

Proposed amendments to the OPFA Constitution October 2019

Introduction

1. The OPFA Trustees (members of the Executive Committee) are proposing a number of amendments to the OPFA Constitution, for which they are seeking the approval of Association Members at the Annual General Meeting.
2. The proposed changes are largely prompted by:
 - an awareness that the representative membership structure of the Association is no longer relevant in the current operational environment in which OPFA is working; and
 - a wish to confirm the validity of the OPFA's increased involvement in primary purpose trading in the form of its project management services provided under contract.
3. The opportunity has also been taken to up-date some other clauses in line with the current published Charity Commission Model Governing Documents.
4. The Charity Commission advises that an appropriate reason for Trustees to propose changes to their governing document would be if this would be in their charity's best interest to do so - for example, if:provisions explaining how the charity must be run are no longer relevant or practical. The Trustees consider that this supports their proposed amendments.
5. The Trustees have consulted the Charity Commission's online guidance on changing charity governing documents and conclude that the changes proposed are allowed under the OPFA constitution (subject to their proper approval in line with its provisions) and do not require the prior permission of the Charity Commission.

Proposed changes

6. The proposed changes (marked in red on the attached copy of the Constitution) are as follows. (Wording to be replaced/deleted is scored through).

Membership

7. When the OPFA was first set up in the 1930s there was a clear need for a range of organisations interested in helping to get publicly-owned outdoor recreational spaces provided in communities around Oxfordshire to work together to achieve this. The membership of the Association therefore consisted of local authorities at County, District and Parish level and Governing Bodies of Sport who had an interest in the provision of local pitches, among others.
8. A representational Association had active relevance over the years until the advent of the Sports Council (now Sport England) to promote sports activity nationally and to fund agencies such as County Sports Partnerships locally and the evolution of local authority services at District level to include sports development. Such developments meant that OPFA was no longer the main player in this field of activity, although the value of our information and advice service for parishes continued to be recognised – as one aspect of sports, play and recreation development among many.
9. In recent years, therefore, the representational make-up of our Association has become less and less relevant. Governing Bodies of Sport have long been absent from the list of organisations likely to have an active interest in being in membership of the Association. Most local authorities have ceased to appoint representatives and the OPFA itself has not been promoting or implementing its representative membership provisions.
10. Our active membership now consists of town and parish councils who have paid our membership fee in order to support us and to receive an enhanced level of support service.

11. It is therefore suggested that we alter the Constitution to provide for membership by interested individuals and organisations who support our objectives subject to payment of a membership fee, if the OPFA wishes to charge one.

Minutes

12. It is suggested that the requirement to keep minutes in books kept for the purpose be removed. The requirement for minutes to be kept remains.

Decisions by electronic means

13. Clauses 39 and 40 are suggested to enable decisions to be made by the Executive Committee by resolution in writing or electronic form as well as at a meeting (the Constitution currently only provides for resolutions in writing).

Power to appoint representatives of the Association

14. It is suggested that the power to appoint representatives to represent the Association in the various areas into which the county may be divided is no longer relevant and should be deleted.

Trading

15. The word “taxable” is included in Clause 44 a) (in line with Charity Commission Model Documents) to make it clear that we are allowed to engage in primary purpose trading. We have obtained professional advice that our project management work is primary purpose trading and is therefore not taxable.

(We cannot engage in taxable trading activity above agreed de minimis levels directly ourselves but would need to set up a trading arm to do so.)

Powers of Trustees/Executive Committee

16. It is suggested that we include a power to make joint arrangements with other charities (wording taken from Charity Commission Model Documents)

Disqualification and Removal of Trustees

17. It is suggested that the period of time in clause 45d) is changed from six months to twelve months, given that the Executive Committee usually only meets 3 times a year.

Duty of Care and Extent of Liability

18. It is suggested that wording be amended to be in line with Charity Commission Model Documents

Other

19. Clause numbers which will alter when a revised document is agreed are also highlighted in red.

Agreeing the proposed changes

20. The Constitution advises that “Any resolution to amend a provision contained in any other Clause is passed by a simple majority of the members present and voting at a general meeting.”

THE OXFORDSHIRE PLAYING FIELDS ASSOCIATION

CONSTITUTION

NAME

1. The Association shall be called THE OXFORDSHIRE PLAYING FIELDS ASSOCIATION

OBJECTS

2. The objects of the Association shall be as follows:
 - a) To advise on and assist in the provision of adequate playing fields and playgrounds for the purpose of outdoor games, sports and pastimes;
 - b) To encourage and develop the playing of all games, sports and pastimes as aforesaid with a view to promoting the physical and moral welfare and the safety of the population and to extend the benefits of playing fields, playgrounds and open spaces to all members of the community;
 - c) To encourage and develop all types of children's play facilities and play leadership;
 - d) To encourage and develop facilities for the recreation of people with disabilities;
 - e) To ensure that the fullest use is made of all playing fields;
 - f) To co-operate in saving threatened recreational facilities;
 - g) To examine all schemes submitted and where approved either
 - 1) make recommendations to other bodies and/or
 - 2) give direct financial or other aid where possible;
 - h) To co-operate with local authorities and all statutory or other bodies for the furtherance of the objects of the Association and to encourage the exercise of all statutory and other powers under which playing fields, playgrounds and open spaces can be acquired and where necessary to promote the extension of such powers;
 - i) To raise by subscription or otherwise funds for the furtherance of the objects of the Association;
 - j) To do all or any of the above things by or through trustees, nominees, agents or otherwise and either alone or in conjunction with others.

Nothing in the foregoing sub-clauses of this clause shall authorise or empower the Association to participate directly or indirectly in any activity which is not charitable according to the laws of the United Kingdom for the time being in force and the whole of the property and funds of the Association shall at all times be used and applied for such purposes only as are charitable in accordance with such laws.

APPLICATION OF THE INCOME AND PROPERTY

3. All the income and property of the Association shall be applied solely towards the objects of the Association.
4. A Trustee may pay out of, or be reimbursed from, the property of the Association reasonable expenses properly incurred by him or her when acting on behalf of the Association.

5. No portion of the income or property of the Association shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to the members of the Association. This does not prevent:
 - a) a member of the Association who is not also a Trustee from receiving reasonable and proper remuneration for any goods or services supplied to the Association
 - b) the purchase of indemnity insurance for the Trustees against any liability that by virtue of any rule of law would otherwise attach to a Trustee or other officer in respect of any negligence, default, breach of duty or breach of trust, of which he or she may be guilty in relation to the Association but excluding:
 - 1) fines;
 - 2) costs of unsuccessfully defending criminal prosecutions for offences arising out of the fraud, dishonesty or wilful or reckless misconduct of the Trustee or other officer;
 - 3) liabilities to the Association that result from conduct that the Trustee or other officer knew or ought to have known was not in the best interests of the Association or in respect of which the person concerned did not care whether or not that conduct was in the best interests of the Association.
6. No Trustee may be paid or receive any other benefit for being a Trustee.

MEMBERSHIP

~~The Association shall consist of the following:~~

- ~~a) The Honorary Officers of the Association as specified in Clause 10;~~
- ~~b) Representatives as follows, the number of representatives in each case to be determined from time to time by the Association:
 - ~~1) Of the local authorities within the administrative county of Oxfordshire~~
 - ~~2) Of such national, county and other organisations as may be invited by the Executive Committee~~
 - ~~3) Such other representatives as the Executive Committee may from time to time invite;~~~~
- ~~c) Subscribers under Clause 12;~~
- ~~d) Such persons as may be accepted for membership of the Association by the Executive Committee on such terms as the Executive Committee may from time to time decide.~~

~~In the event of resignation a representative under sub-clause (b) above may continue to act until another representative shall be appointed by the local authority or organisation concerned.~~

7. Membership of the Association is open to:

- individuals over the age of 18 or any organisation interested in furthering its purposes, who, by applying for membership, have indicated agreement to become a member and acceptance of the duty of members as decided by the Executive Committee set out in Clause 11.
- such other persons as may be granted membership of the Association by the Executive Committee on such terms as the Executive Committee may from time to time decide.

8. A member may be an individual over 18, a corporate body or an organisation which is not incorporated.
9. The Executive Committee
 - may require applications for membership to be made in any reasonable way that it decides;
 - may refuse an application for membership if it believes that it is in the best interests of the Association for it to do so;
 - shall, if it decides to refuse an application for membership, give the applicant its reasons for doing so and give the applicant the opportunity to appeal against the refusal. Any appeal shall be considered by the Committee but its decision will then be final.
10. Membership of the Association cannot be transferred to anyone else
11. It is the duty of each member of the Association to exercise their powers as a member of the Association in the way they decide in good faith would be most likely to further the purposes of the Association.
12. The Association may require members to pay reasonable membership fees to the Association.
13. An organisation or corporate body that is a member of the Association may authorise a person to act as its representative at any general meeting of the Association.

The representative is entitled to exercise the same powers on behalf of the organisation or corporate body as the organisation or corporate body could exercise as an individual member of the Association.
14. The Executive Committee/Trustees must keep a register of names and addresses of the members which must be made available to any member upon request.
15. Membership of the Association comes to an end if:
 - the member dies, or, in the case of an organisation, that organisation ceases to exist; or
 - the member sends a notice of resignation to the Executive Committee; or
 - any sum of money owed by the member to the Association is not paid in full within six months of its falling due; or
 - the Executive Committee decides that it is in the best interests of the Association that the member in question should be removed from membership and passes a resolution to that effect. If so, the member should be given the reasons for this resolution and have an opportunity to appeal against it. Any appeal should be considered by the Committee but its decision will then be final.

HONORARY OFFICERS

16. The Honorary Officers of the Association shall consist of:
 - a) A President and Vice-Presidents, as the Association may from time to time decide
 - b) A Chairman, a Vice-Chairman, an Hon. Treasurer and such other Hon. Officers as the Association may from time to time decide.
17. The Hon. Officers, except the President and Vice-Presidents, shall retire annually but shall be eligible for re-election.

SUBSCRIPTIONS

~~The subscription for individual and representative membership of the Association shall be such sum as the Executive Committee shall from time to time determine.~~

MEETINGS OF THE ASSOCIATION

18. An Annual General Meeting shall be held each year for the following purposes:
 - a) Election of Honorary Officers
 - b) Election of Executive Committee
 - c) Presentation of annual report and examined accounts
 - d) Appointment of an independent examiner of the accounts
 - e) Any other business
19. Fourteen days' notice with an agenda shall be given of any General Meeting and of all resolutions and of any alterations to the Constitution to be proposed thereat and shall be sent to the Officers and Trustees and all members of the Association eligible to attend together with the annual report and examined statement of accounts to be presented thereat.
20. The Association may meet whenever they think fit. A special general meeting may be called at any time by the Chairman or the Trustees and must be called upon the receipt of a requisition in writing by ten or more members stating the nature of the business that is to be discussed.
21. There shall be a quorum when eight members of the Association are present at any general meeting.
22. If either:
 - a) a quorum is not present within half an hour from the time appointed for the meeting; or
 - b) during a meeting a quorum ceases to be present;the meeting shall be adjourned to such time and place as the Trustees shall determine.
23. The Trustees must re-convene the meeting and must give at least seven clear days' notice of the re-convened meeting stating the date, time and place of the meeting.
24. If no quorum is present at the re-convened meeting within fifteen minutes of the time specified for the start of the meeting, the members present at that time shall constitute the quorum for that meeting.

VOTES

25. Subject to the provisions of **Clauses 57 and 62d)**, every question at General Meetings shall be decided by a majority of the votes of all those members present at the meeting. In the case of an equality of votes the person who chairs the meeting shall have a second or casting vote.
26. Each individual and representative member of the Association shall have one vote.
27. Questions arising at meetings of the Executive Committee shall be decided by a majority of votes and, in the case of an equality of votes, the person who chairs the meeting shall have a second or casting vote.

MINUTES

28. Minutes ~~in books kept for the purpose~~ shall be kept of proceedings at meetings of the Association and of the Executive Committee and of any sub-committee.

EXECUTIVE COMMITTEE

29. The Association and its property shall be managed and administered by an Executive Committee consisting of:

- a) The Honorary Officers, as specified in **Clause 16b)** above
- b) Members elected at the Annual General Meeting, the number to be determined from time to time by the Association.

The Officers and other members of the Committee, as specified in this Clause **and Clauses 31 and 32**, shall be the Charity Trustees of the Association and in this Constitution are together called "the Trustees".

30. The Executive Committee shall have power to appoint such officers and staff as may be required (who shall not be members of the Executive Committee) at salaries to be determined from time to time.
31. Any casual vacancy in the Committee may be filled by the Committee and any person appointed to fill such a vacancy shall hold office until the conclusion of the next Annual General Meeting of the Association.
32. The Committee may co-opt further members.
- 33.** No-one may be appointed a member of the Committee/Trustee if he or she would be disqualified from acting under the provisions of **Clause 45**.
34. The number of members of the Committee/Trustees shall be not less than three but (unless otherwise determined by a resolution of the Association in general meeting) shall not be subject to any maximum.
35. The Committee shall meet not less than three times per year.
36. Any member of the Executive Committee may call a meeting of the Committee
37. There shall be a quorum when at least one-third of the number of members of the Executive Committee for the time being or two members of the Executive Committee, whichever is the greater, are present at a meeting or such larger number as may be decided from time to time by the Executive Committee.
38. If the number of Committee members is less than the number fixed as the quorum, the continuing Committee members or member may act only for the purpose of filling vacancies or of calling a general meeting.
- 39. Any decision may be taken by the Executive Committee either:**
- **at a meeting of the Committee; or**
 - **by resolution in writing or electronic form agreed by a majority of all of the members of the Committee, which may comprise either a single document or several documents containing the text of the resolution in like form, to which the majority of all of the members of the Committee has signified their agreement.**

40. Such a resolution in writing or electronic form shall be effective provided that

- a copy of the proposed resolution has been sent, at the same time or as near to the same time as reasonably practicable, to all of the members of the Committee; and
- the majority of all of the members of the Committee has signified agreement to the resolution in a document or documents which has or have been authenticated by their signature or in such other manner as the Committee has previously resolved.

~~A resolution in writing signed by all the members of the Committee entitled to receive notice of a meeting of the Committee and to vote upon the resolution shall be as valid and effectual as if it had been passed at a meeting of the Committee duly convened and held.~~

~~The resolution in writing may comprise several documents containing the text of the resolution in like form each signed by one or more members of the Committee.~~

41. The Committee shall have power to appoint such sub-committees as it thinks fit and may delegate to such sub-committees such powers as it from time to time may think desirable and may co-opt to such sub-committees non-members of the Executive Committee. Any such sub-committees shall report back as soon as possible to the Executive Committee.

~~The Executive Committee shall have power to appoint representatives to represent the Association in the various areas into which the county may be divided. A representative may be replaced at the discretion of the Executive Committee if at any time he or she fails or is unable to carry out his/her duties satisfactorily.~~

42. The Committee shall have power by resolution to appoint and replace Trustees and Nominees to carry out any object of the Association including for the purpose of holding land, investments or money on behalf of the Association.

43. Any matter not covered by these rules or any question of interpretation shall be dealt with by the Executive Committee.

POWERS OF TRUSTEES/EXECUTIVE COMMITTEE

44. The Trustees/Executive Committee have the following powers in order to further the Objects (but not for any other purpose):

- a) to raise funds and to invite and receive contributions provided that in raising funds the Committee shall not undertake any substantial permanent **taxable** trading activities and shall conform to any relevant statutory regulations.
- b) to buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use.
- c) subject to any consents required by law to sell, lease or dispose of all or any part of the property of the Association.
- d) subject to any consents required by law to borrow money and to charge all or any part of the property of the Association as security for repayment of the money so borrowed.
- e) to employ staff (who shall not be members of the Executive Committee) and to make all reasonable and necessary provision for the payment of salaries, pensions and superannuation
- f) to co-operate with other charities, voluntary bodies and statutory authorities and to exchange information and advice with them.

- g) to establish or support any charitable trusts, associations or institutions formed for all or any of the charitable purposes included in the Objects
- h) to set aside income as a reserve against future expenditure but only in accordance with a written policy about reserves.
- i) to obtain and pay for such goods and services as are necessary for carrying out the work of the Association
- j) to acquire, merge with or enter into any partnership or joint venture arrangement with any other charity formed for any of the objects;
- k) to do all such other lawful things as are necessary for the achievement of the Objects of the Association.

DISQUALIFICATION AND REMOVAL OF TRUSTEES

45. A Trustee shall cease to hold office if he or she:

- a) is disqualified from acting as a Trustee by virtue of sections 178 and 179 of the Charities Act 2011 (or any statutory re-enactment or modification of that provision)
- b) ceases to be a member of the Association
- c) becomes incapable by reason of mental disorder, illness, or injury of managing and administering his or her own affairs
- d) is absent without permission of the Trustees from all their meetings held within a period of twelve consecutive months and the Executive Committee resolves that his or her office be vacated
- e) resigns as a Trustee by notice to the Association (but only if at least two Trustees will remain in office when the notice of resignation is to take effect).

INDEMNITY

~~The members of the Executive Committee, as charity trustees, and any holding trustees appointed by the Committee shall not be liable for any loss to the Charity's property arising from acts, mistakes and omissions made in good faith, provided that reasonable supervision shall have been exercised and proper advice sought.~~

DUTY OF CARE AND EXTENT OF LIABILITY

- 46. When exercising any power (whether given to them by this deed, or by statute, or by any rule of law) in administering or managing the charity, each of the Trustees must use the level of care and skill that is reasonable in the circumstances, taking into account any special knowledge or experience that he or she has or claims to have ('the duty of care').
- 47. No Trustee, and no one exercising powers or responsibilities that have been delegated by the trustees, shall be liable for any act or failure to act unless, in acting or in failing to act, he or she has failed to discharge the duty of care.

RULES

- 48. The Trustees/Executive Committee may from time to time make rules for the conduct of their business. The rules may regulate the following matters but are not restricted to them:

- a) the procedure at general meetings and meetings of the Executive Committee in so far as such procedure is not regulated by this Constitution
- b) the keeping and authenticating of records
- c) generally all such matters as are commonly the subject matter of the rules of an unincorporated association

49. The Association in general meeting has the power to alter, add to or repeal the rules

50. No rule shall be inconsistent with, or shall affect or repeal, anything contained in this Constitution

FINANCE

51. The Hon. Treasurer shall keep proper account of the finances of the Association.

52. An account or accounts shall be opened in the name of the Association at a bank or banks to be approved by the Executive Committee into which fund all monies received on behalf of the Association shall be paid by the Hon. Treasurer or other responsible official.

53. All cheques drawn on the account must be signed by at least two members of the Executive Committee except that cheques for amounts up to a limit to be determined by the Executive Committee may be signed by at least one member of the Executive Committee and countersigned by one paid officer of the Association to be nominated by the Committee.

54. At the Annual General Meeting every year the Executive Committee shall lay before the members a detailed examined statement of the accounts of the Association for the past twelve months. A copy of such a statement shall accompany the notices of the Annual General Meeting.

INDEPENDENT EXAMINER

55. The accounts shall be examined by an independent examiner to be elected at the Annual General Meeting each year.

ANNUAL REPORT AND RETURN AND ACCOUNTS

56. The Trustees must comply with their obligations under the Charities Act 1993 with regard to:

- a) the keeping of accounting records for the Association
- b) the preparation of annual statements of account for the Association
- c) the transmission of the statements of account to the Charity Commission
- d) the preparation of an annual report and its transmission to the Commission
- e) the preparation of an annual return and its transmission to the Commission.

DISSOLUTION

57. The Association may at any time be dissolved by a resolution passed by a two-thirds majority of those present and voting at a meeting of the Association of which at least twenty-one clear days' notice shall have been sent to all members of the Association.

58. Such resolution may give instructions for the disposal of any assets held by or in the name of the Association PROVIDED THAT, if any property remains after the satisfaction of all debts and liabilities, such property shall not be paid to or distributed among the members of the

Association but shall be given or transferred to such other charitable institution or institutions having objects similar to some or all of the objects of the Association, as the Association may, with the approval of the Charity Commissioners or other authority having jurisdiction under the Charities Act 1960 or other relevant legislation, determine.

59. If the members resolve to dissolve the Association, the Trustees will remain in office as charity trustees and be responsible for winding up the affairs of the Association in accordance with **Clauses 58-60**.
60. The Trustees must notify the Commission promptly that the Association has been dissolved. If the Trustees are obliged to send the Association's accounts to the Commission for the accounting period which ended before its dissolution, they must send the Commission the Association's final accounts.

ALTERATION OF CONSTITUTION

61. Notice of any proposed alterations to the Constitution shall be submitted by members in writing not less than four weeks before the date of the Annual General Meeting or of any Extraordinary General Meeting called for that purpose.
62. The Association may amend the Constitution provided that:
- a) No amendment may be made that would have the effect of making the Association cease to be a charity at law;
 - b) No amendment may be made to alter the Objects without the prior written consent of the Charity Commission, unless the change would be within and not outside the reasonable contemplation of the members of or donors to the Association
 - c) No amendment may be made to **Clauses 3-6** inclusive without the prior written consent of the Charity Commission
 - d) Any resolution to amend a provision contained in **Clauses 1 to 6** inclusive and/or in **Clauses 57 to 62** inclusive is passed by not less than two-thirds of the members present and voting at a general meeting
 - e) Any resolution to amend a provision contained in any other Clause is passed by a simple majority of the members present and voting at a general meeting.
 - f) A copy of any resolution amending this Constitution shall be sent to the Charity Commission.

Adopted: 30 May 1985
Amended: 7 November 1996
6 March 1997
5 November 1998
18 November 1999
23 October 2008
17 October 2013