member**” means a member of the Association;

“**Minister**” means any minister of the Commonwealth or South Australian state governments, or their authorised agents or staff;

“**month**” shall mean a calendar month;

“**NGO**” means non-government organisation;

“**objects**” means the objects of the Association as set out in these rules;

“**program**” means a specific, distinct and identifiable program and/or service, which may be provided at one or more sites within an organisation;

“**special resolution**” means a special resolution defined by *the Act*.

1.2 Interpretation

In this Constitution, unless it is stated to the contrary:

- a) the singular includes the plural and conversely;

- b) where a word or phrase is given a defined meaning in this Constitution, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- c) a reference to a communication being “in writing” includes writing in electronic format, including e-mail and PDF and any other electronic modes of representing or reproducing words in a visible form;
- d) a reference to any legislation includes any related regulations or legislative investments and any amendment or replacement to such legislation, regulations or legislative investments;
- e) words following the word “include” are not limited by anything preceding that word;
- f) references to agree, approve or consent are references to agreement, approval or consent (as the case may be) in writing;
- g) references to rules are references to rules in this Constitution;
- h) headings are used for convenience only do not affect interpretation.

2. NAME

The name of the association governed by this Constitution is the South Australian Network of Drug and Alcohol Services (“**SANDAS**” or the “**Association**”).

3. OBJECTS

The objects of the Association are to:

- 3.1 enhance community wellbeing and reduce the harms associated with alcohol and drug use through a state network of non-government organisations working in the alcohol and other drug sector;
- 3.2 provide independent, state wide representation and advocacy for non-government organisations working in the alcohol and other drug sector and to support and enhance efficacy through networking and policy development; and
- 3.3 doing all matters, acts and things as shall be incidental or conducive to

the attainment of the above objects.

4. POWERS

The Association has all the powers conferred by section 25 of the Act.

5. MEMBERSHIP

5.1 Individual Members

5.1.1 An individual is eligible to become a member of the Association if they:

- a) apply in writing for membership;
- b) agree to comply with the objects of the Association;
- c) pay the prescribed membership fee;
- d) demonstrate an interest in and involvement with the prevention and reduction of harms associated with alcohol or other drug use; and
- e) are not an employee of the Association.

5.1.2 Where an individual member has paid a reduced fee on the basis of study or age, they shall not have voting rights.

5.2 Organisational Members

5.2.1 An organisation is eligible to become a member of the Association if it:

- a) complies with the conditions outlined above in 5.1;
- b) does not act as the primary funding body for non-government organisations (with the exception of those organisations designated as a lead agency in lead agency/consortium models);
- c) does not derive all or part of its income from the sale of alcohol, tobacco or other drugs; and
- d) is a non-government, not for profit organisation governed by a board, not appointed by a Minister OR is a non-government, for profit organisation providing a AOD or related health services as part of its core business.

5.3 Associate Members

5.3.1 An organisation is eligible to become an associate member if it is a local or state government organisation, providing a direct AOD or related health service as part of its core business.

5.3.2 Associate members do not have voting rights.

5.4 Applications

5.4.1 Applications for organisational membership shall be made to the Board. The Board:

- a) may form a specially constituted sub-committee to review an application;
- b) may require applicants to identify an existing SANDAS member as a nominee;
- c) may accept or reject any application for membership; and
- d) must admit a new member by a majority vote of those present.

5.4.2 Applications for individual and associate membership shall be made to the Executive Officer. The Executive Officer may require an applicant to identify an existing SANDAS member as a nominee. The Executive Officer will advise the Board of their decision.

5.5 Membership Fees

5.5.1 Members shall pay such fees (including joining fees) as are determined by the Association at its general meeting.

5.5.2 The subscription fees shall be due annually on 1 July or at such other time as the Board shall determine.

5.5.3 Any member whose membership fees are outstanding for more than three months after the due date for payment shall cease to be a member of the Association.

5.5.4 The Board may reinstate a non-financial membership.

5.6 Resignation

5.6.1 A member may resign from membership of the Association by giving written notice to the secretary or public officer of the Association.

5.6.2 Any resigning member shall be liable for any outstanding subscriptions or other charges the member has incurred from the Association which may be recovered as a debt due to the Association.

5.7 Expulsion of a member

In compliance with the conflict resolution policy determined by the Board, the Board may remove from the register of members of the Association any member who:

5.7.1 no longer complies with the membership requirements of the Association; or

5.7.2 acts in a manner that is contrary to the Constitution of the Association.

5.8 Register of members

A register of financial members shall be kept and contain:

5.8.1 the name and address of each member;

5.8.2 the date on which the member was admitted to the Association; and

5.8.3 if applicable, the date of, and reason(s) for, termination of membership.

6. GOVERNANCE STRUCTURE OF THE ASSOCIATION

Subject to these Rules, the governance structure of the Association is as follows:

- 6.1 the Board is responsible for the overriding governance of the Association;
- 6.2 the Executive is responsible for carrying out business (as delegated to it by the Board) between Board meetings; and
- 6.3 the Executive Officer is responsible for the day-to-day management of the Association.

7. COMPOSITION OF THE BOARD

7.1 Composition

The Board shall be comprised of:

- 7.1.1 no less than seven (7) and no more than (11) people (each a “**Director**” and together “**the Directors**”);
- 7.1.2 no more than one (1) member from each member organisation;
- 7.1.3 representatives from the equity groups identified in policy, where practicable; and
- 7.1.4 the Executive Officer (non-voting).

7.2 Election of Directors

- 7.2.1 At the Annual General Meeting, any member of the Association is eligible to stand for election to the Board (provided they comply with election policy as determined by the Board).
- 7.2.2 The Board shall determine policy for the conduct of elections.

7.3 Terms of office

The Directors hold office for a period of two years commencing from the date of their election at Annual General Meeting.

7.4 Casual vacancies

The Board may appoint a person to fill a casual vacancy, and such a Board Director shall hold office until the next Annual General Meeting of the Association.

7.5 Removal of Directors

A Director ceases to hold office if the Director is:

- 7.5.1 disqualified from being a Board Director under section 30 of *the Act*;
- 7.5.2 expelled as a member under the rules of this Constitution;
- 7.5.3 unable to undertake his/her duties due to incapacitation by ill-health;
- 7.5.4 absent without acceptable apology from more than three meetings in a financial year;
- 7.5.5 resigns by giving written notice to the Association; or
- 7.5.6 is no longer the duly appointed representative of an organisational member.

8. POWERS AND DUTIES OF THE BOARD

8.1 Powers of the Board

- 8.1.1 The Board is responsible for the overall governance of the Association. In particular the Board's role includes, but is not limited to:
 - a) managing and controlling the funds and other property and assets of the Association;
 - b) interpreting the meaning of the Constitution and any other matter relating to the affairs of the Association on which the Constitution may be silent; and
 - c) recommending policy priorities for the Association.
- 8.1.2 The Board shall appoint a public officer as required by *the Act*.
- 8.1.3 The Board shall appoint an Executive Officer.
- 8.1.4 The Board may establish such standing working parties and sub-committees as it sees fit consistent with the furtherance of the objects of the Association.
- 8.1.5 The Board shall appoint an executive sub-committee of office bearers of the Association who shall carry out the routine and/or administrative business delegated by the Board and who shall report to the subsequent Board meeting.

8.2 Directors' Duties

- 8.2.1 Directors must act in good faith, for the benefit of the Association and in accordance with the provisions of the Act.
- 8.2.2 Directors must exercise their powers for a proper purpose.
- 8.2.3 The further duties of each Director are outlined under the Management and Board Responsibility Policy.

8.3 Policies

- 8.3.1 The Board may at any time make policies consistent with the objects of the Association.

9. PROCEDURES OF BOARD

9.1 Frequency of meetings

The Board must meet no less than six (6) times a year.

9.2 Mode of meeting

- 9.2.1 The Board may regulate the proceedings of Board meetings in any manner which the Board sees fit to do so.
- 9.2.2 Without limiting the discretion of the Board to regulate meetings under rule 9.2.1, a meeting of the Board may consist of a conference between Directors some or all of whom are in different places provided that each Director who participates is able:

- a) to hear each of the other participating Directors addressing the meeting; and
- b) if he or she wishes, to address each of the other participating Directors simultaneously,

whether directly, by conference telephone or by any other form of communications equipment or by combination of those methods. A quorum will be deemed to be present if those conditions are satisfied in respect of at least the number of Directors required to form a quorum. A meeting held in this way will be deemed to take place at the place where the largest group of participating Directors is assembled or, if no such group is readily identifiable, at the place from where the person

chairing the meeting participates.

- 9.2.3 Questions arising at any meeting of the Board will be decided by a majority of the votes cast at the meeting.

9.3 Quorum

A quorum for a meeting of the Board shall be at least one half of the number of voting Directors.

9.4 Votes of Directors

- 9.4.1 Each Director has one vote.
- 9.4.2 If there is an equality of votes, the Chairperson has an additional casting vote.
- 9.4.3 The Executive Officer does not have a vote.

9.5 Proxy

Where a member of the Board representing an organisation is unavailable for a Board meeting the organisation may be represented by a proxy provided that the Executive Officer of the member organisation forwards the name of the proxy in writing to the chairperson or secretary of the Association prior to the commencement of the Board meeting.

9.6 Material personal interests of Directors

Subject to sections 31 and 32 of the Act, a Director who has any direct or indirect interest (whether pecuniary or otherwise) in a contract, or proposed contract, with the Association:

- 9.6.1 must, as soon as he or she becomes aware of his or her interest, disclose the nature and extent of his or her interest to their chairperson or their nominee;
- 9.6.2 must disclose the nature and extent of his or her interest in the contract at the next meeting of the Board; and
- 9.6.3 must not take part in any decision of the Board with respect to that contract.

10. ASSOCIATION EXECUTIVE

- 10.1 The Board must establish an Association Executive as a sub-committee of the Board.
- 10.2 The Executive shall be comprised of a chairperson, secretary, the Executive Officer and one other Director.
- 10.3 The Executive is elected by and from the Board at its first meeting of the year.
- 10.4 The Executive:
- 10.4.1 may transact the business of the Board between Board meetings (if required) for and on behalf of the Association (subject to any policies established by the Board for this purpose);
 - 10.4.2 may exercise such other powers as may from time to time be delegated to it by the Board; and
 - 10.4.3 must provide the Board with reports of its activities at each Board meeting.

11. MINUTES AND RECORDS

- 11.1 Proper minutes of all proceedings of general meetings of the Association and of meetings of the Board, Executive and sub-committees, shall be entered within one month after the relevant meeting in minute books kept for the purpose.
- 11.2 The minutes kept pursuant to this rule must be confirmed by the members of the Association or the members of the Board and committee(s) as a relevant and accurate record at a subsequent meeting.
- 11.3 The minutes kept pursuant to this rule shall be signed by the chairperson of the meeting at which the proceedings took place, or by the chairperson of the succeeding meeting at which the minutes were confirmed.
- 11.4 Where minutes are entered and signed they shall, until the contrary is proved, be evident that the meeting was convened and duly held, that all proceedings held at the meeting shall be deemed to have been duly held, and that all appointments made at the meeting shall be deemed to be valid.

12. GENERAL MEETINGS

12.1 Annual General Meetings

The Board shall call an Annual General Meeting in accordance with the Act and these rules.

The order of business shall be as follows:

- 12.1.1 the confirmation of the minutes of the previous Annual General Meeting and of any special general meeting held since that meeting;
- 12.1.2 the consideration of the accounts and reports of the Board and the auditor's report;
- 12.1.3 the receipt of the chairperson's report for the previous financial year;
- 12.1.4 the receipt of the Treasurer's report and the audited financial statements for the previous financial year, together with the current budget for the current financial year;
- 12.1.5 the election of Directors to the Board;
- 12.1.6 the appointment of auditor(s); and
- 12.1.7 any other business requiring consideration by the Association in General Meeting.

12.2 Special General Meetings

- 12.2.1 The Board may call a special general meeting of the Association at any time.
- 12.2.2 A special general meeting must also be initiated by the secretary at the written request of:
 - a) the Board;
 - b) three Directors;
 - c) six organisational members; or
 - d) ten per cent of the membership, or ten individual members (depending on which is greater)
- 12.2.3 A special general meeting initiated under 12.2.2 must be convened within thirty days of the secretary's receipt of the written request.
- 12.2.4 If a special general meeting is not convened within 30 days, the requestors, or at least 50% of their number, may

convene a special general meeting.

12.2.5 A meeting in accordance with 12.2.2 shall be convened in the same manner (as far as is practicable) as a meeting convened by the Board, and for this purpose:

- a) in a prompt and timely manner and free of charge, the Board shall ensure that the requestors are supplied with particulars of the members entitled to receive notice of meeting; and
- b) the reasonable expenses of convening and conducting such a meeting shall be borne by the Association.

12.3 Notice

12.3.1 A minimum of fourteen (14) and a maximum of thirty (30) days' notice of any general meeting shall be provided to all registered members.

12.3.2 The notice shall:

- (a) detail where and when the meeting will be held;
- (b) detail the particulars of the nature and order of business to be transacted at the meeting;
- (c) be displayed at the premises of the Association; and
- (d) be given to members in person or via another form of communication determined by the Board.

12.3.3 Notice of a meeting at which a special resolution is to be proposed shall be given at least 21 days prior to the meeting.

12.3.4 Where a notice is sent by post or email:

- (a) the notice must be sent to the most recent address provided by the member to SANDAS; and
- (b) unless the contrary is proved, service will be taken to have been effected at the time at which the correspondence would have been delivered in the ordinary course of transmission.

12.4 Quorum

12.4.1 Ten members, or two thirds of the membership, whichever is lesser, present personally or by proxy shall constitute a quorum for the transaction of business at any general meeting.

- 12.4.2 If within 30 minutes after the time appointed for the meeting a quorum of members is not present, quorum will drop to five members. If this cannot be achieved, the meeting shall stand adjourned to the same day fourteen (14) days later, at the same time and place and if at such adjourned meeting a quorum (as per 12.4.1) is not present within 30 minutes of the time appointed for the meeting the members present shall form a quorum.

12.5 Chairperson

- 12.5.1 Subject to 12.5.2, the chairperson shall preside as chairperson at a general meeting of the Association.
- 12.5.2 If the chairperson is not present within five (5) minutes after the time appointed for holding the meeting, the members may choose a member of the Board to be the chairperson of that meeting.

12.6 Voting

- 12.6.1 The number of votes to be cast by members shall be attributed between organisational members and individual members, at the ratio of two to one (2:1) in favour of organisational members.
- 12.6.2 Subject to these rules, a question for decision at a general meeting, other than a special resolution, must be determined by a majority of members who vote in person or, where proxies are allowed, by proxy, at that meeting.
- 12.6.3 Unless a poll is demanded by at least five members, a question for decision at a general meeting will be determined by a show of hands.

12.7 Poll

- 12.7.1 If a poll is demanded by at least five members, it must be conducted in a manner specified by the person presiding and the result of the poll is the resolution of the meeting on that question.
- 12.7.2 A poll demanded for the election of a person presiding or on a question of adjournment must be taken immediately, but any other poll may be conducted at any time before the close of the meeting.

12.8 Special and ordinary resolutions

- 12.8.1 A special resolution is a special resolution as defined in section 3 of the Act.
- 12.8.2 An ordinary resolution is a resolution passed by a simple majority at a general meeting.

12.9 Proxies

An organisational member shall be entitled to appoint, in writing, a natural person to be their proxy, and attend and vote at a general meeting of the Association.

12.10 Financial reporting

- 12.10.1 The financial year of the Association shall be the period commencing on 1 July and ending on 30 June of each year.
- 12.10.2 The Association shall keep and retain such accounting records as are necessary to correctly record and explain the financial transactions and financial position of the Association in accordance with the Act and generally accepted accounting principles.
- 12.10.3 The accounts, together with the auditor's report on the accounts, shall be laid before the members at the Annual General Meeting.
- 12.10.4 The annual return shall be lodged with the Office of Consumer and Business Affairs (or its successor) within six months after the end of each financial year. It must be accompanied by a copy of the accounts, the auditor's report, the Board's statement, and the Board's report.

12.11 Appointment of auditor

- 12.11.1 At each Annual General Meeting, the members shall appoint a person to be the auditor of the Association.
- 12.11.2 The auditor shall hold office until the next Annual General Meeting and is eligible for re-appointment.
- 12.11.3 If an appointment is not made at the Annual General Meeting, the Board shall appoint an auditor for the current financial year.

13. PROHIBITION AGAINST SECURING PROFITS FOR MEMBERS

13.1 The income and capital of the Association shall be applied exclusively to the promotion of its objects and no portion shall be paid or distributed directly or indirectly to members or their associates or their organisations except as bona fide remuneration of a member for services rendered or expenses incurred on behalf of the Association.

13.2 Persons who by authority accept or incur any pecuniary liability on behalf of the Association shall be held indemnified against any personal loss in respect of such liability except for any liability to the Association that by law would otherwise attach to that person in respect of any negligence, default breach of duty or breach of trust of which they may be guilty in respect of the Association.

14. WINDING UP

14.1 The Association may be wound up in the manner provided in the Act.

14.2 The Association shall not be dissolved except by the approval of not less than three-quarters of members present and voting at a meeting called for that purpose of which not less than thirty (30) days written notice including notice of the proposed dissolution has been distributed to all members.

14.3 On dissolution all property remaining after compliance with legal obligations and payment of all legal liabilities shall be transferred to such other body for promoting similar objects as shall be approved by the Association formed, provided that:

- a) such other body shall also prohibit the distribution of income and property to the members to the extent stated herein;
- b) if the Association shall have been approved pursuant to section 78 (1) of the Income Tax Assessment Act then such other body shall also be approved; and
- c) such organisation, or organisations, shall be identified and determined by a resolution of members at a general meeting.

15. CONSTITUTION

15.1 This Constitution may be altered, (including an alteration to the Association's name), by a special resolution of the members of the Association. This includes rescission or replacement by a substitute

Constitution.

- 15.2 This Constitution may be repealed or amended by resolution of three-quarters of members present and voting at a general meeting of which not less than twenty one (21) days' notice including notice of the proposed repeal or amendments has been distributed to all members.
- 15.3 Rules for the proper administration of meetings or business may be made or repealed or amended by a general meeting or by a Board meeting subject to subsequent disallowance at a general meeting, provided not less than 21 (twenty one) days written notice including notice of the proposed new rule, repeal or amendment has been distributed to all members.

The alteration shall be registered with the Office of Consumer and Business Affairs (or its successor), as required by the Act.

- 15.4 The registered Constitution shall bind the Association and every member to the same extent as if they have respectively signed and sealed them, and agreed to be bound by all of the provisions thereof.

16. INDEMNITY

- 16.1 To the extent permitted by law, every officer of the Association (excluding an auditor) must be indemnified out of the property of the Association against any liability to any person (other than the Association or a related body corporate) incurred by them in their capacity as officer unless the liability arises out of conduct involving a lack of good faith.
- 16.2 Without limiting rule 16.1, the Association must indemnify, out of the property of the Association, each officer of the Association against any liability for costs and expenses incurred by the person:
- a) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
 - b) in connection with any application in relation to such proceedings in which the court grants relief to the person.
- 16.3 The amount for which such indemnity is provided under this rule shall immediately attach as a lien on the property of the Association.