

THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY GUARANTEE

**ARTICLES OF ASSOCIATION of**  
**Swim England North West Limited**

Company No. 13527051

Incorporated on 23 July 2021

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## PART 1: GENERAL ARRANGEMENTS

### Article 1 Interpretation

1.1 In these Articles, unless the context requires otherwise:

**‘the Act’** means the Companies Act 2006.

**‘Affiliation’** has the meaning set out in Article 8.

**‘the Articles’** means these Articles of Association as may be amended from time to time in general meeting, and ‘Article’ refers to a particular Article.

**‘ASANWR’** means the Amateur Swimming Association North West Region.

**‘Bankruptcy’** includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy.

**‘Board’** means the Board of Directors of the Company established from time to time, the members of which are the directors of the Company for the purposes of the 2006 Act.

**‘Chair’** means the individual elected at a general meeting who is the Chair of the Board of Directors.

**‘Clear days’ or ‘clear notice’** in relation to the period of notice means a period of days exclusive of the day on which the notice is served and of the day for which it is given.

**‘Clubs’** means affiliated clubs whether incorporated or unincorporated.

**‘Committee’** means any committee or discipline group set up in accordance with Article 19. Committees may consist of or include persons who are not Board Members.

**‘Company’** means Swim England North West Limited.

**‘Conflicted Director’** means a Director in respect of whom a conflict of interest arises or may reasonably arise because the Conflicted Director or a Connected Person is receiving or stands to receive a benefit (other than payment of a premium for indemnity insurance) from the Company, or has some separate interest or duty in a matter to be decided, or in relation to information which is confidential to the Company.

**‘Connected Person’** means, in relation to a Director, a person with whom the Director shares a common interest such that he or she may reasonably be regarded as benefiting directly or indirectly from any material benefit received by that person, being either a member of the Director’s family or household or a person or body who is a business associate of the Director, and (for the avoidance of doubt) does not include a company with which the Director’s only connection is an interest consisting of no more than 1% of the voting rights.

**‘Constitution’** means the Memorandum of Association, the Articles of Association and the Company Regulations.

**‘Director’** means a Director of the Company, and includes any person occupying the position of Director, by whatever name called.

**‘Document’** includes, unless otherwise specified, any document sent or supplied in electronic form.

**‘Elected Director’** means a director elected in accordance with these Articles.

**‘Electronic form’** has the meaning given in section 1168 of the 2006 Act; this could be e-mail or fax, or by any other means while in an electronic form (for example, sending a disk by post).

**‘General meeting’** means an Annual General Meeting (AGM) or other General Meeting of the Company.

**‘Headquarters’** means the primary location where club activities take place.

**‘Local associations’** are defined as an association of clubs each of which is affiliated to Swim England through the Company all with headquarters within an area agreed by the Company. Local associations shall be required to affiliate to the county in which the majority of its clubs are situated.

**‘Member’** means the clubs, county associations, local associations and leagues other than those organised by county associations, and individual members admitted to the membership of the company in accordance with Article 9 and any relevant Company Regulations from time to time in force.

**‘Voting Members’** are members of the Company who, under these Articles, are entitled to receive notice of, attend and vote at general meetings, and who are members of the Company for the purposes of the Act.

**‘Non-Voting Members’** means all members of the company other than the Voting Members. Non-Voting Members are not members of the Company for the purposes of the Act.

**‘Month’** means a calendar month.

**‘NCASA’** means Northern Counties Amateur Swimming Association.

**‘Other organisations’** means schools, colleges, school swimming associations, clubs, swim schools, other bodies which operate solely for the purpose of teaching swimming on a non-profit making basis, and other bodies which operate on a profit making basis.

**‘President’** means the person from time to time elected in accordance with these Articles as the President of the Company.

**‘Proxy voting’** has the meaning given in Article 37.

**‘Region’** means the North West Region as defined in Swim England company regulations.

**‘Registered Office’** means the official location of a company in England and Wales to which all official correspondence from the UK government and HMRC is sent.

**‘Regulations’** means the regulations and policies of the Company made by the Board in accordance with Article 17 as may be amended from time to time.

**‘Resolution’** means a decision made by directors or members.

**‘Board resolutions’** are any type of collective decisions of Directors and are simply referred to as **‘resolutions’** or **‘board resolutions’**. These decisions can be made at board meetings or in writing.

**‘Ordinary resolution’** has the meaning given in section 282 of the 2006 Act and are passed by a simple majority at a general meeting.

**‘Special resolution’** has the meaning given in section 283 of the 2006 Act and are passed by a majority of not less than 75 % at a general meeting.

**‘SENW’** means Swim England North West region.

**‘Sport of swimming’** includes swimming, open water swimming, diving, artistic swimming and water polo.

**‘Swim England’** means the charity The Amateur Swimming Association (Swim England) Limited, charity number 1175603.

**‘Writing or Written Notice’** refers to a legible document on paper, or a document sent by electronic means which is capable of being printed out on paper.

**‘Year’** means a calendar year.

- 1.2 Unless the context otherwise requires, other words or expressions contained in these Articles bear the same meaning as in the 2006 Act as in force on the date when these Articles become binding on the Company
- 1.3 Words importing the singular number shall include the plural number and vice versa. Words importing the masculine gender only shall include the feminine gender also. Words importing persons shall include corporations.
- 1.4 For the purposes of section 20 of the 2006 Act, the relevant model Articles shall be deemed to have been fully excluded and replaced with the provisions of these Articles.
- 1.5 References to an Act of Parliament are to that Act as amended or re-enacted from time to time and to any subordinate legislation made under it.
- 1.6 References to the ‘Region’ are interchangeable with the ‘Company’.

## **Article 2 Objects**

- 2.1 The Objects of the Company are restricted to those set out in Articles 2.3 but subject to Article 2.2.
- 2.2 The Company may add to, remove or alter the statement of the Objects in Articles 2.3.1 to 2.3.8; on any occasion when it does so, it must give notice to the Registrar of Companies and the amendment will not be effective until that notice is registered on the Register of Companies.
- 2.3 The Objects of the Company shall be to:
  - 2.3.1 Be the North West regional representative of Swim England and to carry out the aims and objects of Swim England within its jurisdiction.
  - 2.3.2 Observe the Articles, Company Regulations, General Regulations, Judicial Regulations and Technical Rules of Swim England and ensure that they are observed within its jurisdiction.
  - 2.3.3 Manage the sport of swimming within its jurisdiction subject to the strategic direction of Swim England.

- 2.3.4 Follow the resolutions and rulings of Swim England and ensure that they are followed within its jurisdiction.
- 2.3.5 Determine the strategy of the Company, and produce and implement appropriate policies and business and development plans relevant to the Company based on national strategic criteria set by Swim England.
- 2.3.6 Administer such procedures as Swim England and the Company shall from time to time decide to establish, maintain and allow county associations to participate in the governance, administration and delivery of aquatic sports within its jurisdiction.
- 2.3.7 The Company shall administer such procedures as are required to enable the affiliation and membership of clubs, county associations, local associations, and leagues other than those organised by county associations, and other organisations including any necessary fee collection.
- 2.3.8 Promote community participation in swimming including masters and para-swimming, open water swimming, diving, artistic swimming and water polo.
- 2.3.9 Do all such other things as shall be thought fit to further the interests of the Company or to be incidental or conducive to the attainment of any or all of the Objects stated in this Article and the Company Regulations.

### **Article 3 Powers**

- 3.1 The Company shall have the powers to do all such lawful things as are consistent with the furtherance of its Objects.
- 3.2 The Company may seek and apply for funds, and receive donations, gifts, endowments, sponsorship fees, subscriptions and legacies from persons wishing to support the Company's objects.
- 3.3 The Company may borrow or raise or secure the payment of any money for the purposes of or in connection with the Company's Objects, and to mortgage or charge any part of the Company's property as security for borrowed money.
- 3.4 The Company has the power to suspend or take other disciplinary action against an affiliated club, county association, local association, and league other than those organised by county associations, or other organisation, or an individual member of an affiliated club, county association, local association, and league other than those organised by county associations, or other organisation, or a member of the Company.
  - 3.4.1 In exercising this power the Company must comply with the requirements and procedures of the Swim England Judicial Laws and Regulations for handling internal disputes.

### **Article 4 Status and Jurisdiction**

- 4.1 The Company shall act as the North West region of Swim England. Its jurisdiction shall include the counties of Cheshire, Cumbria, and Lancashire which includes the crown dependency of the Isle of Man.
- 4.2 Each county association shall be responsible for managing the sport of swimming within its boundaries subject to the strategic direction of Swim England and the Company.

## **Article 5 Limitation of liability of Members**

- 5.1 The liability of the Voting Members is limited.
- 5.2 Every Voting Member guarantees, if the Company is dissolved while they are a member or within one year after ceasing to be a member, to pay up to one pound sterling (£1.00) towards the costs of dissolution and the liabilities incurred by the Company while the guarantor was a member.

## **Article 6 Application of Income and Property**

- 6.1 The income and property of the Company shall be applied solely towards the promotion of its Objects.
- 6.2 No part of the income or property of the Company shall be paid or transferred directly or indirectly, overtly or covertly by way of dividend, bonus or otherwise to any member or director of the Company.
- 6.3 Nothing in Article 6.1 or 6.2 shall prevent the payment in good faith by the Company of:
- 6.3.1 Reasonable and proper out-of-pocket expenses to any director, member, committee or working party member, or employee in connection with their attendance at meetings of the directors or meetings of committees, or otherwise in connection with the carrying-out of their duties in accordance with the expenses policy set by the Board.
  - 6.3.2 Interest on money lent by a voting member or director of the Company at a commercial rate of interest.
  - 6.3.3 Reasonable and proper rent for premises demised or let by any voting member or director of the Company.
  - 6.3.4 Any premium in respect of the purchase and maintenance of indemnity insurance in respect of liability for any act or default of the directors (or any of them) in relation to the Company.
  - 6.3.5 Grants, loans, donations or any other kind of financial assistance to a member of the Company or to any organisation or agency which is represented on the Board of Directors, provided that any such payment is in furtherance of the Company's objects.
  - 6.3.6 Other payments as are permitted by these Articles.
- 6.4 For the avoidance of doubt, this Article does not affect the capacity for distribution upon dissolution (see Article 42).

## **PART 2: AFFILIATION AND MEMBERSHIP**

### **Article 7 Governance**

- 7.1 The Company structure is:
- 7.1.1 The Members who collectively control but who do not own the Company.
  - 7.1.2 The Board of Directors who are responsible for the administration, direction and management of the business and affairs of the Company.



7.1.3 There are two classes of membership:

(a) Voting Members:

7.1.3.1 Those clubs, county associations, local associations, and leagues other than those organised by county associations who are members of the Company – see Article 9. Such clubs, county associations, local associations, and leagues must all appoint a representative to act on their behalf at general meetings.

7.1.3.2 The subscribers to the Memorandum of Association of the Company for such period as they are Directors.

7.1.3.3 The Elected Directors (including casual and co-opted) for such period as they are Directors.

7.1.3.4 The President and President Elect for the duration of their terms of office.

7.1.3.5 Past presidents of NCASA, ASANWR and SENW.

7.1.3.6 Life members of NCASA, ASANWR and SENW.

(b) Other Members:

7.1.3.7 Any other volunteer who holds an identified post, and also those who serve on sub-committees and discipline groups for the duration of their appointment.

7.1.4 For the avoidance of doubt:

7.1.4.1 Only Voting Members shall be members of the Company for the purposes of section 112 of the Companies Act 2006 and liable to contribute to the assets of the Company in the event of it being wound up.

7.1.4.2 Other Members shall be entitled to attend and speak at General Meetings but do not have a vote.

7.1.4.3 Other organisations as defined in Article 1 are not eligible for membership of the Company.

7.2 There shall be three levels of government of the Company:

7.2.1 General Meetings.

7.2.2 The Board of Directors.

7.2.3 The Sub-Committees and Discipline Groups.

7.3 Any person who is nominated, elected or appointed as a representative or to any other position which carries the right to vote at any level of government of the Company must be a member of an organisation that is affiliated to the Company.

7.4 The Officers of the Company shall be the Chair of the Board, the Finance Director and two members of the Board elected by and from the Board annually.

## **Article 8 Affiliation**

- 8.1 Eligible incorporated and unincorporated clubs (hereafter ‘clubs’) who have their headquarters in the region may apply for affiliation to the Company.
- 8.1.1 For the avoidance of doubt:
- 8.1.1.1 Those clubs already affiliated to the unincorporated association Swim England North West will be automatically affiliated to the Company as at the date of incorporation.
- 8.1.1.2 Affiliation of clubs’ to the Company under this Article does not include automatic membership of the Company.
- 8.2 County associations, swimming leagues other than those organised by county associations, local associations and other bodies that have their headquarters in the region may also be affiliated to the Company.
- 8.3 Eligible clubs, county associations, local associations, or leagues other than those organised by county associations, or other organisations will be affiliated to the Company by a resolution of the Directors.
- 8.4 The Directors shall make such rules and by-laws as they determine are necessary in relation to (without limitation) the process and any conditions or requirements (including the payment of fees) for the affiliation of clubs, county associations, local associations, or leagues other than those organised by county associations, and other organisations to the Company.
- 8.5 The Directors may make such rules and by-laws as they determine are necessary in relation to (without limitation) the process of and reasons for the suspension or removal of a club, county association, local association, or league other than those organised by county associations, or other organisation’s affiliation.
- 8.6 Although the affiliation and membership processes (Articles 8 and 9 respectively) are separate, the Directors may in their absolute discretion link the process of affiliation to the process of admission to membership.

## **Article 9 Admission of Members**

- 9.1 The Directors shall make such rules and by-laws as they determine are necessary in relation to (without limitation) the process and any conditions or requirements of membership of clubs, county associations, local associations, and leagues other than those organised by county associations, and individuals to the Company.
- 9.2 Membership of the Company shall comprise:
- 9.2.1 The subscribers to the Memorandum of Association of the Company whose membership shall terminate in the event that they cease to be a Director.
- 9.2.2 The Elected Directors whose membership shall be automatic upon their appointment as a Director and whose membership shall terminate in the event that they cease to be a Director.
- 9.2.3 Each club, county association, local association, and league other than those organised

by county associations that is affiliated to the Company and whose admission to membership has been approved by the Directors.

9.2.4 Such other persons in accordance with Article 7.1.

9.3 The Directors must maintain an up-to-date Register of Members. The category of membership of each member shall be recorded in defined in Article 7.

9.4 A person who represents an affiliated club, county association, local association, or league other than those organised by county associations must be a member of that club, county association, local association, or league and must be not less than 18 years of age.

9.5 Applications for Membership:

9.5.1 All affiliated clubs, county associations, local associations, and leagues other than those organised by county associations will be invited to apply for membership of the Company and to nominate an individual to represent and vote on behalf of the club, county association, local association, or league as appropriate at general meetings.

9.5.2 No affiliated club, county association, local association, or league other than those organised by county associations shall become a member of the Company unless that club, county association, local association, or league has completed an application for membership in such form as required by the Company, and the Directors have approved the application. The club, county association, local association, or league shall acknowledge in writing their obligations under Article 5 (Limitation of liability).

## **Article 10 Conditions of Membership**

10.1 All members shall be bound by and subject to these Articles.

10.2 Failure or neglect by any member (either a club, county association, local association, or league other than those organised by county associations, or an individual) to comply with these Articles or any conduct considered by the Board in its absolute discretion to be to the detriment of the Company or the Sport shall render the member concerned liable to suspension or expulsion from membership of the Company.

10.3 If any affiliated club, county association, local association, or league other than those organised by county associations is suspended by Swim England and/or the Company for any reason then the right for the representative of that club, county association, local association, or league to attend, speak and vote at a general meeting shall be removed until the suspension by Swim England and/or the Company has been rescinded.

## **Article 11 Termination of Membership**

11.1 The Directors shall make such rules and by-laws as they determine are necessary in relation to (without limitation) the process of and reasons for the termination of membership of the Company.

11.2 A member shall cease to be a member when:

11.2.1 A club, county association, local association, or league other than those organised by county associations ceases to exist or has been suspended by Swim England and/or the Company for twelve months or more.

- 11.2.2 A club, county association, local association, or league other than those organised by county associations or its representative resigns from membership of the Company by giving notice in writing.
- 11.2.3 A Director ceases to be a Director.
- 11.2.4 The Directors decide by resolution that the removal of a club, county association, local association, or league other than those organised by county associations, or individual's membership is in the best interests of the Company. The process of expulsion must comply with the requirements and procedures of the Swim England Judicial Regulations as given in the Company Regulations.
- 11.2.5 A club, county association, local association, or league other than those organised by county associations withdraws its nomination of an individual to represent that organisation by written notice to the Company. The representative may be replaced by a new representative.
- 11.2.6 Any other member resigns from membership of the Company by giving notice in writing.
- 11.2.7 An individual dies.

### **PART 3: APPOINTMENT OF DIRECTORS AND OTHER OFFICE HOLDERS**

#### **Article 12 Number of Directors**

- 12.1 There shall be a minimum of seven Directors, each of whom must be a member of Swim England and a member of a club affiliated to the Company.
- 12.2 The members of the Board of Directors shall be:
  - 12.2.1 The Chair who shall be a Director by virtue of his office.
  - 12.2.2 The Finance Director who shall be a Director by virtue of his office.
  - 12.2.3 Up to nine Elected Directors.
  - 12.2.4 Up to three other persons as the Board may from time to time in its sole discretion co-opt to the Board. Co-opted directors shall:
    - 12.2.4.1 Remain in office until the close of the Annual General Meeting following their co-option or for such shorter period as the Board shall determine at the time of co-option.
    - 12.2.4.2 Not be counted in a quorum.
    - 12.2.4.3 Be allowed to vote at the meetings of the Board.
  - 12.2.5 Casual vacancies arising among the offices of the Chair, Finance Director or the Elected Directors shall be filled by the Board and shall:
    - 12.2.5.1 Hold office until the conclusion of the next Annual General Meeting.

- 12.2.5.2 Be eligible for re-election in accordance with these Articles.
  - 12.2.5.3 Be counted in a quorum.
  - 12.2.5.4 Be allowed to vote at the meetings of the Board.
- 12.3 All acts carried out in good faith at any meeting of the Board or of any committee, or by any person acting as a director, shall, notwithstanding it be afterwards discovered that there was a defect in the election of a Director of which the Directors are unaware at the time does not invalidate decisions taken at a meeting.
- 12.4 The first Directors shall be the subscribers to the Memorandum of Association. Future Directors shall be appointed as provided subsequently in these Articles.
- 12.5 The Directors may act notwithstanding any vacancy in their number provided always that if the number of Directors shall at any time be less than the minimum number set out in these Articles, it shall be lawful for the continuing Directors to act for the purpose of filling vacancies or of calling a General Meeting but not for any other purpose.
- 12.6 The Company must maintain an up-to-date Register of Directors in addition to other statutory registers.

### **Article 13 Chair, Vice Chair and Finance Director**

- 13.1 The Chair and Finance Director shall be elected at an Annual General Meeting in accordance with these Articles and any associated Regulations.
- 13.2 Subject to Article 13.7 the Chair and the Finance Director shall serve for a Four Year Term from the end of the Annual General Meeting at which he or she is elected to the close of the Annual General Meeting in the fourth year after their election, but shall be eligible for re-election for one further Four Year Term.
- 13.3 In the event that the positions of Chair or Finance Director are not filled at an Annual General Meeting, the Elected Directors may appoint one of their number to each position, or may take any other reasonable steps to fill these positions.
- 13.4 The Directors may appoint from their number a Vice-Chair for such term of office as the Directors may determine.
- 13.5 Individuals elected as Chair and Finance Director shall not be permitted to hold the same role for more than two consecutive four year terms.
- 13.6 Under normal circumstances when the Chair and/or the Finance Director ceases to hold their position upon, either by resignation or on the expiry of their Term of Office, at least one year shall elapse before they can be eligible to stand as an Elected Director or for the position of Chair or Finance Director.
- 13.7 Transitional arrangements as given in the Regulations shall apply to the terms of office for the Finance Director who is elected at the first Annual General Meeting.
- 13.8 The Chair and/or the Finance Director can be removed from office by an ordinary resolution at a General Meeting under the section 168 and 169 of the Companies Act.

### **Article 14 Appointment and Retirement of Directors**

- 14.1 The Board may from time to time make, vary or revoke Regulations for any process relating to the nomination and election and retirement of the Elected Directors.
- 14.2 Any person that is willing to act as director, and is permitted to do so by law, may be appointed to be a director by ordinary resolution at a General Meeting, or by a decision of the Directors.
- 14.3 No one shall be appointed as a Director:
  - 14.3.1 If he or she is under the age of 18 years.
  - 14.3.2 Unless they have signed a written declaration confirming:
    - 14.3.2.1 Their willingness to act as a Director and to act only in the best interests of the Company.
    - 14.3.2.2 Any conflicts of interest or loyalty. (See Article 25.)
    - 14.3.2.3 Their eligibility to act as a Director.
    - 14.3.2.4 That he or she will at all times comply with any rules, regulations, by-laws, policies and/or codes of conduct implemented from time to time by the Company.
  - 14.3.3 Unless they have provided to the Company such information as is reasonably required by the Directors. such as his or her former names (if any), previous associations and any spent or unspent criminal convictions.
  - 14.3.4 If they are an undischarged bankrupt, or have made a composition with their creditors generally in satisfaction of their debts.
- 14.4 At the first Annual General Meeting, all of the first Directors shall retire from office, but shall be eligible for re-election in accordance with these Articles.
- 14.5 At each Annual General Meeting the election of the Elected Directors shall be conducted in accordance with these Articles and associated Regulations.
- 14.6 Subject to Article 14.8 each Elected Director shall serve for a Three Year Term from the end of the Annual General Meeting at which he or she is elected to the close of the Annual General Meeting in the third year after his election, but shall be eligible for re-election for two further Three Year Terms.
- 14.7 Under normal circumstances when an Elected Director ceases to be an Elected Director either by resignation or on the expiry of their Term of Office, at least one year shall elapse before he or she can be eligible to stand again as an Elected Director or for the position of Chair or Finance Director.
- 14.8 Transitional arrangements as given in the Regulations shall apply to the terms of office for Elected Directors who are elected at the first Annual General Meeting.
- 14.9 A Director may not appoint an alternate director or anyone to act on his or her behalf at meetings of the Board.

- 14.10 An employee (full time or part time) may serve as an Elected Director of the Company however they are not entitled to take part in any discussion or vote on any matter concerning their terms and conditions of employment.

#### **Article 15 Termination of Directors' appointment**

- 15.1 A Director's term of office automatically terminates if he or she:
- 15.1.1 Is disqualified by law from acting as a company director.
  - 15.1.2 Is incapable, whether mentally or physically, of managing his / her own affairs.
  - 15.1.3 Resigns by written notice to the Directors (but only if at least three Directors will remain in office)
  - 15.1.4 Fails to attend three consecutive meetings of the Board without having received leave of absence or giving any explanation accepted as valid by the Board and the Directors resolve that he or she be removed for this reason.
  - 15.1.5 Is removed by an ordinary resolution at a General Meeting under the section 168 and 169 of the Companies Act.
  - 15.1.6 Becomes bankrupt, or makes a composition with their creditors generally in satisfaction of their debts.

#### **Article 16 Appointment of other office holders**

**(President, President Elect, Life Members, Member Nominated Director of the Swim England Board, Members of the Swim England Members' Forum, Vice President and President of Swim England)**

- 16.1 Notwithstanding the generality of Article 17.3, the Directors shall make such rules and regulations as they determine are necessary in relation to (without limitation):
- 16.1.1 The process and any conditions or requirements relating to the election of the President or President Elect.
  - 16.1.2 The process to be followed in the event that the President Elect is unable or unwilling to take up the role of President
  - 16.1.3 The circumstances in which a President Elect shall be prohibited from taking up the role of President.
  - 16.1.4 The roles and responsibilities of the President, President Elect and any Past Presidents.
  - 16.1.5 The process and any conditions or requirements relating to the election of Life Members, a Member Nominated Director of Swim England, the regional Members of the Swim England Members Forum, and the Vice President of Swim England.
- 16.2 Each Annual General Meeting shall elect as required the following each of whom shall be a member of an organisation affiliated to the Company:
- 16.2.1 A President of the Company (who in the normal course of events shall be the retiring President Elect).

- 16.2.2 A President Elect of the Company who shall be installed as the President in the year following their election as President Elect.
- 16.2.3 Life Members of the Company.
- 16.2.4 A Member Nominated Director on the Swim England Board.
- 16.2.5 Regional Members of the Swim England Members' Forum.
- 16.2.6 The Vice President of Swim England.
- 16.3 Any President, President Elect, Past President or Life Member of the Company can be removed from office by an ordinary resolution at a General Meeting.

#### **PART 4: DIRECTORS POWERS AND RESPONSIBILITIES**

##### **Article 17 Directors' general authority**

- 17.1 Subject to the Articles, and any Company Regulations made pursuant to them, the Directors are responsible for the management of the Company's business, for which purpose they may exercise all the following powers.
- 17.2 No resolution passed by the Company in general meeting shall invalidate any prior act of the Directors which would have been valid if such resolution had not been passed.
- 17.3 The Board may from time to time make, vary or revoke Company Regulations, Rules, standing orders and/or by-laws consistent with the Articles and the Companies Act to govern (without limitation):
  - 17.3.1 Any process relating to the nomination and election of Directors.
  - 17.3.2 Any disciplinary procedures relating to the Directors.
  - 17.3.3 Any process relating to the removal of Directors.
  - 17.3.4 Proceedings of the Directors and proceedings of committees.
  - 17.3.5 The administration of the Company.
  - 17.3.6 Proceedings at general meetings.
  - 17.3.7 Any procedures for the resolution of disputes or differences within the Company.
  - 17.3.8 The different categories of membership of the Company, conditions of membership and the rights, privileges and obligations of the different categories of member.
  - 17.3.9 Processes to ensure compliance with the Articles, Company Regulations, General Regulations, Judicial Regulations and Technical Rules of Swim England.
  - 17.3.10 Procedures for the promotion and organisation of championships.
  - 17.3.11 Other such other Rules, Regulations and policies as the Board thinks fit.
- 17.4 No Rules or Regulations made by the Company shall invalidate any prior act of the Board which



would have been valid if such Rule or Regulation had not been made.

- 17.5 All Rules and Regulations, for so long as they are in force, shall be binding on all clubs and their members.
- 17.6 The Board shall adopt whatever means they consider sufficient to bring any Rules, Regulations, alterations and repeals to the notice of the Members.
- 17.7 The Board may establish a code or codes of conduct setting out standards of conduct required of Directors, Members, affiliated organisations, employees, volunteers and others involved in the Company.
- 17.8 The Board may exercise in their capacity as Directors any powers of the Company which are not reserved to the members.

#### **Article 18 Directors may delegate**

- 18.1 Subject to the Articles, the Board may delegate any of the powers which are conferred on it under the Articles:
  - 18.1.1 To such person or committee,
  - 18.1.2 By such means (including by power of attorney),
  - 18.1.3 To such an extent,
  - 18.1.4 In relation to such matters or territories, and
  - 18.1.5 On such terms and conditions, as it thinks fit.
- 18.2 If the Board so specifies, any such delegation may authorise further delegation of the Board's powers by any person, committee or working party to whom they are delegated.
- 18.3 The Board may revoke any delegation in whole or part, or alter its terms and conditions at any time.

#### **Article 19 Sub-committees, discipline groups and working parties**

- 19.1 The Company shall have such sub-committees, discipline groups and working parties as the Board thinks fit from time to time.
- 19.2 The Board may make such regulations and impose such terms and conditions and give such mandates to any committee as they may from time to time think fit.
- 19.3 Rules of procedure for any or all sub-committees, discipline groups or working parties shall be governed by the Articles and Regulations relating to the meetings and proceedings of the Board so far as they apply.
- 19.4 Each sub-committee, discipline group and working party shall have at least one director as a member.
- 19.5 The deliberations of any committee must be reported to the Board as the Board thinks appropriate.
- 19.6 No committee shall knowingly incur expenditure or liability on behalf of the Company except

where authorised by the Board or in accordance with a budget which has been approved by the Board.

- 19.7 The Directors may at any time remove someone from office or from any sub-committees or discipline groups.

## **PART 5: DECISION-MAKING BY DIRECTORS**

### **Article 20 Calling a meeting of the board**

- 20.1 Subject to the provisions of these Articles, the Directors may regulate their proceedings as they think fit provided that at least six such meetings shall be held in each year unless prevented by exceptional circumstances.
- 20.2 A meeting of the Board may be convened by the Chair or upon written requisition of any two other Elected Directors.
- 20.3 The Directors may from time to time make, vary or revoke such Regulations for the proceedings of the Board without limitation.
- 20.4 The accidental failure to give notice to a Board Member or the non-receipt of a duly despatched notice by then will not invalidate the proceedings of a Board meeting.

### **Article 21 Quorum for meetings of the board**

- 21.1 At a meeting of the Board no decisions can be taken other than to call another meeting unless a quorum is present.
- 21.2 The quorum at any meeting of the Board shall be six Directors entitled to vote.
- 21.3 If at any time during a meeting a quorum is not present then, at the discretion of the Chair, business may still be discussed but any decision must be deferred until a quorum is present or until the next meeting of the Board.
- 21.4 If the Chair or any Director has declared an interest and recused themselves from participating in the discussion on any matter and/or from voting on any resolution, they may not participate in the discussion or vote and will not be counted towards the quorum on that item.

### **Article 22 Participation in board meetings**

- 22.1 Subject to these Articles, a meeting of the Directors may be held either in person or by suitable electronic means agreed by the Directors in which all participants may communicate with all the other participants.
- 22.2 In determining whether Directors are participating in a meeting of the Board, it is irrelevant where any Director is or how they communicate with each other.

### **Article 23 Chairing of board meetings**

- 23.1 The Chair shall preside as chair at all meetings of the Board at which he or she shall be present.
- 23.2 If at any meeting the Chair is not present within fifteen minutes after the time appointed for holding the meeting or he or she is unable or unwilling to preside:
- 23.2.1 The Vice-Chair (if one has been appointed) shall chair the meeting, or

23.2.2. Some other Director chosen by the Directors present shall chair the meeting.

23.3 The Chair shall:

23.3.1 Have unlimited authority upon every question of order.

23.3.2 Be, for the purpose of the Board meeting, the sole interpreter of the rules governing the meeting.

#### **Article 24 Decisions at board meetings**

24.1 The Board will use its best endeavours to decide all questions by consensus. Unless specified in these Articles, all motions including amendments to motions shall be decided by a simple majority of those voting, each Director having one vote on each question to be decided.

24.2 The Chair shall have the right to vote on any motion.

24.3 If the numbers of votes for and against a motion are equal, the chair of the meeting shall have a second or casting vote.

24.4 A decision of the Directors may be taken without a meeting or discussion if all the Directors indicate to each other, by any means, that they share a common view on a matter.

24.5 A Director shall not vote at a directors' meeting (or at a meeting of a committee) on any resolution concerning a matter in which they have a personal interest which conflicts (or may conflict) with the interests of the company; they must withdraw from the meeting while an item of that nature is being dealt with.

#### **Article 25 Conflicts of interest**

25.1 Directors must avoid situations in which they have, or could have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company.

25.2 Where a Director is in any way, directly or indirectly, interested in a transaction or arrangement that the Company is proposing to enter into, he or she must declare the nature and extent of the interest to the other Directors in writing in the Conflicts of Interest Register.

25.3 Where a Director is interested in a transaction or arrangement with the Company, he or she must declare the nature and extent of the interest at a Directors' meeting where the matter is being discussed or voted on; they must withdraw from the meeting while the matter is dealt with.

25.4 Provided that they have declared their interest and have not voted on the question of whether or not the company should enter into the relevant arrangement, a Director will not be debarred from entering into an arrangement with the company in which they have a personal interest (or is deemed to have a personal interest) and may retain any personal benefit which they gain from their participation in that arrangement.

25.5 The Directors shall be entitled to authorise (by way of resolution to that effect) any conflict situation that may arise and to amend or vary any such authorisation; the Directors may give such authorisation subject to such terms and conditions as they may consider appropriate and reasonable in the circumstances.

25.6 Where a director provides services to the company or might benefit from any remuneration paid to a connected party for such services, the maximum amount of the remuneration must be

specified in a written agreement and must be reasonable, and the Directors must be satisfied that it would be in the interests of the company to enter into the arrangement (taking account of that maximum amount).

## **Article 26 Validity of decisions and acts**

26.1 A procedural defect of which the Directors are unaware at the time does not invalidate decisions taken at a meeting.

## **Article 27 Records of decisions to be kept**

27.1 The Board must ensure that the Company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of the minutes of all Board and committee meetings.

# **PART 6: DECISION-MAKING BY MEMBERS**

## **(a) PROCEEDINGS AT GENERAL MEETINGS**

### **Article 28 General meetings (meetings of members)**

28.1 All general meetings, other than annual general meetings, shall be called general meetings.

28.2 A General Meeting may be called by the Directors at any time.

28.3 A General Meeting must be called within twenty one days of a written request from at least 10% of the Voting Members.

28.4 Except where otherwise provided by the Articles or the Act, every issue at a General Meeting is decided by ordinary resolution.

28.5 A General Meeting may be held, and any votes cast, at one physical location, or by electronic means, or partly by one such means and partly by another ('hybrid general meeting').

28.5.1 The proceedings shall be valid if the Chair of the meeting is satisfied that adequate facilities are available throughout the meeting to ensure that all members are able to:

28.5.2.1 Participate in the business of the meeting.

28.5.2.2 Hear all persons who speak at the meeting.

28.5.2.3 Be heard by all other persons attending and participating in the meeting.

28.6 Only in the event of exceptional circumstances shall a general meeting be postponed once the date, time and venue has been fixed and advised to members.

28.6.1 When a general meeting is so postponed, notice of the date, time and place, including any electronic facility if applicable, of the postponed meeting shall be given in such manner as the Board may, in its absolute discretion, determine.

28.6.2 At this meeting, the same agenda as originally issued shall be used.

28.7 The directors may permit other persons who are not members of the company to attend and speak but not vote at a general meeting.

## **Article 29 Notice of general meetings**

- 29.1 Not less than fourteen days' clear notice shall be given in writing or by electronic means to every member of the Company and to such other persons who are entitled to receive notice of every General Meeting.
- 29.2 Notice of all meetings shall specify the date, time and place of the meeting and the type of General Meeting.
- 29.3 The notice of a General Meeting may be given:
- 29.3.1 In a document in hard copy form.
  - 29.3.2 In electronic form.
  - 29.3.3 By means of a website.
- or partly by one such means and partly by another.
- 29.4 The notice of every Annual General Meeting shall:
- 29.4.1 State the general nature of the business to be discussed with any decisions to be made set out clearly enough to enable Members to know what is being considered.
  - 29.4.2 Give the exact wording or a general explanation of the nature of any ordinary resolution.
  - 29.4.3 Give the exact wording of any special resolution and a statement that any such resolution is special.
  - 29.4.4 State that every Member has a right to appoint a proxy to attend, speak and vote instead of the member.
  - 29.4.5 Specify the deadline for returning proxy forms, which must be no later than 48 hours before the meeting.
  - 29.4.6 Include the written reports and, if the Directors so decide, the accounts for the previous year.
  - 29.4.7 Include the ballot forms for any elections to be held and any appropriate CV's (curriculum vitae).
- 29.5 The accidental omission to give notice of a General Meeting to, or the non-receipt of a notice by, a Member shall not invalidate the proceedings at the meeting.
- 29.6 A technical defect in the appointment of a Member of which the Members are unaware at the time does not invalidate a decision taken at a General Meeting.

## **Article 30 Annual General Meeting**

- 30.1 The Company must hold an Annual General Meeting (AGM) in every calendar year.
- 30.1.1 The Directors shall set the time, date and venue of the AGM.

30.1.2 Under normal circumstances every AGM shall be held not more than fifteen months after the holding of the preceding AGM.

30.2 The business of the AGM shall be to:

30.2.1 Receive the Company's audited accounts. Alternatively, the Directors may send or supply the annual accounts to members who may choose to receive these on-line or by post.

30.2.2 Receive from the Board a report of the activities of the Company since the previous AGM.

30.2.3 Elect and/or re-elect as required the Chair, Finance Director and the Elected Directors or to announce the results of elections if these have already been conducted prior to the AGM.

30.2.4 Appoint or re-appoint the Company's auditors.

30.2.5 Elect the President and President-Elect each of whom shall be a member of an organisation affiliated to the Region for the following year.

30.2.6 Appoint and/or elect as and when required the Regional Members of the Swim England Members Forum.

30.2.7 Elect as and when required a Member Nominated Director to the Swim England Board.

30.2.8 Elect as and when required the Vice President of Swim England.

30.2.9 Elect life members of the Company.

30.2.10 Confirm (or not) the election of a life member nominated by the Board of Directors.

30.2.11 Decide on the dissolution of existing life memberships.

30.2.12 Transact such other business as may have been specified in the notices calling the meeting.

### **Article 31 Quorum for a general meeting**

31.1 No business shall be transacted at a General Meeting unless a quorum is present.

31.2 The quorum for a General Meeting shall be twenty Members present in person or by proxy to include not less than one officer.

31.3 If such a quorum is not present within 30 minutes from the time appointed for the meeting, or if during a meeting such a quorum ceases to be present, the meeting shall stand adjourned. (See Article 33.)

### **Article 32 Chairing general meetings**

32.1 The Chair shall preside at all General Meetings of the Company but if he or she is not present ten minutes after the scheduled start time of the meeting, or if no-one holds the position of Chair or Vice-Chair, the Directors present shall choose one of their number to chair the meeting, whose function shall be to conduct the business of the meeting in an orderly manner.

- 32.2 The decision of the Chair of the meeting upon all points of order and matters of procedure shall be final.
- 32.3 If no member of the Board is willing to act as chair, or if no member of the Board is present within fifteen minutes of the time appointed for holding the meeting, the Members present in person or by proxy shall choose one of their number to be chair.

### **Article 33 Adjournment**

- 33.1 The Chair of a General Meeting may (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 33.2 The Members present at the meeting will be notified there and then of the adjourned date if practicable. If not and the meeting is adjourned for more than fourteen days all Members shall receive seven days clear notice of the adjourned meeting.
- 33.3 If at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the meeting, the Members present in person or by proxy shall constitute a quorum for that meeting only.

### **(b) VOTING AT GENERAL MEETINGS**

### **Article 34 Voting**

- 34.1 Decisions at General Meetings involving an alteration to the Articles of the Company, or to wind up the Company, and other decisions so required from time to time by the Act shall be require a Special Resolution i.e. a motion that is passed by a majority of not less than 75% of votes cast.
- 34.2 All other decisions shall be made by Ordinary Resolution requiring a simple majority of the votes cast.
- 34.3 A motion put to the vote at a General Meeting must be decided on a show of hands unless a written ballot (or 'poll') is demanded in accordance with these Articles.
- 34.4 On a vote on a motion which is carried out by a show of hands, the following persons have one vote each:
- 34.4.1 Each Voting Member present in person or by electronic means.
  - 34.4.2 Each proxy present who has been duly appointed by one or more persons entitled to vote on the motion.
  - 34.4.3 For the avoidance of doubt if a person attending the meeting falls within both of the above categories, he or she is only entitled to cast one vote.
- 34.5 In the case of equality of votes, whether on a show of hands or on a poll, the chair of the meeting shall not have a second or casting vote.
- 34.6 Voting on elections shall be by secret ballot and any ballot paper containing more votes than the maximum number required shall be void.

### **Article 35 Errors and disputes**

- 35.1 No objection may be raised to the qualification of any person voting at a General Meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.
- 35.2 Any such objection must be referred to the chair of the meeting whose decision is final.

### **Article 36 Poll votes**

- 36.1 A poll (or written ballot) on a motion may be demanded:
- 36.1.1 In advance of the General Meeting where it is to be put to the vote.
  - 36.1.2 At a General Meeting, either before a show of hands on that motion or immediately after the result of a show of hands on that motion is declared.
- 36.2 A poll may be demanded by:
- 36.2.1 The Chair of the meeting.
  - 36.2.2 The Directors.
  - 36.2.3 Two or more Voting Members present in person or proxy.
- 36.3 A demand for a poll may be withdrawn if:
- 36.3.1 The poll has not yet been taken, and
  - 36.1.2 The chair of the meeting consents to the withdrawal.
- 36.4 Polls must be taken immediately and in such manner as the chair of the meeting directs including at a hybrid general meeting; the chair may appoint scrutineers (who need not be Members) and fix a time and place for declaring the result of the poll.
- 36.5 The result of the poll shall be deemed to be the decision of the meeting at which the poll was demanded.
- 36.6 A proxy is entitled to cast all the votes he or she holds.

### **Article 37 Proxy voting**

- 37.1 Any Voting Member who cannot attend a General Meeting in person may appoint any other person (including the chair of the meeting) to act as proxy for him or her by sending the Company a notice in writing (a 'proxy notice') to the address in the notice calling the General Meeting which:
- 37.1.1 States the name and address of the member appointing the proxy.
  - 37.1.2 Identifies the person appointed to be that member's proxy.
  - 37.1.3 Identifies the General Meeting in relation to which that person is appointed.
  - 37.1.4 Is signed by or on behalf of the Voting Member appointing the proxy, or is authenticated in such manner as the directors may determine.



- 37.1.5 Is delivered to the Company no later than 48 hours before the time for holding the meeting or, as the case may be, the adjourned meeting.
- 37.2 The proxy notice may specify how the proxy is to vote (or that the proxy is to abstain from voting) on any particular motion, or authorise the proxy to vote in accordance with his or her own judgement.
- 37.3 A person 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 the Company by or on behalf of that person. If the person casts a vote in such circumstances, any vote cast by the proxy appointed under the Proxy Notice is not valid.
- 37.4 An appointment under a proxy notice may be revoked by delivering to the Company a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.
- 37.5 A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.
- 37.6 If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointer's behalf.

## **PART 7: ADMINISTRATIVE ARRANGEMENTS**

### **Article 38 Appointment of Secretary**

- 38.1 The Directors may appoint (and remove) any person (who may be a Director) to act as Secretary of the Company upon such terms and conditions as they think fit.

### **Article 39 Records and accounts**

- 39.1 The Directors must comply with the requirements of the Companies Act as to keeping records, the audit or independent examination of accounts and the preparation and transmission to the Registrar of Companies of information required by law including:
- 39.1.1 Confirmation statements.
- 39.1.2 Annual statements of account.
- 39.2 The Directors must keep records in writing, for at least 10 years from the date of the meeting to which they relate, of:
- 39.2.1 All proceedings at meetings of the Directors.
- 39.2.2 All appointments of officers made by the Directors.
- 39.2.2 All resolutions of the Company and of the Directors (including, without limitation, decisions of the Directors made without a meeting).
- 39.2.3 All reports of committees, including the names of the Directors present at the meeting; the decisions made at the meetings, and where appropriate, the reasons for the decisions.

- 39.2.4 All professional advice obtained.
- 39.2.5 Proceedings at General Meetings of the Company.
- 39.3 The Company must send a copy of its annual accounts and reports (no later than the date these are submitted to Companies House) to:
  - 39.3.1 Every member of the Company.
  - 39.3.2 Every Director and other person who is entitled to receive notice of general meetings.
- 39.4 Copies need not be sent to a person for whom the Company does not have a current address, or to anyone who is not entitled to receive notices of general meetings of the Company.
- 39.5 Accounting records relating to the Company must be made available for inspection by any Director at any time during normal office hours.
- 39.6 A copy of the Company's constitution and latest available statement of account must be supplied on request to any Director.

#### **Article 40 Means of communication to be used**

- 40.1 Notices and other documents to be served on Members or Directors under the Articles or the Companies Act may be served:
  - 40.1.1 By hand.
  - 40.1.2 By post, or
  - 40.1.3 By suitable electronic means.
- 40.2 The address for receipt of notices by post shall be:
  - 40.2.1 For a Voting Member the address in the UK shown in the Register of Members.
  - 40.2.2 For any other person at his or her last known address.
- 40.3 Any notice given in accordance with these Articles is to be treated for all purposes as having been received:
  - 40.3.1 Twenty four hours after being sent by electronic means or delivered by hand to the relevant address.
  - 40.3.2 Two clear days after being sent by first class post to that address.
  - 40.3.3 Three clear days after being sent by second class post to that address.
  - 40.3.4 Immediately on being handed to the recipient personally, or if earlier,
  - 40.3.5 As soon as the recipient acknowledges actual receipt.
- 40.4 A technical defect in service of which the Directors are unaware at the time does not invalidate decisions taken at a meeting.

#### **Article 41 Directors' indemnity and insurance**

- 41.1 The Company may indemnify any Director, auditor, or other officer of the Company against any liability incurred by him or her in that capacity to the extent permitted by sections 232 to 234 of the Act.
- 41.2 The Directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant Director in respect of any relevant loss.
- 41.3 In this Article:
- 41.3.1 A 'relevant Director' means any Director or former Director of the Company or an associated company.
- 41.3.2 A 'relevant loss' means any loss or liability which has been or may be incurred by a relevant Director in connection with that Director's duties or powers in relation to the Company, any associated company or any pension fund or employees' share scheme of the Company or associated company, and
- 41.3.3 Companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

## **Article 42 Dissolution**

- 42.1 If the Company is dissolved, any assets remaining after the satisfaction of its debts and liabilities shall not be paid or distributed amongst the members but instead shall be given or transferred to some other not-for-profit institution or institutions having objects similar to the objects of the Company, such institution or institutions to be determined by the members at or before the time of dissolution.
- 42.2 If that should not be possible, then such residual assets shall be transferred as a donation for charitable purposes, as may be decided by the members at or before the time of dissolution.