



## Regulation 39

### The ANZCA Council Protocol

#### 39. The ANZCA Council Protocol

*Note: Dates in italics flag the dates of recent changes to the regulation, e.g., 10/04 indicates a change made to the following paragraph in October 2004.*

##### 39.1 Introduction

39.1.1 This protocol should be read in conjunction with the [ANZCA constitution, regulation 28](#) 'Suspension and removal of office holders', and the terms of reference for the ANZCA [President](#), [Vice President](#) and [ANZCA Councillors](#). It applies to the twelve elected councillors ([Constitution](#) clause 8.1.1a), the Dean of the Faculty of Pain Medicine (clause 8.1.1b), the New Fellow councillor (clause 8.1.1c) and any co-opted councillor (clause 8.1.1d), also referred to as co-opted members (clause 11.2). All of these are directors of the College.

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39.1.2 This protocol does not apply to co-opted observers (clause 11.3) who include: the co-chairs of the ANZCA Trainee Committee (clause 11.3.1), the presidents of the Australian Society of Anaesthetists and the New Zealand Society of Anaesthetists (clause 11.3.2), the president of the College of Intensive Care Medicine of Australia and New Zealand (clause 11.3.3) and the president of the Royal Australasian College of Surgeons (clause 11.3.4) and the president of the Hong Kong College of Anaesthesiologists or their nominees. These observers at ANZCA Council are required to sign a confidentiality agreement as a condition of their attendance at the ANZCA Council.

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39.1.3 The members of the Council of the Australian and New Zealand College of Anaesthetists (the ANZCA Council, hereafter 'the Council') agree to adopt, and to the extent reasonable, be bound by, the letter and spirit of this protocol. They agree that any member who breaches the protocol will discuss this with the President in the first instance. If no resolution can be agreed upon, the member may be requested by the Council to offer his or her resignation.

39.1.4 All Councillors agree to sign the protocol and to invite all candidates standing for election to the Council sign it. The fact that candidates or Councillors standing for re-election have signed will be indicated on the ballot papers for election.

39.1.5 The role of each councillor is outlined in the [terms of reference for ANZCA councillors](#).

##### 39.2 Recognition of responsibility and common purpose

39.2.1 Councillors understand and accept that the Australian and New Zealand College of Anaesthetists is incorporated as a not-for-profit company limited by guarantee and that, under the law, they have clear duties and responsibilities:

- To act in good faith in the best interests of the company and for a proper purpose, To exercise their powers and discharge their duties with care and diligence.
- These duties are owed to the College as a whole, not to any individual Fellow or group of Fellows. It follows that directors owe their obligations to the Fellows of the College generally, and not to any speciality or regional grouping from which they come.

39.2.2 The Fellows of the College have delegated extensive powers to the Council as a whole, to be exercised collectively. Apart from some very limited functions they have not delegated any

powers to any individual member (see terms of reference for [individual roles](#)). It follows that decisions must be made collectively, and Fellows are bound by the Council's decisions.

It also follows that unless individual councillors receive specific delegations from the Council they must refrain from participating in the day-to-day management of the College, making representations or agreements on its behalf, or influencing management as individuals.

- 39.2.3 In the interests of the harmony and effectiveness of the Council, and the College as a whole, the councillors agree that they will conduct themselves with good will and in a harmonious manner. The importance of good teamwork is recognised and acknowledged.

### **39.3 Expectations of councillors**

- 39.3.1 The councillors recognise their duty of loyalty to the College and to the Council. Full discussion is encouraged within council meetings and once a matter is decided, councillors agree that outside the Council room they will support the letter and the spirit of Council decisions when in contact with other parties.

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- 39.3.2 Each councillor has a legal duty not to use information obtained as a councillor for the benefit of themselves or any person or persons associated with them. The councillors agree that information obtained as a result of Council membership should not be released except as decided by the Council as a whole. Council agendas, minutes and discussions are confidential to the Council. Individual action reports will be directed to appropriate staff.
- 39.3.3 No councillor should act in a way likely to bring discredit on the College.
- 39.3.4 Councillors have a right and a duty to consider properly all matters brought to the Council. It follows that their attendance at Council meetings is important and that apologies should be tendered only in unavoidable circumstances. Proper consideration of Council papers and other relevant information before each meeting is also expected.
- 39.3.5 Councillors have a right and a duty to raise matters of serious concern at Council meetings. In order that such matters can be discussed properly it is important that management and other councillors be given time to consider them, and it is good practice for a councillor with a serious concern to discuss it with the President in time for the matter to be added to the agenda.
- 39.3.6 Councillors are expected to be frank and open in meetings and to question, request information, and raise issues. They recognise that where disagreements occur every effort should be made to resolve the issue and to avoid dissent. Councillors have a right to resign, but if they choose to remain on the Council they are bound by the collective decisions of the Council and may be legally liable for them.
- 39.3.7 New Councillors are expected to complete a programme of induction training as set out in the [ANZCA Councillor Handbook](#).
- 39.3.8 Councillors are encouraged to complete relevant training with the Australian Institute of Company Directors or equivalent organisations to ensure they are appraised of their responsibilities as company directors.
- 39.3.9 All councillors are expected to keep themselves up to date with the affairs of the College and the Council via the information on the College website and other sources.
- 39.3.10 Councillors act as Directors of the College as a company and that the Corporations Act specifically provides for all decisions of Council (as the Board of Directors) that:
- 39.3.10.1 Directors must give notice of all "material personal interests" in matters relating to the affairs of the College.
- 39.3.10.2 Notice must be given of the nature and extent of the interest and its relation to the affairs of the College. Notice must be given as soon as the interest arises, or the Director becomes aware. A standing notice of all such interests may be given.
- 39.3.10.3 It is not a material personal interest if all Directors have the same interest (eg. Fellow of the College).

39.3.10.4 Management of the conflict and materiality of the conflict will be determined by the President. Where a President has a conflict of interest, such conflict must be notified to the Vice President, who will determine the materiality of the conflict and management of the conflict. In the event of any conflict, the matter will be referred to Council.

39.3.10.5 Councillors shall notify the President of any actual or potential conflict as soon as they are aware of it (if possible before the beginning of the meeting at which the issue is likely to be raised).

39.3.10.6 A Director may be present and may vote if the other Directors permit, on the basis that the interest is fully disclosed, and the other Directors are satisfied that the interest should not disqualify him or her. If the Directors consider the conflict to be material the relevant Director may be asked to leave while the matter is discussed and voted upon.

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39.3.11 The effectiveness of the Council depends in part on the operation of its committees, subcommittees and working groups (see [terms of reference](#) for these). The councillors understand that committee work can impose a considerable burden and agree to share it as equitably as possible.

39.3.12 The Council agrees to review its composition annually as part of the Council review process. Desirable attributes of councillors are shown in Appendix A.

39.3.13 Councillors wishing to place items on the ANZCA Council Agenda should provide them to the Executive Officer, Council no later than two weeks prior to the relevant meeting.

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39.3.14 Councillors wishing to place a sensitive item or late item on the agenda should discuss it with the President.

#### **39.4 Rights of councillors**

39.4.1 In order to discharge their duties properly, councillors must have a right to identify the information which they need and to receive it in a timely way.

39.4.2 The [ANZCA Councillor Handbook](#) covering information of importance to councillors will be maintained and updated by the Executive Officer, Council, in consultation with the president, vice president and where appropriate, the Chief Executive Officer. Updated copies will be available to all councillors.

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39.4.3 Individual councillors have a right to obtain information necessary for them to discharge their duties from executive directors, general managers and managers employed by the College, but it is recognised that questions and requests involving a substantial amount of work may disrupt management. Accordingly the councillors agree that if a question cannot be answered without special work it will be put in writing and a copy sent to the President and the CEO.

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39.4.4 Outside specialist advice at the expense of the College, is advice to the ANZCA Council as a whole and should normally be arranged by the CEO at the request of the ANZCA Council or the Executive Committee. In exceptional circumstances, if one or more directors wish to obtain special advice the matter should be raised with the President who may exercise a discretion to arrange for the advice to be obtained, or may refer the matter to the Executive Committee. If such advice is obtained it should be made available to the ANZCA Council as a whole.

#### **39.5 Support for councillors**

39.5.1 Councillors are entitled to expenses and insurance cover, as set out in the [ANZCA Councillor Handbook](#) and the relevant ANZCA Policies. They should ensure that all other material benefits received from the College by them, or their relatives or associates, are disclosed to the ANZCA Council and entered on the register of disclosed interests. All contracts between councillors and the College should also be disclosed.

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39.5.2 The support for councillors is set out in the [Policy on Privileges of Current and Past Councillors](#).

39.5.3 Councillors travel in accordance with the [ANZCA Travel Policy](#).

### **39.6 Council leadership and the role of the president**

39.6.1 The President is elected by the Council and his or her authority derives by delegation from the Council, which must delegate to the President sufficient powers to manage the Council's affairs, to conduct it in the discharge of its business and to act effectively between Council meetings. Unless the Council decides otherwise, the President has no powers over the College's affairs beyond those of any other councillor and it follows that the President should act as he or she believes the Council would wish him or her to act.

39.6.2 Councillors recognise that the effectiveness of the Council will be enhanced if contributions to discussions are kept brief and relevant, and if each builds on the previous contributions of others. The President is responsible for the conduct of meetings, and councillors must support him or her in maintaining order and making Council discussions effective.

39.6.3 The Council has delegated to the President sufficient powers and discretions to act effectively on its behalf between meetings.

39.6.4 The President's role and responsibilities are covered in greater detail in terms of reference, available on the College website. This role includes performance management of Councillors as required.

### **39.7 Ballot process to appoint the role of vice president and president by council**

39.7.1 All voting is by secret ballot that may be conducted physically, electronically or in such other manner as the president may determine.

39.7.2 In the event that an elected Office Bearer cannot, for any reason, fulfil the obligations of the office, the president may appoint an acting office bearer. Council may determine the need for an extraordinary election of a replacement office bearer.

39.7.3 The ballot for president elect will take place at the final Council meeting in the year required to appoint to this position, to take office from the next AGM.

39.7.4 The ballot for the Vice President elect will take place at the April (or second council meeting of the year) in the year required to appoint to this position following the next AGM.

39.7.5 The nomination for either roles should be provided to the Company Secretary at least 72 hours prior to the designated council meeting.

39.7.6 A secret ballot is conducted as per 39.7.1 and administered by the company secretary.

39.7.7 A vote will only be called where two or more persons nominate for the office bearer role.

39.7.8 The nominee with the most votes will be declared the elected office bearer.

39.7.9 In the event of more than two nominees, the candidate with the lowest number of votes will be excluded and a further secret ballot conducted. This process will continue by a process of elimination with the final candidate with the most votes being declared as the appointed office bearer.

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### **39.8 Council protocol appendix a: desirable attributes of councillors**

39.8.1 The Council will be strengthened if the new members bring experience and personal qualities that:

- Enable them to perform well as councillor
- Complement the profile of strengths of the present ANZCA Council members.

39.8.2 The ideal candidate will:

- Have sufficient time to devote to the ANZCA Council and be prepared to give the College high priority
- Be free from any conflict or other connection that may compromise the Council.

- Be respected by the members.
- Bring relevant experience, and an understanding of the business, to the Council.
- Have knowledge or experience which complements that of present Council members.
- Have some experience of working on boards or other relevant bodies.
- Have a reputation of a leading clinician and seen as a role model for trainees and other clinicians.
- Be cooperative - a good team player.
- Be able to grasp new issues quickly - have an agile mind.
- Be prepared to make contributions that are succinct and to the point.
- Have an incisive mind and be able to ask penetrating questions.
- Have a strategic vision - see the big picture.
- Be an independent thinker.
- Have good written and verbal communication skills.
- Have negotiation skills.

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39.8.3 It is unlikely that candidates will be found who demonstrate all these characteristics to an equally high degree, and it is better for a board of directors to have a mix of strengths.

*December 2012*