

# **HARDWAY ELSON & DISTRICTS COMMUNITY ASSOCIATION**

A Charitable Incorporated Organisation established pursuant to the Charities Act 2011

## **CONSTITUTION**

Incorporation date of CIO: 09.04.2020

Date of Constitution: 09.04.2020

Amended Date of Constitution: 18.06.2024

### **1. NAME**

The name of the Charitable Incorporated Organisation ("the CIO") is "Hardway Elson & Districts Community Association" known as and referred to as HEDCA (for ease of administration and understanding, the 'term' HEDCA will be used throughout the Constitution documentation in relation to "the CIO").

### **2. LOCATION OF HEDCA**

Coombe Road, Gosport, Hampshire, PO12 4JB.

### **3. OBJECTIVES**

The objects of HEDCA are to:-

(a) promote the benefit of the inhabitants of Hardway, Elson and neighbouring districts within the post code areas of PO12 & PO13 ("the area of benefit") without distinction of sex, sexual orientation, nationality, age, disability, race or of political, religious or other opinions, by associating together the said inhabitants and the statutory authorities, voluntary and other organisations in a common effort to advance education and to provide facilities in the interests of social welfare for recreation and leisure-time occupation with the object of improving the conditions of life for the said inhabitants;

(b) establish, or secure the establishment of a Community Centre ("the Centre") and to maintain and manage the same (whether alone or in co-operation with any local authority or other person or body) in furtherance of these objects; and

(c) promote such other charitable purposes as may from time to time be determined.

The Association shall be non-party in politics and non-sectarian in religion.

### **4. AUTHORITY**

Appointed HEDCA representatives, have the authority to further its objectives by:-

(a) Borrowing money and to charge the whole or any part of its property as security for the repayment of the money borrowed. HEDCA must comply as appropriate with sections 124 and 125 of the Charities Act 2011 if it wishes to mortgage land or buildings.

(b) Buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use.

(c) Sell, lease, or otherwise dispose of all or any part of the property belonging to HEDCA. In exercising this power, HEDCA must comply as appropriate with sections 117 and 119-123 of the Charities Act 2011.

(d) Employing and remunerating such staff is necessary for carrying out the work of HEDCA and they may employ or remunerate a HEDCA trustee only to the extent that it is permitted to do so by Clause 6 (Benefits and payments to charity trustees and connected persons) and provided it complies with the conditions of those clauses.

(e) Deposit or invest funds, employ a professional fund-manager, and arrange for the investments or other property of HEDCA to be held in the name of a nominee, in the same manner and subject to the same conditions as the trustees of a trust are permitted to do by the Trustee Act 2000.

## **5. APPLICATION OF INCOME AND PROPERTY**

5.1 The income and property of HEDCA must be applied solely towards the promotion of the objectives.

(a) A HEDCA trustee is entitled to be reimbursed from the property of HEDCA or may pay out of such property reasonable expenses properly incurred by him or her when acting on behalf of HEDCA. This ruling also applies to other employees and volunteers acting in the best interest of HEDCA.

(b) A HEDCA trustee may benefit from trustee indemnity insurance cover purchased at HEDCA's expense in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011.

5.2 None of the income or property of HEDCA may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to any member of HEDCA. This does not prevent a member who is not also a HEDCA trustee receiving:

(a) a benefit from HEDCA as a beneficiary of HEDCA or

(b) reasonable and proper remuneration for any goods or services supplied to HEDCA.

5.3 Nothing in this clause shall prevent a HEDCA trustee or connected person receiving any benefit or payment which is authorised by Clause 6.

## **6. BENEFITS & PAYMENTS TO HEDCA TRUSTEES & CONNECTED PERSONS**

6.1 General provisions.

No HEDCA trustee or connected person may:-

(a) Buy or receive any goods or services from HEDCA on terms preferential to those applicable to members of the public.

(b) Sell goods, services, or any interest in land or buildings of HEDCA.

Unless the payment or benefit is permitted by Clause 6.2 or authorised by the court, or the prior written consent of the Charity Commission has been obtained. In this clause, a "financial benefit" means a benefit, direct or indirect, which is either money or has a monetary value.

6.2 Scope and powers permitting HEDCA trustees or connected persons benefits.

(a) A HEDCA trustee or connected person may receive a benefit from HEDCA as a beneficiary of HEDCA provided that a majority of the trustees do not benefit in this way.

(b) A HEDCA trustee or connected person may enter a contract for the supply of services, or of goods that are supplied in connection with the provision of services to HEDCA where that is permitted in accordance with, and subject to the conditions in, section 185 to 188 of the Charities Act 2011.

(c) Subject to Clause 6.3 a HEDCA trustee or connected person may provide HEDCA with goods that are not supplied in connection with services provided to HEDCA, a HEDCA trustee or connected person.

(d) A HEDCA trustee or connected person may receive interest on money lent to HEDCA at a reasonable and proper rate which must be not more than the Bank of England bank rate (also known as the base rate).

(e) A HEDCA trustee or connected person may receive rent for premises let by the HEDCA trustee or connected person to HEDCA. The amount of the rent and the other terms of the lease must be reasonable and proper. The HEDCA trustee concerned must withdraw from any meeting at which such a proposal or the rent or other terms of the lease are under discussion.

(f) A HEDCA trustee or connected person may take part in the normal trading and fundraising activities of HEDCA on the same terms as members of the public.

### 6.3 Payment for supply of goods only - controls

HEDCA and its HEDCA trustees may only rely upon the authority provided by Clause 6.2(c) if each of the following conditions is satisfied:

- (a) The amount or maximum amount of the payment for the goods is set out in a written agreement between HEDCA and the HDCA trustee or connected person supplying the goods ("the supplier").
- (b) The amount or maximum amount of the payment for the goods does not exceed what is reasonable in the circumstances for the supply of the goods in question.
- (c) All HEDCA trustees are satisfied that it is in the best interests of HEDCA to contract with the supplier rather than with someone who is not a HEDCA trustee or connected person. In reaching that decision the HEDCA trustees must balance the advantage of contracting with a HEDCA trustee or connected person against the disadvantages of doing so.
- (d) The supplier is absent from the part of any meeting at which there is discussion of the proposal to enter into a contract or arrangement with him or her or it with regard to the supply of goods to HEDCA.
- (e) The supplier does not vote on any such matter and is not to be counted when calculating whether a quorum of HEDCA trustees is present at the meeting.
- (f) The reason for their decision is recorded by the HEDCA trustees and minuted.

## **7. CONFLICTS OF INTEREST AND CONFLICTS OF LOYALTY**

7.1 A HEDCA trustee must:

- (a) Declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with HEDCA or in any transaction or arrangement entered into by HEDCA which has not previously been declared.
- (b) Absent himself or herself from any discussions of the HEDCA trustees in which it is possible that a conflict of interest will arise between his or her duty to act solely in the interests of HEDCA and any personal interest (including but not limited to any financial interest).

7.2 Any HEDCA trustee absenting himself or herself from any discussions must not vote or be counted as part of the quorum in any decision of the HEDCA trustees on the matter.

## **8. LIABILITY OF MEMBERS TO CONTRIBUTE TO THE ASSETS OF HEDCA IF IT IS WOUND UP**

If HEDCA is wound up, the members of HEDCA have no liability to contribute to its assets and no personal responsibility for settling its debts and liabilities.

## **9. MEMBERSHIP OF HEDCA**

9.1 Admission of new members

(a) Eligibility

Membership of HEDCA is open to anyone within the postcode areas of PO12 and PO13 aged 18 and over, who are interested in furthering its purposes, and who, by applying for membership, has indicated his or her agreement to become a member and acceptance of the duty of members as specified in 9.3

A member is defined as being an individual.

(i) Admission procedure – HEDCA Management Committee (HMC)

Require applications for membership to be made in any reasonable way that they decide.

(ii) Shall, if they approve an application for membership notify the applicant of their decision within 21 working days.

(iii) May refuse an application for membership if they believe that it is in the best interests of

HEDCA for them to do so.

(iv) Shall, if they decide to refuse an application for membership, give the applicant their reasons for doing so, within 14 working days of the decision being taken, and give the applicant the opportunity to appeal against the refusal.

(v) Shall consider any such appeal and shall inform the applicant of their decision within 7 days.

## 9.2 Transfer of membership

Membership of HEDCA cannot be transferred.

## 9.3 Duty of members

It is the duty of each member of HEDCA to exercise his or her powers as a member of HEDCA in the way he or she decides in good faith in order to further the purposes of HEDCA.

## 9.4 Termination of HEDCA membership

(a) Membership of HEDCA ceases if:

(i) the member dies, or, in the case of an organisation (or the representative of an organisation) that organisation ceases to exist; or

(ii) the member sends a notice of resignation to the HEDCA Management Committee (HMC) Secretary

(iii) any sum of money owed by the member to HEDCA is not paid in full within six months of its falling due and sufficient correspondence and reminders have been issued.

(iv) HEDCA trustees decide that it is in the best interests of HEDCA that the member in question should be removed from membership and pass a ruling to that effect and be recorded.

(b) Prior to HEDCA trustees taking any decision to remove someone from membership of HEDCA they must:

(i) inform the member of the reason(s) why it is proposed to remove him or her from membership

(ii) give the member at least 21 clear days' notice in which to make representations to the HEDCA trustees as to why he or she should not be removed from membership

(iii) at a duly constituted meeting of the charity trustees, consider whether or not the member should be removed from membership.

(iv) consider at that meeting any representations which the member makes as to why the member should not be removed; and

(v) permit the member, or the member's representative, to make those representations in person at that meeting, if the member so chooses.

## 9.5 Membership fees

HEDCA requires members to pay pre-determined membership annually, or upon application until the annual renewal date.

(i) Informal or associate (non-voting) membership

(a) HEDCA trustees may create associate or other classes of non-voting membership and may determine the rights and obligations of any such members (including payment of membership fees), and the conditions for admission to, and termination of membership of any such class of members

(b) Other references in this constitution "members" and "membership" do not apply to non-voting members, and non-voting members do not qualify as members for any purpose under the Charities Acts, General Regulations or Dissolution Regulations.

## **10. MEMBERS ' DECISIONS**

### 10.1 General provisions

Except for those decisions that must be taken in a particular way as indicated in Clause 10.4, decisions of the members of HEDCA may be taken either by vote at a general meeting as provided in Clause 10.2 or by written resolution as provided in Clause 10.3.

### 10.2 Taking ordinary decisions by vote.

Subject to Clause 10.4, any decision of the members of HEDCA may be taken by means of a resolution at a general meeting. Such a resolution may be passed by a simple majority of votes cast at the meeting (including votes cast by postal or email ballot, and proxy votes).

### 10.3 Taking ordinary decisions by written resolution without a general meeting.

(a) Subject to Clause 10.4, a resolution in writing agreed by a simple majority of all the members who would have been entitled to vote upon it had it been proposed at a general meeting shall be effective, provided that:

(i) a copy of the proposed resolution has been sent to all the members eligible to vote; and  
(ii) A simple majority of members have signified its agreement to the resolution in a document or documents which are received at the principal office within the period of 28 days beginning with the circulation date. The document signifying a member's agreement must be authenticated by their signature (or in the case of an organisation which is a member, by execution according to its usual procedure,) by a statement of their identity accompanying the document, or in such other manner as HEDCA has specified.

(b) The resolution in writing may comprise several copies to which one or more members has signified their agreement.

(c) Eligibility to vote on the resolution is limited to members who are members of HEDCA on the date when the proposal is first circulated in accordance with Clause 10.3(a).

(d) HEDCA trustees must within 21 working days of receiving such a request comply providing:

(i) The proposal is not frivolous or vexatious and does not involve the publication of defamatory material.

(ii) the proposal is stated with sufficient clarity to enable effect to be given to it if it is agreed by the members; and

(iii) effect can lawfully be given to the proposal if it is so agreed.

(e) Clause 10.3(a), Clause 10.3(b), and Clause 10.3(c) apply to a proposal made at the request of members.

### 10.4 Decisions that must be taken in a particular way.

(a) Any decision to remove a HEDCA trustee must be taken in accordance with Clause 15.2.

(b) Any decision to amend this constitution must be taken in accordance with Clause 28 of this constitution (Amendment of Constitution) .

(c) Any decision to wind up or dissolve HEDCA must be taken in accordance with Clause 29 of this constitution (Voluntary winding up or dissolution). Any decision to amalgamate or transfer the undertaking of HEDCA must be taken in accordance with the provisions of the Charities Act 2011.

## **11. GENERAL MEETINGS OF MEMBERS**

### **11.1 Types of general meeting**

There must be an Annual General Meeting (AGM) of the members of HEDCA. AGMs must be held at intervals of not more than 15 months. The AGM must receive the annual statement of accounts (duly audited or examined where applicable) and the HEDCA trustee's annual report and must elect trustees as required under Clause 13 and relevant HEDCA representatives.

### **11.2 Calling general meetings.**

(a) HEDCA trustees:

(i) must call the annual general meeting of the members of HEDCA in accordance with Clause 11.1, and identify it as such in the notice of the meeting; and

(ii) may call any other general meeting of the members at any time.

(b) HEDCA trustees must, within 21 working days, call a general meeting of the members of HEDCA if:

(i) If they receive a request to do so from at least 10% of the members of HEDCA and, at the time of any such request, there has not been any general meeting of the members of HEDCA more than 12 months, then this sub-clause shall have effect as if 5% were substituted for 10%.

(ii) The request states the general nature of the business to be dealt with at the meeting and is authenticated by the member(s) making the request.

(c) Any such request may include particulars of a resolution that may properly be proposed, and is intended to be proposed, at the meeting.

(d) A resolution may only properly be proposed if it is lawful, and is not defamatory, frivolous, or vexatious.

(e) Any general meeting called by HEDCA trustees at the request of the members of HEDCA must be held within 28 working days from the date on which it is called.

(f) If the HEDCA trustees fail to comply with this obligation to call a general meeting at the request of its members, then the members who requested the meeting may themselves call a general meeting.

(g) A general meeting called in this way must be held not more than 3 months after the date when the members first requested the meeting.

(h) HEDCA shall reimburse any reasonable expenses incurred by the members calling a general meeting by reason of the failure of the HEDCA trustees to duly call the meeting, but HEDCA shall be entitled to be indemnified by the HEDCA trustees who were responsible for such failure.

### **11.3 Notice of general meetings**

(a) HEDCA trustee or relevant members of HEDCA, must give at least 14 clear days' notice of any general meeting to all of the members.

(b) If it is agreed by not less than 60% of all members of HEDCA, any resolution may be proposed and passed at the meeting even though the requirements of the above sub-clause have not been met. This sub-clause does not apply where a specified period of notice is strictly required by another clause in this constitution, by the Charities Act 2011 or by the General Regulations.

(c) The notice of any general meeting must

(i) State the time and date of the meeting.

(ii) Provide the address as to where the meeting is being held.

(iii) give particulars of any resolution which is being proposed at the meeting, and of the general nature of any other business to be dealt with at the meeting.

(iv) include, with the notice for the AGM, the annual statement of accounts and trustee's annual report, details of persons standing for election or re-election as HEDCA trustee or other recognised positions, or where allowed under Clause 22 (Use of electronic communication), details of where the information may be found on the HEDCA website.

(d) The proceedings of a meeting shall not be invalidated because a member who was entitled to receive notice of the meeting did not receive it for whatever reason by HEDCA or a 3<sup>rd</sup> party.

#### 11.4 Chairing of general meetings

The person nominated as Chair by the HEDCA trustees under Clause 19.2 (Chairing of meetings), shall, if present at the general meeting and willing to act, preside as Chair of the meeting. In the absence of the Chair, the Vice-Chair will reside and subject to neither being present the members of HEDCA who are present at a general meeting shall elect a Chair to preside at the meeting.

#### 11.5 Quorum at general meetings

(a) No business may be transacted at any general meeting of the members of HEDCA unless a quorum is present when the meeting starts.

(b) Subject to the following provisions, the quorum for general meetings shall be the greater of 5% or three members of which one must be a HEDCA trustee and at least two representatives of the HEDCA Management Committee (HMC).

(c) If the meeting has been called by or at the request of the members and a quorum is not present within 15 minutes of the starting time specified in the notice of the meeting, the meeting is closed.

(d) If the meeting has been called in any other way and a quorum is not present within 15 minutes of the starting time specified in the notice of the meeting, the chair must adjourn the meeting. The date, time, and place at which the meeting will resume must either be announced by the chair or be notified to HEDCA members at least 7 working days before the date on which it will resume.

(e) If at any time during the meeting a quorum ceases to be present, the meeting may discuss issues and make recommendations to HEDCA trustees and the HEDCA Management Committee (HMC) but may not make any decisions. If decisions are required which must be made by a meeting of the members, the meeting must be adjourned.

#### 11.6 Voting at general meetings

Any decision other than one falling within Clause 10.4 (decisions that must be taken in a particular way) shall be taken by a simple majority of votes cast at the meeting (including proxy and postal votes). Every member has one vote.

(a) A resolution put to the vote of a meeting shall be decided on a show of hands or completed anomalously (before or on the declaration of the result of the show of hands) a poll is duly demanded. A poll may be demanded by the Chair or by at least 10% of the members present in person or by proxy at the meeting.

(b) A poll demanded on the election of a person to chair the meeting or on a question of adjournment must be taken immediately. A poll on any other matter shall be taken, and the result of the poll shall be announced, in such manner as the chair of the meeting shall decide, provided that the poll must be taken, and the result of the poll announced, within 30 days of the demand for the poll.

(c) A poll may be taken:

(i) at the meeting at which it was demanded; or

(ii) at some other time and place specified by the Chair; or

(iii) using postal or electronic communications.

(d) In the event of an equality of votes, whether on a show of hands or on a poll, the Chair of the meeting shall have a second and casting vote.

(e) Any objection to the qualification of any voter must be raised at the meeting at which the vote is cast and the decision of the Chair of the meeting shall be final.

#### 11.7 Proxy voting

(a) Any member of HEDCA may appoint another person as a proxy to exercise all or any of that member's rights to attend, speak and vote at a general meeting of HEDCA. Proxies must be appointed by a notice in writing (a "proxy notice") which:

(i) States the name and address of the member appointing the proxy.

(ii) Identifies the person appointed to be that member's proxy and the general meeting in relation to which that person is appointed.

(iii) Is signed by or on behalf of the member appointing the proxy or is authenticated in such manner as HEDCA may determine.

(iv) Is delivered to HEDCA in accordance with the constitution and any instructions contained in the notice of the general meeting to which they relate.

(b) HEDCA may require proxy notices to be delivered in a particular form and may specify different forms for different purposes.

(c) Proxy notices may (but do not have to) specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.

(d) Unless a proxy notice indicates otherwise, it must be treated as:

(i) Allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting.

(ii) Appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

(e) A member who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to HEDCA by or on behalf of that member.

(f) An appointment under a proxy notice may be revoked by delivering to HEDCA a notice in writing given by or on behalf of the member by whom or on whose behalf the proxy notice was given.

(g) A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meetings to which it relates.

(h) If a proxy notice is not signed or authenticated by the member appointing the proxy, it must be accompanied by written evidence that the person who signed or authenticated it on that member's behalf had authority to do so.

#### 11.8 Postal Voting

(a) HEDCA may, if the HEDCA trustees decide, allow the members to vote by post or electronic mail ("email") to elect HEDCA trustees or to make a decision on any matter that is being decided at a general meeting of the members

(b) The HEDCA trustees will appoint at least two persons from HEDCA Management Committee to serve as scrutineers to supervise the conduct of the postal/email ballot and the counting of votes.

(c) If postal and/or email voting is to be allowed on a matter, HEDCA must send to members of HEDCA not less than 21 days before the deadline for receipt of votes cast in this way:



- (i) A notice by email, if the member has agreed to receive notices in this way under Clause 22 (Use of electronic communications), including an explanation of the purpose of the vote and the voting procedure to be followed by the member, and a voting form capable of being returned by email or post to HEDCA, containing details of the resolution being put to a vote, or of the candidates for election, as applicable.
- (ii) A notice by post to all other members, including a written explanation of the purpose of the postal vote and the voting procedure to be followed by the member; and a postal voting form containing details of the resolution being put to a vote, or of the candidates for election, as applicable.
- (d) The voting procedure must require all forms returned by post to be in an envelope with the member's name and signature, and nothing else, on the outside, inside another envelope addressed to 'The Scrutineers for HEDCA', at HEDCA's office address or such other postal address as is specified in the voting procedure.
- (e) The voting procedure for votes cast by email must require the member's name to be at the top of the email, and the email must be authenticated in the manner specified in the voting procedure
- (f) Email votes must be returned to an email address used only for this purpose and must be accessed only by a scrutineer.
- (g) The voting procedure must specify the closing date and time for receipt of votes and must state that any votes received after the closing date or not complying with the voting procedure will be invalid and not be counted.
- (h) The scrutineers must make a list of names of members casting valid votes, and a separate list of members casting votes which were invalid. These lists must be provided to a HEDCA trustee or other person overseeing admission to, and voting at, the general meeting. A member who has cast a valid postal or email vote must not vote at the meeting and must not be counted in the quorum for any part of the meeting on which he or she has already cast a valid vote. A member who has cast an invalid vote by post or email is allowed to vote at the meeting and counts towards the quorum.
- (i) For postal votes, the scrutineers must retain the internal envelopes (with the member's name and signature). For email votes, the scrutineers must cut off and retain any part of the email that includes the member's name. In each case, a scrutineer must record on this evidence of the member's name that the vote has been counted, or if the vote has been declared invalid, the reason for such declaration.
- j) Votes cast by post or email must be counted by all the scrutineers before the meeting at which the vote is to be taken. The scrutineers must provide to the person chairing the meeting written confirmation of the number of valid votes received by post and email and the number of votes received which were invalid.
- (k) The scrutineers must not disclose the result of the postal/email ballot until after votes taken by hand or by poll at the meeting, or by poll after the meeting, have been counted. Only at this point shall the scrutineers declare the result of the valid votes received, and these votes shall be included in the declaration of the result of the vote.
- (l) Following the final declaration of the result of the vote, the scrutineers must provide to a HEDCA trustee or other authorised person bundles containing the evidence of members submitting valid postal votes; evidence of members submitting valid email votes; evidence of invalid votes; the valid votes; and the invalid votes.
- (m) Any dispute about the conduct of a postal or email ballot must be referred initially to a panel set up by HEDCA trustees, consisting of at least one trustee and two HEDCA members independent of the HEDCA Management Committee (HMC). If the dispute cannot be satisfactorily resolved by the panel, it must be referred to the Electoral Reform Services.

### 11.10 Adjournment of meetings

The Chair may with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting to another time and/or place. No business may be transacted at an adjourned meeting except business which could properly have been transacted at the original meeting.

## **12. HEDCA TRUSTEES**

### 12.1 Functions and duties of HEDCA trustees

HEDCA trustees shall manage the affairs of HEDCA and may for that purpose exercise all the powers of HEDCA. It is the duty of each HEDCA trustee:

(a) To exercise his or her powers and to perform his or her functions as a HEDCA trustee in the way he or she decides in good faith would be most likely to further the purposes of HEDCA.

(b) To exercise, in the performance of those functions, such care and skill as is reasonable in the circumstances having regard in particular to:

(i) any special knowledge or experience that he or she has or holds himself or herself out as having; and

(ii) If he or she acts as a HEDCA trustee in the course of a business or profession, to any special knowledge or experience that it is reasonable to expect of a person acting in the course of that kind of business or profession

### 12.2 Eligibility for trusteeship

(a) Every HEDCA trustee must be a natural person i.e. cannot be a company or a limited-liability partner.

(b) No one may be appointed as a HEDCA trustee:

(i) if he or she is under the age of 18 years; or

(ii) if he or she would automatically cease to hold office under the provisions outlined in Clause 15.1(f).

(c) No one is entitled to act as a HEDCA trustee whether on appointment or on any re-appointment until he or she has expressly acknowledged, in whatever way the HEDCA trustees decide, upon liaison with the HEDCA Management Committee (HMC) his or her acceptance of the office of HEDCA trustee.

(i) At least one of the HEDCA trustees must be 18 years of age or over.

### 12.3 Number of HEDCA trustees

(a) There must be a minimum of two HEDCA trustees, ideally three or more. If the number falls below the minimum, the remaining trustee must call an extra ordinary meeting for the appointment of an additional HEDCA trustee or trustees within 14 days.

(b) The maximum number of HEDCA trustees is 5. The HEDCA trustees may not appoint any HEDCA trustee if as a result the number of HEDCA trustees exceeds the maximum.

## **13. APPOINTMENT OF CHARITY TRUSTEES**

(a) The vacancies so arising may be filled by the decision of the members at the annual general meeting; any vacancies not filled at the annual general meeting may be subsequently filled as provided in Clause 12.3.a & b.

(b) HEDCA trustees and HEDCA Management Committee (HMC) may at any time decide to appoint a new HEDCA trustee, whether in place of a HEDCA trustee who has retired or been removed in accordance with Clause 15 (Retirement and removal of charity trustees), or as an additional HEDCA trustee, and not exceeding 12.3(b).

#### **14. HEDCA TRUSTEES – INFORMATION FOR NEWLY ELECTED**

The HEDCA trustees will make available to each new HEDCA trustee, on or before his or her first appointment:-

- (a) The latest version and copy of this constitution.
- (b) A copy of HEDCA'S latest trustees' annual report and statement of accounts.

#### **15. RETIREMENT AND REMOVAL OF HEDCA TRUSTEES**

15.1 A HEDCA trustee ceases to hold office if he or she:

- (a) Retires by notifying the HEDCA trustees and the Secretary of the Management Committee (HMC) in writing providing 12 weeks' notice (but only if enough HEDCA trustees will remain in office when the notice of resignation takes effect to form a quorum for meetings).
- (b) Is absent without notification to HEDCA trustees and HMC for 5 or more monthly meetings held within a 12 month period and HEDCA trustees and the HMC resolve that his or her office be vacated.
- (c) Dies.
- (d) In the written opinion, given to HEDCA, of a registered medical practitioner treating that person, has become physically or mentally incapable of acting as a HEDCA trustee and may remain so for more than three months from date of notification.
- (e) Is removed by the members of HEDCA in accordance with Clause 15.2.
- (f) Is disqualified from acting as a HEDCA trustee by virtue of section 178-180 of the Charities Act 2011 (or any statutory re-enactment or modification of that provision).

15.2 (i) A HEDCA trustee shall be removed from office if a resolution to remove that trustee is proposed at a general meeting of the members called for that purpose and properly convened in accordance with Clause 11, and the resolution is passed by 60% majority of votes cast at the meeting.

15.3 A resolution to remove a HEDCA trustee in accordance with Clause 11. shall not take effect unless the individual concerned has been given at least 14 clear days' notice in writing that the resolution is to be proposed, specifying the circumstances alleged to justify removal from office, and has been given a reasonable opportunity of making oral and/or written representations to HEDCA trustees, HEDCA Management Committee (HMC) and members.

#### **16. REAPPOINTMENT OF HEDCA TRUSTEES**

Any person who retires or resigns as a HEDCA trustee is eligible for reappointment.

#### **17. DECISIONS TAKEN BY HEDCA TRUSTEES**

Any decision may be taken either:

- (a) At a meeting of the HEDCA trustees.
- (b) By resolution in writing or electronic form agreed by a majority of all of the HEDCA trustees, 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 HEDCA trustees has signified their agreement. Such a resolution shall be effective provided that:
  - (i) a copy of the proposed resolution has been sent, at or as near as reasonably practicable to the same time, to all of the HEDCA trustees; and
  - (ii) the majority of all of the HEDCA trustees has signified agreement to the resolution in a document or documents which has or have been authenticated by their signature, by a statement of their identity accompanying the document or documents, or in such other manner as the HEDCA trustees have previously resolved, and delivered to HEDCA at its principal office or such other place as the trustees may resolve within 28 days of the circulation date.

## **18. DELEGATION BY HEDCA TRUSTEES**

18.1 The HEDCA trustees may delegate any of their powers or functions to a committee or committees and, if they do, they must determine the terms and conditions on which the delegation is made. The HEDCA trustees may at any time alter those terms and conditions or revoke the delegation.

18.2 To assist HEDCA trustees with functional and operational affairs of HEDCA, two committees exist i.e. HEDCA Management Committee (HMC) and the HEDCA Social Club Committee, both of which are separate entities.

18.3 HEDCA employees are delegated by the HEDCA trustees to be overseen and managed by the HMC Chair (Caretaker & Cleaner) and HEDCA Social Club Chair (Bar Manager – responsible for bar staff), as defined by roles and job descriptions.

18.4 This is in addition to delegation in the General Regulations and any other power of delegation available to HEDCA trustees, but is subject to the following requirements:

(a) A committee is defined of consisting of three or more people, one of which for the HMC must include a HEDCA trustee; not applicable for the HEDCA Social Club Committee.

(b) The acts and proceedings of any committee must be brought to the attention of the HEDCA trustees as a whole as soon as is reasonably practicable and recorded within 7 working days of being held. .

(c) HEDCA trustees shall constantly review the arrangements which they have made for the delegation of their authoritative powers.

(d) HEDCA trustees shall be empowered to ultimately 'Veto' any decision made by any delegated authority or committee and decision made in respect of HEDCA. They have the right to take this action if they deem and consider a decision to be detrimental for financial or other reasons that is not beneficial to HEDCA.

## **19. MEETINGS AND PROCEEDINGS OF HEDCA TRUSTEES**

19.1 Calling meetings.

(a) Any HEDCA trustee may call a meeting of the HEDCA trustees.

(b) Subject to that, HEDCA trustees shall decide how their meetings are to be called, and what notice is required.

19.2 Chairing of meetings

The HEDCA trustees may appoint one of their number to chair their meetings and may at any time revoke such an appointment. If no-one has been so appointed, or if the person appointed is unwilling to preside or is not present within 15 minutes after the time of the meeting, the HEDCA HEDCA trustees present may appoint one of their number to chair that meeting.

19.3 Procedure at meetings

(a) No decision shall be taken at a meeting unless a quorum is present at the time when the decision is taken. The quorum is two charity trustees, or whichever is greater, or such larger number as the HEDCA trustees may decide to include other non-voting attendees. A HEDCA trustee shall not be counted in the quorum present when any decision is made about a matter upon which he or she is not entitled to vote.

(b) Questions arising at a meeting shall be decided by a majority of those eligible to vote.

(c) In the case of an equality of votes, the chair shall have a second or casting vote.

19.4 Participation in meetings by electronic means:

(a) A meeting may be held by suitable electronic means agreed by the HEDCA trustees in which each participant may communicate with all the other participants.

(b) Any HEDCA member participating at a meeting by suitable electronic means agreed by the HEDCA trustees in which a participant or participants may communicate with all the other participants shall qualify as being present at the meeting.

(c) Meetings held by electronic means must comply with rules for meetings, including chairing and the taking of minutes, also complying with permissions pertaining to the relevant laws of media and the General Data Protection Regulation (GDPR) at the time.

## **20. SAVING PROVISIONS**

20.1 Subject to Clause 20.2, all decisions of the HEDCA trustees, or of a committee of HEDCA trustees, shall be valid notwithstanding the participation in any vote of a HEDCA trustee:

(a) Who was disqualified from holding office.

(b) Who had previously retired or who had been obliged by the constitution to vacate office.

(c) Who was not entitled to vote on the matter, whether by reason of a conflict of interest or otherwise.

(d) If, without the vote of that HEDCA trustee and that HEDCA trustee being counted in the quorum, the decision has been made by a majority of the HEDCA trustees at a quorate meeting.

20. Clause 20.1 does not permit a HEDCA trustee to keep any benefit that may be conferred upon him or her by a resolution of the HEDCA trustees or of a committee of HEDCA trustees if, but for Clause 20.1, the resolution would have been void, or if the HEDCA trustee has not complied with Clause 7 (Conflicts of interest).

## **21. EXECUTION OF DOCUMENTS**

HEDCA shall execute documents by personal and electronic signature of HEDCA trustees and designated HEDCA representatives .

A HEDCA document is validated by the signature of at least one HEDCA trustee and HEDCA Management Committee (HMC) representative.

## **22. USE OF ELECTRONIC COMMUNICATIONS**

### **22.1 General**

HEDCA will comply with the requirements of the Communications Provisions in the General Regulations and in particular:

(a) The requirement to provide within 21 working days to any member on request a hard copy of any document or information sent to the member otherwise than in hard copy form.

(b) Any requirements to provide information to the Commission in a particular form or manner.

### **22.2 Use of electronic communications**

#### **(a) To HEDCA**

Any member or HEDCA trustee or HEDCA member may communicate electronically with HEDCA to a specified address for the purpose, so long as the communication is authenticated in a manner which is satisfactory to HEDCA.

#### **(b) By HEDCA**

Any member or HEDCA trustee, by providing HEDCA with his or her email address or similar, is taken to have agreed to receive communications from HEDCA in electronic form at that address, unless the member has specifically indicated to HEDCA his or her unwillingness to receive such communications in that form.

### 22.3 Electronic Contact

HEDCA trustees and representatives, may subject to compliance with any legal requirements, by means of publication on its website will endeavour to ensure email addresses are not shared with 3<sup>rd</sup> parties and only used for the purposes of HEDCA :

- (a) Provide the members with the notice referred to in Clause 11. (Notice of general meetings).
- (b) Provide HEDCA trustees and HEDCA members notice of meetings in accordance with Clause 19. & 11. (Calling meetings).
- (c) Submit any proposal to the members or HEDCA trustees for decision by written resolution or postal vote in accordance with the HEDCA powers under Clauses 10 & 11.

### 22.4 The HEDCA trustees must:

- (a) Take reasonable steps to ensure that members and HEDCA trustees are promptly notified of the publication of any such notice or proposal.
- (b) Send any such notice or proposal in hard copy form to any member or HEDCA trustee who has not consented to receive communications in electronic form.

## 23. KEEPING OF REGISTERS

HEDCA must comply with its lawful obligations under the General Regulations in relation to the keeping of, and provision of access to, registers of its members and HEDCA trustees.

## 24. MINUTES

HEDCA trustees, HEDCA Management Committee (HMC) and HEDCA Social Club must keep minutes of all:- :

- (a) Appointments of officers made by the HEDCA trustees.
- (b) Proceedings at general meetings of HEDCA.
- (c) Meetings of the HEDCA trustees and separate entity committees including
  - (i) Start & Finish Time, date, and location of meeting:
  - (i) the names of the HEDCA trustees present and all other attendees at the meeting.
  - (iii) the decisions made at the meetings; and
  - (iv) where appropriate the reasons for the decisions, together with any actions.
  - (v) decisions made by the HEDCA trustees otherwise than in meetings held.

## 25. ACCOUNTING RECORDS, ACCOUNTS, ANNUAL REPORTS AND RETURNS, REGISTER MAINTENANCE

25.1 HEDCA trustees must comply with the requirements of the Charities Act 2011 with regard to the keeping of accounting records, to the preparation and scrutiny of statements of accounts, and to the preparation of annual reports and returns. The statements of accounts, reports and returns must be sent to the Charity Commission, regardless of the income of HEDCA within 10 months of the financial year end.

25.2 HEDCA trustees must comply with their obligation to inform the Commission within 28 days of any change in the particulars of the HEDCA entered on the Central Register of Charities.

## 26. RULES AND BYELAWS

HEDCA trustees may review rules or byelaws as they may deem necessary or expedient for the proper conduct and management of HEDCA, but such rules or byelaws must not be inconsistent with any provision of this constitution. Copies of any such rules or byelaws currently in force must be made available to any member of HEDCA within 7 working days upon request.

## **27. DISPUTES**

27.1 If a dispute arises between members of HEDCA about the validity or propriety of anything done by the members under this constitution, and the dispute cannot be resolved by agreement, the parties to the dispute must first try in good faith to settle the dispute by mediation before resorting to either complaint or litigation.

27.2 A complaints procedure is in operation which should be referred in writing to The Secretary, HEDCA Management Committee (HMC) for the attention of the HEDCA trustees & HMC. If considered a 'Social' complaint, the HMC secretary will refer the complaint to The Chair of the HEDCA Social Committee with possible liaison with the HEDCA trustees.

## **28. AMENDMENT OF CONSTITUTION**

28.1 As provided by clauses 224-227 of the Charities Act 2011, this constitution can only be amended:

- (i) by resolution agreed in writing by all members HEDCA or
- (ii) by a resolution passed by a 60% majority of votes cast at a general meeting of the members of HEDCA.

28.2 Any alteration of Clause 3 (Objectives), Clause 29 (Voluntary winding up or dissolution), or of any provision where the alteration would provide authorisation for any benefit to be obtained by HEDCA trustees or members of HEDCA or persons connected with them, requires the prior written consent of the Charity Commission.

(a) No amendment that is inconsistent with the provisions of the Charities Act 2011 or the General Regulations shall be valid.

(b) A copy of any resolution altering the constitution, together with a copy of HEDCA's constitution as amended, must be sent to the Commission within 14 days from the date on which the resolution is passed. The amendment(s) does not take effect until it has been recorded in the Register of Charities.

## **29. VOLUNTARY WINDING UP OR DISSOLUTION**

29.1 As provided by the Dissolution Regulations, HEDCA may be dissolved by resolution of its members. Any decision by the members to wind up or dissolve can only be made:- .

(a) At a general meeting of the members of HEDCA in accordance with Clause 11 (General meetings of members), of which not less than 14 days' notice has been given to those eligible to attend and vote:

- (i) by a resolution passed by a 60% majority of those voting, or
- (ii) by a resolution passed by decision taken without a vote and without any expression of dissent in response to the question put to the general meeting; or
- (iii) By a resolution agreed in writing by all members of HEDCA.

29.2 Subject to the payment of all HEDCA debts:

(a) Any resolution for the winding up of HEDCA, or for the dissolution of HEDCA without winding up, may contain a provision directing how any remaining assets of HEDCA shall be applied.

(b) If the resolution does not contain such a provision, the HEDCA trustees must decide how any remaining assets of the HEDCA shall be applied.

(c) In either case the remaining assets must be applied for charitable purposes the same as or similar to those of HEDCA.

29.3 HEDCA must observe the requirements of the Dissolution Regulations in applying to the Commission for HEDCA to be removed from the Register of Charities, and in particular:-

- (a) The HEDCA trustees must send with their application to the Commission:
- (i) a copy of the resolution passed by the members of HEDCA.
  - (ii) a declaration by the HEDCA trustees that any debts and other liabilities of HEDCA have been settled or otherwise provided for in full; and
  - (iii) a statement by the HEDCA trustees setting out the way in which any property of HEDCA has been or is to be applied prior to its dissolution in accordance with this constitution.
- (b) HEDCA trustees must ensure that a copy of the application is sent within 7 working days to every member and employee of HEDCA, and to any HEDCA trustee who was not privy to the application.

29.4 If HEDCA is to be wound up or dissolved in any other circumstances, the provisions of the Dissolution Regulations must be followed.

### **30. INTERPRETATION**

30.1 In this constitution:

"Connected person" means:

- (a) a child, parent, grandchild, grandparent, brother or sister of the HEDCA trustee.
- (b) the spouse or civil partner of the HEDCA trustee or of any person falling within sub-clause(a) above.
- (c) a person carrying on business in partnership with the HEDCA trustee or with any person falling within sub-clause(a) or(b) above.

30.2 An institution which is controlled:

- (a) by the HEDCA trustee or any connected person falling within sub-clause 30.1 (a), (b) or (c) above; or
- (b) by two or more persons falling within all sub-clause when taken together;

30.3 a body corporate in which:

- (a) the HEDCA trustee or any connected person has a substantial interest; or
- (b) two or more people falling within the sub-clauses who, when taken together, have a substantial interest.

30.3 Section 118 of the Charities Act 2011 apply for the purposes of interpreting the terms used in this constitution.

30.4 "General Regulations" means the Charitable Incorporated Organisations (General) Regulations 2012.

30.5 "Dissolution Regulations" means the Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012.

30.6 The "Communications Provisions" means the Communications Provisions in [Part 10, Chapter 4] of the General Regulations.

30.7 "HEDCA trustee" means a trustee of the Charitable Incorporated Organisation (CIO).

30.8 A "poll" means a counted vote or ballot, usually (but not necessarily) in writing.