



1 Overview

We have reviewed the existing constitution for Children and Young People with Disability Australia (**CYDA**) and updated it for best practice governance, and to tighten and simplify some of the language used.

The table below compares your existing constitution against the proposed constitution

2 Constitution review table

Existing constitution		Proposed constitution		HSF comment
Rule	Description	Rule	Description	
1	Company's name	1	Company's name	The company's name remains Children and Young People with Disability Australia.
2	Company's purposes	2	Company's purposes	The purposes of CYDA remain the same.
3	Company's powers	3	Company's powers	Proposed rule 3 simplifies the company's powers by providing that the company has all of the powers of a company limited by guarantee under the Corporations Act, which are that of a natural person. A natural person has all the powers that are listed in the existing constitution, and so it is not necessary to enumerate each power.
4	Not for profit	4	Not for profit	Proposed rule 4 is the standard not-for-profit provision required for charitable companies. It states that all of CYDA's assets must be used to further its purposes, and that no profit can be paid by way of dividend or profit distribution to a member or director. It also states that no directors fees are to be paid to directors. The proposed constitution enables the company to pay a director for services rendered to the company in a professional or technical capacity with the approval of the board and if the fees are not more than what would be commercially reasonable. This differs from the existing constitution which requires directors to resign in order to be paid for services to the company. The proposed provision is market practice. The existing constitution's requirement was unusual and has been changed to create more flexibility and ease for CYDA.

Existing constitution		Proposed constitution		HSF comment
Rule	Description	Rule	Description	
5&6	Membership	5	Membership	The membership provision remains materially the same, enabling Full Membership to those with a disability or their parents or family members, and Associate Membership to those who aren't eligible for Full Membership. Associate Members can attend and speak at meetings, but are not entitled to vote.
7&8	Liability and guarantee of member	6	Liability and guarantee of member	The member guarantee remains \$1. This is the maximum amount each member must contribute to the company's assets in the event it is wound up and its liability exceed its assets. This liability remains for one year after a person ceases to be a member.
9	Winding up	7	Winding up	The winding up provision remains materially the same. It requires the company's assets on winding up, after complying with the DGR rule, to be transferred to a charity. The existing provision required all assets to be transferred to another public benevolent institution, but this is unnecessary so we have simplified the provision in line with the legal requirements.
10	Deductible Gift Recipient status	8	Deductible Gift Recipient Status	This provision remains largely unchanged. It requires the company to maintain an internal management account of all gifts and deductible contributions. In the event the company loses its DGR status or is wound up, all funds in this account must be transferred to another public benevolent institution.
11	Altering this constitution	9	Altering this constitution	No material change.
12	Accountability to members	10	General meetings	This rule governs the mechanics of member meetings. We have included the ability for members with at least 5% of the votes to requisition a meeting, which is considered best practice governance. The other provisions remain materially unchanged.
13	Directors	11	Directors	This provision remains largely unchanged, though we have removed the restriction relating to contractors of the company not being able to be director. This is in line with the change made to the not-for-profit provision which enables the company to pay directors for services rendered to the company. The prohibition on employees being directors remains.
13.7	Meetings of directors	12	Meetings of directors	The rules regarding directors' meetings are materially unchanged. Meetings can continue to be held via technology, quorum remains a majority of directors, the chair retains a second or casting vote.

Existing constitution		Proposed constitution		HSF comment
Rule	Description	Rule	Description	
				The proposed constitution provides directors with increased flexibility in how they convene directors' meetings, allowing notice to be provided immediately before the meeting and not requiring the subject of the meeting to be provided. Additionally, the rules regarding validity of acts and conflicts are contained in rule 11 of the proposed constitution, rather than rule 12 regarding meetings.
14	Secretary	13	Secretary	No material change.
15	Indemnity and insurance	14	Indemnity and insurance	No material change.
16	Notice	15	Notice	We have removed references to fax (as it is no longer used) and increased the period of notice for items sent by post as delivery times have become longer.
17	Definitions and interpretation	16	Definitions and interpretation	No material change.
18	Corporations Act and ACNC Act	17	Corporations Act and ACNC Act	No material change.