

## The Constitution of Oldbury STC

### PART 1

#### 1. Adoption of the Constitution

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

#### 2. Name

The name of the Club shall be Oldbury STC and in this document it is termed the Charity.

#### 3. The Objects

The Charity's objects are:-

- 3.1 Are the promotion of community participation in healthy recreation for the benefits of the inhabitants of Oldbury by the provision of facilities for swimming and the opportunity to participate in Triathlon events.'

#### 4. Affiliations

- 4.1 The Charity shall be affiliated to SWIM ENGLAND.

#### 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 SWIM ENGLAND law.

- 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:

- (a) a member who is not also a Trustee from receiving reasonable and proper remuneration for any goods or services applied to the Charity.

- (b) a Trustee from:
  - (i) buying goods or services from the Charity upon the same terms as other members or members of the public.
  - (ii) from 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.
- (c) 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) 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 or receive any remuneration from the Charity;
  - (c) receive any other financial benefit from the Charity;
- if:
- (d) he or she is not prevented from so doing by sub-clause (4) of this clause; and
  - (e) the benefit is permitted by sub-clause (3) of this clause; or
  - (f) the benefit is authorised by the Trustees in accordance with the conditions in sub-clause (6) of this clause.

5.6. (a) If it is proposed that a Trustee should receive a benefit from the Charity that is not already permitted under sub-clause (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.
- (b) In cases covered by sub-clause (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 Trustees services as a result of dealing with the Trustees conflict of interest).
- (c) The Trustees may only authorise a transaction falling within paragraphs 5(a) – (c) of this clause if the trustee body comprises a majority of Trustees who have not received any such benefit.
- (d) If the Trustee fails 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.

5.7 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.

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

## **6 Dissolution**

6.1 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.

6.2 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 Club.

- 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 The members may pass a resolution before or at the same time as the resolution to dissolve the Charity specifying the manner in which the Trustees are to apply the remaining property or assets of the Charity and the Trustees must comply with the resolution if it is consistent with paragraphs (a) – (c) inclusive in sub-clause (3) above.
- 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 within twenty one days of it being passed.

## **PART 2**

### **8 Membership**

- 8.1 Membership is open to individuals or organisations who are approved by the Trustees.
- 8.2 The total membership of the Charity shall not normally be limited. If however it were not possible to accommodate everyone who wishes to become a member the Charity will establish a waiting list for membership. In such circumstances the next available membership will be offered to the person at the top of the waiting list on a first come, first served basis.
- 8.3 All persons who assist in any way with the club's activities shall become members of the club and hence of SWIM ENGLAND. and the relevant SWIM ENGLAND 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, Trustees, 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.
- 8.4 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 SWIM ENGLAND'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 SWIM ENGLAND shall be subject to all the constraints and privileges of the Judicial Laws and Rules.
- 8.5 The Charity is committed to treat everyone equally within the context of their activity, regardless of sex, ethnic origin, religion, disability, age, sexual orientation or political persuasion. 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".
- 8.6 Any person who wishes to become a member of the Club must submit a signed application to the Secretary (and in the case of a junior swimmer the application must be signed by the swimmer's parent/guardian). Election to membership shall be determined by Membership Application's sub-committee. The other person(s) authorised by the Trustees may make recommendation as to the applicant's acceptability.

- 8.7 The membership application sub-committee shall be required to give reasons for the refusal for any application for membership. 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 than 3 members (who may or may not be Trustee members). The review panel shall (wherever practicable) include 1 independent member nominated by SWIM ENGLAND (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.
- 8.8 Any person who wishes to become a member of the Charity must submit a signed application, which includes an adherence to the clubs' 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. The Club cannot take any disciplinary action through SWIM ENGLAND judicial processes unless the parent is also a member of SWIM ENGLAND.
- 8.9 Membership is not transferable to anyone else.
- 8.10 The Trustees must keep a register of names and addresses of the members which must be held in accordance with the data protection law and SWIM ENGLAND child safeguarding policy.
- 8.11 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.

## **9 Termination of Membership**

Membership is terminated if:

- 9.1 The member dies or, if it is an organisation, ceases to exist;
- 9.2 The member resigns by written notice to the Secretary. A member's resignation should only take effect when this (rule 9.2) has been complied with.
- 9.3 The member who resigns from the club in accordance with rule 9.2 shall not be entitled to have any part of the annual membership fee or any other fee's returned.
- 9.4 The SWIM ENGLAND membership department shall be informed should a member resign when still owing money or goods to the club.
- 9.5 Notwithstanding the provisions of Rule 9.2 above a member whose subscription is more than two months in arrears shall be deemed to have resigned. Where

the membership of a member shall be terminated in this way he shall be informed in writing that he is no longer a member by notice handed to him or sent by post to his last known address.

The Charity in exercising this power shall comply with the provisions of Rules 9.6 and 9.7 below.

9.6 The Charity shall adopt and comply with SWIM ENGLAND 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 SWIM ENGLAND Judicial Laws and appear in the SWIM ENGLAND Handbook. (A copy of the current Guidelines may be obtained from the SWIM ENGLAND Legal Affairs Department).

9.7 A member may not be expelled or (subject to Rule 9.7 below) be made the subject of any other penalty unless the panel hearing the complaint shall by a two-thirds majority vote in favour of the expulsion of the member.

9.8 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 Guidelines.

9.9 Members suffering financial difficulties as a result of unemployment or sickness can apply to the Trustees hardship committee for temporary part or whole suspension of any such amounts falling due.

## **10 Procedure at Annual and Special General Meetings**

10.1 The Charity must hold a general meeting within twelve months of the date of the adoption of this constitution.

10.2 An annual general meeting will be held in each subsequent year (November) and not more than fifteen months may elapse between successive annual general meetings.

10.3 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 Executive Officers and other Trustees of the Club. Nominations for election of members to any office or for membership of the Club shall be made in writing by the proposer and seconder to the Secretary not later than 1st October. 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

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Secretary not later than 1 October

- 10.4 All general meetings other than annual general meetings shall be called special General meetings.
- 10.5 The Trustees may call a special general meeting at any time.
- 10.6 The Trustees must call a special general meeting if requested to do so in writing by at least ten members or one tenth of the membership, 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 special general meeting but in doing so they must comply with the provisions of this constitution.
- 10.7 The Secretary shall personally be responsible for the handing out or sending to each member at his last known 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 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.
- 10.8 The Chairman, or in his absence a member selected by the Trustees, shall take the chair. 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 Rule 9.3. In the event of an equality of votes the Chairman shall have a casting or additional vote.
- 10.9 Only paid up members who have reached their 16<sup>th</sup> birthday shall be entitled to
- be heard and to vote on all matters. (Members who have not reached their 16<sup>th</sup> 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.) Only members 18 or over can be voted in as Trustees.



- 10.10 The Secretary, or in his absence a member of the Committee, shall take minutes at the Annual and Special General Meetings.
- 10.11 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 Club.

## **11 Notice**

- 11.1 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.
- 11.2 A general meeting may be called by shorter notice, if it is so agreed by all the Trustees entitled to attend and vote.
- 11.3 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.
- 11.4 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.
- 11.5 The notice must be given to all the members and to the Trustees.

## **12 Quorum**

- 12.1 No business shall be transacted at any general meeting unless a quorum is present.
- 12.2 A quorum is;
- 5 members entitled to vote upon the business to be conducted at the meeting; or
  - One tenth of the total membership at the time, whichever is the greater.
- 12.3 The authorised representative of a member organisation shall be counted in the Quorum.
- 12.4 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 Trustees shall determine.

12.5 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.

12.6 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 at that time shall constitute the quorum for that meeting.

### **13 Chair**

13.1 General meetings shall be chaired by the person who has been elected as Chair.

13.2 If there is no such person or he or she is not present within fifteen minutes of the time appointed for the meeting a Trustee nominated by the Trustees shall chair the meeting.

13.3 If there is only one Trustee present and willing to act, he or she shall chair the meeting.

13.4 If no Trustee is present and willing to chair the meeting within fifteen minutes after the time appointed for holding it, the members present are entitled to vote and must choose one of their number to chair the meeting. However without a Trustee being present decisions will have no validity and any determinations would not have to be accepted by the Trustees.

### **14 Adjournments**

14.1 The Trustees present at a meeting may resolve that the meeting shall be adjourned.

14.2 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.

14.3 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.

14.4 If a meeting is adjourned by a resolution of the Trustees 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.

### **15 Votes**

15.1 Each Trustee shall have one vote but if there is an equality of votes the person who is chairing the meeting shall have a casting vote in addition to any other vote he or she may have.

15.2 A resolution in writing signed by each Trustee (or in the case of a member that is an organisation, by its authorised representative) who would have been entitled to vote upon it had it been proposed at a general meeting shall be effective. It may comprise several copies each signed by or on behalf of one or more members.

## 16 **Officers and Trustees**

16.1 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”.

16.2 The Charity shall have the following Officers:

A Chair,

A Secretary,

A Treasurer,

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. The Welfare Officer will have the right to attend Committee meetings without a power to vote.)

16.3 A Trustee must be a member of the Charity.

16.4 No one may be appointed a Trustee if he or she would be disqualified from acting under the provisions of Clause 19.

16.5 The number of Trustees shall be not less than five but (unless otherwise Determined by a resolution of the Charity in general meeting) shall not be subject to any maximum.

16.6 The first Trustees (including Officers) shall be those persons elected as Trustees and Officers at the meeting at which this constitution is adopted.

16.7 A Trustee may not appoint anyone to act on his or her behalf at meetings of the Trustees.

## 17 **The Appointment of Trustees**

17.1 The Charity in general meeting shall elect the Officers and the other Trustees.

17.2 The Trustees may appoint any person who is willing to act as a Trustee. Subject to paragraph 5(b) of this clause, they may also appoint Trustees to act as officers. That person must become a member of SWIM ENGLAND. Any person appointed in this way will be required to resign at the next AGM and can submit themselves to the full membership for re-election.

17.3 Each of the Trustees shall retire with effect from the conclusion of the annual general meeting next after his or her appointment but shall be eligible for reelection at that annual general meeting. It is advisable that a third of the Trustees retire by rotation each year, which will maintain continuity.

17.4 No-one may be elected a Trustee or an Officer at any annual general meeting Unless prior to the meeting the Charity is given a notice that:

- (a) is signed by a Trustee entitled to vote at the meeting;
- (b) states the Trustees intention to propose the appointment of a person as a Trustee or as an officer;
- (c) is signed by the person who is to be proposed to show his or her willingness to be appointed.

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.

17.5 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.

## 18 **Powers of Trustees**

18.1 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 purpose 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;

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

18.3 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.

## **19 Disqualification and Removal of Trustees**

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

- 19.1 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);
- 19.2 ceases to be a member of the Charity;
- 19.3 becomes incapable by reason of mental disorder, illness or injury of managing and administering his or her own affairs;

19.4 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

19.5 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.

## 20 **Proceedings of Trustees**

20.1 The Trustees may regulate their proceedings as they think fit, subject to the provisions of this constitution.

20.2 Any Trustee may call a meeting of the Trustees.

20.3 The secretary must call a meeting of the Trustees if requested to do so by a Trustee.

20.4 Questions arising at a meeting must be decided by a majority of votes.

20.5 In the case of any equality of votes, the person who chairs the meeting shall have a second or casting vote.

20.6 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.

20.7 The quorum shall be two 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.

20.8 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.

20.9 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.

20.10 The person elected as the Chair shall chair meetings of the Trustees.

- 20.11 If the 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.
- 20.12 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.
- 20.13 A resolution in writing signed by all the Trustees entitled to received 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.
- 20.14 The resolution in writing may comprise several documents containing the text of the resolution in like form each signed by one or more Trustees.
- 20.15 There should be a meeting of Trustees a minimum of 4 times annually.

## 21 **Delegation**

- 21.1 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 minute book.
- 21.2 The Trustees may impose conditions when delegating, including the conditions that:
- (a) the relevant powers are to be exercised exclusively by the Trustees 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 Trustees.
- 21.3 The Trustees may revoke or alter a delegation.
- 21.4 All acts and proceedings of any committees must be fully and promptly reported to the Trustees.

## 22 **Irregularities in Proceedings**

- 22.1 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:

- (d) the vote of that Trustee; and
- (e) that Trustee being counted in the quorum, the decision has been made by a majority of the Trustees at a quorate meeting.

22.2 Sub-clause (1) 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.

22.3 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.

## **23 Minutes**

The Trustees must keep minutes of all:

- 23.1 appointments of Officers and Trustees made by the Trustees;
- 23.2 proceedings at meetings of the Charity;
- 23.3 meetings of the Trustees and committees of Trustees including:
  - (a) the names of the Trustees present at the meeting;
  - (b) the decisions made at the meetings; and
  - (c) where appropriate the reasons for the decisions.

## **24 Finance, Annual Report and Return and Accounts**

24.1 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) The Trustees shall ensure that the financial records and minutes of meetings are retained for a period of at least 6 years.
- 24.2 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.
- 24.3 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 £100 shall be drawn from that account except by cheque signed by two of the three signatories who shall be the Chairman, Secretary and Treasurer or any other duly appointed person. Any moneys not required for immediate use may be invested as the Trustees in their discretion think fit.
- 24.4 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.
- 24.5 The financial transactions of the Club shall be recorded by the Treasurer in such manner as the Trustees think fit.
- 24.6 The financial year of the Club shall be the period commencing on 1 October and ending on 30 September. Any change to the financial year shall require the approval of the members in a General Meeting.
- 24.7 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.
- 24.8 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 SWIM ENGLAND Membership. Fees to SWIM ENGLAND on behalf of members, be consequential upon an increase in individual SWIM ENGLAND 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.

- 24.9 The Trustees, in special circumstances, shall have the authority to address subscriptions and fees for social inclusion.
- 24.10 The annual subscription shall be due on joining the Club and thereafter on the 1<sup>st</sup> day of January each year.
- 24.11 Any member whose subscription is unpaid by the due date for payment will 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.

## **25 Registered particulars**

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

## **26 Property**

- 26.1 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.
- 26.2 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.
- 26.3 The Trustees may remove the holding trustees at any time.
- 26.4 The Trustees shall be entitled to an indemnity out of the property of the Club for all expenses and liabilities properly incurred by them in the discharge of their duties.
- 26.5 The Trustees will not borrow money for the purpose of the Club. If the Club becomes financially not viable then a General Meeting will be convened with a view to dissolution.

## **27 Repair and insurance**

- 27.1 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.

27.2 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 SWIM ENGLAND Office as and when necessary. The Charity shall make an annual return to SWIM ENGLAND in the prescribed form.

## **28 Notices**

28.1 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.

28.2 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.

28.3 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.

28.4 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.

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

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

28.7 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.

## **29 Alteration of the Rules**

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

- 29.2 The rules may be altered by resolution at an Annual or Special General Meeting 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 County Association/West Midland Region.
- 29.3 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 1 September in the case of the Annual General Meeting or, in the case of a Special General Meeting, 14 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 Rule 11.1
- 29.4 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 matter as are commonly the subject matter of the rules of an unincorporated association.
- 29.5 The Charity in general meeting has the power to alter, add to or repeal the rules or bye-laws.
- 29.6 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.
- 29.7 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.

**30 Acknowledgments**

30.1 The Trustees acknowledge that these rules constitute a legally binding contract to regulate the relationship of the Trustees with each other and the club.

30.2 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 Oldbury ST 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.”***

**31 Signatures**

**CHAIR:**

**SECRETARY:**

----- End of Constitution -----