

## British Orienteering Federation: Articles of Association

### Latest update of the draft Articles

The latest draft of the Articles is now available. A short period exists for further consultation prior to the draft Articles being presented to the membership for consideration at the 2012 Annual General Meeting. There is still time for modifications to be made although hopefully no major changes will be required. Please send any feedback to [feedback@britishorienteering.org.uk](mailto:feedback@britishorienteering.org.uk).

Members who attended the 2011 AGM or have read the minutes will recall that the intention was to consult widely during the preparation of the draft Articles and for there to be '*no surprises*' when the Articles were finally presented to the 2012 AGM. The consultation has been wide with some excellent feedback from individual members and the participants of the Association & Club Conference. There has also been a legal review of the draft. This feedback has enabled the draft Articles to be considerably improved.

The background to the latest draft is below. However it should be noted that whilst the changes in presentation to the Articles are significant the intention of the review is that the draft Articles replicate the current Articles except for the following significant changes:

- a) The Memorandum of Association is no longer required however the 'objects' and 'powers' have been simplified whilst maintaining their scope, updated and added into the Articles.
- b) The term 'Company' has been adopted throughout the articles to accurately and factually describe British Orienteering Federation Limited.
- c) The number of 'Defined Terms' in Article 1 has been significantly increased to clarify more of the terms used in the Articles. Several of the additional terms including 'independent director' and 'non-executive director' are not used later in the Articles but have been included as they may potentially be used at a future time.
- d) Article 8 defines the manner in which committees, sub committees and working parties are appointed and how the Board's powers may be delegated to them.
- e) Article 13 determines Board composition and quorum in greater detail.
- f) Article 15, the Chair's right to use a casting vote has been rescinded. This is in line with current good practice and means with any proposal the status quo remains unless there is a majority for change.
- g) Article 16 deals with 'Conflict of Interest' thoroughly which is in members' interest.
- h) Articles 22 and 23 determine the remuneration and expenses of directors. This clarifies the status quo and provides additional protection to the membership.
- i) Article 29 refers to 'Casual Vacancy', a term used to refer to any director vacancy created between AGMs and maintains the status quo.
- j) Article 34.1 refers to notice of 70 'clear' days to hold a general meeting. The 'clear' is a change to the current articles but does clarify the situation.

- k) Article 48 clarifies the use of modern technology to inform members of general meetings etc. This clause more tightly specifies how members living overseas are communicated with.
- l) Articles 50 and 51 bring up to date matters relating to the indemnity of directors and the insurance protection given to directors.
- m) Article 52 'Company Rules' is extremely important. Any change to the Articles of Association normally requires a vote of more than 75% of the votes cast. The Company Rules are a section of the Articles that require a vote of more than 50% of the votes cast to change.

The Association & Club Conference was significant in determining a number of issues:

1. 'British Orienteering Federation' is the current company name, there was insufficient agreement that the Company name change to 'British Orienteering'.
2. Categories of membership should lie within Article 52 'Company Rules' requiring a simple majority to change rather than 75% of the votes cast.
3. Constituent Association should continue to be included in the Articles and should lie with Article 52 'Company Rules' requiring a simple majority to change rather than 75% of the votes cast.
4. Associate membership: the current membership category of 'Associate' should be removed.
5. Members requesting a general meeting: general meetings can, as now, be called by 3 Constituent Associations but, additionally, can now also be called by 5% of the membership.
6. In general meetings the casting vote of the Chairman is removed.
7. That foreign-residing members be communicated with at a nominated UK address or electronically at a registered e-mail address.
8. Additionally it was also brought to our attention after the Conference by several participants at the Conference that a mechanism should exist to remove directors not fulfilling their responsibilities.

The draft Articles maintain the balance of responsibility and accountability that exists in the current Articles between the members and the Board.

During the consultation a number of issues have arisen that were felt to be outside the authority of the group reviewing the Articles:

1. The issue of 4 Home Nations being the company membership of British Orienteering has been raised and pursued determinedly by a small group of people. This matter was not raised by an association and was therefore not considered.
2. That the company membership should be of clubs rather than individuals. This was not considered.
3. That the Company is not a 'Federation' and that the term 'Constituent' Association is inappropriate. Whilst there is validity in these points, there was not support to pursue changes.

The documentation provided to members in preparation for the Annual General Meeting will include:

- a) An introduction and overview which highlights significant changes.
- b) A clean copy of the new draft Articles adapted from the Farrer & Co template Articles. This shows the Articles as they will be presented to the AGM and Companies House if adopted.
- c) A copy of the new draft Articles showing the adaptations made from the Farrer & Co template Articles. This copy shows where deviations from the template Articles have been made. You can therefore see what is considered good practice and where modifications have been made to align the template Articles with the current Articles.
- d) A document containing the new draft Articles and the current Memorandum and Articles of Association that is cross referenced for ease of comparison.

Currently available for consultation are b and c, the remaining papers are being updated from the documents presented to the Association & Club Conference.

## Background

Why are we changing our articles?

- The Companies Act 2006 (CA2006) is now fully implemented and changes are required to the existing British Orienteering Memorandum and Articles of Association as a consequence.
- There are a number of conflicts and potential conflicts between the current Articles and CA2006, these are addressed within the new draft Articles.
- Any significant future changes to our Articles may require a re-write and by updating the current Articles we are preparing for future change.
- The change is an opportunity to review the Articles in entirety; we have been unable to ascertain when such a review was last completed.
- It is an opportunity to update the format and presentation of the Articles which have been modified and added to many times without a complete review taking place.

The current Memorandum and Articles of Association were initially adopted in January 1982 and it is a tribute to the four members Clive Allen, Ian McMillan, Michael Forrest and David Whittaker who worked on them that the Memorandum and Articles have continued to meet the purposes of British Orienteering through to this point, almost 30 years.

The leading firm of solicitors that deal with sporting issues in the UK is Farrer & Co LLP of London. Farrer & Co partner with the Sports & Recreation Alliance (the old Central Council of Physical Recreation or CCPR) as advisors and have prepared template Articles of Association for National Governing Bodies of Sport to use. This template is available free of cost to British Orienteering as a benefit of membership of the SRA. The use of the template has significant advantages including the saving of several thousand pounds of solicitor fees and in providing an example of good practice from which to work.

Once the review had commenced it became clear that there were two ways to progress the review of the Articles:

- Start from the current Articles and make changes to them to align the Articles with the CA2006;
- Start from the template Articles of Association as prepared by Farrer & Co and modify them to include the significant aspects of our current Articles.

After discussion it was agreed that the review should adopt the second option and that British Orienteering should take the opportunity to modernise the presentation of the Articles.

The review has therefore started with the template Articles. Whilst the template Articles look considerably different to the current articles, it is largely as a consequence of them being presented and ordered in a different way.