Constitution

of

Open University Students Association

(An Unincorporated Association)

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Constitution

of

The Open University Students Association

BACKGROUND

A. The Open University Students Association (the “Association”) is a students’ union within the meaning of the Education Act 1994. The Association is devoted to the educational interests and welfare of its Members.

B. The Association will seek at all times to:

(i) ensure that the diversity of its membership is recognised and that equal access is available to all Members of whatever origin or orientation;

(ii) pursue its aims and objectives independent of any political party or religious group; and

(iii) pursue equal opportunities by taking positive action within the law to facilitate participation of groups discriminated against by society.

C. This Constitution has been structured to give the Board of Trustees reasonable authority to manage the affairs of the Association in a professional manner. The Members enjoy the right, which must be exercised in accordance with charity law, to elect a proportion of the Trustees and to dismiss all of the Trustees. The Board of Trustees will give the utmost consideration to the views of Members.

D. Under the Education Act 1994, The Open University has a statutory duty to ensure that the Association operates in a fair and democratic manner and is held to proper account for its finances. The Association therefore works alongside the Open University in ensuring that the affairs of the Association are properly conducted and that the educational and welfare needs of the Association’s Members are met.

Definitions and Interpretation

1. The meanings of any defined terms used in this Constitution are set out in Clause 86. If any dispute arises in relation to the interpretation of this Constitution or any of the Bye-Laws, it shall be resolved by the Board of Trustees.

Name

2. There shall be a students’ association in the name of The Open University Students Association (and in this Constitution it is called “the Association”).
Objects

3. The Association’s objects are the advancement of education of Students at The Open University for the public benefit by:

3.1 defending the principles of equal opportunity and of open access to the University regardless of academic qualifications or financial circumstances;

3.2 promoting the interests and welfare of Students at The Open University during their period of study and representing and supporting Students;

3.3 being the recognised representative channel between Students and The Open University and any other external bodies;

3.4 asserting that all students studying with the Open University have the right to have their views heard and acknowledged by the University; and

3.5 providing social, cultural, and recreational activities and forums for discussions and debate for the personal development of its Students.

Powers

4. To further its objects, but not to further any other purpose, the Association may:

4.1 provide services and facilities for Members;

4.2 establish, support, promote and operate a network of student activities for Members;

4.3 support fundraising activities carried out by its Members for Open University Student Educational Trust (OUSET), including the provision of administrative support, banking facilities and acting as a holding trustee of any funds raised;

4.4 alone or with other organisations:

4.4.1 carry out campaigning activities;

4.4.2 seek to influence public opinion; and

4.4.3 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 the activities which an English and Welsh and Scottish charity may properly undertake and provided that the Association complies with the Education Act and any guidance published by the Charity Commission and OSCR;

4.5 write, make, commission, print, publish or distribute materials or information or assist in these activities;

4.6 promote, initiate, develop or carry out education and training and arrange, provide or assist with exhibitions, lectures, meetings, seminars, displays or classes;
4.7 promote, encourage, carry out or commission research, surveys, studies or other work and publish the useful results;

4.8 provide or appoint others to provide advice, guidance and representation;

4.9 co-operate with other charities and bodies and exchange information and advice with them;

4.10 become a member, affiliate or associate of other charities and bodies;

4.11 support, set up or amalgamate with other charities with objects identical or similar to the Association’s objects, and act as or appoint trustees, agents, nominees or delegates to control and manage such charities;

4.12 purchase or acquire all or any of the property, assets, liabilities and engagements of any charity with objects similar to the Association’s objects;

4.13 raise funds and invite and receive contributions from any person provided that the Association shall not carry out any taxable trading activities in raising funds;

4.14 borrow and raise money on such terms and security as the Association may think suitable (but only in accordance with the restrictions imposed by the Charities Act 1993);

4.15 purchase, lease, hire or receive property of any kind including land, buildings and equipment and maintain and equip it for use;

4.16 sell, manage, lease, mortgage, exchange, dispose of or deal with all or any of its property (but only in accordance with the restrictions imposed by the Charities Act 1993);

4.17 make grants or loans of money and give guarantees;

4.18 set aside funds for special purposes or as reserves against future expenditure;

4.19 invest and deal with the Association’s money not immediately required for its objects in or upon any investments, securities, or property;

4.20 delegate the management of investments to an appropriately experienced and qualified financial expert provided that:

    4.20.1 the investment policy is set down in writing for the financial expert by the Trustees;

    4.20.2 every transaction is reported promptly to the Trustees;

    4.20.3 the performance of the investment is reviewed regularly by the Trustees;

    4.20.4 the Trustees are entitled to cancel the delegation at any time;

    4.20.5 the investment policy and the delegation arrangements are reviewed at least once a year;

    4.20.6 all payments due to the financial expert are on a scale or at a level which is agreed in advance and are notified promptly to the Trustees on receipt; and

and
4.20.7 the financial expert may not do anything outside the powers of the Trustees;

4.21 arrange for investments or other property of the Association to be held in the name of a nominee (being a company or a limited liability partnership registered or having an established place of business in England and Wales) under the control of the Trustees or a financial expert acting under their instructions and to pay any reasonable fee required;

4.22 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;

4.23 open and operate banking accounts and other facilities for banking and draw, accept, endorse, negotiate, discount, issue or execute negotiable instruments such as promissory notes or bills of exchange;

4.24 trade in the course of carrying out any of its objects;

4.25 establish or acquire subsidiary companies to carry on any taxable trade;

4.26 subject to Clause 5 (Limitation on private benefits), employ and pay employees and professionals or other advisors;

4.27 grant pensions and retirement benefits to employees of the Association and to their dependants and subscribe to funds or schemes for providing pensions and retirement benefits for employees of the Association and their dependants;

4.28 pay out of the funds of the Association the cost of any premium in respect of any indemnity insurance to cover the liability of the Trustees (or any of them) which by virtue of any rule of law would otherwise attach to them in respect of any negligence, default, breach of trust or breach of duty of which they may be guilty in relation to the Association provided that no such insurance shall extend to:

4.28.1 any claim arising from any liability incurred by the Trustees to pay a fine imposed in criminal proceedings or a sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature (however arising);

4.28.2 any liability incurred by the Trustees in defending any criminal proceedings in which the Trustees are convicted of an offence arising out of any fraud or dishonesty, or wilful or reckless misconduct; or

4.28.3 any liability incurred by the Trustees to the Association that arises out of any conduct which the Trustees knew (or must reasonably be assumed to have known) was not in the interests of the Association or in the case of which they did not care whether it was in the best interests of the Association or not; and

4.29 do all such other lawful things as shall further the Association's objects.

5. Limitation on private benefits

5.1 The income and property of the Association shall be applied solely towards the promotion of its objects.
5.2 Except as provided below no part of the income and property of the Association may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to any Member of the Association. This shall not prevent any payment in good faith by the Association of:

5.2.1 any payments made to any Member in their capacity as a beneficiary of the Association;

5.2.2 reasonable and proper remuneration to any Member for any goods or services supplied to the Association provided that if such Member is a Trustee Clause 5.3 shall apply;

5.2.3 interest on money lent by any Member to the Association at a reasonable and proper rate; and

5.2.4 any reasonable and proper rent for premises let by any Member to the Association.

5.3 Except as provided below no Trustee may sell goods, services or any interest in land to the Association; be employed by, or receive any remuneration from, the Association; or receive any other financial benefit from the Association. This shall not prevent any payment in good faith by the Association of:

5.3.1 any payments made to any Trustee or Connected Person in their capacity as a beneficiary of the Association;

5.3.2 reasonable and proper out of pocket expenses of the Trustees;

5.3.3 reasonable and proper remuneration to any Officer Trustee or Connected Person for any goods or services supplied to the Association on the instructions of the Trustees provided that:

   (a) for the avoidance of doubt, the authorisation under this provision shall extend to the remuneration of Officer Trustees and Connected Persons under contracts of employment with the Association;

   (b) subject to Clause 5.3.3(a), the authorisation under this provision shall not extend to the service of acting as Trustee;

   (c) if the person being remunerated is a Trustee the procedure described in Clause 67 (Conflicts of Interest) must be followed in considering the appointment of the Trustee and in relation to any other decisions regarding the remuneration authorised by this provision;

   (d) if the person being remunerated is a Connected Person the procedure described in Clause 67 (Conflicts of Interest) must be followed by the relevant Trustee in relation to any decisions regarding such Connected Person;

   (e) this provision may not apply to more than half of the Trustees in any financial year (and for these purposes such provision shall be treated as applying to a Trustee if it applies to a person who is a Connected Person in relation to that Trustee); and

   (f) at all times the provisions of the Education Act are complied with;
5.3.4 interest on money lent by any Trustee or Connected Person to the Association at a reasonable and proper rate;

5.3.5 any reasonable and proper rent for premises let by any Trustee or Connected Person to the Association;

5.3.6 reasonable and proper premiums in respect of indemnity insurance effected in accordance with Clause 4.28;

5.3.7 any payments made to any Trustee or officer under the indemnity provisions set out at Clause 84; and

5.3.8 any payments authorised in writing by the Charity Commission.

5.4 In Clauses 5.2 and 5.3, references to the Association shall be read as references to the Association and/or any Subsidiary Company.

5.5 For any transaction authorised by Clause 5.2 or Clause 5.3, the Trustee’s duty (arising under the Companies Act 2006) to avoid a conflict of interest with the Association shall be disapplied provided the relevant provisions of Clause 5.2 or Clause 5.3 have been complied with.

Incorporation

6. OUSA Conference may authorise the Trustees to transfer the assets and liabilities of the Association to a limited liability entity established for exclusively charitable purposes with the same or similar objects, and to dissolve the Association at any time following the transfer if it is considered appropriate to do so.

Dissolution

7. If any property remains after the Association has been wound up or dissolved and all debts and liabilities have been satisfied, it shall not be paid to or distributed among the trustees of the Association. It shall instead be given or transferred to some other charitable institution or institutions having similar objects to those of the Association and which prohibits the distribution of its or their income and property among its or their members to an extent at least as great as this Constitution imposes upon the Association. The institution or institutions which are to benefit shall be chosen by the Trustees of the Association at or before the time of winding up or dissolution.

Amendments to the Constitution

8. The Trustees and the Open University shall review this Constitution after 2 years from the date it comes into effect and every four years thereafter.

9. No amendment of this Constitution shall be made which would have the effect of the Association ceasing to be a charity.

10. Clause 3 (Objects) and Clause 5 (Limitation on private benefits) may not be amended without the prior written consent of the Charity Commission.

11. Save where the amendment to the Constitution is a consequential amendment due to a change in the Bye-Laws (for example, the number or heading names of Clauses), the Constitution may be amended by a
resolution of OUSA Conference passed and supported by at least 75% of those present and voting provided the Open University Council approves the amendments (as required for the purposes of compliance with Section 22 of the Education Act).

**Membership**

**Members**

12. The Members of the Association shall be as follows:

12.1 each and every registered student, aged 18 or over, who has not opted out by notifying the General Manager of his or her wish not to be a Member of the Association;

12.2 any student holding an elected or appointed position specified in this constitution who was a registered student at the time of such election or appointment;

12.3 any student who applies for and is granted extended membership to cover a gap in registered student status not exceeding twelve months;

12.4 any student under the age of 18, who shall have associate membership, the rights and privileges of which shall be determined from time to time by the Board of Trustees;

12.5 those granted various types of honorary membership which shall not confer any rights under this constitution;

12.6 the Immediate Past President who shall not have any specific rights under this constitution by virtue of holding that title.

12.7 Only those students covered by clauses 12.1 to 12.3 above shall be eligible to hold any elected position within the Association.

13. Membership shall not be transferable and shall cease on death. A Member shall automatically cease to be a Member of the Association if:

13.1 he or she ceases to be in compliance with Section 12;

13.2 in the case of Members other than the Officer Trustees, a resolution is passed at a meeting of the Trustees at which at least half of the Trustees are present resolving that the Member be expelled on the ground that his or her continued membership is harmful to or is likely to become harmful to the interests of the Association. Such a resolution shall not be passed unless the Member has been given at least 14 clear days’ notice that the resolution is to be proposed, specifying the circumstances alleged to justify expulsion, and has been afforded a reasonable opportunity of being heard by or of making written representations to the Trustees.

14. Members’ details shall be as held on the University database of registered students in the case of categories 12.1 and 12.4 and as held on the Association’s database in the case of categories 12.2, 12.3, 12.5 and 12.6.
15. Members of the Association shall be entitled to the benefits set out in the Code of Practice.

Conferences

Conference

16. The Association shall hold a biennial Conference which shall be the Association’s General Meeting. Not more than 30 months shall pass between the date of one Conference and the next. The Conference shall be held at such time and place as the Trustees shall think suitable. The Conference shall elect the Officer and Student Trustees, and Conference shall have the power to refer back any decision made by the Board of Trustees and Central Executive Committee subject to clauses 39 to 42.

Extraordinary Conference

17. The Trustees may call an extraordinary Conference at any time. The Trustees shall call such a meeting on receiving a requisition to that effect, signed by at least 5 Members of Assembly Executives, each from a different National or Regional Assembly, with the authority of their Assemblies.

Arrangements of Conferences

18. Biennial and Extraordinary meetings of Conference will be carried out by a combination of face to face and online components.

Length of Notice

19. Biennial Conference shall be called by at least ten weeks written notice and an extraordinary meeting by at least six weeks written notice.

Contents of Notice

20. Every notice calling a meeting of Conference shall specify the place, dates and time of the meeting. If the meeting is an extraordinary meeting of Conference the agenda must say so, the only item on the agenda shall be the motion from the Trustees or National or Regional Assemblies requesting the meeting. If the meeting is a Biennial Conference, the notice must say so and the business to be transacted shall include:

20.1 ratification of minutes of previous Biennial Conference;
20.2 receiving the report of the Trustees and the Central Executive Committee on the Association’s activities since the previous Biennial Conference;
20.3 election of Association Officers and Board of Trustee Members;
20.4 receiving a report on policy statements for ratification;
20.5 receiving the accounts of the Association for the completed financial years since the previous Biennial Conference;
20.6 appointment or reappointment of the auditors;
20.7 approving the list of affiliations of The Association; and

20.8 open questions to the Trustees and Central Executive Committee by the Members.

Service of Notice

21. Notice of Conferences shall be given to every active member and shall be openly published and advertised across the University community.

Quorum

22. No business shall be transacted at any Conference unless a quorum is present. No decision of Conference shall be valid if the number of delegates participating in that decision is less than 40% of registered delegates, the count of delegates will be aggregated across face to face and virtual components.

Chair

23. The President shall preside as chair of Conference or shall appoint a chair from amongst Association Officers or Immediate Past President.

Attendance

24. Trustees and Central Executive Committee Members are expected to attend and participate in all the component parts of Conferences but shall only be entitled to be registered to exercise voting rights at one component of each Conference.

25. Each registered delegate shall have one vote on all matters determined by Conference.

Votes of Members at Conference

26. Every Member has the right to register an interest to attend Conference and, where successfully appointed as a delegate member, have the right to vote. A resolution put to the vote of a Conference shall be decided by every delegate member having a single vote.

27. Every resolution put to the vote of Conference shall be decided by a simple majority of the votes cast, aggregated across component parts, unless this Constitution provides otherwise.

Appointment of Trustees

28. The Trustees shall be made up of the following persons:

28.1 not more than 4 Officer Trustees, elected in accordance with Clause 29;

28.2 not more than 4 Student Trustees elected in accordance with clause 31; and

28.3 not more than 2 External Trustees, appointed in accordance with Clause 33.

Officer Trustees

29. Up to 4 Officer Trustees shall be elected by secret ballot by the Delegate Members at Conference at an election to be held in accordance with the Bye-Laws. The
Officer Trustees shall be elected to posts set out in the Bye-Laws. The Officer Trustees shall remain in office for a term of two years commencing in accordance with the Bye-Laws. Each Officer Trustee must be a member as defined by clause 12.1 or 12.3 at the time of his or her election.

30. An Officer Trustee may be re-elected for a maximum further term of two years by the Delegate Members at Conference at an election to be held in accordance with the Bye-Laws. For the avoidance of doubt, an Officer Trustee’s terms of office may be either consecutive or non-consecutive.

Student Trustees

31. Up to 2 Student Trustees, being members of the Central Executive Committee who are not Officer Trustees, shall be elected by secret ballot of the Delegate Members of Conference at an election to be held in accordance with the Bye-Laws. Up to 2 Student Trustees, not being members of the Central Executive Committee, shall be elected by secret ballot of the Delegate Members of Conference at an election to be held in accordance with the Bye-Laws. The Student Trustees shall remain in office for a term of two years commencing in accordance with the Bye-Laws. Each Student Trustee must be a member as defined by clause 12.1 or 12.3 at the time of his or her election.

32. A Student Trustee may be re-elected for a maximum further term of two years at an election to be held in accordance with the Bye-Laws. For the avoidance of doubt, a Student Trustee’s terms of office may be either consecutive or non-consecutive.

External Trustees

33. Up to 2 External Trustees may be appointed by a 75% majority vote of the Central Executive Committee. Unless their appointment is terminated in accordance with Clauses 35 to 37, External Trustees shall remain in office for a term of up to two years commencing in accordance with the Bye-Laws.

34. External Trustees may serve a maximum of four terms which may either be consecutive or non-consecutive.

Disqualification, Resignation and Removal of Trustees

35. The office of a Trustee shall be vacated if:

35.1 he or she becomes prohibited by law from being a charity trustee;

35.2 he or she resigns by notice to the Association (but only if at least four Trustees will remain in office when the notice of resignation is to take effect);

35.3 the Trustees reasonably believe he or she is suffering from mental or physical disorder and is incapable of acting as a trustee and they resolve that he or she be removed from office;

35.4 he or she fails to attend two consecutive meetings of the Trustees and in the opinion of the Trustees there are no mitigating circumstances for that failure and the Trustees therefore resolve that he or she be removed for this reason; or
35.5 he or she is removed from office under Clause 36 or Clause 37.

Removal of Trustees by the Central Executive Committee

36. The office of a Trustee shall be vacated if:

36.1 a motion of no confidence in the Trustee is passed by a simple majority of the Central Executive Committee provided that at least two-thirds cast a vote. Such a motion shall only be triggered by a Secure Petition of no confidence signed by at least 100 Members; or

36.2 a motion of no confidence in the Trustee is passed by a 66% majority in a vote of the Central Executive Committee.

Removal of Trustees by the Board & Rights of Removed Trustee

37. The office of External Trustee shall be vacated if a majority resolution of no confidence is passed by the Trustees. For the avoidance of doubt:

37.1 the Trustee concerned and any Trustee who has a conflict of interest in relation to the matter shall not vote on this resolution and quorum shall be adjusted accordingly in accordance with clause 59;

37.2 a resolution to remove a Trustee in accordance with this Clause shall not be passed unless the Trustee concerned has been given at least 14 clear days’ notice in writing that the resolution is to be proposed, specifying the circumstances alleged to justify removal from office, and has been afforded a reasonable opportunity of being heard by or making written representations to the Trustees; and

37.3 a Trustee removed from office in accordance with this Clause shall be entitled to appeal the decision to remove him or her to an Appeals Panel within 14 days of the resolution. The Appeals Panel shall be made up of a nominee of The Open University, one independent person and a chief executive/general manager and officer of another students’ union. The independent person shall be a Member who is not a Trustee or a member of a Central or Assembly Executive. The selection of the members of the Appeals Panel and its procedures shall be set out in the Bye-Laws.

Replacement of Trustees

38. If an Officer Trustee resigns, is disqualified or removed from office at any time prior to the commencement of their term of office, the vacancy that results on the Board of Trustees shall be filled in accordance with the Bye-Laws.

If an Officer Trustee resigns, is disqualified or removed from office after the commencement of their term of office the vacancy shall be filled in accordance with the Bye-Laws. Any person elected under this Clause may be required to assume the responsibilities of the Officer Trustee.

If a Student Trustee resigns, is disqualified or removed from office at any time the vacancy that results on the Board of Trustees shall be filled in accordance with the Bye-Laws.
Powers of the Trustees

39. The Board of Trustees shall be responsible for the management and administration of the Association and (subject to the Education Act, this Constitution and the Bye-Laws) may exercise all the powers of the Association. A meeting of the Trustees at which a quorum is present may exercise all powers exercisable by the Trustees.

40. No alteration of this Constitution or the Bye-Laws shall invalidate any prior act of the Trustees which would have been valid if that alteration had not been made.

41. The Board’s powers under Clause 39 shall include but not be limited to responsibility for:

41.1 the governance of the Association;

41.2 the budget of the Association; and

41.3 the strategy of the Association.

42. The Board of Trustees may override any decision and Policy made by Conference or by the Central Executive Committee which the Trustees consider (in their absolute discretion):

42.1 has or may have financial implications for the Association;

42.2 is or may be in breach of, contrary to or otherwise inconsistent with charity or education law or any other legal requirements (including ultra vires);

42.3 is not or may not be in the best interests of the Association or all or any of its charitable objects; or

42.4 will or may otherwise affect the discharge of any or all of the responsibilities referred to in Clause 41.

43. The continuing Trustees or a sole continuing Trustee may act notwithstanding any vacancies in their number. However, if and so long as the number of Trustees is less than the number fixed as the quorum in Clause 59, the Trustees may only act to increase the number of Trustees (including by arranging an election) so that there is a quorum.

44. All acts done by a meeting of Trustees, or of a committee of the Trustees, shall be valid, even if it is later discovered that any Trustee who participated in the vote:

44.1 was not properly appointed;

44.2 was disqualified from holding office;

44.3 had vacated office; or

44.4 was not entitled to vote.

Delegation of Trustees’ powers

45. The Trustees may, by power of attorney or otherwise, appoint any person to be the agent of the Association for such purposes and on such conditions as they determine.
46. The Trustees may delegate any of their powers or functions to any committee or the implementation of any of their resolutions and day-to-day management of the affairs of the Association to any person or committee in accordance with the conditions set out in this Constitution.

Delegation to committees

47. In the case of delegation to committees:

47.1 the resolution making that delegation shall specify those who shall serve or be asked to serve on such committee (though the resolution may allow the committee to make co-options up to a specified number);

47.2 subject to Clause 50, the composition of any such committee shall be entirely in the discretion of the Trustees and may comprise such of their number (if any) as the resolution may specify;

47.3 the deliberations of any such committee shall be reported regularly to the Trustees and any resolution passed or decision taken by any such committee shall be reported forthwith to the Trustees and for that purpose every committee shall appoint a secretary;

47.4 all delegations under this Clause shall be revocable at any time; and

47.5 the Trustees may make such regulations and impose such terms and conditions and give such mandates to any such committee or committees as they may from time to time think fit.

48. The Trustees shall establish the following committees (which is a non-exhaustive list) in accordance with their powers under Clauses 46 and 47:

48.1 Appointments Committee;

48.2 Finance Committee; and

48.3 Remuneration and HR Committee.

Delegation of day-to-day management powers to General Manager

49. In the case of delegation of the day-to-day management of the Association to the General Manager:

49.1 the delegated power shall be to manage the Association by implementing the policy and strategy adopted by and within a budget approved by the Trustees and if applicable to advise the Trustees in relation to such policy, strategy and budget;

49.2 the Trustees shall provide the General Manager with a description of his or her role and the extent of his or her authority;

49.3 the General Manager shall report regularly to the Trustees on the activities undertaken in managing the Association and provide them regularly with management accounts sufficient to explain the financial position of the Association; and
49.4 the Trustees shall provide the General Manager with a performance management structure to aid his or her work plan and development.

Bank Account

50. For the avoidance of doubt, the Trustees may (in accordance with Clauses 46 and 47) delegate all financial matters to any committee provided that such committee shall include at least one Trustee. The Trustees may empower such committee to resolve upon the operation of any bank account according to such mandate as it shall think fit provided that the signature of at least one Trustee shall be required for cheques above a certain amount as set out in the Bye-Laws and provided always that no committee shall incur expenditure on behalf of the Association except in accordance with a budget which has been approved by the Trustees.

Proceedings of Committees

51. The meetings and proceedings of any committee shall be governed by the provisions of this Constitution regulating the meetings and proceedings of the Trustees so far as the same are applicable and are not superseded by any Bye-Laws made by the Trustees and the Central Executive Committee.

Proceedings of Trustees

52. Subject to the provisions of this Constitution and the Bye-Laws, the Trustees may regulate their proceedings as they think fit.

Trustees’ meetings

53. The Trustees shall hold a minimum of four meetings in any twelve month period.

54. Three Trustees may call a meeting of the Trustees.

55. Guests or observers can attend meetings of the Trustees at the discretion of the Chair.

Length of notice

56. A Trustees’ meeting shall be called by at least fourteen clear days’ notice unless either:

56.1 all the Trustees agree to shorter notice; or

56.2 urgent circumstances require shorter notice.

Contents of notice

57. Every notice calling a Trustees’ meeting shall specify the place, date and time of the meeting and the general particulars of all business to be considered at such meeting.

Service of notice

58. Notice of Trustees’ meetings shall be sent to each Trustee by post or by electronic communication.
**Quorum**

59. The quorum for Trustees' meetings shall be four and such quorum must include at least two Officer Trustees. Where the resolution or issue under discussion concerns a matter in respect of which some or all of the Trustees have a conflict of interest, the quorum shall be four.

**Chair and Deputy Chair**

60. The President shall be the Chair of the Trustees.

61. The Trustees shall appoint a Trustee to be Deputy Chair of the Trustees and may at any time remove him or her from office. The role of the Deputy Chair will be to support the Chair.

62. In the absence of the Chair and the Deputy Chair, another Trustee appointed by the Trustees present shall preside as chair of the meeting.

**Decision making by Trustees at meetings**

63. Questions arising at a meeting shall be decided by a majority of votes. In the case of an equality of votes, the Chair shall be entitled to a casting vote in addition to any other vote he or she may have.

**Virtual meetings**

64. A Trustees' meeting may be held by electronic means within an agreed timeframe provided that all Trustees have access to full participation in the meeting.

**Trustee decisions without a meeting**

65. The Trustees may take a unanimous decision without a Trustees' meeting by indicating to each other by any means, including without limitation by electronic communication, that they share a common view on a matter. Such a decision may, but need not, take the form of a resolution in writing, copies of which have been signed by each Trustee or to which each Trustee has otherwise indicated agreement in writing.

66. A Trustees' resolution which is made in accordance with Clause 65 shall be as valid and effectual as if it had been passed at a meeting of the Trustees duly convened and held, provided the following conditions are complied with:

66.1 approval from each Trustee must be received by one person being either such person as all the Trustees shall have nominated in advance for that purpose or such other person as volunteers if necessary (“the Recipient”), which person may for the avoidance of doubt, be one of the Trustees;

66.2 following receipt of response from all of the Trustees, the Recipient shall communicate to all of the Trustees by any means whether the resolution has been formally approved by the Trustees in accordance with this Clause;

66.3 the date of the decision shall be the date of the communication from the Recipient confirming formal approval; and

66.4 the Recipient prepares a minute of the decision in accordance with Clause 76.
Conflicts of Interest

67. Whenever a matter is to be discussed at a meeting or decided in accordance with Clause 65 and a Trustee has a Personal Interest in respect of that matter then he or she must:

67.1 declare his or her interest to the Trustees;
67.2 remain only for such part of the meeting as in the view of the other Trustees is necessary to inform the debate;
67.3 not be counted in the quorum for that part of the meeting (or decision-making process); and
67.4 withdraw during the vote and have no vote on the matter.

68. If any question arises as to whether a Trustee has a Personal Interest, the question shall be decided by a majority decision of the other Trustees.

The Central Executive Committee

69. The Central Executive Committee shall include:

69.1 all Association Officers;
69.2 Central Executive Committee members for Nations and Regions; and
69.3 the second student member of the Open University Council.

70. The Central Executive Committee shall meet in accordance with the Bye-Laws. The Central Executive Committee’s responsibility shall not include the duties of the Trustees as set out in Clause 39 but shall include representation and campaigning work and the implementation of Policy save in so far as these responsibilities have not been delegated to another committee.

71. The General Manager and the Association’s senior management team may attend meetings of the Central Executive Committee at the request of the Central Executive Committee.

Powers of the Central Executive Committee

72. The Central Executive Committee shall have the authority to:

72.1 represent the voice of the Students;
72.2 subject to Clause 42, set the Policy of the Association;
72.3 make, repeal and amend the Bye-Laws jointly with the Trustees in accordance with Clause 74;
72.4 receive a quarterly report from the Trustees; and
72.5 appoint honorary members in accordance with Clause 12.5 and the Bye-Laws.
73. The composition and proceedings of the Central Executive Committee shall be set out in the Bye-Laws. No Member may hold more than one seat on the Central Executive Committee at any one time.

Bye-Laws

74. The Trustees and the Central Executive Committee shall have the power from time to time to jointly make, repeal or amend Bye-Laws as to the management of the Association and its working practices provided that such Bye-Laws shall not be inconsistent with this Constitution.

General

Irregularities

75. The proceedings at any meeting or the passing of a written resolution or the making of any decision shall not be invalidated by reason of any accidental informality or irregularity (including any accidental omission to give or any non-receipt of notice) or by reason of any business being considered which is not specified in the notice.

Minutes

76. The Trustees shall keep minutes of:

76.1 all proceedings at general meetings of the Association and of meetings of the Trustees, and of committees of Trustees, including the names of the Trustees present at each such meeting; and

76.2 all resolutions of the Members and of the Trustees and any such minute, if purported to be signed by the chair of the meeting at which the proceedings were had, or by the chair of the next succeeding meeting, shall, as against any Member or Trustee of the Association, be sufficient evidence of the proceedings or the resolution.

77. The minutes of the meetings referred to in Clause 76 above shall normally be considered open and shall be available to the Members on the Association’s website, except where those minutes relate to any reserved or confidential matters, including without limitation staff-related or disciplinary matters. Copies of the minutes shall also be kept in the Association’s offices.

Accounts and Reports

78. The Trustees shall comply with the requirements of the Education Act and the Charities Act 1993 as to keeping financial records, the audit or examinations of accounts.

79. The Members of the Association have the right to ask the Trustees questions in writing about the content of any documents referred to in Clause 78.

Notices

80. Subject to Clause 81, any notice to be given to or by any person pursuant to this Constitution shall be in writing.
81. The Association may give any notice to a Member either:

81.1 personally;

81.2 by sending it by post in a prepaid envelope addressed to the Member at his or her address;

81.3 by leaving it at the address of the Member;

81.4 by electronic communication to the Member’s address; or

81.5 by posting it on the Association’s website.

82. A Member present at any meeting of the Association shall be deemed to have received notice of the meeting and, where requisite, of the purpose for which it was called.

83. Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given. A notice shall be deemed to be given at the expiration of 48 hours after the envelope containing it was posted or, in the case of a notice contained in an electronic communication, at the expiration of 48 hours after the time it was sent or in the case of a notice posted on the Association’s website at the expiration of 48 hours after it was posted.

Indemnity

84. Without prejudice to any indemnity to which a Trustee may otherwise be entitled, every Trustee shall and every other officer or auditor of the Association may be indemnified out of the assets of the Association against any liability incurred by him or her in defending any proceedings, whether civil or criminal, in which judgment is given in his or her favour or in which he or she is acquitted or in connection with any application in which relief is granted to him or her by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Association, and against all costs, charges, losses, expenses or liabilities incurred by him or her in the execution and discharge of his or her duties or in relation thereto.

Trustees’ Indemnity Insurance

85. The Trustees shall have power to resolve pursuant to Clause 4.28 to effect trustees’ indemnity insurance, despite their interest in such policy.

Definitions and Interpretations

86. In this Constitution, the following terms shall have the following meanings:

<table>
<thead>
<tr>
<th>Term</th>
<th>Meaning</th>
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<tbody>
<tr>
<td>86.1 “Association”</td>
<td>The Open University Students Association:</td>
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<td>86.2 “Association Officers”</td>
<td>the President, Deputy President and Vice Presidents, including those who are Officer Trustees</td>
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<tr>
<td>Section</td>
<td>Term</td>
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<td>86.3</td>
<td>“Board of Trustees” or “Board”</td>
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<td>86.12</td>
<td>“Education Act”</td>
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<td>86.13</td>
<td>“External Trustee”</td>
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office holder for the purposes of Section 22 of the Education Act;

86.14 “Full Term” A full term is defined as having completed fifteen months out of a twenty four month term;

86.15 “General Manager” the General Manager of The Association who is appointed by the Board of Trustees;

86.16 “in writing” means written, printed or transmitted writing including by electronic communication;

86.17 “Members” members of the Association being Students at the Open University (as further defined in Clause 12.1) and the Officer Trustees;

86.18 “Office” the head office of the Association;

86.19 “O S C R” Office of the Scottish Charity Regulator;

86.20 “Officer Trustee” an Association Officer elected in accordance with Clause 29 and therefore being a Trustee;

86.21 “The Open University” The Open University, incorporated by Royal Charter (RC 000391), an exempt charity in England & Wales and a charity registered in Scotland (SC 038302).

86.22 “Open University Students Educational Trust” Open University Student Educational Trust is a Charity operated by the Association and is registered with the Charity Commission with Registration Number 285189 and SCO 38300.

86.23 “Personal Interest” a financial interest or an interest that does not arise in the ordinary course of being a Member or a Trustee (for example, being a member of a club or society);

86.24 “Policy” representative and campaigning policy set by Conference or the Central Executive Committee in accordance with Clauses 16 to 17 and Clause 72.2 respectively;

86.25 “President” the president of the Association, as elected by the Members in accordance with the Bye-Laws;

86.26 “Regions and Nations” the OUSA Regions and Nations as defined in the Bye-Laws;
86.27 “Secure Petition” a written request to the Association which shall be fixed in a pre-arranged place or places or held securely on-line;

86.28 “Student” any individual who is formally registered for an approved programme of study provided by the Open University. For the avoidance of doubt, the Open University shall determine whether or not an individual has student status;

86.29 “Student Trustee” a Trustee elected in accordance with Clause 31;

86.30 “Subsidiary Company” any company in which the Association holds more than 50% of the shares, controls more than 50% of the voting rights attached to the shares or has the right to appoint a majority of the board of the company;

86.31 “Trustee” and “Trustees” the Officer Trustees, the Student Trustees, and the External Trustees;

87. Words importing the singular shall include the plural and vice versa and words importing the masculine shall include the feminine and vice versa.

88. Any reference to a statute, statutory provision or subordinate legislation ("legislation") shall (except where the context otherwise requires) be construed as referring to such legislation as amended and in force from time to time and to any legislation which (either with or without modification) re-enacts, consolidates or enacts in rewritten form any such legislation.

Annexe to the Constitution:

1. This Annexe shall exist until OUSA Conference 2012

2. Those members elected to serve on the Executive Committee for the period until the Association’s Conference in June 2012 shall be deemed collectively to comprise the Central Executive Committee (C E C) with authority to carry out all the duties ascribed to the C E C under the Constitution.

3. Those members elected to the following positions at Conference 2011:
   - President
   - Deputy President
   - Vice President Finance
   - Vice President Constitutions
   - Student Trustees (x 4)
shall be deemed to be Trustees and will form the Board of Trustees with authority to carry out all the duties ascribed to the Board of Trustees under the Constitution.

4. Until Bye-Laws are created governing the conduct of elections to casual vacancies for any of the above positions, such elections shall be conducted in accordance with the rules existing under OUSA’s previous Constitution.

5. The C E C (as defined in paragraph 2 above) are charged with the responsibility of implementing the new Constitution as expeditiously as possible and in accordance with the following principles:

   a. Bye-Laws and other organisational arrangements should embody the policies on Futures agreed by the Association’s Conference

   b. National and Regional Assemblies already in existence will be recognised under the new Constitution and will not be required to undergo further annual elections until the Bye Laws prescribe a common, annual election process. However, they will be able to request inclusion in the schedule of elections referred to at c.

   c. Forums operating under the old Constitution will continue to be recognised until the C E C has agreed with them a schedule of elections to create their Assemblies; such elections will have been completed by the end of 2011

   d. There will be a properly specified procedure for winding up branches and forums.