

Diabetes SA Constitution

Summary of Changes

1. Overview

The current Constitution (Issue No. 4) was approved at the 70th AGM on 26 October 2023. HWLE have now completed a full rewrite for us to put to a vote at the 73rd AGM. Broadly, it modernises the language, updates our governance titles, gives the Board more flexibility around membership categories and day-to-day operations.

This document explains the key changes proposed to the Diabetes SA Constitution. It brings together the information from the tracked-change drafts, a detailed comparison with the 2023 Constitution, and the legal advice and discussions with HWLE.

For each change, we have included the **2023 rule number** and the **corresponding rule number in the proposed new Constitution**, where there is one. This makes it easy to find and compare the relevant sections in either version.

Where a proposed change is completely new and does not have an equivalent rule in the 2023 Constitution, we have clearly identified it as new rather than trying to match it to an existing rule.

The aim is to make it as easy as possible for members to understand what is changing, where the change appears, and why it has been proposed.

2. Governance titles and terminology

A few terms have been renamed throughout the document. These are defined-term changes rather than single numbered rules, so the reference below is to the Definitions rule (Rule 1) and the Office Holders rule where relevant:

- Board Member - Board Director (2023 Rule 1.6 - new draft Rule 1.6, same definition number, new term)
- President - Chair; Two Vice-Presidents - One Deputy Chair (2023 Rule 67, Office Holders - new draft Rule 73, Office Holders)
- Document Owner: Chief Executive Officer - Document Owner: President, Board of Directors (cover page field, not a numbered rule). The cover page also has a separate “Contact” field, which explicitly names the Chief Executive Officer, via ea@diabetessa.com.au, as who members should reach out to — that hasn't changed.
- “Membership Classes” - “Categories of Membership” (2023 Rule 11 - new draft Rule 15)

3. Membership

3.1 Categories renamed and restructured (2023 Rule 11 - new draft Rule 15)

Our five existing membership classes will become seven categories, with clear confirmation as to whether each can vote and sit on the Board:

- General Member becomes Complete Member — voting, Board-eligible
- (new) - Community Member — no voting rights, not Board-eligible (this is our new free/entry-level category)
- (new) -Lite Member — voting, Board-eligible (new subscription category)
- Life Member -remains Life Member — voting, Board-eligible, no change
- Honorary Member -remains Honorary Member — voting, Board-eligible, no change
- Health Professional Member - Health Professional Member — now has voting rights and is Board-eligible (under 2023 Rule 30.1, only General, Life and Honorary Members had voting/Board rights — Health Professional Members were excluded)
- Corporate Member becomes Commercial Retail Member — no voting rights, not Board-eligible

The finer detail on what each category includes (fees, benefits etc) will be outlined on the website and in policy rather than in the Constitution (new draft Rule 19).

3.2 The Board's power over categories (2023 Rule 12 - new draft Rule 18)

2023 Rule 12 gave the Board power to both create and remove membership classes, with the removed-class Members automatically becoming General Members. The new draft Rule 18.1 now only gives the Board power to create new categories; the power to remove one, and the auto-reassignment rule that went with it, is no longer present.

3.3 Board eligibility now tied to membership category (new draft Rule 68, no direct 2023 equivalent)

2023 Rule 30.1 referred to eligibility for election to the Board indirectly, linked to voting rights. The new draft makes it a standalone rule: Rule 68 dictates that a Board Director has to be a Member and belong to a category that's eligible to nominate for, be elected to, and serve on the Board.

3.4 Fees, subscriptions and lapsed membership (2023 Rules 25–29 - new draft Rule 20)

- The in-depth subscription details currently in the Constitution, such as the 60 day payment deadline (2023 Rule 26), automatic lapse for non-payment (2023 Rule 28) and the Board's power to reduce a subscription in “special circumstances” (2023 Rule 29) are being removed.
- As a replacement, new draft Rule 20 will give the Board general authority to set fees, concessions, payment terms, and non-payment, all which will be pushed into policy so it can be updated without needing a Special Resolution.

3.5 Ending or suspending a membership — new fair-process protections (2023 Rule 36 - new draft Rules 27–32)

2023 Rule 36 allowed the Board to suspend or expel a member for conduct detrimental to the Organisation, or for breaching the Constitution/By-Laws, with only a general instruction to “observe natural justice” and no set process. The new draft defines the process the Board has to follow:

- New draft Rule 28.1: give the Member written notice that suspension/expulsion is being considered, and outline why;
- New draft Rule 28.2: give them at least 14 days to respond in writing;
- New draft Rule 28.3: any Board Director with a personal interest, or direct involvement in the situation has to sit out of the decision;
- New draft Rule 29: the Board has to consider the Member's response before deciding to: do nothing, suspend for a set period, or expel by ordinary resolution;
- New draft Rule 30: give the Member written notice of the decision and the reasons why within 7 days.

4. Meetings and notices

- Meeting notices (2023 Rules 44 and 46 - new draft Rules 41 and 43): we can now give notice by SMS or other electronic methods, not just post and email as previous and the option to announce an AGM in the newspaper (2023 Rule 46.1) will be removed.
- Online meetings and e-voting (2023 Rule 49 - new draft Rule 46): Board and Member meetings can be held using digital platforms such as video or teleconference and joining electronically will count as being “present.” Electronic voting and online proxies are explicitly allowed as long as identity can be verified.
- Special Meetings (2023 Rules 41–43 - new draft Rules 37–40): the wording for calling a Special Meeting has been altered (still 20 eligible Members, request in writing to the Chair or Deputy Chair), but nothing changes in practice.
- Quorum (2023 Rule 47 - new draft Rule 44): stays the same — 20 Members eligible to vote for an AGM, General Meeting or Special Meeting.

5. The Board

5.1 Board size and skills-based appointments (2023 Rule 59 - new draft Rule 63, plus new draft Rule 80.2)

The Board stays at a minimum of 5 and maximum of 9 elected Directors (2023 Rule 59 - new draft Rule 63, unchanged). But new draft Rule 80.2 (added later in drafting, no 2023 equivalent) lets the Board appoint up to two extra Directors outside the usual election process, specifically to fill a skills or experience gap, which can take the Board up to 11 people. These appointees serve at the Board's discretion (fixed term, can resign, lose eligibility, or be removed by ordinary Board resolution — new draft Rule 81), and this sits separately from the usual casual-vacancy process (new draft Rule 80.1).

5.2 The fixed 9-year tenure (2023 Rules 63–64 → new draft Rule 65)

2023 Rule 63 stated a maximum Board tenure of three, 3-year terms (9 years total), with a mandatory 3-year break before a Director could return. 2023 Rule 64 allowed the Board to grant up to two 1-year extensions by Special Resolution. Both of these have been removed in the new draft. The new draft Rule 65 states that a Director is eligible for re-appointment “dependent on any tenure limits determined by the Board from time to time.” This means tenure limits move from being locked into the Constitution, to being something the Board sets and can change through the Board Charter or policy.

5.3 Other Board changes

- Nomination protections (new draft Rule 66, no direct 2023 equivalent): the Board can now only reject a nomination for election if the nominee is ineligible or the nomination itself is invalid. This is a new limit on Board discretion that protects a valid nominee from being excluded.
- Duties of Board Directors (2023 Rule 58 - new draft Rules 61–62): remain and they are an ACNC requirement. The specific cross-reference to “Governance Standard 5” in 2023 Rule 58 is now “all related standards and regulations” in new draft Rule 61.
- Office Holder resignation (2023 Rule 69 area - new draft Rule 76.2): simplified to a written notice to the Public Officer, matching how a Board Director resigns (new draft Rule 70), rather than notice to the Board.
- “Composition” is no longer its own heading (2023 had a standalone “Composition” heading at Rule 59) and has moved into the Board Powers/Duties section of the new draft, with the finer detail (skills matrices, performance reviews) moving to the Board Charter.
- “Appointments” has been removed and the previous rule allowing the Board to appoint up to three extra Board Members has been replaced by the new skills-based casual-vacancy mechanism in new draft Rule 80.2 (see 5.1 above).
- Board Powers has been adjusted (2023 Rules 50–57 - new draft Rules 50–53): the previous Board Powers section had some duplicated wording (the old Rule 51.2 area). The new draft's equivalent (Rule 51.2) has been fixed to be clearer.
- Community Members' eligibility to sit on the Board has been removed — this is a deliberate change, and lines up with the category table in 3.1 and the eligibility rule in 3.3 (new draft Rule 68).

6. What's moved out of the Constitution

A handful of clauses have been taken out of the Constitution altogether. Some have moved into the Board policy, some to the organisational policies, some to the Board Charter and a couple have been removed because they're no longer needed. The clauses (with their original 2023 rule numbers):

- Grievances, Complaints and Disputes (2023 Rules 106–109) this section has been removed as a standalone part of the Constitution; disputes will now be handled under our Complaints and Grievances Policy.
- Execution of Documents and Seal (2023 Rules 117–120) this has been removed. We will execute documents electronically in line with applicable law; a physical seal is no longer needed.
- The detailed Register of Members content (2023 Rule 33) and Access to Information (2023 Rule 34) has been simplified in the Constitution, with the administrative detail moved to policy.

- Branches and auxiliaries provisions (2023 Rule 74, within the old Delegation section, 2023 Rules 73–75) has been removed. (We don't have any branches or auxiliaries currently, so this doesn't change anything in practice.)
- The detailed Board-meeting voting/deadlock and out-of-session resolution rules (2023 Rules 90–91) have been streamlined into a shorter Circulating Resolutions section (new draft Rules 113–116), with the day-to-day procedural detail moved to the Board Charter.

7. Financial and powers clauses

The Not for Profit, Powers, Funds, Treasurer, Financial Year and Auditors & Accounts sections have all been rewritten in clearer language and reorganised.

- Not for Profit (new draft Rules 7–10) this section is new. The 2023 Constitution didn't have a standalone “Not for Profit” section; HWLE advised us to add it, as Section 45.5 of the Australian Charities and Not-for-profits Commission Regulation 2023 (Cth) requires registered charities to demonstrate they operate on a not-for-profit basis. This is a compliance addition, not a change to how we've always operated.
- Powers (2023 Rule 7 - new draft Rule 11) - reworded, same substance.
- Patron (2023 Rule 8 - new draft Rule 12) - Board can appoint/remove patrons by ordinary resolution.
- Treasurer (2023 Rule 94 - new draft Rule 89), Financial Year (2023 Rule 95 - new draft Rule 90), Funds (2023 Rule 96 - new draft Rules 91–93), Auditors and Accounts (2023 Rules 98–102 -new draft Rules 94–99) have been reworded and reorganised, no major change. Income and property remain solely for our Purpose, there's no private benefit to Members/Directors (subject to the usual arm's-length exceptions for goods/services, expense reimbursement and market rent), and the Board keeps its investment and borrowing powers.

8. A note on renumbering

Every rule in the Constitution has been renumbered as part of the rewrite. For example, the old tenure-cap rule (2023 Rule 63) is now new draft Rule 65, and the old Public Officer rule (2023 Rule 113) is now new draft Rule 109.