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UTS LAW STUDENTS' SOCIETY



**CONSTITUTION**

*As of 6 February 2021*

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# UTS Law Students' Society Constitution

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## Part 1: Preliminary

### 1 Name of Association

The name of this association shall be the “UTS Law Students’ Society”.

### 2 Objects of the Association

(1) The objects for which the UTS Law Students’ Society is established are as follows:

- (a) Represent and advocate for the interests of law students at University of Technology Sydney;
- (b) Promote and facilitate the professional and personal development of law students;
- (c) Promote and facilitate engagement and exchange between law students and the Faculty, the University, legal profession and broader community;
- (d) Promote and support the physical and mental health and wellbeing among law students; and
- (e) Promote and uphold a diverse, inclusive and safe environment for law students at University of Technology Sydney.

These Objects are to be read holistically and none shall be predominant.

### 2A Dissolution

In the event of the Association being dissolved, the amount that remains after such dissolution and the satisfaction of all debts and liabilities shall be transferred to another organisation with similar purposes which is not carried on for the profit or gain of its individual members

### 3 Definitions

(1) In this Constitution:

**Annual General Meeting** means a yearly meeting held at the end of tenure, attended by Council and any members of the Association, which includes the announcement of election results and reports on the year’s events

**Association** means the UTS Law Students’ Society.

**Association Website** means the website maintained by the Association with the address [www.utslss.com](http://www.utslss.com)

**By-Laws** means the instrument titled the same which includes obligations upon each Council Member.

**Director-General** means the Director-General of the Department of Services, Technology and Administration.

**Council** means the committee of the Association.

**Council Meetings** means general meetings attended only by Council.

**Council Member** means a member of the committee of the Association, elected in accordance with this Constitution.

**Executive** of the Association mean, unless otherwise specified in the By-Laws:

- (a) the President;
- (b) the Treasurer;
- (c) the Secretary;
- (d) the Vice-President (Activities);
- (e) the Vice-President (Careers);
- (f) the Vice-President (Mooting);
- (g) the Vice-President (Skills Competitions);
- (h) the Vice-President (Education);
- (i) the Vice-President (Marketing);
- (j) the Vice-President (Sponsorship); and
- (k) the Immediate Past President.

**Incapacitated Member** means a member of the Council who is temporarily unable to fulfil their duties under the By-Laws due to travel, illness, or other reason as approved by the Executive.

**Record of Positions on Council** means the instrument titled the same which states the positions to be held on the Council.

**Regular Vote** means a vote in which the most number of votes determines the successful outcome, irrespective of whether a majority has been achieved.

**Secretary** means the person holding office under this Constitution as secretary of the Association.

**Simple Majority** means at least half plus one or more of the total number of people exercising a vote in a vote.

**Special Committee of Law Students' Societies** means the committee of New South Wales Young Lawyers comprised of the office bearers of New South Wales Young Lawyers and the President (or their nominee) and one other representative from each Law Students' Society in New South Wales, or such other state representative body of Law Students' Societies in New South Wales that may in future exist instead of the Special Committee of Law Students' Societies affiliated with New South Wales Young Lawyers.

**Special General Meeting** means a general meeting of the Association, open to all members.

**Special Majority** means at least three quarters of the total number of people exercising a vote in a vote.

**the Act** means the Associations Incorporation Act 2009 (NSW).

**the Regulation** means the Associations Incorporation Regulation 2010 (NSW).

**the University** means the University of Technology Sydney (UTS).

- (2) In this Constitution:
  - (a) a function includes a power, an authority, or a duty, and;
  - (b) the exercise of a function, where the function is a duty, includes the performance of the duty.
- (3) The *Interpretation Act 1987 (NSW)* applies to this Constitution, as if it were an instrument under that Act.
- (4) The headings in this Constitution do not affect its interpretation.

#### **4 Relationship to By-Laws & Policies**

- (1) In the event of an inconsistency between this Constitution and the By-Laws, this Constitution prevails to the extent of the inconsistency.
- (2) The By-Laws shall be binding on Council members, unless excluded by section 4(1).

In addition to the relevant legal framework, the Society acknowledges and reiterates the following policies which apply to the Society and its members:

- (a) The Association's Inclusion Policy;
- (b) ActivateClubs Code of Conduct; and
- (c) University policies, notably the UTS Student Charter, Equal Opportunity and Diversity Policy and Policy on the Prevention of Harassment.

## **Part 2: Membership**

### **5 Membership generally**

- (1) The Association shall, in accordance with Part 2 of this Constitution, consist of:
  - (a) ordinary members,
  - (b) associate members, and
  - (c) life members.
- (2) All members of the Association must be natural persons.
- (3) A person is eligible to be an ordinary member of the Association if the person:
  - (a) is enrolled in any degree or qualification offered by the University Faculty of Law, and
  - (b) has registered for membership of the Association in accordance with section 6.
- (4) A person is eligible to be an associate member of the Association if the person has been approved for membership of the Association in accordance with section 6.
- (5) A person is eligible to be a life member of the Association if:
  - (a) the person has been a Council Member for at least two terms including at least one term as a member of the Executive,
  - (b) the person has been nominated to be a life member by a member of the Executive,
  - (c) the person, during their time as a Council Member, has made a significant and substantial contribution to the Association, above the requirements of the By-Laws,
  - (d) the person has been approved by a Special Majority of the Council to be a life member at a Special General Meeting or Annual General Meeting.

### **6 Nomination for membership**

- (1) A person nominates for membership:
  - (a) by applying in writing in such manner as the Council may determine; and
  - (b) by satisfying the fee requirements of section 12.

Once a person has satisfied sections (1)(a) and (1)(b), their name shall be entered onto the register of members, and the nominee becomes a member of the Association.



(2) This section does not apply to life members.

## **7 Termination of membership**

(1) A person ceases to be an ordinary member of the Association if the person:

- (a) dies, or
- (b) resigns membership, or
- (c) is expelled from the Association in accordance with section 15, or
- (d) ceases to be enrolled in a law degree at UTS.

(2) A person ceases to be an associate member of the Association if:

- (a) the person dies, or
- (b) the person resigns membership, or
- (c) the start of a new calendar year commences, or
- (d) the person is expelled from the association in accordance with section 15.

(3) A person resigns their membership by providing written notice to the Secretary, which is effective upon the receipt of this notice by the Secretary.

## **8 Removal of names and detail from the register**

(1) Where a person ceases to be a member of the Association, the Secretary, or other such Council Member as Council provides, shall remove that person's name and details from the register in an expeditious manner.

(2) Once membership of the Association is terminated, the Secretary will record the date on which the member ceased to be a member.

## **9 Rights of members**

(1) An ordinary member may, in addition to exercising any other rights afforded to them by Council:

- (a) vote at any election held under section 19,
- (b) attend, speak, or vote at general meetings, and
- (c) propose motions in respect of general meetings.

(2) An associate member may exercise any right afforded to them by Council, subject to section 9(3).

(3) Without limitation as to restrictions upon associate members, an associate member may not:

- (a) vote at any election held under section 19,

- (b) attend, speak, and vote at general meetings,
- (c) propose motions in respect of general meetings.
- (4) A life member may, in addition to exercising any other rights afforded to them by Council:
  - (a) attend, speak, and vote at general meetings, and
  - (b) propose motions in respect of general meetings.

## **10 Membership entitlements not transferable**

- (1) A right, privilege, or obligation which a person has by reason of being a member of the Association:
  - (a) is not capable of being transferred or transmitted to another person, and
  - (b) terminates on cessation of the person's membership.

## **11 Register of members**

- (1) Any reference to a register in this section refers only to the register specified in section 11(2).
- (2) The Secretary of the Association must establish and maintain a register of members of the Association specifying the name of each member of the Association.

## **12 Fees**

- (1) In order to gain admission to membership, a member of the Association may be required to pay a fee as determined by the Council.
- (2) Any fee paid under section 12(1) is not refundable unless otherwise prescribed by a law of New South Wales or Australia.
- (3) No periodic fee is required to be paid by an ordinary member to remain an ordinary member of the Association.
- (4) This section does not apply to life members.

## **13 Members' liabilities**

The liability of a member of the Association to contribute towards the payment of the debts and liabilities of the Association or the costs, charges and expenses of the winding up of the Association is limited to the amount, if any, unpaid by the member in respect of membership of the Association as required by section 12.

## **14 Resolution of member disputes**

- (1) A dispute between a member and another member (in their capacity as members) of the Association, or a dispute between a member or members and

the Association, are to be referred to a community justice centre for mediation under the *Community Justice Centres Act 1983* subject to section 14(2).

- (2) Before a dispute pursuant to section 14(1) is referred to a community justice centre for mediation, the parties to that dispute must make a genuine attempt to resolve the dispute by a method directed by the President of the Association.
- (3) If a dispute is not resolved by mediation within 3 months of the referral to a community justice centre, the dispute is to be referred to arbitration.
- (4) The *Commercial Arbitration Act 1984* applies to any such dispute referred to arbitration.

## **15 Disciplining of members**

- (1) A complaint may be made to the Council by any person that a member of the Association:
  - (a) has refused or neglected to comply with a provision(s) of this Constitution, or
  - (b) has refused or neglected to comply with a provision(s) of the By- Laws, or
  - (c) has wilfully acted in a manner prejudicial to the interests of the Association.
- (2) The Council may refuse to deal with a complaint if, after considering the complaint, it deems the complaint to be trivial or vexatious in nature.
- (3) If the Council decides to deal with the complaint, the Council:
  - (a) must serve notice of the complaint on the member concerned, and
  - (b) must give the member at least 14 days from the time the notice is served to make submissions to the Council in response to the complaint, and
  - (c) must take into consideration any submissions made by the member in response to the complaint.
- (4) The Council may, by resolution of a Special Majority, expel a member from the Association where the Council:
  - (a) has considered the complaint and any submissions in response to the complaint,
  - (b) is satisfied that the facts alleged in the complaint have been proved, and
  - (c) is satisfied that expulsion is warranted in the circumstances.
- (5) If the Council expels a member, the Secretary or other council member as the Council directs, must, within 7 days after the action is taken, serve written notice of the expulsion on the member, of the reasons given by the Council for expulsion and of the member's right of appeal under section 14.
- (6) The expulsion does not take effect:

- (a) until the expiration of the period within which the member is entitled to appeal against the resolution concerned, or
- (b) if within that period the member exercises the right of appeal, unless and until the Association confirms the resolution under section 16, whichever is later.

## **16 Right of appeal of disciplined member**

- (1) A member may appeal to the Association against a disciplinary action provided the appeal is
  - (a) within 7 days of the service of the notice of disciplinary action, and
  - (b) lodged in writing to the President.
- (2) The notice of appeal may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- (3) On receipt of a notice from a member under section 16(1), the President must notify the Council and convene a Special General Meeting to be held within 28 days after the date on which the President received the notice.
- (4) At the Special General meeting of the Association convened pursuant to section 16(3):
  - (a) no business other than the question of the appeal is to be transacted,
  - (b) the Council and the member must be given the opportunity to state their respective cases orally or in writing, or both, and
  - (c) the Council members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (5) The appeal is only to upheld if it is passed by a Special Majority of votes cast by Council members of the Association.
- (6) The Chairperson of a meeting at which a vote pursuant to section 16(5) takes place, must release the distribution of votes cast if so requested by:
  - (a) The member who lodged the appeal pursuant to section 16(1);
  - (b) A majority of Council members present at the Council meeting.

## **Part 3: The Council**

### **17 Powers of the Council**

- (1) Subject to the Act, the Regulation, the By-Laws, and this Constitution and to any resolution passed by the Association in general meeting, the Council:
  - (a) is to control and manage the affairs of the Association, and
  - (b) may exercise all such functions as may be exercised by the Association, other than those functions that are required by this Constitution to be exercised by a general meeting of members of the Association, and
  - (c) has power to perform all such acts and do all such things as appear to the Council to be necessary or desirable for the proper management of the affairs of the Association.

### **18 Composition and membership of Council**

- (1) The Council members, with the exception of the Immediate Past President, must be elected prior to the Annual General Meeting of the Association and consists of:
  - (a) the Executive of the Association, and
  - (b) other members of Council.
- (2) The total number of Council members is to be determined by the number of positions specified in the By-Laws.
- (3) The Executive of the Association are as follows, unless otherwise specified by the Record of Positions on the Council:
  - (a) the President;
  - (b) the Treasurer;
  - (c) the Secretary;
  - (d) the Vice-President (Activities);
  - (e) the Vice-President (Careers);
  - (f) the Vice-President (Mooting);
  - (g) the Vice-President (Skills Competitions);
  - (h) the Vice-President (Education);
  - (i) the Vice-President (Marketing);
  - (j) the Vice-President (Social Justice);
  - (k) the Vice-President (Sponsorship); and
  - (l) the Immediate Past President.

- (4) Positions on the Executive also constitute positions on the Council. With the Exception of the Immediate Past President, Executive members may only exercise one vote at any meeting, including Council meetings and general meetings, subject to sections 28(2), 28(3) and 42.
- (5) The Treasurer shall be the public officer of the Association.
- (6) The Immediate Past President shall be the President of the immediately preceding Council.
- (7) In the event that a person holds both the position of President and Immediate Past President concurrently, they shall fulfil the obligations of both positions under the By- Laws will be entitled to exercise one vote at any meeting, including Council meetings and general meetings, subject to sections 28(2), 28(3) and 42.
- (8) A Council member may only hold 1 office, except where:
  - (a) a Council member is temporarily incapacitated, subject to sections 18(9) and 18(10), and the Incapacitated Member's duties under the By-Laws are assumed by another Council member for the period in which the incapacitated member is incapacitated.
  - (b) a casual vacancy is filled pursuant to 23(4).
- (9) A Council member who is temporarily unable to fulfil their duties under the By-Laws, may be deemed to be temporarily incapacitated by the Executive for reason of travel, illness or other reason as approved by the Executive.
- (10) Where a Council member has been deemed to be temporarily incapacitated by the Executive by Regular Vote, the Executive may appoint one or more other members of the Council to carry out the duties of the incapacitated member under the By-Laws for the required period.
- (11) Each member of the Council is, subject to this Constitution, to hold office until the conclusion of the Annual General Meeting following the date of each member's election or 1 November of the calendar year following their election, whichever is the later.
- (12) Upon the Conclusion of the Annual General Meeting or 1 November of the calendar year, whichever is later, the incumbent council will enter a shadow period with the Elected Council which will conclude 1 December of that year.
- (13) Section 18(11) does not apply to members of Council appointed pursuant to a casual vacancy under section 23.

## **19 Election of Council members**

- (1) Nominations of candidates for election as members of Council must be made in accordance with Part 7.
- (2) Nominees must be ordinary members of the Association.

- (3) The election of candidates as members of Council must be conducted in accordance with Part 7.
- (4) The counting of votes in accordance with Part 7 is to take place before the Annual General Meeting, with the results of that count to be announced at the Annual General Meeting.
- (5) The results of an election may be announced prior to the Annual General Meeting, provided that first, once the counting of the votes has concluded, the Electoral Officer contacts all nominees expeditiously with the outcome of the election. Nominees must be contacted via email, telephone or by notification and attendance at a meeting called and held by the Electoral Officer to be held at the University of Technology Sydney at a reasonable time.

## **20 Membership of Council members**

- (1) A member of Council must be an ordinary member of the Association.
- (2) Where a member of Council ceases to be an ordinary member of the Association they will immediately cease to be a member of Council and their position on Council shall be treated as a casual vacancy in accordance with section 23.

## **21 The Treasurer**

- (1) The Treasurer of the Association must, as soon as practicable after being appointed as Treasurer, lodge notice with the Association of his or her address.
  - (a) that all money due to the Association is collected and received and that all payments authorised by the Association are made, and
  - (b) that correct books and accounts are kept showing the financial affairs of the Association, including full details of all receipts and expenditure connected with the activities of the Association.

## **22 The Secretary**

- (1) It is the duty of the Secretary to keep minutes of:
  - (a) all appointments of office-bearers and members of the Council;
  - (b) the names of members of the Council present at a Council meeting or a general meeting; and
  - (c) all proceedings at Council meetings and general meetings.
- (2) Minutes of proceedings at a meeting must be ratified by motion by a Simple Majority of Council members at the next succeeding meeting.

## **23 Casual vacancies**

- (1) In the event of a casual vacancy occurring in the membership of the Council, the Council may appoint a member of the Association to fill the vacancy subject to

section 23(2) and a member so appointed is to hold office, subject to this Constitution, until the conclusion of the Annual General Meeting next following the date of the appointment or 1 November of the calendar year following their appointment, whichever is the later.

- (2) Subject to section 24, to appoint a member of the Association to fill a casual vacancy:
  - (a) the Secretary, or other Executive member, must give at least 14 days' notice of the casual vacancy to the members of the Association,
  - (b) at the time when notice under 23(2)(a) is provided of the casual vacancy, opportunity must be provided to members to apply to fill the casual vacancy,
  - (c) a Council meeting is to be held as expeditiously as possible after the notice period under 23(2)(a) expiring
  - (d) subject to 23(2)(e), a Regular Vote at the Council meeting is to occur to fill the casual vacancy
  - (e) only members who have applied to fill the casual vacancy under 23(2)(b) may be appointed under 23(2)(d).
- (3) A casual vacancy in the office of a member of the Council occurs if the member:
  - (a) dies, or
  - (b) ceases to be a member of the Association, or
  - (c) resigns office by notice in writing given to the President, or
  - (d) is removed from office under section 24, or
  - (e) is absent without the consent of the President from 3 consecutive meetings of the Council.

## **24 Incapacitation of President**

- (1) Where a casual vacancy occurs in respect of the office of President, the Treasurer shall become President of the Association, and the position of Treasurer shall be treated as a casual vacancy under section 23.
- (2) If the Treasurer is unable or unwilling to take the position of the President under section 24(1), then the Council at a Council meeting must elect by Regular Vote one of the members of the Executive to take the position of President.

## **25 Removal of Council Members**

- (1) The Association in a general meeting may by resolution of a Special Majority remove any member of the Council from the office of member before the expiration of the member's term of office subject to sections 25(3) and 25(4).
- (2) A member of Council who may be subject to removal from office must be provided with personal notice of their proposed removal no less than 7 days



prior to the general meeting. This notice must include written reasons for the member's removal.

- (3) If a member of the Council to whom a proposed resolution referred to in section 25(1) relates makes representations in writing to the President (not exceeding a reasonable length) and requests that the representations be read out at the meeting at which the resolution is considered, that request shall be acceded to prior to a vote taking place on the proposed resolution. The member is permitted to attend the meeting at which the resolution is considered if they so wish.
- (4) Any Council member removed pursuant to this section has the same right of appeal as afforded to general members of the Association pursuant to section 16.
- (5) Where a Council member is removed from office under section 25(1), that Council member's position on Council is to be treated as a casual vacancy under section 23.

## **26 Council meetings and quorum**

- (1) The Council must meet at least six times in each term of Council at such place and time as the Council may determine.
- (2) Additional meetings of the Council may be convened by the President, or by agreement by any two members of the Executive.
- (3) Written notice of a meeting of the Council must be given by the Secretary or other member of the Council to each member of the Council at least 48 hours (or such other period as may be agreed on by the members of the Council by a Simple Majority) before the time appointed for the holding of the meeting.
- (4) Notice required by section 26(3) may be dispensed with by resolution of a Special Majority of Council members present at a Council meeting at which that notice requirement has not been met.
- (5) Council members must be notified of the general nature of the business to be transacted at the meeting either at the time of notice of a meeting given under section 26(3), or at least 12 hours prior to the relevant meeting commencing.
- (6) More than half of the members of the Council constitute a quorum for the transaction of the business of a meeting of the Council.
- (7) No business is to be transacted by the Council unless a quorum is present and if, within an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to take place no later than one week after the adjourned meeting was scheduled to take place at a time and place to be decided by the President and in compliance with section 26(3).
- (8) If at the adjourned meeting a quorum is not present within an hour of the time appointed for the meeting, the meeting is to be dissolved.
- (9) At a meeting of the Council:
  - (a) the President or, in the President's absence, the Treasurer is to preside, or

- (b) if the President and the Treasurer are absent or unwilling to act, such one of the remaining members of the Council as may be chosen by Regular Vote of the members present at the meeting is to preside, or
- (c) if no member is able to be chosen to preside by the methods prescribed by this section, the meeting is to be dissolved.

## **27 Delegation by Council to sub-committee**

- (1) The Council may, by instrument in writing and passed by a Special Majority at a Council meeting, delegate to one or more sub-committees (consisting of such member or members of the Association as the Council thinks fit) the exercise of such of the functions of the Council as are specified in the instrument, other than:
  - (a) this power of delegation, and
  - (b) a function which is a duty imposed on the Council by the Act or by any other law.
- (2) A function the exercise of which has been delegated to a sub-committee under this section may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.
- (3) A delegation under this section may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.
- (4) Any instrument of delegation made under this section must be made available for viewing to members of the Association.
- (5) Despite any delegation under this section, the Council may continue to exercise any function delegated.
- (6) Any act or thing done or suffered by a sub-committee acting in the exercise of a delegation under this section has the same force and effect as it would have if it had been done or suffered by the Council.
- (7) The Council may, by instrument in writing and passed by a Simple Majority, revoke wholly or in part any delegation under this section.

## **28 Voting and decisions**

- (1) Questions arising at a meeting of the Council or of any sub-committee appointed by the Council are to be determined by a Simple Majority of the votes of members of the Council or sub-committee present at the meeting unless otherwise specified by this Constitution.
- (2) Each member present at a meeting of the Council or of any sub-committee appointed by the Council (including the person presiding at the meeting) is entitled to one vote but, in the event of an equal number of votes on any question, the person presiding may exercise a second or casting vote.

- (3) A vote may be exercised by proxy in respect of a Council meeting or sub-committee meeting provided that the member intending to vote by proxy at a meeting provides to the Secretary, or other Council member as the Council may decide, prior to the commencement of the meeting a written statement signed by them stating:
  - (a) their name,
  - (b) the member to which they assign their proxy,
  - (c) the period for which the proxy is to exist, and
  - (d) any directions and/or restrictions to which their proxy is subject.
- (4) Subject to section 26(6), the Council may act despite any vacancy on the Council.
- (5) Any act or thing done or suffered, or purporting to have been done or suffered, by the Council or by a sub-committee appointed by the Council, is valid and effectual despite any defect that may be subsequently discovered in the appointment or qualification of any member of the Council or sub-committee.

## **Part 4: Duties on Council members**

### **29 Duty to act in the best interests of the Association**

- (1) A member of Council must carry out their functions
  - (a) in good faith in the best interests of the Association, and
  - (b) for a proper purpose.

### **30 Duty to exercise care and diligence**

- (1) A member of Council must act honestly and exercise a reasonable degree of care and diligence in carrying out their functions.

### **31 Duty not to improperly use information**

- (1) A member of Council must not make improper use of information acquired through their position:
  - (a) to gain, directly or indirectly, an advantage for the member or another person, or
  - (b) to cause detriment to the Association.

### **32 Disclosure of material interests by Council member**

- (1) If:
  - (a) a member of Council has a material interest in a matter being considered or about to be considered at a meeting of the Council, and
  - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter, the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest to the President, and, if applicable, to their respective Vice President.
- (2) A disclosure by a member of Council at a meeting of the Council that the member:
  - (a) is a member, or is in the employment, of a company or other body relevant to a matter being considered, or
  - (b) is a work partner, or is in the employment, of a specified person relevant to a matter being considered, or
  - (c) has some other interest, including a pecuniary interest, relating to a company or other body or to a person relevant to a matter being considered,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which is required to be disclosed under section 32(1).

- (3) Particulars of any disclosure made under this clause must be recorded in the minutes of the meeting at which the disclosure is made.
- (4) After a member of Council has disclosed the nature of an interest in any matter, the member must not, unless the Council otherwise determines by Simple Majority:
  - (a) be present during any deliberation of the matter at a Council meeting, or
  - (b) take part in any decision of the Council with respect to the matter.
- (5) For the purpose of the making of a determination by the Council under section 32(4), a member of the Council who has made a disclosure to which the determination relates must not:
  - (a) be present during any deliberation of the Council for the purpose of making the determination, or
  - (b) take part in the making of the determination by the Council.
- (6) A contravention of this section does not invalidate any decision of the Council.

## **Part 5: General Meetings**

### **33 Annual General Meetings**

- (1) The Association must hold its annual general meetings on or after the first day of October but on or before the first day of November each calendar year.
- (2) The annual general meeting of the Association is, subject to the Act and to section 33(1), to be convened on such date and at such place and time as the Executive deems fit.
- (3) In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting is to include the following:
  - (a) to receive from the Council reports on the activities of the Association during the last term of Council,
  - (b) to announce members of the Council for the following term of the Council,
  - (c) to receive and consider any financial statement or report required to be submitted to members under the Act.
- (4) An annual general meeting must be specified as such in the notice convening it.

### **34 Special general meetings—calling of**

- (1) The President may, whenever they think fit, convene a special general meeting of the Association.
- (2) Two Executive members of Council may by agreement convene a special general meeting of the Association.

### **35 Ratification of minutes from general meetings**

- (1) At each general meeting, a motion must be proposed to ratify any minutes from previous general meetings that have not been ratified.
- (2) A motion under section 35(1) shall be approved if passed by a Simple Majority of members.
- (3) All minutes to be subject to a motion at a general meeting under section 35(1) shall be made available for viewing by members of the Association at least 7 days before the day fixed for the holding of the general meeting.

### **36 Notice**

- (1) Except if the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the Association, the Secretary or other Executive member of council must, at least 7 days before the date fixed for the holding of the general meeting, make available to each member of the Association a notice specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.

- (2) If the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the Association, the Secretary must, at least 21 days before the date fixed for the holding of the general meeting, make available to each member a notice specifying, in addition to the matter required under section 36(1), the intention to propose the resolution as a special resolution.
- (3) No business other than that specified in the notice convening a general meeting is to be transacted at the meeting except, in the case of an annual general meeting, business which must be transacted under section 33(3).
- (4) A member desiring to bring any business before a general meeting may give notice in writing of that business to the Secretary who must include that business in the next notice calling a general meeting given after receipt of the notice from the member.

### **37 Quorum for general meetings**

- (1) No item of business is to be transacted at a general meeting unless a quorum of members entitled under this Constitution to vote is present during the time the meeting is considering that item.
- (2) 15 members present (being members entitled under this Constitution to vote at a general meeting), or over half the number of Council members, whichever number is the greater, constitute a quorum for the transaction of the business of a general meeting.
- (3) If within an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to members given at least 72 hours before the day to which the meeting is adjourned) at the same place.
- (4) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members present (being at least 5 are to constitute a quorum.

### **38 Presiding member**

- (1) The President or, in the President's absence, the Treasurer, is to preside as chairperson at each general meeting of the Association.
- (2) If the President and the Treasurer are absent or unwilling to act, the members present must elect by Regular Vote one of the members present to preside as chairperson at the meeting

### **39 Adjournment**

- (1) The chairperson of a general meeting at which a quorum is present may, with the consent of a Special Majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

- (2) If a general meeting is adjourned for 14 days or more, the Secretary or other member of Council must make available written notice of the adjourned meeting to each member of the Association stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting at least 72 hours prior.

#### **40 Making of decisions**

- (1) A motion arising at a general meeting of the Association is to be determined by either:
  - (a) a show of hands, or
  - (b) if on the procedural motion of any member present at the meeting, a procedural motion is passed by a Simple Majority that the motion be decided by a written ballot, then the motion shall be decided by written ballot.
- (2) If the question is to be determined by a show of hands, a declaration by the chairperson recorded in the minutes of the Association that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minutes of the Association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (3) If the question is to be determined by a written ballot, the ballot is to be conducted in accordance with the directions of the chairperson provided that two scrutineers are appointed by the chairperson to oversee the counting of the votes.

#### **41 Voting**

- (1) On any question arising at a general meeting of the Association a member has one vote only.
- (2) In the case of an equal number of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.
- (3) A member is not entitled to vote at any general meeting of the Association unless all money due and payable by the member to the Association has been paid.
- (4) A member is not entitled to vote at any general meeting of the Association unless that member has been a member of the Association for at least 30 days.

#### **42 Proxy votes**

- (1) Subject to section 42(2), a vote may be exercised by proxy in respect of a general meeting provided that the member intending to vote by proxy at a meeting provides to the Secretary or other Council member as the Secretary may direct, prior to the commencement of the meeting a written statement signed by them stating:
  - (a) their name,



- (b) the member to which they assign their proxy,
  - (c) the period for which the proxy is to exist, and
  - (d) any restrictions or directions to which their proxy is subject.
- (2) A member may only be assigned a total of 2 proxies in respect of any one meeting.
- (3) If a member is assigned more than 2 proxies, than only the first 2 proxies received in accordance with section 42(1) will be deemed valid.

#### **43 Postal ballots not permitted**

Postal ballots must not be undertaken at or in respect of a general meeting.

## **Part 6: Miscellaneous**

### **44 Funds—source**

- (1) The funds of the Association are to be derived from entrance fees and subscriptions of members, sponsorship agreements, donations, grants from the University Faculty of Law, grants from ActivateUTS, and such other sources as the Council determines.
- (2) All money received by the Association must be deposited as soon as practicable in the Association's bank or other authorised deposit-taking institution account.
- (3) The Association must, as soon as practicable after receiving any money, issue an appropriate receipt.
- (4) Section 44(3) does not apply to membership fees.

### **45 Funds—management**

- (1) The funds of the Association are to be used in pursuance of the objects of the Association in such manner as the Council determines.
- (2) All cheques, drafts, bills of exchange, promissory notes, electronic transfers, and other negotiable instruments must be signed by the President and Treasurer.

### **45A The Association is not-for-profit**

The assets and income of the Association shall be applied solely in furtherance of its objects and no portion shall be distributed directly or indirectly to the members of the Association except as bona fide compensation for services rendered or expenses incurred on behalf of the Association

### **46 Execution of documents**

- (1) The President and Treasurer are authorised signatories for the Association.
- (2) The Council may appoint additional authorised signatories from Council members who are ordinarily resident in Australia by Special Majority at a Council meeting and may revoke any such appointment by Simple Majority at a Council meeting.

### **47 Change of name, objects, and Constitution**

- (1) Any change or amendment to the Constitution must be made by resolution of a Special Majority of members at a General Meeting.
- (2) An application to the Director-General for registration of a change in the Association's name, objects, or Constitution in accordance with section 10 of the Act is to be made by the Treasurer or a member of the Executive.

#### **48 Inspection of books etc**

- (1) The following documents must be available for inspection upon request, free of charge, by a member of the Association:
  - (a) financial documents, including records and books, of the Association;
  - (b) this Constitution.

#### **49 Custody of books etc**

- (1) The Treasurer is responsible for all records, books and other documents relating to the Association.

#### **50 Additional instruments**

- (1) The following additional instruments, along with any other instrument as the Council sees fit, must be kept by the Secretary, and made available for viewing by members of the Association:
  - (a) the By-Laws, and
  - (b) any instrument of delegation made under section 27.

#### **51 Service of notices**

- (1) For the purpose of this Constitution, a notice may be served on or given to a person:
  - (a) by delivering it to the person personally, or
  - (b) by sending it by pre-paid post to the address of the person, or
  - (c) by sending it by facsimile transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice, or
  - (d) by making it available to be viewed on the official website of the Association, or
  - (e) by making it available to be viewed by other electronic means as determined by the Council.
- (2) For the purpose of this Constitution, a notice is taken, to have been given or served:
  - (a) in the case of a notice given or served personally, on the date on which it is received by the addressee, and
  - (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post, and

- (c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date, and
  - (d) in the case of a notice being made available to be viewed on the official website of the Association, on the date it was made available to be viewed, and
  - (e) in the case of a notice being made available to be viewed by other electronic means as determined by the Council, on the date it was made available to be viewed.
- (3) Where personal notice is required by this Constitution, a notice must be either:
- (a) delivered by hand to the person's body, or
  - (b) sent to an email address provided by the person to the Association, or
  - (c) sent to the person's residential address.

## **52 Financial year**

The financial year of the Association is each period of 12 months after the expiration of the previous financial year of the Association, commencing on 1 November and ending on the following 31 October.

## Part 7: Elections

### 53 Purpose

The purpose of this Part is to govern the election process of the Association.

### 54 Definitions

In this Part,

**Election** means the election organised by the Association that takes place on a yearly basis to fill positions on the Council of the Association.

**Membership** means the rights of persons who are registered members of the Association.

**Nominee** means any person who has validly completed and submitted a Candidate Nomination Form in accordance with Annexure A and is thereby running for an elected position

### 55 Electoral Officer

- (1) Electoral Officer means the member of the Association that is responsible for the administration, oversight of the nomination, voting and election process, as well as responding to any concerns and grievances that occur.
- (2) The Electoral Officer shall be the President of the Association.
  - (a) If the President of the Association is precluded from occupying the position of Electoral Officer, then subject to this subsection, the Electoral Officer shall be an Executive member of the Association, as appointed by a regular vote of the Executive.
  - (b) If no Executive member of the Association is eligible to be the Electoral Officer, then subject to this subsection, the Electoral Officer shall be any person as appointed by a regular vote of the Executive.
- (3) The Electoral Officer may not nominate for a position at the Election.
- (4) The Electoral Officer may not exercise a vote at the Election.
- (5) The name, contact number and email address of the Electoral Officer must be stated in the Electoral Notice.
- (6) If at any point after the posting of the election notice and prior to the announcement of the results of the election, the person occupying the role of Electoral Officer is unable to fulfil their duties, that person shall be removed as the Electoral Officer and a new person shall be appointed as the Electoral Officer by a regular vote of the Executive of the Association.

## **56 Election notice and timing**

- (1) An election must take place once each calendar year and must be completed after 1 October but before 1 November in each calendar year.
- (2) An election notice shall be issued no less than 28 days prior to the commencement of voting by the Electoral Officer outlining:
  - (a) that nominations have opened;
  - (b) the time and date that nominations will close;
  - (c) the time, date and place for voting;
  - (d) the spending cap for that year's elections, as determined by the Electoral Officer in accordance with section 61;
  - (e) the date and time that campaigning may commence;
  - (f) the date and time that campaigning must cease; and
  - (g) the method of voting at the election.
- (3) For the purposes of subsection (2), **issued** means that the election notice has been made available to be viewed on the official website of the Association, and the election notice has been sent by email to members of the Association.
- (4) The nomination period shall open 28 days prior to the commencement of voting and shall be open for 14 days.
- (5) An Election Expenditure Disclosure Form must be issued by the Electoral Officer by the close of nominations.

## **57 Nomination eligibility**

- (1) To be eligible to nominate for an election, a person must:
  - (a) be an ordinary member of the Association in accordance with the Constitution of the Association, and
  - (b) be eligible to remain as an ordinary member of the Association in accordance with the Constitution of the Association for the Autumn and Spring sessions of the next calendar year.

## **58 Nominations generally**

- (1) A person may nominate to be a nominee in an election by lodging, with the Electoral Officer, a Candidate Nomination Form in accordance with Annexure A before the close of the nomination period.
- (2) A person may nominate for a maximum of two positions at an Election.

- (a) Where a person nominates for two positions, that person must order their nominations according to their preferences on the Candidate Nomination Form, as per Annexure A.
- (3) A person may nominate for election:
- (a) for one (1) Executive positions; or
  - (b) for one (1) Director position; or
  - (c) for two (2) Director positions; or
  - (d) for both one (1) Director position and one (1) Executive position.
- (4) A person may not nominate for more than one Executive position.
- (5) At the close of nominations, the Electoral Officer must, and may only, reject any nomination which:
- (a) is not delivered to the Electoral Officer by the date and time specified as the close of nominations in the Election Notice,
  - (b) does not comply with the relevant nomination form prescribed in Annexure A, or
  - (c) does not comply with the eligibility requirements for nominees pursuant to section 57.
- (6) Where the nomination is received prior to the close of nominations, the Electoral Officer shall make reasonable attempts to notify any person whose nomination is liable to be rejected at the close of nominations and give them the opportunity to remedy the reason for the impending rejection.
- (7) The Electoral Officer shall issue, on the official website of the Association, a list of nominees within a reasonable period after the close of nominations
- (8) After the close of nominations, if the number of valid nominations received for any individual position:
- (a) is equal to the number of vacancies, the Electoral Officer shall declare a ballot between the single individual nominee and a vote to 'Reopen Nominations' to be held at the times, dates and places specified in the Election Notice,
  - (b) exceeds the number of vacancies, the Electoral Officer shall declare a ballot of multiple individual nominees to be held at the times, dates and places specified in the Election Notice, or
  - (c) is less than the number of vacancies, the position shall remain open and be filled by the incoming Council in accordance with section 71.

## **59 Alteration or withdrawal of nomination**

- (1) Any alteration to a nomination must occur within the nomination period.

- (2) Subsection (1) applies to an alteration directed by the Electoral Officer under section 57(6).
- (3) Where a person withdraws their nomination during the voting period, or before the voting period, but their name cannot be removed from the ballot prior to the voting period, their name shall remain on the ballot but they are not eligible to be elected to the position or positions for which they had nominated.
- (4) If a person, who withdraws their nomination during the election period receives the most amount of votes for a position or positions for which they had nominated, the person who receives the next largest amount of votes for each relevant position or positions shall be elected to each relevant position.

## 60 Nominations for President

- (1) To be eligible to nominate as President, a nominee must have been a Council Member in any capacity for at least one full term, or in the case of an individual elected through a by-election, for at least 6 months.
- (2) After the close of nominations, if a President nomination:
  - (a) is uncontested by another individual nominee, the Electoral Officer shall declare the President duly elected
  - (b) is contested by another individual nominee, the Electoral Officer shall declare a ballot to be held for the position at the times, dates and places specified in the Election Notice

## 61 Election spending

- (1) In this section,

**Campaigning** means any promotion, or distribution of information, to encourage or suggest to people to vote in a particular way in relation to the election.

**Donations** means any goods or services received at a rate lower than the reasonable market rate for those goods or services.

**Election expenditure** means any actual expenditure expended or donations used in relation to campaigning incurred by, or for the benefit of, any nominee.

**Election Expenditure Disclosure Form** means the form issued by the Electoral Officer under section 56(5) relating to the election expenditure of each nominee.

- (2) The Electoral Officer shall set each year a Spending Cap for nominee.
- (3) The amount of the Spending Cap shall be stated in the Electoral Notice.
- (4) The amount of the Spending Cap shall not be subject to appeal.
- (5) The amount of the Spending Cap shall be no less than \$100.00 per nominee.



- (6) The election expenditure of any nominee may not exceed the Spending Cap.
- (7) Where a person nominates for two positions in the election, the applicable Spending Cap remains the same as if the person was only running for one position.
- (8) Donations that form part of the election expenditure of a nominee will be attributed towards the spending cap of that nominee at a reasonable market rate for the goods or services to which the donations relate.
  - (a) For the purposes of this section, the reasonable market rate for goods or services will be determined by the Electoral Officer by reference to quotes for similar goods or services in the same quantity from three businesses.
- (9) A complete summary of election expenditure shall be disclosed by each nominee to the Election Officer within one day of the closing of the election period, which must include:
  - (a) a complete Election Expenditure Disclosure Form in accordance with that issued by the Electoral Officer, and
  - (b) all relevant receipts.
- (10) Any breach of subsections (6) or (9) will result in automatic disqualification of the nominee in breach.

## **62 Campaigning**

- (1) Campaigning has the same definition as in section 61.
- (2) No nominee may undertake or authorise campaigning outside of the campaign period as stipulated by the Electoral Officer in the election notice.
- (3) No nominee may publish or distribute any material for the purposes of campaigning without the name and UTS student number of that individual nominee.
- (4) In the course of campaigning, no nominee may publish or distribute any information by any means containing a statement or inference that refers to any other nominee.
- (5) In the course of campaigning, a nominee must not make use, or authorise the use, of any facilities or property owned by the Association, including but not limited to:
  - (a) printers owned by the Association,
  - (b) computers owned by the Association,
  - (c) email accounts related to the Association, and
  - (d) the office of the Association.

- (6) A member of council who is also a nominee must not, in the course of campaigning, use any information or resources only available to them by virtue of their position as a member of Council.
- (7) A nominee must not, in the course of campaigning and during the election generally, release any information by any means containing a statement or inference that:
  - (a) they knew, or ought to have known, to be untrue,
  - (b) is, or is likely to be, misleading or deceptive,
  - (c) is discriminatory on the basis of ethnicity, disability, race, religion, sex, or sexuality, or
  - (d) is defamatory.
- (8) The following practices by council members, nominees or their associates are prohibited in relation to the Election:
  - (a) improperly influencing, interfering with or obstructing the Electoral Officer;
  - (b) attempting to engage in any prohibited practice;
  - (c) assisting, even if ineffectively, any person to engage or attempt to engage in any prohibited practice;
  - (d) using harassment or intimidation of any kind during the course of the campaign
  - (e) Bribery
- (9) For the purposes of subsection (8)(d) the following acts are defined as harassment or intimidation:
  - (a) sexist, racist or homophobic insults and gestures; or
  - (b) verbally abuse
  - (c) physical assault
  - (d) Any other inappropriate communication as deemed by the Electoral Officer.

## **63 Sanctions**

- (1) Any nominee who is determined by the Electoral Officer to have:
  - (a) known of but not reported to the Electoral Officer within a reasonable period,
  - (b) knowingly consented to,
  - (c) committed, or
  - (d) knowingly aided or abetted,

- (2) a breach of section 62, is to be disqualified from the election. A breach of section 62(3) will lead to disqualification only at the discretion of the Electoral Officer, having taken into account the frequency and circumstances surrounding the breach.
- (3) Any nominee who is determined by the Electoral Officer to have been responsible for an act or omission constituting a breach of these regulations is to be disqualified from the Election.
- (4) Each nominee is taken to have actual knowledge of each of these regulations.
- (5) Where the Electoral Officer disqualifies a nominee, written reasons specifying the act or omission must be delivered promptly to the disqualified nominee.
- (6) Any decision of the Electoral Officer to disqualify a nominee is subject to appeal by the disqualified nominee but that appeal must only be in relation to whether the disqualified nominee was responsible for the act or omission that is stated in the written reasons provided to the disqualified nominee under subsection (4) by the Electoral Officer.

## **64 Complaints process**

- (1) Where the Electoral Officer:
  - (a) witnesses a breach of any section of this Part, or
  - (b) is provided with a report or complaint regarding a breach any section of this Part from a member of the Association,
- (2) the Electoral Officer must provide particulars of the alleged infringing act or omission in writing to the individual nominee giving them a reasonable period to respond to the allegation in writing.
- (3) In determining the reasonable period of response under subsection (1), the Electoral Officer must have regard to the remaining length of the Election and the need for expediency in determining the matter.
- (4) Any report or complaint provided to the Electoral Officer regarding a breach of this Part must:
  - (a) be made in writing,
  - (b) state the name, contact number and email address of the person making the report or complaint,
  - (c) state the act or omission that constitutes a breach of these regulations,
  - (d) state which nominee is, or nominees are, responsible for the relevant act or omission, and
  - (e) state which section is the subject of the breach.
- (5) A complaint must be made within 72 hours after the conclusion of the Annual General Meeting at which the announcement of the election is made.

- (6) Upon the period of response under subsection (1) lapsing, the Electoral Officer must either:
  - (a) take further steps to investigate the alleged breach, or
  - (b) dismiss the complaint, or
  - (c) impose such sanctions as they see fit in accordance with section 62.
- (7) If, under subsection (5), the Electoral Officer decides to take further steps to investigate the alleged breach, the Electoral Officer must only do so for a reasonable period of time having regard to the remaining length of the Election and the need for expediency in determining the matter, before deciding whether to dismiss the complaint or impose such sanctions as they see fit in accordance with this Part.

## **65 Appeals**

- (1) Appeals may only be made in relation to:
  - (a) alleged improper conduct of the Electoral Officer
  - (b) a decision made by the Electoral Officer under sections 62 or 63.
- (2) The only people with standing to make an appeal are those nominees subject to a decision made by the Electoral Officer under sections 62 or 63.
- (3) Appeals must be made to the Electoral Officer.
- (4) Upon receipt of an appeal, the Electoral Officer shall
  - (a) call upon the Executive of the Association to form the Election Review Panel in accordance with section 65, and
  - (b) upon formation of the Election Review Panel, the Electoral Officer must then refer the appeal immediately to the Election Review Panel for determination.
- (5) An appeal pursuant to subsection (1)(a) must be made to the Electoral Officer within 72 hours after the conclusion of the Annual General Meeting at which the announcement of the Election is made.
- (6) An appeal pursuant to subsection (1)(b) must be made to the Electoral Officer within 72 hours of receipt of the relevant decision of the Electoral Officer subject to appeal.

## **66 Formation of the Election Review Panel**

- (1) The Election Review Panel shall be formed only at the request of the Electoral Officer.
- (2) The Election Review Panel shall consist of three persons appointed by a simple majority of the Executive of the Association who are:

- (a) are not members of the Council, and
  - (b) do not nominate for a position at the Election.
- (3) Any member of the Election Review Panel shall not exercise a vote at the Election.
  - (4) A meeting of the Election Review Panel, for the exercise of its powers, is constituted by the presence of 2 out of 3 members.
  - (5) A meeting of the Election Review Panel may be by any method that the Election Review Panel by majority deems fit.

## **67 Powers of the Election Review Panel**

- (1) The Election Review Panel must deal only with appeals referred to it by the Electoral Officer.
- (2) Any question on appeal to the Election Review Panel is to be decided by majority.
- (3) The Election Review Panel may dismiss an appeal as frivolous or vexatious without hearing the appellant.
- (4) Where an appeal is not dismissed, the Election Review Panel must, where it is reasonable in relation to the need for expediency in determining the matter, give an opportunity to be heard, either orally or in writing at the discretion of the Election Review Panel, to:
  - (a) the appellant,
  - (b) any person who may be affected by a decision made pursuant to the appeal, and
  - (c) any other person it deems necessary or desirable to hear.
- (5) After deciding an appeal, the Election Review Panel must provide a written response, including reasons for their decision, to the appellant within a reasonable period, having regard to the remaining length of the Election and the need for expediency in determining the matter.
- (6) In making a decision, the Election Review Panel has the discretion to:
  - (a) dismiss the appeal,
  - (b) vary or overturn any decision of the Electoral Officer,
  - (c) dismiss the Electoral Officer for the remainder of the Election and appoint a new Electoral Officer,
  - (d) disqualify an individual nominee from the Election
  - (e) order a recount of votes,

- (f) remove any person elected as a member of Council from the Council, or
  - (g) declare an election void and order a new election.
- (7) Where a person is removed as a member of Council under subsection 6(f), the position is to be filled by
- (a) the person who received the next largest amount of votes with respect to the vacant position at the election, or
  - (b) where action under subsection (7)(a) is not possible, by treating the position as a casual vacancy in accordance with the Constitution of the Association.

## **68 Voting**

- (1) To vote in an election, a person must be enrolled in any degree or qualification offered by the University Faculty of Law at the time of voting.
- (2) Each person eligible to vote under this section may only exercise one vote in the election, which means that they may vote for:
  - (a) one nominee for every contested position, or
  - (b) a vote to 'Reopen Nominations' where there is no contested position, but not both.
- (3) If a vote has not been exercised correctly in accordance with subsection (2) because the person exercising the vote has voted for both an individual nominee and a vote to 'Reopen Nominations', the vote shall be rendered void in respect of that position.
- (4) If a vote has not been exercised correctly in accordance with subsection (2) because the person exercising the vote has voted for more than one individual nominee for a contested position, the vote for that position shall be rendered void, without affecting the votes in compliance with subsection (2) for nominees for other positions.
- (5) A vote need not be cast for all contested positions to be deemed valid.

## **69 Voting period**

- (1) The voting period must be a period of no less than 24 hours and no more than 126 hours.
- (2) Where circumstances beyond the control of the Electoral Officer prevent voting from occurring as prescribed by the Election Notice, the Electoral Officer has the discretion to extend the voting period for a period of no more than 48 hours.
- (3) If the voting period is extended under subsection (2), then the Electoral Officer must notify each nominee of the change.

## 70 Voting method

- (1) Voting for an election shall be by secret ballot or an online voting method deemed appropriate by the Electoral Officer.
- (2) Subject to subsection (3), the nominee elected to a position on Council shall be the nominee who receives the greatest number of votes in respect of that position.
- (3) If a person receives the greatest number of votes in respect of two positions:
  - (a) they will assume the role on council of their first preference position; and
  - (b) the person who receives the next greatest number of votes in respect of the other position shall be elected to that other position.
- (4) In the event that there is a tie in the votes of individual nominees, the Electoral Officer shall be afforded discretion to determine the method by which the voting is to continue, which may be, but is not limited to:
  - (a) extending the current voting period for those individual nominees which are tied; or
  - (b) commencing new voting for those individual nominees which are tied.
- (5) In the event that it is impossible to undertake either subsections (4)(a) or (4)(b), the voting shall pass to the presiding Council to hold a vote between those tied individual nominees. This vote is determined by a simple majority.
- (6) For the purpose of this section, a ***tied election result*** is where two or more nominees for a position receive an equal number of votes, and this number of votes is the highest number of votes received for that position.

## 71 By-election

- (1) Without limiting section 23, where there are unfilled positions remaining after an election, the Council will hold a by-election to appoint a member of the Association to fill the vacancy.
- (2) For the purposes of this section, to hold a by-election:
  - (a) the Secretary must give at least 14 days' notice of the by-election to members of the Association
  - (b) the notice must state the period in which members may apply in the by-election.
- (3) Where there are multiple positions available in a by-election, a person may nominate for up to 2 (two) positions by submitting a statement of candidature to the Secretary and the President in accordance with the formal requirements as stated in the by-election notice.
  - (a) A nominee may submit a statement of candidature for each position nominated for in a by-election.

- (b) A nominee may not preference their candidacy. The order of positions in a by-election will be determined by the Secretary.
  - (c) A person must be eligible in accordance with section 57 in order to apply in a by-election.
- (4) A simple majority of the Council will be used to fill each position in a by-election.
- (5) Only members who have applied for the by-election in accordance with subsection (3) may be appointed in a by-election.



## Annexure A: Candidate Nomination Form

### Candidate Details

Name:

Phone Number:

UTS Student Number:

UTS Student Email Address:

Position for Nomination 1:

Position for Nomination 2:

Signature:

*Please note:*

- *persons who nominate for a position at an election for the UTS Law Students' Society agree to be bound by the Constitution of the UTS Law Students' Society.*
- *as per Part 7 of the Constitution of the UTS Law Students' Society, you may only nominate for two individual candidate positions.*
- *if you are nominating for more than one individual candidate position, you must clearly indicate on this form which of the positions is your first preference.*
- *if you are nominating for one non-Executive individual candidate position and one position on an Executive, you must clearly indicate on this form which of the positions is your first preference.*