

# FEDERAL COUNCIL NEWS

## Legal Fees Settlement

In 2022, letters were sent to two ACDS members, advising them that they were provisionally suspended from the ACDS under Clause 12.2 of the Constitution, pending investigation.

There are underlying reasons as to why the investigations were initiated, but Clause 12.2 of the then ACDS Constitution provided for provisional suspension and we were advised by a Solicitor from Armstrong Legal in Perth that "it is OK to do whatever is in the Constitution".

Some Federal Council members were uncomfortable with this because Clause 12.2 did not give the member a right of reply. After discussions between ACDS Federal Council members and Armstrong Legal, it was decided that this initial resolution needed to be rescinded and a new resolution put forward so that both parties had a right of reply. This change of resolution occurred on 7 September 2022 and both individuals involved were notified.

ACDS members have been advised that in one case, the ACDS lost a mediation hearing in the WA Supreme Court. This cost the ACDS a large amount of money in legal fees and costs borne by the other party.

As you are aware, the Federal Council is made up of volunteers, none of whom are a member of the legal profession, so taking the advice of a Solicitor from Armstrong Legal in this matter was the reasonable course of action. As it has eventuated, on two specific counts this legal advice was incorrect and inappropriate.

To that end, Federal Council has sought to redeem some of the costs associated with the actions against one member and has subsequently signed a Settlement Deed with Armstrong Legal's Insurance Company to the value of \$20,000.

It is not the full value of costs incurred and, in legal terms, Armstrong Legal accepts no responsibility, but in real terms they have conceded that they misrepresented the ACDS and had given improper advice to members of Federal Council.