

Update on Further Changes to the OCA Constitution July 2019

The file "Overview of Changes to the Constitution 2019" summarises changes proposed in comparison to the existing (2014) Constitution.

Following feedback and discussion on the draft in two meetings in June and July, **the main changes** to the draft posted on the OCA website (May 2019 Draft for discussion) are as follows:

1. Adjustment to who the signatories for financial transactions should be (**section 5.3**)
2. Adjustment to the membership criteria to be restricted to residents, businesses or NGOs. If one owns a property in Observatory but does not live in Observatory, that will not qualify for membership unless that property is a business and the owner registers as a business. (**section 6**). Property owners who are members (e.g. they live in Observatory and have joined as a resident; or have registered their properties as a business and have joined as a business) may only have one vote, irrespective of the number of properties they own. (**section 20.7**)
3. Determination of membership fees each year is made only at the AGM. (**previous clause 10.2.6 removed**)
4. Financial procedures have been relocated from previous section 10.10 and 10.11 to **section 5.5**
5. A recall process for any member representing the OCA (whether Man Comm member or OCA member) where they are no longer representing the OCA adequately provided for in **section 10.11**.
6. Urgent legal action has been qualified as requiring three-quarters of the Management Committee to approve the legal action and notice to all members are informed of the decision within 5 days so that members are given an opportunity to express any concerns about the action (**10.12.3**).
7. The duties of portfolio holders in the Management Committee (**section 12**) has been moved out of the constitution to a Management Charter (see attached). Various suggestions related to responsibilities of portfolio holders have been added to the management charter including provision that a portfolio holder can delegate their responsibility if they are away.
8. Added a section to allow the Management Committee to address performance of a Management Committee portfolio holders, in the first instance to remedy poor performance, thereafter to follow a process to remove the portfolio holder if no improvement (**section 12.3**). We are still formulating the exact process so that it is fair and consistent with fair administrative process.
9. **Section 19.4** deals with nominations for the AGM.
 - Candidates to be nominated for the Management Committee must have attended at least one OCA meeting in the past year (not specified the type of meeting) (**section 19.4(b)**)
 - A proforma (attached) has been created for all nominations submitted ahead of time (attached).

Other issues flagged for Discussion/Decision:

1. The previous draft included a provision for exceptional circumstances whereby Management Committee Members may be remunerated. The original text created the possibility that Management Committee members might be paid to do what they were elected for. This was not the intention but rather to reimburse any members who take on substantive work that would otherwise need to be done by a paid employee. The text has been amended to read that any exception would apply to "activities undertaken outside of their elected duties and responsibilities..." (**section 5.8.1**).
2. A waiver or reduction in fees is provided for in Section 7.6. A concern was raised that leaving this to the discretion of the Management Committee and that minuting the decision would be too vague. (**section 7.6**)
3. Both the old Constitution and current amended Constitution place the onus on accepting new membership on the Management Committee. A suggestion was made that this be changed to allow automatic acceptance of members and the Management Committee would have 30 days to reverse such membership. This was felt to open the Civic up to ineligible members joining and increase the load on the Management Committee unworkably. Since the membership procedure requires the Management Committee to give feedback to a new member applicant within 30 days, this seems to be sufficient to ensure fair process. (**section 8**)
4. The process whereby membership (to accept or not – **section 8.2**) or disciplinary action against members (**section 9.2**) is finalised have been harmonised to ensure that members/prospective members have an opportunity to make written or verbal representations against a decision they are not happy with. Further, if the decision is not changed after representation, it should be confirmed by resolution of two-thirds of the

members present at the next General Meeting. If not confirmed, the decision lapses. This set of edits is still in the process of being confirmed by our NPO legal advisor.

5. It was recommended that the decision to accept someone as a member should be confirmed by 75% of Man Comm members rather than a simple majority (50%+1). (**section 8.4**)
6. A query was raised as to why the Business Forum should have special status as a Standing sub-group in the OCA Constitution above other Sub-groups (**section 11.7**). The Business Forum has traditionally been a standing sub-group in the OCA.
7. A query was raised as to why persons co-opted to the Management Committee who were not sub-group leaders should not vote. (**section 12.2**). The thinking in the Management Committee is that this is akin to a Working Group. The idea is that this gives Man Comm flexibility to deal with a particular crisis (eg. water). For this issue, we don't foresee the Man Comm changing composition in the long-term but need someone to manage it for the OCA in the short term.
8. A **section (19.3(e))** has been added to say that if documents are not circulated in time consistent with the Constitution, the AGM will be invalid. Another suggestion was made to include the provision that even if all the documents referred to were not circulated in time, the AGM may consider condoning the late circulation based on a motivation by the relevant office bearer for the AGM to be considered valid.
9. Proxies are dealt with in **Section 20.4**. There was a view that proxies should be the exception but it seems there is no way to operationalise such a view. So, we have gone the route of direct proxies meaning a member who gives their vote to a proxy has no further say in how the proxy votes on a matter at the meeting, rather than a proxy having a specific mandate to vote in a particular way on a particular matter. This is because we are still entertaining nominations from the floor at an AGM and/or other urgent matter/s may arise in which case a limited proxy cannot vote on the matter.
10. It was suggested that OCA develop a policy on criteria for considering proposals to amend the Constitution (**section 22.3**).

Reference to **other policies outside the Constitution**:

- Procurement and financial procedures – see Standard Operating Procedure for Spending in the OCA
- Duties and responsibilities of Man Comm portfolio holders – see Management Charter
- Motivations required for nomination as a Man Comm member – see Proforma for nominations at an AGM

To be developed (specifically mentioned in the draft Constitution)

- A Management Committee Performance Policy
- Procedure for electronic payments of membership fees
- Mediation procedures to be implemented in the event an OCA rep is recall from representing the OCA on a particular structure

Policies that may need to be developed

- A policy on criteria for considering proposals to amend the Constitution may need to be developed
- We may need an overall policy providing a disciplinary procedure (other than Management performance) since sections 9.3.1,12.2 and 21.9 talk of a disciplinary committee or disciplinary action.