
NATIONAL DISABILITY SERVICES BY-LAWS

Revised November 2023

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BY-LAW NO. 1: ELECTION OF MEMBERS OF THE BOARD

NATIONAL DISABILITY SERVICES BY-LAW NO. 1 ELECTION OF THE MEMBERS OF THE BOARD

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this By-law, unless otherwise provided or the context requires otherwise:

- (a) **Board** means the Board of Directors of NDS.
- (b) **CEO** means the Chief Executive Officer;
- (c) **Chief Executive Officer, Director, Division, Member, Organisational Member**, and other words and expression defined in the Constitution have the same meaning where used in this document.
- (d) **Company** means NDS.
- (e) **Constitution** means the Constitution of NDS;
- (f) **NDS** means National Disability Services Limited ACN 008 445 485.

1.2 Interpretation

In this By-law, unless the context otherwise requires:

- (a) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (b) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinate legislation issued under, that legislation or legislative provision;
- (c) the singular includes the plural and vice versa;
- (d) a reference to any gender includes all genders;
- (e) a reference to any document is to that document (and, where applicable, any of its provisions) as amended, novated, supplemented or replaced from time to time;
- (f) any reference to time is to the time in Canberra, ACT on the relevant day.

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1.3 Consistency with Constitution

- (a) Article 7.1(d) of the Constitution provides that "The Directors have the power from time to time to make such by-laws as are in their opinion necessary and desirable for the proper control, administration and management of the Company's affairs. Such By-laws shall be subject to and consistent with this Constitution and shall be binding on Members."
- (b) Where there is any inconsistency between any By-law and the Constitution, the Constitution shall prevail to the extent of the inconsistency.

2. ELECTION OF THE MEMBERS OF THE BOARD

2.1 Conduct of elections

The election of persons to be elected as Directors shall be conducted either by:

- (a) secret ballot (including electronic or postal means) among the Organisational and Life Members of NDS; or
- (b) secret ballot in conjunction with a general meeting of NDS.

2.2 Nature of ballot

Unless the Board shall make a determination to hold the election by secret ballot in conjunction with the annual general meeting, no later than 59 days prior to the date fixed for the annual general meeting, such election shall be conducted by secret postal or electronic ballot.

3. REGISTER OF MEMBERS

3.1 Closure of Register

That part of the Register of Members which records Organisational and Life Members shall close four months after the date on which the membership fee is due and payable or on such other date as is determined by the Board but so that the Corporations Act is not contravened.

3.2 Change of Voting Representative

After that part of the Register of Members has been closed, no further entries shall be made therein until after the next annual general meeting of NDS has been held. If an Organisational Member listed on the Register of Members wishes to change its voting representative it must notify the NDS Membership Team of the new voting representative in writing no later than 14 days before the date of the vote

4. [OMITTED MARCH 2012]

BY-LAW NO. 1: ELECTION OF MEMBERS OF THE BOARD

5. ELIGIBILITY OF PERSONS WHO MAY BE NOMINATED FOR ELECTION

5.1 Eligibility

In accordance with the Constitution, the only persons who may be elected by the Company as Directors are:

- (a) Life Members, and
- (b) Voting Representatives of Organisational Members.

6. RULES AS TO THE CONDUCT OF THE BALLOT AND DETERMINATION OF THE RESULTS THEREOF

6.1 Returning Officers

- (a) For the purpose of conducting the election of Directors, the Board shall appoint a Returning Officer. The Board will determine if an election is to be taken by:
 - (i) open or secret postal vote; or
 - (ii) open or secret electronic ballot; or
 - (iii) both postal vote and electronic ballot; or
 - (iv) a postal or electronic ballot in conjunction with a vote at the general meeting of the Company

and the Returning Officer shall notify members accordingly.

- (b) Subject to the terms of this By Law, where the ballot is to be undertaken fully or partly by electronic or technological means, the Returning Officer shall advise the members in writing of the voting process to be utilised in relation to the ballot
- (c) Where the ballot is to be secret the members shall comply with any process which ensures the anonymity of members, whether the ballot is conducted by post, electrically, via technology or personally at a general meeting.

6.2 Electronic Processes

- (a) For the purposes of this By Law:
 - (i) any reference to 'writing' or 'paper' or any hard copy document of any nature includes reference to an electronic version of that document; and

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- (ii) any reference to signing a document includes the affixing of an electronic signature; and
 - (iii) any reference to the completing or submitting or posting of a document includes completing and submitting and posting by electronic means.
- (b) Service to the electronic address listed on the Register of Members is deemed appropriate service under these Rules and no complaint, issue or challenge may be made if so served.

6.3 Nominations

Nominations for the election of Directors shall be in writing, dated and signed by the nominee, a nominator and a seconder, who are either the voting representative of an Organisational Member or a Life Member. The consent of the person nominated shall be endorsed upon their nomination, failing which the nomination shall be treated as invalid. A nominee cannot nominate themselves.

6.4 Closing Time

Nominations for the election of Directors shall close at 5.00pm on the 7th day prior to the date upon which part of the Register of Members is closed pursuant to sub-clause 3.1 in each calendar year or at 5.00pm on such other date as is specified by the Board (**Closing Time**).

6.5 Receipt of nominations

All nominations shall be forwarded to the Returning Officer who shall endorse upon each the time and date of receipt. Any nomination received after the Closing Time shall be treated as invalid.

6.6 Ballot paper preparation

After nominations have closed, if there are more nominations than available positions, the Returning Officer shall prepare a ballot paper in which shall be included the names of all persons validly nominated for election to office as Directors. The order of the names in the ballot paper shall be determined by lot conducted by the Returning Officer.

6.7 Despatch of ballot papers

In each calendar year as soon as possible after part of the Register of Members is closed pursuant to sub-clause 3.1, each Member who is eligible to participate in the ballot shall be forwarded a ballot paper by the Returning Officer together with an envelope marked "Ballot Paper" and another addressed to "The Returning Officer", and/or with instructions as to how to complete and submit the ballot paper electronically.

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6.8 Voting formalities

Each eligible Member who desires to exercise their right to vote shall

- (a) only vote once;
- (b) comply with any formal requirements advised to them in the instructions sent with in the ballot paper forwarded to them; and
- (c) not cast their vote for a number of candidates in excess of the number indicated on the ballot paper.

Failure to comply with any of the above will result in their ballot paper being treated as informal.

6.9 Return of ballot papers

The Member who has exercised their right to vote shall

- (a) return their ballot paper in the envelope provided, complete the details on the back of the envelope addressed to the Returning Officer and return it to them and be received by the Returning Officer, or
- (b) submit the ballot by the electronic process required

not less than 2 full business days prior to the time for holding the annual general meeting. Any ballot paper received by the Returning Officer after this time shall be rejected.

6.10 Compliance

As soon as practicable after the closure of the ballot the Returning Officer shall open or electronically access all envelopes received by them up to the time the ballot closed and ascertain that each ballot paper complies with this By-law. Any that do not do so shall be rejected by them. The decision of the Returning Officer as to whether or not any ballot paper should be rejected shall be final and conclusive.

6.11 Scrutineers

Any candidate for election to office may, in writing addressed to the Returning Officer, nominate one scrutineer to be present at the time the Returning Officer open/access the ballot papers (or view the online ballot) and determine the result of the ballot. The scrutineer may not be privy to the tally result.

6.12 Counting

The votes cast in the election shall be counted by the Returning Officer and the result of the ballot determined by them in accordance with Simple Majority Voting (first-past-the-post). Should there be an equality of votes cast for 2 or more candidates, the Returning Officer shall determine by lot which candidate shall be elected.

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6.13 Counting records

As soon as the Returning Officer has counted the votes cast in the ballot, they shall inform the CEO and submit their record sheet as to the counting of votes cast in the ballot.

6.14 Results

The result of the ballot shall be declared at the annual general meeting. Immediately after the chairperson of the annual general meeting has declared the results of the ballot pursuant to the Constitution, the Returning Officer shall destroy all ballot papers or delete the online ballot.

7. RETURNING OFFICERS

7.1 Persons not eligible

No person shall be elected or appointed as a Returning Officer if he or she is an employee or Director of an Organisational Member or a Life Member or a person in the employment of NDS.

**BY-LAW NO. 2: STATE AND TERRITORY DIVISIONS OF
NATIONAL DISABILITY SERVICES**

**NATIONAL DISABILITY SERVICES
BY-LAW NO. 2
STATE AND TERRITORY DIVISIONS OF NATIONAL DISABILITY SERVICES**

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this By-law, unless otherwise provided or the context requires otherwise:

- (a) **Board** means the Board of Directors of NDS.
- (b) **CEO** means the Chief Executive Officer.
- (c) **Chief Executive Officer, Director, Division, Member, Organisational Member**, and other words and expression defined in the Constitution have the same meaning where used in this document.
- (d) **Company** means NDS.
- (e) **Constitution** means the Constitution of NDS.
- (f) **Deemed Member** means Organisational Member who has appointed a voting representative in the relevant Division pursuant to clause 2.3(b) of this By-law.
- (g) **Division Manager** means a manager of a Division established in a State or Territory of Australia.
- (h) **Divisional Committee** means a committee established in accordance with clause 3.1 of this By-law.
- (i) **member** means a member or a Deemed member of the relevant Division or relevant Divisional Committee, as applicable.
- (j) **NDS** means National Disability Services Limited ACN 008 445 485.
- (k) **policy** or **policies** means a policy or policies formulated by the Board in relation to NDS.
- (l) **President** means the person elected or appointed as President of the Board in accordance with the Constitution or, if there is no such person at any relevant time, the person then holding the position of Vice-President of the Board.

BY-LAW NO. 2: STATE AND TERRITORY DIVISIONS OF NATIONAL DISABILITY SERVICES

1.2 Interpretation

In this By-law, unless the context otherwise requires:

- (a) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (b) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinate legislation issued under, that legislation or legislative provision;
- (c) the singular includes the plural and vice versa;
- (d) a reference to any gender includes all genders;
- (e) a reference to any document is to that document (and, where applicable, any of its provisions) as amended, novated, supplemented or replaced from time to time;
- (f) any reference to time is to the time in the capital city of the State or Territory of the relevant Division on the relevant day.

1.3 Consistency with Constitution

- (a) Article 7.1 (d) of the Constitution provides that "The Directors have the power from time to time to make such by-laws as are in their opinion necessary and desirable for the proper control, administration and management of the Company's affairs. Such By-laws shall be subject to and consistent with this Constitution and shall be binding on Members."
- (b) Article 7.3 of the Constitution provides that the Company may establish such Divisions in such places in the Commonwealth as it may from time to time determine necessary or desirable, and that each Division shall have a Divisional Committee and such powers and duties and conform to such regulations as may from time to time be promulgated by the Directors.
- (c) Where there is any inconsistency between any By-law and the Constitution, the Constitution shall prevail to the extent of the inconsistency.

2. DIVISIONS AND MEMBERSHIP

2.1 Name of Division

Each State or Territory Division shall be known as the name of the State, Territory or place in respect of which it has been established immediately following the words 'National Disability Services' or 'NDS'.

BY-LAW NO. 2: STATE AND TERRITORY DIVISIONS OF NATIONAL DISABILITY SERVICES

2.2 Divisional responsibilities

Each State or Territory Division is responsible within its jurisdiction for furthering the objects of NDS. Any negotiations or correspondence with the Australian Government, Departments thereof and any of its instrumentalities on national issues must only be conducted with the prior knowledge and approval of the CEO or his or her delegate.

2.3 Divisional members

- (a) The members of each State or Territory Division shall comprise those members of NDS irrespective of their categories of membership, residing or carrying on business within the State, Territory or place in respect of which the Division has been established. Where an Organisational Member operates in more than one State or Territory then that Member shall be registered as a member of the State or Territory Division which will be the place where its head office is located.
- (b) Notwithstanding clause 2.3(a) where an Organisational Member operates in more than one State or Territory, that Organisational Member may seek multi-state representation by applying to the Board to be registered as a member of more than one State or Territory.
- (c) The Board may accept or reject any application, or withdraw its approval in relation to the appointment of one or more voting representatives, or may remove the Deemed Member from the Register of any Division at any time.
- (d) If approved, that Organisational Member will be deemed to be a member of that State or Territory Division (“Deemed Member”) for the purposes of these By-laws only and their name will be registered in the Register of Members of that Division for that purpose.
- (e) A Deemed Member must appoint a voting representative (“voting representative”) in each State or Territory in which they are registered as a Deemed Member
- (f) An Organisational Member who seeks multi state representation is bound by the following conditions:
 - (i) The Organisational Member must satisfy the Board that it is operating and has a material presence in the State or Territory in which they are seeking to become a Deemed Member.
 - (ii) The Organisational Member must only have one voting representative in each State or Territory.
 - (iii) The voting representative in each State or Territory shall be eligible for election to the relevant State or Territory Divisional Committee and if elected, may participate in and vote on that Divisional Committee.

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- (iv) Only one of the voting representatives of the Organisational Member shall be entitled to occupy the position of a State or Territory Chairperson at any time.
- (v) The Organisational Member shall not endorse more than one voting representative under clause 5.2(b)(ii) of the Constitution.
- (vi) No voting representative of the Organisational Member shall be entitled to be appointed as an Alternate Director under clause 5.4 (a) of the Constitution.
- (g) The Board may impose other conditions on Deemed Members and their voting representatives as it deems fit from time to time.

2.4 NDS President

The President of NDS shall be ex-officio a member of each Division.

3. DIVISIONAL COMMITTEES

3.1 Divisional Committees

- (a) Each State or Territory Division shall establish a committee (Divisional Committee) comprising not less than 7 and not more than 15 persons. Divisional Committee members must be a Life Member or the voting representative of an Organisational Member established under Clause 2.3. Individuals may be co-opted to serve on a Divisional Committee with the approval of the Board.
- (b) Each Division shall take all steps necessary to ensure that the conditions set out in clause 2.3(f) are complied with.

3.2 Chairperson

- (a) Subject to clause 2.3(f)(iv) and (v), a Divisional Committee shall elect a Chairperson from amongst its members.
- (b) If the Divisional Committee is unable to elect a Chairperson in accordance with this clause, the Board may appoint a Chairperson to represent that State or Territory on the Board.
- (c) The member so elected as Divisional Chairperson will hold that office from the point in time immediately after they are declared as the Divisional Chair by the Returning Officer, and will remain on the Divisional Committee for a period of a 3-year term commencing from the date of election as Divisional Chairperson.
- (d) The Divisional Committee shall elect one or two Vice Chairpersons on an annual basis following the announcement of Divisional election results.

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3.3 Elections

Subject to clause 3.2 (regarding 3-year terms for Divisional Chairpersons), the members of a Divisional Committee to be elected annually shall be elected for a period of 3 years.

The Divisional Committee may annually determine the number of committee members positions available for election, in accordance with the minimum and maximum limits in sub-clause 3.1(a), and where possible to implement a staggered term expiry for committee members.

3.4 Secret vote

The election of members to a Divisional Committee shall be conducted by either secret postal vote or secret electronic vote.

3.5 Removal and appointment

- (a) A State or Territory Division may by ordinary resolution remove any member or voting representative of its Divisional Committee from office and may resolve to appoint another qualified person in their stead, pursuant to sub-clause 3.1.
- (b) Where the removed member or voting representative is the Divisional Chairperson, a Divisional Committee may appoint another Divisional Chairperson pursuant to sub-clause 3.2 (a) & (b).
- (c) Any person so appointed under sub-clause 3.5 (a) or (b) shall hold office until the person in whose stead they were appointed would have vacated office and shall then be eligible for re-election.

3.6 Vacation of office

A member of a Divisional Committee shall be deemed to have vacated their office if they:

- (a) cease to be a Member of any one of the categories of membership of NDS or lose their voting representative status;
- (b) become an insolvent under administration;
- (c) become of unsound mind or a person whose person or estate is liable to be dealt with under any law relating to mental health;
- (d) become prohibited from being a director of a company by reason of the application of any law relating to companies;
- (e) resign their office by notice in writing to the Divisional Committee, including the Divisional Chair and Division Manager;
- (f) are absent without permission of the Divisional Committee from 3 consecutive meetings thereof;

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- (g) cease to reside or carry on business within the State or Territory in respect of which they are a member of the Divisional Committee;
- (h) cease to be a Deemed Member of the Division; or lose their voting representative status;
- (i) are directly or indirectly interested in any contract or proposed contract with the State or Territory Division and fail to declare the nature of their interest in the manner required by the Corporations Act 2001 (Cth).

3.7 Directors and CEO

- (a) Elected Directors of NDS residing within a State or Territory shall be ex-officio members of the Divisional Committee of that Division, but shall not be counted for the purpose of determining the size limits of a Divisional Committee as specified in sub-clause 3.1.
- (b) The CEO may attend and be heard at any meeting of a Divisional Committee.

4. POWER AND DUTIES OF DIVISIONAL COMMITTEES

The powers and duties of Divisional Committees are set out in the 'Terms of Reference for Divisional Committees' which is defined and approved by the Board.

5. PROCEEDINGS OF DIVISIONAL COMMITTEES

The proceedings of Divisional Committees are set out in the 'Terms of Reference for Divisional Committees' which is defined and approved by the Board.

6. GENERAL MEETINGS OF DIVISIONS [OMITTED NOVEMBER 2023]

7. PROCEEDINGS AT GENERAL MEETINGS OF DIVISIONS [OMITTED NOVEMBER 2023]

8. ACCOUNTS OF DIVISIONS [OMITTED NOVEMBER 2023]

9. NOTICE [OMITTED NOVEMBER 2023]

BY-LAW NO. 3: ELECTION OF THE MEMBERS OF STATE AND TERRITORY DIVISIONAL COMMITTEES

NATIONAL DISABILITY SERVICES BY-LAW NO. 3 ELECTION OF THE MEMBERS OF STATE AND TERRITORY DIVISIONAL COMMITTEES

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this By-law, unless otherwise provided or the context requires otherwise:

- (a) **Board** means the Board of Directors of NDS;
- (b) **CEO** means the Chief Executive Officer;
- (c) **Member, Organisational Member**, and other words and expression defined in the Constitution have the same meaning where used in this document;
- (d) **Company** means NDS;
- (e) **Constitution** means the Constitution of NDS;
- (f) **Deemed Member** means Organisational Member who has appointed a voting representative in the relevant Division pursuant to clause 2.3 of By-law 2.
- (g) **Division Manager** means a manager of a Division established in a State or Territory of Australia;
- (h) **Divisional Committee** means a committee established in accordance with clause 3.1 of By-law No. 2;
- (i) **member** means a member or Deemed Member of the relevant State or Territory Division or relevant Divisional Committee, as applicable;
- (j) **NDS** means National Disability Services Limited ACN 008 445 485;
- (k) **policy** or policies means a policy or policies formulated by the Board in relation to NDS;
- (l) **President** means the person elected or appointed as President of the Board in accordance with the Constitution or, if there is no such person at any relevant time, the person then holding the position of Vice-President of the Board;
- (m) **Register of Members** means the register of members of the relevant Division.

BY-LAW NO. 3: ELECTION OF THE MEMBERS OF STATE AND TERRITORY DIVISIONAL COMMITTEES

1.2 Interpretation

In this By-law, unless the context otherwise requires:

- (a) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (b) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinate legislation issued under, that legislation or legislative provision;
- (c) the singular includes the plural and vice versa;
- (d) a reference to any gender includes all genders;
- (e) a reference to any document is to that document (and, where applicable, any of its provisions) as amended, novated, supplemented or replaced from time to time;
- (f) any reference to time is to time in the capital city of the State or Territory of the relevant State or Territory Division on the relevant day.

1.3 Consistency with Constitution

Where there is any inconsistency between any By-law and the Constitution, the Constitution shall prevail to the extent of the inconsistency.

2. ELECTION OF THE MEMBERS OF DIVISIONAL COMMITTEES

2.1 Rules

The election of persons as members of a Divisional Committee shall be conducted in accordance with the following Rules of this By-law.

2.2 Secret ballot

Such elections shall be conducted by secret ballot (including electronic or postal means) amongst the members of a State or Territory Division who are Organisational Members or Life Members and whose names appear on the Register of Members of that State or Territory Division at 5.00pm on June 30 in each calendar year.

2.3 Register of Members

No further entries shall be made in the Register of Members until after that ballot has been conducted and the Returning Officer issued the certificate pursuant to sub-clause 2.17. An Organisational Member listed on the Register of Members may change its voting representative, but must notify NDS Membership Team of the change in writing no later than 5.00pm on the date on which nominations close.

BY-LAW NO. 3: ELECTION OF THE MEMBERS OF STATE AND TERRITORY DIVISIONAL COMMITTEES

2.4 Eligible persons

The only person who shall be eligible to:

- (a) nominate a person for election to hold office as a member of a Divisional Committee; and
- (b) participate in the said ballot or be nominated to be elected as a member of a Divisional Committee,

shall be a person who is:

- (i) either a Life Member, the voting representative of an Organisational Member or the voting representative of a Deemed Member; and
- (ii) whose names appear in the Register of Members and who by the date it is closed pursuant to sub-clauses 2.2 and 2.3 have paid all sums due and owing to NDS.

2.5 Returning Officer

- (a) For the purpose of conducting the election, the Divisional Committee shall appoint a Returning Officer.
- (b) The Divisional Committee shall be empowered to remove a Returning Officer from office, provided that the Divisional Committee appoints a replacement Returning Officer.

2.6 Nominations

Nominations for the election of members of a Divisional Committee shall be in writing, dated and signed by the nominee, a nominator and a seconder, who are either the voting representative of an Organisational Member, a Life Member, or a Deemed Member who are also members of that Division. The consent of the person nominated shall be endorsed upon their nomination, failing which the nomination shall be treated as invalid. A nominee cannot nominate themselves.

2.7 Closing time

Nominations shall close at 5.00pm on July 21 in each calendar year or the next business day thereafter if July 21 falls on a weekend or is a public holiday.

2.8 Receipt of nominations

All nominations shall be forwarded to the Returning Officer who shall endorse upon each the time and date of receipt. Any nominations received after 5.00pm on July 21 aforesaid or the next business day if July 21 falls on a weekend or a public holiday or after 5.00pm on such other date as is specified by the Divisional Committee shall not be treated as valid.

BY-LAW NO. 3: ELECTION OF THE MEMBERS OF STATE AND TERRITORY DIVISIONAL COMMITTEES

2.9 Ballot paper preparation

After nominations have closed, if there are more nominations than available positions, the Returning Officer shall prepare a ballot paper, in either physical or electronic form, for the State or Territory Division in which shall be included the names of all persons validly nominated for election to office as elected members. The order of the names in the ballot paper shall be determined by lot conducted by the Returning Officer.

2.10 Application of particular Rules

Rules 2.11, 2.12, 2.13, 2.14 and 2.15 apply only where the election of members of Divisional Committee is conducted by secret postal ballot.

2.11 Ballot paper formalities

The Returning Officer shall then arrange for the ballot paper to be printed and after printing each ballot paper shall be initialled at the foot thereof by the Returning Officer using a red pen. There shall be printed on the ballot paper the number of members of the Divisional Committee to be elected pursuant to the relevant By-law.

2.12 Despatch of ballot papers

Seven days after the close of nominations, each member of the State or Territory Division whose name is included in the Register of Members of NDS and who has paid all sums due and owing by them to NDS shall be forwarded a ballot paper together with an envelope marked "Ballot Paper" and another addressed to the "Returning Officer".

2.13 Voting formalities

A member of a State or Territory Division who desires to exercise their right to vote shall in the ballot paper forwarded to them place a mark in the square opposite the names of the candidates for whom they wish to vote but shall not cast their vote for a number of candidates in excess of the number fixed pursuant to the relevant By-law and indicated on the ballot paper, otherwise their ballot paper shall be treated as informal.

2.14 Return of ballot papers

The member of a State or Territory Division who has exercised their right to vote shall seal their ballot paper in the envelope provided, complete the details on the back of the envelope addressed to the Returning Officer and return it by the date and time advised on the ballot paper but such date to be not more than 28 days after the posting of ballot papers as specified in sub-clause 2.12. Any ballot paper received by the Returning Officer after that date shall be rejected.

BY-LAW NO. 3: ELECTION OF THE MEMBERS OF STATE AND TERRITORY DIVISIONAL COMMITTEES

2.15 Compliance

As soon as practicable after the closure of the ballot the Returning Officer shall open all envelopes received up to the time the ballot closed and ascertain that each ballot paper complies with this By-law. Any that do not do so or any which do not bear the authentication shall be rejected by them. The decision of the Returning Officer as to whether or not any ballot paper should be rejected shall be final and conclusive.

2.16 Application of particular Rules

Rules 2.17 and 2.18 apply only where the election of members of a Divisional Committee is conducted by secret electronic ballot.

2.17 Member to nominate electronic address

- (a) The Company will use the provided electronic address for the voting representative, as listed on the Register of Members. Changes may be made pursuant to Rule 2.3.
- (b) Service to the address noted in Rule 2,17(a) is deemed appropriate service and no complaint, issue or challenge may be made against the Company if served in accordance with that Rule.

2.18 Electronic Ballot

- (a) the Returning Officer shall arrange for an electronic ballot to be issued or delivered to each eligible Voting Representative (as listed in the Register of Members) within seven business days after the close of nominations.
- (b) a ballot cast by a Member must not identify the Member that cast the ballot;
- (c) an eligible Member must not be capable of submitting more than one ballot;
- (d) an eligible Member must cast their ballot by the date and time advised on the ballot paper. Such date to be between 18 and 28 days after the electronic ballot has been issued as specified in sub-clause 2.18a. and
- (e) any ballot cast that does not comply with this By-law shall be rejected by the Returning Officer, and any decision by the Returning Officer as to whether or not any ballot should be rejected shall be final and conclusive.

2.19 Scrutineers

Any candidate for election to office may, in writing addressed to the Returning Officer, nominate one scrutineer to be present at the time the Returning Officer opens the ballot papers, reviews the electronic votes and/or determines the result of the ballot.

BY-LAW NO. 3: ELECTION OF THE MEMBERS OF STATE AND TERRITORY DIVISIONAL COMMITTEES

2.20 Counting

The votes cast in the election shall be counted by the Returning Officer and the result of the ballot determined in accordance with Simple Majority Voting (first-past-the-post). Should there be an equality of votes cast for 2 or more candidates, the Returning Officer shall determine by lot which candidate shall be elected.

2.21 Counting records

As soon as the Returning Officer has counted the votes cast in the ballot, he or she shall inform the Division Manager and the Chairperson and submit the record sheet as to the counting of votes cast in the ballot.

2.22 Destruction of ballot papers

Immediately after the results of the ballot have been declared, all ballot papers shall be destroyed.

2.23 Persons not eligible to be Returning Officer

No person shall be elected as a Returning Officer if he or she is an employee or director of an Organisational or a Life Member, or a person in the employment of NDS.

**BY-LAW NO. 4: ELECTION OF PRESIDENT AND VICE-PRESIDENT
ON THE NDS BOARD AFTER ANNUAL GENERAL MEETING**

NATIONAL DISABILITY SERVICES

BY-LAW NO. 4

**ELECTION OF PRESIDENT AND VICE-PRESIDENT ON THE NDS BOARD AFTER
ANNUAL GENERAL MEETING**

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this By-law, unless otherwise provided or the context requires otherwise:

- (a) **Board** means the Board of Directors of NDS;
- (b) **CEO** means the Chief Executive Officer;
- (c) **Chief Executive Officer, Director** and other words and expression defined in the Constitution have the same meaning where used in this document;
- (d) **Company** means NDS;
- (e) **Constitution** means the Constitution of NDS;
- (f) **NDS** means National Disability Services Limited ACN 008 445 485;

1.2 Interpretation

In this By-law, unless the context otherwise requires:

- (a) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (b) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinate legislation issued under, that legislation or legislative provision;
- (c) the singular includes the plural and vice versa;
- (d) a reference to any gender includes all genders;
- (e) a reference to any document is to that document (and, where applicable, any of its provisions) as amended, novated, supplemented or replaced from time to time;
- (f) any reference to time is to time in Canberra, ACT on the relevant day.

BY-LAW NO. 4: ELECTION OF PRESIDENT AND VICE-PRESIDENT ON THE NDS BOARD AFTER ANNUAL GENERAL MEETING

1.3 Consistency with Constitution

Where there is any inconsistency between any By-law and the Constitution, the Constitution shall prevail to the extent of the inconsistency.

2. ELECTIONS

2.1 Positions

The results of the Board elections will be announced at NDS' Annual General Meeting. At this time, all Directors will be invited to nominate for the positions of President and Vice-President on the Board and nomination forms will be made available.

2.2 Nominations

Nominations will require a proposer and a seconder. Only Directors will be eligible to propose and second nominations. All nominations shall be forwarded to the Returning Officer who shall endorse upon each the time and date of receipt.

2.3 Submission of nominations

Nominations must be submitted to the CEO on the required form no less than 18 hours before the scheduled commencement time of the first Board meeting occurring after the close of the annual general meeting, except that where such meeting is to take place within that 18 hour period then the nominations must be submitted to the CEO on the required form before the scheduled commencement time of the meeting.

2.4 Election

The election of the positions of President and Vice-President will be the first item of business at the first Board meeting following the Board election, subject to Rule 2.5. The CEO will chair the meeting until the election of President and Vice-President has occurred.

2.5 More than one candidate

If there is more than one candidate for either position of President or Vice-President, a secret ballot shall be conducted. In this situation, the appointment of a Returning Officer will be the first item of business at the Board meeting.

2.6 Returning Officer

The Returning Officer shall not be a Director or in the employment of NDS.

**BY-LAW NO. 5: NATIONAL DISABILITY PRACTITIONERS – A DIVISION OF
NATIONAL DISABILITY SERVICES**

NATIONAL DISABILITY SERVICES

BY-LAW NO. 5

**NATIONAL DISABILITY PRACTITIONERS – A DIVISION OF NATIONAL DISABILITY
SERVICES**

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this By-law, unless otherwise provided or the context requires otherwise:

- (a) **Board** means the Board of Directors of NDS;
- (b) **CEO** means the Chief Executive Officer or their nominated delegate;
- (c) **Chief Executive** means the Chief Executive Officer of NDS or their nominated delegate;
- (d) **Company** means NDS;
- (e) **Constitution** means the Constitution of NDS;
- (f) **Divisional Committee** means a committee established in accordance with clause 3.1 of this By-law;
- (g) **Executive Officer** means the manager appointed under these By Laws;
- (h) **Member** means a person who has paid a membership fee and who is registered by NDS as a Member of National Disability Practitioners. A Member under these by laws is not a Member as that term is defined in the Constitution of NDS and has no status and voting rights in relation to NDS;
- (i) **NDS** means National Disability Services Limited ACN 008 445 485;
- (j) **Policy** or **Policies** means a policy or policies formulated by the Board in relation to NDS and its Divisions;
- (k) **President** means the person elected or appointed as President of the Board in accordance with the Constitution or, if there is no such person at any relevant time, the person then holding the position of Vice-President of the Board.

BY-LAW NO. 5: NATIONAL DISABILITY PRACTITIONERS – A DIVISION OF NATIONAL DISABILITY SERVICES

1.2 Interpretation

In this By-law, unless the context otherwise requires:

- (a) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (b) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinate legislation issued under, that legislation or legislative provision;
- (c) the singular includes the plural and vice versa;
- (d) a reference to any gender includes all genders;
- (e) a reference to any document is to that document (and, where applicable, any of its provisions) as amended, novated, supplemented or replaced from time to time;
- (f) any reference to time is to the time in Canberra, ACT on the relevant day.

1.3 Consistency with Constitution

- (a) Article 7.1(d) of the Constitution provides that "The Directors have the power from time to time to make such By-laws as are in their opinion necessary and desirable for the proper control, administration and management of the Company's affairs."
- (b) The Directors have resolved to create National Disability Practitioners (NDP) to facilitate the provision of services to individual Disability Service practitioners and have created the Divisional Committee to administer and advance the objects of the Division. This By-Law will be binding on Members of NDS as required under the Constitution, and will also be binding on Members of NDP.
- (c) Unless expressly denoted, where there is any inconsistency between any By-law and the Constitution, the Constitution shall prevail to the extent of the inconsistency.
- (d) For the purposes of clause 1.3(c) it is expressly denoted that the use of the terms "Division" and "Member" in the Constitution and in this By-Law are different and that the Constitutional definition of those terms does not prevail when interpreting this By-Law.

BY-LAW NO. 5: NATIONAL DISABILITY PRACTITIONERS – A DIVISION OF NATIONAL DISABILITY SERVICES

2. THE DIVISION AND MEMBERSHIP

2.1 Name of Division

For the purpose of the By-Law the Division shall be known as “National Disability Practitioners – A Division of National Disability Services” (“NDP”).

2.2 Divisional responsibilities

The Division is responsible within its jurisdiction for furthering the objects of NDS, and, at the discretion and direction of the Board, providing a range of professional initiatives, educational programs, e-learning, accreditation, qualifications and other support initiatives for those individuals working in the disability sector.

2.3 NDP Members

An individual person cannot become a member of NDS, however the Divisional Committee shall create and maintain a register of Members that shall include any person who applies to be included on that register and who has paid the divisional membership fee.

The Divisional Committee may by resolution determine the membership period and renewal process for Members.

2.4 Divisional Executive Officer

The Board shall, from time to time and as required, engage a Divisional Executive Officer. The Divisional Executive Officer shall report to the Chief Executive or their nominated delegate.

2.5 Function

The Board may, from time to time, require the Division’s support in creating particular educational, accreditation, certification and registration programs for practitioners in the disability sector.

2.6 President

The President of NDS (or such other Director as the Board may delegate from time to time) shall be ex-officio a member of the Divisional Committee.

3. NDP DIVISIONAL COMMITTEE

3.1 Divisional Committee

- (a) The Board and Members shall elect a committee (Divisional Committee) comprising not less than 7 and not more than 9 persons.

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- (b) Divisional Committee members must be current paid up Members of NDP.
- (c) The Members may annually elect two persons to the Divisional Committee for a three (3) year appointment. That Member may be re-elected but can only serve for a maximum of two consecutive terms.
- (d) The Divisional Committee may annually appoint one person to the Divisional Committee for a two (2) year appointment. That person may be re-appointed but can only serve for a maximum of three consecutive terms.
- (e) In the event of a vacancy for any reason, the Divisional Committee may recommend to the Board the appointment of a replacement Divisional Committee member to sit on the Committee until the expiration of the original term of the person being replaced.

3.2 Chairperson

NDS shall appoint the Chairperson of the Division from the NDS Board. The Chairperson must also be a Member of NDP. The Chairperson shall be appointed for two years and is eligible for re-appointment for a maximum of two terms.

3.3 Elections

Subject to the clause 5.1, the Members of the Divisional Committee elected by Members shall be appointed for three years up to a maximum of two consecutive terms and Members appointed by the Divisional Committee shall be appointed for two years up to a maximum of three consecutive terms.

3.4 Secret vote

The election of Members to a Divisional Committee may be conducted by secret vote by any means (including electronic, postal or in meeting) determined appropriate by the Board.

3.5 Removal and appointment

The Board may remove any member of the Divisional Committee from office if, in the reasonable opinion of the Board, having taken advice from the Chair of the Divisional Committee and the Divisional Committee, it is appropriate to do so.

3.6 Vacation of office

A member of the Divisional Committee shall be deemed to have vacated their office if they:

- (a) cease to be a Member;

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- (b) become an insolvent under administration;
- (c) become of unsound mind or a person whose person or estate is liable to be dealt with under any law relating to mental health;
- (d) become prohibited from being a director of a company by reason of the application of any law relating to companies;
- (e) resign their office by notice in writing to the Divisional Committee;
- (f) are absent without permission of the Divisional Committee from 3 consecutive meetings thereof;
- (g) are directly or indirectly interested in any contract or proposed contract with the NDS and fail to declare the nature of their interest in the manner required by the Corporations Act 2001 (Cth).

3.7 Directors and Chief Executive Officer

The Divisional Executive Officer, the President (or their delegate) and the Chief Executive Officer may attend and be heard at any meeting of the Divisional Committee.

4. POWER AND DUTIES OF DIVISIONAL COMMITTEE

4.1 Strategic priorities

The strategic priorities of the Division shall be directed by its Divisional Committee unless otherwise directed by the Board.

4.2 Other powers and duties

Subject to express approval of the Board or the Chief Executive (or their delegate), the Divisional Committee will:

- (a) assist in the delivery, support and promotion of the national strategic priorities and mission of the Division;
- (b) provide input to the Division's strategic planning;
- (c) develop strategic priorities that respond effectively to the concerns and interests of Members that are compatible with the strategic priorities set by the Board;
- (d) assist in developing resources (such as projects and programs) which benefit Members and the whole organisation and be aware of resources developed within NDS which could be applied for the benefit of Members;
- (e) protect and enhance the Division and NDS's reputation;
- (f) promote collegiate and effective relationships among Members in each State or Territory;

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- (g) assist the Chief Executive or their delegate in the employment, monitoring and performance appraisal of the Executive Officer;
- (h) support and advise the Executive Officer;
- (i) assist in reviewing Divisional budgets and finances;
- (j) maintain all appropriate and prudent records relating to all proceedings at all meetings of the Division and meetings of the Divisional Committee and to make those records available to the Board as required;
- (k) keep the Board informed in respect of relevant trends, Members concerns, opportunities and risks in the Division and provide such other information and reports to NDS as the Board may require;
- (l) ensure that its activities are consistent with the Constitution;
- (m) act in accordance with NDS By-laws, policies and codes of practice.

and may

- (n) delegate any of its powers to committees consisting of at least one member of the Divisional Committee and such other persons as it may determine upon such terms and conditions as it may see fit and may fix the quorum of any such committee. The Chairperson shall be an ex-officio member of any sub-committee established by the Divisional Committee;
- (o) resolve to invite representatives of any organisation or any person to attend a meeting. Any representative or person so invited shall have the right to attend and take part in discussion but shall not be entitled to vote;
- (p) establish and conduct branches of its Division in accordance with conditions approved from time to time by the Board;
- (q) raise funds for such special projects as are approved from time to time by the Chief Executive
- (r) undertake such other activity as approved by the Board from time to time.

5. PROCEEDINGS OF DIVISIONAL COMMITTEE

5.1 Meetings

The Divisional Committee shall meet regularly and not less than four times a year, at such times and places as it determines. In the absence of any such determination it shall meet at such time and place as the Board, on the advice of its Chairperson or on the requisition of 3 members of the Divisional Committee, notifies Committee members.

5.2 Votes

Each member of a Divisional Committee shall have one vote. In the event of an equality of votes the motion shall be declared lost.

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NATIONAL DISABILITY SERVICES**

5.3 Notice of meeting

Not less than 14 days' notice shall be given to every member of the Divisional Committee of any meeting thereof specifying the time, place and general nature of the business of such meeting. The Chairperson and Chief Executive (jointly) shall have absolute discretion to call an emergency meeting at any time notwithstanding that 14 days' notice shall not have been given.

5.4 Quorum

A quorum of a meeting of a Divisional Committee shall be one third of the members of the Divisional Committee or the nearest whole number above that fraction provided that the Chairperson, or an alternate nominated by the Board, is present. A member may attend in person, by telephone, by web conference, by video conferencing or by such other electronic means as may be agreed.

5.5 Chairperson

At a Divisional Committee meeting, the Chairperson or an alternate nominated by the Board, shall preside unless unwilling to act or absent in which case after 15 minutes have elapsed after the time appointed for the meeting, the members of the Divisional Committee present, provided they constitute a quorum, may elect one of their number to chair the meeting.

6. GENERAL MEETINGS OF DIVISION [OMITTED NOVEMBER 2023]

7. PROCEEDINGS AT GENERAL MEETINGS OF DIVISION [OMITTED NOVEMBER 2023]

8. ACCOUNTS AND RECORDS OF DIVISIONS [OMITTED NOVEMBER 2023]

9. NOTICE [OMITTED NOVEMBER 2023]

**NATIONAL DISABILITY SERVICES
BY-LAW NO. 6
EXPULSION EVENTS**

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this By-Law, unless otherwise provided or the context requires otherwise:

- (a) **Banning Order** means an administrative tool available to the NDIS Commissioner which prohibits or restricts a person or organisation, either permanently or for a specified period, from engaging in, providing or being involved in the provision of specified activities, supports or services in the NDIS market.
- (b) **Board** means the Board of Directors of NDS.
- (c) **Constitution** means the Constitution of NDS;
- (d) **Insolvency Event** means, in relation to a Member:
 - (i) a step is taken (including without limitation a resolution is passed or an applications is made) which may result in the winding up, dissolution or deregistration of the entity or the appointment of a liquidator, provisional liquidator, administrator, receiver, receiver and manager or other insolvency official to the Member or to the whole or a substantial part of the property or assets of the Member;
 - (ii) the entry by the Member into a compromise or arrangement with its creditors generally;
 - (iii) the Member is or becomes unable to pay its debts when they fall due, suspends or threatens to suspend payment of its debts generally;
 - (iv) the holder of a security interest taking possession of any of the Member's property; or
 - (v) the occurrence of any event which is analogous or has a similar effect to any of the above in the jurisdiction relevant to the Member.
- (e) **Key Person** means all directors, officers, CEO, executive staff members and managers of a Member;
- (f) **NDIS Code of Conduct** means any code of conduct accepted and published by the NDIS Quality and Safeguards Commission, as updated from time to time;

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- (g) **NDS** means National Disability Services Limited;
- (h) **NDS Statement of Principles for Service Providers** means the expectations of NDS members with regard to professional, high-quality service provision that people with disability have the right to expect, as outlined on the NDS website.
- (i) **Related Body Corporate** has the same meaning as in the *Corporations Act 2001*.

2. MEMBER CONDUCT

NDS expects the highest standard of conduct from its Members and their Key Persons. Accordingly, if:

- (i) a Banning Order is in force for a Member or a Member's Key Person by the NDIS Quality & Safeguards Commission;
- (ii) a suspension or revocation of registration, or refusal to re-register a previously registered provider has occurred for a Member or a Member's Key Person, by the NDIS Quality & Safeguards Commission;
- (b) an Insolvency Event occurs in relation to the Member or its Related Body Corporate;
- (c) a Member or a Member's Key Person has been charged with and/or found guilty of a relevant criminal offence (including but not limited to offences against the person, fraud, dishonesty and offences involving conduct towards or exploitation of vulnerable persons);
- (d) a Member or a Member's Key Person contravenes any law which attracts a civil penalty or fails to comply with industry regulations;
- (e) a Member or a Member's Key Person is an entity required to comply with the NDIS Code of Conduct, and that Member or a Member's Key Person fails to comply with that Code.
- (f) a Member or a Member's Key Person does not comply with NDS policies, including but not limited to the NDS Constitution, NDS By-Laws, or the NDS Statement of Principles for Service Providers;
- (g) a Member or a Member's Key Person does (or fails to do) anything that in the Board's reasonable opinion is likely to cause reputational harm to NDS;
- (h) a Member or a Member's Key Person fails to observe any reasonable directions of NDS in relation to the Member's conduct at NDS functions, events or meetings;

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- (i) a Member or a Member's Key Person makes defamatory comments in relation to NDS, its directors, officers, staff, Key Persons or other Members or stakeholders; or
- (j) a Member or a Member's Key Person otherwise engages in behaviour that falls short of NDS' reasonable expectations;

then this By-Law applies.

3. GENERAL

- (a) The NDS Constitution defines 'Expulsion Event' as:

Expulsion Event means, where in the opinion of the Directors a Member has intentionally, recklessly or negligently breached a provision of this Constitution, the Company's By-Laws or the Company's Code of Conduct.

- (b) For the avoidance of any doubt:
 - (i) *Company's Code of Conduct* means the NDS Statement of Principles for Service Providers;
 - (ii) each of the matters set out in paragraph 2 above may amount to an Expulsion Event;
 - (iii) the matters set out in paragraph 2 are a non-exhaustive list of potential Expulsion Events. NDS has the discretion to take action pursuant to Article 2.9 of the Constitution in respect of matters or circumstances that are not listed above; and
 - (iv) nothing in this By-Law or the Constitution requires or otherwise obliges NDS to take action if an Expulsion Event occurs, or if a Member believes an Expulsion Event has occurred.

4. Board process

Subject to the provisions of the Constitution, the following process may be implemented for a Member or Members Key Person prior to the formal process under Article 2.9 of the Constitution being implemented:

- (a) If the Board decides that an event may be an Expulsion Event, it may choose to trigger this by-law.
- (b) The Board may, at any time and entirely at its own discretion, take action including, but not limited to:
 - (i) suspending a member pending the outcomes of an investigation by NDS or any regulatory body;
 - (ii) undertaking (or appointing a panel or an independent agent to undertake) an investigation into the conduct;

BY-LAW NO. 6: NATIONAL DISABILITY SERVICES – EXPULSION EVENTS

- (iii) issuing a show cause letter to the member or key person to provide information related to concerns and seek a reply within a reasonable period of time.
 - (iv) appointing a panel, consisting of board members and such other participants as the board considers appropriate, to consider the allegations and response (if any) – if so appointed, each panel member must declare that they have no conflict of interest in sitting on the panel.
- (c) If appointed, the Panel will review all material available to it and, after due and reasonable enquiry, make a recommendation to the Board about whether:
- (i) The conduct meets the criteria of an Expulsion Event, in that there has been an *intentional, reckless or negligent* breach of the expectations of member conduct, and there are no extenuating circumstances mitigating the conduct;
 - (ii) The conduct does meet the criteria of an Expulsion Event and there are extenuating circumstances mitigating the conduct;
 - (iii) The conduct does not meet the criteria of an Expulsion Event.
- (d) While in no way binding the Board, or in any way limiting its considerations, the panel may:
- (i) seek legal advice in relation to the matter;
 - (ii) if, in the opinion of the panel, the conduct falls short of an Expulsion Event or there are mitigating circumstances, it may recommend remedial action that the Board may consider in relation to the conduct and may also recommend suspension of membership whilst remedial actions are completed; or
 - (iii) if, in the opinion of the panel the conduct does, prima facie, constitute an Expulsion Event and there are no mitigating factors, then (subject to the member being afforded all the rights sets out in the Constitution) it would recommend expulsion, the period of any expulsion and any conditions that may be recommended prior to acceptance of any new membership application by that member.
- (e) The Board will consider any recommendations from the panel but is not bound to accept or act upon any such recommendation.
- (f) If the Board resolves to expel a member, then Article 2.9 of the Constitution will apply.

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- (g) If expelled, or during any period of suspension the member, and its personnel, shall be:
 - (i) removed from all membership lists including mailing lists;
 - (ii) removed from having access to all member benefits and the systems that deliver those benefits;
 - (iii) not entitled to vote on for any items requiring voting by members; and
 - (iv) any representative of the Member will be removed from all NDS committees, networks or communities of practice.
- (h) No refund will be given for money paid prior to the suspension taking effect, or if the member has been expelled. All funds owing prior to the suspension or expulsion taking effect remain payable in full.
- (i) At the Board's discretion, the panel may be reconvened to manage and oversee the remedial actions required of the member, and report to the Board once it believes that the actions have been successfully completed. The Board, at its next meeting, may decide whether to lift the suspension.