

Constitution FAQ's

Q Why change?

A Change is never easy, we all get into our own comfort zone and we stop asking how we can do things better. That is where we find ourselves with the Federation's current Constitution today. The Constitution has worked well for the last 25 years but is starting to creak. Some of the clauses breach the requirements of the Company's Act and the requirements of Companies House, and it is these that need to be addressed. The Constitution's currently requires all important matters to be dealt with during the AGM. This makes the day to day management of the Federation difficult for the Committee with a decision in the Federation taking between 18 months to 24 months to come to gain approval and to be implemented.

Q What Changes?

A The *proposed Constitution* leaves the core principles of the Federation unchanged. The changes that have been made are as follows:

- ❖ Bought into line with the Company's Act
- ❖ Bought into line with Companies House requirements.
- ❖ Introduction of Branch Society Membership
- ❖ Two tier voting for Committee (Council)
- ❖ Introduction of Sub Committees
- ❖ Introduction of a Disciplinary process
- ❖ Moves the Management of the Federation into Standing Orders.

Q Why is it so long?

A While a shorter document would have been preferred this was not a primary objective of the revision. The extra length of the *proposed Constitution* is explained in two or three ways, most simply the new document is typed in 12 point and the existing in 11. Secondly in the same vein the *proposed Constitution* is formatted with headers and footers. These combined would probably make the existing document closer to 12 pages rather than the 7 as currently presented.

Moving on from these mechanical points the real reason that the *proposed Constitution* is longer is the introduction of Branch Membership, the Sub Committees and the Disciplinary process.

Q What changes are required by the Company's Act?

A These are mostly technical but require the Constitution and the Company's Memorandum to be aligned and saying the same things. The Memorandum is a legal requirement of the Company's Act stating the business objectives of the Federation and a copy is held at Companies House. The *proposed Constitution* moves a long way towards this and will require notice to be given to Companies House of the change. It would be a major exercise to rewrite the Memorandum to correlate with the Constitution and we would need to take legal advice at some expense were we to take this approach.

Q What changes are required by Companies House?

A The changes relate to the Federation's status as a company limited by guarantee. This phrase is significant. It has been a requirement since the Federation was incorporated. The *proposed Constitution* clarifies the Member Societies current obligations in line with the Company's Act and Companies House. These obligations are not new and are not an introduction of the *proposed Constitution*.

Q What are the obligations of the Members of a company limited by guarantee?

A Each Member of the company has a liability in the event of bankruptcy or dissolution for whatever reason. This liability is the guarantee and this is effectively a legal obligation to pay a sum of £1.00 in the event of dissolution of the Company. The £1.00 is the total Limit of the Member's liability in law. In the improbable event of the Federation being wound up, no Member will be liable to pay more than £1.00.

Q Why is the Federation a company limited by guarantee?

A This is a decision that was made some time ago so the reasons at that time are not clear. It is believed to have been a prudent decision and therefore desirable today because it limits the exposure of risk to our Members. If the Federation was not a limited company and we had a significant financial issue, or claim of some adverse nature it would mean that all of the individuals who are members of our Members would be jointly and severally liable for that event and all associated events. This liability is total and unlimited. For example, in extreme and it is a very unlikely extreme, this could mean every asset of an individual could be called upon to meet the liability that had accrued. By registering as a company limited by guarantee the maximum liability of a Member is £1.00.

Q Why introduce a new class of membership, ie Branch Membership?

A As explained above in the last two questions the Federation is Limited by Guarantee, most Members of the Federation are not. In the event of a Member Society being wound up and/or some adverse event then the individuals belonging to that Member Society would be jointly and severally liable for the Member's debt. This is not a liability that transfers to the Federation, it remains with the individuals belonging to the Member Society.

Today the only option for protecting individuals belonging to Members is for that Member to register as a Limited company of some form.

The proposed Branch Membership provides a second and simpler alternative. A Member may at their discretion elect to join the Federation as a Branch Society. The Society as a Branch Member would be a branch of the Federation and part of the Company Limited by Guarantee. The obligations of this form of membership will be explored further later.

Q Why change the membership types?

A There is NO change to the classes of membership.

The Constitution currently allows a Society, Individual and Corporate membership. The *proposed Constitution* allows a Society to join as it does today or alternatively as a Branch Society at the Society's sole discretion but still as a Member Society. Some minor amendments of title have been made to welcome the Individual and Corporate Members into the Federation. It also demonstrates that they have a share in the ownership and a stake in the Federation's future and development of the art, craft and science of bonsai. Society's, with their collective representation of their members, are recognised under both the proposed and current constitution as the Senior member.

Q Why have a two tier election system?

A One of the current issues is that the only input into the management of the Federation is through our Member Societies. Those Members who join as Individuals or Corporate are precluded from any input into the Federations Management. In order to involve these important stakeholders in the Federation the two tier system has been developed.

The first tier of the election requires the College (membership group) to elect individuals. The three proposed Colleges (Society, Corporate, Individual) reflect the current membership classes. Each College then elects a number of people to support the management of the Federation. The numbers are such that the seniority of Societies is maintained. This means that in no circumstance could a united College of Societies be defeated in a vote. This recognises that societies are likely to represent the largest number of people.

The second tier of election requires the Colleges to elect the Officers of the Federation from the pool elected above.

In proposing this method it is recognised there are other solutions, it has some challenges and it could be seen as complicated. The proposal, however, has been drawn up to create ownership and stakes in the Federations well being for all Members. The College system allows the votes to be proportional to the representation. So a Society with 5, 10 or whatever membership is not voting against an individual representing themselves.

It may not be perfect and this is recognised, however, it addresses a number of issues and should be seen as a starting point and not a full stop. With some experience of the proposed system we may decide to look at further refinements. What is certain is that the current system will always limit the input into the Federation to Societies only and the balance of the membership could be disenfranchised with no stake in the Federations management.

Q Why do we need Sub Committees?

A The current management of the Federation relies upon all of the business and activity being co-ordinated and undertaken by the Committee. The volume of work necessary over the next few years and the need to create more opportunity for individuals to contribute has made Sub Committees a necessity. The Constitution currently does not recognise any authority outside the Committee and this is therefore picked up in the *proposed Constitution*.

Part of the length of the new document is that it establishes three standing Sub Committees, namely:

- ❖ Education
- ❖ Show Standards
- ❖ Disciplinary

More on these later.

Q Why do we need a disciplinary process?

A How we wish the answer to this was that, we don't. Sadly over the last 5-10 years some individuals integrity have slipped and these have led to incidents that have led to local loss of reputation and standing.

Resolving these has involved a considerable amount of additional hidden resource. By hidden we mean that the Committee and more often than not the Chairman have been involved in some very heavy and often acrimonious negotiations. This has led to distraction and loss of momentum in addressing the important issues of the Federations current and future plans.

Sadly as a consequence, and in order to incorporate a process which meets the legal obligation of a Company to conduct its business, a fairly extensive process of registering complaint, review, judgement and appeal under a Disciplinary Sub Committee have been written into the *proposed Constitution*.

Like every bonsai enthusiast we wish that these were not required, very sadly history indicates that this would be naïve.

Q Why Change from Constitutional to Empowered governance?

A The Federation has been governed by Constitution for 25 years and has survived through the good will and enthusiasm of its Officers and Members. The process for responding to change has however been very slow and very difficult to follow from any distance.

The Federation in analogy has been a Tanker in a pea soup fog, taking considerable effort to turn and no one being able to see the results.

The *proposed Constitution* attempts to address this by creating a transparent and accountable structure which is able to respond to issues as they arise. It will not be a perfect document and in a couple of years should be reviewed and any defects remedied. Sub Committees will be available to mandate for fast responses to issues allowing expertise to be bought in to support short term commitments.

Continuing the analogy the *proposed Constitution* provides the tools to lift the fog and brings some tugs into help with the turns even though it may need to go into dry dock in a couple of years for a service..

Q What are Standing Orders?

A Standing Orders are the statements under the *proposed Constitution* that state the rules of the Federation for the conduct of the day to day business. The Constitution

establishes the boundaries, strategies and delegations. Standing Orders interpret these into the workings of the day to day mechanics of the Federation.

Q Has the *proposed Constitution* been reviewed legally?

A We have had the *proposed Constitution* reviewed by friendly lawyers and their indications are that the document is robust and sound in its principles.

Q Do we have to change the Constitution?

A Yes, this is inevitable.

The simple answer hides the fact that the current Constitution does not meet our legal obligations and change is necessary. Does it have to be the *proposed Constitution*? No, but the proposal meets all of the legal obligations and addresses the long term future of the Federation.

Q What is the future of the Federation?

A This is a decision that is bigger than the Constitution proposed or current, and the Members of the Federation need to reflect on this and make some important decisions. The proposed Constitution has been prepared to accommodate these discussions and allow the Federation to grow and meet the aspirations and expectations of its Members.

Q What is the purpose of the Show Standards Sub Committee?

A The simple answer is that this Sub Committee is established as a standing sub committee to determine the Federations policy on showing bonsai. This answer hides the complexity of the relationships that are being managed between the RHS, current and aspiring Judges, and current and aspiring Exhibitors, etc. Very tentative work has started to define the areas that this Sub Committee will seek to influence. However, areas of responsibility, outcomes and policy all remain in the future.

This work is being undertaken on an ad hoc basis at present with the Federation leading the EBA and WBFF in the discussions.

Q What is the purpose of the Education Sub Committee?

A The simple answer is that this Sub Committee is established as a standing sub committee to determine the Federations policy on training and education in the art, craft and science of bonsai. Initial feasibility work has determined that the Open College Network would support us as a training body and future decisions will need to determine the policy, the structure and the Federations involvement in this very important area of bonsai. Our unique position with Society, Individual and Corporate Members means that we have the ability to represent all sides of the equation.

This work is being undertaken on an ad hoc basis at present with tentative discussions with the Open College Network.