

REVIEW OF THE CHARTER, BY-LAWS AND REGULATIONS**NOTE FOR THE BOARD AND COUNCIL****1. INTRODUCTION AND BACKGROUND**

- 1.1 At the EGM in July 2015, a number of motions were passed in relation to the governance of the Institute. Following the EGM, some of the issues were considered in more detail by working groups.
- 1.2 Many of changes need to be implemented by making amendments to the governing documents of the Institute. Accordingly, we have carried out a comprehensive review of the Charter, By-Laws and Regulations and made amendments to implement motions and the recommendations of the working groups.
- 1.3 We have also used this as an opportunity to improve the drafting of the By-Laws and Regulations more generally, so they are clearer and reflect the way that the Institute operates in practice. We have worked on the By-Laws and Regulations with Phil Mulligan and attach revised drafts.
- 1.4 Although we have made quite extensive amendments, where possible we have sought to maintain the order and structure of the By-Laws and Regulations, so the changes are evolutionary and it is easier to identify the amendments that are proposed to the current versions. While in some respects the documents might be improved by more radical reordering and redrafting in places, we concluded that it would be preferable for the documents to remain recognisable to members.
- 1.5 The procedure for amending a Royal Charter is more complicated and there is only one minor amendment that needs to be made to the Institute's Charter to implement the governance changes. A second technical amendment needs to be made to the Charter at the request of the Office of the Scottish Charity Regulator ('OSCR'), for the reason set out below. We also attach the Charter with the two amendments shown in tracked changes.

2. BY-LAWS

- 2.1 Some of the most substantive amendments to the By-Laws are:

- 2.1.1 Extending voting rights to grades of member specified in the Regulations, which are Academic Members, Academic Fellows and Licentiates (save that only Chartered Members and Fellows may vote on any matter that relates to changes to standards of chartership or the professional conduct of Chartered Members and Fellows and the Board or Council may at their discretion also restrict any other votes to Chartered Members and Fellows only).
- 2.1.2 Including a clear obligation for all Institute Members to comply with the Code of Conduct and new wording in relation to disciplinary procedures.
- 2.1.3 Increasing the number of Corporate Members required to requisition an EGM to 3% and including a new right for 3% of Corporate Members to put forward an item for the AGM.

- 2.1.4 Providing for an additional Trustee, being a non-Chartered Institute Member elected by the Corporate Members (ie by all voting members).
- 2.1.5 Changing references to ‘Landscape Architecture’ to ‘Landscape Practice’ throughout the By-Laws and Regulations, to reflect the language that is used in practice (but the definition of ‘Landscape Practice’ incorporates the definition of ‘Landscape Architecture’ in the Charter).
- 2.1.6 Giving Chartered Members the right to use the description ‘Chartered Member of the Landscape Institute’ and/or ‘Chartered Landscape Architect’ and/or ‘Chartered Landscape Professional’, with the ability to state the areas they practice in.

3. REGULATIONS

3.1 Some of the most substantive amendments to the Regulations are:

- 3.1.1 Removal of the ‘Affiliate’ and ‘Supporter’ categories of membership and establishment of a new ‘individual’ category of membership (which is referred to as ‘Affiliate’ membership – the same name but for a new category of membership).
- 3.1.2 Removal of the prohibition on individuals who are engaged in landscape practice from being admitted as Honorary Fellows.
- 3.1.3 New provisions to allow Corporate Members to appoint a proxy electronically and to enable Corporate Members to vote electronically or by post on resolutions/motions at a General Meeting.
- 3.1.4 The replacement of a two-stage nomination process for election to Council with a single nomination process.
- 3.1.5 More detail on the procedure for the election of Branch Representatives.

4. CHARTER

- 4.1 Clause 12 of the Charter currently provides that the Institute shall consist of Corporate Members (Fellows and Chartered Members) and Non-Corporate Members (who shall be divided into such grades as the By-Laws shall prescribe). Elsewhere in the Charter certain voting rights are given only to ‘Corporate Members’. This means that for Licentiates, Academic Members and Academic Fellows to have full voting rights in accordance with the motion passed at the EGM in July 2015 they will need to be ‘Corporate Members’ for the purpose of the Charter. This can be achieved by making a small amendment to the Charter to provide that Corporate Members include “*such other categories of Institute Member as may be specified in the By-Laws and Regulations*”.
- 4.2 The Institute is required to register with OSCR. During the application process OSCR requested that the Institute make a small amendment to the Charter, for the following reasons:
 - 4.2.1 The tests for charitable status in England & Wales and in Scotland are slightly different.

- 4.2.2 The dissolution provisions in the Charter provide that if the Institute is dissolved, any remaining assets must be passed to an organisation which has similar objects to the LI's objects or to "*some charitable object*". As the Institute is a charity in England & Wales, this means that any remaining assets on dissolution could be applied for any purpose which is charitable under the law of England & Wales.
 - 4.2.3 The concern OSCR has is that this dissolution provision would permit the assets of the Institute to be passed to an organisation that has purposes which are charitable in England & Wales, but are not also exclusively charitable in Scotland (ie a purpose which falls within the small gap where the tests for charitable purposes in England & Wales and in Scotland do not overlap).
 - 4.2.4 A charity registered in Scotland must have provisions in its constitution which restrict the organisation from distributing any of its property for a purpose that is not charitable under Scottish law.
 - 4.2.5 The solution OSCR has proposed is for the Charter to be amended to include wording which would restrict the application of the Institute's property (including on dissolution), so the assets of the Institute could only be applied for purposes which are also charitable under Scottish law.
- 4.3 The amendment required by OSCR is largely a theoretical issue, for two reasons:
- 4.3.1 OSCR appears to have accepted that the current charitable objects of the Institute are charitable under Scottish law. This means that the proposed change to the Charter should not restrict the activities that the Institute can carry out in England & Wales or in Scotland.
 - 4.3.2 If the Institute was dissolved, I expect that the members would be content for any remaining assets to be used for a purpose which falls within the Institute's charitable objects and for there to be a restriction preventing the assets being used for one of the narrow range of purposes beyond the Institute's current charitable objects which are charitable in England & Wales but not in Scotland.

5. NEXT STEPS

- 5.1 The immediate next step is for members of the Board and Council to review the latest version of the By-Laws and Regulations and confirm their approval of them. The drafts can then be sent to members.

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