

Explanation of Proposed Changes to the Constitution by Clause

2. Definitions

- Definitions re-ordered in alphabetical order.
- Where defined terms have been used in the Constitution but not capitalised, those have been capitalised. Examples include ‘General Meeting’, ‘Member’, and ‘Month’.
- Definition of ‘Act’ included eliminating repetition of the name ‘*Associations Incorporation Act 2015 (WA)*’ throughout Constitution.
- Definition of ‘Board’ amended to refer to ‘board of governance’ for consistency with clause 11.1.
- Definitions of ‘De Facto Relationship’, “Parent”, “Marriage” and “Relative” added consequent on changes to membership categories in clause 8.

5. Objects

- Clause 5.4 has been reworded for clarity and to recognise that research which benefits people with CF may also benefit other lung and respiratory conditions.
- Clause 5.5 amended to refer also to the provision of equipment to institutions.
- Clause 5.6 amended so that where CFWA provides services for a fee or under a contract with government or another funding body to sufferers of other lung and respiratory conditions, it can work with their health care providers.
- Clause 5.7 amended so that where CFWA provides services for a fee or under a contract with government or another funding body to sufferers of other lung and respiratory conditions, it can provide appliances and equipment.
- Clause 5.13 inserted to make it clear that, where permitted under the law, CFWA can carry on a business and generate income to fund itself as well as relying on donations and bequests.
- Clause 5.14 inserted to recognise that CFWA can register as a NDIS Scheme provider.
- Clause 5.15 inserted to permit CFWA to provide services for a fee under the NDIS, to people with CF and to other lung and respiratory condition sufferers who are not Members of CFWA.
- Clause 5.16 inserted to enable CFWA to provide services under a contract with government or another funding body, to other lung and respiratory condition sufferers who are not Members of CFWA.

6. Powers

- The *Associations Incorporation Act 2015* confers broad powers on associations¹. However, in relation to investments, the Act provides² that funds must be invested either:
 - in the same manner as trust funds under the *Trustee's Act 1962 (WA)* (which prohibits speculative or hazardous investments); or
 - 'in any other manner authorised by the rules of the Association'.

¹ Section 14.

² Section 14(1)(c).

However, CFWA's Constitution is currently silent on what investments can be made.

Clause 6.2 has been inserted. The clause gives CFWA's Board the power to reasonably determine what to invest surplus funds in, after taking appropriate advice. It also requires an annual Board review of investments.

7. Income and Property

- CFWA pays various subsidies to Members including, for example, mental health gap funding subsidies, equipment subsidies, travel subsidies and activity subsidies. Clause 7 has been amended by adding an exception to the prohibition on making payments to Members. The amendment permits payments (like subsidies) which are made to Members in good faith for the promotion of the objects or purposes of the CFWA. The exception reflects the wording of section 23(2) of the *Associations Incorporation Act*.

8. Membership

- Clause 8.1 provided that 'any person' could be a Member of CFWA. Clause 8.1 has been amended to limit eligibility for Membership to people ordinarily resident in WA who:
 - have CF;
 - are related to, care for or are married to or in a de facto relationship with someone with CF;
 - who have a current or past professional or occupational interest in the health and welfare of people with CF; or
 - who have a special skill, talent or network which can assist people with CF.

The purpose of the amendment is to safeguard the interests of people with CF in an environment where CFWA potentially provides services for a fee or under a contract with government or another funding body to people with other lung and respiratory conditions. Only Members of CFWA are entitled to vote at the AGM and Special Meetings of CFWA and oversee CFWA's operations through participating on its Board of Governance. People with other conditions to whom CFWA may, in the future, provide services for a fee or under a contract with government or another funding body will not be Members and will not be able to 'take over' CFWA.

- Clauses 8.2 and 8.6 have been amended. Clause 8.2 provides that the CEO, rather than the Board, can reject an application for membership. This reflects the existing practice that membership applications are approved by the CEO, not the Board. The CEO must give written notice to the applicant advising of the reason for rejection.
- Clause 8.6 has been amended so that where the CEO has rejected an application, the person can appeal to the Board. The Board may allow or reject the appeal in its absolute discretion without giving a reason. The Board must advise the person in writing of the outcome of the appeal.

Sub-clause 8.6.1, which gave a person whose membership application had been rejected the right to appeal to a General Meeting of Members, has been deleted. This is to safeguard the interests of people with CF in an

environment where CFWA potentially provides services for a fee or under a contract with government or another funding body to people with other lung and respiratory conditions. People with other conditions (who are not eligible to be Members of CFWA) should not have a right to force the calling of a General Meeting to contest a rejection of their membership application.

- Clauses 8.3 and 8.4 have been amended to reflect the practice of the CEO setting the annual membership fee, not the Board. The annual membership fee is currently set at zero. CFWA has no present intention to charge an annual membership fee. The CEO can also waive the annual fee and fix different fees for different types of Members.
- Clause 8.5 sets out types of Memberships for persons eligible to be Members. Eligibility for membership is covered in clause 8.1.

The categories of memberships have been reduced from five to three by abolishing the Family Member and Corporate Member categories. The simplified Membership types are:

- Ordinary (adult Member);
- Junior (person under the age of 18 - formerly called 'Individual Associate' Member); and
- Honorary Life Member.

Junior Members can't vote at an AGM or general meeting or be a Board Member. Clause 13.1, which relates to voting, has been amended.

- Clause 8.6 provides the mechanism for 'Individual Ordinary' Members to be renamed 'Ordinary' Members and for 'Individual Associate' Members to be renamed 'Junior' Members.
- Clause 8.7 provides the mechanism for adults who were 'Family' Members to become 'Ordinary' Members and for any child included as a 'Family' Member to become a 'Junior' Member. The clause also provides for any entity that was a 'Corporate' Member to become an 'Ordinary' Member.
- Clause 8.8 confirms that existing Members who would not meet the new Membership eligibility criteria in clause 8.1 continue as Members of CFWA.

9. Register of Members

- Clause 9.3 provides that a Member can inspect the Register of Members. Members have this right under the *Associations Incorporation Act*. Clause 9.4 has been added so that where a Member requests a copy of or an extract from the Register, the CEO can require the Member to provide a statutory declaration setting out the purpose for which it is required and declaring that the purpose is connected with the affairs of the CFWA. The amendment helps to protect the privacy of Members.

11. Board

- Clause 11.5 has been amended to delete reference to a corporation being a Member of CFWA. This amendment results from the deletion of the category of Corporate Member.
- Clause 11.10 has been amended to provide that where the President retires, notice must be given to the CEO and the Vice President.

16. General Meetings

- Clause 16.1 has been amended to reflect the requirement in the *Associations Incorporation Act* that an AGM must be held within six months (not four months) after the end of CFWA's financial year.

18. Finance

- Clauses 18.2 and 18.3 have been amended as clauses 8.3 and 8.4 have been amended to allow the CEO, not the Board, to waive subscription fees.
- Clause 18.14 has been amended to reflect the practice that payments are authorised under CFWA's delegation framework, with different levels of approval and signatories required depending on the amount of expenditure. The Board approves the delegation framework and reviews it annually.

22. Chief Executive Officer

- Clause 22.1.5 has been amended so that the CEO does not have to personally undertake the administrative task of updating the register of office bearers of CFWA.