

Understanding the National Mental Health Consumer Organisation¹

- A guide to our organisation and its constitution

Welcome to the National Mental Health Consumer Organisation (NMHCO). We are proud of our organisation and we welcome your interest in what we do.

We encourage everyone to understand how our constitution works, so please read on.

About this Guide

This guide will give you an introduction to our organisation and explain in easy terms our constitution. Our constitution is the set of rules that says what the organisation can and can't do. The law says we must stick to these rules at all times.

A copy of the full constitution is available at www.mhconsumer.org.au, or contact our office on (number) if you would like one sent to you.

Throughout the guide we have included references back to the constitution if you want more information.

¹ Once confirmed, the legal name will replace the temporary organisation name 'National Mental Health Consumer Organisation (NMHCO)' throughout this document.

Contents

| | |
|--|-------------------------------------|
| About this Guide | 1 |
| Introduction to our organisation | 3 |
| Our constitution..... | 5 |
| Our objects (goals) | 5 |
| Our Members..... | 6 |
| Our Board | 9 |
| Our CEO..... | 13 |
| Other Important Information..... | 14 |
| Changing the constitution..... | 14 |
| Annual audit..... | 14 |
| Glossary..... | 15 |
| Further information & resources | 16 |
| How to become a member | 16 |
| Feedback and questions | Error! Bookmark not defined. |

DRAFT

Introduction to our organisation

Our organisation's mission is to improve lives, inspire hope and promote mental health and wellbeing through advocacy, cultural change, participation and leadership

We believe all mental health consumers² deserve justice and to be included in Australian life. Our organisation brings together mental health consumers, people with lived experience of mental health issues and the organisations that support us so we can work together towards these goals.

We believe in good governance

Our constitution describes how the different parts of the organisation need to work with each other to make sure it succeeds. When all the different parts of the organisation work well together and within the rules of our organisation we describe this as *good governance*. Good governance is one of our main goals.

We are a company limited by guarantee

Our organisation is a company. This means it has been through a process to become an independent, legal organisation. When we say we are limited by guarantee, this means our members do not have to pay the company's costs if it ever gets into financial trouble. The most any member would ever have to pay to cover these costs is a total of \$2. This is important protection for our members.

More information can be found in our constitution, clause 2

We are a not for profit company

This means our:

- organisation is not about making money.
- Board members do not profit financially from our organisation.
- members do not profit financially from our organisation.

Our organisation has limited resources. We have to be careful about how we use them. If we spread our resources too thin, and try to do too much, we may end up achieving nothing at all. To avoid this, we keep a focus on our main goals. We don't deliver medical, counselling or other health services to individuals. We do not have enough resources to get involved in disputes between individuals and service providers.

More information can be found in our constitution, clause 4

² The constitution defines a mental health consumer as 'a person who identifies as having a present or past lived experience of mental health issues or mental illness, irrespective of whether that person has a diagnosed mental illness and/or has received treatment.'

We treat each other in a fair and respectful way

Our organisation treats people well. We believe in being fair at all times. We show respect to others. We are open about what we are doing and what we are trying to achieve. We want everyone involved in our organisation – as members, as Board members or as employees – to show these qualities when dealing with each other, and with others outside the organisation.

We are committed to employing people with lived experience

We are an organisation governed by and for people who have lived experience of mental illness. Our organisation is committed to employing, where possible, people with lived experience of mental health issues who have the right skills and experience.

We are also committed to building the capacity of people with lived experience to do their job to the best of their ability, through support and professional development opportunities.

DRAFT

Our constitution

Our constitution is the set of rules that says what the organisation can and can't do

In our constitution we use the term '**mental health consumer**' to describe ourselves and the people we work with and for. **This includes people who choose to identify as a mental health consumer, and those who choose to identify as having a lived experience of mental illness or issues.** We include everyone whether or not they have had treatment for a mental health condition.

Our constitution describes our goals and three important parts of our organisation:

- Our members
- Our Board
- Our Chief Executive Officer (CEO) and other staff.

Each of part of the organisation has its own unique roles, responsibilities and rights.

Our objects (goals)

Objects are sometimes called goals. They are written into our constitution and state our purpose, and the range of activities our organisation has committed to

The objects of our Constitution are to:

- a) promote, influence and facilitate the rights of *Mental Health Consumers* to enable improvements in mental health, wellbeing and quality of life of all people with lived experience of mental health issues;
- b) promote and facilitate community education and awareness of mental health issues, including targeted campaigns and initiatives, to improve mental health and wellbeing of *Mental Health Consumers*, and all Australians;
- c) provide national *Mental Health Consumer* leadership, increase the effectiveness and enhance the long term viability of *Mental Health Consumer* Charities, not for profit and other organisations by promoting partnerships and a coordinated approach to improving social inclusion, realising potential and is respectful of people who live with mental health issues;
- d) promote the needs of all people at risk of mental illness through a systems approach to prevention, treatment/support, recovery and peer lead intervention; and
- e) provide national leadership on *Mental Health Consumer* matters.

More information can be found in our constitution, clause 3

Our members

We encourage people and organisations to become members. Having lots of members who share our goals makes us stronger

We take our responsibilities to members seriously, and we value the support our members provide. Members have the right to receive information about what the organisation is doing, and we keep our members informed of what is going on in our organisation. For example, we send members updates on any important changes, and each year we send members an Annual Report. Our Annual Report includes information on our work and an independent report on our finances.

Who can be a member?

NMHCO has two sorts of members (known as ‘classes’ of members in our constitution): voting members and non-voting members

A voting member has the right to come to our general meetings, share ideas at these meetings and to vote in elections for the Board. ***A voting member must be either:***

- ***A mental health consumer***

Any person who identifies as having a lived experience of mental health issues who supports the goals of the organisation is welcome to apply for membership. The person needs to fill out the membership form and sign it. If there is a fee for joining the organisation then this must be paid, but it will only be a small amount. At the moment there is no charge for joining the organisation. The Board will look at the application for membership as soon as possible.

Or

- ***An organisation that supports the objects of our organisation***

Each of these organisations must have a clear goal relating to the wellbeing of mental health consumers. Organisations will demonstrate this in different ways, but examples may include having:

- Board positions reserved for mental health consumers
- a membership group for mental health consumers
- clear goals relating to mental health consumers set out in the organisation’s constitution.

The organisation will need to fill out an application form and pay any membership fee. The Board will consider the application for membership as soon as possible. Each organisational member has one vote – it does not matter whether the organisation is big or small, it still only has one vote.

Our organisation will have some voting members who are individuals and some that are organisations

Non-voting members may join to show support for our organisation, but these members cannot stand or vote for the Board or vote on any other issue.

All members must have their applications approved by our Board

Membership Fees

We are committed to making our organisation accessible to all people with lived experience of mental illness

Membership fees (if any) are decided by the Board.

Note: The inaugural Board to include information about membership fees (if any) once determined.

Our members elect the Board and make sure it does what it is supposed to

If the members are not happy with what the Board is doing, they can vote to remove Board members from their Board positions.

Information we keep about members

The law says our organisation must keep a register (or list) of all our members

The law says that the register must include some details about each member, including name, address and date of entry onto the register. When a person stops being a member this date is also included in the register. Any member of our organisation is able to look at the register, with notice in writing, at no cost. People who are not members can also make a request in writing to look at the register; however there is a cost involved. The register is only available in the NMHCO office.

Meetings of members

When all our members get together, it is called a *general meeting*

Usually the Board will decide when to hold meetings, but members can make a meeting happen even without the Board's agreement. If at least 30% of the organisation's voting members want to hold a meeting, then our organisation must hold a general meeting.

If a general meeting is being held all members will be told about it

In most cases members will need to be told about the meeting three weeks before it is held. This gives everyone time to get ready. In some cases a meeting can be held in less than three weeks, but at least 95% of the members would have to agree to this.

Many organisations have just one general meeting each year. This is called the Annual General Meeting, or AGM.

Important activities often take place at the AGM, like accepting financial reports and voting for Board positions.

Voting at general meetings

If a decision has to be made at a general meeting the members may be asked to vote

A vote can only be taken if there are enough members at the meeting. This minimum number is called a *quorum*. For a general meeting the quorum is either 25% of voting members or 20 voting members, whichever is the smaller number. So if NMHCO has 100 members, the quorum would be 20 members. If we had 60 members, the quorum would be 25% of the voting members, or 15.

With any vote the majority wins

There is no need for all members to agree. Each time there is a vote members will be asked to vote for or against a *resolution* (or a proposal). Here are some examples of resolutions:

- our office is relocated from one city to another
- a Board member is removed from their position
- a change is to be made to the constitution.

When the resolution is considered, members vote either for or against it

Voting will usually be done by a show of hands. In some cases members might prefer a secret ballot and this is also possible.

Proxy vote

Sometimes a voting member might not be able to get to a meeting, but may still want to vote

Our constitution allows any member in this position to appoint a *proxy*. This means the member gives the chairperson or another member the right to vote on his or her behalf. You have to fill out a form if you want to give someone your proxy.

Removing a member

Our organisation values its members, but in some cases our constitution says we can tell a member they can no longer be part of the organisation

This could happen if, for example, the member does something that damages our organisation's reputation

More information can be found in our constitution, clause 5

Our Board

The majority of our Board members must have lived experience of mental health issues or mental illness

Our Board is responsible for making sure the organisation does what it is supposed to do.

The Board meets regularly to talk about what our organisation has been doing and will do. It provides advice and direction to the CEO and makes sure there are no problems with the organisation.

Most Board members are elected by the membership; some are appointed by the Board itself. Our Board keeps an eye on what our organisation is up to and makes sure it doesn't start heading in the wrong direction.

Our Board Directors

Members of the Board are called Directors. Our Board includes a maximum of nine Directors. Six of these nine Directors must be people with lived experience of mental health issues or mental illness.

Our Board must always have:

- Three Directors who are individual members of the organisation. These three Directors are elected our individual members. **All three must have lived experience of mental health issues (mental health consumers).**
- Three Directors who are representatives of our organisational members. These three Directors are elected by our organisational members. **All three must have lived experience of mental health issues (mental health consumers).**

Our Board may also have:

- Three members who are appointed to the Board because of their skills and expertise. Ideally these Directors have lived experience of mental health issues, but will be selected for skills identified the Board as critical to governing our organisation. The Board appoints these Directors; the members do not vote on their appointment.

Our Directors are appointed for three years

They can only be elected for two terms back-to-back. This helps make sure our organisation always has fresh ideas.

Terms are *staggered*. This means that at any election, only some Director positions will become vacant. Other Directors will be partway through their three-year terms. By having

staggered terms we can make sure there are always experienced Directors on the Board. These experienced Directors can provide advice and support to new Directors.

It is important to remember that a majority of Board members must always be people with lived experience of mental health issues or mental illness

The Chair of the Board, who is elected by the Board members, not the whole membership, must also be a mental health consumer.

Choosing the right Directors

To help make sure we have the best possible Board, we have developed a policy called *Director Eligibility and Board Composition Policy*

This policy helps us make sure we have Directors with lived experience as mental health consumers and Directors who have the skills and expertise we need.

More information on the Director Eligibility and Board Composition Policy can be found in the constitution, clauses 9.7-9.10.

We also have an independent group of people with lots of governance experience to help us select these Directors. This group is called the *Independent Nominations Committee*.

Board members have a legal responsibility to act in the best interests of the organisation. They must always act in good faith and with honesty. There can be serious legal consequences for Directors who fail to act in good faith and with honesty.

All organisations make mistakes from time to time. Board members are protected from personal responsibility (liability) for mistakes the organisation makes, unless they have failed to act in good faith or have been dishonest.

For example

If a Director knew our organisation was bankrupt yet stood by and let the organisation run up new bills it could never hope to pay, then this Director is not acting in good faith. A court might find the Director has some personal responsibility for these costs.

Earning and maintaining trust (fiduciary duties)

Directors hold a position of trust

Directors make decisions that affect the future of the organisation. It is important our members and stakeholders are confident our Directors always act in good faith and always in accordance with the law. This is also called *fiduciary duties*.

Our Directors have been entrusted with making sure our organisation is able to achieve its vision, mission and objectives in a just, fair and safe manner. Our Board is committed to a strong trust-based relationship with all our members and stakeholders.

Voting for Board members

Each year we will ask our members if they want to stand for election to the Board

Members who want to stand will have to fill out a form and another member must nominate them.

If there are more nominees than positions available, there will be an election. The list of candidates must be sent to all voting members at least three weeks before the vote occurs. The Board will decide if the election (ballot) is done by post, electronically or in person at a general meeting.

Very occasionally, Directors are removed from their position when, for example,

- a Director resigns
- voting members get together at a general meeting and vote to remove a Director
- a Director does something that means he/she can no longer legally be on the Board (e.g. becomes bankrupt)

Casual vacancies

Sometimes a Director may have to leave the Board before their term is up, or a Director may have to be removed.

This results in a *casual vacancy* on the Board. The remaining Board members will decide who fills the position according to the *Director Eligibility and Board Composition Policy*.

Payments to Directors

Directors are people who give their time to our organisation because they believe in what we are trying to do. Directors are not paid a salary by our organisation.

We provide a sitting fee, to reimburse Directors for their time preparing for a meeting, and time away from family and work. We cover any travel or accommodation costs they have in coming to Board meetings.

Any payments to Directors have to be approved by the Board

Board meetings

Boards usually agree on a timetable for meetings. By law, Boards must meet at least three times per year, but many choose to meet more regularly. Many Boards meet monthly.

Any three Directors can get together and call for a Board meeting, but all Directors have to be given at least a week's notice of any Board meeting. This is so they have time to get ready for the meeting.

The Board can only make decisions if it has a quorum

The quorum for the Board is the minimum number of Directors required before any decisions can be made.

The quorum for our Board is half of the current number of Directors, rounded up. So, if the Board has its full membership of nine, the quorum for a Board meeting would be five members.

If the Board takes a vote on any issue, the majority vote wins. There is no need for all Directors to agree. All Directors must publicly support the outcome, regardless of how they voted within the Board meeting.

Our Directors avoid conflicts of interest

A conflict of interest occurs if there is conflict between what is best for our organisation and what is best for an individual Director

For Example:

The Board is deciding where to set up its new office and is choosing between several vacant office spaces. A Director owns one of the office spaces being considered. If their space is chosen they will benefit financially from the rent our organisation will pay. There could be a conflict between what is best for our organisation (getting the best rental deal) and what is best for the Director (getting our organisation to choose the office space owned by the Director and to pay as much rent as possible). It would be wrong for the Director to participate in the decision about which office space to choose.

Our constitution has some useful rules to help us avoid conflicts of interest. The Board also has a policy to make sure we handle these situations in the best way possible.

The Chairperson

Our Board elects the Chairperson and Deputy Chairperson. The Chairperson must be a mental health consumer (or a person with lived experience of mental health issues)

A Director can be re-elected as Chairperson provided they have not already served two consecutive terms as Chairperson.

Any Board member who is a mental health consumer can stand for election as Chairperson.

If more than one person stands then all Board members vote to select the best candidate.

(More information can be found in our constitution, clause 10)

Our CEO

Our Board is responsible for recruiting and managing the CEO, and this responsibility includes finding the best possible person to fill the role. If the CEO fails to do a proper job, the Board can remove the CEO from his or her position.

The CEO is employed and paid a salary to run the organisation on a day-to-day basis and keeps the Board informed about what is going on at NMHCO. The CEO has the right to be supported by the Board.

The CEO is an important role and will often attend Board meetings. They CEO cannot vote at Board meetings and cannot vote at the general meetings. The CEO employs the other staff of NMHCO.

More information can be found in our constitution, clause 15

DRAFT

Other important information

Changing the constitution

Many organisations make changes to their constitutions from time to time, but it is important to make changes carefully and only with support of the members.

The NMHCO constitution can only be changed by the members at a general meeting

A minimum of 75% of all members present at the meeting (either personally or by proxy) must agree to the changes.

Annual audit

Every year our organisation has its financial accounts inspected (audited) by an independent financial expert (auditor)

The auditor will look at our financial records and decide whether or not we have been managing our money properly. This audit must be presented to a general meeting and is a public document. Our funders require us to provide them with a copy of the audit.

This is an important part of making sure we manage our money in the right way. By getting our accounts inspected by outside experts, and by giving this report to our members and others, we are able to say to the world that we are sensibly using our money.

Glossary

| Term | Description |
|---------------------------------|---|
| Advocacy | Promoting and/ or supporting a cause, such as consumer rights to services, information, human rights. ³ |
| Audit | An official inspection of an organisation's records or accounts, typically by an independent body. |
| Conflict of interest | A situation in which a person (such as a Board Director) has competing interests or loyalties. |
| Constitution | The document which specifies the rules governing the relationship between the activities of the company, its directors and its members. |
| Fiduciary responsibility | The legal responsibility of all Directors to act honestly and in good faith, and to the best of their abilities in the best interest of the organisation. This includes making sure the organisation operates in accordance with the Corporations Act 2001 and other laws. This means that Directors act with credibility in all dealings with the organisation, and its members. |
| Governance | The processes organisations and companies use for making and implementing decisions. It is the system of rules, practices and processes which direct a company, balancing the interests of members and all stakeholders. |
| Nominate | Propose and formally put someone forward (including one's self) for election or a specific position. |
| Mental Health Consumer | The constitution defines a mental health consumer as ' <i>a person who identifies as having a present or past lived experience of mental health issues or mental illness, irrespective of whether that person has a diagnosed mental illness and/or has received treatment</i> ' |
| Proxy | The authority to represent someone else, especially in voting. |
| Constitution objects | Also known as goals, objects in the constitution state the purpose and range of activities the organisation has committed to. |
| Quorum | The smallest number of people who must be present at a meeting in order for a decision to be made. |
| Resolution | A firm decision to do or not to do something. |

³ The Kit: A guide to the advocacy we choose to do. National Mental Health Strategy. 1998

Further information & resources

This guide has provided an overview of our organisation and constitution. Please refer to the constitution or contact our office for additional information.

For further information on our organisation you can go to our website www.mhconsumer.org.au.

How to become a member

If you are interested in becoming a member you can find the application form on our website or you can contact our office to have a form sent to you.

DRAFT