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The Lifetime Support Authority of South Australia Charter

Last reviewed: 4 August 2023

Lifetime
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LSA Charter

1. Introduction

The Lifetime Support Authority (the LSA) is a South Australian agency established in 2014 by the *Motor Vehicle Accidents (Lifetime Support Scheme) Act 2013* (the Act). 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.

2. Purpose

This Charter sets out the strategic objectives, governance arrangements, operational arrangements and financial requirements of the LSA, as well as the high-level role, structure, composition and responsibilities of the LSA's Board.

3. The LSA's functions and strategic objectives

The LSA's functions are set out in section 16 of the Act 2013 and include:

- to monitor the operation of the Scheme
- to provide advice to the responsible Minister about the administration, efficiency and effectiveness of the Scheme
- 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 Lifetime Support Scheme (LSS) Fund (the Fund)
- other functions conferred on the LSA by or under the Act or any other legislation.

The LSA Strategy 2022-26 contains five themes which focus on strategies to support and benefit current and future participants and LSS sustainability.

1. Person-centred treatment, care and support for participants
2. Staff and systems which make a positive difference for participants
3. A sustainable Scheme for current and future participants
4. Strong and productive relationships with key stakeholders and service providers, to benefit participants and the Scheme
5. Research, Education and Programs that ultimately aim to make a positive difference for participants and the Scheme.

The LSA reviews its strategy and performance objectives and reports to the responsible Minister (and Treasurer if different) on performance against strategic priorities through a performance statement at the end of each financial year.

4. Governance arrangements

The LSA is a body corporate under section 7 of the Act and a public corporation under the *Public Corporations Act 1993*.

Under the Act, the LSA is subject to the general control and direction of the Minister. The Minister responsible for the Act is currently the Treasurer.

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The LSA is required by the Act to have a Board of directors. The Board is the governing body of the LSA and anything done by the Board in the administration of the LSA is taken to be an act of the LSA. The responsible Minister may give the Board a written direction to the LSA that is consistent with its powers within the Act.

The Chief Executive, appointed by the Board in consultation with the responsible 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 Board has established, and may establish, additional Committees to assist it in carrying out its responsibilities. These Committees have Terms of Reference that set out the objectives, authority, scope and administration of the Committee. Committees provide oversight of various issues and make decisions within their delegated authority or make recommendations to the Board.

The LSA's Committees are:

- Finance and Investment Committee
- Audit Committee
- Rules and Organisational Performance Committee.

This Charter is based on and 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*
- *Public Corporations Act 1993*
- *Public Finance and Audit Act 1987* and the *Treasurer's Instructions*
- *Public Sector Act 2009*
- *Superannuation Funds Management Corporation of South Australia Variation Regulations 2013*
- Code of Ethics for the South Australian Public Sector
- DPC Circular PC022 *Establishment and Governance Requirements for Government Boards and Committees*
- any other applicable legislation or government policy
- the LSA's Code of Conduct, established under section 23 of the Act and called Participant Service Standards.

5. Responsibilities and powers of the Board

The Board is accountable to the responsible Minister for overseeing the operations of the LSA with the goal of securing continuing performance improvements and protecting the long-term viability of the Scheme and the Crown's financial interests in the LSA. In overseeing the operations of the LSA, the Board must, without limiting section 12(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 responsible Minister receives regular reports on the performance of the LSA and on the initiatives of the Board; and
- that the responsible 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 responsible Minister by the LSA is accurate and comprehensive.

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.

6. Board operations

Chair responsibilities

The Chair is responsible for providing appropriate leadership to the Board. The Chair ensures the Board is equipped with the skills, knowledge and resources to effectively perform its functions, acting within any statutory functions, legal obligations and complying with relevant government policies. The Chair ensures key decisions are made in a timely manner and facilitates Board discussions so that issues are appropriately addressed. The Chair meets with the LSA's Chief Executive on a regular basis to ensure the effective management of the LSA's operations is maintained.

Board member responsibilities

Board members must ensure they are aware of, understand and comply with their legal and policy obligations, including relevant government policies and legislation. Board members are responsible for carrying out their obligations with sufficient degree of diligence. Board members are expected to:

- attend and participate in all LSA Board meetings unless exceptional circumstances arise
- spend the time needed to read and understand the papers provided
- apply good analytical skills, objectivity and good judgment
- comply with the Code of Conduct for SA Public Sector Employees
- ask questions to fully understand issues and pursue independent lines of enquiry.

Board composition and renewal

The Board consists of at least 3 but not more than 10 persons appointed on the recommendation of the responsible Minister.

A person appointed as a member of the Board must have appropriate qualifications or experience as are necessary to enable the Board to carry out its functions effectively. One Board member will be appointed to Chair its meetings.

Board members are appointed for a term not exceeding three years and may be re-appointed at the expiry of a term.

The Chair and the LSA will work with the responsible Minister on the timely appointment of Board members with the required skill sets to ensure the Board has a relevant mix of skills, experience, expertise, tenure and diversity.

Three members of the Board constitute a quorum of the Board and no business may be transacted at a Board meeting unless a quorum is present.

Further details about the Board proceedings are outlined in the Act.

Board performance

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

Conflicts of interest management

Board members may find themselves in a position where their personal interests conflict with their public duty to carry out their duty as a Board member. Board members are required to disclose as soon as possible to the LSA any actual, potential or perceived conflicts of interest they have between their personal interests and the carrying out of their responsibilities as a Board member. Any conflicts must be effectively managed.

Board members are required to disclose as soon as possible to the LSA any pecuniary and non-pecuniary interests that may conflict with those of the LSA. Pecuniary and non-pecuniary interests may arise from but are not limited to:

- ownership of shares by the Board member or their family
- directorship of other entities
- personal relationships, including family relationships
- association (present or past) with a political party
- paid or unpaid work with other organisations
- previous employment at an organisation that the LSA now engages.

The Board will consider any disclosures of conflict of pecuniary or non-pecuniary interest. The Board will resolve how to manage the conflict of interest and record reasons for the decision in the minutes of the meeting. The matter will also be recorded in the LSA's Board conflicts register.

7. Chief Executive's responsibilities

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 in accordance with the LSA's legislated obligations.

8. Reporting and other engagement with the responsible Minister

Board appointments

The responsible Minister appoints members of the Board. Responsibility for selection and appointment of members for the Board lies with the Minister or Cabinet, and the Governor. The LSA may assist the Minister with this process.

Setting and reviewing of performance statement

The responsible Minister (and Treasurer if different) must prepare, after consultation with the LSA, a performance statement setting the various performance targets that the LSA is to pursue in the coming financial year or other period specified in the statement and dealing with such other matters as the responsible Minister and the Treasurer considers appropriate. The responsible Minister and the Treasurer may amend the LSA's performance statement at any time.

The responsible Minister (and Treasurer if different) must, after consultation with the LSA, review the performance statement when reviewing this Charter.

To meet these requirements, each year, the LSA prepares the following documents for approval by the responsible Minister (and Treasurer if different) at the same time as this Charter:

- Strategic Plan Key Performance Indicators (KPIs) which represent the LSA's performance targets for the upcoming financial year; and
- a Balanced Scorecard report which is aligned to the LSA's Strategic Plan KPIs and includes an assessment of performance against KPIs for the current financial year.

Annual report

As a public corporation, the LSA must, within three months after the end of each financial year, deliver to the responsible Minister a report on the operations of the LSA during that financial year.

The annual report of the LSA must:

- incorporate the audited accounts and financial statements for the financial year
- incorporate the LSA's Charter as in force for that financial year
- set out any approval or exemption given or determination made by the responsible Minister or the Treasurer under the *Public Corporations Act 1993* or the Act in respect of the LSA during that financial year or that has effect in respect of that financial year
- set out any disclosure made during that financial year by a director of the LSA of an interest in a matter decided or under consideration by the Board
- contain the prescribed information relating to the remuneration of executives
- contain any other information required by or under the provisions of the *Public Corporations Act 1993* or any other Act.

The Minister must cause a copy of the annual report to be laid before both Houses of Parliament within 12 sitting days after his or her receipt of the report.

Additional information

The LSA also provides the following information to the responsible Minister:

- a report on the LSA's operations including reporting of the performance of the LSS, including levy revenue, service to participants and payments under the Scheme
- financial, budget and investment performance information and reports, as presented to the Board
- accounting, internal auditing or financial systems or practices the LSA has or is required to establish
- the setting of any fees or charges
- any other information or records in its possession or control as the responsible Minister may require.
- any other information which, in the opinion of the Board, should be provided to the responsible Minister.

The LSA will advise the responsible Minister (and Treasurer if different) 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.

A person authorised in writing by the Treasurer may attend but not participate in any meeting of the Board and may have access to papers provided to the Board for the purposes of the meeting. Further information about the appointment and responsibilities of a Treasurer's representative can be found in Treasurer's Instruction 7 – *Corporate Governance*.

9. The LSA's commercial operational activities

LSS Fund – contributions

The LSA must establish and maintain the LSS Fund. The LSA determines in accordance with a report of an independent actuary, and reports to the responsible Minister and the Treasurer, 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 responsible Minister and the Treasurer must determine the required contribution to the LSS Fund. This contribution is to be made by the payment to the LSA of the LSS Fund levy that is imposed on the registration of motor vehicles in South Australia. The LSS Fund levy is an amount calculated under a Scheme determined by the Treasurer and the LSA. The total of all LSS Fund levies must aim to be an amount that will result in the required fund contribution for the relevant period being contributed to the Fund.

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 will be approved by the responsible Minister and the Treasurer.

Borrowings

The Treasurer may advance money to the LSA from the government's 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

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 South Australia

The LSA may undertake operations or transactions outside of South Australia 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

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- provide treatment, care and support services to participants who reside outside of South Australia
- make reciprocal arrangements with other states and territories to provide treatment, care and support services to participants.

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

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

Subsidiaries, associated and allied organisations

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 responsible Minister (and Treasurer if different).

Asset management

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

Tax Equivalent Regime (TER)

The LSA will comply with relevant Government policies and Treasurer's Instructions in relation to tax equivalent payments.

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 TER framework which 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 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 the Board's approval of the prior financial year's audited financial statements.

Codes of conduct

Directors are bound by the *Public Sector (Honesty and Accountability) Act 1995*, the *Public Corporations Act 1993* and the *Public Corporations (Lifetime Support Authority) Regulations 2013* 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 Board may delegate any of its powers or functions.

The LSA maintains a register of its financial and administrative delegations.

Every delegation made by the Board or a delegate of the Board 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.

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.

10. Charter review

In consultation with the LSA, this Charter is reviewed and approved by the responsible Minister (and Treasurer if different) at the end of each financial year.

This Charter may be amended at any time by the responsible Minister (and the Treasurer if different) following consultation with the LSA.

Contact Details

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