ALSA Bylaw 09- Referral of Educational Issues

Originally Written by: Jacinta Kenward

Position: Policy Officer 2015-2016

E-mail: [Policy@alsa.asn.au](mailto:Policy@alsa.asn.au)

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Refer to appendix for amendements

# Scope

* 1. The Australian Law Students’ Association (“ALSA”) is the peak representative body for students engaged in legal studies around Australia. ALSA aims to educate Australian Law Student Societies and Associations, and to bring together representatives from those Societies and Associations in order to better improve and enrich the lives of Australian law students. ALSA also aims to represent all Australian law student interests to the best of its ability, relying on its member societies and associations to refer matters to ALSA where appropriate.

# Aim

* 1. The primary aim of this document is to clarify the procedure through which the ALSA Education Team can be referred matters of concern and the consideration which ought to be given by the ALSA Education Team when embarking on projects throughout their term.
  2. This bylaw also outlines the responsibilities of both ALSA Committee and Council members in terms of formulating policies and responses to national issues of law student concern. It should be remembered that despite this document, the ultimate responsibility for representing the concerns of law students in regards to national matters lies with the ALSA Committee. Representation will be best effected, however, when the ALSA Committee fosters open dialogues and lines of communication with ALSA Council and when ALSA Council actively engages with the ALSA Committee.

# Operating Provisions

* 1. This bylaw is created under the power conferred upon the ALSA Executive under the Australian Law Students’ Association Constitution as promulgated at each ALSA Annual General Meeting.
  2. This bylaw operates subject to the Australian Law Students’ Association Constitution.
  3. Should a conflict arise between the content of the Australian Law Students’ Association Constitution and this Bylaw, the ALSA Constitution will prevail.

# Definition and Interpretation

* 1. **The ALSA Education Team** 
     1. “The ALSA Education Team” includes the Vice-President (Education) of the ALSA Committee and any positions the Vice-President (Education) is responsible for per ALSA Bylaw 08: ALSA Committee Position Descriptions.
  2. **ALSA Council** 
     1. “ALSA Council” refers to the body described in 70 of the ALSA Constitution.
  3. **ALSA Council member**
     1. “ALSA Council member” refers to any person listed in 70 of the ALSA Constitution.
  4. **ALSA Council meeting**
     1. “ALSA Council meeting” refers to any meeting described in 99 of the ALSA Constitution, including meetings that are not required by section 99 of the ALSA Constitution.

# Background

* 1. Issues of the kind that this document aims to address are those raised in the field of higher education policy.
  2. The ALSA Education Team is responsible for acting upon the mandate set for it by ALSA Council. The ALSA Education Team shall:
     1. Be willing to seek opinions of ALSA Council members on the role of ALSA in relation to issues that may arise; and
     2. Seek to understand the priorities of ALSA Council when time constraints may make multiple initiatives unachievable and to communicate this fact.
  3. ALSA Council shall:
     1. Actively suggest initiatives, or issues, that the ALSA Education Team ought be pursuing, particularly where the ALSA Education Team may be unaware of the issues or its impact.
  4. The provisions below set out the responsibilities of the ALSA Education Team and ALSA Council members as well as consideration that ought to be given when determining how to respond to issues of concern or suggestions of action.

# Outgoing Education Team Responsibilities

* 1. The ALSA Education Team at the conclusion of their term must deliver in the annual report of the Vice-President (Education) recommendations of issues that may be of concern to the incoming ALSA Education Team and ALSA Council. These recommendations do not bind the incoming Team.
  2. Where no such issues can be agreed upon or are deemed by the outgoing ALSA Education Team to exist, this should be noted in the report.

# Consultation

* 1. The ALSA Education Team must be as consultative as reasonably possible early in their term, seeking out issues of concern from ALSA Council members both early in October and then again early in the following calendar year.
  2. This will ensure the ALSA Education Team will gain the benefit of insight from both incoming and outgoing ALSA Council members.
  3. Consultation is an ongoing responsibility of the ALSA Education Team.
  4. The consultation encouraged above cannot be viewed as conclusive. In particular, February Council, while occurring almost half way into the ALSA Committee term, should be utilised as an opportunity to gauge concerns of ALSA Council and pressing issues in order to address them.
  5. ALSA Council members should aim to raise issues of concern in any Member Reports the ALSA Committee may request. These Reports should be viewed as one mechanism of ongoing consultation.

# ALSA Council Member Recommendations

* 1. ALSA Council members should liaise with the ALSA Education Team directly in order to recommend matters of concern where the Council member feels that the ALSA Education Team is: unaware of an issue, not acting with the appropriate diligence or seriousness in relation to an issue, or not responding to an issue in an appropriate way.
  2. A recommendation should be in the form of an email to the Vice-President (Education).
  3. Issues should be recommended in this way where a Council member believes the issue is:
     1. An issue affecting students on a national scale across many member institutions;
     2. An issue stemming from a national policy either from the Federal Government of Australia or otherwise; or
     3. An issue that would be best addressed by ALSA due to its position of influence as a national representative body.

# Responding to Recommendations

* 1. The Vice-President (Education) should respond to recommendations within a reasonable timeframe based on the nature of issue raised.
  2. The Vice-President (Education) should respond to recommendations with a decision as to whether the ALSA Education Team will act in response to an issue concerned and, if so, what action is proposed to be appropriate.
  3. Possible responses in the above manner may suggest that:
     1. The issue is not a matter the ALSA Education Team can effectively address due to: its highly university-dependant nature, its non-relation to law student concerns, or logistical constraints;
     2. The issue is a matter the ALSA Education Team believes to be overly divisive amongst law students generally or amongst member LSS/LSAs and as such the ALSA Education Team is willing to provide information regarding the issue but will consult ALSA Council before taking further action;
     3. The issue is not yet appropriately definite in its form, effects, or otherwise, and as such the ALSA Education Team will continue to monitor the issue and consider taking action later in their term; or
     4. The issue is a matter the ALSA Education Team considers within their jurisdiction and appropriate to respond to.
  4. A response to the effect of responses 9.3.1 – 9.3.4 above should include reasons for making the decision.
  5. A response to the effect of response 9.3.4 above should include a proposed plan of action addressing the issue.
  6. The responses listed at section 9.3 are suggestions only and the list is by no means intended to be exhaustive. The ALSA Education Team is able to respond as the issue may dictate.

# Consideration For Determining Responses to Issues

* 1. The ALSA Education Team should consider the following factors before responding to an issue, whether that issue is raised by an ALSA Council member or otherwise:
     1. ALSA is a representative body and the Constitution of ALSA identifies “represent[ing] and promot[ing] the interests and concerns of Australian law students” as an objective of the Association;
     2. The ALSA Constitution also identifies that an objective of the Association is “[t]o gather and disseminate information of interest and concern to Australian law students;”
     3. Whether the issue is one that:
        1. Affects students on a national scale across many member institutions;
        2. Stems from a national policy either from the Federal Government of Australia or otherwise; or
        3. Would be best addressed by ALSA due to its position of influence as a national representative body.
     4. Whether the issue is likely to be overly divisive amongst member LSS/LSAs or ALSA Council members;
     5. Whether potential actions to be taken in addressing the issue are likely to be overly divisive amongst member LSS/LSAs or ALSA Council members;
     6. The extent to which the issue and potential actions will be overly divisive amongst member LSS/LSAs or ALSA Council members;
     7. Whether any other constitutional objective of ALSA will be compromised if action was taken in relation to an issue and to what extent; and
     8. Practical outcomes likely to result from potential action taken by ALSA.
  2. In considering the above factors, the ALSA Education Team may note that member LSS/LSAs and law students across Australia will rarely be unanimous in their position on an issue. A unanimous position on an issue is a not a pre-requisite to addressing the issue.
  3. The factors listed at section 10.1 above are suggestions only and the list is by no means intended to be exhaustive. The ALSA Education Team is able to consider factors as the issue may dictate.

# Information Sharing

* 1. Where the ALSA Education Team deems that responding to an issue or responding in a particular way will compromise any other objective of ALSA or is otherwise inappropriate, the ALSA Education Team should strongly consider releasing information to all member LSS/LSAs regarding the issue.

# Impartiality

* 1. Where practicable, all steps must be taken to ensure that the positions taken by ALSA are reflective of the entire student body.
  2. On controversial issues, those responsible for advocating should attempt to seek a consensus on behalf of council.
  3. In seeking this consensus, those responsible for advocating should present the case to council, presenting both positive and negative sides of both arguments, as well as a reasoned conclusion.
  4. This should be discussed, with the action taken to be drawn from the conclusion reached after thorough discussion with council.
  5. Issues attracting only a slim majority of support from council should be avoided in terms of advocacy.

# Reasons For Decisions Not To Respond

* 1. Where the ALSA Education Team has made a decision not to respond to a particular issue recommended, reasons for this decision must be provided to the recommending ALSA Council member. Where a recommendation in regards to an issue has come from more than two member LSS/LSAs, the ALSA Education Team must make the reasons for this decision available to all ALSA Council members.

# Unsatisfactory Decisions

* 1. Where the ALSA Education Team has released information and reasons for a decision not to respond to an issue or not to respond in a particular way, ALSA Council members may raise the issue to be discussed at the next ALSA Council meeting.
  2. If the ALSA Education Team or ALSA Committee directly or indirectly compromise sufficient discussion of an issue raised pursuant to section 13 without reasonable justification, an ALSA Council member may put a motion from the floor to have the matter discussed without compromise.
  3. The ALSA Committee must respect any successful motion that mandates further discussion on the matter.

# Unsatisfactory Decisions and Time Constraints

* 1. In situations where the next ALSA Council meeting will not be held for a period of time that would render any potential response by ALSA ineffective, ALSA Council members may request the ALSA Education Team consult ALSA Council via email. The ALSA Education Team must only deny this request in the rare instances in which such consultation would compromise the objectives of ALSA or compromise another initiative of the ALSA Education Team.

# Media Comment

* 1. Where the ALSA Education Team or ALSA Committee are contacted for comment by a media organisation, consideration should be given to the factors listed in section 9 before responding.
  2. Where possible the ALSA Committee member contacted for comment should ask for questions to be presented in writing and should reply to those questions in writing after having those comments reviewed by the President.

# Divisive Policies

* 1. Where the ALSA Education Team drafts a policy in response to an issue that they consider could be, or has been, overly divisive or contentious amongst ALSA Council members, the draft policy must be presented to ALSA Council for comment before publication.
  2. Presentation may be in the form of circulation via email with a reasonable time period for comment, or by presentation at the next ALSA Council with reasonable time.

Appendix 1: Amendments Table

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| --- | --- | --- | --- |
| Amendment Date | Author / Amender | Substantive Explanation | Passed by Motion of Council |
| July-2016 | Jacinta Kenward | First issued |  |
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