

Veterans' Indemnity and Training Association Incorporated

# CONSTITUTION AND RULES

**Adopted 27 September 2006**

## **Some background and general information on these Rules....**

The Veterans' Indemnity and Training Association Incorporated (VITA) became an Incorporated Association on 2 November 1995.

This "Constitution and Rules", which was accepted on 27 September 2006, is based on, but replaces, the previous Constitution. It describes the way in which VITA is set up and how it should be run. While these Rules are similar to those in the previous Constitution, the style has been varied to permit a more ready understanding of the Rules, and to ensure that readers should be able to quickly locate the relevant part and all the related Rules.

The *Associations Incorporation Act 1991* permits an association to use the "Model Rules" in the Regulation or to develop their own Rules. If the latter option is chosen there are a number of matters which must be included.<sup>1</sup> VITA opted to establish its own Rules, and these Rules meet the requirements in the Schedule.

To use the Rules it is suggested you start with the list of contents – this will direct you not only to the major parts, but also to the content of each part as the heading and sub-heading for the text are noted.

### **Amendments:**

This version of the Constitution includes the following amendments:

<b>Date:</b>	<b>Rule:</b>	<b>Amendment:</b>
27.09.06	Whole Constitution	Revised Constitution accepted.
28.09.07	Rule 25	Amendment to Committee nomination Rules accepted
20.10.11	Rule 8	Amendments to Charging of Fees accepted
20.10.11	Rule 28	Amendments to What is a Public Officer accepted

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<sup>1</sup> As noted in Schedule 1 of the Act.

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## **A. SOME GENERAL INFORMATION**

### **1. What is our name and what are the Rules for?**

- a. The formal name of the Association is:

**“Veterans’ Indemnity and Training Association Incorporated”.**

While it can be referred to as “the Association”, in these Rules it will be simply called “VITA”.

- b. VITA is an incorporated association in the Australian Capital Territory under the *Associations Incorporation Act 1991* (“the Act”). The effect of incorporation is that VITA has a “legal personality or identity”. In particular, this provides protection for members and office bearers if there any legal claims against VITA – see s.51 of the Act and Rule 16.
- c. Incorporation also imposes a number of obligations on VITA – these principally involve reporting on the financial management of VITA each year. However, there are a number of other obligations some of which will be noted in these Rules. The Act should be examined for full details of the obligations and other requirements relating to VITA’s operation.
- d. These Rules outline the structure of VITA and how it will operate. The attached Appendices:
- (i) are a part of the Constitution; however,
  - (ii) they are not subject to the provisions in Rule 41 – that is, an Appendix may be changed by resolution of the Committee or at a Meeting of members.

### **2. Are there any words I need to understand?**

- a. There are words in these Rules which have special meanings – for example:

<b>Special words or terms</b>	<b>Rule:</b>
<b>Annual General Meeting</b>	31
<b>Committee</b>	20
<b>Committee Meeting</b>	29
<b>Executive</b>	21
<b>Financial year</b>	37
<b>General Meeting</b>	31
<b>Member</b>	6
<b>Resolution and Special Resolution</b>	35
<b>Special General Meeting</b>	35

The meaning of these words or terms will be specifically defined or discussed, in the Rules noted above.

### **3. What happens if we disagree on how the Constitution should be interpreted?**

- a. The Act and the Regulations<sup>2</sup> can be a useful starting point. In addition:
- (i) it is important to read a Rule within the context of the relevant part of the Rule, taking into account any definitions and related sections; and
  - (ii) the *Legislation Act 2001* (ACT) applies to these Rules in the same way as it would if they were an instrument made under the Act – for example, on the meaning of commonly used terms; on gender and number, and the meaning of “may” and “must”.

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<sup>2</sup> *Associations Incorporation Regulation 1991* (ACT)

**4. Does VITA have an office?**

- a. VITA's office will normally be at the ACT Office of the Department of Veterans' Affairs (DVA), however, it can be at another place if it is considered appropriate by the Committee.

**5. What does VITA do, and what powers does it have?**

- a. The Objects (or purposes) of VITA are:

To do all things appropriate to foster the training and professional standards of ex-service organisation (ESO) practitioners including, but not limited to the obtaining and maintaining of professional indemnity insurance cover for those practitioners.

- b. VITA can do all things necessary and lawful to carry out its role and to appropriately manage its affairs.

**B. THE MEMBERS**

**6. Who are the members?**

- a. Membership of VITA is not open to individuals, but to ESOs and other groups performing similar functions.

- b. Associations and groups (the term "organisation" will be used from this point and means the same as "association or group") who may become members are:

- (i) bodies corporate (for example, companies, incorporated associations) which are:

- (a) a single entity, notwithstanding that entity may consist of branches or divisions; and  
(b) *bona fide* ESOs; and  
(c) providing assistance to veterans and their dependents in relation to claims and appeals; and  
(d) who are approved for membership by the Committee;

- (ii) groups of like-minded individuals operating in accordance with a specific Memorandum of Understanding (MoU) which is acceptable to the Committee of VITA, to create a place, or places, commonly referred to as *Veterans' Centres*, where advice is provided to:

- (a) veterans;  
(b) serving members of the Australian Defence Force;  
(c) ex-service personnel; and/or  
(d) dependants of the above

on condition that the management structure of the group must, to the satisfaction of the Committee, provide for appropriate management of claims and practitioners.

- c. Membership of VITA is restricted to the above two categories. It is not available to an association of potential or actual VITA members.

**7. Can an organisation have more than one VITA membership?**

- a. The ESOs referred to in Rule 6(b)(i) with branches or divisions, and the *Veterans' Centre* defined in Rule 6(b)(ii) (regardless of whether they have geographically remote outposts under the same MoU) shall only be entitled to a single membership.

- b. A member of VITA is entitled to be represented by one (1) person at General, or Special General Meetings. With the exception of the representative of a VITA member who is elected or appointed to the Committee (see Rule 7(c)(iii)), a representative's role may be shared by others in the member organisation.

- (i) VITA member's have the sole responsibility to appoint (and to change) their representatives.
  - (ii) The election/appointment of a representative to the Committee is of a **particular person**. A person elected/appointed to the Committee remains in the position until the completion of his/her term of office, unless the VITA member which he/she represents withdraws his/her representative status (see Rule 23).
- c.** A representative of an organisation who is appointed/elected to the Committee:
- (i) must be the member's sole representative unless that organisation withdraws his/her representative status – see Rule 23; consequently
  - (ii) the representative's role cannot be shared, as noted in Rule 7(b).
- 8. Can an organisation charge a fee and be a VITA member?**
- a.** Except as noted in (b), an organisation that comes within Rule 6(b)(i) or (ii):
- (i) which charges a fee for service; or
  - (ii) has individual members who (as a part of providing services for that organisation) charge a fee for service; and/or
  - (ii) solicits a donation tied to the successful outcome of a client's case
- is ineligible to join *or remain a member of* VITA.
- b.** An organisation may impose a small fee to cover administrative costs or disbursements (that is, costs necessary for, and relating directly to, the conduct of the matter – for example, in obtaining reports), but this fee must not exceed an amount determined by the Committee from time to time.
- c.** *The Committee may expel from VITA membership a member which takes or anticipates taking any action which may be contrary to subparagraphs 8(a)(i), (ii) or (ii). The action taken by the Committee must comply with Rules 18 and 19.*
- 9. How does an organisation become a member of VITA?**
- a.** The criteria (in addition to those in Rule 6) and procedures which are applied in assessing an application for membership of VITA are set out in the *Accreditation Protocol* (see **Appendix 3** of these Rules).
- 10. Nomination for membership**
- a.** An organisation wishing to become a member of VITA must:
- (i) complete an "Application for Membership" form as set out in **Appendix 1** to these Rules; and
  - (ii) lodge the application with the Secretary of VITA.
- 11. Assessing and acceptance of application**
- a.** The Secretary must, within three months of receiving the nomination, refer it to the Committee which must decide whether to approve, or to reject, the nomination.
- b.** Where the Committee makes a decision to approve a nomination for membership, the Secretary must, as soon as practicable after the decision:
- (i) notify the organisation of the approval; and
  - (ii) request the organisation to pay, within 28 days after receipt of the notification, the sum payable under these Rules (subject to Rule 15) by a member as the first year's annual subscription.
- c.** An organisation shall become a member of VITA on the day that payment of the subscription noted in Rule 11(b) has been credited to VITA's bank account.

- d. The Secretary must, on receiving advice from the Treasurer that the subscription has been paid, and without delay, enter the organisation's name in the register of members.

**12. Can membership or entitlements be transferred to another organisation?**

- a. Subject to these Rules (for example, the granting of a proxy by one member to a representative of another member is an instance of where this Rule will not apply – see Rule 36), any right, privilege or obligation which an organisation gains by becoming or being a member of VITA:
  - (i) cannot be transferred or transmitted to another association, group or person; and
  - (ii) terminates upon cessation of the organisation's membership of VITA.

**13. How does an organisation stop being a member of VITA?**

- a. An organisation ceases to be a member of VITA if:
  - (i) the organisation is wound up or otherwise ceases to operate;
  - (ii) resigns from membership VITA;
  - (iii) is expelled from VITA; or
  - (iv) fails to renew membership of VITA (see Rule 15(f)).

**14. How does an organisation resign from VITA?**

- a. The following procedure must be followed if an organisation wishes to resign from membership of VITA:
  - (i) Written notice must be given to the Committee – this is done by sending the notice to the Secretary.
  - (ii) On receiving the notice the Secretary must make an appropriate entry in the register of members recording the date on which the organisation ceased to be a member.
  - (iii) The Secretary must advise members of the Committee of the resignation.
- b. The date of resignation shall be the date upon which the written notice of resignation is received by the Secretary.

**15. Subscriptions**

- a. All members of VITA must pay an annual subscription.
- b. New members who join:
  - (i) between 1 January and 30 March in any year shall pay 50% of the annual subscription; and
  - (ii) on, or after, 1 April in any year shall pay the full amount of the annual subscription and shall be deemed financial from the date of joining until 30 June of the following year.
- c. The annual subscription:
  - (i) as noted in Rule 11, but subject to Rule 15(b), must be paid before an organisation becomes a member; and
  - (ii) becomes due on 1 July in each subsequent (that is, financial) year.
- d. The annual subscription referred to in Rule 15(c) for each financial year must be determined at the preceding Annual General Meeting (AGM) – that is, the subscription set at an AGM is for VITA's next financial year (for example, at the AGM for the financial year 2005/2006, held in 2006, the subscription will be set for the financial year 2007/2008 – this subscription will become due and payable on 1 July 2007).

- e. The annual subscription for the subsequent financial year, set under Rule 15(d) may be varied by resolution at a subsequent General Meeting of VITA held in the same financial year.
- f. Payment of the annual subscription:
  - (i) The Secretary must advise members, not less than thirty (30) days prior to 1 July, of the annual subscription to be paid in the next financial year which commences on that date.
  - (ii) A member must pay the annual subscription within sixty (60) days from 1 July in the new financial year.
  - (iii) A member who fails to pay the annual subscription within the sixty (60) day period will be listed as “unfinancial” and will be subject to the action in Rule 15(g).
- g. If a member does not pay the annual subscription in the period noted in Rule 15(f)(ii), the Secretary will forward a notice in writing to the member advising that if the subscription is not paid within 30 days from the date of the notice, then the member will, after the expiry of this period, be removed from the list of members without further notice.

**16. Member’s liabilities**

- a. The liability of a member to contribute towards the payment of the debts and liabilities of VITA or the costs, charges and expenses of the winding up of VITA is limited to the amount (if any) unpaid by the member in relation to membership of VITA as required by Rule 15.

**17. How must members of VITA operate?**

- a. Members of VITA are required to operate within the framework set out in the *Operational Protocol* which is **Appendix 4** to these Rules.

**18. What happens if there are problems with a member?**

- a. Where the Committee is of the opinion that a member:
  - (i) has persistently refused or neglected to comply with a provision of these Rules; or
  - (ii) has persistently and wilfully acted in a manner prejudicial to the interests of VITA
 the Committee may, by resolution:
  - (iii) expel the member from VITA; or
  - (iv) suspend the member from such rights and privileges of membership of VITA as the Committee may determine for a specified period.
- b. Where the Committee passes a resolution under Rule 18(a), above, the Secretary must, as soon as practicable, cause a notice in writing to be served on the member:
  - (i) setting out the resolution of the Committee and the grounds on which it is based;
  - (ii) stating that the member may address the Committee at a Meeting to be held not earlier than 14 days and not later than 28 days after service of the notice;
  - (iii) stating the date, place and time of that Meeting; and
  - (iv) informing the member that the member may do either or both of the following:
    - (a) attend and speak at that Meeting; and/or
    - (b) submit to the Committee at or prior to the date of that Meeting written representations relating to the resolution.
- c. A resolution of the Committee, under Rule 18(a), is of no effect unless the Committee, at a Meeting held not earlier than 14 days and not later than 28 days after service on the member of a notice (under Rule 18(b)), confirms the resolution in accordance with this Rule.

- d. Subject to s.50 of the Act, at a Meeting of the Committee mentioned in Rule 18(b), the Committee must:
  - (i) give to the member mentioned in Rule 18(a), an opportunity to make oral representations;
  - (ii) give due consideration to any written representations submitted to the Committee by that member at or prior to the Meeting; and
  - (iii) by resolution determine whether to confirm or to revoke the resolution of the Committee made under Rule 18(a).
- e. Where the Committee confirms a resolution under Rule 18(c), the Secretary must, by notice in writing and within 7 days after that confirmation, inform the member of that confirmation and of the member's right of appeal under Rule 19.
- f. A resolution confirmed by the Committee under Rule 18(c) does not take effect:
  - (i) until the expiration of the period within which the member is entitled to appeal against the resolution where the member does not exercise the right of appeal within that period; or
  - (ii) where within that period the member exercises the right of appeal, unless and until VITA confirms the resolution in accordance with Rule 19(c).

**19. Can a member appeal against a disciplinary decision?**

- a. A member may appeal to VITA in General Meeting against a resolution of the Committee which is covered under Rule 18, within 7 days after notice of the resolution is served on the member, by lodging with the Secretary a notice to that effect.
- b. Upon receipt of a notice under Rule 19(a), the Secretary must notify the Committee which must convene a general Meeting of VITA to be held within 21 days after the date on which the Secretary received the notice or as soon as possible after that date.
- c. At a General Meeting of VITA convened under Rule 19(b):
  - (i) no business other than the question of the appeal shall be undertaken;
  - (ii) the member must be given the opportunity to make representations in relation to the appeal orally, in writing, or both;
  - (iii) the Committee may also make representations; and
  - (iv) the members present must vote by secret ballot on the question of whether the resolution made under Rule 18 should be confirmed or revoked.
- d. If the Meeting passes a special resolution in favour of the confirmation of the resolution made under Rule 18 that resolution is confirmed.

**C. THE COMMITTEE**

**20. What does the Committee do, and what powers does it have?**

- a. The role of the Committee is to control and manage the affairs of VITA, and it can do all the functions required by these Rules and must meet those obligations under the Act and Regulation, except those things which the members must do in Annual, or Special General Meetings (for example, electing Committee members, passing or accepting the annual statement of accounts, the changing of these Rules, etc).
- b. In carrying out its roles the Committee has power to do everything which appear to it to be necessary, reasonable and appropriate for the good management of VITA, except those things which must be undertaken by members in a General or Special General Meeting.



**21. Who makes up the Committee?**

- a.** The Committee consists of the Executive and two other (known as “ordinary”) Committee members. The Executive consists of the following members:
  - (i) President
  - (ii) Secretary
  - (iii) Treasurer
- b.** All members of the Committee:
  - (i) are elected at the AGM – see Rule 25;
  - (ii) they hold the position until the end of the next AGM; and
  - (iii) can stand at that AGM for re-election to the same or another position.

In some situations it is also possible to be appointed to the Committee – see Rule 24.

**22. Information on the Committee absences, resignations, vacancies**

- a.** The members may agree by resolution, at a General Meeting, that a person should no longer be a Committee member. A decision to remove a Committee member must be made subject to s.50 of the Act (see footnote 4).
- b.** Vacancies on the Committee can also occur if a member:
  - (i) dies;
  - (ii) ceases to be a member of the VITA member which they represent;
  - (iii) resigns or becomes incapable of performing his/her duties for any reason; or
  - (iv) comes within the provisions of Rule 22(c) or in Rule 23.
- c.** Where a Committee member is absent without reasonable excuse from three properly convened consecutive Committee Meetings, the Committee may by resolution agree that the person is no longer a member of the Committee and the position the person held is vacant. The resolution must be noted in the minutes of the Committee Meeting at which the resolution was accepted.
- d.** A Committee member who wishes to resign from the Committee, must give written advice to the Secretary or President. The advice should note the date on which the person wishes to cease being a Committee member.

**23 What happens if a VITA member withdraws representative status from a Committee member?**

- a.** A Committee member must be the representative of a VITA member at the time of his/her election/appointment and at all times during the period he/she remains in office.
- b.** The withdrawal of a Committee member’s representative status by the VITA member he/she represents will be deemed to constitute the resignation of the person from the Committee.
- c.** The vacancy on the Committee caused by the action noted in Rule 23(b) must only be filled in accordance with Rule 24. The effect of this Rule is:
  - (i) where VITA withdraws representative status from a Committee member, the new representative will not automatically take over the position on the Committee; and
  - (ii) the appointment of a replacement Committee member is a responsibility of the Committee.

**24. How are vacancies on the Committee filled?**

- a. Where there is a vacancy in the Committee, the Committee may appoint a member to fill the vacancy until the conclusion of the next AGM – this appointment will be noted in the minutes of the Committee Meeting at which the appointment is made.
- b. If an Executive member is temporarily absent, the Committee may appoint one of its members to act in the position during the absence, and the appointment must be noted in the minutes of the Committee Meeting at which the appointment is made.
- c. As an alternative to Rule 24(b), where a member of the Committee is unable to fulfil his/her duties, the Committee may request a VITA member to appoint a person to act in the absence(s) of the Committee member.
- d. An appointment made under Rule 24(b) and (c) must not continue past the conclusion of the next AGM, and a person appointed may exercise all the powers and functions of the position to which the appointment has been made.

**25. Who can be on the Committee and how do they get there?**

- a. To be on the Committee you must be a representative of a VITA member, and you must either be elected at the AGM or appointed.
- b. The election process is:
  - (i) When notice is given of the AGM, nominations are also sought for positions on the Executive and the Committee.
  - (ii) Nominations for positions on the Executive and the Committee must be delivered to the Secretary not less than seven (7) days before the date which has been set for the AGM and at which the election will take place (to be known as a **formal nomination**).
  - (iii) In the event that:
    - (a) there are insufficient formal nominations to fill all the positions on the Executive and/or the Committee, nominations may be given to the Secretary immediately prior to the start of the AGM, but only for those positions for which there have not been formal nominations (to be known as an **informal nomination**); and
    - (b) at the start of the AGM, there remain vacant positions on the Committee and/or Executive, the Chair may call for **oral nominations**, but only for those positions for which there has been no formal or informal nominations.
  - (iv) Formal or informal nominations:
    - (a) must be in writing;
    - (b) must note the position for which the nomination is made, and
    - (c) must be signed by two *members' authorised representatives* and the *member's representative* being nominated.

Nominations may be given electronically, provided the Secretary is satisfied that the two *members' authorised representatives* making the nomination and the *member's representative* nominated have each given consent.
  - (v) The Chair must be satisfied, where oral nominations are given at the AGM, that the two *members' representatives* making the nomination and the *member's representative* nominated have each given consent.

- (vi) If there is:
  - (a) only one nomination for a position on the Executive; and/or
  - (b) there is one or two nominations for an ordinary Committee member position
 then that person or those persons shall be declared elected.
- (vii) If the number of nominations received exceeds the number of vacancies to be filled a ballot must be held. The ballot shall be conducted in the way that the Committee, or in the event of disagreement, as the Chair considers appropriate.
- (viii) If insufficient nominations are received to fill the Executive and/or Committee positions, any unfilled positions will be considered as “vacant” and may be filled by appointment after the AGM (see Rule 26).
- (ix) A person cannot simultaneously hold more than one (1) position on the Committee.”

**26. How are appointments made for vacant positions?**

- a. Where there is a vacancy in the Executive or in the ordinary Committee members, the Committee may, if it is considered appropriate, appoint another representative of a VITA member to the Committee.
- b. The appointment must be made by resolution and must be noted in the minutes of the Committee Meeting at which the appointment is made.

**27. What do the Executive members do?**

- a. **The President** has overall responsibility for the operation of VITA and, in particular, is responsible:
  - (i) for chairing all General, Special General or Committee Meetings of VITA; and
  - (ii) certifying the correctness of minutes of the previous Meeting only after approval of a majority of members/Committee members present.

If the President is absent from a Meeting then another person as determined by the Committee will carry out the President’s duties at the Meeting.

- b. **The Secretary** is responsible for undertaking the administration and his/her tasks include:
  - (i) keeping full and accurate minutes of the proceeding of Meetings, including he election or appointment of Executive members and ordinary Committee members;
  - (ii) keeping the record of members;
  - (iii) attending to the correspondence relating to VITA; and
  - (iv) carrying out directions of the Committee.
- c. **The Treasurer** is responsible for financial management and is required to:
  - (i) faithfully keep all general records, accounting books, and records of receipts and expenditure connected with the operations and business of VITA in such form or manner consistent with good accounting practice and the directions of the Committee;
  - (ii) receive all moneys due to VITA, be responsible for the safekeeping of all monies, and make all payments authorised by resolution of the Committee; and
  - (iii) present his/her report and the financial statements of VITA to each General Meeting and shall prepare an Annual Statement of Accounts for VITA which, after audit, must be presented for acceptance at the AGM.

**28. What is a Public Officer?**

- a.** *The representatives of VITA members at an AGM should appoint a person to be the Public Officer. In the event that a person is not appointed the Committee must, as soon as possible after an AGM, appoint a person to the position*
- b.** *The person appointed does not need to be a member of, or otherwise affiliated with, a member of VITA, but must be a resident of the ACT and at least eighteen years of age.*
- c.** The Public Officer may, subject to the residential and age requirements in Rule 28(a), above, be the person discharging the duties of the Secretary, however, the position may be held by another member of the Committee or other person.
- d.** The duties and obligations of the Public Officer shall be as noted in the Act.
- e.** The office of the Public Officer must become vacant at each AGM, and as prescribed in sections 63 and 64 of the Act.

**29. Information on Committee Meetings**

- a. When are Meetings held?:** The Committee shall meet at such place and time as it decides – usually the Secretary decides this in consultation with the President or by setting regular Meetings after consultation with the Committee.

The Committee must meet at least once in each calendar year, but additional Meetings may be convened by any member of the Committee.

- b. What notice has to be given?:** Oral or written notice of a Committee Meeting must be given by the Secretary to each Committee member at least 48 hours (or such other period as may be agreed by the Committee members) before the time appointed for the holding of the Meeting. However, this period may be reduced if there is a need to consider urgent business.
- c. What needs to be included in the Meeting notice?:** A Meeting notice must indicate the general nature of the business to be considered at the Meeting. Normally business is restricted to what it is in the notice, however, if a majority of the Committee members present agree, further business can be included and considered.
- d. What is the usual business?:** The usual business at a Committee Meeting is (that is, what is the agenda?):
  - (i) Notification of apologies
  - (ii) Receipt of minutes of the previous Meeting
  - (iii) Business arising from the minutes
  - (iv) Correspondence: incoming/outgoing
  - (v) Reports, including financial reports
  - (vi) Items of business (general topics should be noted)
- e. How does business get on the agenda?:** A member who wishes to bring any matter before a Committee Meeting:
  - (i) may give a written notice of the matter to the Secretary who must include that business in the next notice calling a Committee Meeting; or
  - (ii) where notice has not been given, may request that the business be included where a majority of Committee members present agree to the request.
- f. What is the quorum?:** A quorum is the number of Committee members required to be present to lawfully make decisions. The requirement for Committee Meetings is:

- (i) more than half the total number of the Committee positions filled prior to the Meeting shall constitute a quorum for a Meeting of the Committee (that is, there must be this proportion of Committee members present to make decisions); and
  - (ii) no business shall be undertaken by the Committee unless a quorum is present and, if within half an hour after the time appointed for the Meeting, a quorum is not present the Meeting must not proceed.
- g. How are decisions made?:** Decisions of the Committee should be by consensus, or if that cannot be achieved, by a majority of those present. It is also noted that:
- (i) Each member of a Committee is entitled to one vote. There shall be **no proxy votes** (that is, an absent Committee member cannot authorise anyone else to vote on his/her behalf).
  - (ii) While other members are able to be present at Committee Meetings and may take part in discussions with the Chair's permission, only Committee members are entitled to vote.

### **30. Can the Committee set up sub-committees?**

- a.** The Committee may set up subcommittees. It does this by:
- (i) agreeing by resolution to set up the sub-committee;
  - (ii) the Secretary giving to the member, or members of the sub-committee, a notice in writing (sometimes called an "instrument"), which notes:
    - (a) the intention of the Committee to set up the sub-committee,
    - (b) the purpose of the sub-committee, the functions it is able to perform, and the powers it has to perform its role(s); and
    - (c) the conditions or limitations on the functions of the sub-committee, or times or circumstances, when functions are not to be undertaken.
- b.** The Committee cannot give the sub-committee:
- (i) the power of delegation; and/or
  - (ii) a function which is a function imposed on the Committee by the Act, by any other law of the Territory, or by resolution of VITA in a General Meeting.
- c.** A function, given to a sub-committee under Rule 30(a) may, while the Committee's delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.
- d.** Some other Rules relating to sub-committees:
- (i) Even though the sub-committee may be given certain roles, functions and powers, the Committee may continue to undertake those functions and exercise the powers.
  - (ii) Anything done or suffered by a sub-committee acting within the terms of the instrument of appointment has the same force and effect as it would have if it had been done or suffered by the Committee.
  - (iii) The Committee may, by instrument, revoke the whole, or part, of the instrument which appointed the sub-committee.
  - (iv) A sub-committee may meet and adjourn as it thinks proper.

## **D. GENERAL MEETINGS**

### **31. Information on Annual General Meetings (AGM)**

- a. When should it be held?:** A Meeting must be held at least once in each calendar year and within the period of three (3) months after the end of VITA's financial year.
- b. How are they called and what happens?:** A notice is sent by pre-paid post by the Secretary to VITA members at least fourteen (14) days before the Meeting. The notice will be sent to the address of the VITA member noted in the register of members.

- (i) If there are to be special resolutions sought at the Meeting, 21 days notice must be given and the Meeting is usually called a “**Special General Meeting**”.
- (ii) The Secretary must call a Special General Meeting as soon as practicable if requested to do by no less than 25% of financial members.
- (iii) The usual business at an AGM is:
  - (a) to confirm the minutes of the last AGM and of any General Meetings held since that Meeting;
  - (b) to receive from the Committee reports on the activities of VITA during the last preceding financial year;
  - (c) receive and consider the statement of accounts and the auditor’s reports;
  - (d) to elect the Executive and other Committee members; and
  - (e) to consider any business of which appropriate notice has been given.

### **32. Information on General Meetings?**

- a.** The Committee may, whenever it thinks fit, call a General Meeting and the following notice of the Meeting must be given by the Secretary:
  - (i) at least **fourteen (14)** days: where the matters before the Meeting **do not** require a special resolution.
  - (ii) at least **twenty one (21)** days: where matters before the Meeting **do** require a special resolution.
- b.** The notice of a Meeting must indicate the general nature of the matters to be considered at the Meeting, and the usual Rule is that no other matters will be considered. However, if a majority of member present at the Meeting agree that a matter or matters should be considered then it can be treated as urgent business.
- c.** If a VITA member wishes to bring a matter before a General Meeting:
  - (i) the representative of that member must advise the Secretary in writing – the matter will be included by the Secretary as a matter to be considered in the next notice calling a General Meeting; however,
  - (ii) where a written advice has not been given to the Secretary, the member may request during a General Meeting that the matter be included – this will require the agreement of the person chairing the Meeting or, if the Chair wishes, the agreement of a majority of members.
- d.** It is necessary to have a quorum of representatives of **five (5)** VITA members before the Meeting can be started:
  - (i) If there is no quorum within half an hour of the starting time, the Meeting will not proceed.
  - (ii) The Meeting will be adjourned until such time and place that the Committee determines.
  - (iii) Written notice must be given to members of the reconvening of the Meeting.
  - (iv) No less than fourteen (14) days notice must be given of the reconvened Meeting.
  - (v) If, at the reconvened Meeting a quorum is not present within 30 minutes of the time given for the commencement of the Meeting, then the representatives present, (provided there are not less than three) shall constitute a quorum.

### **33. Who runs the Meeting?**

- a.** Normally the President is responsible for the chairing (or running) the Meeting. If he/she is not present the Committee will determine who should chair the Meeting. If the replacement Chair is not acceptable to those present at the Meeting (and entitled to vote), then those persons must elect another person to preside at the Meeting.

### **34. What are adjournments?**

- a.** An adjournment is a break in the course of a Meeting (where there is a quorum) – it may be for a brief period or for a number of days.
- b.** There are some interesting Rules on adjournments:
  - (i) The Chair of the Meeting may, with the consent of the majority of those present at the Meeting and entitled to vote, adjourn the Meeting from time to time and place to place.
  - (ii) However, where a Meeting is adjourned, no business must be considered and finalised at an adjourned Meeting (that is, when the Meeting resumes) other than the business left unfinished at the Meeting that was adjourned.
  - (iii) Where a General Meeting (and this includes an AGM) is adjourned for fourteen (14) days or more, the Secretary must give written or oral notice of the adjourned Meeting to each member of the association stating the place, date and time of the Meeting and the nature of the business to be transacted at the Meeting.
  - (iv) **Except as noted in Rule 34(b)(iii)**, notice of an adjournment of a general Meeting or of the business to be transacted at an adjourned Meeting is not required to be given.

### **35. What are Resolutions and Special Resolutions?**

- a.** A “**resolution**” is another name for a decision. It starts off by being a “motion” – this is “moved” by a member and must be “seconded” by another member before it can be discussed. Once the Chair is satisfied that there has been sufficient discussion the motion is “put” to the Meeting and, if it is accepted, it becomes a resolution.
- b.** A “**special resolution**” is used for important matters – the Act requires they are to be used for alteration of the “objects”, changing the Association’s name, accepting or changing its Rules, amalgamating with another Association, or transferring incorporation, or winding up the Association . There are two important requirements for special resolutions,
  - (i) members must be given **no less than twenty one (21) days notice** of the Meeting at the which the proposed resolution will be moved; and
  - (ii) the resolution must be passed by 75% of the persons at the Meeting who are entitled to vote at the Meeting.

Meetings at which there are special resolutions are often called “Special General Meetings”.

- c.** Both types of resolutions must be carefully recorded in the minutes.

### **36. How are decisions made and how do members vote?**

#### **a. How are decisions made?:**

- (i) The usual practice is that where a decision is required the person presiding will ask for a “show of hands” as to whether those entitled to vote agree or disagree with the decision.
- (ii) The motion will be accepted (or the decision made) where there is a majority of hands for the decision; if there is not a majority the motion is lost and, therefore, not accepted.
- (iii) The Secretary is required to note the outcome of the vote (unless it is a minor procedural matter).

#### **b. Do votes need to be by a show of hands?:**

- (i) No – a poll can be sought. The Meeting (or the representatives of no less than three members present and entitled to vote) can seek a “poll” (this is normally consists of writing your vote on a piece of paper), before, or at the declaration of a “show of hands.

- (ii) Alternatively, the person chairing the Meeting can require a poll. A poll must be undertaken immediately if it relates to the election of a person to run the Meeting, otherwise the poll will be taken when the person presiding determines, but prior to the close of the Meeting.
- (iii) The results of a poll is to be considered the resolution (or the final word) on the matter in dispute.

**c. How often can a person vote?:**

- (i) Where a decision is to be made at a General or Special General Meeting each member present has only one vote.
- (ii) However, a representative entitled to vote, but who will be absent from the Meeting, can have the representative of another member vote for them (this is called a “**proxy vote**”).
- (iii) A representative can hold no more than five (5) proxy votes (that is, they cannot vote, in addition to voting for his/her own organisation, on behalf of more than five (5) VITA members).
- (iv) It is important to note that person cannot vote on behalf of his/her organisation, or any VITA members for whom he/she holds proxies, unless the organisation he/she represents or those organisations for whom the person holds proxies do not owe any subscriptions to VITA.

**d. How are proxies appointed?:**

- (i) Notice by a VITA member wishing to appoint the representative of another VITA member as its proxy must be given to the Secretary **no later than 24 hours before the time of the Meeting** in respect of which the proxy is appointed.
- (ii) The notice appointing the proxy must be in the form set out in **Appendix 2** to these Rules.

**e. What happens if there is an equal (or split) vote on a motion?:**

- (i) The Chair can choose to have an extra vote – known as a “casting vote” – where there is an equal number of votes for and against the decision.
- (ii) In this way the decision can be reached.

**E OTHER IMPORTANT RULES**

**37. Information on money management, the financial year and auditing**

**a. How VITA’s money must be handled:**

- (i) The funds of VITA shall come from subscriptions and, subject to s.114 of the Act, other sources as the Committee decides.
- (ii) All money received must be deposited as soon as practicable and without deduction to the credit of VITA’s account at a bank or other financial institution.
- (iii) VITA must, as soon as practicable after receiving any money, issue an appropriate receipt.
- (iv) Two members of the Committee (or employees, if so authorised) must give approval for the expenditure of money – this includes signing cheques, bills of exchange, promissory notes and other negotiable instruments.
- (v) The funds of VITA must only be used to do the things in Rule 5 and as decided by the Committee.
- (vi) All cheques, and any other documents relating to the management of VITA’s funds must be signed by any two members of the Committee authorised to do so by the Committee.

**b. The financial year of VITA:**

- (i) The financial year starts on the 1st day of July; and
- (ii) it ends on the following 30th day of June.



**c. Auditing of VITA's accounts:**

- (i) As a part of the Committee's accountability to members the "books" (VITA's financial records) must be audited.
- (ii) Therefore each year:
  - (a) A suitably qualified Auditor must be appointed by the Committee – the Auditor must not be a member of the Committee.
  - (b) The Auditor must audit the books and accounts of VITA following the conclusion of the VITA's financial year and immediately prior to the next Annual General Meeting, and on the change of office of Treasurer, and as such times as the Executive deems necessary.
  - (c) The Auditor's report must be presented to the Annual General Meeting.

**38. Am I able to look at VITA's records?**

- a. It is part of the Secretary's role to keep in his/her custody or under his or her control all records, books, and other documents relating to VITA.
- b. A member is able to inspect the records of VITA at the ACT Office of DVA during the office hours provided sufficient and reasonable notice has been given to the Secretary.

**39. What is a "common seal"?**

- a. The common seal is a stamp marked "seal" and also with the full title of VITA. It is used to mark formal documents and is kept in the custody of the Secretary.
- b. It is only affixed (placed on) an instrument (formal document) with the approval of the Committee and once it is stamped on the document it must be attested (or shown that it is being used appropriately) by the having the signatures of two Committee members or the Secretary and one other member of the Committee.

**40. How must notices be given?**

- a. Where a notice must be given under these Rules it may be served by, or on behalf of, VITA on a particular person, (if known), or by sending it by pre-paid post to the address of the VITA member as shown in the register of members.
- b. Where a notice is sent to the correct address of a VITA member by pre-paid post it will be "deemed" (or considered) to have been served on the VITA member at the time when the member would have received it within the normal course of post.

**41. Can amendments be made to the Objects of VITA and/or the Constitution and Rules?**

- a. Any changes to the Objects or the Constitution or Rules must be made in accordance with s.70 of the Act.
- b. Therefore a proposal for change must be through the use of a special resolution – this requires a minimum period of 21 days notice to be given of the Meeting at which the resolution will be moved and for the motion to pass it must be accepted by at least 75 % of those persons present at the Meeting who are entitled to vote.

**42. How can VITA be "wound up" (or dissolved)?**

- a. VITA can only be dissolved by a special resolution. The Meeting at which the special resolution is proposed must be called by the Secretary if:
  - (i) requested by the Committee; or
  - (ii) by a two thirds majority of the Committee; or
  - (iii) if requested to do so by a minimum of 25% of financial members.

- b. If a decision is made to dissolve VITA is carried, the Committee is required to settle the its affairs.
- 43. What happens to any VITA property if it is wound up?**
- a. There are strict Rules in the Act in relation to property if an association is wound up – importantly it cannot go to the members. An association is able to nominate another body to receive any surplus property.
  - b. In the event that VITA is dissolved or wound up any surplus property shall vest in (or go to) the Repatriation Commission.

**President**

**Secretary**

**Dated this 27<sup>th</sup> day of September 2006**

**APPLICATION FOR MEMBERSHIP  
OF**

**Veterans' Indemnity and Training Association Incorporated (VITA)**  
(incorporated under the Associations Incorporation Act 1991 )

I, .....

(name of applicant)

of .....

(full name of ex-service organisation)

of .....

(home address)

hereby apply to become a member of the above named incorporated association. In the event of admission of myself (in the case of an applicant of an unincorporated ex-service organisation) or my organisation (in the case of an incorporated ex-service organisation) as member, I/we agree to be bound by the rules of the association for the time being in force.

..... (Signature of applicant) Date .....

..... (Signature of officer of the organisation)

..... (Position held) Date .....

..... (Signature of an officer of the organisation)

..... (Position held) Date .....

**FORM OF APPOINTMENT OF PROXY**

I/We .....

(full name of organisation)

of .....

(address)

being a member of Veterans' Indemnity and Training Association (VITA) Incorporated, hereby appoint

.....

(full name of proxy)

of .....

(address)

being a member of that incorporated association, as my proxy to vote for me on my behalf at the general meeting of the association (annual general meeting or other general meeting, as the case may be) to be held on the .....day of .....200 .....and at any adjournment of that meeting.

.....

(Signature of member and, where member is an incorporated organisation, corporate seal of the member.)

Date .....

**Note:** A proxy vote may not be given to a person who is not a member of the Association.

## ACCREDITATION PROTOCOL

### Purpose of this Protocol

1. To establish procedures and criteria under which the Association will accept ex-service organisations (ESOs) and ESO practitioners for cover within its Professional Indemnity Insurance Scheme.

### Application of Protocol to Inaugural Members of the Association

2. The Inaugural Members of the Association and persons authorised to act as ESO practitioners by an Inaugural Member of the Association shall be deemed to comply with the Accreditation Protocol.

### Application of Protocol to New Members

3. All ESOs which join the Association after the date of this Protocol shall be deemed eligible to be covered by the Association's Professional Indemnity Insurance Scheme subject only that they agree in writing that:

- a. the organisation recognises that persons authorised by them to act as ESO practitioners should maintain satisfactory levels of competence;
- b. the organisation recognises that persons authorised by them to act as ESO practitioners should undertake appropriate training including appropriate refresher training; and
- c. the organisation agrees to provide TIP/ATDP with the names and contact addresses of all ESO practitioners authorised by it in order that TIP/ATDP may invite such practitioners to participate in TIP/ADTP Training Programs.

### Application of Protocol to ESO Practitioners Authorised by New Members

4. All persons authorised to act as ESO Practitioners by a new member of the Association which has complied with Clause 3 of this Protocol shall be deemed eligible to be covered by the Association's Professional Indemnity Insurance Scheme.

### Definitions

5. For the purposes of this Protocol:

- a. Any **ex-service organisation (ESO)** is any organisation which has as one of its principal objects the welfare of serving members of the Australian Defence Force, former members and/or their dependants. The decision as to whether any organisation meets this definition is to be at the discretion of the Committee of Management of VITA. In considering the bona fides of any organisation, the  
  
Committee will have regard in particular to the extent that the organisation makes any charges of a commercial nature in providing its welfare services and will generally not admit an organisation which makes a profit from providing advice or welfare services.
- b. An **ESO practitioner** is a person who provides the type of advice and assistance traditionally provided to veterans and their dependents including but not limited to: assistance in completing applications for disability pensions, service pensions and other entitlements or benefits under the Veterans' Entitlements Act 1986 or other Repatriation legislation; assistance in preparing applications for review from adverse decisions in relation to such applications; appearing as a representative or advocate for an applicant before the Veterans Review Board or

Administrative Appeals Tribunal; provision of advice pertaining to the likely success or otherwise of initial applications and applications for review. *A practitioner's assistance is not extended to estimating the level of outcome of an initial application where the outcome can be a percentage of the maximum benefit available from the Department of Veterans' Affairs.*

- c. **A person authorised to act as an ESO practitioner** is a person authorised by an ESO in *writing* to act as an ESO practitioner, so long as that authority to so act has not been revoked by the said ESO.
- d. *Practitioners must provide their services under the name of the VITA member which authorises the practitioner to provide welfare/pensions/advocacy services to clients.*

## OPERATIONAL PROTOCOL

### Purpose of an Operational Protocol

1. This protocol is a working document for member organisations. It sets out the history of VITA and specific criteria relating to the conduct of its business as a peak body. Most importantly, it sets out the operational framework within which member organisations and their practitioners are required to operate in order to come under the umbrella of VITA's indemnity insurance policy. It would be prudent for member organisations to provide a copy of this protocol to all practitioners they authorise to act on their behalf.

### History of VITA

2. The Veterans' Indemnity and Training Association Inc (VITA) was established in 1995 as a result of concern expressed by many ex-service organisations (ESOs) that their members, who give advice in good faith on matters relating to DVA pensions and entitlements, may be exposed to litigation if that advice is incorrect. VITA was inaugurated in November 1995 by ten ESOs and the Department of Veterans' Affairs. One of the original ESOs did not progress to financial membership. The current membership of VITA is 43, some of them being small regional ESOs.

3. The Association is incorporated in the ACT and is controlled and managed by a committee comprising the President, Secretary, Treasurer and two committee members.

### Nature of Business

4. VITA came into being primarily to provide professional indemnity insurance for its members' practitioners. However, the initial membership agreed to promote TIP training as an adjunct to providing this insurance cover, the reason being to ensure that the insurance cover would be provided only to those who were adequately trained to represent their clients on behalf of the ex-service community. In addition, in March 2002, an accident insurance policy was negotiated to cover those people who conducted the training under the auspices of TIP, provided their parent ESO was a member of VITA. The two insurance policies are current. The indemnity policy is renewed at the end of November each year and the accident policy is renewed in March each year, each policy being re-negotiated for the following twelve months.
5. the organisation agrees to provide TIP/ATDP with the names and contact addresses of all ESO practitioners authorised by it in order that TIP/ATDP may invite such practitioners to participate in TIP/ATDP Training Programs.

### Ex-Service Organisations

6. VITA considers an ESO to be any organisation which has as one of its principal objects the welfare of serving members of the Australian Defence Force, former members and/or their dependants. The Committee of VITA decides if an organisation meets this definition. In considering the bona fides of any organisation, the Committee will have regard in particular to the extent that the organisation makes any charges of a commercial nature in providing its welfare services and will generally not admit an organisation which makes a profit from providing advice or welfare services.

### Practitioners

7. VITA considers ESO practitioners to be persons who are authorised, in writing, to act on behalf of a member ESO and who provide advice and assistance traditionally provided to veterans, serving members and former members of the Australian and Allied Defence Forces, and Police members who were or are employed on UN peacekeeping duties and who are entitled to benefits under the Veterans' Entitlements Act, and/or their widow(er)s and their dependants including, but not limited to:

- a. assistance in completing applications for disability pensions, service pensions and or other entitlements or benefits under the Veterans' Entitlements Act 1986, other Repatriation legislation, the Safety, Rehabilitation and Compensation Act, as amended, and the Military

Compensation and Rehabilitation Act, and any other Act of the Parliament of Australia which affects benefits applicable to the client base mentioned above;

- b. assistance in preparing applications for review from adverse decisions in relation to such applications;
- c. appearing as a representative or advocate for an application before the Veterans' Review Board or the Administrative Appeals Tribunal; provision of advice pertaining to the likely success or otherwise of initial applications and applications for review;
- d. providing advice concerning welfare issues, including liaison with ex-Service organisations, Federal, State or local government or other agencies to obtain medical, housing, or other benefits and services where the individual qualifies for such assistance;
- e. *practitioners must provide their services under the name of the VITA member which authorises the practitioner to provide welfare/pensions/advocacy services to clients; and*
- f. *a practitioner's assistance is not extended to estimating the level of outcome of an initial application where the outcome can be a percentage of the maximum benefit available from the Department of Veterans' Affairs.*

### **Membership Criteria**

8. VITA accepts applications for membership under the following guidelines:
- a. Each member organisation is subject to an annual membership fee of \$200.
  - b. Members must be a bona fide ESO providing a free advice and/or advocacy service to members of the client base.
  - c. The organisation and its practitioners must follow the rules and constitution of VITA.
  - d. Practitioners must:
    - (i) have completed the appropriate level of training, namely the DVA Training and Information Program (TIP) and be prepared to undergo appropriate refresher training to maintain their authorization;
    - (ii) be authorised in writing from the parent organisation to act on behalf of that organisation in the provision of services to veterans and others;
  - e. VITA requires compliance to the TIP/ATDP Code of Ethics by all of its members.
  - f. A strict criteria is that the advice and assistance of ex-service practitioners covered under VITA's indemnity insurance policy is free of charge. VITA's Rules do, however, permit a member ESO charging a small fee to cover administrative disbursements which is determined from time to time and is currently limited to \$50.00.

### **Training of Practitioners**

9. VITA is dedicated to the promotion of TIP/ATDP training and all authorised practitioners of member organisations are required to be TIP/ATDP trained to the level at which they are authorised to operate on behalf of their parent ESO.

10. When VITA was inaugurated in late 1995 the Association and, by inference, the then broker and the then insurer, accepted grandfathering of those who were already operating on behalf of member organisations and either could not, would not or were unable to undertake training to bring them up to date. However, after six years of operating, the days of grandfathering are gone and the indemnity insurance does not cover any practitioner who is not TIP/ATDP trained to the level at which he or she is operating.

11. All VITA member organisations are required to ensure that their practitioners are adequately trained for the level and type of work they undertake on the ESO's behalf.



## **Authorising**

12. TIP trained personnel are neither certified nor licensed but need to be authorised to act in order to be covered by the policy. All VITA member organisations must authorise their practitioners in writing to act on the ESO's behalf in dealing with clients. Authorisation can then be withdrawn if the ESO is of the belief that the practitioner is:

- a. not acting in the best interests of the client;
- b. not acting in accordance with the accepted *Code of Ethics*; or
- c. either unable or unwilling to undertake DVA training or refresher courses.

## **Registration of Practitioners**

13. VITA is not able to maintain a list of practitioners because of their number and the constant changes that take place. Member organisations are required to notify their Regional TIP/ATDP equivalent Committee of the names and addresses of their practitioners and keep this notification current regardless of the number or frequency of changes. This is an important aspect of the indemnity insurance as the policy itself does not list the individuals covered and such registration is the only way the insurer will accept a claim against any particular practitioner. Member organisations are also expected to keep file records of their practitioners' names and addresses as they come and go. This latter aspect will be important in the case of a claim against a particular practitioner after he or she has left the scene. The arbiter in determining if practitioner was or is covered either in the past or at present will be the insurer, and this filed information may be an important link in determining acceptance or rejection of a claim.

## **Indemnity Insurance Cover**

14. The indemnity policy provided by VITA for its member organisations' practitioners covers them against incorrect advice given in the course of discussion with and acting on behalf of their clients.

15. Authorised pension officers, welfare officers and advocates of VITA member organisations who are acting as the representative of the member organisation are covered by the policy. It does not matter where this advice is given - at the office of the organisation, at the representative's home, at the client's home or any other venue. The key issue is that the representative is clearly acting on behalf of the member organisation, and all paperwork should reflect this.

16. Practitioners may be authorised to act on behalf of more than one member organisation but their paperwork must clearly indicate the organisation for which the practitioner is acting on behalf of a particular client.

17. The total structure of a member organisation is covered by the indemnity policy as the Rules of VITA permit only one membership per organisation in order to restrict voting to one vote per organisation.

18. Representatives of non-member organisations are not covered by the indemnity policy. Nor are individuals who are not authorised to act on behalf of a VITA member organisation - even though they may be qualified and a member of the organisation.

19. Pensions officers, welfare officers and advocates may belong to more than one ESO and many are in this position. It follows that a practitioner may be an authorised representative of a member organisation one day, and a representative of a non-member organisation that afternoon or the next day. In the first instance an aggrieved client may claim against the VITA policy, and in the second they may not.

20. Many practitioners work from their own or their client's home and this is acceptable. However, in order to ensure that no confusion develops, all practitioners should establish an auditable trail of their activities so that there will be no doubt about which ESO they are representing each time they deal with a client. If a claim arises, the primary evidence will be the documentation that the practitioner has prepared.

**21. Practitioners who are paid by their authorizing ESO to act on behalf of that ESO as described in paragraph 6 above, are covered by the indemnity insurance policy provided that, apart from the fee permitted at sub paragraph 7 f above, the practitioners' services to the applicant remain free of charge.**

22. Clients are not required to belong to an ESO and a client can belong to an ESO other than the ESO for whom the practitioner is authorised to act.

23. There is no insurance cover if an authorised practitioner is operating for an ESO which is not a member of VITA. ESOs who are not members of VITA may have their own insurance cover, and it is incumbent on the practitioner to determine the cover that they have.

### ***Code of Ethics***

24. TIP and ATDP have each developed a *Code of Ethics* which are endorsed by VITA. All members' practitioners are required to abide by the relevant code.

### **Auditable Trail of Case Work**

25. VITA does not wish to dictate to its members how they conduct their business but it needs to establish the basis of a possible claim arising from any particular case. If a claim against a practitioner of a member organisation arises, the primary evidence the insurer will want to see will undoubtedly be the documentation that the practitioner prepares. Therefore, it is vitally important that each practitioner starts each case off on the right foot and continues to maintain its currency as the case progresses. Each case should be kept separate from other cases and be initiated with a cover sheet stating, inter alia, the name and address of the client, the name of the practitioner and the name of the ESO on whose behalf the practitioner is acting. Any documents that the client provides or is obtained by the practitioner should be added to the case file as they are obtained. All notes of action or other annotation pertaining to the case should be added to the file. If at any time the client wishes to take his or her case to another ESO, then copies of the documents provided by the client should be retained on the file because of a possible future claim.

26. There would be significant benefit if the parent ESO for whom the practitioner was acting received from each practitioner, for the ESO's own office files, a copy of the cover sheet of each case being handled. This would establish a pattern which would form the basis for central logging of cases.

### **Criteria for Indemnity Cover**

27. The criteria for any practitioner to be covered by VITA's indemnity insurance policy can be summarised as follows:

- a. the practitioner's ESO must be a financial member of VITA;
- b. the practitioner must be authorised in writing to act on behalf of his or her parent ESO;
- c. the practitioner must be TIP/ATDP trained to the level at which he or she is authorised to operate by their parent ESO;
- d. the practitioner must adhere to the accepted *Code of Ethics*;
- e. an auditable record must be established and maintained for each and every case; and
- f. fees, including donations and gratuities are neither charged nor solicited for service to clients.

### **Notification of Information to Practitioners**

28. VITA deals with the national body of a member organisation but accepts that some member organisations have internal divisions or other structures. The term structure may mean different things to different organisations. Some member organisations have *divisions*, others have *branches* and either of these may have *sub-divisions* or *sub-branches*. At least one member organisation has what it terms *contact groups* within its branches. At least one member organisation has a parent body called a *Federation* and that Federation's members are *State Associations* of the parent organisation. Some members are small regional organisations with no internal structure as such.

29. Since VITA corresponds only with the national body of a member, it is incumbent on the national body of all member organisations to promulgate the information contained in this document within their own organisation so that the information is made known to all their authorised practitioners.

30. The attached one-page sheet is provided as a summary of the requirements for ESOs and practitioners.

**VETERANS' INDEMNITY AND TRAINING ASSOCIATION INC  
SUMMARY GUIDE FOR ESOs & PRACTITIONERS**

**Veteran and Ex-Service Organisations must:**

- a. have as a principal object the welfare of serving members of the Australian Defence Force, former members and/or their dependants;
- b. not charge a fee for service\*, solicit or encourage donations in respect of pension services;
- c. be a member in good standing of VITA;
- d. authorise practitioners in writing to act on behalf of the organisation in the delivery of pensions, advocacy and welfare services;
- e. withdraw authorisation if the ESO is of the belief that a practitioner is:
  - (i) not acting in the best interests of the client;
  - (ii) not acting in accordance with the accepted *Code of Ethics*;
  - (iii) either unable or unwilling to undertake DVA training or refresher courses; or
  - (iv) not maintaining an auditable case file;
- f. maintain a register of practitioners; and
- g. advise the TIP/ATDP equivalent Regional Committee of all changes to the register.

**Advocates, Pensions and Welfare Officers must:**

- a. be trained through DVA' s Training and Information Program/Advocate Training Development Program for the services they deliver;
- b. be authorised in writing by the parent organisation to act on behalf of that organisation in the provision of specific services to veterans and others;
- c. comply with the TIP/ATDP *Code of Ethics*;
- d. not charge a fee for service\*, solicit or encourage donations in respect of pension services; and
- e. for each client, maintain an auditable case file, even if that client ceases to require the services of the advocate, pension or welfare officer.

\* Other than an *administrative fee which is* not to exceed \$50.00 *and is directly linked to the administrative costs or disbursement necessary for the conduct of the matter.*