

AGM 27 March 2012

CONSTITUTION

of

BROOK FARM ALLOTMENT & HORTICULTURAL ASSOCIATION

An Unincorporated Association

Brook Farm is managed according to traditional allotment principles of self help and mutual support. All members are required to involve themselves in the betterment of their plots, and of the allotment fields.

Brook Farm Allotment & Horticultural Association founded (*date to follow*)

Constitution adopted 27 March 2012

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An Unincorporated Association

CONSTITUTION

1. Name

The name of the Association is

BROOK FARM ALLOTMENT AND HORTICULTURAL ASSOCIATION

2. Objects

The **Objects** are:

- 2.1 To manage allotments, in particular in the Whetstone area of London.
- 2.2 To safeguard as green space the area known as Brook Farm and designated as allotment land.
- 2.3 To promote the art, science and practice of horticulture.
- 2.4 To promote the interests of gardeners.
- 2.5 To educate in the principles and practice of horticulture.

3. Powers

The Association has the following powers, which may be exercised only in promoting the Objects:

- 3.1 To manage allotments and to make agreements with allotment holders on such terms, including rent and other charges, and subject to such rules as the Association shall determine from time to time.
- 3.2 To trade with members and others in the supply of goods and services through a Trading Hut or other means.
- 3.3 To promote or carry out research, provide advice and publish or distribute information.
- 3.4 To join, affiliate to, co-operate with, support, administer or set up other bodies.
- 3.5 To raise funds, borrow money and give security for loans.
- 3.6 To acquire, hire, let or dispose of property of any kind.
- 3.7 To make grants or loans of money and to give guarantees.
- 3.8 To set aside funds for special purposes or as reserves against future expenditure.
- 3.9 To deposit or invest in funds in any manner and delegate the management of investments to a financial expert.
- 3.10 To insure the property of the Association against any foreseeable risk and take out other insurance policies to protect the Association, its officers and its volunteers.
- 3.11 Subject to sub-clause 9.3, to employ paid or unpaid agents, staff or advisers.
- 3.12 To enter into contracts to provide services to or on behalf of other bodies.
- 3.13 To establish or acquire subsidiary bodies to assist or act as agents for the Association
- 3.14 To do anything else within the law which promotes or helps to promote the Objects.

4. Membership

- 4.1 **Membership** of the Association is open to any individual or organisation interested in promoting the Objects. Every person who holds an allotment which is managed by the Association shall be required to be a member of the Association as a condition of holding such an allotment.
- 4.2 The Committee may establish different classes of membership, prescribe their respective benefits and duties and set the levels of any subscriptions.
- 4.3 The Committee must keep a register of **members**.
- 4.4 A member whose subscription is three months in arrears ceases to be a member but may be reinstated on payment of the amount due.
- 4.5 A member may resign by **written** notice to the Association.
- 4.6 The Committee may refuse membership to any person if in their reasonable opinion that person being a member would be harmful to the Association.
- 4.7 The Committee may by resolution terminate the membership of any member on the ground that in their reasonable opinion the member's continued membership would be harmful to the Association. The Committee may only pass such a resolution after notifying the member in writing and considering the matter in the light of any written representations which the member puts forward within 14 **clear days** after receiving notice. The Committee shall offer the member the opportunity to meet with the Committee or such person or persons it may appoint for this purpose. At such a meeting the member shall be entitled to be accompanied and assisted by one person of his or her choosing. Such a member is not entitled to a refund of any subscription, allotment rent or other payment, but the Committee may at its absolute discretion make a whole or partial refund.
- 4.8 Membership of the Association is not transferable.

5. General Meetings (AGM and EGM)

- 5.1 Members are entitled to attend general meetings of the Association either in person or (in the case of a member organisation) through an **authorised representative**. General meetings are called on at least fourteen clear days written notice to the members specifying the business to be transacted.
- 5.2 There is a quorum at a general meeting if the number of members or authorised representatives personally present is at least three.
- 5.3 The **Chairman** or (if the Chairman is unable or unwilling to do so) some other member appointed by the committee members who are present or failing that elected by those members present, presides at a general meeting.
- 5.4 Except where otherwise provided by this Constitution, every issue at a general meeting is determined by a simple majority of votes cast by the members present in person or (in the case of a member organisation) through an authorised representative.
- 5.5 Except where otherwise provided by this Constitution, voting is by a show of hands, but the chairman of the meeting or not less than five members present in person or (in the case of a member organisation) through an authorised representative may require, before or after a show of hands, a poll vote.
- 5.6 Members may not appoint a proxy unless the Committee invites members to appoint a proxy when they shall issue proxy forms to all members with the notice of the meeting.

- 5.7 Except for the chairman of the meeting, who has a second or casting vote, every member present in person or (in the case of a member organisation) through an authorised representative is entitled to one vote on every issue.
- 5.8 An **AGM** must be held in every year.
- 5.9 At an AGM the members:
- (1) Approve the minutes of the previous AGM and any intervening **EGMs**.
 - (2) Receive the report of the Committee on the Association's activities since the previous AGM.
 - (3) Receive the accounts of the Association for the previous **financial year**.
 - (4) Appoint an auditor or **independent examiner** for the Association or delegate such appointment to the Committee.
 - (5) Accept the retirement of those **elected Committee Members** who are retiring.
 - (6) Elect elected Committee Members to fill the vacancies arising, through an election process determined by the Committee which must include all members being invited to nominate themselves or other members as candidates and all candidates' names being supplied to members with the notice of the meeting; and
 - (7) Discuss any issues of policy or deal with any other business put before them by the Committee.
- 5.10 Any general meeting which is not an AGM is an EGM.
- 5.11 An EGM may be called at any time by the Committee and must be called within twenty-eight clear days after a written request to the Committee from at least fifteen members unless a majority of the requesting members agree to a longer period or unless the Committee reasonably requires more time to meet the requirements of clause 5.12(4).
- 5.12 A members' request for an EGM is subject to the following:
- (1) A members' request shall state the business of the meeting and the resolution or resolutions to be put to the meeting.
 - (2) A members' request shall be accompanied by the name, address and signature of each member making the request. The request shall be in writing and may be on more than one piece of paper but each page which carries a member's signature shall state the resolution or resolutions.
 - (3) A members' request may be accompanied by a statement which, without the agreement of the Committee, shall not exceed one thousand words and this statement shall be sent to all members with the notice of the meeting.
 - (4) Any person directly affected by the resolution shall be supplied by the Committee with a copy of the resolution and member's statement and be invited by the Committee to submit a statement which, without the agreement of the Committee, shall not exceed one thousand words, and this statement shall be sent to all members with the notice of the meeting.
 - (5) The Committee may circulate one or more statements to accompany the notice of the meeting or otherwise.
 - (6) The Committee is not obliged to call a meeting or circulate a resolution or statement which it reasonably considers is vexatious, frivolous or unlawful but shall explain its reasons to those members who have requested a general meeting and invite them to amend such resolution or statement.

6. The Committee

- 6.1 The Committee has control of the Association and its property and funds.
- 6.2 The Committee when complete consists of not more than fourteen individuals, all of whom must be members or authorised representatives. The Committee consists of ten elected Committee Members and not more than **four selected Committee Members**.
- 6.3 All elected Committee Members must stand down at each AGM but, if eligible, may re-stand for election.
- 6.4 No member is eligible to stand for election if he or she has been a member of the Committee for any part of each of five consecutive periods from one AGM to the next AGM unless he or she has since not been a Committee Member for the whole of the period from one AGM to the next AGM. Such a member may be co-opted as a selected Committee Member but may not stand for election again until he or she has ceased to be a Committee Member for the whole of the period from one AGM to the next AGM.
- 6.5 The Committee may co-opt as a Committee Member any member to fill a casual vacancy amongst the elected Committee Members.
- 6.6 Selected Committee Members are appointed by resolution of the Committee to hold office until the end of the next AGM.
- 6.7 A Committee Member's term of office automatically terminates if he or she:
 - (1) Is incapable, whether mentally or physically, of managing his or her own affairs.
 - (2) Is absent from three consecutive meetings of the Committee.
 - (3) Ceases to be a member of the Association (but such a person, on resuming membership of the Association, may be reinstated by resolution of the Committee before the next AGM).
 - (4) Resigns by written notice to the Committee (but only if at least two Committee Members will remain in office).
 - (5) Is removed by a resolution passed by every one of the other Committee Members after they have invited the views of the Committee Member concerned and considered the matter in the light of any such views. The Committee shall offer the Committee Member the opportunity to meet with the Committee and at such a meeting the Committee Member shall be entitled to be accompanied and assisted by one person of his or her choosing.
- 6.8 A retiring Committee Member is entitled on written request to an indemnity from the continuing Committee Members at the expense of the Association in respect of any liabilities properly incurred while he or she held office.
- 6.9 A technical defect in the appointment of a Committee Member of which the Committee is unaware at the time does not invalidate decisions taken at a meeting.

7. Committee Proceedings

- 7.1 The Committee must hold at least two meetings each year.
- 7.2 A quorum at a meeting of the Committee is three Committee Members, but if the total number of Committee Members is below three then the remaining Committee Members may act but only to co-opt additional Committee Members.

- 7.3 A Committee meeting may be held either in person or by suitable electronic means agreed by the Committee in which all participants may communicate with all other participants.
- 7.4 The Chairman or (if the Chairman is unable or unwilling to do so) the Deputy Chairman or (if the Deputy Chairman is unable or unwilling to do so) some other Committee Member chosen by the Committee Members present presides at each meeting of the Committee.
- 7.5 Except where otherwise provided by this constitution every issue may be determined by a simple majority of the votes cast at a meeting of the Committee but a resolution which is in writing and signed by all the Committee Members is as valid as a resolution passed at a meeting and for this purpose the resolution may be contained in more than one document and will be treated as passed on the date of the last signature.
- 7.6 Except for the chairman of the meeting, who has a second or casting vote, every Committee Member has one vote on each issue.
- 7.7 A procedural defect of which the Committee is unaware at the time does not invalidate decisions taken at a meeting of the Committee.

8. Committee Powers

The Committee has the following powers in the administration of the Association:

- 8.1 To appoint and remove a Chairman, a Deputy Chairman, and other officers from among their number, and to appoint and remove other individuals with specific duties (including representing the Association) on such terms as the Committee from time to time decide.
- 8.2 To appoint and remove any individual (with his or her consent) and on such terms as the Committee from time to time decide, with such honorary titles as Patron, President, or Vice-President of the Association.
- 8.3 To delegate any of the Committee's functions to sub-committees consisting of two or more individuals appointed by them (but at least one member of every sub-committee must be a Committee Member and all proceedings of sub-committees must be reported promptly to the Committee). The Committee may arrange for some or all of the members of sub-committees to be elected by some or all of the members of the association.
- 8.4 To make standing orders consistent with this Constitution to govern proceedings at general meetings.
- 8.5 To make rules consistent with this Constitution to govern their proceedings and proceedings of sub-committees.
- 8.6 To make regulations consistent with this Constitution to govern the administration of the Association (including the operation of bank accounts and the commitment of funds).
- 8.7 To resolve, or establish procedures to assist the resolution of, disputes within the Association.
- 8.8 To exercise any powers of the Association which are not reserved to a general meeting.

9. Benefits to Members and Committee Members

- 9.1 The property and funds of the Association must be used only for promoting the Objects and may not be distributed to the members or the Committee Members.

- 9.2 No Committee Member may receive any payment of money or other **material benefit** (whether direct or indirect) from the Association except:
- (1) Under sub-clauses 3.10 (indemnity insurance) and 9.3 (contractual payments).
 - (2) Reimbursement of reasonable out-of-pocket expenses (including travel costs) actually incurred in the administration of the Association.
 - (3) Interest at a reasonable rate on money lent to the Association.
 - (4) A reasonable rent or hiring fee for property let or hired to the Association.
 - (5) An indemnity in respect of any liabilities properly incurred in running the Association (including the costs of a successful defence to criminal proceedings).
 - (6) Payment to a company in which the Committee Member has no more than a one per cent shareholding.
 - (7) Benefits in his or her capacity as a member.
- 9.3 A Committee Member may not be an employee of the Association, but a Committee Member or **connected person** may enter into a contract with the Association to supply goods or services in return for a payment or other material benefit, but only if:
- (1) The goods or services are actually required by the Association.
 - (2) The nature and level of the benefit is no more than reasonable in relation to the value of the goods or services and is set by the Committee in accordance with the procedure in sub-clause 9.4 and.
 - (3) Not more than half of the Committee Members are interested in any such contract in any one financial year.
- 9.4 Whenever a Committee Member has a personal interest in a matter to be discussed at a meeting of the Committee or a sub-committee, he or she must:
- (1) Declare an interest before the meeting or at the meeting before discussion begins on the matter.
 - (2) Be absent from that part of the meeting unless expressly invited to remain in order to provide information.
 - (3) Not be counted in the quorum for that part of the meeting.
 - (4) Be absent during the vote and have no vote on the matter.

10. **Property and Funds**

- 10.1 The Association must have one or more bank accounts and all bank accounts which hold the Association's funds must be in the name of the Association and require at least two signatures on every payment.
- 10.2 Funds which are not required in the near future may be placed on deposit or invested in accordance with clause 3.9 until needed.
- 10.3 Investments and other property of the Association may be held:
- (1) In the name of a **nominee company** acting under the control of the Committee or of a financial expert acting on their instructions.
 - (2) In the name of at least two and up to four holding Committee Members for the Association who may be appointed (and removed) by resolution of the Committee.
 - (3) In the name of a **trust corporation** as a holding trustee for the Association, which must be appointed (and may be removed) by deed executed by the Committee.

- 10.4 Documents and physical assets may be deposited with any company registered or having a place of business in England and Wales as **custodian**.
- 10.5 Any nominee company acting under sub-clause 10.3(2), any trust corporation appointed under sub-clause 10.3(4) and any custodian appointed under sub-clause 10.4 may be paid reasonable fees.

11. Records and Accounts

- 11.1 The Committee must keep proper records of all proceedings at general meetings, Committee meetings and all professional advice obtained.
- 11.2 Accounting and all other records relating to the Association must be made available for inspection by any Committee Member at any time during normal office hours and may be made available for inspection by members if the Committee so decides.
- 11.3 A copy of the Association's latest available statement of account must be supplied on request to any Committee Member or member.

12. Notices

- 12.1 Notices under this Constitution may be sent by hand, by post or by suitable electronic means or with or within any journal distributed by the Association.
- 12.2 The address at which a member is entitled to receive notices is the address noted in the register of members (or, if none, the last known address).
- 12.3 Any notice given in accordance with this Constitution is to be treated for all purposes as having been received:
 - (1) 24 hours after being sent by electronic means or delivered by hand to the relevant address,
 - (2) Three clear days after being sent by first class post to that address,
 - (3) Four clear days after being sent by second class post or overseas post to that address,
 - (4) On being handed to the member or its authorised representative personally or, if earlier,
 - (5) As soon as the member acknowledges actual receipt.
- 12.4 A technical defect in the giving of notice of which the members or the Committee are unaware at the time does not invalidate decisions taken at a meeting.
- 12.5 The accidental failure to deliver a member's notice on time or at all does not invalidate decisions taken at a meeting.

13. Amendments

This Constitution may be amended at a general meeting by a two-thirds majority of the votes cast.

14. Incorporation

14.1 The members at a general meeting may authorise the Committee to transfer the assets and liabilities of the Association to a limited company (including an Industrial and Provident Society) established within, the same as or similar to the Objects and of which the members will be entitled to be members.

- 14.2 On a transfer under clause 14.1 the Committee must ensure that all necessary steps are taken as to the transfer of land and other property and the novation of contracts of employment and transfer of pension rights

15. Dissolution

- 15.1 If at any time members at a general meeting decide to dissolve the Association, the Committee Members will remain in office and will be responsible for the orderly winding up of the Association's affairs.
- 15.2 After making provision for all outstanding liabilities of the Association, the Committee must apply the remaining property and funds in one or more of the following ways:
- (1) By transfer to one or more other bodies established for purposes within, the same as or similar to the Objects; or
 - (2) Directly for the Objects or purposes within or similar to the Objects.

16. Interpretation

In this Constitution:

- 16.1 'AGM' means an annual general meeting of the Association;
- 'Authorised representative' means an individual who is authorised by a member organisation to act on its behalf at meetings of the Association;
- 'The Committee' means the Committee Members collectively acting as the governing body of the Association;
- 'Committee Member' means a member of the governing body of the Association and 'Committee Members' the members of the governing body;
- 'The Chairman' means the chairman of the Association appointed by the Committee;
- 'Clear day' means 24 hours from midnight following the relevant event;
- 'Connected person' means any spouse, partner, parent, child, brother, sister, grandparent or grandchild of a Committee Member, any **firm** of which a Committee Member is a member or employee, or a company of which a Committee Member is a director, employee or shareholder being beneficially entitled to more than one per cent of the share capital;
- 'Custodian' has the meaning prescribed by section 17(2) of the Trustee Act 2000;
- 'EGM' means a general meeting of the members of the Association which is not an AGM;
- 'Elected Committee Members' means those Committee Members who are elected at the AGM;
- 'Financial expert' means an individual, company or firm who is authorised to give investment advice under the Financial Services and Markets Act 2000;
- 'Financial year' means the Association's financial year; (calendar year);
- 'Firm' includes a limited liability partnership;
- 'Holding trustee' means an individual or corporate body responsible for holding the title to property but not authorised to make any decisions relating to its use, investment or disposal;

‘Independent examiner’ means an independent person who is reasonably believed by the Committee to have the requisite ability and practical experience to carry out a competent examination of the accounts;

‘Material benefit’ means a benefit which is financial or has a monetary value;

‘Member’ and ‘membership’ refer to membership of the Association;

‘Months’ means calendar months;

‘The Objects’ means the objects of the Association set out in clause 2;

‘Selected Committee Members’ means those Committee Members who are selected by the Committee and co-opted as Committee Members.

‘The Association’ means the association comprised in this Constitution;

‘Trust corporation’ has the meaning prescribed by section 205(1)(cxxviii) of the Law of Property Act 1925 (but does not include the Public Trustee);

‘Written’ or ‘in writing’ refers to a legible document on paper including a fax or e-mail message;

‘Year’ means calendar year, January – December inclusive.

- 16.2 References to an Act of Parliament are references to that Act as amended or re-enacted from time to time and to any subordinate legislation made under it.