

Governance review – proposed RCOT Articles 2025

Purpose	FEEDBACK
Meeting	BAOT Annual General Meeting
Date of meeting	17 June 2025
For more information, please contact the Chair, care of the Head of Governance & Compliance, at hello@rcot.co.uk .	

Recommendation to BAOT members

The BAOT Council recommends that members provide feedback on the proposed Articles of Association. The Articles of Association are being submitted to the Charity Commission for consent and following this BAOT Council will vote to approve them, either with or without amendments that may be required.

Legal/regulatory implications

The proposals to change the Articles are designed to ensure that the constitutions for both organisations are fit-for-purpose and aligned with relevant legislation. We made initial changes to the RCOT Articles last year and are looking to make further changes this year. A full review of BAOT Articles has been completed to ensure both sets of Articles are aligned.

Strategic alignment

This aligns with the 'build up' theme of our five-year strategy – ensuring that the organisation is fit-for-purpose and that our governance is designed to support the organisation's sustainable success.

Member / stakeholder implications and considerations

We don't anticipate any of the proposed changes directly impacting on members. The following paper sets out the indirect benefits of the changes to members. Overwhelmingly, the changes give an improved constitutional framework to ensure we are compliant with company and charity law.

The main changes and purpose of the new Articles have been shared in a series of articles in *OTnews* and published on our website since the beginning of the year. In the lead up to the AGM we are holding drop-in sessions for members with Council and SLT to discuss the changes and to answer questions.

Proposed changes to the RCOT Articles of Association

The full proposed Articles of Association follow on page 4 for members to provide feedback on. The changes within the Articles have been annotated with comments so the rationale for each change is clear.

Summary of key changes to the Articles (please see the actual Articles and annotations for the full detail):

- Definitions have been added and updated to provide better clarity.

- **Objects:** the objects have been simplified. **These do not alter the scope of the charity's original objects** – the changes only re-articulate the charity's purpose in clearer terms, without unnecessary duplication and without including powers, which are now found in a separate powers section.
- **Terms of office for Board members and quorum for Board meetings:** updated and aligned with changes proposed to BAOT Articles.
- **Honorary roles:** updated to allow more flexibility around roles created now that President and VP roles are no longer used.
- **Winding up clause and income and property clause:** updated in line with recommendations from lawyers as to what would commonly be included in a charity's articles.
- **Powers:** the existing Articles has no clear powers clauses, although some powers are scattered throughout other sections of the Articles. The proposed Articles provides the charity with the powers that a modern charity of RCOT's size needs in order to conduct its business effectively, e.g.:
 - General powers that relate to the specific activities to further the charity's purposes. These were largely previously contained in the objects, e.g. setting the professional and educational standards for occupational therapy.
 - Powers to manage finances, such as raising funds, accepting gifts (donations), investing money, opening bank accounts.
 - Powers to manage property such as rent property, insuring property and imposing restrictions on the use of any property.
 - Powers to work with other organisations, e.g. becoming an affiliate of other organisations, co-operating with other charities and voluntary bodies.
 - Powers to manage day-to-day operations such as employing staff, paying pensions, influencing public opinion.

As a current example of where the existing powers fall short, the power to create a subsidiary for trading purposes is a common power within charitable articles and is essential where a charity is generating non-primary purpose income. A trading subsidiary also protects charity assets from the commercial risks of trading and minimises tax payable on trading activities. RCOT has been advised by its auditors and lawyers that it should establish a trading subsidiary to manage the rental income from Phoenix House, but it cannot do this under the current Articles. **Expanding the powers to align with those of modern charities future-proofs RCOT to ensure it can run effectively.**

It is also proposed that the following additional powers are added (these are from the BAOT Articles) in order to allow RCOT to fully carry out its functions on behalf of BAOT's members.

- "To take all necessary or proper steps in Parliament or with any national, local, municipal or other authority to the extent permitted by charity law
- To produce and disseminate information with the purpose of ensuring the competence of individuals seeking to qualifying as occupational therapists and become Student, Apprentice or Associate Members of the Association."
- **Conflicts of interest** – updated to ensure compliance with the law on conflicts of interest. The degree of overlap in the membership of both BAOT and RCOT governing bodies means this must be managed particularly carefully.

- Membership – changes to reflect the fact that BAOT is the sole member, i.e. removing definitions relating to BAOT company members and updating the membership clause.
- Power to remove to register a share – deleted as BAOT should be able to register a share under law.

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of

ROYAL COLLEGE OF OCCUPATIONAL THERAPISTS
(the "Royal College")

Company number 1347374

As adopted by Special Resolutions on 1 July 2024
and [DATE]

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ARTICLES OF ASSOCIATION
of the
ROYAL COLLEGE OF OCCUPATIONAL THERAPISTS

PART 1

INTERPRETATION AND LIMITATION OF LIABILITY

1. DEFINED TERMS

1.1 In the Articles, unless the context requires otherwise:

"Annual Retirement Meeting"	the meeting of the Trustees on or about the date of the 'Annual General Meeting' of the Association, or such other meeting of the Trustees as the Trustees may determine (provided that not more than 15 months shall pass between Annual Retirement Meeting and the next);
"Articles"	means the Royal College's articles of association;
"Association"	the British Association of Occupational Therapists Limited;
"Association Trustee"	has the meaning given in Article 9.1.1;
"Authorised Representative"	has the meaning given to it in Article 40.1;
"bankruptcy"	includes individual insolvency proceedings in a jurisdiction other than England and Wales and Northern Ireland which have an effect similar to that of bankruptcy;
"Board"; "Board of Trustees"	means the Trustees for the time being of the Royal College;
"Chair of Trustees"	the Chair of the Board of Trustees appointed under Article 9.1.1;
"Chair of the meeting"	has the meaning given in Article 12.7;
"Chief Executive"	means the person for the time being holding the office of Chief Executive of the Royal College;
"Companies Acts"	means the Companies Acts (as defined in section 2 of the Companies Act 2006), in so far as they apply to the Royal College;

Commented [KM1]: #1 REMOVED - IMPROVED GOVERNANCE

Definitions of apprentice member, associate member, member, professional member, register of members.

In 2024 we began the process of removing reference to the BAOT company members from the RCOT Articles.

The reason for this was because BAOT company members have no legal status in relation to RCOT under company law and no role in relation to the RCOT Articles of Association (other than within the charity's objects/purpose provisions). Referring to BAOT members within the RCOT Articles creates a lack clarity as to who/what is the legal company member/s of RCOT, when BAOT (the entity) is the sole company member.

However, not all references were removed in 2024 as some reference were contained within provisions that required Charity Commission consent to alter - this can be a lengthy process. We knew that further changes to the RCOT Articles were likely in order to ensure alignment with the BAOT Articles. It was decided to that any changes to provisions that required Charity Commission consent should be held until 2025 so that the organisation only needed to undertake this process once.

The changes removing reference to BAOT members in the Articles reflects the completion of this process.

Any deletions of reference to BAOT members within the rest of the Articles is for this same purpose.

"Connected"	<p>means in respect of a Trustee:</p> <ul style="list-style-type: none"> (a) the Trustee's parent, child, sibling, grandparent or grandchild; (b) the spouse or civil partner of the Trustee or another person described in paragraph (a); (c) a person carrying on business in partnership with the Trustee, or a person described in paragraph (a) or (b); (d) an institution controlled by the Trustee and/or one or more person(s) described in paragraph (a), (b) or (c); or (e) a body corporate in which the Trustee and/or one or more person(s) described in paragraph (a), (b) or (c) have a substantial interest. <p>Sections 350 – 352 of the Charities Act 2011 apply for the purposes of interpreting the terms used in this definition.</p>
"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;
"Financial Expert"	means an individual, company or firm who, or which, is authorised to give investment advice under the Financial Services and Markets Act 2000;
"hard copy form"	has the meaning given in section 1168 of the Companies Act 2006;
"holder"	in relation to shares means the person whose name is entered in the register of members as the holder of the shares;
"instrument"	means a document in hard copy form;
"Lay Trustee"	has the meaning given in Article 9.1.2 and Article 9.2;
"ordinary resolution"	has the meaning given in section 282 of the Companies Act 2006;
"paid"	means paid or credited as paid;
"participate"	in relation to a Board of Trustees meeting, has the meaning given in Articles 12.18 to 12.20;
"Remote Attendance"	means remote attendance at a general meeting by such means as are approved by the Trustees in accordance with Article 41.3;
"Royal College"	means the Royal College of Occupational Therapists;
"rules"	means the rules made by the Board of Trustees from time to time under Article 8;

Commented [KM2]: #R2 NEW - DEFINITION ADDED FOR CLARITY - this is to support understanding of the new provisions relating to managing conflicts of interests in line with company and charity law.

Commented [KM3]: #R3 NEW - DEFINITION ADDED FOR CLARITY

"Secretary"	the secretary of the Royal College (if any);
"shareholder"	means a person who is the holder of one or more shares;
"shares"	means shares in the Royal College;
"special resolution"	has the meaning given in section 283 of the Companies Act 2006;
"transmittee"	means a person entitled to one or more shares by reason of the death or bankruptcy of a shareholder or otherwise by operation of law;
"Trustee"	means a director of the Royal College (who shall be either an Association Trustee or a Lay Trustee);
"subsidiary"	has the meaning given in section 1159 of the Companies Act 2006;
"Vice-chair"	the vice-chair of the Board of Trustees as elected in accordance with Article 12.6;
"WFOT Representative"	the Trustee elected as representative of The World Federation of Occupational Therapists; and
"World Federation of Occupational Therapists"	the official international organisation representing the occupational therapy profession registered in Switzerland [with registration number [TBC]] whose registered address is at Meridec, Avenue Louis-Casaï 81, 1216 Cointrin, Geneva, Switzerland;
"writing"	means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

Commented [KM4]: #R4 NEW - ADDED FOR CLARITY

Commented [KM5]: #R5 NEW - ADDED FOR CLARITY

Commented [KM6]: #R6 NEW - ADDED FOR CLARITY

Commented [KM7]: #R7 NEW - ADDED FOR CLARITY

1.2 Unless the context otherwise requires, other words or expressions contained in these Articles bear the same meaning as in the Companies Act 2006.

1.3 The regulations contained in the model articles for private companies limited by shares (as set out in schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 3229/2008)) shall not apply to the Royal College.

2. LIABILITY OF SHAREHOLDERS

The liability of the shareholders is limited to the amount, if any, unpaid on the shares held by them.

3. OBJECTS OF THE ROYAL COLLEGE

The Royal College exists to further the following charitable objects:

- 3.1 to advance the science and practice of occupational therapy among the Association's members, the profession, and the general public;
- 3.2 to advance the education of and promote research in occupational therapy and publish the useful results of such research; and
- 3.3 to promote the advancement of occupational therapy including but not limited to the promotion of evidence-based practice and the highest standards of professional conduct.

Commented [KM8]: #R8 UPDATED - MODERNISATION & CLARITY
The objects have been simplified with the intention to rationalise and modernise the existing objects (which were, to some extent, repeated across the powers and objects clause). The objects remain unchanged in relation to the role and scope of the organisation, the changes are simply about clarity of language within the Articles. Note these mirror the last three objects of BAOT.

4. **POWERS**

The Royal College has power to do anything which helps promote its objects. For the avoidance of doubt (and without limit) it may:

General

- 4.1 to produce and disseminate information and promote uniformity in curricula for occupational therapists in training, and the student, apprentice or associate membership of the Association, and generally advise on courses and technical education in occupational therapy;
- 4.2 to produce and disseminate information with the purpose of ensuring the competence of individuals seeking to qualifying as occupational therapists and become student, apprentice or associate members of the Association
- 4.3 establish scholarships, grants and awards;
- 4.4 to provide facilities for meetings, discussions and debate, and to print, publish, issue and circulate papers, periodicals, books, circulars and other advice or information in any form on occupational therapy amongst the members of the Association and all other persons who are registered by and with the Association and the public generally;
- 4.5 set professional and educational standards for occupational therapy;
- 4.6 to take all necessary or proper steps in Parliament or with any national, local, municipal or other authority to the extent permitted by charity law;

Manage its finances

- 4.7 raise funds;
- 4.8 borrow money (including, without limit, for the purposes of investment or raising funds);
- 4.9 accept or disclaim gifts (of money and/or other property);
- 4.10 lend money and give credit to, take security for such loans or credit, and guarantee or give security for the performance of contracts by, any person or company;
- 4.11 invest money not immediately required for its purposes in or upon any investments, securities, or property;
- 4.12 set aside funds for particular reasons, or as reserves;
- 4.13 open and operate bank accounts and other facilities for banking and draw, accept, endorse, issue or execute promissory notes, bills of exchange, cheques and other instruments;
- 4.14 give guarantees or other security for the repayment of money borrowed, for a grant, or for the discharge of an obligation (but only in accordance with the restrictions in the Charities Act 2011);

Manage its property affairs

- 4.15 dispose of, or deal with, all or any of its property (but only in accordance with the restrictions in the Charities Act 2011);
- 4.16 acquire or rent property of any kind and any rights or privileges in and over property and construct, maintain, alter and equip any buildings or facilities;
- 4.17 arrange for investments or other property of the Royal College to be held in the name

Commented [KM9]: #R9 UPDATED - IMPROVED GOVERNANCE

The powers section has been modernised by moving the parts which were objects to the objects clause and including a full list of powers one would typically see in a modern charity's constitution (as per legal advice from Bates Wells).

As a live example for members, the power to create a subsidiary is a common power within charitable articles and is an essential power where a charity is generating non-primary purpose income. It also protects charity assets from the commercial risks of trading and minimises tax payable on trading activities. This is something the charity has now been advised to do by legal and tax advisers and auditors. However there is no power to create a subsidiary within the existing Articles.

Expanding the powers to align with those of modern charities future-proofs RCOT to ensure it can run itself effectively, managing its finances, property and operations properly and in alignment with the Articles.

It is also proposed that the following additional powers are added (these are from the BAOT Articles) in order to allow RCOT to fully carry out its functions on behalf of BAOT's members:

"To take all necessary or proper steps in Parliament or with any national, local, municipal or other authority to the extent permitted by charity law.

To produce and disseminate information with the purpose of ensuring the competence of individuals seeking to qualifying as occupational therapists and become Student, Apprentice or Associate Members of the Association."

of a nominee or nominees (and pay any reasonable fee for this);

- 4.18 impose (revocable or irrevocable) restrictions on the use of any property of the Royal College, including (without limitation) by creating permanent endowment;
- 4.19 incorporate and acquire subsidiary companies; and
- 4.20 insure the property of the Royal College against any foreseeable risk and take out other insurance policies as are considered necessary by the Trustees to protect the Royal College;

Work with other organisations

- 4.21 establish and support (or aid in the establishment and support of) any other organisations, execute charitable trusts and subscribe, lend or guarantee money or property for charitable purposes;
- 4.22 become a member, associate or affiliate of or act as trustee or appoint trustees of any other organisation (including without limit any charitable trust, including a charitable trust of permanent endowment property held for any of the charitable purposes included in the Royal College's purposes);
- 4.23 co-operate with charities, voluntary bodies, statutory authorities and other bodies (including the Association) and exchange information and advice with them;
- 4.24 work with the Association to develop policies and strategies to maximise collective impact and efficiency to deliver the Royal College's purposes; and
- 4.25 amalgamate or merge with or acquire or undertake all or any of the property, liabilities and engagements of any body;

Manage its day-to-day operations

- 4.26 subject to Article 38 (Income and Property of the Royal College):
 - 4.26.1 engage and remunerate staff and advisers;
 - 4.26.2 make reasonable provision for the payment of pensions and other benefits to or on behalf of employees and their spouses and dependants; and
 - 4.26.3 enter into compromise and settlement arrangements with them; and
- 4.27 alone or with other organisations, seek to influence public opinion and make representations to and seek to influence governmental and other bodies and institutions regarding the reform, development and implementation of appropriate policies, legislation and regulations provided that all such activities shall be confined to those which an English and Welsh charity may properly undertake.

PART 2

TRUSTEES

POWERS AND RESPONSIBILITIES OF TRUSTEES

5. GENERAL AUTHORITY OF TRUSTEES

Subject to the Articles, the Board of Trustees are responsible for the management of the Royal College's business, for which purpose they may exercise all the powers of the Royal College.

6. SHAREHOLDERS' RESERVE POWER

- 6.1 Subject always to the provisions of the Articles and the Companies Acts, the shareholders may, by special resolution, direct the Board of Trustees to take, or refrain from taking, specified action.

- 6.2 No such special resolution invalidates anything which the Board of Trustees have done before the passing of the resolution.

7. NUMBER OF TRUSTEES

- 7.1 Unless otherwise determined by ordinary resolution there shall be at least five Trustees.

8. RULES

- 8.1 The Board of Trustees may from time to time make, repeal or alter such rules as it thinks fit as to the management of the Royal College and its affairs, including (without limitation) the conduct of meetings; codes of conduct for shareholders or Trustees; and the duties of officers and employees of the Royal College. The rules shall be binding on all shareholders of the Royal College. No rule shall be inconsistent with the Companies Acts, the Articles or any rule of law.

9. MEMBERSHIP OF THE BOARD OF TRUSTEES

- 9.1 The Board of Trustees will comprise:

9.1.1 subject to Article 9.2, at least nine Trustees (including the Chair of Trustees) appointed by the Association by serving written notice of such appointment on the Royal College (those Trustees either having been elected to the Association's own council pursuant to such rules as to the election of its council members as the Association may adopt from time to time, or, being members of the Association, who have been appointed by the Association as Trustees) ("**Association Trustees**"; and

9.1.2 up to 4 Trustees appointed by the Board of Trustees ("**Lay Trustees**").

- 9.2 If any vacancy arises among the Association Trustees (as a result of the role being vacated early, no individual being elected to the relevant role by the Association, or otherwise) the Trustees may continue to act despite the minimum requirements set out in Article 9.1 as long as they seek to fill the vacancy as soon as reasonably possible by appointing (by a decision of the Trustees) either:

9.2.1 a Trustee who either has been elected to the Association's own council pursuant to such rules as to the election of its council members as the Association may adopt from time to time, or,

9.2.2 in the event only that there is no such person available or willing to be a Trustee, by appointing a Trustee who meets such eligibility requirements as set out in the rules,

to serve as an Association Trustee in the vacated role for such time only until a replacement is appointed in accordance with Article 9.1.1 (at which time their term of office shall terminate).

- 9.3 Trustees may (on the condition they would not be disqualified under Articles 9.6 or 11) be appointed in accordance with 9.4 and any other eligibility criteria and/or procedures as set out in the rules.

- 9.4 Unless otherwise determined by ordinary resolution:

9.4.1 Association Trustees (including the Chair of Trustees but excluding an Association Trustee appointed under Article 9.2 to fill a vacancy) shall retire when they cease to hold office as a member of the Association's own council or if the Association notifies the Royal College in writing that the Association Trustee ceases to hold office. Subject to Article 9.6, Association Trustees may be reappointed if they have been re-elected

Commented [KM10]: #R10 UPDATED - REVERTING TO FORMER POSITION

This reverts to the position under previous Articles (pre 2024) in which the appointment of 'Association' trustees (trustees that are from the OT membership of BAOT) was not explicitly tied to the election process.

Council has agreed that this should remain flexible as per the original wording as this unnecessarily narrowed the Articles.

to the Association's own council or if, otherwise, the Association notifies (in writing) the Royal College of the reappointment.

9.4.2 Lay Trustees shall retire at the third Annual Retirement Meeting following the commencement of their term of office. Subject to Article 9.6, Lay Trustees will be eligible for reappointment for a second consecutive term of office. In exceptional circumstances, the Board of Trustees may, by a resolution passed by at least 75% entitled to vote on the matter, decide that the first and/or second consecutive term of office of Lay Trustee shall be extended for up to two years.

9.5 The WFOT Representative may serve until the end of the fourth Annual Retirement Meeting after they are elected at which point they cease to hold office and they shall not be eligible to serve any further terms of office unless that there is no successor WFOT Representative. In such circumstances, the Board of Trustees may decide to extend the incumbent WFOT Representative's terms of office by one year.

9.6 A Trustee who has served for eight consecutive years must take a break from office for at least 12 months before they can be eligible for reappointment for any further term).

9.7 The Board of Trustees may from time to time and at any time appoint observers who shall not be Trustees. Observers may attend meetings of Board of Trustees at the invitation of Board of Trustees but shall not have a right to vote.

10. POWERS OF THE BOARD OF TRUSTEES

10.1 The business of the Royal College shall be managed by the Board of Trustees, which may exercise all of the powers of the Royal College that are not reserved to the members of the Royal College under the Companies Acts, these Articles or any rules.

10.2 The Board of Trustees may act despite any vacancy in their body, but if the number of Trustees falls below five the Board of Trustees may act only for the purpose of convening a general meeting or increasing the number of Trustees to five.

10.3 Trustees shall be entitled to be repaid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of Board of Trustees or any committee of Board of Trustees or any general meeting of the Royal College or in any way in connection with the business of the Royal College.

11. DISQUALIFICATION OF TRUSTEES

11.1 The office of a Trustee shall be vacated if the Trustee:

11.1.1 has a bankruptcy order made against them or makes any arrangement or composition with their creditors generally;

11.1.2 has, in the Board's reasonable belief, become incapable of managing their own professional affairs and the Board resolves to remove the Trustee from office;

11.1.3 ceases to be eligible to hold such office in accordance with Articles 9.5 and 9.6;

11.1.4 in the case of an Association Trustee, registration as a member of the Association is revoked or is suspended by the Association, and if so suspended, the resulting vacation of their office as an Association Trustee shall be final;

Commented [KM11]: #R11 UPDATED - IMPROVED GOVERNANCE

Aligns with the terms of office proposed for BAOT Council members. In almost all circumstances trustees would serve a maximum of six consecutive years.

However the Board would have the power to extend terms for up to two years, only in exceptional circumstances, subject to a maximum term of eight consecutive year and provided 75% of the Board vote in favour.

A 'stand down period' is proposed whereby a former trustee might be appointed again after a break of 12 months. In practice, use of this is likely to be rare, but it does provide flexibility recognising that a professionals career as an OT may be over 40 years long and it is possible that someone might serve early on in their career progression and be capable of offering different skills and perspectives later on in their career. It also gives BAOT, as sole member, more options in circumstances where there might be a long-standing vacancy.

- 11.1.5 by notice in writing to the Royal College resigns their office (but such notice will only be effective if there will be at least five Trustees remaining in office following their resignation);
- 11.1.6 in the case of an Association Trustee, is removed by the Association serving written notice of such removal on the Royal College;
- 11.1.7 in the case of a Lay Trustee, at a meeting of the Board of Trustees at which at least half of the Trustees are present, a resolution is passed that the Lay Trustee is removed from office (such a resolution shall not be passed unless the Lay Trustee has been given at least 14 Clear Days' notice that the resolution is to be proposed, specifying the circumstances underlying the proposal, and has been afforded a reasonable opportunity of either (at their option) being heard by or making written representations to the Board of Trustees);
- 11.1.8 ceases to hold office by virtue of any provisions of the Companies Acts or becomes prohibited by law from holding office; or
- 11.1.9 is removed from office by a resolution duly passed pursuant to section 168 of the Companies Act 2006.

11.2 In addition and without prejudice to the provisions of section 168 of the Companies Act 2006, the Royal College may by ordinary resolution remove any Trustee before the expiration of their period of office, and may by an ordinary resolution appoint another qualified shareholder in their place; but any person so appointed shall retain their office so long only as the Trustee in whose place they are appointed would have held the same if they had not been removed.

12. PROCEEDINGS OF THE BOARD OF TRUSTEES

- 12.1 The Board of Trustees may regulate its meetings as it thinks fit and determine the quorum necessary for the transaction of business.
- 12.2 Unless otherwise determined, the quorum shall be 30% of the total number of Trustees or four Trustees, whichever is higher.
- 12.3 If all of the Association Trustees are in a position of conflict and are not permitted to be counted in the quorum in accordance with clause 13, there shall be a quorum when at least when at least three Lay Trustees are present at a meeting.
- 12.4 Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the Chair of the meeting shall have a second or casting vote.
- 12.5 The Chair of Trustees may, (and shall on the request of any three Trustees or the Chief Executive) at any time, call a meeting of the Board of Trustees by notice served upon the Trustees.
- 12.6 The Board of Trustees shall from time to time from among their number elect one Vice-chair and may determine for what period they are to hold office (subject to the rules in these Articles about maximum length of service on Board of Trustees).
- 12.7 The Chair of Trustees shall preside at all meetings of the Board of Trustees at which they shall be present, but if the Chair of Trustees is not present within five minutes after the time fixed for holding the meeting, the Trustees present shall choose the Vice-chair present or failing that one of the Trustees present to act as Chair of the meeting.

Commented [KM12]: #R13 UPDATED - IMPROVED GOVERNANCE

Increased quorum for Board decisions to support robust decision-making.

This also clarifies requirements for quorum if all Association Trustees are conflicted. This is an important provision in order to manage conflicts in line with company law. As long as we have a position whereby members of the RCOT Board are also members of the BAOT Council we are required to have appropriate mechanisms to manage decisions where the interests of BAOT and RCOT might be in conflict. Without these mechanisms we cannot manage conflicts of interest in line with company law or ensure the charity's governance meets the independence requirements of the Charity Commission.

Decisions where there is conflict are likely to be uncommon and are only relevant where a 'benefit' is likely to be derived. However an example of an upcoming decision where we need to manage conflicts of interest is set out below:

Following the finalisation of new Articles, we need to put in place a formal agreement between BAOT and RCOT, in essence a contract which sets out how activities, finances, property and human resources will be managed between the two organisations. Part of this will involve agreeing an up-to-date 'management charge' which BAOT pays to RCOT for the use of RCOT premises, RCOT staff and other RCOT resources. This is standard arrangement between parent/subsidiary entities where one entity owns resources (such as staff or property) that are utilised by the other entity and is something auditors expect to be in place. It is also important in order to document the management and sharing of member data between the two entities. In relation to deciding a legal agreement between the two entities, there is a conflict of interest that must be managed in line with the law.

- 12.8 A meeting of the Board of Trustees at which a quorum is present shall be competent to exercise all the authorities, powers and discretions by or under these Articles vested in the Board of Trustees generally.
- 12.9 The Board of Trustees may delegate any of their powers or functions to any committee and the implementation of their decisions, or the day-to-day management of the Royal College's affairs, to any person or committee.
- 12.10 The Board of Trustees may delegate by such means; to such an extent; in relation to such matters or territories; and on such terms and conditions as they think appropriate. They may allow those to whom a responsibility has been delegated to delegate further; and may change or terminate the delegation arrangements at any time.
- 12.11 When delegating to a committee, the Board of Trustees must confirm:
- 12.11.1 the composition of that committee (although they may permit the committee to co-opt its own additional members, up to a specified number);
 - 12.11.2 how the committee will report regularly to the Board of Trustees; and
 - 12.11.3 any other regulations relating to the functioning of the committee.
- 12.12 No committee shall knowingly incur expenditure or liability on behalf of the Royal College except where authorised by the Board of Trustees or in accordance with a budget which has been approved by the Board of Trustees.
- 12.13 The Board of Trustees may delegate the management of investments to a Financial Expert or Financial Experts provided that:
- 12.13.1 the investment policy is set down in writing for the Financial Expert or Financial Experts by the Board of Trustees;
 - 12.13.2 timely reports of all transactions are provided to the Board of Trustees;
 - 12.13.3 the performance of the investments is reviewed regularly with the Board of Trustees;
 - 12.13.4 the Board of Trustees are entitled to cancel the delegation arrangement at any time;
 - 12.13.5 the investment policy and the delegation arrangements are reviewed regularly;
 - 12.13.6 all payments due to the Financial Expert or Financial Experts are on a scale or at a level which is agreed in advance; and
 - 12.13.7 the Financial Expert or Financial Experts must not do anything outside the powers of the Board of Trustees.
- 12.14 The Board of Trustees may (by power of attorney or otherwise) appoint any person to be the agent of the Royal College for such purposes and on such conditions as they decide.
- 12.15 All acts bona fide done by any meetings of the Board of Trustees or of any committee of the Board of Trustees, or by any person acting as a Trustee shall, notwithstanding it be discovered later that there was some defect in the appointment or continuance in office of any such person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a Trustee.

- 12.16 The Board of Trustees shall cause proper minutes to be made of all appointments of officers made by the Board of Trustees and of the proceedings of all meetings of the Royal College and of the Board of Trustees and of committees of the Board of Trustees, and all business transacted at such meetings, and any such minutes of any meeting, if purporting to be signed by the Chair of the meeting or by the Chair of the next succeeding meeting, shall be conclusive evidence without any further proof of the facts stated in them.
- 12.17 The Board of Trustees or any committee of the Board of Trustees may take decisions without a meeting if a simple majority of them indicate by any means that they share a common view on a matter. A decision taken in accordance with this Article 12.17 shall be as valid and effectual as if it had been passed at a meeting of the Board of Trustees or of such committee duly convened and constituted, provided:
- 12.17.1 the Chair of Trustees or the Secretary or any other person authorised by the Board of Trustees to put the proposed decision to the Trustees (the “**Facilitator**”) has taken reasonable steps to notify all Trustees of the proposed decision;
 - 12.17.2 a majority of the Trustees have indicated to the Facilitator (by any means) that they approve the proposed decision; and
 - 12.17.3 following receipt of responses from a majority of the Trustees, the Facilitator has communicated to all of the Trustees (by any means) that the decision has been formally approved by the Board of Trustees in accordance with this Article 12.17.
- 12.18 Subject to the Articles, Trustees participate in a Board of Trustees meeting, or part of Board of Trustees meeting, when:
- 12.18.1 the meeting has been called and takes place in accordance with the Articles; and
 - 12.18.2 they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.
- 12.19 In determining whether Trustees are participating in a Board of Trustees meeting, it is irrelevant where any Trustee is or how they communicate with each other.
- 12.20 If all the Trustees participating in a meeting are not in the same place, the meeting shall be deemed to take place where the largest number of participators is assembled or, if no such group can be identified, the Board of Trustees may decide that the meeting is to be treated as taking place wherever any of them is.

13. **CONFLICTS AND DECLARATIONS OF INTEREST**

Declaration of interests

- 13.1 A Trustee must declare the nature and extent of:
- 13.1.1 any direct or indirect interest which they have in a proposed transaction or arrangement with the Royal College; and
 - 13.1.2 any duty, or any direct or indirect interest, which they have which conflicts or may conflict with the interests of the Royal College or their duties to the Royal College.

Involvement in decision-making

- 13.2 A Trustee's entitlement to participate in decision-making in relation to a matter depends on whether:
- 13.2.1 their situation could reasonably be regarded as likely to give rise to a

conflict of interest or duties in respect of the Royal College (a "Potential Conflict Situation"); or
13.2.2 this is not the case (a "No Conflict Situation").

Any uncertainty about whether a situation is a Potential Conflict Situation or a No Conflict Situation in relation to a matter shall be decided by a majority decision of the other Trustees taking part in the relevant decision.

13.3 A Trustee in a No Conflict Situation can participate in the decision-making process, be counted in the quorum and vote in relation to the relevant matter.

13.4 A Trustee in a Potential Conflict Situation can participate in the decision-making process, be counted in the quorum and vote in relation to the relevant matter, unless:

13.4.1 a majority of the other Trustees taking part in the relevant decision decide otherwise; or

13.4.2 the decision could result in the Trustee or any person who is Connected with them receiving a benefit. The following benefits are not counted for the purposes of this Article:

- (a) any benefit received by any person in their capacity as a beneficiary of the Royal College (see Article 38.4.3) which is available generally to the beneficiaries of the Royal College;
- (b) payment of premiums in respect of indemnity insurance (see Article 46);
- (c) under the indemnity in Article 45;
- (d) reimbursement of expenses (see Article 10.3); or
- (e) any benefit authorised by the court or the Charity Commission under Article 38.4.5, so long as any conditions accompanying that authorisation are complied with,

in which case Article 13.5 applies to the decision.

13.5 If this Article 13.5 applies, the relevant Trustee must:

13.6 take part in the relevant decision-making process only to such extent as in the view of the other Trustees is necessary to inform the debate;

13.7 not be counted in the quorum for that part of the process; and

13.8 withdraw during the vote (if applicable) and have no vote on the matter.

Continuing duties to the Royal College

13.9 Where a Trustee or person Connected with them has a conflict of interest or conflict of duties and the Trustee has complied with their obligations under these Articles in respect of that conflict

13.10 the Trustee shall not be in breach of their duties to the Royal College by withholding confidential information from the Royal College if to disclose it would result in a breach of any other duty or obligation of confidence owed by them; and

13.11 the Trustee shall not be accountable to the Royal College for any benefit expressly permitted under these Articles which they or any person Connected with them derives from any matter or from any office, employment or position.

Commented [KM13]: #R14 UPDATED - SIMPLIFICATION & COMPLIANCE

Please also see the rationale listed for #R13 which applies here. This is an updated and simplified process for the trustees to comply with, relating to conflicts of interest.

Trustees with a conflict of interest can generally take part in decision making unless the other Trustees decide to the contrary, or the Trustee or persons Connected to them (which may include the Member) will receive certain benefits. In the event of the latter type of conflict arising, the Lay Trustees will take the decision as the Association Trustees would be conflicted. The amendments are important to ensure the charity complies with company and charity law on conflicts.

14. **RECORDS OF DECISIONS TO BE KEPT**

The Board of Trustees must ensure that the Royal College keeps a record, in writing, of every unanimous or majority decision taken by the Board of Trustees, for such period as is required by the Companies Acts.

15. **SECRETARY**

The Board of Trustees may appoint any person who is willing to act as the Secretary for such term, at such remuneration and upon such conditions as they may think fit and from time to time remove such person and appoint a replacement, in each case by a decision of the Board of Trustees.

**PART 3
SHARES**

16. **ROYAL COLLEGE'S LIEN OVER SHARES**

16.1 The Royal College has a lien (the "**Royal College's lien**") over every share, whether or not fully paid, which is registered in the name of any person indebted or under any liability to the Royal College, whether they are the sole registered holder of the share or one of several joint holders, for all monies payable by them (either alone or jointly with any other person) to the Royal College, whether payable immediately or at some time in the future.

16.2 The Royal College's lien over a share:

16.2.1 takes priority over any third party's interest in that share; and

16.2.2 extends to any money payable by the Royal College in respect of that share and (if the lien is enforced and the share is sold by the Royal College) the proceeds of sale of that share.

16.3 The Board of Trustees may at any time decide that a share which is or would otherwise be subject to the Royal College's lien shall not be subject to it, either wholly or in part.

17. **ENFORCEMENT OF THE ROYAL COLLEGE'S LIEN**

17.1 Subject to the provisions of this Article, if:

17.1.1 a lien enforcement notice has been given in respect of a share; and

17.1.2 the person to whom the notice was given has failed to comply with it,

the Royal College may sell that share in such manner as the Board of Trustees decide.

17.2 A lien enforcement notice:

17.2.1 may only be given in respect of a share which is subject to the Royal College's lien, in respect of which a sum is payable and the due date for payment of that sum has passed;

17.2.2 must specify the share concerned;

17.2.3 must require payment of the sum within 14 clear days of the notice (that is, excluding the date on which the notice is given and the date on which

that 14 day period expires);

17.2.4 must be addressed either to the holder of the share or to a transmittee of that holder; and

17.2.5 must state the Royal College's intention to sell the share if the notice is not complied with.

17.3 Where shares are sold under this Article:

17.3.1 the Board of Trustees may authorise any person to execute an instrument of transfer of the shares to the purchaser or to a person nominated by the purchaser; and

17.3.2 the transferee is not bound to see to the application of the consideration and the transferee's title is not affected by any irregularity in or invalidity of the process leading to the sale.

17.4 The net proceeds of any such sale (after payment of the costs of sale and any other costs of enforcing the lien) must be applied:

17.4.1 first, in payment of so much of the sum for which the lien exists as was payable at the date of the lien enforcement notice; and

17.4.2 second, to the person entitled to the shares at the date of the sale, but only after the certificate for the shares sold has been surrendered to the Royal College for cancellation, or an indemnity in a form reasonably satisfactory to the Board of Trustees has been given for any lost certificates, and subject to a lien equivalent to the Royal College's lien for any money payable (whether payable immediately or at some time in the future) as existed upon the shares before the sale in respect of all shares registered in the name of such person (whether as the sole registered holder or as one of several joint holders) after the date of the lien enforcement notice.

17.5 A statutory declaration by a Trustee or the Secretary that the declarant is a Trustee or the Secretary and that a share has been sold to satisfy the Royal College's lien on a specified date:

17.5.1 is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share; and

17.5.2 subject to compliance with any other formalities of transfer required by the Articles or by law, constitutes a good title to the share.

18. CALL NOTICES

18.1 Subject to the Articles and the terms on which shares are allotted, the Board of Trustees may send a notice (a "**call notice**") to a shareholder requiring the shareholder to pay the Royal College a specified sum of money (a "**call**") which is payable to the Royal College at the date when the Board of Trustees decide to send the call notice.

18.2 A call notice:

18.2.1 may not require a shareholder to pay a call which exceeds the total amount of their indebtedness or liability to the Royal College;

18.2.2 must state when and how any call to which it relates is to be paid; and

18.2.3 may permit or require the call to be made in instalments.

18.3 A shareholder must comply with the requirements of a call notice, but no shareholder is obliged to pay any call before 14 clear days (that is, excluding the date on which the notice is given and the date on which that 14 day period expires) have passed since the notice was sent.

18.4 Before the Royal College has received any call due under a call notice the Board of Trustees may:

- 18.4.1 revoke it wholly or in part; or
- 18.4.2 specify a later time for payment than is specified in the notice,

by a further notice in writing to the shareholder in respect of whose shares the call is made.

19. **LIABILITY TO PAY CALLS**

19.1 Liability to pay a call is not extinguished or transferred by transferring the shares in respect of which it is required to be paid.

19.2 Joint holders of a share are jointly and severally liable to pay all calls in respect of that share.

19.3 Subject to the terms on which shares are allotted, the Board of Trustees may, when issuing shares, provide that call notices sent to the holders of those shares may require them:

- 19.3.1 to pay calls which are not the same; or
- 19.3.2 to pay calls at different times.

20. **WHEN CALL NOTICE NEED NOT BE ISSUED**

20.1 A call notice need not be issued in respect of sums which are specified, in the terms on which a share is issued, as being payable to the Royal College in respect of that share:

- 20.1.1 on allotment;
- 20.1.2 on the occurrence of a particular event; or
- 20.1.3 on a date fixed by or in accordance with the terms of issue.

20.2 But if the due date for payment of such a sum has passed and it has not been paid, the holder of the share concerned is treated in all respects as having failed to comply with a call notice in respect of that sum, and is liable to the same consequences as regards the payment of interest and forfeiture.

21. **FAILURE TO COMPLY WITH CALL NOTICE: AUTOMATIC CONSEQUENCES**

21.1 If a person is liable to pay a call and fails to do so by the call payment date:

- 21.1.1 the Board of Trustees may issue a notice of intended forfeiture to that person; and
- 21.1.2 until the call is paid, that person must pay the Royal College interest on the call from the call payment date at the relevant rate.

21.2 For the purposes of this Article:

- 21.2.1 the "call payment date" is the time when the call notice states that a call is payable, unless the Board of Trustees give a notice specifying a later date, in which case the "call payment date" is that later date; and

21.2.2 the "relevant rate" is:

- (a) the rate fixed by the terms on which the share in respect of which the call is due was allotted;
- (b) such other rate as was fixed in the call notice which required payment of the call, or has otherwise been determined by the Board of Trustees; or
- (c) if no rate is fixed in either of these ways, 5 per cent per annum.

21.3 The relevant rate must not exceed by more than 5 percentage points the base lending rate most recently set by the Monetary Policy Committee of the Bank of England in connection with its responsibilities under Part 2 of the Bank of England Act 1998.

21.4 The Board of Trustees may waive any obligation to pay interest on a call wholly or in part.

22. NOTICE OF INTENDED FORFEITURE

22.1 A notice of intended forfeiture:

- 22.1.1 may be sent in respect of any share in respect of which a call has not been paid as required by a call notice;
- 22.1.2 must be sent to the holder of that share (or all the joint holders of that share) or to a transmittee of that holder;
- 22.1.3 must require payment of the call and any accrued interest and all expenses that may have been incurred by the Royal College by reason of such non-payment by a date which is not less than 14 clear days after the date of the notice (that is, excluding the date on which the notice is given and the date on which that 14 day period expires);
- 22.1.4 must state how the payment is to be made; and
- 22.1.5 must state that, if the notice is not complied with, the shares in respect of which the call is payable will be liable to be forfeited.

23. POWERS OF TRUSTEES TO FORFEIT SHARES

If a notice of intended forfeiture is not complied with before the date by which payment of the call is required in the notice of intended forfeiture, the Board of Trustees may decide that any share in respect of which it was given is forfeited, and the forfeiture is to include all moneys payable in respect of the forfeited shares and not paid before the forfeiture.

24. EFFECT OF FORFEITURE

24.1 Subject to the Articles, the forfeiture of a share extinguishes:

- 24.1.1 all interests in that share, and all claims and demands against the Royal College in respect of it; and
- 24.1.2 all other rights and liabilities incidental to the share as between the person whose share it was prior to the forfeiture and the Royal College.

24.2 Any share which is forfeited in accordance with the Articles:

- 24.2.1 is deemed to have been forfeited when the Board of Trustees decide that it is forfeited;

- 24.2.2 is deemed to be the property of the Royal College; and
- 24.2.3 may be sold, re-allotted or otherwise disposed of as the Board of Trustees think fit.

24.3 If a person's shares have been forfeited:

- 24.3.1 the Royal College must send that person notice that forfeiture has occurred and record it in the register of members;
- 24.3.2 that person ceases to be a shareholder in respect of those shares;
- 24.3.3 that person must surrender the certificate for the shares forfeited to the Royal College for cancellation;
- 24.3.4 that person remains liable to the Royal College for all sums payable by that person under the Articles at the date of forfeiture in respect of those shares, including any interest (whether accrued before or after the date of forfeiture); and
- 24.3.5 the Board of Trustees may waive payment of such sums wholly or in part or enforce payment without any allowance for the value of the shares at the time of forfeiture or for any consideration received on their disposal.

24.4 At any time before the Royal College disposes of a forfeited share, the Board of Trustees may decide to cancel the forfeiture on payment of all calls and interest and expenses due in respect of it and on such other terms as they think fit.

25. **PROCEDURE FOLLOWING FORFEITURE**

- 25.1 If a forfeited share is to be disposed of by being transferred, the Royal College may receive the consideration for the transfer and the Board of Trustees may authorise any person to execute the instrument of transfer.
- 25.2 A statutory declaration by a Trustee or the Secretary that the declarant is a Trustee or the Secretary and that a share has been forfeited on a specified date:
 - 25.2.1 is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share; and
 - 25.2.2 subject to compliance with any other formalities of transfer required by the Articles or by law, constitutes a good title to the share.
- 25.3 A person to whom a forfeited share is transferred is not bound to see to the application of the consideration (if any) nor is that person's title to the share affected by any irregularity in or invalidity of the process leading to the forfeiture or transfer of the share.
- 25.4 If the Royal College sells a forfeited share, the person who held it prior to its forfeiture is entitled to receive from the Royal College the proceeds of such sale, net of any commission, and excluding any amount which:
 - 25.4.1 was, or would have become, payable; and
 - 25.4.2 had not, when that share was forfeited, been paid by that person in respect of that share,

but no interest is payable to such a person in respect of such proceeds and the Royal College is not required to account for any money earned on them.

26. **SURRENDER OF SHARES**

- 26.1 A shareholder may surrender any share:
- 26.1.1 in respect of which the Board of Trustees may issue a notice of intended forfeiture;
 - 26.1.2 which the Board of Trustees may forfeit; or
 - 26.1.3 which has been forfeited.
- 26.2 The Board of Trustees may accept the surrender of any such share.
- 26.3 The effect of surrender on a share is the same as the effect of forfeiture on that share.
- 26.4 A share which has been surrendered may be dealt with in the same way as a share which has been forfeited.

27. **SHARES**

- 27.1 All shares in the Royal College (which shall not be varied in amount except in accordance with a written direction of the Association) shall only be issued and allotted by the Royal College in accordance with a written direction of the Association to such persons as are therein specified and always subject to the restriction that no share so issued and allotted may be transferred by the person holding the same, and the Royal College shall not approve any purported transfer of any share, to any person other than a person specified in a written direction of the Association which the transferor shall lodge with the Royal College with every such proposed transfer.
- 27.2 Except as required by law, no person shall be recognised by the Royal College as holding any share upon any trust and (except as by these Articles or by law otherwise provided) the Royal College shall not be bound by or recognise any interest in any share except an absolute right to the entirety thereof in the holder.
- 27.3 The Royal College may issue shares which are to be redeemed, or are liable to be redeemed at the option of the Royal College or the holder, and the Board of Trustees may determine the terms, conditions and manner of redemption of any such shares.

28. **MEMBERSHIP**

- 28.1 The Association is the sole member of the Royal College.
- 28.2 In the event of a bona fide reconstruction of the Association without insolvency the Board of Trustees shall admit its successor organisation as the sole member.
- 28.3 The Association may appoint its successor by written resolution.
- 28.4 If the successor under Articles 28.2 and 28.3 declines to be the member of the Royal College, or the Association ceases to exist without having appointed a successor, the Board of Trustees may admit any other person willing to become the member of the Royal College to membership.
- 28.5 Subject to Articles 28.2 and 28.4, the Board of Trustees shall not have power to admit new members of the Royal College.
- 28.6 The name of the Association must be entered into the Royal College's register of members with a statement that the Royal College only has one member

Commented [KM14]: #R15 UPDATED - SIMPLIFY AND CLARIFY

Clarifies that BAOT is the sole member and aligns the provision with company law. It also sets out how the sole membership of RCOT would be transferred in the event of BAOT being restructured or ceasing to exist.

It is important for organisations to have these types of provisions in their articles even if use of them is unlikely.

The provision reflects that fact the BAOT is the sole owner of RCOT.

29. **PATRONS**

The Board of Trustees may acknowledge as Patrons of the Royal College such Royal personages or persons of distinction (whether shareholders of the Association or not) as may honour the Royal College with their patronage.

30. **PRESIDENT, VICE PRESIDENT AND HONORARY MEMBERS**

The Board of Trustees may establish the office of President, Vice President or any other honorary office, and, by way of rules made in accordance with Article 8, determine their terms of office and the process for their appointment and removal, as it sees fit.

Commented [KM15]: #R16 UPDATED - SIMPLIFIED
Simplified and deleted detail from clauses on President/Vice President appointments. Now more flexible as we don't use the President and VP roles anymore.

31. **ROYAL COLLEGE NOT BOUND BY LESS THAN ABSOLUTE INTERESTS**

Except as required by law, no person is to be recognised by the Royal College as holding any share upon any trust, and except as otherwise required by law or the Articles, the Royal College is not in any way to be bound by or recognise any interest in a share other than the holder's absolute ownership of it and all the rights attaching to it.

32. **SHARE CERTIFICATES**

32.1 The Royal College must issue each shareholder, free of charge, with one or more certificates in respect of the shares which that shareholder holds.

32.2 Every certificate must specify:

32.2.1 in respect of how many shares, of what class, it is issued;

32.2.2 the nominal value of those shares; and

32.2.3 any distinguishing numbers assigned to them.

32.3 No certificate may be issued in respect of shares of more than one class.

32.4 If more than one person holds a share, only one certificate may be issued in respect of it.

32.5 Certificates must be executed in accordance with the Companies Acts.

33. **REPLACEMENT SHARE CERTIFICATES**

33.1 If a certificate issued in respect of a shareholder's shares is:

33.1.1 damaged or defaced; or

33.1.2 said to be lost, stolen or destroyed,

that shareholder is entitled to be issued with a replacement certificate in respect of the same shares.

33.2 A shareholder exercising the right to be issued with such a replacement certificate:

33.2.1 may at the same time exercise the right to be issued with a single certificate or separate certificates;

33.2.2 must return the certificate which is to be replaced to the Royal College if it is damaged or defaced; and

33.2.3 must comply with such conditions as to evidence and indemnity as the Board of Trustees decide.

34. **SHARE TRANSFERS**

- 34.1 Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the Board of Trustees, which is executed by or on behalf of the transferor.
- 34.2 No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share.
- 34.3 The Royal College may retain any instrument of transfer which is registered.
- 34.4 The transferor remains the holder of a share until the transferee's name is entered in the register of members as holder of it.

Commented [KM16]: #R17 REMOVED - COMPLIANCE

Power of the Board to refuse to register a share is deleted. Not aligned with the rights of BAOT as sole member.

35. **TRANSMISSION OF SHARES**

- 35.1 If title to a share passes to a transmittee, the Royal College may only recognise the transmittee as having any title to that share.
- 35.2 A transmittee who produces such evidence of entitlement to shares as the Board of Trustees may properly require:
- 35.2.1 may, subject to the Articles, choose either to become the holder of those shares or to have them transferred to another person; and
- 35.2.2 subject to the Articles, and pending any transfer of the shares to another person, has the same rights as the holder had.
- 35.3 Transmittees do not have the right to attend or vote at a general meeting, or agree to a proposed written resolution, in respect of shares to which they are entitled, by reason of the holder's death or bankruptcy or otherwise, unless they become the holders of those shares.

36. **EXERCISE OF TRANSMITTEES' RIGHTS**

- 36.1 Transmittees who wish to become the holders of shares to which they have become entitled must notify the Royal College in writing of that wish.
- 36.2 If the transmittee wishes to have a share transferred to another person, the transmittee must execute an instrument of transfer in respect of it.
- 36.3 Any transfer made or executed under this Article is to be treated as if it were made or executed by the person from whom the transmittee has derived rights in respect of the share, and as if the event which gave rise to the transmission had not occurred and all the provisions of the Articles relating to transfers of shares shall apply.

37. **TRANSMITTEES BOUND BY PRIOR NOTICES**

If a notice is given to a shareholder in respect of shares and a transmittee is entitled to those shares, the transmittee is bound by the notice if it was given to the shareholder before the transmittee's name, or the name of any person(s) named as the transferee(s) in an instrument of transfer executed under Article 36.2, has been entered in the register of members.

38. **INCOME AND PROPERTY OF THE ROYAL COLLEGE**

- 38.1 The income and property of the Royal College may only be applied to promote its objects.
- 38.2 Except as provided below, no part of the Royal College's income or property may be

transferred to the Association directly or indirectly, by way of dividend, bonus or otherwise by way of profit. This shall not prevent:

38.2.1 the gifting of or sale at a discount to subscribing members of the Association and other persons registered by and with the Association of a journal relating to any of the objects of the Royal College;

38.2.2 any shareholder of the Royal College, any member of the Association or other person registered by and with the Association receiving or enjoying the benefit of any non-monetary prize, whether in whole or in part, which may be awarded to them by the Royal College under the regulations governing any examination or competition conducted or controlled by the Royal College;

38.2.3 any payment in good faith by the Royal College of:

- (a) any payment to the Association in furtherance of the Royal College's purposes;
- (b) reasonable and proper remuneration to the Association for any goods or services supplied to the Royal College;
- (c) reasonable and proper rent for premises let to the Royal College by the Association; and/or
- (d) a reasonable and proper rate of interest on money lent to the Royal College by the Association.

38.3 No Trustee, or person Connected to them, may:

38.3.1 sell goods, services or any interest in land to the Royal College;

38.3.2 be employed by, or receive any remuneration from, the Royal College;

38.3.3 buy any goods or services from the Royal College on terms preferential to those applicable to members of the public; or

38.3.4 receive any other financial benefit from the Royal College (that is, a benefit, direct or indirect, which is either money or has a monetary value),
except as set out in Articles 38.4 and 38.5.

38.4 Article 38.3 does not prohibit:

38.4.1 any payment to the Association that is permitted under Article 38.1;

38.4.2 an Authorised Benefit;

38.4.3 a benefit to a person in their capacity as a beneficiary of the Royal College;

38.4.4 the payment of reasonable expenses properly incurred by a Trustee or Connected person when acting on behalf of the Royal College; or

38.4.5 any other payment, benefit or action which is authorised by the court or the Charity Commission (or where the Charity Commission has confirmed that its authority is not required).

Authorised Benefits

38.5 The following are Authorised Benefits:

38.5.1 A Trustee or Connected person may receive:

- (a) reasonable and proper remuneration for any goods or services supplied to the Royal College provided that:
 - once this Article 38.5.1 has been relied upon, only a minority of Trustees will be receiving (or will be Connected to a person who is receiving) remuneration from the Royal College that is authorised by this Article 38.5.1; and
 - any remuneration paid to the Association that is permitted under Article 38.2.3(b) shall not be taken into account when determining how many Trustees fall within the scope of this Article 38.5.1(a);

38.5.2 reasonable and proper rent for premises let to the Royal College; and/or

38.5.3 a reasonable and proper rate of interest on money lent to the Royal College.

38.5.4 Additionally:

- (a) the Royal College may pay reasonable and proper premiums in respect of indemnity insurance, as permitted under Article 46; and

38.6 a Trustee or other officer of the Royal College may receive payment under an indemnity from the Royal College in accordance with the indemnity provisions set out at Article 45. Where a benefit is to be received from the Royal College, Article 38.5.1(a):

- (a) does not permit Trustees to be employed by the Royal College (but, for the avoidance of doubt, a Connected person can be employed by the Royal College; and
- (b) does not permit a Trustee to be paid for acting as a charity trustee.

38.7 Article 13 (Conflicts) applies where benefits are to be received under this Article.

38.8 For as long as the Royal College is registered with the Office of the Scottish Charity Regulator, the additional requirements under section 67 of the Charities and Trustee Investment (Scotland) Act 2005 must be complied with.

39. **WINDING UP**

39.1 At any time before, and in expectation of, the winding up or dissolution of the Royal College, the Association or, in the absence of any resolution of the Association at the time of dissolution, the Trustees, may resolve that any net assets of the Royal College after all its debts and liabilities have been paid, or provision made for them, shall on the

Commented [KM17]: #R18 UPDATED - MODERNISED

Lawyers have advised changes to the permitted benefits clause to reflect the provisions which they would typically include in the constitution of a charity which has a sole corporate member. This ensures that the Articles embed what is allowed under Charity and Company law, creating clear requirements within our own constitution.

winding up or dissolution of the Royal College be applied or transferred in any of the following ways:

- 39.1.1 directly for the purposes of the Royal College; or
- 39.1.2 to any institution or institutions which is or are regarded as charitable under the law of every part of the United Kingdom:
 - (a) for purposes similar to the purposes of the Royal College; or
 - (b) for use for particular purposes that fall within the purposes of the Royal College.

39.2 In no circumstances shall the net assets of the Royal College be paid or distributed to the Association or any of other member from time to time under Article 39.1.

39.3 If no resolution is passed in accordance with Article 39.1 the net assets of the Royal College shall be applied for such purposes regarded as charitable under the law of every part of the United Kingdom as are directed by the Charity Commission.

PART 4

DECISION-MAKING BY SHAREHOLDERS

40. AUTHORISED REPRESENTATIVE

40.1 A member that is not an individual may appoint one or more individuals to represent it at meetings of the Royal College and the name of such representatives and the fact that they are Authorised Representatives of the member shall be noted in the register of members. The member can terminate the appointment of its Authorised Representative by giving notice in writing to the Royal College.

40.2 A person authorised under Article 38.1 may exercise (on behalf of the member) the same powers as the member could exercise if it were an individual member.

41. SHAREHOLDERS' DECISION-MAKING

41.1 Subject to the provisions of the Companies Acts and these articles, the Royal College shall dispense with the holding of general meetings for so long as it only has one shareholder and resolutions of the Royal College shall be passed by way of written resolution in accordance with the provisions of the Companies Acts (for the avoidance of doubt an Authorised Representative of a member may signify agreement to the resolution on that member's behalf).

41.2 The Board of Trustees must call a general meeting if required to do so by the members under the Companies Acts. Subject to the articles, general meetings must be called and held in accordance with the provisions regarding such meetings in the Companies Acts.

41.3 The Board of Trustees may make such lawful arrangements as they see fit in respect of physical attendance and/or Remote Attendance at a general meeting. The entitlement of any person to attend and participate in a general meeting shall be subject to such arrangements.

41.4 When the Trustees have made arrangements to facilitate Remote Attendance, the provisions of the Articles shall be treated as modified to permit such arrangements and in particular a person attending a general meeting by Remote Attendance shall be treated as being present and/or present in person at the meeting for the purposes of the Articles, including without limitation the provisions of the Articles relating to the quorum for the meeting.

Commented [KM18]: #R19 UPDATED - IMPROVED GOVERNANCE

Provides that assets must be used for a similar cause in the event of the charity winding up. It is common to have winding up provision in Articles and this provides members with clarity and assurance regarding how the charity's assets would be applied if it wound up.

PART 5

ADMINISTRATIVE ARRANGEMENTS

42. MEANS OF COMMUNICATION TO BE USED

- 42.1 Subject to the Articles, anything sent or supplied by or to the Royal College 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 Royal College.
- 42.2 Subject to the Articles, any notice or document to be sent or supplied to a Trustee in connection with the taking of decisions by Trustees may also be sent or supplied by the means by which that Trustee has asked to be sent or supplied with such notices or documents for the time being.
- 42.3 A Trustee may agree with the Royal College that notices or documents sent to that Trustee in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

43. NO RIGHT TO INSPECT ACCOUNTS AND OTHER RECORDS

Except as provided by law or authorised by the Board of Trustees or an ordinary resolution of the Royal College, no person is entitled to inspect any of the Royal College's accounting or other records or documents merely by virtue of being a shareholder.

44. PROVISION FOR EMPLOYEES ON CESSATION OF BUSINESS

The Board of Trustees may decide to make provision for the benefit of persons employed or formerly employed by the Royal College or any of its subsidiaries (other than a Trustee or former Trustee or shadow Trustee) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the Royal College or that subsidiary.

INDEMNITY AND INSURANCE OF TRUSTEES

45. INDEMNITY

- 45.1 Without prejudice to any indemnity to which they may otherwise be entitled, every Trustee, former Trustee and other officer of the Royal College may be indemnified out of the assets of the Royal College in relation to any liability incurred by them in that capacity but only to the extent permitted by the Companies Acts.

46. INSURANCE

- 46.1 The Board of Trustees may purchase and maintain insurance, at the expense of the Royal College, for the benefit of:
- 46.1.1 the Trustees, in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011; and
 - 46.1.2 officers who are not Trustees, subject to such conditions as the Trustees shall determine.