



13 July 2022

Dear members,

The purpose of this letter is to report to you directly about matters concerning the outcome of the proceedings brought against AFIC by firstly, United Muslim New South Wales Inc (UMNSW) and by Islamic Council of Victoria Inc (ICV) and to summarise in brief form the reasons for judgment of Justice Kirk of the Supreme Court of New South Wales.

Without repeating the background that was discussed at each of the Special General Meetings, the chronology of events in brief is as follows:

- On 11 March 2022, the AFIC Executive Committee met and resolved to expel each of ICV and UMNSW.
- On 1 April 2022 UMNSW commenced another proceeding against AFIC seeking to set aside its expulsion by the Committee.
- Each of ICV and UMNSW requisitioned a meeting so each might appeal their expulsion. In the case of UMNSW their requisition for a meeting was late, and AFIC chose to overlook that and hold the meeting.
- On 9 April 2022 the members of AFIC met and voted to confirm the expulsion of ICV. The members resolution was by 70 in favour, nil against with 1 abstention. ICV did not attend the meeting.
- 23 April 2022 the members of AFIC met again and voted to confirm the expulsion of UMNSW as a member of AFIC.

UMNSW attended the meeting and through its representatives Hossam Elrayes and Talal El Cheikh spoke against the expulsion. After hearing from them the members resolved to confirm the expulsion by 60 votes in favour and 10 against.

You may also recall that at the conclusion of the meeting, despite the clear outcome UMNSW advised the membership that they refused to accept the expulsion and would initiate another Court proceeding.

- On 23 May 2022 ICV issued another proceeding against AFIC seeking to set aside its expulsion.
- The result of the initiation of these proceedings was that Federal Congress fixed by agreement by Federal Council for 4 and 5 June 2022 was cancelled (no provision to defer in the constitution).
- The hearing of both claims together took place on 6, 7 and 8 June 2022.
- Judgment was given in respect of both claims on 30 June 2022.



Australian Federation
of Islamic Councils

The reasons why UMNSW Inc and ICV Inc were successful

UMNSW and ICV were successful, but only on technical grounds.

The technical grounds are as follows:

1. Firstly, both succeeded on the basis that the Judge found that a committee member, had not been properly appointed and accordingly the executive committee when it made its original expulsion resolution on 11 March 2022 was not found to have the requisite quorum of five members.
2. The meetings on 9 and 23 April 2022 should have been a different kind of meeting, referred to by the Court as a "Special Congress". This is despite the fact that exactly the same people attended or were invited to attend each of the meetings on 9 April 2022 and 23 April 2022 as would have attended the alternative version of the meeting envisaged by the Court, and further that the meetings attended by the members were those referred to in the Court of Appeal decision in December 2021
3. In respect of ICV only, the Judge found that the sending of the notice one hour and 48 minutes after midnight on Sunday, 27 March 2022 meant that insufficient notice had been given of the meeting on 9 April 2022. Again this is in circumstances where there was no evidence of prejudice or material irregularity.

The above matters are the totality of the reasons upon which UMNSW Inc and ICV Inc were successful. They therefore remain members of and State Councils for New South Wales and Victoria respectively despite the overwhelming wish of the members that they not remain as State Councils or members.

Where AFIC succeeded and important matters in the judgment

It should be noted that in respect of the material matters of great importance to AFIC and its members, AFIC succeeded on all of the following points:

1. Firstly the Court found that there was absolutely nothing that went awry or was wrong with each of the special general meetings and implicitly recognised that the members had spoken. Unfortunately that was not enough to cure the technical problems outlined above.
2. The Court further said there was nothing improper at all about the members of AFIC seeking to exclude non AFIC members from participation in AFIC affairs through State Councils that had non AFIC members. The Court accepted that this was a genuine concern that went back to at least 1 March 2001. AFIC provided evidence about this concern going back to that date.
3. Further, the basis for the decisions of the committee and the members to expel UMNSW and ICV on the ground of having admitted members who were not members of AFIC was not found to have been undermined at all.

Australian Federation of Islamic Councils

*The peak body for Australian Muslims representing
State and Territory Islamic Councils and Societies*



Sydney (Head Office): 932 Bourke Street, Zetland, NSW 2017

Melbourne: 66-68 Jeffcott Street, West Melbourne VIC 3003

Canberra: 21/41 Liardet Street, Weston ACT 2611

Perth: 17 Mercantile Way, Malaga WA 6090

W: afic.com.au **E:** admin@afic.com.au **PH:** (02) 9319 6733



4. An argument was conducted during the hearing by both UMNSW and ICV that the reason that the decision was taken to expel was because of an improper purpose of Dr Rateb Jneid. Again, the Court rejected that argument.
5. UMNSW and ICV raised a number of personal allegations against Dr Jneid, the court found no valid grounds for these allegations. In other words, the court did not accept any allegation of wrongdoing against Dr Jneid.

The Court found that there was nothing problematic at all with the decisions of the members made at the 9 and 23 April meetings.

Other matters of consequence - Hossam Elrayes of UMNSW Inc Adel Salman of ICV Inc

Both Hossam Elrayes and Adel Salman gave evidence at the hearing.

Hossam Elrayes' evidence

Hossam Elrayes, President of UMNSW was cross examined about the fact that non AFIC members were members of UMNSW and were able to vote in respect of office holders of the State Council. He conceded that he did not know the number of member societies there were of UMNSW and further conceded that the delegate of UMNSW to the supreme governing body of AFIC was appointed by votes which included votes of non AFIC members. and that it was a matter of supreme indifference to him as to whether or not non AFIC members were involved in electing office holders of UMNSW and thereafter those office holders could run for election to the AFIC executive committee. He also told the Court that UMNSW was not concerned as to whether its members do or do not seek to join AFIC. He said all of the above was curred by a unanimous vote of UMNSW members in respect of appointment of UMNSW office holders and was unable to say what would happen if it was not unanimous.

There was no evidence Hossam Elrayes or Talal El Cheikh were members of an AFIC member society. AFIC is still in the dark as to these matters.

Adel Salman's evidence

Adel Salman, President of ICV gave evidence that ICV would not provide any commitment that would prevent non AFIC members participating in ICV elections, vote on the constitution or any other matters that would have an impact on AFIC. He also told the Court that he thought it was theoretically possible that an election could take place at ICV where 100% of the persons attending and voting on the position present were non AFIC members and that it was also theoretically possible that the person they might elect was an individual who was not a member of an AFIC member society. He effectively told the Court it was of no concern to him or ICV. As you are aware Adel Salman is not a member of an AFIC society.



Australian Federation
of Islamic Councils

Intention of UMNSW to keep AFIC in court

I attach a letter from the solicitors acting for UMNSW's solicitors advising AFIC lawyers that they would appeal if the court had ruled against them. This raises two serious matters:

1 – The apparent double standards in a state council insisting that their constitution be strictly implemented while refusing to adhere by AFIC's constitution.

2 – The gross disrespect for the will of the vast majority of members who had voted to uphold the expulsion of UMNSW for failure to comply with the requirements of membership.

Other matters

Finally, it is a matter of great concern to AFIC that there are continual attacks on AFIC in and outside of Court by committee members from both UMNSW and ICV. In both cases, AFIC had made several appeals to both councils to comply with their membership obligations under the AFIC constitution. The councils continued to breach their membership obligations.

I want to clarify again; AFIC did NOT commence the legal proceedings, AFIC did not take the two councils to Court, they took AFIC to court.

On the basis of the financial material that AFIC is aware of, UMNSW has virtually no money and no ability to afford to bring two costly pieces of litigation. At its last AGM on 17 January 2021, UMNSW's treasurer reported that UMNSW had no funds other than funds provided by its financial members, presumably membership fees.

AFIC is concerned about this because the litigation could only have been funded by outside sources. AFIC has not been able to firmly identify the outside source other than to note that UMNSW was represented in the proceeding by Mr Bilal Rauf, barrister who is a director of Alliance of Australian Muslims Limited.

Sincere regards,

Harun Abdullah
Secretary, AFIC

Our Reference
Your Reference

Taylor & Associates Lawyers
190 Pacific Highway
NORTH SYDNEY NSW 2060

29 June 2022

Turner Freeman Lawyers
Level 8, 183-185 Clarence Street
SYDNEY NSW 2000

Attention: Terence Goldberg

Via email: tlg@turnerfreeman.com.au

Contact
Ian Taylor +61 448 900 680
Email: ian.taylor@taylor.associates

Dear Mr Goldberg

United Muslims New South Wales Incorporated v Australian Federation of Islamic Councils: Supreme Court of NSW case number 2021/0055621

I refer to the above matter.

Ahead of his Honour Justice Kirk handing down judgment this Thursday, 30 June 2022, we ask whether, in the event that my client is unsuccessful (or Islamic Council of Victoria in the parallel proceedings), your client will commit to extending its undertaking (set out in Orders made Hammerschlag CJ in Eq dated 2 May 2022) pending filing of any application for appeal (or leave) and thereafter any appeal, to obviate the need to apply for an injunction before his Honour Justice Kirk or the Court of Appeal.

Yours faithfully



Ian Taylor
Taylor & Associates Lawyers