

# The Constitution of Oswestry Otters Swimming Club

This document presents the constitution of Oswestry Otters  
Swimming Club

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### ***Abbreviations***

<b>AGM</b>	<b>Annual General Meeting</b>
<b>ASA</b>	<b>Amateur Swimming Association</b>
<b>ASFGB</b>	<b>Amateur Swimming Federation Great Britain</b>
<b>FINA</b>	<b>Fédération Internationale de Natation</b>
<b>IOS</b>	<b>Institute of Swimming</b>
<b>SGM</b>	<b>Special General Meeting</b>

## ***Part 1***

### ***1. Adoption of the Constitution***

The Club and its property will be administered and managed in accordance with the provisions in Parts 1 and 2 of this Constitution.

### ***2. The Name***

The Club's name is Oswestry Otters Amateur Swimming Club (and in this document it is called the "Charity").

### ***3. The Objects***

The Charity's objects ("the Objects") are:

- 3.1 The promotion of community participation in healthy recreation for the benefit of the inhabitants of Oswestry and surrounding areas in Shropshire by providing facilities for the coaching, teaching and practice of swimming and other associated water sports activities

and

In the furtherance of these objects:

- 3.2 The Charity is committed to treating everyone equally within the context of their activity, regardless of sex, ethnic origin, religion, disability or political persuasion.
- 3.3 The Charity will ensure that this equity is incorporated in all aspects of its activities and also recognises and adopts the Sport England definition of sports Equity: "Sports Equity is about fairness in sport, equality of access, recognising inequalities and taking steps to address them. It is about changing the culture and structure of sport to ensure it becomes equally accessible to everyone in society".
- 3.4 The Charity believes that the welfare of children is everyone's responsibility and that all children and young people have a right to have fun, be safe and be protected from harm.
- 3.5 The Charity requires that all members abide by the health and safety policy.
- 3.6 The Charity shall implement the SE Equal Opportunities policy.

#### **4. Affiliations**

- 4.1 The Charity shall be affiliated to The ASA West Midlands Region, and shall adopt and conform to the rules of the ASA and to such other bodies as the Charity may determine from time to time to be applicable.
- 4.2 The business and affairs of the Charity shall at all times be conducted in accordance with this Constitution and, PROVIDED THAT there is no inconsistency with this Constitution, the Charity will act in accordance with the Laws and Technical Rules of The ASA ("ASA Laws") and the laws, rules and constitutions of:
  - 4.2.1 ASA West Midlands Region; and
  - 4.2.2 The ASA, to include the ASA /IOS code of ethics; and
  - 4.2.3 The Amateur Swimming Federation of Great Britain (to include in particular the ASFGB Doping Control Rules and Protocols and ASFGB Disciplinary Code); and
  - 4.2.4 FINA, the world governing body for the sport of swimming in all its disciplines (together "the Governing Body Rules").

AND

- 4.2.5 all competing members shall be eligible competitors as defined in ASA Laws; and the Charity shall in accordance with ASA Laws adopt the ASA Child Protection Procedures; and shall recognise that the welfare of children is everyone's responsibility and that all children and young people have a right to have fun, be safe and be protected from harm; and

- 4.2.6 members of the Charity shall in accordance with ASA Laws comply with the ASA Child Protection Procedures.

## **5. Application of the Income and Property**

- 5.1 The income and property of the Charity shall be applied solely towards the promotion of the Objects.
- 5.2 A Trustee may pay out of, or be reimbursed from, the property of the Charity reasonable expenses properly incurred by him or her when acting on behalf of the Charity. Reasonable expenses can be paid in accordance with ASA laws.
- 5.3 None of the income or property of the Charity may be paid or transferred directly or indirectly by way of dividend bonus or otherwise by way of profit to any member of the Charity. This does not prevent:
- 5.3.1 a member who is not also a Trustee from receiving reasonable and proper remuneration for any goods or services supplied to the Charity;
- 5.3.2 a Trustee from:
- i) buying goods or services from the Charity upon the same terms as other members or members of the public;
  - ii) receiving a benefit from the Charity in the capacity of a beneficiary of the Charity, provided that the Trustees comply with the provisions of sub clause 6 of this clause, or as a member of the Charity and upon the same terms as other members;
- 5.3.3 the purchase of indemnity insurance for the Trustees against any liability that by virtue of any rule of law would otherwise attach to a trustee or other officer in respect of any negligence, default breach of duty or breach of trust of which he or she may be guilty in relation to Charity but excluding:
- i) fines;
  - ii) any costs of unsuccessfully defending criminal prosecutions for offences arising out of the fraud, dishonestly or wilful or reckless misconduct of the Trustee or other officer;
  - iii) liabilities to the Charity that result from conduct that the Trustee or other officer knew or ought to have known was not in the best interests of the Charity or in respect of which the person concerned did not care whether that conduct was in the best interests of the Charity or not.
- 5.4 No Trustee may be paid or receive any other benefit for being a Trustee.

5.5 A Trustee may:

- a) sell goods, services or any interest in land to the Charity;
- b) be employed by and receive any remuneration from the Charity in such employed capacity;
- c) receive any other financial benefit from the Charity;

if:

- i) he or she is not prevented from so doing by clause 5.4 of this clause; and
- ii) the benefit is permitted by clause 5.3 of this clause or the benefit is authorised by the Trustees in accordance with the conditions in clause 5.6 of this clause.

5.6 If it is proposed that a Trustee should receive a benefit from the Charity that is not already permitted under clause 5.3 of this clause, he or she must:

- i. declare his or her interest in the proposal;
- ii. be absent from that part of any meeting at which the proposal is discussed and take no part in any discussion of it;
- iii. not be counted in determining whether the meeting is quorate;
- iv. not vote on the proposal.

5.7 In cases covered by clause 5.5 of this clause, those Trustees who do not stand to receive the proposed benefit must be satisfied that it is in the interests of the Charity to contract with or employ that Trustee rather than with someone who is not a Trustee and they must record the reason for their decision in the minutes. In reaching that decision the Trustees must balance the advantage of contracting with or employing a Trustee against the disadvantage of doing so (especially the loss of the Trustee's services as a result of dealing with the Trustee's conflict of interest).

5.8 The Trustees may only authorise a transaction falling within paragraphs a) to c) if the trustee body comprises a majority of Trustees who have not received any such benefit.

5.9 If the Trustees fail to follow this procedure, the resolution to confer a benefit upon the Trustee will be void and the Trustee must repay to the Charity the value of any benefit received by the Trustee from the Charity.

5.10 A Trustee must absent himself or herself from any discussions of the Trustees in which it is possible that a conflict will arise between his or her duty to act solely in the interests of the Charity and any personal interest (including but not limited to any personal financial interest) and take no part in the voting upon the matter.

5.11 In this Clause 5 "Trustee" shall include any person firm or company connected with the Trustee.

## **6. Dissolution**

- 6.1 If the members resolve to dissolve the Charity the Trustees will remain in office as charity trustees and be responsible for winding up the affairs of the Charity in accordance with this clause.
- 6.2 The dissolution shall take effect from the date specified in the resolution and the Trustees shall be responsible for the winding up of the assets and liabilities of the Charity.
- 6.3 The Trustees must collect in all the assets of the charity and must pay or make provision for all the liabilities of the charity.
- 6.4 The Trustees must apply any remaining property or money:
  - a) directly for the Objects;
  - b) by transfer to any charity or charities for purposes the same as or similar to the Charity;
  - c) in such other manner as the Charity Commissioners for England and Wales (“the Commission”) may approve in writing in advance.
- 6.5 A resolution to dissolve the Charity shall only be proposed at a General Meeting and shall be carried by a majority of at least three quarters of the members present and entitled to vote. A specific date for the dissolution shall be included in the resolution.
- 6.6 In no circumstances shall the net assets of the Charity be paid to or distributed among the members of the Charity (except to a member that is itself a charity).
- 6.7 The Trustees must notify the Commission promptly that the charity has been dissolved. If the Trustees are obliged to send the charity's accounts to the Commission for the accounting period which ended before its dissolution, they must send to the Commission the charity's final accounts.

## **7. Amendments**

- 7.1 Any provision contained in Part 1 of this constitution may be amended provided that:
  - a) no amendment may be made that would have the effect of making the Charity cease to be a charity at law;
  - b) no amendment may be made to alter the Objects if the change would not be within the reasonable contemplation of the members of or donors to the Charity;
  - c) no amendment may be made to Clause 5 without the prior written consent of the Commission;
  - d) any resolution to amend a provision of Part 1 of this constitution is passed by not less

than two thirds of the members present and voting at a general meeting.

- 7.2 Any provision contained in Part 2 of this constitution may be amended, provided that any such amendment is made by resolution passed by a simple majority of the members present and voting at a general meeting. In the event of an equality of votes the Chairman shall have a casting or additional vote.
- 7.3 A copy of any resolution amending this constitution must be sent to the Commission and the ASA West Midlands Region within twenty one days of it being passed.

## **Part 2**

### **1. Membership**

- 1.1. The total membership of the Club shall not normally be limited. If however the Committee considers that there is good reason to impose any limit from time to time then the Committee shall put forward appropriate proposals for consideration at a General Meeting of the Club. The members shall have the right to impose (and remove) from time to time any limits on total membership (or any category of membership) of the Club.
- 1.2. Swimmer members under the age of 18 years cannot be Trustees but swimmer members aged 16 & 17 years are permitted to vote at Annual General Meetings.
- 1.3 All persons who assist in any way with the club's activities shall become members of the club and hence of the ASA. and the relevant ASA membership fee shall be paid. Assisting with the club's activities shall include, but not be restricted to, administrators, associate members, voluntary instructors, teachers and coaches, Committee members, helpers, honorary members, life members, officers, patrons, Presidents, technical and non-technical officials, temporary members, Vice Presidents and verifiers or tutors of the A.S.A's educational certificates.
- 1.4 Paid instructors, teachers and coaches who are not members of the club must be members of a body which accepts that its members are bound by the ASA's Code of Ethics, the Laws relating to Child Protection and those parts of the Judicial Laws, Judicial Rules and procedures necessary for their implementation and whilst engaged in activities under the jurisdiction of the ASA. shall be subject to all the constraints and privileges of the Judicial Laws and Rules
- 1.5 Any person who wishes to become a member of the Charity must submit a signed application (including an adherence to the Charity's Code of Conduct for Swimmers) to the Secretary and in the case of a swimmer aged under 18 the application must be signed by the swimmer's parent or guardian. The parent or guardian is also required to sign the Code of Conduct undertaking in respect of their own behaviour. (Note: The Club cannot take any disciplinary action through the ASA judicial processes unless the parent is also a member of the ASA )
- 1.6 The Charity may only refuse an application for membership if, acting reasonably and properly, it considers it to be in the best interests of the Charity to refuse the application. Reasons for refusal could include, for example an individual's:
  - a) Conduct or character likely to bring the Charity or the sport into disrepute,
  - b) In the case of a swimmer being unable to achieve the entry standards as laid down the and provided by the Charity to the applicant for membership
  - c) Failure to satisfy the Charities child protection policy.
- 1.7 The Trustees must inform the applicant in writing of the reasons for the refusal within twenty-one days of the decision.



- 1.8 Any person refused membership may seek a review of this decision before a review panel appointed by the Trustees (review panel) comprised of not less ~~that~~ <sup>than</sup> 3 members (who may or may not be Trustee members). The review panel shall (wherever practicable) include 1 independent member nominated by the ASA (West Midlands Region). The person refused membership shall be entitled to make representations to the review panel. The procedures for review shall be at the discretion of the Review Panel whose decision shall be final and binding.
- 1.9 In accordance with its Objects (Part 1 Clause 1.1) and powers (Part 1 clauses 1.2 to 1.6), the Club shall not refuse an application for membership on discriminatory grounds, whether in relation to ethnic origin, age, sex, religion, disability, political persuasion or sexual orientation
- 1.10 Membership is not transferable to anyone else.
- 1.11 The Trustees must keep a register of names and addresses of the members.
- 1.12 The Trustees may elect any person as an honorary member of the Club for such period as it thinks fit and they shall be entitled to all the privileges of membership except that they shall not be entitled to vote at meetings and serve as officers or on the Committee unless any such person shall have retained in addition his ordinary membership of the Club. Such honorary members must be included in the Club's annual return as to membership.

## **2 Termination of Membership**

- 2.1 Membership is terminated if:
- a) the member dies;
  - b) the member resigns by written notice to the Charity. (A member's resignation shall only take effect when this written notice has been complied with and the member who resigns from the club shall not be entitled to have any part of the annual membership fee or any other fee's returned. The ASA membership department shall be informed should a member resign when still owing money or goods to the club.)
  - c) the member is removed from membership by a resolution of the Trustees that it is in the best interests of the Charity that his or her membership is terminated.
- 2.2 The Charity shall adopt and comply with the ASA Guidelines for handling Internal Club Disputes ("the Guidelines") as the same may be revised from time to time. The Guidelines are set out as an Appendix to the ASA Laws and appear in the ASA Handbook. (A copy of the current Guidelines may be obtained from the ASA Legal Affairs Department).
- 2.3 A member may not be expelled or (subject to clause 2.4) be made the subject of any other penalty unless the Trustees hearing the complaint shall by a two-thirds majority

vote in favour of the expulsion of the member in accordance with the ASA Laws and any applicable Judicial Laws for handling internal club disputes

- 2.4 The Trustees of the Charity may temporarily suspend or exclude a member from particular training sessions and/or wider Charity activities, when in their opinion; such action is in the interests of the Charity. Where such action is taken the complaint will thereafter be dealt with in accordance with the ASA Laws and any Judicial Laws for handling internal club disputes. This decision is to be made by a simple majority of a quorate meeting of the Trustees.
- 2.5 Notwithstanding the provisions of clause b) a member whose subscription is more than two months in arrears shall be deemed to have resigned. Where the membership of a member is to be terminated in this way he shall be informed in writing) that he is no longer a member by notice either handed to him or sent by post to his last known address or by e mail to the email address provided by the member to the Charity.
- 2.6 Members suffering financial difficulties as a result of unemployment or sickness can apply to the Trustees for temporary part or whole suspension of any subscription amounts falling due.

### **3 Subscription and other Fees**

- 3.1 The annual member's subscription and coaching and squad fees (as applicable) shall be determined from time to time by the Charity. The Charity shall in so doing make special provision for different classes of membership and have the right to reduce or waive such subscriptions and fees as it shall determine.
- 3.2 The annual subscription and entrance fee (if any) shall be due on joining the Charity and thereafter on dates as determined by the Charity.
- 3.3 Any member whose subscription is unpaid by the date falling 30 days after the due date for payment may be suspended by the Charity from some or all Charity activities from a date to be determined by the Charity and until such payment is made
- 3.4 The Trustees shall, from time to time, have the power to determine the annual membership subscription and other fees. This shall include the power to make such increase in the subscription as shall, where the Charity pays the individual ASA Membership Fees to the ASA on behalf of members, be consequential upon an increase in individual ASA membership fees. Any increase in subscriptions shall be advised to the members in writing with the reasons for any increase to be reported to the members at the next Annual General Meeting.

### **4 General meetings**

- 4.1 The Charity must hold a general meeting within twelve months of the date of the adoption of this constitution.
- 4.2 An annual general meeting will be held in each subsequent year, usually during May, and not more than fifteen months may elapse between successive annual general meetings.

- 4.3 The purpose of the annual general meeting will include but not be limited to the following:
- a) to receive the Chairman's report of the activities of the Charity during the previous year;
  - b) to receive and consider the accounts of the Charity for the previous year;
  - c) to remove and elect the independent examiner/auditor or confirm that he remain in office;
  - d) to decide on any resolution which may be duly submitted.
  - e) to elect the Officers and other Trustees of the Club. Nominations for election of members to any office of the Club shall be made in writing by the proposer and seconder to the Secretary not later than 21 days prior to the annual general meeting. The nominee shall be required to indicate in writing on the nomination form his willingness to stand for election. Notice of any resolution proposed to be moved at the Annual General Meeting shall be given in writing to the Secretary not later than 21 days prior to the annual general meeting.
- 4.4 All general meetings other than annual general meetings shall be called Special General Meetings.
- 4.5 The Trustees may call a SGM at any time.
- 4.6 The Trustees must call a SGM if requested to do so in writing by at least seven members entitled to vote at a general meeting or one tenth of such members, whichever is the greater. The request must state the nature of the business that is to be discussed. If the Trustees fail to hold the meeting within twenty-eight days of the request, the members may proceed to call a SGM but in doing so they must comply with the provisions of this constitution.
- 4.7 The Secretary, or in his or her absence a member of the Committee, shall take minutes at the Annual and SGM's.
- 4.8 The Chairman shall at all General Meetings have unlimited authority upon every question of order and shall be, for the purpose of such meeting, the sole interpreter of the rules of the Charity
- 4.9 The Secretary shall hand out or send in writing to each member at his last known postal address a written agenda giving notice of the date, time and place of the General Meeting together with the resolutions to be proposed thereat at least 14 days before the meeting and in the case of the Annual General Meeting a list of the nominees for the Trustee posts and (if available by that time) a copy of the examined accounts. The Secretary may, alternatively, with the agreement of member(s) concerned distribute these materials by e-mail or similar form of communication. The Notice of Meeting shall in addition wherever possible be displayed on the Club Notice Board where one exists.

## **5. Notice**

- 5.1 The minimum period of notice required to hold any general meeting of the Charity is fourteen clear days from the date on which the notice is deemed to have been given.
- 5.2 A general meeting may be called by shorter notice, if it is so agreed by all the members entitled to attend and vote.
- 5.3 The notice must specify the date, time and place of the meeting and the general nature of the business to be transacted. If the meeting is to be an AGM, the notice must say so.
- 5.4 Notice of any resolution proposed to be moved at the shall be given in writing to the Secretary not later than 21 days prior to the AGM .
- 5.5 The notice must be given to all the members and to the Trustees.

## **6 Quorum**

- 6.1 No business shall be transacted at any general meeting unless a quorum is present.
- 6.2 A quorum is 7 members entitled to vote upon the business to be conducted at the meeting
- 6.3 If a quorum is not present within half an hour from the time appointed for the meeting or during a meeting a quorum ceases to be present, the meeting shall be adjourned to such time and place as the Trustees shall determine and the Trustees must reconvene the meeting and must give at least seven clear days' notice of the reconvened meeting stating the date, time and place of the meeting.
- 6.4 If no quorum is present at which has been reconvened under clause 6.3 above within fifteen minutes of the time specified for the start of the meeting the members present at that time shall constitute the quorum for that meeting.

## **7 Chair**

- 7.1 General meetings shall be chaired by the person who has been elected as Chair.
- 7.2 If there is no such person or he or she is not present within fifteen minutes of the time appointed for the meeting the Vice Chair, or in his or her absence, a Trustee nominated by the Trustees shall chair the meeting.
- 7.3 If there is only one Trustee present and willing to act, he or she shall chair the meeting.
- 7.4 If no Trustee is present and willing to chair the meeting within fifteen minutes after the time appointed for holding it, the members present and entitled to vote must choose one of their number to chair the meeting.

## **8 Adjournments**

- 8.1 The members present at a meeting may resolve that the meeting shall be adjourned.
- 8.2 The person who is chairing the meeting must decide the date time and place at which meeting is to be reconvened unless those details are specified in that resolution.
- 8.3 No business shall be conducted at an adjourned meeting unless it could properly have been conducted at the meeting had the adjournment not taken place.
- 8.4 If a meeting is adjourned by a resolution of the members for more than seven days, at least seven clear days' notice shall be given of the reconvened meeting stating the date time and place of the meeting.

## **9 Votes**

- 9.1 Each member present shall have one vote and resolutions shall be passed by a simple majority. For the procedures for submitting resolutions to be considered at a General Meeting members are referred to Section 4; General Meetings. Rule 9.3. In the event of an equality of votes the Chairman shall have a casting or additional vote.
- 9.2 Only paid up members who have reached their 18th birthday shall be entitled to be heard and to vote on all matters. (Members who have not reached their 18th birthday shall be entitled to be heard and vote only on those matters determined by the Chairman as matters concerning juniors, such as the election of club captains.)
- 9.3 Only members 18 or over can be voted in as Trustees.

## **10 Officers and Trustees**

- 10.1 The Charity and its property shall be managed and administered by a committee comprising the Officers and other members elected in accordance with this constitution. The Officers and other members of the committee shall be the trustees of the Charity and in this constitution are together called "the Trustees".
- 10.2 The Charity shall have the following Officers:
  - a) A Chair,
  - b) A Vice Chair
  - c) A Secretary,
  - d) A Treasurer,
  - e) A Welfare Officer (must not be less than 18yrs of age, who should have any appropriate background and is required to undertake appropriate training in accordance with Child Safeguarding courses.

- 10.3 A Trustee must be a member of the Charity.
- 10.4 No one may be appointed a Trustee if he or she would be disqualified from acting under the provisions of Clause 0.
- 10.5 The number of Trustees including Officers shall be not less than four and (unless otherwise determined by a resolution of the Charity in general meeting) shall not be more than 15.
- 10.6 The first Trustees (including Officers) shall be those persons elected as Trustees and Officers at the meeting at which this constitution is adopted.
- 10.7 A Trustee may not appoint anyone to act on his or her behalf at meetings of the Trustees.

## **11. *The Appointment of Trustees***

- 11.1 The Charity in general meeting shall elect the Officers and the other Trustees.
- 11.2 The Trustees may appoint any person who is willing to act as a Trustee and they may also appoint Trustees to act as officers. That appointed person must become a member of the ASA . Any person appointed in this way will be required to resign at the next AGM but can submit themselves to the full membership for re-election.
- 11.3 Each of the Trustees shall retire with effect from the conclusion of the AGMbut shall be eligible for re-election at that AGM.
- 11.4 No-one may be elected a Trustee or an Officer at any AGM unless prior to the meeting the Charity is given a notice that:
- i. is signed by a member entitled to vote at the meeting;
  - ii. states the member's intention to propose the appointment of a person as a Trustee or as an officer;
  - iii. is signed by the person who is to be proposed to show his or her willingness to be appointed.
- 11.5 The appointment of a Trustee, whether by the Charity in general meeting or by the other Trustees, must not cause the number of Trustees to exceed any number fixed in accordance with this constitution as the maximum number of Trustees.
- 11.6 The Trustees may not appoint a person to be an Officer if a person has already been elected or appointed to that office and has not vacated the office.

## **12. *Powers of Trustees***

12.1 The Trustees must manage the business of the Charity and they have the following powers in order to further the Objects (but not for any other purpose):

- a) to raise funds. In doing so, the Trustees must not undertake any substantial permanent trading activity and must comply with any relevant statutory regulations;
- b) to buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use;
- c) to sell, lease or otherwise dispose of all or any part of the property belonging to the Charity. In exercising this power, the Trustees must comply as appropriate with sections 36 and 37 of the Charities Act 1993;
- d) to borrow money and to charge the whole or any part of the property belonging to the Charity as security to repayment of the money borrowed. The Trustees must comply as appropriate with sections 38 and 39 of the Charities Act 1993 if they intend to mortgage land;
- e) to co-operate with other charities, voluntary bodies and statutory authorities and to exchange information and advice with them;
- f) to establish or support any charitable trusts, associations or institutions formed for any of the charitable purposes included in the Objects;
- g) to acquire, merge with or enter into any partnership or joint venture arrangement with any other charity formed for any of the Objects;
- h) to set aside income as a reserve against future expenditure but only in accordance with a written policy about reserves;
- i) to obtain and pay for such goods and services as are necessary for carrying out the work of the Charity;
- j) to open and operate such bank and other accounts as the Trustees consider necessary and to invest funds and to delegate the management of funds 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;
- k) to do all such other lawful things as are necessary for the achievement of the Objects;

12.2 No alteration of this constitution or any special resolution shall have retrospective effect to invalidate any prior act of the Trustees.

12.3 Any meeting of Trustees at which a quorum is present at the time the relevant decision is made may exercise all the powers exercisable by the Trustees.

### **13. Disqualification and Removal of Trustees**

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

- a. is disqualified from acting as a Trustee by virtue of section 72 of the Charities Act 1993 (or any statutory re-enactment or modification of that provision);
- b. ceases to be a member of the Charity;
- c. becomes incapable by reason of mental disorder, illness or injury of managing and administering his or her own affairs;
- d. resigns as a Trustee by notice to the Charity (but only if at least two Trustees will remain in office when the notice of resignation is to take effect); or
- e. is absent without the permission of the Trustees from all their meetings held within a period of six consecutive months and the Trustees resolve that his or her office be vacated.

## **14. Proceedings of Trustees**

- 14.1 The Trustees may regulate their proceedings as they think fit, subject to the provisions of this constitution and will meet at least once a month (save where the Trustee board itself shall by simple majority agree not to meet).
- 14.2 Any Trustee may call a meeting of the Trustees.
- 14.3 The secretary must call a meeting of the Trustees if requested to do so by a Trustee.
- 14.4 Questions arising at a meeting must be decided by a simple majority of votes.
- 14.5 In the case of an equality of votes, the person who chairs the meeting shall have a second or casting vote.
- 14.6 No decision may be made by a meeting of the Trustees unless a quorum is present at the time the decision is purported to be made.
- 14.7 The quorum shall be seven or the number nearest to the one third of the total number of Trustees, whichever is the greatest or such larger number as may be decided from time to time by the Trustees.
- 14.8 A Trustee shall not be counted in the quorum present when any decision is made about a matter upon which that Trustee is not entitled to vote.
- 14.9 If the number of Trustees is less than the number fixed as the quorum, the continuing Trustees or Trustee may act only for the purpose of filling vacancies or of calling a general meeting.
- 14.10 The person elected as the Chair shall chair meetings of the Trustees.
- 14.11 If the Chair, or in his absence the Vice Chair, is unwilling to preside or is not present within ten minutes after the time appointed for the meeting, the Trustees present may



appoint one of their number to chair that meeting.

- 14.12 The person appointed to chair meetings of the Trustees shall have no functions or powers except those conferred by this constitution or delegated to him or her in writing by the Trustees.
- 14.13 A resolution in writing signed by all the Trustees entitled to receive notice of a meeting of Trustees or of a committee of Trustees and to vote upon the resolution shall be as valid and effectual as if it had been passed at a meeting of the Trustees or (as the case may be) a committee of Trustees duly convened and held.
- 14.14 The resolution in writing may comprise several documents containing the text of the resolution in like form each signed by one or more Trustees.

## **15. Delegation**

- 15.1 The Trustees may delegate any of their powers or functions to a committee of two or more Trustees but the terms of any such delegation must be recorded in the Minutes.
- 15.2 The Trustees may impose conditions when delegating, including the conditions that:
- i. the relevant powers are to be exercised exclusively by the committee to whom they delegate;
  - ii. no expenditure may be incurred on behalf of the Charity except in accordance with a budget previously agreed with the Trustees.
- 15.3 The Trustees may revoke or alter a delegation.
- 15.4 All acts and proceedings of any committees must be fully and promptly reported to the Trustees.

## **16. Irregularities in Proceedings**

- 16.1 Subject to sub-clause (2) of this clause, all acts done by a meeting of Trustees, or of a committee of Trustees, shall be valid notwithstanding the participation in any vote of a 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, if, without:
    - i) the vote of that Trustee; and
    - ii) that Trustee being counted in the quorum

the decision has been made by a majority of the Trustees at a quorate meeting.

16.2 Clause 0 of this clause does not permit a Trustee to keep any benefit that may be conferred upon him or her by a resolution of the Trustees or of a committee of Trustees if the resolution would otherwise have been void.

16.3 No resolution or act of

- a) the Trustees;
- b) any committee of the Trustees;
- c) the Charity in general meeting,

shall be invalidated by reason of the failure to give notice to any Trustee or member or by reason of any procedural defect in the meeting unless it is shown that the failure or defect has materially prejudiced a member of the beneficiaries of the Charity.

## **17. Minutes**

17.1 The Trustees must keep minutes of all:

- a) appointments of Officers and Trustees made by the Trustees;
- b) proceedings at meetings of the Charity;
- c) meetings of the Trustees and committees of Trustees including:
  - i) the names of the Trustees present at the meeting;
  - ii) the decisions made at the meetings; and
  - iii) as appropriate the reasons for the decisions.

## **18. Finance, Annual Report and Return and Accounts**

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

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

- f) ensuring that the financial records and minutes of meetings are retained for a period of at least **6** years.
- 18.2 Accounts must be prepared in accordance with the provisions of any Statement of Recommended Practice issued by the Commission, unless the Trustees are required to prepare accounts in accordance with the provisions of such a Statement prepared by another body.
- 18.3 All records including Minutes of Meetings and Accounts must be retained for a period of six years.
- 18.4 All moneys payable to the Club shall be received by the Treasurer and deposited in a bank account in the name of the Club. No sum above **£500** shall be drawn from that account except either by cheque signed by two of the four signatories who shall be the Chair, Vice Chair, Secretary and Treasurer or any other duly appointed person or by on line payment by the Treasurer with the prior written approval of the Chair, Vice-Chair or Secretary. Any moneys not required for immediate use may be invested as the Trustees in their discretion think fit.
- 18.5 The Trustees shall have power to authorise the payment of remuneration and expenses to any officer, member or employee of the Club and to any other person or persons for services rendered to the Club.
- 18.6 The financial transactions of the Club shall be recorded by the Treasurer in such manner as the Trustees think fit.
- 18.7 The financial year of the Club shall be the period commencing on 1<sup>st</sup> April and ending on 31<sup>st</sup> March. Any change to the financial year shall require the approval of the members in a General Meeting.
- 18.8 The Trustees shall retain for a minimum period of six years all financial records relating to the Club and copies of Minutes of all meetings.
- 18.9 The annual members subscription and coaching and squad fees, as applicable, shall be determined from time to time by the Trustees and shall in so doing make special provision for different classes of membership as it shall determine. This shall include the power to make such increase in the subscription as shall, where the Club pays the individual ASA Membership Fees to the ASA on behalf of members, be consequential upon an increase in individual ASA membership fees. Any increase in subscriptions shall be advised to the members in writing with the reasons for any increase to be reported to the members at the next AGM.
- 18.10 The Trustees, in special circumstances, shall have the authority to address subscriptions and fees for social inclusion.
- 18.11 Any member whose subscription is unpaid by the due date for payment can be suspended by the Trustees from some or all Club activities from a date to be determined by the Trustees and until such payment is made due to insurance cover.

## **19. Borrowing**

- 19.1 The Committee may borrow money on behalf of the Club for the purposes of the Club from time to time at their own discretion up to such limits on borrowing as may be laid down from time to time by the General Meeting for the general upkeep of the Club or with the approval of a General Meeting for any other expenditure, additions or improvements.
- 19.2 When so borrowing the Committee shall have power to raise in any way any sum or sums of money and to raise and secure the repayment of any sum or sums of money in such manner or on such terms and conditions as it thinks fit, and in particular by mortgage of or charge upon or by the issues of debentures charged upon all or any part of the property of the Club.
- 19.3 The Committee shall have no power to pledge the personal liability of any member of the Club for the repayment of any sums so borrowed.

## **20. Registered Particulars**

- 20.1 The Trustees must notify the Commission promptly of any changes to the Charity's entry on the Central Register of Charities.

## **21. Property**

- 21.1 The Trustees must ensure the title to:

- a) all land held by or in trust for the Charity that is not vested in the Official Custodian of Charities; and
- b) all investments held by or on behalf of the Charity,

is vested either in a corporation entitled to act as custodian trustee or in not less than three individuals appointed by them as holding trustees.

- 21.2 The terms of the appointment of any holding trustees must provide that they may act only in accordance with lawful directions of the Trustees and that if they do so they will not be liable for the acts and defaults of the Trustees or of the members of the Charity.
- 21.3 The Trustees may remove the holding trustees at any time.
- 21.4 The Trustees shall be entitled to an indemnity out of the property of the Charity for all expenses and liabilities properly incurred by them in the discharge of their duties.

## **22. Repair and Insurance**

- 22.1 The Trustees must keep in repair and insure to their full value against fire and other usual risks all the buildings of the Charity (except those buildings that are required to be kept in repair and insured by a tenant). They must also insure suitability in respect of public liability and employer's liability.

22.2 The Charity shall maintain an Accident Book in which all accidents to Charity members at swimming related activities shall be recorded. Details of such accidents shall be reported to the ASA Office. The Charity shall make an annual return to the ASA in the prescribed form.

## **23. Notices**

23.1 Any notice required by this constitution to be given to or by any person must be:

- a) in writing; or
- b) given using electronic communications.

23.2 Notice may be given to a member either:

- a) personally; or
- b) by sending it by post in a prepaid envelope addressed to the member at his or her address; or
- c) by leaving it at the address of the member; or
- d) by giving it using electronic communications to the member's address.

23.3 A member who does not register an address with the Charity or who registers only a postal address that is not within the United Kingdom shall not be entitled to receive any notice from the Charity.

23.4 A member present in person at any meeting of the Charity shall be deemed to have received notice of the meeting and of the purposes for which it was called.

23.5 Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given.

23.6 Proof that a notice contained in an electronic communication was properly addressed and sent shall be conclusive evidence that the notice was given.

23.7 A notice shall be deemed to be given 48 hours after the envelope containing it was posted or, in the case of an electronic communication, 48 hours after it was sent.

## **24. Rules**

24.1 The Trustees may from time to time make rules or bye-laws for the conduct of their business.

24.2 The bye-laws may regulate the following matters but are not restricted to them:

- a) the admission of members of the Charity (including the admission of organisations to membership) and the rights and privileges of such members, and the entrance fees, subscriptions and other fees or payments to be made by members;
- b) the conduct of members of the Charity in relation to one another, and to the Charity's employees and volunteers;
- c) the setting aside of the whole or any part or parts of the Charity's premises at any particular time or times or for any particular purpose or purposes;
- d) the procedure at general meetings and meetings of the Trustee in so far as such procedure is not regulated by this constitution;
- e) the keeping and authenticating of records. (If regulations made under this clause permit records of the Charity to be kept in electronic form and require a Trustee to sign the record, the regulations must specify a method of recording the signature that enables it to be properly authenticated).
- f) generally, all such matters as are commonly the subject matter of the rules of an unincorporated association.

24.3 The rules may be altered by resolution at an AGM or SGM provided that the resolution is carried by a majority of at least two-thirds of members present and entitled to vote at the General Meeting. No amendment(s) to the rules shall become effective until such amendment(s) shall have been submitted to and validated by such person as is authorised to do so by the West Midland Region.

24.4 Any member shall be entitled to put any proposal for consideration at any General Meeting provided the proposal in writing shall have been handed to or posted to the Secretary of the Club so as to be received by him not later than 21 days prior to the case of the Annual General Meeting or, in the case of a Special General Meeting, 21 days before the date of the meeting and thereafter the Secretary shall supply a copy of the proposal or resolution to the members in the manner provided in Part 2 Clause 4.9

24.5 The Trustees must adopt such means as they think sufficient to bring the rules and bye-laws to the notice of members of the Charity.

24.6 The rules or bye-laws shall be binding on all members of the Charity. No rule or bye-law shall be inconsistent with, or shall affect or repeal anything contained in, this constitution.

## Acknowledgments

- 25.1 The Trustees acknowledge that these rules constitute a legally binding contract to regulate the relationship of the Trustees with each other and the club.
- 25.2 The following statement needs to appear on club membership forms and is to be signed by the member, and must also be countersigned by the parent or a person having parental responsibility for the member if under 18 years of age:

***“I acknowledge receipt of the rules of Oswestry Otters Swimming Club and confirm my understanding and acceptance that such rules (as amended from time to time) shall govern my membership of the Club. I further acknowledge and accept the responsibilities of membership upon members as set out in these rules.”***

First Trustees; Date: \_\_\_\_\_

Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Name: \_\_\_\_\_ Signature: \_\_\_\_\_

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