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Here we go again – ACS court case over Featured

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By Graeme Philipson (/freelancer-sp-720/author/3737-graeme-philipson.html)

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Dr Roger Clarke - vindicated

The Australian Computer Society will now 'reassess' its attempts to change its Constitution, after being forced to pay \$127,000 in costs to the rebel group which successfully challenged its earlier attempt to do so.

In October last year ACS held a vote to become a Company Limited by Guarantee, a major change to its structure which required a 75% vote in favour to pass. It won by a single vote, but the result was subsequently annulled after being challenged by a group led by Canberra academic and consultant Dr Roger Clarke.

Dr Clarke alleged the result was invalid because of a number of irregularities in how the vote was publicised and how it was held. The court agreed and on 23 December 2019 threw out the results (/it-industry/acs-loses-major-court-battle-over-irregular-vote.html) and ordered the two parties to a 'case management' hearing to resolve their differences.

They were unable to do so, and after a delayed hearing the matter was finally resolved in Federal Court yesterday (10 March 2020). Justice Wigney dismissed the case, but awarded full costs against ACS.

That now leaves ACS free to pursue its restructure. It issued a short statement on its website:

ACS ... today advised members of the conclusion of the Federal Court case and finalisation of the case management hearing process ... applicant costs have been agreed and the proceedings are otherwise dismissed.

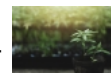
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On 23 December 2019, the Court declared that the convening of the ACS general meeting held on 25 October 2019 was invalid, and that the special resolution passed at the general meeting held on 25 October 2019 was also invalid.

With the proceedings now dismissed, plans on how to transition to a Company Limited by Guarantee will be reassessed.

No mention of the \$127,000 awarded in costs to Dr Clarke's group, nor of ACS's own legal costs, which would have been much higher than this amount.

Dr Clarke told iTWire that his successful legal action against ACS would ensure that proper process was followed in future. "The court substantiated our claims. There are many aspects of the matter which should mean that any changes to the ACS Constitution will have to take into account how it can best serve its members."

Today (11 March 2020) ACS Congress meets to elect a new President, along with two Vice Presidents and a number of committee members. The positions have been vacant all year. No elections were held because ACS management was so certain the constitutional changes would be adopted.

The only candidate for President (/it-industry/oppermann-unopposed-as-ac-s-president-%E2%80%93-clarke-ruled-ineligible.html) is Dr Ian Opperman, who has plainly stated that he wishes to reconcile the differences between the two factions. It appears likely another vote will now be held, though the timing of it and the exact nature of the proposed changes to the Constitution have yet to be determined. Dr Clarke also attempted to stand for President, but his application was rejected by the Management Committee on what many believe to be rather spurious grounds.

Dr Clarke told iTWire that his group is not necessarily opposed the transition to a Company Limited by Guarantee. Their grievances are more to do with ACS's strategic direction, and what they see as its overcommercialisation and lack of attention to its members.

Professional membership has declined disastrously in recent years, while ACS has moved its revenue stream to an almost total dependence on accreditation, mostly of international students and temporary and permanent migrants. It has acquired commercial entities which many believe are at odds with its charter to represent IT professionals.

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