



WIRELESS INSTITUTE OF AUSTRALIA

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Information for Members

SUMMARY: *The WIA Board in May issued notices of Petition for Expulsion to several members under Clause 5.7 of the WIA Constitution. This clause empowers the board to expel a member whose conduct is deemed contrary to “the best interests of the WIA”. Despite publicity to the contrary, no board decision to expel any member had been taken at that time.*

This constitutional action was initiated when a concerned group of members jointly petitioned the WIA Board in April 2018 to expel certain other members citing conduct they believed would trigger expulsion under Clause 5.7. The WIA Board has a responsibility to consider and act on such a petition under the provisions of the WIA Constitution.

The WIA Board, following extensive deliberations, decided to withdraw the notices of Petition for Expulsion and cease action on the aforementioned members’ petition i.e. no member has been expelled.

This was based on two main considerations:

- i) Lack of procedural fairness due to compressed timeframes and procedural mis-steps imposed by the WIA board on the members subject to the Petitions for Expulsion notices; and that*
- ii) The original petitioners misconduct allegations failed to meet the evidentiary burden the WIA Board now believes required to undertake such unilateral action.*

Background:

The WIA constitution has two clauses concerning remedies for the misconduct of members; these are Clause 5.7 and Clause 5.8. Clause 5.7 refers to conduct “not in the best interests” of the institute as the basis for expulsion by the WIA Board and Clause 5.8 is the mechanism for appeal for an expelled member to refer the board decision to the general membership, which can then vote to over-ride or support the expulsion decision. Many similar membership based organisations do not have such clauses for appeal of expulsion or cancellation of membership.

In April 2018, several WIA members petitioned the WIA Board to expel several other members, using the powers vested in clause 5.7 of the WIA Constitution. The Board has a responsibility to consider such a petition.

The Board reviewed the provisions of clause 5.7 and initially chose to follow the mechanics specified therein. There was no precedent for this action, as to the best of the Board’s knowledge since 2004 when the first Constitution was written; clause 5.7 had not been previously exercised. Consequently, as there was no precedent, there was no known, proven process for the Board to follow. This presented such challenges as:

- (a) What severity of a member’s mis-conduct is required to trigger clause 5.7?
- (b) The lack of intermediate steps such as “show cause” or mediation? Is the Board really the judge and jury?
- (c) With the AGM approaching there was an unreasonably compressed timeline

These challenges created a scenario where the Board made unwise procedural mis-steps.

What is due process under clause 5.7?

The Board acted properly in terms of clause 5.7 (b) and (c) by:

- (a) considering the original petition
- (b) sending notices to those who were the subject of the petition
- (c) naming a time and place for considering their defences
- (d) offering those subject of the petition the opportunity to:
 - a. defend in person
 - b. advise that they be represented in absentia
 - c. submit a written defence.

However, the WIA board accepts that notices sent to those subject to the petition contained certain factual errors and inaccurate statements.

Clause 5.7 of the WIA Constitution gives no time frame for the steps listed. The Board's initial interpretation of the clause gave those subject to the petition an unreasonably short time in which to respond.

During the Board meeting held on 16 May 2018 to which all those subject to the petition had been invited, only one appeared in person. The Board made procedural decisions which, while arguably constitutionally correct, lacked the level of procedural fairness that could have been afforded a matter of this importance.

Unable to reach a just resolution or decision at the 16 May 2018 meeting, the Board adjourned the meeting pending further discussion. Despite publicity to the contrary, no decision was made at that meeting.

Why did it take so long to reach a conclusion and what was the outcome?

Over the 2-week period from 16 May 2018 the Board met on several occasions to debate this matter. During this period, individual requests for mediation as pre-cursor to formal expulsion from members subject to the notices were agreed in all cases.

The lack of precedent, the broad allegations and incomplete evidence weighed heavily on the debate and, following significant robust discussion, the Board decided withdraw the notices and to cease any action relating to the petition.

On the 31 May 2018 the Board gave this advice to the petitioners and to those subject to the petition.

Who are the petitioners and subjects of the complaints?

The WIA abides by its approved WIA Privacy Principles, which are based on those described in the Australian Privacy Act (1988). These require confidential information about people (including information that could reasonably be used to identify them), be kept confidential unless the individual gives express permission otherwise.

This means that the Board did not release any information about the petitioners, or the members subject to the petition, or any information that may identify them. Despite the confidentiality, two members subject to the petition have gone public, which is their prerogative.

What is being done to improve the process and prevent a recurrence?

The applicability of clause 5.7 is being discussed with a view to providing future WIA leadership with guidance as to how the clause should and should not be applied. This may result in proposals for Constitutional amendments, including timing of steps, and intermediate steps such as a show cause step, a cooling-off period and recourse to mediation. These steps already exist in Employment Law in Australia.

Consideration is being given to what conduct actually is defined by "best interests of the WIA". Perhaps a more detailed Code of Conduct, similar to that found in other national organisations, should be created to provide guidance.

Your contribution:

The Board would be grateful for any constructive contribution on this; please contact at support@wia.org.au

**Authorised by The Board of the Wireless Institute of Australia
June 2018**