

Interim Roles and Responsibilities of the ACT Law Society Council

Adopted by Council on 18 September 2023

Next Review Date 18 September 2026

Background

- A. The ACT Law Society (the Society) is incorporated under the *Legal Profession Act 2006* (ACT) (the Act). The Society operates subject to the Legal Profession Act and the Society's Constitution.
- B. The Society's Constitution has been amended a number of times over its history, and like many organisations, has a number of gaps and grey areas in its provisions.
- C. The Society is also conscious that there are likely gaps in other dimensions of its overall governance framework.
- D. To comprehensively address these gaps, the Society is committed to a full review of the governance framework – to take place during 2023/24.
- E. On 19 June 2023 the Council of the Society passed an Interim Code of Conduct (Code of Conduct) to address one of the identified governance gaps.
- F. This Interim roles and responsibilities of the ACT Law Society Council policy is intended to supplement the Code of Conduct by clarifying the role of the Council and Office Holders.
- G. This Interim roles and responsibilities of the ACT Law Society is to be read in conjunction with the Code of Conduct, and to the extent of any inconsistency the Code of Conduct will take precedence.

1 About the Society

- 1.1 The Society is the peak body for legal practitioners in the ACT. The Society represents, advances, and defends the interests of an independent legal profession in the ACT. The Society also protects the public interest in the ACT system of justice through efficient regulation of the profession, in accordance with the Legal Profession Act and regulations and the Solicitors Conduct Rules.
- 1.2 The Society's objects are set out in Clause 3 of the Society's constitution.

2 Role of Council and the Executive Committee

- 2.1 The Council serves dual roles, being:
 - (a) the regulatory and disciplinary functions as provided for by The Act; and
 - (b) acting as the Board for the Society.
- 2.2 The Council's membership composition is as set out in Clause 11 of the constitution and powers and duties are set out at Clause 13 of the Constitution.

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2.3 The primary function of the Council in its context as a Board (as distinct from its regulatory responsibilities) is the governance of the organisation. This is separate and different from the staff responsibility for management of the organisation, but these functions should operate in partnership.

2.4 In the context of its role as a Board, the Council's role is to:

- (a) ensure the adequacy and effectiveness of the Society's governance structures;
- (b) set the vision, objectives, policy direction and strategic direction of the Society, including ensuring the mission of the Society is adhered to, and ensuring the Society operates within its not for profit purpose (set out at Clause 20 of the Constitution);
- (c) monitor organisational performance;
- (d) set the tone for integrity and ethical behaviour and fostering a culture consistent with the Society's values and principles;
- (e) provide guidance and support as required by the CEO;
- (f) approve the Society's operating budget and ensure the Society's finances are appropriately managed;
- (g) approve, monitor and review internal controls, risk management systems, and legal compliance of the Society;
- (h) ensure that the Council has appropriate standards of ethical behaviour and conflicts of interest; and
- (i) establish, delegate and revoke powers to committees and any person.

2.5 In accordance with Clause 2 of the Constitution, the Executive Committee comprises the Society's officeholders (the President, two Vice Presidents, Secretary, Treasurer and Immediate Past President) and a member of Council appointed by Council. Role descriptions for office bearers should be maintained and reviewed from time to time by the Council (refer attached **Appendix**).

2.6 The Council has delegated to the Executive Committee its responsibility for overseeing the administration of the Society's activities, and the committee is also delegated with certain regulatory functions as prescribed in the *Delegations Schedule* approved by the Council from time to time.

2.7 In terms of its regulatory responsibilities under the Legal Profession Act, the Council has delegated certain functions to committees and individual roles as prescribed in the *Delegations Schedule*, updated by Council from time to time.

2.8 Responsibility for the management, administrative functions and day-to-day operations have been delegated by the Council to the Society's CEO.

3 Responsibilities of Council members

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3.1 Council members are expected to:

- (a) participate actively in the Council deliberations and demonstrate a commitment to the Society's objectives and Council's role;
- (b) adhere to the policies of the Council and the responsibilities set out in this document;
- (c) be an ambassador for the Society and make themselves available to undertake representative tasks as required;
- (d) support the Society's activities and events and encourage participation in the activities of the Society by the broader profession; and
- (e) inform themselves, through participating at induction for new Council members and otherwise of the various statutory and other duties/responsibilities of the Society.

3.2 The role of a Council member does not extend to the provision of direct instructions to staff. Any enquiry, suggestion, or request should, in the first instance be directed to the CEO in accordance with the Code of Conduct approved by Council.

4 Conduct expectations for Council members

In exercising its functions and powers, the Council and its members will at all times recognise the overriding responsibilities and duties to:

- (a) exercise all powers and duties with the level of care and diligence that a reasonable person in the same role would have;
- (b) maintain and encourage good corporate governance standards;
- (c) act honestly, fairly and diligently;
- (d) act in good faith and for a proper purpose and in the best interests of the Society;
- (e) manage the financial affairs of the Society responsibly and act in accordance with all applicable laws and regulations;
- (f) not improperly use their positions or information obtained through the position held to gain an advantage for themselves or someone else or to cause detriment to the Society;
- (g) avoid or manage conflicts of interest;
- (h) at all times respect board and organisational solidarity by outside of the meeting room always supporting the duly resolved decisions and actions of Council and the Executive Committee, and supporting the actions of the Society, the Committees, the senior management, and the staff, unless otherwise resolved by the Council;
- (i) maintain the reputation and promote the Society as a strong membership organisation in the profession;
- (j) assist the Society to achieve and maintain a respected voice in the legal profession and in the community;

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- (k) vote on and speak independently in relation to proposed resolutions of the Council without seeking to bind the views of others; and
- (l) respect the role of the CEO in the day-to-day management of the Society as delegated by the Council, making recommendations to the Council, and managing the staff and workload of the Society.

5 Council culture, communication, and interaction with Society staff

- 5.1 The Council is committed to and expects the highest standards of integrity and strict compliance with the law from all Council members, senior management and staff of the Society. The Council seeks to foster an inclusive culture that engages and communicates respectfully with one another, staff members, stakeholders and Members.
- 5.2 Notwithstanding clause 3.2 above, officeholders may be required to interact with senior staff for the purpose of exercising their specific responsibilities and duties. Where this is the case, to assist the CEO in staff and resource management, such interactions must be for the sole purpose of fulfilling that duty and include the CEO in such communication.
- 5.3 Officeholders interacting with staff must take care not to direct instructions to staff unless approached by staff for advice or assistance. Officeholders should seek to support staff to undertake operational activities, not conduct the operational activities in their own right. For example, the Treasurer will not prepare the Annual Financial Report, or directly instruct the Society's auditor to do so.
- 5.4 When dealing with staff in a different capacity, such as a Committee Chair or Society member, if there is any doubt, officeholders are responsible for ensuring the staff member is aware they are not acting as an officeholder for that purpose.
- 5.5 The Council should maintain professional courtesy in obtaining materials and information from staff relating to Council matters and follow Council protocols where applicable.

6 Council meetings

- 6.1 Notice of meetings will be deemed to have been given when the schedule of meetings for the year is published to members of the Council. In scheduling the meeting times for the coming year, the Council is to have regard to diversity considerations, as relevant.

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6.2 In the event of a change from the times published or the inclusion of a further meeting, further notice of at least one week is required other than for urgent or exceptional circumstances.

6.3 The quorum of meetings of Council is six, as set out in Clause 14 of the Constitution.

6.4 Council members are expected to prepare for and attend Council meetings (either in person or by electronic means) whenever possible. In the event that a Council member cannot attend a meeting an apology is to be submitted to the Chair of the meeting or to the Executive Secretary prior to the meeting so that it can be recorded in the minutes of the relevant meeting.

7 Committees

To assist the Council and the Executive Committee in the performance of its duties, the Council/Executive Committee may establish, delegate to and revoke powers to committees in the form of:

- (a) Governance or Regulatory Committees, with separate delegations and terms of reference set by the Council or by the Executive Committee;
- (b) Working Groups to perform a specific task or explore a particular issue; and
- (c) Special Interest Committees or Membership/Segment Committees to contribute to networking opportunities, CPD topics, submissions and advocacy in particular areas of law or legal practice. Special Interest Committees act in accordance with policy and terms of reference for committees as approved by the Council from time to time.

8 Confidentiality

8.1 All Council members are expected to respect and maintain the confidentiality of matters discussed in Council meetings, where it is understood they are matters that are not in the public domain and should not be disclosed. This is important to encourage open and frank discussion and to protect information that is confidential to the Society. This does not preclude Council members from discussing matters between themselves outside of Council meetings, provided that care is taken to ensure that confidential matters are not inadvertently disclosed to others. Further, Council members are not restrained from discussing matters where it is agreed that they are matters to promote to the wider membership.

8.2 Of critical importance is the confidentiality of complaint and disciplinary matters, i.e. matters which could affect the professional reputation of individual solicitors. The Society therefore expects that these matters, in

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particular, will be treated with a high degree of confidentiality and sensitivity by all Council members.

8.3 Council members are expected to observe the following electronic devices protocol in relation to Council meetings and papers:

Pre meeting:

- (a) Council members receive their Council papers via electronic means, using the Society's online portal, Diligent.
- (b) Given the recurrent and sensitive nature of some issues, agenda papers are obtained by logging into Diligent. This assists in providing security for confidential information, as well as enabling participants to quickly and efficiently find relevant documents.
- (c) Devices provided by the Society for use with Diligent remain the property of the Society. It is expected that only appropriate material will be stored on the device at any time.

In meeting:

- (d) Good meeting etiquette and courtesy to other attendees requires all participants to use the device only for sourcing Agenda papers and other relevant material. The devices are not to be used for checking emails, sending emails, or for any other personal activities during meetings.
- (e) Mobile phones are to be switched off during meetings.

Post meeting:

- (f) Agenda papers are to be deleted from the device following the meeting (if all or any part has been saved).
- (g) Agenda papers will be archived within 24 hours of the meeting.

Related documents:

- Constitution of the Law Society of the ACT
- Delegations Schedule
- Conflict of Interest Policy
- Code of Conduct (Interim)
- Media Policy
- Privacy Policy

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Appendix - Officeholder role descriptions

POSITION TITLE: PRESIDENT

The President is the primary spokesperson for the ACT Law Society officially representing Society members and the Council. The Constitution provides that the President is chair of the Executive Committee, with responsibility for ensuring the effective performance of the Executive Committee and of the Council. The *Delegations Schedule* does not provide the President additional delegations beyond their role as member of Council and chair of the Executive Committee.

The President is supported by two Vice Presidents who can stand in for the President when not available.

The President holds office for a term of one year and is eligible for re-election for two further consecutive years. As such, while the President is the primary ambassador and provides leadership to the officeholders, the CEO is delegated to provide the overall leadership continuity for the staff and operational capacity of the Society.

The CEO is the conduit between the staff of the Society and the Council, and is responsible for giving staff direction in the context of implementing the strategic direction decided by the Council from time to time. The CEO will also provide recommendations on strategy to the Council from time to time. The President is the usual point of contact between the Council and Executive Committee and management, primarily the CEO, in relation to such matters as determined and resolved by the Council. The President should keep the CEO informed of issues raised or relevant feedback received in the role of President as it relates to the operations of the Society.

Duties

The duties of the President arise from the position as a duly elected office-bearer of the Society, with responsibility for leading the Council and chairing the Executive Committee. The President works closely with the CEO and the Executive Committee in ensuring the effective function of the Council and organisation.

Duties include:

Governance

- Chairing Executive Committee meetings (note: under the Constitution a Vice President chairs the meetings of the Council)
- Facilitating the flow of information and discussion at Executive Committee meetings

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- Ensuring the Executive Committee operates effectively and sets a high standard for Executive Committee member conduct by modelling, articulating and upholding rules of conduct
- Chairing general meetings of members
- Establishing and maintaining a strong working relationship with the CEO which appropriately balances the need for accountability to the Council with the support required to be a successful leader, including:
 - serving as a central point of official Council communication with the CEO
 - developing a positive and collaborative relationship with the CEO
 - acting as a sounding board for the CEO on emerging issues and alternative courses of action
 - being up to date with organisational issues and priorities
 - determining when a matter needs to be brought to the attention of the full Council or the Executive Committee
- Participating in subcommittees for the appointment of members and chairs of the Society's various special interest, membership, and regulatory committees
- Ensuring a smooth transition to the next President.

Stakeholder engagement

The President is expected to create positive rapport with the wider legal profession and various key external stakeholders, including (subject to Council approval) representing the Society in the national forum of the Law Council of Australia.

Together with the CEO, engaging with key stakeholders including:

- Liaising with other relevant legal associations and bodies
- Liaising with and maintaining an effective working relationship with the ACT Attorney-General
- Liaising with and maintaining an effective working relationship with the judiciary in the ACT
- Contributing messages directed to the broader membership from the President in Society publications to support the Society's work
- Where appropriate, engaging, liaising with and reporting to members, in co-operation with the CEO
- Promoting the interests of the Society and its members, in accordance with the strategic plan.

Representation

The President is supported to represent the Society by the Society staff through the CEO.

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The President is the primary spokesperson to present the duly resolved positions of the Council or Committees, in accordance with the *Media Policy* approved by Council.

To maintain the independence of the Society's regulatory functions, the President does not have day-to-day involvement in these matters other than general updates and briefings on relevant matters.

Duties include:

- Representing the Society as a spokesperson in media and in communications with key stakeholders, in accordance with the media policy approved by Council.
- Representing and speaking for the Society at events (with ability to delegate to the Vice Presidents or Council members if support and assistance is required) including:
 - Member lunches, dinners, and educational events – and being available to members at such events to listen to concerns and questions with a view to providing feedback to the Society staff through the CEO
 - Swearing-in and farewell ceremonies for members of the judiciary
 - Other approved engagements where the Society or its positions are to be represented
- Representing the Society as its nominated director (if so determined by Council) to the Law Council of Australia board and attending formal meetings of the Law Council and the Conference of Law Societies that take place across Australia (or via electronic means).

At times the President may have some input into representations, such as speeches, but to ensure continuity of messaging, communications are prepared by the Society and such input must be provided in consultation with the appropriate Society staff.

Other duties

- Requests for appointments of experts, arbitrators and mediators – administration support is provided by the Society staff through the CEO
- Reserved judgement enquiries in accordance with court protocols – administration support is provided by the Society staff through the CEO
- Other duties that may arise from time to time – and are generally capable of delegation or appointment of a representative.

Presidential allowance

In recognition of the time commitment, the President is provided an annual honorarium. The amount of the honorarium is at the discretion of the Council and is periodically determined by the Council.

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The Society also pays for expenses incurred by the President in an official capacity on behalf of the Society. The Society coordinates travel arrangements where required and in accordance with existing guidelines, travel for the Society should be economy class.

POSITION TITLE: VICE PRESIDENT

In addition to the leadership role of the Council as a member of the Executive Committee, Vice Presidents assist with the role of the President when the President is unable or unavailable to undertake the role or part of it.

At least one of the Vice-Presidents is appointed by the Council at the first meeting after an Annual General Meeting to serve as Chair of the Council meetings in accordance with Clause 14 of the Constitution.

Progression of Vice President to President is not prescribed in the Constitution.

POSITION TITLE: TREASURER

In addition to the leadership role as a member of the Executive Committee, the Treasurer is primarily an honorary role. The Treasurer will generally be a signatory on the Society's bank accounts and will be called on to assist in this capacity from time to time.

The Treasurer also liaises with the CEO and the Finance & Business Services Manager to oversee the finances of the Society and report on the financial position of the Society at the annual general meeting.

POSITION TITLE: SECRETARY

In addition to the leadership role as a member of the Executive Committee, the Secretary is primarily an honorary role. The Secretary's signature is attached to the notice of general meeting for the Society and practising certificates.

POSITION TITLE: IMMEDIATE PAST PRESIDENT

In addition to the leadership role as a member of the Executive Committee, the Immediate Past President is to provide continuity of corporate memory and counsel to the President.