

CRN 01962950

TUESDAY



**THE COMPANIES ACTS 1985 - 2006**

COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL

**ARTICLES OF ASSOCIATION OF**

**THE BARBICAN CENTRE TRUST LIMITED**

- 1 The company's name is **The Barbican Centre Trust Limited** (and in this document it is called the 'charity').

**Interpretation**

- 2 In the articles:

'**address**' means a postal address or, for the purposes of electronic communication, an e-mail or postal address or a telephone number for receiving text messages in each case registered with the charity;

'**Barbican Centre**' means Barbican Centre for Arts and Conferences, Barbican, London EC2Y 8DS

'**Barbican Centre Board**' means the Committee of the Common Council appointed from time to time with responsibility for the strategic direction, management, operation and maintenance of the Barbican Centre in accordance with the City of London Corporation's usual procedures;

'**board**' means the board of directors of the charity;

'**City of London Corporation**' means the Mayor and Commonalty and Citizens of the City of London, a common law corporation, acting by its Court of Common Council;

'**clear days**' in relation to the period of a notice means a period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect;

the '**Commission**' means the Charity Commission for England and Wales;

'**Common Council**' means the Common Council of the City Corporation, an executive decision-making assembly;

'**Companies Acts**' means the Companies Acts (as defined in section 2 of the Companies Act 2006) insofar as they apply to the charity;

the '**directors**' or the '**trustees**' means the directors of the charity. The directors are charity trustees as defined by section 177 of the Charities Act 2011;

'**document**' includes, unless otherwise specified, any document sent or supplied in electronic form;

'**electronic form**' has the meaning given in section 1168 of the Companies Act 2006;

'**electronic platform**' includes, but is not limited to, website addresses and conference call systems;

the '**memorandum**' means the charity's memorandum of association;

'**officers**' includes the directors and the secretary (if any);

the '**seal**' means the common seal of the charity if it has one;

**'present'** at a board meeting or a general meeting includes for physical meetings being present in person or for meetings in electronic or hybrid form being present by suitable electronic means agreed by the directors in which a participant or participants may communicate with all the other participants.

**'secretary'** means any person appointed to perform the duties of the secretary of the charity;

the **'United Kingdom'** means Great Britain and Northern Ireland; and

words importing one gender shall include all genders, and the singular includes the plural and vice versa.

Unless the context otherwise requires words or expressions contained in the articles have the same meaning as in the Companies Acts as in force when this constitution becomes binding on the charity.

Apart from the exception mentioned in the previous paragraph a reference to an Act of Parliament includes any statutory modification or re-enactment of it for the time being in force.

### **Liability of members**

- 3 The liability of the members is limited to a sum not exceeding £5, being the amount that each member undertakes to contribute to the assets of the charity in the event of its being wound up while he, she or it is a member or within one year after he, she or it ceases to be a member, for:

- (1) payment of the charity's debts and liabilities incurred before he, she or it ceases to be a member;
- (2) payment of the costs, charges and expenses of winding up; and
- (3) adjustment of the rights of the contributories among themselves.

### **Objects**

- 4 The charity's objects (**'Objects'**) are:

To support, promote and encourage people in London, the United Kingdom and globally to discover and appreciate the arts through:

- (1) artistic, cultural and educational activities generally;
- (2) artistic, cultural and educational programmes and activities run by the Barbican Centre; and
- (3) the maintenance and development of the Barbican Centre as a centre of the arts, culture and education,

in each case to the extent that such support, promotion and encouragement is of a charitable nature.

### **Powers**

- 5 The charity has power to do anything which is calculated to further its Objects or is conducive or incidental to doing so. In particular, the charity has power:

- (1) to act as co-ordinating body for individuals and organisations, both amateur and professional, and to provide the means of liaison between such individuals and organisations;
- (2) to establish or further the work of charitable institutions to be formed or already existing for the promotion of the foregoing;

- (3) to present, or assist in presenting, public concerts, dramatic performances, recitals, cinematographic performances, art exhibitions, lectures, arts festivals, educational performances and lectures and other artistic events;
- (4) to provide a means for bringing to public attention the work of creative artists or artistes in all fields of the arts;
- (5) to purchase, take on lease or in exchange, hire or otherwise acquire, manage and maintain any real or personal property and any rights or privileges expedient for the promotion of its objects, and (subject to any trusts, terms or conditions imposed by the donors thereof) to sell, let mortgage, give, lend dispose of or turn to account all or any of the property or assets of the charity as may be thought expedient with a view to the promotion of its objects;
- (6) to undertake and execute any trust which may be lawfully undertaken by the charity;
- (7) to take steps to procure contributions, subscriptions and donations of money to the funds of the charity or gifts, devises or bequests of property of any kind for the charity or its purposes, to receive and give receipts and discharges for and to deal with any such money or property (subject to any trusts, terms or conditions imposed by the donors thereof) for any of the purposes of the charity and to borrow or to raise money for the purposes of the charity on such terms and on such securities as may be thought fit;
- (8) to effect and keep up any insurance against any risk, loss or liability to which the charity may be subject;
- (9) to invest the moneys of the charity not immediately required for its purpose in or at interest upon such investments, securities, or property as may be thought fit, subject nevertheless to such conditions (if any) and such consents (if any) as may for the time being be imposed or required by law and subject also as hereinafter provided;
- (10) to establish and support or to aid in the establishment and support of any charitable associations or institutions and to subscribe or guarantee money for charitable purposes in any way connected with the purposes of the charity or calculated to further its Objects;
- (11) to pay the expenses of and incidental to the formation and incorporation of the charity;
- (12) to apply for and take all necessary steps to obtain statutory or other powers or privileges required or deemed to be expedient for the furtherance of the objects and work of the charity and to defray the costs and expenses involved;
- (13) to do all such other things as shall further the attainment of the above objects or any of them;

provided that (i) nothing in these articles shall authorise the charity or the directors to do anything which is not charitable according to the law of England for the time being (ii) in case the charity shall take or hold any property which may be subject to any trusts, the charity shall deal with or invest the same only in such manner as allowed by law, having regard to such trusts (iii) the charity's objects shall not extend to the regulation of relations between workers and employers or organisations of workers and organisations of employers (iv) in case the charity shall take or hold any property subject to the jurisdiction of the Charity Commissioners for England and Wales the charity shall not seal, mortgage, charge or lease the same without authority, approval or consent as may be required by law, and as regards any such property the trustees of the charity shall be chargeable for any such property that may come into their hands and shall be answerable and accountable for their own acts, receipts, neglects and defaults, and for the due administration of such property in the same manner and to the same extent as they would have been if no incorporation has been effected, and the incorporation of the charity shall not diminish or impair any control or authority exercisable by the Chancery Division and the Charity Commissioners over such Trustees but

they shall as regards any such property be subject jointly and severally to such control or authority as if the charity were not incorporated.

#### **Application of income and property**

- 6 (1) The income and property of the charity shall be applied solely towards the promotion of the Objects.
- (2) (a) A director is entitled to be reimbursed from the property of the charity or may pay out of such property reasonable expenses properly incurred by them when acting on behalf of the charity.
- (b) A director may benefit from trustee indemnity insurance cover purchased at the charity's expense in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011.
- (c) A director may receive an indemnity from the charity in the circumstances specified in article 56.
- (d) A director may not receive any other benefit or payment unless it is authorised by article 7.
- (3) Subject to article 7, 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 a member who is not also a director receiving:
- (a) a benefit from the charity in the capacity of a beneficiary of the charity;
- (b) reasonable and proper remuneration for any goods or services supplied to the charity.

#### **Benefits and payments to charity directors and connected persons**

##### **7 (1) General provisions**

No director or connected person may:

- (a) buy any goods or services from the charity on terms preferential to those applicable to members of the public;
- (b) sell goods, services, or any interest in land to the charity;
- (c) be employed by, or receive any remuneration from, the charity;
- (d) receive any other financial benefit from the charity;

unless the payment is permitted by sub-clause (2) of this article, or authorised by the court or the prior written consent of the Charity Commission has been obtained.

In this article a 'financial benefit' means a benefit, direct or indirect, which is either money or has a monetary value.

#### **Scope and powers permitting directors' or connected persons' benefits**

##### **(2)**

- (a) Notwithstanding any other provision of the articles, no portion of the income and property of the charity shall be paid or transferred directly by way of dividend, bonus, or otherwise howsoever by way of profit, to the members of the charity, provided that nothing herein shall prevent the payment in good faith of reasonable and proper remuneration to any officer or servant of the charity or (not being a member of the Board of trustees) in return for any services actually rendered to the charity, nor

prevent the payment of interest at a rate not exceeding 2 per cent less than the average base rate prescribed for the time being by members of the Committee of London Clearing Banks 3 per cent whichever is the greater on money lent or reasonable and proper rent for premises demised or let by any member of the charity.

- (b) Subject to sub-clauses 2(a) and (3) of this article a director or connected person may provide the charity with goods that are not supplied in connection with services actually provided to the charity by the director or connected person.
- (c) Subject to sub-clauses 2(a) and (3) of this article, a director or connected person may receive rent for premises let by the director or connected person to the charity. The amount of the rent and the other terms of the lease must be reasonable and proper. The director concerned must withdraw from any meeting at which such a proposal or the rent or other terms of the lease are under discussion.
- (d) A director or connected person may take part in the normal trading and fundraising activities of the charity on the same terms as members of the public.
- (e) A director is entitled to be reimbursed from the property of the charity or may pay out of such property reasonable expenses properly incurred by him or her when acting on behalf of the charity.

#### **Payment for supply of goods only – controls**

- (3) The charity and its directors may only rely upon the authority provided by sub-clause (2)(b) of this article if each of the following conditions is satisfied:
  - (a) The amount or maximum amount of the payment for the goods is set out in an agreement in writing between the charity or its directors (as the case may be) and the director or connected person supplying the goods ('the supplier') under which the supplier is to supply the goods in question to or on behalf of the charity.
  - (b) The amount or maximum amount of the payment for the goods does not exceed what is reasonable in the circumstances for the supply of the goods in question.
  - (c) The other directors are satisfied (as reflected in a vote in favour of this conclusion by a majority of the other directors) that it is in the best interests of the charity to contract with the supplier rather than with someone who is not a director or connected person. In reaching that decision the directors must balance the advantage of contracting with a director or connected person against the disadvantages of doing so.
  - (d) The supplier is absent from the part of any meeting at which there is discussion of the proposal to enter into a contract or arrangement with them with regard to the supply of goods to the charity.
  - (e) The supplier does not vote on any such matter and is not to be counted when calculating whether a quorum of directors is present at the meeting.
  - (f) The reason for their decision is recorded by the directors in the minute book.
  - (g) A majority of the directors then in office are not in receipt of remuneration or payments authorised by article 7.
- (4) In sub-clauses (2) and (3) of this article
  - (a) 'charity' includes any company in which the charity:
    - (i) holds more than 50% of the shares; or
    - (ii) controls more than 50% of the voting rights attached to the shares; or

- (iii) has the right to appoint one or more directors to the board of the company.
- (b) 'connected person' includes any person within the definition in article 59 'Interpretation'.

#### **Declaration of directors' interests**

- 8 A director must declare the nature and extent of any interest, direct or indirect, which they or any connected person has in a proposed transaction or arrangement with the charity or in any transaction or arrangement entered into by the charity which has not previously been declared. A director must absent himself or herself from any discussions of the charity directors in which it is possible that a conflict will arise between their duty to act solely in the interests of the charity and any personal interest (including but not limited to any personal financial interest).

#### **Conflicts of interests and conflicts of loyalties**

- 9 (1) If a conflict of interests arises for a director because of a duty of loyalty owed to another organisation or person and the conflict is not authorised by virtue of any other provision in the articles, the unconflicted directors may authorise such a conflict of interests where the following conditions apply:
- (a) the conflicted director is absent from the part of the meeting at which there is discussion of any arrangement or transaction affecting that other organisation or person;
  - (b) the conflicted director does not vote on any such matter and is not to be counted when considering whether a quorum of directors is present at the meeting; and
  - (c) the unconflicted directors consider it is in the interests of the charity to authorise the conflict of interests in the circumstances applying.
- (2) Where a director has been appointed pursuant to article 28, any conflict of interest resulting from a duty of loyalty to the organisation which appointed them is to be treated as having been duly authorised.
- (3) In this article a conflict of interests arising because of a duty of loyalty owed to another organisation or person only refers to such a conflict which does not involve a direct or indirect benefit of any nature to a director or to a connected person.

#### **Members**

- 10 (1) The members of the charity shall be the trustees for the time being of the charity. No person other than a trustee shall be admitted to membership. A person who ceases to be a trustee shall (subject to article 11(2)) automatically cease to be a member.
- (2) The directors must keep a register of names and addresses of the members.

#### **Termination of membership**

- 11 Membership is terminated if:
- (1) the member dies or, if it is an organisation, ceases to exist;
  - (2) the member resigns by written notice to the charity as a director/trustee unless, after the resignation, there would be less than two members;
  - (3) any sum due from the member to the charity is not paid in full within six months of it falling due;
  - (4) the member is removed from membership by a resolution passed by a majority of the other directors that it is in the best interests of the charity that his or her or its

membership is terminated. A resolution to remove a member from membership may only be passed if:

- (a) the member has been given at least twenty-one days' notice in writing of the meeting of the directors at which the resolution will be proposed and the reasons why it is to be proposed;
- (b) the member or, at the option of the member, the member's representative (who need not be a member of the charity) has been allowed to make representations to the meeting.

### **General meetings**

- 12 The charity is not required to hold an annual general meeting.
- 13 The directors may call a general meeting at any time. The board shall determine whether a general meeting is to be held as a physical general meeting, a physical and electronic general meeting or a purely electronic general meeting.

### **Notice of general meetings**

- 14 (1) The minimum periods of notice required to hold a general meeting of the charity are:
  - (a) twenty-one clear days for an annual general meeting (if any is held) or a general meeting called for the passing of a special resolution;
  - (b) fourteen clear days for all other general meetings.
- (2) A general meeting may be called by shorter notice if it is so agreed by a majority in number of members having a right to attend and vote at the meeting, being a majority who together hold not less than 90 percent of the total voting rights.
- (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 annual general meeting, the notice must say so. The notice must also contain a statement setting out the right of members to appoint a proxy under section 324 of the Companies Act 2006 and article 21.
- (4) The notice shall specify whether the meeting shall be held as a physical general meeting, a physical and electronic general meeting or a purely electronic general meeting. The notice of general meeting (including any notice given by means of a website) shall specify the place, date and time of the physical meeting, details of any electronic platform for the meeting, whether the meeting will be an annual general meeting and the general nature of the business to be transacted. If the notice is made available by means of a website, it must be available until the conclusion of the meeting. Any electronic platform may vary from time to time and from meeting to meeting as the board, in its sole discretion, sees fit.
- (5) The notice must be given to all the members and to the directors and (where the directors consider this appropriate) auditors.
- 15 The proceedings at a meeting shall not be invalidated because a person who was entitled to receive notice of the meeting did not receive it because of an accidental omission by the charity.

### **Proceedings at general meetings**

- 16 (1) No business shall be transacted at any general meeting unless a quorum is present. A quorum is three members present in person or by proxy and entitled to vote upon the business to be conducted at the meeting.
- (2) The authorised representative of a member organisation shall be counted in the quorum.
- 17 (1) If:

- (a) a quorum is not present within half an hour from the time appointed for the meeting;  
or
  - (b) during a meeting a quorum ceases to be present;

the meeting shall be adjourned to such time and place as the directors shall determine.
- (2) The directors 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.
- (3) If no quorum is present at the reconvened meeting within fifteen minutes of the time specified for the start of the meeting the members present in person or by proxy at that time shall constitute the quorum for that reconvened meeting.
- 18 (1) General meetings shall be chaired by the person who has been appointed to chair meetings of the directors.
- (2) If there is no such person or they are not present within fifteen minutes of the time appointed for the meeting a director nominated by the directors shall chair the meeting.
- (3) If there is only one director present and willing to act, they shall chair the meeting.
- 19 (1) The members present in person or by proxy at a meeting may resolve by ordinary resolution that the meeting shall be adjourned.
- (2) The person who is chairing the meeting must decide the date, time and place at which the meeting is to be reconvened unless those details are specified in the resolution.
- (3) No business shall be conducted at a reconvened meeting unless it could properly have been conducted at the meeting had the adjournment not taken place.
- (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.
- 20 (1) Any vote at a meeting shall be decided by a show of hands unless before, or on the declaration of the result of, the show of hands a poll is demanded:
  - (a) by the person chairing the meeting; or
  - (b) by at least two members present in person or by proxy and having the right to vote at the meeting; or
  - (c) by a member or members present in person or by proxy representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting.
- (2) (a) The declaration by the person who is chairing the meeting of the result of a vote shall be conclusive unless a poll is demanded.
- (b) The result of the vote must be recorded in the minutes of the charity but the number or proportion of votes cast need not be recorded.
- (3) (a) A demand for a poll may be withdrawn, before the poll is taken, but only with the consent of the person who is chairing the meeting.
- (b) If the demand for a poll is withdrawn the demand shall not invalidate the result of a show of hands declared before the demand was made.
- (4) (a) A poll must be taken as the person who is chairing the meeting directs, who may appoint scrutineers (who need not be members) and who may fix a time and place for declaring the results of the poll.



- (b) The result of the poll shall be deemed to be the resolution of the meeting at which the poll is demanded.
- (5) (a) A poll demanded on the election of a person to chair a meeting or on a question of adjournment must be taken immediately.
- (b) A poll demanded on any other question must be taken either immediately or at such time and place as the person who is chairing the meeting directs.
- (c) The poll must be taken within thirty days after it has been demanded
- (d) If the poll is not taken immediately at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.
- (e) If a poll is demanded the meeting may continue to deal with any other business that may be conducted at the meeting.
- (6) Those members attending by electronic means and present at an electronic general meeting shall be counted in the quorum for, and entitled to vote at, the general meeting in question in addition to those members (if any) present at the general meeting and attending the physical meeting location. The meeting shall be duly constituted and its proceedings valid if the chair of the general meeting is satisfied that adequate facilities are available throughout the electronic general meeting to ensure that members attending the electronic general meeting who are not present together at the same place may, by electronic means, attend and speak and vote at it. Nothing in these articles prevents a general meeting being held both physically and electronically or just electronically or physically. The board and, at any electronic general meeting, the chair may make any arrangement and impose any requirement or restriction as is necessary to ensure the identification of those taking part and the security of the electronic communications involved; and proportionate to those objectives. In this respect the charity is able to authorise any voting application, system or facility for electronic general meetings as it sees fit.

#### **Content of proxy notices**

- 21 (1) Proxies may only validly be appointed by a notice in writing (a 'proxy notice') which -
- (a) states the name and address of the member appointing the proxy;
  - (b) identifies the person appointed to be that member's proxy and the general meeting in relation to which that person is appointed;
  - (c) is signed by or on behalf of the member appointing the proxy, or is authenticated in such manner as the directors may determine; and
  - (d) is delivered to the charity in accordance with the articles and any instructions contained in the notice of the general meeting to which they relate.
- (2) The charity may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- (3) Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- (4) Unless a proxy notice indicates otherwise, it must be treated as -
- (a) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and
  - (b) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

### **Delivery of proxy notices**

- 22A (1) 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 charity by or on behalf of that person.
- (2) An appointment under a proxy notice may be revoked by delivering to the charity a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.
- (3) 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.
- (4) 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 appointor's behalf.

### **Written resolutions**

- 22 (1) A resolution in writing agreed by a simple majority (or in the case of a special resolution by a majority of not less than 75%) of the members who would have been entitled to vote upon it had it been proposed at a general meeting shall be effective provided that:
- (a) a copy of the proposed resolution has been sent to every eligible member;
- (b) a simple majority (or in the case of a special resolution a majority of not less than 75%) of members has signified its agreement to the resolution; and
- (c) it is contained in an authenticated document which has been received at the registered office within the period of 28 days beginning with the circulation date.
- (2) A resolution in writing may comprise several copies to which one or more members have signified their agreement.
- (3) In the case of a member that is an organisation, its authorised representative may signify its agreement.

### **Votes of members**

- 23 Every member, whether an individual or an organisation, shall have one vote.
- 24 Any objection to the qualification of any voter must be raised at the meeting at which the vote is tendered and the decision of the person who is chairing the meeting shall be final.
- 25 (1) Any organisation that is a member of the charity may nominate any person to act as its representative at any meeting of the charity.
- (2) The organisation must give written notice to the charity of the name of its representative. The representative shall not be entitled to represent the organisation at any meeting unless the notice has been received by the charity. The representative may continue to represent the organisation until written notice to the contrary is received by the charity.
- (3) Any notice given to the charity will be conclusive evidence that the representative is entitled to represent the organisation or that their authority has been revoked. The charity shall not be required to consider whether the representative has been properly appointed by the organisation.

### **Directors**

- 26 (1) A director must be a natural person aged 16 years or older.

- (2) No one may be appointed a director if they would be disqualified from acting under the provisions of article 37.
- 27 Unless otherwise determined by ordinary resolution the minimum number of directors shall be three. They shall not be subject to any maximum unless so determined by resolution of the board.
- 28 The following shall be *ex officio* directors:
- (1) The Chair for the time being of the Barbican Centre Board or another member of the Barbican Centre Board nominated by its then current Chair; and
  - (2) The Chief Executive Officer for the time being of the Barbican Centre,
- The City of London Corporation shall also have the right to appoint and remove one further *ex officio* director and in doing so shall specify the relevant office by reference to which such appointment is made.
- Articles 31 and 32 shall not apply to the *ex officio* directors. The directors who are elected Members or officers of the City of London Corporation shall not form a majority of the board.
- 29 A director may not appoint an alternate director or anyone to act on his or her behalf at meetings of the directors.

#### **Powers of directors**

- 30 (1) The directors shall manage the business of the charity and may exercise all the powers of the charity unless they are subject to any restrictions imposed by the Companies Acts, the articles or any special resolution.
- (2) No alteration of the articles or any special resolution shall have retrospective effect to invalidate any prior act of the directors.
- (3) Any meeting of directors at which a quorum is present at the time the relevant decision is made may exercise all the powers exercisable by the directors.

#### **Retirement of directors**

- 31 Unless otherwise agreed by a majority of the other directors, a director who has been appointed after the adoption of these articles shall retire from office on the fourth anniversary of their appointment.
- 32 If there is a decision by the other directors to permit a director to continue in office beyond the fourth anniversary of their appointment the maximum extension which such decision can approve is usually four years. Only in exceptional cases, as determined by the board, may a third term, which shall not exceed four years, be approved by the board with the reasons for the exception being applied to be recorded in the minutes.

#### **Appointment of directors**

- 33 The charity may by ordinary resolution appoint a person who is willing to so act to be a director.
- 34 All members who are entitled to receive notice of a general meeting must be given not less than seven nor more than twenty-eight clear days' notice of any resolution to be put to the meeting to appoint a director, save those appointed under article 28.
- 35 The directors may appoint a person who is willing to act to be a director for such period as (subject to article 31) they may determine.
- 36 The appointment of a director, whether by the charity in general meeting or by the other directors, must not cause the number of directors to exceed any number fixed as the maximum number of directors.

### **Disqualification and removal of directors**

- 37 A director shall cease to hold office if so determined in accordance with article 31 or if that person:
- (1) ceases to be a director by virtue of any provision in the Companies Acts or is prohibited by law from being a director;
  - (2) is disqualified from acting as a trustee by virtue of sections 178 and 179 of the Charities Act 2011 (or any statutory re-enactment or modification of those provisions);
  - (3) ceases to be a member of the charity;
  - (4) was appointed under article 28 and, as relevant, ceases to hold the relevant office for their appointment as director *ex officio* or has been removed by the City of London Corporation as a director;
  - (5) in the written opinion, given to the company, of a registered medical practitioner treating that person, has become physically or mentally incapable of acting as a director and may remain so for more than three months;
  - (6) resigns as a director by notice to the charity (but only if at least two directors will remain in office when the notice of resignation is to take effect); or
  - (7) is absent without the permission of the directors from all their meetings held within a period of six consecutive months and the directors resolve that their office be vacated
- or if their appointment is terminated by a decision of at least two thirds of the other directors.

### **Remuneration of directors**

- 38 The payment of remuneration to directors is restricted by article 7.

### **Proceedings of directors**

- 39
- (1) The directors may regulate their proceedings as they think fit, subject to the provisions of the articles.
  - (2) Any director may call a meeting of the directors.
  - (3) The secretary (if any) must call a meeting of the directors if requested to do so by a director.
  - (4) Questions arising at a meeting shall be decided by a majority of votes unless otherwise stated in the articles.
  - (5) In the case of an equality of votes, the person who is chairing the meeting shall have a second or casting vote.
  - (6) A meeting may be held by suitable electronic means agreed by the directors in which each participant may communicate with all the other participants.
- 40
- (1) No decision may be made by a meeting of the directors unless a quorum is present at the time the decision is purported to be made.
  - (2) The quorum shall be three, or such larger number as may be decided from time to time by the directors.
  - (3) A director shall not be counted in the quorum present when any decision is made about a matter upon which that director is not entitled to vote.
- 41 If the number of directors is less than the number fixed as the quorum, the continuing directors or director may act only for the purpose of filling vacancies or of calling a general meeting.

- 42 (1) The directors shall appoint a director to chair their meetings and may at any time revoke such appointment.
- (2) If no-one has been appointed to chair meetings of the directors or if the person appointed is unwilling to preside or is not present within fifteen minutes after the time appointed for the meeting, the directors present may appoint one of their number to chair that meeting.
- (3) The person appointed to chair meetings of the directors shall have no functions or powers except those conferred by the articles or delegated to them by the directors.
- 43 (1) A resolution in writing or in electronic form agreed by all of the directors entitled to receive notice of a meeting of the directors and to vote upon the resolution shall be as valid and effectual as if it had been passed at a meeting of the directors duly convened and held.
- (2) The resolution in writing may comprise several documents containing the text of the resolution in like form to each of which one or more directors has signified their agreement.

#### **Delegation**

- 44 (1) The directors may delegate any of their powers or functions to a committee of two or more directors and the terms of any delegation, which shall specify which powers or functions are delegated, must be recorded in the minute book.
- (2) The directors may impose conditions when delegating, including the conditions that:
  - (a) the relevant powers are to be exercised exclusively by the committee to whom they delegate;
  - (b) no expenditure may be incurred on behalf of the charity except in accordance with a budget previously agreed with the directors.
- (3) The directors may revoke or alter a delegation.
- (4) All acts and proceedings of any committees must be fully and promptly reported to the directors.

#### **Validity of directors' decisions**

- 45 (1) Subject to article 45(2), all acts done by a meeting of directors, or of a committee of directors, shall be valid notwithstanding the participation in any vote of a director:
  - (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 interests or otherwise;
 if without:
  - (d) the vote of that director; and
  - (e) that director being counted in the quorum;
 the decision has been made by a majority of the directors at a quorate meeting.
- (2) Article 45(1) does not permit a director or a connected person to keep any benefit that may be conferred upon them by a resolution of the directors or of a committee of directors if, but for article 45(1), the resolution would have been void, or if the director has not complied with article 8.

### **Seal**

- 46 If the charity has a seal it must only be used by the authority of the directors or of a committee of directors authorised by the directors. The directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a director and by the secretary (if any) or by a second director.

### **Minutes**

- 47 The directors must keep minutes of all.
- (1) appointments of officers made by the directors;
  - (2) proceedings at meetings of the charity;
  - (3) meetings of the directors and committees of directors including:
    - (a) the names of the directors present at the meeting;
    - (b) the decisions made at the meetings; and
    - (c) where appropriate the reasons for the decisions.

### **Accounts**

- 48 (1) The directors must prepare for each financial year accounts as required by the Companies Acts. The accounts must be prepared to show a true and fair view and follow accounting standards issued or adopted by the Accounting Standards Board or its successors and adhere to the recommendations of applicable Statements of Recommended Practice.
- (2) The directors must keep accounting records as required by the Companies Act.

### **Annual Report and Return and Register of Charities**

- 49 (1) The directors must comply with the requirements of the Charities Act 2011 with regard to the:
- (a) transmission of a copy of the statements of account to the Commission;
  - (b) preparation of an Annual Report and the transmission of a copy of it to the Commission;
  - (c) preparation of an Annual Return and its transmission to the Commission.
- (2) The directors must notify the Commission promptly of any changes to the charity's entry on the Central Register of Charities.

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

- 50 (1) Subject to the articles, anything sent or supplied by or to the charity under the articles may be sent or supplied in any way in which the Companies Act 2006 provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the charity.
- (2) Subject to the articles, any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked to be sent or supplied with such notices or documents for the time being.
- 51 Any notice to be given to or by any person pursuant to the articles:
- (1) must be in writing; or

- (2) must be given in electronic form.
- 52 (1) The charity may give any notice to a member either:
- (a) personally; or
  - (b) by sending it by post in a prepaid envelope addressed to the member at their address; or
  - (c) by leaving it at the address of the member; or
  - (d) by giving it in electronic form to the member's address.
  - (e) by placing the notice on a website and providing the person with a notification in writing or in electronic form of the presence of the notice on the website. The notification must state that it concerns a notice of a company meeting and must specify the place date and time of the meeting.
- (2) 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.
- 53 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.
- 54 Any notice, document or other information shall be deemed served on or delivered to a shareholder by the Company or to the Company by a shareholder:
- (1) if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted (or five business days after posting either to an address outside the United Kingdom or from outside the United Kingdom to an address within the United Kingdom), if (in each case) sent by reputable international overnight courier addressed to the intended recipient, provided that delivery in at least five business days was guaranteed at the time of sending and the sending party received a confirmation of delivery from the courier service provider);
  - (2) if properly addressed and delivered by hand, when it was given or left at the appropriate address;
  - (3) if properly addressed and sent or supplied by electronic means, one hour after the document or information was sent or supplied; and
  - (4) if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website.
- For the purposes of this Article, no account should be taken of any part of a day that is not a working day.
- 55 (1) Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given.
- (2) Proof that an electronic form of notice was given shall be conclusive where the charity can demonstrate that it was properly addressed and sent, in accordance with section 1147 of the Companies Act 2006.
- (3) In accordance with section 1147 of the Companies Act 2006 notice shall be deemed to be given:
- (a) 48 hours after the envelope containing it was posted; or
  - (b) in the case of an electronic form of communication, 48 hours after it was sent.

## **Indemnity**

- 56 (1) The charity shall indemnify a relevant director (or other officer) against any liability incurred in that capacity, to the extent permitted by sections 232 to 234 of the Companies Act 2006
- (2) In this article a 'relevant director (or other officer)' means any director or officer or former director or officer of the charity.

The charity may indemnify an auditor on such basis as the board may from time to time agree.

## **Rules**

- 57 (1) The directors may from time to time make such reasonable and proper rules or bye laws as they may deem necessary or expedient for the proper conduct and management of the charity.
- (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 directors in so far as such procedure is not regulated by the Companies Acts or by the articles;
  - (e) generally, all such matters as are commonly the subject matter of company rules.
- (3) The charity in general meeting has the power to alter, add to or repeal the rules or bye laws.
- (4) The directors must adopt such means as they think sufficient to bring the rules and bye laws to the notice of members of the charity.
- (5) 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, the articles.

## **Disputes**

- 58 If a dispute arises between members or directors of the charity about the validity or propriety of anything done by the members of the charity or any directors under these articles, and the dispute cannot be resolved by agreement, the parties to the dispute must first try in good faith to settle the dispute by mediation before resorting to litigation.

## **Dissolution**

- 59 If upon winding-up or dissolution of the charity there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of the charity, but shall be given or transferred to some other charitable institution or institutions having objects similar to the Objects and which shall prohibit the distribution of its or their income and property among its or their members to an extent at least as great as imposed on the charity under or by virtue of its memorandum or these articles, such institutional or institutions to be determined by members of the charity at or before the time of dissolution and if and so far as effect cannot be given to such provision then to some charitable object.



### **Interpretation**

60 In articles 7 and 8, sub-clause (3) of article 9 and sub-clause (2) of article 45 'connected person' means:

- (1) *a child, parent, grandchild, grandparent, brother or sister of the director;*
- (2) the spouse or civil partner of the director or of any person falling within sub-clause (1) above;
- (3) a person carrying on business in partnership with the director or with any person falling within sub-clause (1) or (2) above;
- (4) an institution which is controlled –
  - (a) by the director or any connected person falling within sub-clause (1), (2), or (3) above; or
  - (b) by two or more persons falling within sub-clause 4(a), when taken together
- (5) a body corporate in which –
  - (a) the director or any connected person falling within sub-clauses (1) to (3) has a substantial interest; or
  - (b) two or more persons falling within sub-clause (5)(a) who, when taken together, have a substantial interest.

Sections 350 – 352 of the Charities Act 2011 apply for the purposes of interpreting the terms used in this article.

## **Ebony-Gale Ward**

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**From:** digitalservices1 <digitalservices1@charitycommission.gov.uk>  
**Sent:** 01 September 2023 09:38  
**To:** Ebony-Gale Ward; Ebony-Gale Ward  
**Subject:** THE BARBICAN CENTRE TRUST LIMITED - Ref. 294282 Consent to Object Clause Change CRM:0049198

Dear Ebony-Gale Ward

THE BARBICAN CENTRE TRUST LIMITED - 294282

Thank you for submitting the application to change your charity's objects. Your request has been successful and you now have the formal consent from the Charity Commission under s.198(2)(a) of the Charities Act 2011 to amend the charity's objects to read:

To support, promote and encourage people in London, the United Kingdom and globally to discover and appreciate the arts through:

- (i) artistic, cultural and educational activities generally;
  - (ii) artistic, cultural and educational programmes and activities run by the Barbican Centre; and
  - (iii) the maintenance and development of the Barbican Centre as a centre of the arts, culture and education,
- in each case to the extent that such support, promotion and encouragement is of a charitable nature.

The trustees should ensure that they retain a copy of this consent for the charity's records.

### **Next Steps:**

- 
- To amend the objects of your charity, you will now need to pass a special resolution of the members following the processes set out in your governing document.
- You will then need to inform Companies House about the change of objects within 15 days of the resolution being passed. You will need to send to Companies House a copy of the amended articles, a copy of the special resolution, a copy of the Commission's consent and completed form CC04 (guidance and form CC04 are available on Companies House's website).
- Following receipt of confirmation that the new objects have been registered by Companies House, you will need to access the amendment service on the Commission's website and provide the date the new objects were registered at Companies House.
- Please note we need the date the new objects were registered by Companies House, not the date you sent the changes to Companies House.
- You will be prompted to upload a pdf copy of the special resolution. Charity trustees are under a legal duty to provide this information to the Commission

Yours sincerely

Charity Commission

This is an automated email response. This email box is not monitored so please do not reply to this email as it will not be picked up

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Annwyl Ebony-Gale Ward

THE BARBICAN CENTRE TRUST LIMITED - 294282

Diolch am anfon y cais i newid amcanion eich elusen. Mae'ch cais wedi bod yn llwyddiannus ac mae cydsyniad ffurfiol gennych gan y Comisiwn Elusennau o dan adran 198(2)(a) o Ddeddf Elusennau 2011 i newid amcanion yr elusen i ddarllen:

To support, promote and encourage people in London, the United Kingdom and globally to discover and appreciate the arts through:

- (i) artistic, cultural and educational activities generally;
- (ii) artistic, cultural and educational programmes and activities run by the Barbican Centre; and
- (iii) the maintenance and development of the Barbican Centre as a centre of the arts, culture and education,

in each case to the extent that such support, promotion and encouragement is of a charitable nature.

Dylai'r ymddiriedolwyr sicrhau eu bod yn cadw copi o'r cydsyniad hwn ar gyfer cofnodion yr elusen.

#### **Y Camau Nesaf:**

- Er mwyn newid amcanion eich elusen, bydd angen i chi basio penderfyniad arbennig yn dilyn y prosesau a nodir yn eich dogfen lywodraethol.
- Yna bydd angen rhoi gwybod i Dŷ'r Cwmnïau am y newid o fewn 15 diwrnod o basio'r penderfyniad. Bydd angen i chi anfon copi o'r erthyglau diwygiedig, copi o'r penderfyniad arbennig, copi o ganiatâd y Comisiwn i'r newid a ffurflen CC04 wedi'i chwblhau (mae gwybodaeth am y ffurflen CC04 ar gael ar wefan Tŷ'r Cwmnïau).
- Ar ôl derbyn cadarnhad bod yr amcanion newydd wedi'u cofrestru gan Dŷ'r Cwmnïau, bydd angen i chi fynd at y gwasanaeth "diwygio gwybodaeth elusen" ar wefan y Comisiwn. Bydd angen i chi rhoi'r dyddiad y cofrestrwyd yr amcanion newydd gan Dŷ'r Cwmnïau.
- Sylwch fod angen y dyddiad y cofrestrwyd yr amcanion newydd gan Dŷ'r Cwmnïau, nid y dyddiad a anfonwyd y newidiadau i Dŷ'r Cwmnïau.
- Y bydd yn rhaid i chi hefyd rhoi copi pdf o'r penderfyniad arbennig. Mae gan ymddiriedolwyr elusennau ddyletswydd gyfreithiol i ddarparu'r wybodaeth yma i'r Comisiwn

**Yn gywir**

**Comisiwn Elusennau**

**Ymateb awtomataidd yw hwn. Nid yw'r cyfeiriad e-bost hwn yn cael ei fonitro, felly peidiwch ag anfon ymateb yma gan na chaiff ei godi**