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The Lifetime Support Authority of South Australia

LSA Charter 2021-22

Lifetime
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LSA Charter 2021-22

Part 1: Preliminary

Purpose

This Charter sets out the strategic objectives, operational arrangements and financial requirements for the Lifetime Support Authority of South Australia (LSA).

The LSA is required to have a Charter, as directed by the Minister pursuant to section 8 of the *Motor Vehicle Accidents (Lifetime Support Scheme) Act 2013*.

This Charter has been approved, and may be amended at any time, by the Minister and the Treasurer, following consultation with the LSA.

The LSA is to review and submit the Charter annually, including any proposed variations, to the Minister and Treasurer for approval.

Governance context

This Charter should be read in conjunction with the following:

- Motor Vehicle Accidents (Lifetime Support Scheme) Act 2013
- *Motor Vehicle Accidents (Lifetime Support Scheme) Regulations 2014*
- Public Corporations (Lifetime Support Authority) Regulations 2013, which applies provisions of the Public Corporations Act 1993 to the LSA, as outlined in Appendix 1 to this Charter
- *Public Finance and Audit Act 1987*, under which the LSA was proclaimed a semi-government authority on 8 October 2015
- Public Sector Act 2009
- Superannuation Funds Management Corporation of South Australia Variation Regulations 2013, which declare the LSA a 'prescribed public authority' for the purposes of that Act
- the LSA's Code of Conduct, established under section 23 of the Act and called Participant Service Standards
- Code of Ethics for the South Australian Public Sector
- any other applicable legislation or government policy, including the Treasurer's Instructions.

Definitions

In this Charter the following definitions apply:

- 'Act' means the Motor Vehicle Accidents (Lifetime Support Scheme) Act 2013
- 'Board' means the Board of Directors established as the governing body of the LSA under section 9 of the Act
- 'Chair' means the Chair of the Board
- 'Chief Executive' means the Chief Executive of the LSA
- 'Director' means a member of the Board
- 'LSA' means the Lifetime Support Authority of South Australia

- ‘Scheme’ means the Lifetime Support Scheme under the Act for the lifetime treatment, care and support of certain persons injured in motor vehicle accidents
- ‘LSS Rules’ means the criteria for eligibility to be accepted under the Act as a participant of the Scheme, and the entitlements of a participant of the Scheme to necessary and reasonable treatment, care and support, as made by the Governor on the recommendation of the LSA, under section 56 of the Act
- ‘Minister’ means the Minister to which the Act is committed under the *Administrative Arrangements Act 1994*
- ‘Participant’ means a person accepted under the Act as a participant of the Scheme (either as a lifetime participant or an interim participant)
- ‘the Government’ means the Government of South Australia
- ‘the State’ means South Australia
- ‘Treasurer’ means the Treasurer of the Government of South Australia.

Part 2: Purpose and direction

Establishment

The LSA was established under section 7 of the Act as a body corporate.

The sections of the Act which establish the LSA, appoint the Board and establish the LSS Fund (sections 1 to 3 and Parts 2, 7 and 8) commenced 1 July 2013. The parts which bring the Scheme into operation commenced 1 July 2014.

The *Public Corporations (Lifetime Support Authority) Regulations 2013* applies provisions of the *Public Corporations Act 1993* to the LSA, as outlined in Appendix 1 to this Charter.

Commitment to supporting participants

The Government is committed to implementing practices that support the capacity of people with disability to pursue their goals and independence, in a way that is appropriate to their circumstances.

The LSA works to respect the individuality and diversity of participants.

The LSA funds necessary and reasonable treatment, care and support for people who have been very seriously injured in motor vehicle accidents in South Australia. Consistent with its legislative obligations, the LSA has adopted a person-centred approach, enabling participants or decision-makers to choose and control evidence-based support and service arrangements that support the participant in their rehabilitation and participation in social and economic life.

The policies put in place by the LSA for treatment, care and support of participants are to be financially prudent and affordable for vehicle registration payers.

Functions of the LSA

The functions of the LSA under section 16 of the Act are:

- to monitor the operation of the Scheme
- to provide advice to the Minister about the administration, efficiency and effectiveness of the Scheme

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- to provide support and funding for:
 - programs that will provide high-quality services to participants in the Scheme; and
 - research and education in connection with services provided to participants in the Scheme
- to disseminate information about the Scheme
- to keep the LSS Rules under review
- to be responsible for the LSS Fund
- other functions conferred on the LSA by or under the Act or any other legislation.

Governance arrangements

The LSA owns assets for and on behalf of the Government for the benefit of the State (section 7 of the Act) and has the powers of a natural person (section 17 of the Act) and those conferred on it by legislation.

The Government (represented by the Minister) is the owner of the LSA, acting for and on behalf of the people of the State.

The LSA is subject to the general control and direction of the Minister, under section 8 of the Act.

In line with section 10 of the Act, the Board includes Directors with qualifications or experience in governance, health, disability, legal, financial management and investment (to carry out its functions effectively).

The LSA is to undertake its functions and exercise its powers in line with the Government's vision and direction, and policies and governance frameworks for statutory authorities.

The LSA is to ensure it adopts a collaborative approach to working with other Government agencies, and relationships with key stakeholders are managed appropriately for the benefit of the Scheme.

The LSA shall discharge its duties under the legislation listed in this Charter, as well as under any other piece of legislation which has an impact on the LSA's activities.

Each Committee of the Board – the Audit Committee, the Finance and Investment Committee and the Applications and Rules Committee – is required to have a terms of reference that supports the achievement of the LSA's strategic plan.

The Chief Executive, appointed by the Board in consultation with the Minister, is accountable to the Board for day-to-day management of the LSA and the implementation of the Board's decisions, directions and policies and discharge of delegated powers or functions.

The Minister or the Treasurer may authorise a person (a representative) in writing to attend, as an observer, any meeting of the Board and have access to papers provided to Directors for the purposes of the meeting. The representative attends Board meetings for the purposes of representing and conveying the views of the Minister or the Treasurer to the Board, and for reporting the activities of the Board to the Minister or the Treasurer.

Attendance of the Minister's or the Treasurer's representative at Board meetings is taken to satisfy the LSA's obligations to report on operations, as detailed in Part 4 of this Charter.

Strategy and Performance

Annually, the LSA reviews its strategy, risk appetite statement and performance objectives. The LSA's Strategic Plan incorporates the LSA's strategic priorities. The LSA will report to the Minister and the Treasurer on performance against strategic priorities at the end of each financial year.

Functions of the Board

Board functions and powers

Under the section 9 of the Act, the LSA must have a Board of Directors. The Board is the governing body of the LSA and the functions and powers of the LSA under sections 16 and 17 of the Act are taken to be the functions and powers of the Board.

The Board may delegate any of its functions and powers, and any delegated function or power may be further delegated in accordance with an instrument of delegation.

Board responsibilities

Under section 14(1) of the *Public Corporations Act 1993*, the Board is responsible to the Minister for overseeing the operations of the LSA with the goal of:

- securing continuing improvements of performance; and
- protecting the long term viability of the LSA and the Crown's financial interests in the LSA.

In overseeing the operations of the LSA, the Board must, without limiting section 14(1) of the *Public Corporations Act 1993*, ensure:

- that appropriate strategic and business plans and targets are established that are consistent with this charter; and
- that the LSA has appropriate management structures and systems for monitoring management performance against plans and targets and that corrective action is taken when necessary; and
- that appropriate systems and practices are established for management and financial planning and control, including systems and practices for the maintenance of accurate and comprehensive records of all transactions, assets and liabilities and physical and human resources of the LSA; and
- that all such plans, targets, structures, systems and practices are regularly reviewed and revised as necessary to address changing circumstances and reflect best current commercial practices; and
- that LSA operates within the limits imposed by the Act and this charter and comply with the requirements imposed by any other Act or law; and
- that LSA observes high standards of corporate and business ethics; and
- that the Minister receives regular reports on the performance of the LSA and on the initiatives of the Board; and
- that the Minister is advised, as soon as practicable, of any material development that affects the financial or operating capacity of the LSA or gives rise to an expectation that the LSA may not be able to meet its debts as and when they fall due; and
- that all information furnished to the Minister by the LSA is accurate and comprehensive.

In accordance with section 15 of the *Public Corporations Act 1993*, the Board must at all times exercise a reasonable degree of care and diligence in the performance of their functions, and must take reasonable steps through the processes of the Board to obtain sufficient information and

advice about the activities of the LSA and all matters to be decided by the Board.

The Board Chair or the Board as a whole and the Minister will assess the performance of the Board in line with the relevant Department of Premier and Cabinet guideline for government boards and committees.

Chief Executive's responsibilities

The Board will set the objectives for the Chief Executive of the LSA. The Chief Executive, appointed by the Board in consultation with the Minister, is accountable to the Board for day-to-day management of the LSA and the implementation of the Board's decisions, directions and policies and discharge of delegated powers or functions.

In managing the operations of the LSA, the Chief Executive is responsible for:

- managing the Scheme to fund necessary and reasonable treatment, care and support to people who acquire an eligible injury as a result of a motor vehicle accident in South Australia, in a manner that is financially prudent and supports the inclusion and independence of participants
- ensuring the LSA implements management and operational policies which fund necessary and reasonable services and are respectful of participants, their families and carers.
- sound management and stewardship of the LSA and its assets for and on behalf of the Board and the Crown in accordance with regulatory and legislative requirements.
- developing and setting plans for resource budget allocation, strategic direction and performance objectives for the LSA for the Board's consideration and approval.
- managing the LSS Fund in a manner that protects its long-term financial sustainability and considers the affordability of the Scheme for South Australian vehicle owners.
- facilitating support and funding for research, education and programs in connection with, services to participants and scheme management.

Part 3: Operational matters

Operational activities

LSS Fund – contributions

Under the Act, the LSA must establish and maintain the LSS Fund. The Act provides that:

- the LSA is to determine in accordance with a report of an independent actuary, and report to the Minister, the amount it considers is required to be contributed to the LSS Fund for a relevant financial year, which will (amongst other things) cover the present and likely future liabilities of the LSA in respect of people who have accidents in the relevant financial year and become participants in the Scheme.
- after receiving the report from the LSA, the Minister must, in consultation with the Treasurer, determine the required contribution to the LSS Fund
- the required contribution to the LSS Fund is to be made by the payment to the LSA of the LSS Fund levy, that is imposed on the registration of a motor vehicle, and
- the LSS Fund levy is an amount calculated under a scheme determined by the Minister after consultation with the Treasurer and the LSA.

LSS Fund – investment

The LSA must adopt a prudent investment and management strategy for the LSS Fund, which

should be framed to achieve a portfolio with characteristics which appropriately take account of the long tail of liabilities created under the Scheme. The investment and management strategy adopted by the LSA for the LSS Fund must be approved by the Minister and the Treasurer.

Borrowings

Under section 19 of the Act, the Treasurer may advance money to the LSA from the Consolidated Account, by way of grant or loan on terms and conditions as determined by the Treasurer in consultation with the Board.

Treasurer's guarantee

Under section 50 of the Act, the liabilities incurred or assumed by the LSA in pursuance of the Act are guaranteed by the Treasurer.

The Treasurer may, from time to time, after consultation with the Board, fix charges to be paid by the LSA in respect of this guarantee.

Operations and transactions outside of the State

The LSA may undertake operations or transactions outside of the State which are ancillary to the functions of the LSA, such as to:

- avoid exposure to excessive levels of insurance risk by reinsuring its risks
- implement an appropriate investment strategy for the LSS Fund
- enter contracts, to obtain expert advice on the administration of the Scheme
- provide treatment, care and support services to participants who reside outside of the State
- make reciprocal arrangements with other states and territories to provide treatment, care and support services to participants.

Such operations or transactions outside of the State shall be undertaken in accordance with LSA approved policy.

The LSA will not engage in operations or transactions outside of the State, which are not ancillary to the LSA's functions, unless approval for any acceptance and commencement of an activity has been obtained from the Minister and the Treasurer.

Subsidiaries, associated and allied organisations

Note that there are no subsidiaries of the LSA, or other companies or entities related to the LSA. The LSA is not to undertake any activities or transactions through partnership, or under any arrangement for the sharing of profits, co-operation or joint venture with another person, unless approval to any acceptance and commencement of an activity has been obtained from the Minister.

Asset management

The LSA will comply with the Treasurer's Instructions and other Government policies relating to the acquisition and disposal of assets.

Tax Equivalent Regime (TER)

The LSA will comply with the Government policy and relevant Treasurer's Instructions in relation

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to tax equivalent payments, in accordance with any exemption or variation provided by the Treasurer in accordance with paragraph 1.12 of Treasurer's Instruction 1 'Interpretation and Application'.

On 13 June 2020, the Treasurer determined that the same TER framework that applied to ReturnToWorkSA (RTWSA) should also apply to the LSA from 1 July 2019. The particulars of the RTWSA TER framework which will apply to LSA are as follows:

- A TER payment will be calculated in financial years in which the LSA has achieved a funding level of at least 100% at 75% probability of sufficiency, and achieved both a profit from insurance operations, and an accounting profit.
- A TER payment cannot result in the reduction of probability of sufficiency below 75%. If applicable, a TER payment will be reduced as required until the probability of sufficiency is equal to 75% after the payment is made.
- TER payments are to be calculated by applying the company income tax rate (currently 30%) to the audited accounting profit. Accounting profit is the net profit / result from ordinary (operating) activities.
- The Minister for Health and Wellbeing, after consultation with the Treasurer can determine that the TER liability not be imposed for any particular year.
- Prior year losses do not apply and cannot be used to offset future TER obligations.
- The TER Manual requires quarterly tax payments/instalments. Given the volatility and level of uncertainty in predicting LSA's annual operating result, paying instalments is impractical. LSA will therefore make any applicable TER payment by 30 September following approval of the prior financial year's financial statements.

Codes of conduct

Directors are bound by the *Public Sector (Honesty and Accountability) Act 1995* and the *Public Corporations (Lifetime Support Authority) Regulations 2013*, outlined in Appendix 1 of this Charter, to discharge their duties, act honestly, and disclose conflicts of interest.

The Code of Ethics for the South Australian Public Sector will apply to staff engaged directly by the LSA, or who are involved in the operation of the LSA by way of arrangement with a government department, agency or instrumentality or any other entity.

The LSA's Code of Conduct, established under section 23 of the Act and called Participant Service Standards, sets out procedures and processes required for providing services to people who interact with the LSA.

Delegations

The LSA will maintain a register of its financial and administrative delegations.

Every delegation made by the Board or a delegate of the Board under section 15 of the Act, which will or could give rise to a liability or a contingent liability, must contain a limitation which requires that the delegate must not incur a liability that exceeds the monetary amount specified in the instrument of delegation.

Part 4: Financial reports, systems and practices

Financial reports, systems and practices

Obligations to report on operations

In addition to statutory reporting, the LSA must provide the following reports to the Minister and the Treasurer, as required:

- financial, budget and investment performance information and reports, as presented to the Board
- reporting of the performance of the LSS, including levy revenue, service to participants and payments under the Scheme
- the annual report of the LSA
- any other information that is requested at any time by the Minister or the Treasurer
- any other information which, in the opinion of the Board, should be provided to the Minister or Treasurer.

The annual report of the LSA must contain, in addition to the audited accounts and financial statements for the financial year:

- achievement of its legislative and statutory obligations, functions and expectations of the Minister
- comparisons between strategic plan objectives and actual results, and reasons for the results
- implementation of policies for the administration of the Scheme and management of the LSS Fund.

The LSA must advise the Minister and the Treasurer whenever it enters into any arrangements which give rise to a material contingent liability, and of any material development (as soon as practicable) which adversely affects the operating or financial capacity of the LSA or gives rise to an expectation that the LSA may not be able to meet its debts as and when they fall due.

Form and contents of accounts and financial statements

The LSA will maintain proper financial and accounting processes, practices and systems, and prepare financial statements in accordance with applicable Australian Accounting Standards, generally accepted accounting principles and practices, and all relevant Government policies including Treasurer's Instructions (unless specifically exempted) issued under the *Public Finance and Audit Act 1987*.

Accounting and internal auditing systems and practices

The LSA will establish and maintain effective records of all asset acquisitions and disposals and establish and maintain effective internal auditing of its operations via the Audit Committee in accordance with appropriate standards of practice.

Part 5: Date of operation

Date of operation

This Charter or any amendment comes into operation on approval by the Minister and the Treasurer, and is binding on the LSA.

Appendix 1 – Application of Public Corporations (Lifetime Support Authority) Regulations

Provisions of Public Corporations Act 1993 to apply to the LSA by the Public Corporations (Lifetime Support Authority) Regulations 2013

The *Public Corporations Act 1993* (the PC Act) provides a legislative framework for the duties and obligations of public corporations. The LSA as a body corporate meets the definition of a public corporation.

Under section 5(1) of the PC Act, a provision applies to a statutory corporation to which the provision is declared to apply by the corporation's incorporating Act, or by regulation.

Consistent with the Government's aims of strong governance and oversight of the public corporations, the *Public Corporations (Lifetime Support Authority) Regulations 2013* applies the following sections of the PC Act to the LSA:

- s 7 Provision of information and records to Minister
- s 8 Minister's or Treasurer's representatives may attend meetings
- s 10 No breach of duty to report matter to Minister
- s 14 General management duties of board
- s 15 Directors' duties of care etc.
- s 16 Director's duty to act honestly
- s 17 Transactions with directors or associates of directors
- s 18 Directors' and associates' interests in corporation or subsidiary
- s 19 Conflict of interest
- s 20 Removal of director
- s 21 Civil liability if director or former director contravenes this Part
- s 22 Immunity for directors
- s 23 Formation of subsidiary companies
- s 29 Tax and other liabilities of corporation
- s 31 Internal audits and audit committee
- s 35 Minister to be consulted as to appointment or removal of chief executive officer
- s 36A Duty of employees to act honestly
- s 36B Duty of senior executives with respect to conflict of interest
- s 37 Transactions with executives or associates of executives
- s 38 Executives' and associates' interests in corporation or subsidiary
- s 38A Duty of employees with respect to conflict of interest
- s 39 Validity of transactions of corporation

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