



THE BESA CONSTITUTION

16th EDITION | July 2018

The 16th Edition (July 2018) of the Building Engineering Services Association's Constitution



Table of contents

1	General	7
1.1	Name	7
1.2	Principal office	7
1.3	Scope	7
1.4	Objects	7
2	Membership of the BESA	8 - 11
2.1	Qualification	8
2.2	Compliance with the Constitution	8
2.3	Observance of standards	8
2.4	Affiliated Member	8
2.5	Admission	8
2.6	Register of Members	8
2.7	Refusal to admit	8
2.8	Appeal against refusal to admit	8
2.9	Resignation	9
2.10	Termination	9
2.11	Suspension and expulsion	9
2.12	Intellectual Property	10
2.13	Restriction on Multiple Members	10
2.14	Disputes prior to membership	10
2.15	Information of relevance to the BESA	10
2.16	Complaints by Members about the BESA	11
3	Trustees	11
4	Council	11 - 12
4.1	Purpose and authority	11
4.2	Composition	12
4.3	Qualification	12
4.4	Limit per Member	12
4.5	Industrial relations	12
4.6	Consultation with Members	12
4.7	Council meetings	12
4.8	Voting at Council	13
4.9	Notice of Council	13
5	Officers	13
6	Board	13 - 15
6.1	Purpose and authority	13
6.2	Duty of Care	14
6.3	Eligibility for the Board	14
6.4	Number of Board members	14

6.5	Appointment of a person to the Board.....	14
6.6	Information for new members of the Board	14
6.7	Retirement and removal of members of the Board.....	15
6.8	Taking of decisions by the Board.....	15
6.9	Delegation by members of the Board	15
6.10	Meetings and proceedings of the Board.....	15
7	BESA Committees, regions and groups	16
8	Chief Executive.....	16
9	AGM, SGM and meetings	16 - 19
9.1	Preliminary notification to Members.....	16
9.2	Nominations by Members	16
9.3	GMs.....	16
9.4	SGMs	17
9.5	Notice of AGMs/SGMs.....	17
9.6	Representation of Members.....	17
9.7	Voting at GMs	17
9.8	Proxy voting	17
9.9	Ballot and the counting of votes.....	18
9.10	Postal and electronic voting	18
9.11	Meeting rules.....	19
9.12	Chair - GMs, Council and Board.....	19
9.13	Casting vote	19
10	Subscriptions.....	19 - 21
10.1	Annual subscription.....	19
10.2	Return of Wages and Turnover.....	20
10.3	Assessment.....	20
10.4	Composition of subscription.....	20
10.5	Special arrangements	20
10.6	Entrance fee.....	21
10.7	Additional Subscriptions.....	21
10.8	Direction of subscriptions.....	21
11	Funds.....	21 - 22
11.1	Regulation of funds	21
11.2	Banking accounts.....	21
11.3	Payments	21
11.4	Borrowing powers	21
11.5	Accounting records	21
11.6	Statement and inspection of accounts.....	21
11.7	Guarantee scheme funds.....	22
11.8	Auditors	22
11.9	Investment of funds.....	22
11.10	Direction of funds	22
12	Miscellaneous	22 - 25
12.1	Use of electronic communications	22
12.2	Saving provisions	23
12.3	Execution of documents.....	23
12.4	Provisions for dissolution	23
12.5	Collective responsibility.....	23

12.6	Removal from office	24
12.7	Conflicts of interest	24
12.8	Indemnity.....	24
12.9	Amendment of the Constitution.....	25
12.10	Interpretation	25
12.11	Notices	25
SCHEDULE 1.....		27- 30

This CONSTITUTION came into operation on July 2016 and superseded all previous constitutions, rules or bye-laws.

1 General

1.1 Name

The name of the association shall be the **Building Engineering Services Association**, hereinafter called **the BESA** (which shall for the avoidance of doubt include reference to any company within the BESA corporate group for the purposes of the Companies Act 2006).

1.2 Principal office

The principal office of the BESA will be confirmed by the Board from time to time.

1.3 Scope

The BESA will implement the Objects within the Scope.

1.4 Objects

The principal object of the BESA is to promote, safeguard, protect, improve and represent, the interests of Members and the sectors in which they are engaged, relevant to the Scope of the BESA and the value of BESA membership, which shall, for the avoidance of doubt, include, but not be limited to, where necessary:

- 1.4.1 **Management** - applying the BESA's funds, assets and resources toward securing the success of the Objects; together with endeavouring to settle differences that may arise amongst Members and to promote wider and more ethical intercourse between persons engaged in any sector of the industry.
- 1.4.2 **Policy** - establishing mutual support and co-operation in dealing with challenges, demands, innovations, research and actions or proceedings threatened or undertaken, on all matters or questions affecting the general and common interests of the Members. This will include acting jointly by federation, amalgamation or co-operation or otherwise, to secure the equitable carrying out of the Objects with other bodies or persons.
- 1.4.3 **Technical** - promoting and maintaining high standards of workmanship and service in the industry together with pioneering technical engineering and technological innovations and processes.
- 1.4.4 **Employment** - regulate relations between employers and workers, including those otherwise connected/engaged and organisations of workers in the industry including taking such action as may be necessary or desirable for the purpose of avoiding industrial disputes and negotiate with the appropriate trade union or unions the wages, salaries and conditions of employment appertaining to persons employed or otherwise connected with the industry.
- 1.4.5 **Skills** - promote and support policy concerning the skills basis and requirements of the industry and initiatives for persons (including apprentices) employed or otherwise connected or engaged with the industry, facilitating delivery and implementation of those policies by engaging with, informing and driving training supply.
- 1.4.6 **Legal and commercial** - giving Members such legal or other assistance and tools as shall appear proper or desirable together with suitable representation, involvement, action, conduct or proceedings to resist unduly restrictive conditions upon any part of the industry, and influencing legislation and other measures which may affect or tend to affect the interests of the industry.
- 1.4.7 Doing all such other lawful things as are in the opinion of the Board, incidental or conducive to the attainment of the above objects.

2 Membership of the BESA

2.1 Qualification

Members shall consist of sole traders, partnerships and registered companies who are operating within the Scope and which comply with the requirements of the CAS.

2.2 Compliance with the Constitution

Members shall:

2.2.1 abide by and comply with the Constitution and rules of the BESA

2.2.2 settle any liability in accordance with and arising under clause 10, and

2.2.3 comply with any scheme introduced thereunder including any scheme whereby members are required to guarantee their materials and workmanship.

2.3 Observance of standards

Unless otherwise requested by a client, a Member shall undertake works and insofar as the works are designed by that Member, design the works all in accordance with the requirements of the CAS and such standards as may from time to time be issued or specified by the BESA and which are appropriate to the works.

2.4 Affiliated Member

The BESA may at its discretion provide services to an Affiliated Member on such terms as may be decided by the Board. The BESA may at its discretion provide services to any additional classes of membership on such terms as may be agreed by the Council.

2.5 Admission

Applications for admission to membership shall be made under a process approved by the Board. Applications, which have been certified as compliant with the requirements of the CAS shall be considered by the Board. The Board under powers hereby delegated by the Council shall decide whether any application for membership shall be approved.

2.6 Register of Members

The Board shall keep a correct register of Members, which shall contain the full name and address of every Member and Affiliate Member, and any other particulars the Board may direct. Any Member or Affiliate Member, on reasonable written request to the Board, may inspect the register.

2.7 Refusal to admit

In its discretion the Board of the BESA may refuse admission to any applicant where, its operations fall outside the Scope or by its conduct, it can be demonstrated that the applicant is likely to bring the BESA into disrepute or act otherwise in any way contrary to the Objects, interests of the BESA or its Members.

2.8 Appeal against refusal to admit

Any sole trader, partnership or registered company apparently eligible for membership of the BESA whose application for membership, made in accordance with this Constitution is rejected by the Board shall, as soon as practicable, be notified in writing of such rejection and shall have the right to appeal, at its own cost, to a legally qualified arbitrator appointed by the President for the time being of the Chartered Institute of Arbitrators provided that it shall be a condition precedent to that party's right to appeal that it shall have given the BESA notice of any such appeal in writing within 28 days from the day on which notice of rejection was dated. The party applying for membership and the BESA shall take the decision of such arbitrator as set forth in any report or award signed by him/her as final and conclusive as between the applicant and the BESA.

2.9 Resignation

- 2.9.1 Any Member wishing to resign from the BESA shall give at least 3 calendar months' notice to the BESA in writing addressed to the association secretary and sent by recorded delivery post and shall be liable to pay the unpaid balance of the Annual Membership Fee.
- 2.9.2 Each resigning Member shall be liable for the proper proportion (as allocated by the Board) of the costs of the CAS and any additional Subscriptions made subsequent to the Member's resignation in respect of expenses incurred by the BESA before the Member's resignation.
- 2.9.3 Upon resignation, a Member shall cease to have any interest in or claim upon any of the funds of the BESA.

2.10 Termination

- 2.10.1 If a Member becomes Insolvent then the Member shall immediately inform the BESA in writing of any such occurrence and the BESA shall be entitled at its discretion to terminate the membership.
- 2.10.2 If a Member, being a sole trader, becomes Incapacitated then the BESA shall be entitled at its sole absolute discretion to terminate that Member's membership.
- 2.10.3 In the event of membership terminating under this clause (2.10), the Member shall forfeit all claim to a return of the money paid by it to the BESA on its admission as a Member thereof, and by way of subscriptions, fees or charges, but, other than cessation of membership due to Incapacity, shall remain liable for any arrears thereof to the date of cessation of membership.

2.11 Suspension and expulsion

- 2.11.1 The BESA shall be entitled to expel or suspend any Member who:
 - a) fails to pay its Annual Subscription or other levy properly due to the BESA
 - b) makes a false or deliberately misleading declaration about the information on which its membership subscription or any other levy is calculated
 - c) fails materially to comply with the requirements of the CAS or provides information which is false or deliberately misleading in relation to those requirements
 - d) by its conduct brings or is likely to bring the BESA into public disrepute, or otherwise acts in any way contrary to the interests of the BESA
 - e) fails materially to observe any obligations of membership of the BESA set out in this Constitution.
- 2.11.2 A Member may be expelled from the BESA by resolution of Council or the Board.
- 2.11.3 A Member may be suspended for a period not exceeding 12 months by resolution of the Board.
- 2.11.4 A Member shall be given at least 28 days' written notice, with reasons, of an intended resolution to expel or suspend that Member. In all cases other than a resolution for expulsion for failure to pay its Annual Subscription, the Member shall be entitled to make representations in writing to, or to be heard at, the meeting of the Board, as the case may be, at which such resolution is considered.
- 2.11.5 Where a Member, which forms part of a Multiple Member, is suspended or expelled the Board may, at its discretion, suspend or expel any or all of the other Members comprising that Multiple Member.
- 2.11.6 Any resolution of the Board for the expulsion of a Member shall be notified to the Member in writing by the 14th day following that resolution and a Member who is expelled for a reason other than non-payment of subscriptions or other levy shall have the right to appeal to an independent arbitrator appointed by the President for the time being of the Chartered Institute of Arbitrators provided that notice of such appeal shall be given to the BESA in writing within 28 days from the day on which the Member was given notice of the resolution.

The decision of such arbitrator as set forth in any report or award signed by him/her shall be final and binding as between the Member and the BESA. The resolution of the Council shall not become effective while the right to appeal remains or an appeal is undecided.

- 2.11.7 A Member expelled under this clause shall, without prejudice to any right of appeal, cease to be a Member and shall forfeit all claim to a return of money paid to the BESA on admission as a Member by way of subscription, fees or charges or other levy, but shall remain liable for any arrears thereof together with any costs properly incurred by the BESA in legal proceedings to obtain payment.
- 2.11.8 Subject to the discretion of the Board, if a Member fails to pay its Annual Subscription by 31 August, he shall be given 28 days' notice in writing and, if at the expiry of such notice its Annual Subscription remains unpaid, its membership shall be suspended until its Annual Subscription is paid. During the period of suspension, whether for non-payment of Annual Subscription or for a breach under this clause (2.11), the Member shall be debarred from participation in all services and facilities then available for the benefit and advantage of Members. A Member shall remain liable to pay Annual Subscriptions, the appropriate cost for the CAS and other levy during the period of suspension and no rebate shall be allowed from such Member's Annual Subscription, fees or charges, on account of the period of suspension.
- 2.11.9 During the period of suspension, a Member is still required to adhere to this Constitution, the requirements of the CAS, and any codes or schemes prescribed by the BESA and required of its Members.

2.12 Intellectual Property

- 2.12.1 A BESA member shall have a non-exclusive royalty free licence to use any IPR authorised for use by the Board in relation to its activities and the promotion thereof that fall within the Scope while it remains a Member, but shall not acquire any rights therein other than that of a licence enduring for the term of its membership.
- 2.12.2 For the avoidance of doubt, the licence referred to in clause 2.12.1 in the IPR shall cease upon termination of the Member's membership whereupon the Member terminating membership shall remove the IPR from all documents, stationery, vehicles, property and buildings and shall not use any IPR which is the same as or confusingly similar to any of the IPR, and if requested by the BESA shall return to the BESA any materials bearing the IPR which are in the Member's possession.
- 2.12.3 No Member shall use, or assist others to use, any IPR that is similar to, the same as, or likely to be confused with the IPR owned or used by the BESA.

2.13 Restriction on Multiple Members

For the purposes of clauses 4.2, 10.4.3, and 10.4.4, Multiple Members shall be deemed to constitute a single Member and the rights of such Multiple Members under clauses 9.2, 9.3, 9.4 and 9.7 in respect of nomination and voting shall accordingly be restricted to those of a single Member. The decision of the Board as to whether any two or more Members constitute a Multiple Member shall be final and binding on the Members concerned.

2.14 Disputes prior to membership

No person or persons, sole trader, partnership, company or corporation joining the BESA shall be entitled to the benefits of the BESA in connection with any strike, dispute or other disagreement which commenced before the application for membership was accepted by the Board, except upon a resolution of no less than 75% of the Members in attendance at a GM.

2.15 Information of relevance to the BESA

For the information and guidance of the BESA, Members shall advise the BESA of matters that they consider likely to affect the interests of the industry.

2.16 Complaints by Members about the BESA

- 2.16.1 Any formal complaint by a Member that action contrary to the Constitution or rules of the BESA has been taken by any Member or official of the BESA, shall be fully and fairly investigated by the Council, provided that the complaint be delivered to the association secretary in writing stating:
- a) the identity of the complainant
 - b) the identity of the Member or official whose action is the subject of the complaint, and
 - c) the action complained of and the clause(s) alleged to have been contravened by that action.
- 2.16.2 The association secretary shall, on receipt of such a complaint, inform the Board who may at their discretion conduct preliminary enquiries, but shall refer the complaint either to a special meeting of the Council convened for the purpose or to the next ordinary meeting of the Council as may be expedient.
- 2.16.3 Any Member or official whose action or conduct is the subject of an investigation by the Council shall, not less than 28 days before the meeting of the Council to which the complaint is to be referred, be supplied with a copy of the complaint and shall be entitled to make representations in writing to the Council. The Member making the complaint shall be informed in writing of the decision of the Council, which decision shall be final.
- 2.16.4 Any complaint by a Member that the BESA has taken action contrary to the Constitution shall be made and investigated in like manner as a complaint under clause 2.16.1, but any Member making such a complaint who is not satisfied that the Council has taken adequate steps to explain or correct the action complained of may require the complaint to be referred for investigation to an independent arbitrator appointed by the President for the time being of the Chartered Institute of Arbitrators and the decision of such arbitrator as set forth in any report or award signed by him/her shall be final and binding as between the Member and the BESA.

3 Trustees

- 3.1 Three Trustees will be appointed from among the Members (for the avoidance of doubt, Trustees must be Member Representatives) by the Members at a GM to jointly and severally hold the property of the BESA on trust for the Members as a whole and represent Council's interests. The Trustees will individually and collectively act within the Scope according to the Objects.
- 3.2 Trustees will be guided by and report to the Council and be entitled to attend meetings of the Board as observers (which for the avoidance of doubt entitled them to fully participate in discussions of the Board, but will not be considered members of the Board and will therefore not be entitled to vote at the Board).
- 3.3 No person shall be appointed a Trustee if he/she is a director of any of the companies, within the group controlled by the BESA.
- 3.4 A meeting of the Trustees shall be called by the association secretary at least once every 6 months.
- 3.5 Each Trustee will remain in office for no more than 4 consecutive years. Upon the expiry of the term of office, the Trustee will automatically retire, but will be eligible for re-election.

4 Council

4.1 Purpose and authority

The overall vision, mission, strategy, management and control of the BESA for delivery of the Objects, shall be vested by the Members in the Council. Subject to the provisions of the Constitution, the Council is the supreme governance body of the BESA and will exercise plenary powers in the management of the business and affairs of the BESA, including the management of its Board, property and funds, and the application and disposal thereof. Council delegates

authority to deal with such matters to the Officers and the Board in accordance with the Constitution.

4.2 Composition

The members of Council shall consist of:

4.2.1 the Officers

4.2.2 the Trustees

4.2.3 up to 4 elected representatives who shall be elected, in accordance with clause 9.2

4.2.4 representatives from Committees, Regions and Groups, and

4.2.5 the chief negotiators for the relevant trade union agreements.

Staff of the BESA will be entitled, by invitation of the members of Council, to attend a meeting of Council as observers, but who for the avoidance of doubt, shall be entitled to participate fully in Council meetings but shall not be entitled to vote.

4.3 Qualification

The Council shall comprise only those representatives who are actively engaged and employed in the day-to-day management, administration and operation of a Member business. Each member of Council will remain in office for no more than 4 consecutive years. Upon the expiry of the term of office, the member of the Council will automatically retire. A member of Council may nominate an alternate proxy representative to attend Council meetings on their behalf, who for the avoidance of doubt, shall be entitled to participate fully in Council meetings but shall not be entitled to vote.

4.4 Limit per Member

No Member including a Multiple Member shall have more than one person on the Council except that 2 persons from the same Member may be allowed if one of them is an Officer of the BESA.

4.5 Industrial relations

Only the Council or the Members in GMs, or in emergency, one of the Officers, (who shall use reasonable endeavours to consult with the Board) if in their opinion action was required before a meeting of the Council could be held, shall have power to give instructions on behalf of the BESA about industrial action and instructions shall only be so given when industrial action is necessary to maintain the Objects.

4.6 Consultation with Members

Subject to the powers conferred on the Officers by clause 4.5, neither the Council nor any of its expressly authorised Committees, Regions or Groups shall make agreements on matters of general national interest to the industry, such as wage agreements with trade unions, without prior consultation with the Members either directly through Regions and Groups, or by SGM. If on any matter of general national interest a SGM is demanded in accordance with clause 9.4, the Council shall take no action on the matter until the SGM is held.

4.7 Council meetings

Meetings of the Council shall be called by the Officers on a frequency to be determined by Council. Additional meetings of the Council shall be called by the Officers on the requisition of the Board or 3 members of Council. The Officers shall inform the Association Secretary of any additional meetings, who shall schedule a meeting for the earliest convenient date.

4.8 Voting at Council

No decision shall be taken at a meeting unless a Quorum is present at the time when the decision is taken. A member of the Council shall not be counted in the Quorum present when any decision is made about a matter upon which he/she is not entitled to vote. Each member of the Council shall have one vote and in the event of an equality of votes, the chair for the time being shall have a casting vote, in addition to its deliberative vote.

4.9 Notice of Council

At least 4 working days' and a maximum of 60 days' notice of Council meetings called under clause 4.7 (exclusive of the day on which the notice is served, or deemed to be served, but inclusive of the day of the meeting) shall be given by the association secretary in writing, specifying the day, place and hour and the nature of the business.

5 Officers

5.1 The BESA shall have 4 Officers.

5.2 The President-Elect and Vice-President will be elected by the Members. The Officers shall be ex officio members of all Committees, Regions and Groups.

5.3 The President-Elect and Vice-President shall be elected annually by the Members at an AGM, but shall not be eligible for re-election.

5.4 On retirement of the President, the President-Elect shall succeed as President if he/she is able to serve. If the President-Elect is unable to serve as President, a President shall be elected by the Members.

5.5 On retirement of the President, the President will become the Immediate-Past President for the year following his/her presidency.

5.6 The President shall not hold office for more than 2 consecutive years, plus any period spent filling a vacancy among the Officers.

5.7 On appointment to office, Officers shall be actively engaged and employed in the day-to-day management, administration and operation of a Member business. If any Officer, during their term of office, ceases to be employed by a Member business, they shall be entitled to continue with their duties for a period of 6 months, however they shall not be entitled to vote at any meetings. On the expiry of the aforementioned 6 months period, the Officer shall automatically retire and not be entitled to re-election unless they become employed by a Member company before the expiry of this 6 month period.

5.8 The Council may appoint a person to any vacancy among the Officers, which occurs during the course of the year.

5.9 Subject to the provisions of the Constitution, in matters of urgency, where the Chief Executive is unable to act, the Officers, shall be entitled to exercise on behalf of the BESA such plenary powers as he/she may in his discretion think fit, but the exercise of such powers shall be subject to ratification by the Council at the earliest opportunity.

6 Board

6.1 Purpose and authority

6.1.1 Delivery of the overall vision, mission, strategy and management of the BESA for delivery of the Objects, shall be tasked by the Council to the Board. Subject to the provisions of the Constitution, the Board shall in accordance with clause 4.1 manage the business and affairs of the BESA, including the management of its property and funds, and the application and disposal thereof.

6.1.2 In matters of urgency, where the Board is unable to act, the Chief Executive and one of the Officers shall be entitled to exercise on behalf of the Members such powers as he may in

his/her discretion think fit, but the exercise of such powers shall be subject to ratification by the Board at the earliest opportunity.

6.1.3 The members of the Board shall manage the affairs of the BESA according to the Objects and may for that purpose (except where otherwise stated within this Constitution) exercise all the powers of the Council with delegated authority therefrom.

6.1.4 The Board will report to, and be subject to the authority of, the Council.

6.2 Duty of Care

Subject to this Constitution, the members of the Board shall:

6.2.1 exercise his/her powers and perform his/her functions on behalf of the BESA in the way he/she decides in good faith would be most likely to further the Objects of the BESA, and

6.2.2 exercise, in the performance of those functions, such care and skill as is reasonable in the circumstances having regard in particular to:

- a) any special knowledge or experience that he/she has or holds himself/herself out as having, and
- b) if he/she acts as a member of the Board of the BESA in the course of a business or profession, to any special knowledge or experience that it is reasonable to expect of a person acting in the course of that kind of business or profession.

6.3 Eligibility for the Board

Every member of the Board must:

6.3.1 be a natural person

6.3.2 if non-executive, be a Member Representative

6.3.3 not be either a Trustee or Incapacitated

6.3.4 have expressly acknowledged in whatever way the Board decides, his/her acceptance of the office of member of the Board,

6.4 Number of Board members

The Board will consist of 9 members including the Officers, 3 Member Representatives, Finance Director and the Chief Executive. If the number falls below 5 minimum, the remaining members of the Board may act only to call a meeting of the members of the Board to nominate a new member of the Board. Such nomination will be subject to ratification by the Council at the earliest opportunity.

6.5 Appointment of a person to the Board

6.5.1 Each non-executive member of the Board will remain in office for no more than 4 consecutive years. Upon the expiry of the term of office, the member of the Board will automatically retire.

6.5.2 The members of the Board may at any time decide to nominate a new non-executive member of the Board, whether in place of a member of the Board who has retired or been removed in accordance with clause 12.6. All nominations to the Board under this clause are to be ratified by the Members at the earliest opportunity.

6.6 Information for new members of the Board

The current members of the Board will make available to each new member of the Board, on or before his/her first appointment:

6.6.1 a copy of this Constitution and any amendments made to it, and

6.6.2 a copy of the BESA's latest annual report and statement of accounts.

6.7 Retirement and removal of members of the Board

A Board member ceases to hold office if he or she:

- 6.7.1 retires by notifying the Board in writing
- 6.7.2 is absent without the permission of the members of the Board from all their meetings held within a period of 6 months and the remaining members of the Board and/or Council resolve that his/her office be vacated
- 6.7.3 is Incapacitated, or
- 6.7.4 is removed by the members of the Council in accordance with clause 12.6.

6.8 Taking of decisions by the Board

Any decision may be taken either:

- 6.8.1 at a meeting of the Board, or
- 6.8.2 by resolution in writing or electronic form agreed by all of the members of the Board, which may comprise either a single document or several documents containing the text of the resolution in like form to each of which one or more members of the Board has signified their agreement.

6.9 Delegation by members of the Board

- 6.9.1 The members of the Board may delegate any of their powers or functions to a Committee, Region or Group, and, if they do, the Chief Executive shall develop the terms and conditions on which the delegation is made. The Chief Executive may recommend to the Board at any time that those terms and conditions are altered, or the delegation is revoked.
- 6.9.2 This power is subject to the following requirements:
 - a) the acts and proceedings of any Committee, Region or Group must be brought to the attention of the Board as a whole as soon as is reasonably practicable, and
 - b) the Board shall from time to time review the arrangements that they have made for the delegation of their powers to each Committee, Region or Group.

6.10 Meetings and proceedings of the Board

6.10.1 Calling meetings

Meetings of the Board shall be called at least every 3 months by the association secretary. Subject to that, the members of the Board shall decide how their meetings are to be called, and what notice is required.

6.10.2 Procedure at meetings

No decision shall be taken at a meeting unless a Quorum is present at the time when the decision is taken. A member of the Board shall not be counted in the Quorum present when any decision is made about a matter upon which he/she is not entitled to vote.

6.10.3 Questions

Questions arising at a meeting shall be decided by a simple majority of those eligible to vote.

6.10.4 Participation in meetings by electronic means

A meeting may be held by suitable electronic means agreed by the members of the Board in which each participant may communicate with all the other participants. Any member of the Board participating at a meeting by suitable electronic means agreed by the members of the Board in which a participant or participants may communicate with all the other participants shall qualify as being present at the meeting. Meetings held by electronic means must comply with rules for meetings under clause 9.11.

7 BESA Committees, regions and groups

- 7.1 The Board (with ratification from Council), shall in the furtherance of the Objects:
- 7.1.1 establish, authorise, manage and restructure the Regions and Groups (as appropriate), to ensure each geographical, and special interest grouping from within the Members is actively engaged by the Board and Council
 - 7.1.2 establish, authorise, manage and restructure the Committees (as appropriate), to ensure each of the Objects is actively pursued with engagement by the Board and Council with the Members, and
 - 7.1.3 delegate to such Committees, Groups or Regions such powers as the Board may deem expedient and proper, provided that such powers are within the powers of the Board and the Constitution and rules of the BESA for the time being.
- 7.2 Any Committee, Region or Group shall be empowered to deal with all matters affecting their unique interests, but no resolution or act of such a group incurring expenditure on behalf of the BESA or to bind the BESA to any agreement shall be put into effect unless and until confirmed by resolution of the Board.

8 Chief Executive

- 8.1 Council will appoint a Chief Executive of the BESA.
- 8.2 The Chief Executive will report to and be subject to the authority of, the Board and the Council.
- 8.3 Subject to the provisions of the Constitution, Council shall determine the matters to be reserved to the Board. Responsibility and authority for the delivery of the overall vision, mission, strategy, management and control of the BESA for delivery of the Objects, shall be delegated by the Board to the Chief Executive in accordance with the Authority Structure.

9 AGM, SGM and meetings

9.1 Preliminary notification to Members

Members shall be notified at least 30 days before the GM of the BESA of: the names nominated by the Council for: Vice-President and President-Elect (and for President where the President-Elect is unable to serve), together with elected Member Representatives to become members of Council, elected Member Representatives to become members of the Board and elected Member Representatives to become Trustees.

9.2 Nominations by Members

Each Member shall have the right to notify the Board, in writing at least 20 days before the date of the relevant GM, of any other nominations for President-Elect and Vice-President, elected Member Representatives to become members of Council, elected Member Representatives to become members of the Board and elected Member Representatives to become Trustees and for President where the President-Elect is unable to serve.

9.3 GMs

- 9.3.1 AGMs (or in times of emergency SGMs), shall be held at least annually for the transaction of any appropriate business of the BESA, at a place and at a time determined by the Board. At which the election of the Officers and Council representatives under clause 9.3.2 and the appointment of auditors under clause 11.8 shall be concluded. At each AGM, a duly audited statement of accounts for the preceding financial year shall be submitted.
- 9.3.2 At the AGM, the election of the Officers shall be by secret ballot and each Member (subject to clause 2.13) shall be entitled to vote and those who vote shall vote for a number of candidates equal to the number of vacancies to be filled. In the event of the number of candidates being less than the number of vacancies, the candidates shall be deemed to be elected.

9.4 SGMs

On the requisition of 2 Officers or any 10 Members, the Board will convene a SGM. Any requisition from the Members must be in writing and state the business to be brought before the meeting.

9.5 Notice of AGMs/SGMs

9.5.1 21 Days' notice of AGMs, or

9.5.2 7 Days' notice of SGMs (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day of the meeting)

shall be given in writing by the Board to each member specifying the place, day and hour of the meeting and the nature of the business.

9.6 Representation of Members

All partners, directors and employed nominees of Members, as shall have been previously notified to the BESA, may attend and take part in GMs.

9.7 Voting at GMs

9.7.1 Each Member shall have one vote. Any decision other than one that, under this Constitution, must be taken in a particular way, shall be taken by a simple majority of votes cast at the meeting.

9.7.2 A resolution put to the vote of a GM shall be decided on a show of hands, unless (before or on the declaration of the result of the show of hands) a poll is duly demanded. A poll may be demanded by the chair or by at least 10% of the Members present in person or by proxy at the meeting.

9.7.3 A poll on any matter shall be taken, and the result of the poll shall be announced, in such manner as the chair of the meeting shall decide, provided that the poll must be taken, and the result of the poll announced, within 30 days of the demand for the poll.

9.7.4 A poll may be taken:

- a) at the meeting at which it was demanded, or
- b) at some other time and place specified by the chair, or
- c) through the use of postal or electronic communications.

9.7.5 In the event of an equality of votes, whether on a show of hands or on a poll, the chair of the meeting shall have a second, or casting vote.

9.7.6 Any objection to the qualification of any voter must be raised at the meeting at which the vote is cast and the decision of the chair of the meeting shall be final.

9.8 Proxy voting

9.8.1 Any Member may appoint another person as a proxy to exercise all or any of that Member's rights to attend, speak and vote at a GM. Proxies must be appointed by a notice in writing (a "proxy notice") which:

- a) states the name and address of the Member appointing the proxy
- b) identifies the person appointed to be that Member's proxy and the GM in relation to which that person is appointed
- c) is signed by or on behalf of the Member appointing the proxy, or is authenticated in such manner as the Board may determine, and
- d) is delivered to the Board in accordance with the Constitution and any instructions contained in the notice of the GM to which they relate.

9.8.2 The Board may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.

9.8.3 Proxy notices may (but do not have to) specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.

9.8.4 Unless a proxy notice indicates otherwise, it must be treated as:

- a) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting, and
- b) appointing that person as a proxy in relation to any adjournment of the GM to which it relates as well as the meeting itself.

9.9 Ballot and the counting of votes

9.9.1 If a Member who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a GM, attends in person, it remains so entitled to vote in respect of that meeting or any adjournment of it, and any valid postal or electronic vote or proxy notice previously delivered to the Board by or on behalf of that Member is automatically revoked.

9.9.2 Notwithstanding clause 9.9.1, an appointment under a proxy notice may be revoked by delivering to the Board a notice in writing given by or on behalf of the Member by whom or on whose behalf the proxy notice was given.

9.9.3 Subject to clause 9.9.1, notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.

9.9.4 If a proxy notice is not signed or authenticated by the Member appointing the proxy, it must be accompanied by written evidence that the person who signed or authenticated it on that Member's behalf had authority to do so.

9.10 Postal and electronic voting

9.10.1 The Members can if they so choose, vote by post or electronic mail ("**e-mail**") to elect Council members or to make a decision on any matter that is being decided at a GM of the Members.

9.10.2 The Board must appoint at least 2 persons independent of the Board to serve as scrutineers to supervise the conduct of the postal/e-mail ballot and the counting of votes.

9.10.3 If postal and/or e-mail voting is to be allowed on a matter, the Board must send to Members not less than 21 days before the deadline for receipt of votes cast in this way:

- a) a notice by e-mail, if the Member has agreed to receive notices in this way under clause 12.1, including an explanation of the purpose of the vote and the voting procedure to be followed by the Member, and a voting form capable of being returned by e-mail or post to the Board, containing details of the resolution being put to a vote, or of the candidates for election, as applicable
- b) a notice by post to all other Members, including a written explanation of the purpose of the postal vote and the voting procedure to be followed by the member; and a postal voting form containing details of the resolution being put to a vote, or of the candidates for election, as applicable.

9.10.4 The voting procedure must require all forms returned by post to be in an envelope with the Member's name and signature, and nothing else, on the outside, inside another envelope addressed to 'The Scrutineers for the BESA', at the BESA's principal office or such other postal address as is specified in the voting procedure.

9.10.5 The voting procedure for votes cast by e-mail must require the Member's name to be at the top of the e-mail, and the e-mail must be authenticated in the manner specified in the voting procedure.

9.10.6 E-mail votes must be returned to an e-mail address used only for this purpose and must be accessed only by the scrutineers.

9.10.7 The voting procedure must specify the closing date and time for receipt of votes, and must state that any votes received after the closing date or not complying with the voting procedure will be invalid and not be counted.

- 9.10.8 The scrutineers must make a list of names of members casting valid votes, and a separate list of Members casting votes that were invalid. These lists must be provided to the Officers or other persons overseeing admission to, and voting at, the GM. A Member who has cast a valid postal or e-mail vote must not vote at the meeting, and must not be counted in the Quorum for any part of the meeting on which it has already cast a valid vote. A Member who has cast an invalid vote by post or e-mail is allowed to vote at the meeting and counts towards the Quorum.
- 9.10.9 For e-mail or postal votes, the scrutineers must cut off and retain any part of the e-mail or correspondence that includes the Member's name. In each case, a scrutineer must record on this evidence of the Member's name that the vote has been counted, or if the vote has been declared invalid, the reason for such declaration.
- 9.10.10 Votes cast by post or e-mail must be counted by all the scrutineers before the meeting at which the vote is to be taken. The scrutineers must provide to the person reing the meeting written confirmation of the number of valid votes received by post and e-mail and the number of votes received which were invalid.
- 9.10.11 The scrutineers must not disclose the result of the postal/e-mail ballot until after votes taken by hand or by poll at the meeting, or by poll after the meeting, have been counted. Only at this point shall the scrutineers declare the result of the valid votes received, and these votes shall be included in the declaration of the result of the vote.
- 9.10.12 Following the final declaration of the result of the vote, the scrutineers must provide to the Officers bundles containing the anonymised evidence of Members submitting valid postal votes; evidence of members submitting valid e-mail votes; evidence of invalid votes; the valid votes; and the invalid votes.
- 9.10.13 Any dispute about the conduct of a postal or e-mail ballot must be referred initially to the Council. If the dispute cannot be satisfactorily resolved by the panel, it must be referred to the Electoral Reform Society.

9.11 Meeting rules

Subject to the provisions of this Constitution, meetings of GMs, Council, the Board, Committees, Regions and Groups shall be called and conducted in accordance with the standing orders for the conduct of meetings as confirmed by the Board from time to time (for the avoidance of doubt the provisions of this Constitution shall take precedence over any other rules, bye-laws or other documents created or amended by the Council, Officers or Board).

9.12 Chair - GMs, Council and Board

The President will chair the meetings of the GMs, Council and the Board. If the President has a conflict of interest or is unwilling to preside or is not present within 10 minutes after the time of the meeting, the Chair will be taken from the Immediate-Past President, President-Elect or Vice-President (in order of priority), unless equally all of the aforementioned are unable to act as chair due to a conflict of interest or is unwilling to preside or is not present within 10 minutes the commencement of the meeting, in which case members of the relevant GM, Council or Board present may appoint one of their number present to chair that meeting.

9.13 Casting vote

In the event of an equality of votes, the chair for the time being at any Council, Board or GM shall have a casting vote in addition to his/her deliberative vote or votes.

10 Subscriptions

10.1 Annual subscription

In accordance with clause 10.4, every Member shall pay an Annual Subscription to the BESA, but Members admitted after one April in any Subscription Year shall, in respect of that Subscription Year, pay such part of the Annual Subscription as may be determined pro rata or by the Board.

Each Member's Annual Subscription shall become due as determined by the Board and ratified by the Council.

10.2 Return of Wages and Turnover

10.2.1 Subject to clause 10.2.3, each Member shall, by 7 May in each Subscription Year, submit to the Board on an approved form signed by a principal or director:

- a) Wages paid for the 12 months ended 5 April, and
- b) Turnover as reflected in their financial accounts for the latest completed financial year.

10.2.2 The amounts submitted under clause 10.2.1 above, should include the Wages paid by and the Turnover of any parent company controlling the Member or any subsidiary company or companies controlled by the Member or by the same parent company that controls the Member.

10.2.3 For the purposes of this clause 10 above, Multiple Members constitute a single Member for the purposes of the return of Wages and Turnover and should submit only one return, listing on it the names of all of the individual Members to which it applies.

10.3 Assessment

If a Member fails to make a submission in accordance with clause 10.2.1, (which for the avoidance of doubt is by 7 May each Subscription Year), its subscription shall automatically be assessed on the figures of the previous Subscription Year (whether actual or assessed), subject to an increase of an amount to be determined by the Board.

10.4 Composition of subscription

The Annual Subscription payable by each Member shall comprise the amounts derived under clauses 10.4.1, 10.4.2 and 10.4.3, and be subject to clause 10.4.5:

10.4.1 An Annual Charge based upon the Wages, and/or Turnover and Wages, and/or Turnover shown in the Member's submission made in accordance with clause 10.2. The rate of differential rates of charge and the maximum and minimum amounts (if any) to be paid under the charge shall be recommended by the Board and ratified by the Council in or before April and every Member shall be informed of the basis, rates and amounts so determined before being required to pay such charge. Multiple Members constitute a single Member for the purposes of this Annual Charge.

10.4.2 An Annual Membership Fee of such sum as shall similarly be determined by the Council. Multiple Members do not constitute a single Member for the purposes of this Annual Membership Fee, which is payable by each individual Member.

10.4.3 An Annual Fee in respect of the CAS of such sum as shall be determined by the Board and ratified by Council. Multiple Members constitute a single Member for the purposes of this Annual Fee.

10.4.4 The Annual Subscription shall cover membership of the BESA and one Group. Membership of more than one Group shall be subject to an Annual Group Charge. Multiple Members constitute a single Member for the purposes of the Annual Charge.

10.4.5 The Annual Subscription payable by each Member shall be subject to any discount for early payment or penalty for late payment as determined by the Board and ratified by the Council and to any formula for calculating any surcharge or rebate as determined by the Board and ratified by the Council. The Annual Subscription may also, if so authorised by the Board, be payable in instalments under such arrangements as are decided by the Board.

10.5 Special arrangements

Nothing in clause 10.4 shall prohibit the Council from making special arrangements for the determination of the amount to be paid under the Annual Charge or in addition to the Annual Charge by any Member, class of Members, or group of Members, provided that the arrangements

so made shall be reported to the Members at the next GM following the date of the arrangement and that the amounts payable under such arrangements shall not exceed the amount which would be payable generally under clause 10.4.1.

10.6 Entrance fee

The Board (ratified by the Council) shall decide whether, in addition to the Annual Subscription, applicants for membership shall be required to pay an Entrance Fee of an amount to be determined by the Board. This fee shall not normally be refundable.

10.7 Additional Subscriptions

The Council shall further have power to require for special purposes, which shall be notified to the Members, Additional Subscriptions not exceeding 20% of the ordinary Annual Subscription in one Subscription Year; but if further additional funds shall still be required the Council shall convene a SGM, and such meeting may, with the support of not less than 75% of the votes of the Members present, call for such further contribution or contributions from all the Members as the meeting shall determine, provided that no Member shall in any Subscription Year be required to make a further contribution or contributions amounting to more than his/her Annual Subscription charged under clauses 10.1 to 10.5.

10.8 Direction of subscriptions

The Board (later ratified by the Council), may direct that all subscriptions, Entrance Fees or other levies payable by Members to the BESA shall be paid to a limited company appointed, amongst other things, to administer and collect sums due by members to the BESA.

11 Funds

11.1 Regulation of funds

The Council shall regulate, subject to the instructions of any GM, all details relating to the funds of the BESA, but the funds shall only be applied for furthering the Objects.

11.2 Banking accounts

All funds belonging to the BESA shall be paid into the banking account of the BESA.

11.3 Payments

The Board (later ratified by the Council) shall confirm the authorisation process for each level of payment to be made from the BESA bank accounts on behalf of the BESA.

11.4 Borrowing powers

The Trustees shall have power to borrow money for the purposes of the BESA, by bank overdraft or otherwise, and may delegate such power to the Board.

11.5 Accounting records

The Board (later ratified by the Council) shall cause proper accounting records to be kept with respect to all transactions, assets and liabilities of the BESA and shall establish and maintain a satisfactory system of control of the accounting records and of cash holdings and receipts and remittances and shall arrange for an annual statement of accounts to be drawn up.

11.6 Statement and inspection of accounts

A copy of the annual statement of accounts, audited by the auditors appointed under clause 11.8, shall be supplied to each Member at least 21 days before the AGM. Every Member shall have the right to inspect the accounting records of the BESA, during normal office hours and on giving

reasonable notice to the association secretary, but no Member shall have the right to inspect the subscription of any other Member.

11.7 Guarantee scheme funds

The Board (later ratified by the Council) may authorise the establishment of separate funds to be governed by the terms of this clause, for the purpose of financing or underwriting schemes under which Members are required to guarantee their materials and workmanship. Each such fund shall be held in a separate bank deposit account. Payments to and from any such fund shall be made in such circumstances and in such manner as the Council may direct, provided always that property that is or has been comprised in any such fund shall be precluded from being used for financing strikes, lockouts or other industrial action.

11.8 Auditors

Auditors shall be appointed by resolution of the Members in AGM, and auditors so appointed shall be removed only by a resolution of the Members.

11.9 Investment of funds

All monies in excess of immediate requirements, including such monies comprised in any guarantee scheme fund, shall be placed on deposit or be invested as directed by the Council or as may be authorised by the Board and subsequently reported to the Council.

11.10 Direction of funds

The Board (later ratified by the Council) may direct that funds of the BESA shall be collected, held, disbursed and managed by a limited company that provides services to the BESA and its Members.

12 Miscellaneous

12.1 Use of electronic communications

12.1.1 Where a Member requests a hard copy of any document or information sent to the Member otherwise than in hard copy form the Member shall be sent the same within 21 days.

12.1.2 Any Member may communicate electronically with the Board or Council to an address specified by the Board for that purpose, so long as the communication is authenticated in a manner that is satisfactory to the Board.

12.1.3 Any Member, by providing the BESA with his or her e-mail address or similar, is taken to have agreed to receive communications from the BESA in electronic form at that address, unless the Member has indicated to the BESA his or her unwillingness to receive such communications in that form.

12.1.4 The Board and Council may, subject to compliance with any legal requirements, by means of publication on its website:

- a) provide the Members with any notices referred to in this Constitution;
- b) give members of the Council and members of the Board notice of their meetings in accordance with this Constitution, and
- c) submit any proposal to the Members for decision by written resolution or postal vote in accordance with clauses 9.7,9.8, or the provisions for postal voting under clause 9.9.410.

12.1.5 The Board must take reasonable steps to ensure that Members, members of the Council and members of the Board are promptly notified of the publication of any such notice or proposal.

12.2 Saving provisions

12.2.1 Subject to clause 12.2.2 of this clause, all decisions of the members of the Board, or of a Committee, Region or Group, shall be valid notwithstanding the participation in any vote of a member of that group:

- a) who was disqualified from holding office at the time of the decision
- b) who had previously retired or who had been obliged by the constitution to vacate office
- c) who was not entitled to vote on the matter, whether by reason of a conflict of interest or otherwise,

if, without the vote of that member of that group and that member of the group being counted in the Quorum, the decision has been made by a majority of the members of the group at a Quorate meeting.

12.2.2 Clause 12.2.1 does not permit a member of the Board to keep any benefit that may be conferred upon him/her by a resolution of the members of the Board or of a Committee, Region or Group if, but for clause 12.2.1, the resolution would have been void, or if the member of the group has not complied with clause 12.7.

12.3 Execution of documents

A document is validly executed by the BESA if it is signed by at least 2 of the Trustees.

12.4 Provisions for dissolution

In the event of the question of dissolution or winding up of the BESA arising, it shall be determined in the following manner, *viz*:

12.4.1 on the requisition in writing of $\frac{1}{3}$ of the then existing Members, a special meeting shall be called by a notice given to all the Members then on the register of Members, by circular and posted to each Member at his /her address on the said register, 21 days at least before the day of the meeting and stating the object of the meeting, and such dissolution or winding up shall take place only when and as decided by a majority of not less than 75% of the votes given at such meeting.

12.4.2 on dissolution, the funds of the BESA remaining after liquidation of all its liabilities shall be divided among such Members at the time being as have discharged all their obligations to the BESA, rateably according to the aggregate amounts of their annual subscriptions for the past 5 Subscription Years.

12.4.3 in case of dissolution of the BESA, its funds shall prove insufficient to pay the expenses of winding up and salaries, expenses and other emoluments due to Members of the permanent staff under their contracts of service or otherwise agreed to be payable, the Members shall contribute the deficiency rateably according to their last Annual Subscription.

12.5 Collective responsibility

12.5.1 The Members, Officers, Trustees and members of the Council, Board or of any Committee, Region or Group and every official and employee of the BESA shall take responsibility as a whole, for delivery of the Objects within the Scope, subject to any directions which the Council or the Board shall from time to time make.

12.5.2 The Members recognise that any activities carried out by the BESA must be carried out in full compliance with competition law. In particular, the BESA shall not carry on any activity or make any recommendation or decision, authorise, do or permit to be done by its Members any act which would infringe any provision of the Treaty on the Functioning of the European Union (in particular, Articles 101 and 102) and the Competition Act 1998 and shall take steps so far as is reasonably practicable to ensure that no infringement takes place. For the avoidance of doubt this shall include any subsequent enactments,

amendments and modifications of the Competition Act 1998 and any regulations made under it.

12.6 Removal from office

- 12.6.1 Any Officer may be removed before the expiration of his/her term of office by a resolution of the Members in GM supported by not less than 75% of the votes recorded thereat. Not less than 28 days' notice of any intended resolution for such removal shall be given, in writing to that person and to every Member. Such person whose removal is the subject of an intended resolution shall be entitled to make written representations to the BESA and require a copy of such representations (being of reasonable length) to be sent to every Member not less than 7 days before the GM to which the intended resolution is to be put and to be heard on the resolution at the meeting.
- 12.6.2 Any Trustee, member of the Board, member of Council or member or Affiliate Member of any Committee, Region or Group and every official of the BESA may be removed before the expiration of his/her term of office by a resolution of the Council members supported by not less than 75% of the votes recorded thereat. Not less than 28 days' notice of any intended resolution for such removal should be given, in writing to that person and to every member of Council. Such person whose removal is the subject of an intended resolution shall be entitled to make written representations to Council and require a copy of such representations (being of reasonable length) to be sent to every member of Council not less than 7 days before the Council to which the intended resolution is to be put and to be heard on the resolution at the meeting.
- 12.6.3 Any Trustee, member of the Board, member of Council or member or Affiliate Member of any Committee, Region or Group who stands accused of a breach of the Code of Conduct, may be suspended from carrying out any duties on behalf of the BESA by an Officer, subject to prior consultation with the available Officers, whilst a formal investigation is undertaken. Any such suspension shall be ratified by Council.

12.7 Conflicts of interest

Each Officer, Trustee and member of the Council, Board or of any Committee, Region or Group and every official and employee of the BESA must:

- 12.7.1 declare the nature and extent of any issue, interest, direct or indirect, which he or she has in a proposed issue, transaction or arrangement with the BESA or in any transaction or arrangement entered into by the BESA which has not previously been declared; and
- 12.7.2 absent himself/herself from any the Trustees/Board/Council in which it is possible that a conflict of interest will arise between his/her duty to act solely in the interests of the BESA and any personal interest (including but not limited to any financial interest). Any person absenting himself/herself from any discussions in accordance with this clause must not vote or be counted as part of the Quorum in any decision of the Trustees/Board/Council on the matter.
- 12.7.3 All such interests shall be recorded in a register of conflicts, which shall be maintained by the association secretary.

12.8 Indemnity

- 12.8.1 Every Officer, Trustee and member of the Council, Board or of any Committee, Region or Group and every official and employee of the BESA shall at all times be indemnified out of the funds of the BESA against all loss, costs and charges, reasonably, substantiated and incurred by reason or in consequence of any act, matter or thing done or permitted by them bona fide in or about the execution of the duties of their office: and each of them shall be reimbursed only with as much loss as he/she may actually incur and shall not be personally liable or accountable for loss unless such loss shall be sustained through his/her wilful fault or neglect.

12.8.2 No Officer, Trustee or member of the Council, Board or of any Committee, Region or Group shall be liable for any other member of that respective group, or for joining in any receipt or other act for conformity, or for any loss or expense happening to the BESA through the insufficiency or deficiency of any security in or upon which any of the funds of the BESA shall be invested, or for any loss or damage arising from the bankruptcy or insolvency or wrongful act of any person with whom any monies, securities or effects shall be deposited or for any loss, damage or misfortune whatsoever which shall happen in the execution of the duties of his/her office or in relation thereto, unless the same shall happen through his/her own fraud, wilful neglect or default.

12.9 Amendment of the Constitution

Subject to clauses 9.5 and 9.7, alterations in the Constitution may be proposed and effected by a resolution passed by not less than 75% of the Members present and entitled to vote at a SGM of the BESA called for the purpose or at any AGM of the BESA, providing that the proposals have been the subject of prior consultation with the membership through Regional and Group organisations.

12.10 Interpretation

Except where otherwise provided in herein, the words and phrases used herein shall have the meanings assigned to them in Schedule 1, which for the avoidance of doubt is considered part of this Constitution. Any reference to days is to calendar days unless otherwise specified.

12.11 Notices

Notices under this Constitution may be served by Members on the BESA by email to an address nominated by the Board, and by the BESA on Members by email to the address nominated for communication by the Member on application to become or renew its membership of the BESA.



SCHEDULE 1

Definitions

Affiliated Member	An organisation which has common interests with the BESA, but does not qualify to be a Member.
Additional Subscriptions	The amounts which may determined under clause 10.7.
AGM	An annual general meeting carried out in accordance with clause 9.
Annual Charge	The charge set out in clause 10.4.1.
Annual Fee	The charge set out in clause 10.4.3.
Annual Group Charge	An additional Annual Membership Fee.
Annual Membership Fee	The charge set out in clause 10.4.2.
Annual Subscription	The sum set out in clause 10.1.
Authority Structure	A document detailing the authority levels of the Council, the Board and the Chief executive to be established, formulated and maintained by the Board.
BESA	As defined in clause 1.
Board	The Officers, Trustees, Chief Executive, Finance Director and those persons appointed to the Board in accordance with clause 6.
CAS	The competent assessment scheme as laid down and approved by the Board from time to time.
Chief Executive	The person appointed under clause 8.
Code of Conduct	A code of conduct to be established, formulated and maintained by the Board.
Committee	A stakeholder engagement grouping of Members by business interests.
Constitution	The clauses set out in this document, together with any schedules or documents referred to therein as incorporated.
Council	The body of Member Representatives consisting of those identified in clause 4.2 meeting in accordance with this Constitution:
Entrance Fee	The fee determined by the Board under clause 10.6.

Finance Director	The person employed by the BESA to manage the funds, subscriptions and finances of the BESA group.
GMs	Means and includes AGMs and SGMs.
Group	A segmentation of Members by special interest.
Immediate-Past President	The person who was the last President of BESA before the current President for the time being.
Incapacity / Incapacitated	<p>An individual who:</p> <ul style="list-style-type: none"> • is under the age of 21 years • dies • becomes incapable of managing his/her property and affairs by virtue of mental disorder within the meaning of the Mental Health Act 1959 • in the written opinion given to the BESA, of a registered medical practitioner treating that person, has become physically or mentally incapable of acting as a director and may remain so for more than 3 months.
Insolvent	<p>With reference to a company, it is insolvent when:</p> <ul style="list-style-type: none"> • it enters administration within the meaning of Schedule B1 to the Insolvency Act 1986; • an administrative receiver or a receiver or manager of its property under Chapter one of Part III of that Act is appointed, or the appointment of a receiver under chapter II of that part; • a resolution for voluntary winding-up without a declaration of solvency under section 89 of that Act is being passed, or; • a winding-up order under Part IV or V of that Act is being made. <p>With reference to a partnership becomes insolvent:</p> <ul style="list-style-type: none"> • on the making of a winding-up order against it under any provision of the Insolvency Act 1986 as applied by an order under section 420 of that Act, or; • when sequestration is awarded on the estate of the partnership under section 12 of the Bankruptcy (Scotland) Act 1985 or the partnership grants a trust deed for its creditors. <p>With reference to an individual becomes insolvent:</p> <ul style="list-style-type: none"> • on the making of a bankruptcy order against him/her under Part IX of the Insolvency Act 1986, or • on the sequestration of his/her estate under the Bankruptcy (Scotland) Act 1985 or when he grants a trust deed for his/her creditors. <p>A company, partnership or individual shall also be treated as insolvent on the occurrence of any event corresponding to those specified above under the law of Northern Ireland or of a country outside the United Kingdom.</p>

IPR	All rights, title and interest in copyrights, databases, get-up, inventions, know-how, logos, patents, registered and unregistered designs, service marks, certification marks, trademarks and trade names, and all similar proprietary rights which may subsist now or in the future, including (where such rights are obtained or enhanced by registration) any registration of such rights and rights to apply for registration connected with, licenced to or owned by the BESA.
Member and/or Members	Means or refers to a current member or the current collective membership of the BESA.
Member Representative	An employee of a Member who is actively engaged in the day to day management, operation and administration of the Member's business.
Multiple Members	Where 2 or more Members are either a parent company and/or a subsidiary company or subsidiary companies of the same parent company or are substantially under the same control.
Objects	As defined in clause 1.4.
Officers	The President, President-Elect, Vice-President and Immediate-Past President. In matters where an Officer is required to action or authorise a matter under this Constitution, and unless otherwise stated, the Officers shall have the following order of priority: <ol style="list-style-type: none"> 1. The President 2. The President-Elect 3. The Vice-President 4. The Immediate-Past President
President	The person currently elected as President under clause 5.
President-Elect	The person elected at an AGM to hold the position of President-Elect and who, subject to election at AGM, will succeed to the role of President.
Quorum/Quorate	In the case of the Board, means 50% of members of the Board, or the number nearest to 1/3 of the total number of members of the Board, whichever is greater, or such larger number as the members of the Board may decide from time to time. In the case of the Council, means a meeting where no less than 10 Members are in attendance and entitled to vote. In the case of GMs, means a meeting where no less than 20 Members are in attendance and entitled to vote.

Region	A segmentation of Members by geographical area.
Scope	<p>Businesses operating in the United Kingdom, the Channel Islands and the Isle of Man connected with all aspects of design, installation, commissioning, maintenance, control and management of services and engineering systems in buildings or other facilities - which, for the avoidance of doubt, include, but are not limited to activities relating to:</p> <ul style="list-style-type: none"> • heating, and/or • ventilating, and/or • refrigeration, and/or • air-conditioning, and/or • piping, and/or • domestic engineering, and/or • energy management systems.
SGMs	Meetings called under clause 9.4.
Subscription Year	Means a period of one year commencing on 1st April.
Trustee(s)	The Trustees appointed under the Constitution.
Turnover	The invoiced value of sales to customers that is within the scope of the BESA, ie connected with all aspects of design, installation, commissioning, maintenance, control and management of services and engineering systems in buildings or other facilities in the United Kingdom, the Channel Islands and the Isle of Man, but excluding VAT.
Vice-President	The person elected at an AGM to hold the position of Vice-President and who, subject to election at AGM, will succeed to the role of President-Elect.
Wages	The taxable earnings including holiday pay paid to all foremen and all workers of all trades engaged in activities in the UK within the Scope of the BESA. 100% of payments made to sub-contractors for labour shall be treated and included as wages for the purposes of this return. Wages of management and office staff shall not be included.



THE BESA AUTHORITY STRUCTURE

COUNCIL, BOARD AND CHIEF EXECUTIVE

Authority level, in conjunction with the
16th Edition (2016) of the Building Engineering
Services Association's Constitution



Council

Under the BESA Constitution (4.1):

The overall vision, mission, strategy, management and control of the BESA for delivery of the Objects, shall be vested by the Members in the Council. Subject to the provisions of the Constitution, the Council is the supreme governance body of the BESA and will exercise plenary powers in the management of the business and affairs of the BESA, including the management of its Board, property and funds, and the application and disposal thereof. Council delegates authority to deal with such matters to the Officers and the Board in accordance with the Constitution.

For the avoidance of doubt matters reserved to the Council shall include but not be limited to:

- recommendation to Members of Officers for appointment
- recommendation to Members of changes to the Constitution
- appointment of Trustees
- appointment and dismissal of members of the Board
- appointment of the Chief Executive
- approval of the BESA vision, mission, strategy
- approval of the operating and capital budgets annual accounts, funding and subscription systems
- approval of the key policy areas underpinning the BESA Objects
- approval of changes to the BESA membership structure and process
- approval of industrial relations and industrial action
- investigation of any constitutional complaints
- ratification, where necessary, of Board resolutions or Officer decisions taken in times of urgency.

Board

Under the BESA Constitution (6.1):

Delivery of the overall vision, mission, strategy and management of the BESA for delivery of the Objects, shall be tasked by the Council to the Board. Subject to the provisions of the Constitution, the Board shall in accordance with clause 4.1, manage the business and affairs of the BESA, including the management of its property and funds, and the application and disposal thereof.

For the avoidance of doubt, subject to the matters reserved to the Council, the matters reserved to the Board are:

- review and recommend to Council the operating and capital budgets, investments, funding and subscription systems
- review and recommend to Council the direction of funds, subscriptions and levies
- establish, authorise, manage and restructure, with ratification from Council, the Committees, Regions and Groups (as appropriate) in accordance with the Constitution
- investigation, recommendations and actions regarding complaints
- nomination of members of the Board
- approval of financial statements
- approval of policy on external communications and political profile
- establishment of BESA standing orders, rules, bye-laws
- approval of major corporate actions (eg, acquisitions, disposals, commencing or terminating of business activities)
- approval of BESA corporate plans
- approval of overall staff remuneration budgets
- authorising unbudgeted financial payments below £250,000 and above £25,000
- authorising and managing relevant IPR for use by Members
- ratification of Chief Executive/Officer action taken where the Board is unable to act
- confirmation of the Principal Office of the BESA
- definition of the BESA vision, mission, strategy, key performance indicators and structure
- definition of authorities delegated to management
- management of the BESA membership structure, admissions and decision making process
- management of the BESA governance system and process
- management of any guarantee schemes and relevant funds
- monitoring and reviewing the Chief Executive (reviews to be undertaken by the President and the Immediate Past President for ratification by the Board); Responding to Council and Members as necessary
- supervising controlling and monitoring BESA and BESA group progress;

Chief Executive

Under the BESA Constitution (8.2):

The Chief Executive will report to and be subject to the authority of, the Board and the Council. Subject to the provisions of the Constitution Council shall determine the matters to be reserved to the Board all remaining responsibility and authority for the delivery of the overall vision, mission, strategy, management and control of the BESA for delivery of the Objects, shall be delegated by the Board to the Chief Executive in accordance with the Authority Structure.

For the avoidance of doubt, subject to the matters reserved to the Board, the matters delegated to the Chief Executive are:

- health and safety operations
- development of BESA corporate plans
- establishment and management of the key policy areas underpinning the BESA Objects - including management of the BESA political profile
- establishment of operating and capital budgets, investments, funding and subscription systems
- preparing strategic proposals, corporate plans, and budgets
- recommending major corporate actions (eg, acquisitions, disposals, commencing or terminating of business activities)
- recommend terms and conditions for delegation of powers to Committees, Regions and Groups
- authorising: unbudgeted financial payments, between Board meetings, up to a limit of £25,000, budget financial payments up to a limit of £50,000 and project payments up to the limit of the project
- establishment of a system of internal control and risk management
- executing the strategy agreed upon by the Board
- executing actions in relation to Board decisions on investments, structures, mergers, and acquisitions, etc
- exercise of such other powers, together with an Officer, as reasonably necessary in an emergency
- external communication
- implementation, management and maintenance of the BESA membership structure, admissions and decision making process
- implementation and management of the BESA governance system and process
- implementation and management of any guarantee schemes and relevant funds
- management of BESA IPR
- administration of the Committees, Regions and Groups (as appropriate)
- responding to Council and Members
- signing of contracts
- signing of regulatory documents
- staff recruitment, management and remuneration
- supervising and controlling BESA and BESA group progress.

In conjunction with the 16th Edition (2016)
of the Building Engineering Services
Association's Constitution

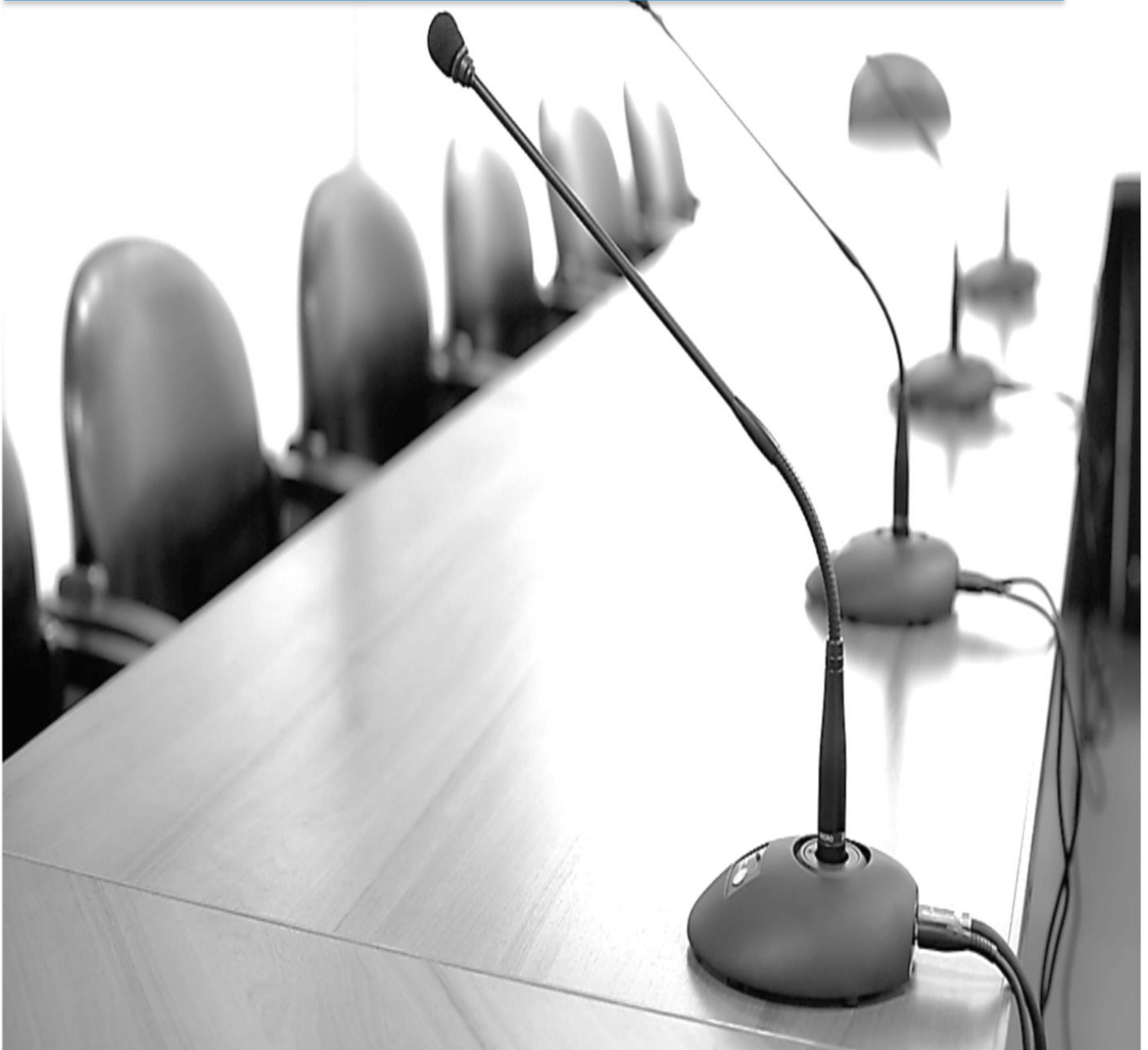


Table of contents

- 1 General 5 - 6**
 - 1.1 Introduction 5
 - 1.2 Review 5
 - 1.3 Authority..... 5
 - 1.4 Objects..... 5
 - 1.5 Funds..... 5
 - 1.6 Terms of Reference 6
 - 1.7 Confidentiality 6

- 2 AGMs and SGMs 6 - 7**
 - 2.1 AGMs..... 6
 - 2.2 SGMs..... 6
 - 2.3 Elections 6
 - 2.4 Council representative(s)..... 6
 - 2.5 Representation 7
 - 2.6 Voting at GMs 7
 - 2.7 Ballot and the counting of votes 7
 - 2.8 Postal, proxy and electronic voting and electronic communications 7

- 3 Meetings and procedures..... 7 - 8**
 - 3.1 Chair 7
 - 3.2 Committees..... 7
 - 3.3 Regions and Groups..... 7
 - 3.4 Casual vacancies 7
 - 3.5 Quorum..... 7
 - 3.6 Notices..... 8
 - 3.7 Committees..... 8
 - 3.8 Sub Committees, User Groups, Branches 8
 - 3.9 Representation on the Council 8
 - 3.10 Association Awards 8

- 4 Administration 8 - 9**
 - 4.1 Agenda 8
 - 4.2 Minutes 8
 - 4.3 Comments or questions..... 9
 - 4.4 Multiple Members 9
 - 4.5 Removal of members 9
 - 4.6 Amendments of byelaws 9

- Definitions..... 10**

THE BESA BYELAWS

Committees, Regions and Groups | 2016

These BYELAWS came into operation on 1 December 2016, and superseded all previous Constitution rules or Byelaws.

1 General

1.1 Introduction

This document describes the key principles and scope of the BESA Regions, Committees and Groups and the Byelaws governing them. This document should be read in conjunction with the Constitution and the individual ToR that provide the context of the role and the specific details associated with that Committee, Region or Group. Unless otherwise stated, all definitions are as defined in the Constitution.

1.2 Review

It is anticipated that this will be a live working document which will continue to be updated by the Board to further the objects of the BESA and to ensure the Committees, Regions and Groups 'ways of working' remain practical, streamlined and realistic.

1.3 Authority

The Constitution defines the authority of the Council, the Board and the Regions, Committees and Groups, and the relationships between them as follows:

BESA Committees, Regions and Groups

7.1 The Board (with ratification from Council), shall in the furtherance of the Objects:

7.1.1 establish, authorise, manage and restructure the Regions and Groups (as appropriate), to ensure each geographical, and special interest grouping from within the Members is actively engaged by the Board and Council

7.1.2 establish, authorise, manage and restructure the Committees (as appropriate), to ensure each of the Objects is actively pursued with engagement by the Board and Council with the Members, and

7.1.3 delegate to such Committees, Regions or Groups such powers as the Board may deem expedient and proper, provided that such powers are within the powers of the Board and the Constitution and rules of the BESA for the time being.

7.2 Subject to the general control of the Board, any Committee, Region or Group shall be empowered to deal with all matters affecting their unique interests, but no resolution or act of such a group incurring expenditure on behalf of the BESA or to bind the BESA to any agreement shall be put into effect unless and until confirmed by resolution of the Board.

1.4 Objects

The Objects of each Region, Committee or Group shall be as set out in the Constitution and the individual ToR.

1.5 Funds

Subject to the Constitution, the funds of the Regions, Committees and Groups shall be met from the general funds of the BESA, and no expenditure chargeable to the BESA shall be incurred by any Region, Committee or Group or any of their constituent parts, without prior sanction of the Board or, in matters of urgency, at his/her discretion, the Chief Executive and an Officer.

1.6 Terms of Reference

- 1.6.1 The Committees, Regions and Groups (with ratification from the Board) shall be defined by its ToR.
- 1.6.2 The ToR shall be completed by the appointed Secretary in consultation with their individual Committee, Region or Group and shall include:
- a) **Name** - of the Region, Committee or Group
 - b) **Authority** - The decision making authority of the Committee (decision, approval or recommendation, etc)
 - c) **Objects** - Describes the purpose of the Region, Committee or Group, what it will do and why it was created
 - d) **Membership** - Type and number of members, how members are appointed, how the chair and vice-chair are appointed and a list of members (Name and functional role)
 - e) **Meeting arrangements** - Meeting frequency and location, quorum, details about agendas and minutes (how these will be distributed, available online, who prepares them, etc.), communication between meetings
 - f) **Deliverables** - the requested/required committee output.
- 1.6.3 The Council shall be entitled, after consultation with the Committees, Regions or Groups, to approve changes to the ToR.

1.7 Confidentiality

Individuals acting within the capacity of members of a Committee, Region or Group may receive sensitive or confidential information. All members must respect the sensitive or confidential nature of that information and maintain the same.

2 AGMs and SGMs

Except where otherwise instructed by the Council, Committee, Regional and Group meetings shall be conducted in accordance with these Byelaws and the individual ToR.

2.1 AGMs

- 2.1.1 If required, an Annual General Meeting of a Region or Group shall take place at least six weeks before the AGM of the BESA.
- 2.1.2 The agenda for an Annual General Meeting shall state the names of retiring chair, vice chair, council representative and ordinary members where relevant and those who offer themselves for re-election. It shall also state the name of any other person who has been nominated.

2.2 SGMs

A Special General Meeting of the Region or Group shall be called by the chair or by the prescribed number of members as set out in the individual ToR.

2.3 Elections

Where relevant, the election of the Chair, Vice-Chair and Ordinary members shall take place in accordance with the relevant provisions within the ToR for the Regions, Committees or Groups as the case may be.

2.4 Council representative(s)

The representative(s) of the Region or Group on the Council shall be elected annually at the Annual General Meeting.

2.5 Representation

2.5.1 All partners, directors and employed nominees of Members, who have been previously notified to the BESA may attend and contribute or be eligible for nomination in Regional meetings.

2.5.2 Only members of the Groups may vote on issues affecting that particular Group at Group meetings.

2.6 Voting at GMs

The rules for voting at GM's are set out in the Constitution

2.7 Ballot and the counting of votes

The rules governing a ballot and the counting of votes are set out in the Constitution at Clause 9.9.

2.8 Postal, proxy and electronic voting and electronic communications

The rules governing postal, proxy, electronic voting and electronic communications are set out in the Constitution at Clause 9.10.

3 Meetings and procedures

3.1 Chair

The Chair of a Committee, Region or Group meeting will be taken by the person occupying for the time being the office of Chair or, in his/her absence, the Vice Chair or by a person chosen from among those present and entitled to vote. The Chair shall conduct the meeting in accordance with the rules set out in this document and subject thereto his/her ruling on any matter of procedure shall be final.

3.2 Committees

When there is a need to appoint a new Chair of a Committee, informal consultations shall take place with the Officers so that an acceptable nomination may be made for consideration for election by the members of the Committee concerned. The actual election of a Chair is carried out by the members of the Committee and then the appointee is subject to ratification by the Council.

3.3 Regions and Groups

The Chair and Vice Chair shall retire annually but each of them shall be eligible for re-election provided that the Chair shall not hold that office for more than 4 consecutive years.

3.4 Casual vacancies

The Region/Regional Branch or Group may fill any casual vacancy among the Chair, Vice Chair or representative on Council and will hold office for the unexpired period of his/hers predecessors term in office.

3.5 Quorum

A meeting of any Committee, Region or Group can be dissolved if a quorum is not present. Any business conducted at a meeting in the absence of a quorum shall be invalid unless ratified by a later meeting of the same body when a quorum is present. The quorum shall be as stated in the individual ToR.

3.6 Notices

3.6.1 Notice of any AGM or SGM, Committee or Regional meeting shall be given by the Secretary not later than the commencement of the minimum prescribed period for that meeting and shall state the date, time, location of the meeting and the business to be transacted.

3.6.2 The minimum notice periods are:

- a) 21 days for the Annual General Meeting
- b) 7 days for a Special General Meeting
- c) 4 days for a Committee Regional or Group Committee meeting
- d) 7 days for any sub-committee, branch or ad hoc user group meeting.

3.7 Committees

3.7.1 Members of the Committee are present to represent their region or group – which for the avoidance of doubt includes representation and explanation of the views of their 'constituents'.

3.7.2 When attending meetings, members are free to express the policy of their organisation on any particular item. At the same time, they should always be prepared to give objective views on what they feel should be the best policy for the industry as a whole even though this may conflict with that of their own organisation.

3.8 Sub Committees, User Groups, Branches

3.8.1 The Committee, Region or Group, with the authorisation of the Board and ratification of Council, shall have power to appoint sub-committees, branches or ad hoc user groups to report on any matter specifically affecting the interests of the industry.

3.8.2 The sub-committees, branches or ad hoc user groups shall be governed by these Byelaws and the ToR for the particular Committee, Region or Group.

3.9 Representation on the Council

Each Committee, Region and Group shall be entitled to appoint from among its members the permitted number of representatives to the Council. The representatives shall either be elected at the AGM of the Region or Group or by members of the Committee.

3.10 Association Awards

The Officers shall have power to bestow upon any Member, its Committees, Regions and Groups, or an ex member of its Council, either a Distinguished Service Award, an Outstanding Service Award or an honorary position, for meritorious contribution and service to the BESA, and the industry.

4 Administration

The Committees, Regions and Groups shall be administered by a person appointed as secretary by the appropriate Committee Region or Group and ratified by the Board.

4.1 Agenda

An agenda for a Committee, Region or Group meeting shall be published by the secretary no later than the commencement of the required period of notice for such meeting.

4.2 Minutes

The minutes for a Committee, Region or Group meeting will be taken by the appointed secretary.

4.3 Comments or questions

Comments or questions shall be addressed through the Chair and the Chair shall decide the order of speakers.

4.4 Multiple Members

4.4.1 The rights of a Multiple Member in respect of voting shall be restricted to those of a single member and a Multiple Member shall be treated as a single member for the purpose of establishing a quorum at any meeting.

4.4.2 No more than one representative of any Multiple Member shall be entitled to serve on a Committee.

4.5 Removal of members

The rules governing the removal of Members from Committees, Regions or Groups are set out in the Constitution.

4.6 Amendments of byelaws

These Byelaws shall be amended by Council or as and when recommended by the Board with the approval of Council in consultation with the Committees, Regions and Groups.



Definitions

Affiliated Member

An organisation that has common interests with the BESA, but does not qualify to be a Member.

AGM

An annual general meeting carried out in accordance with clause 9

Chair

The person who is currently elected chair of a Committee, Region or Group

Secretary

The person who is currently secretary of a Committee, Region or Group appointed in accordance with clause 4

SGMs

Meetings called under clause 9

ToR

The Terms of Reference for each Committee, Region or Group

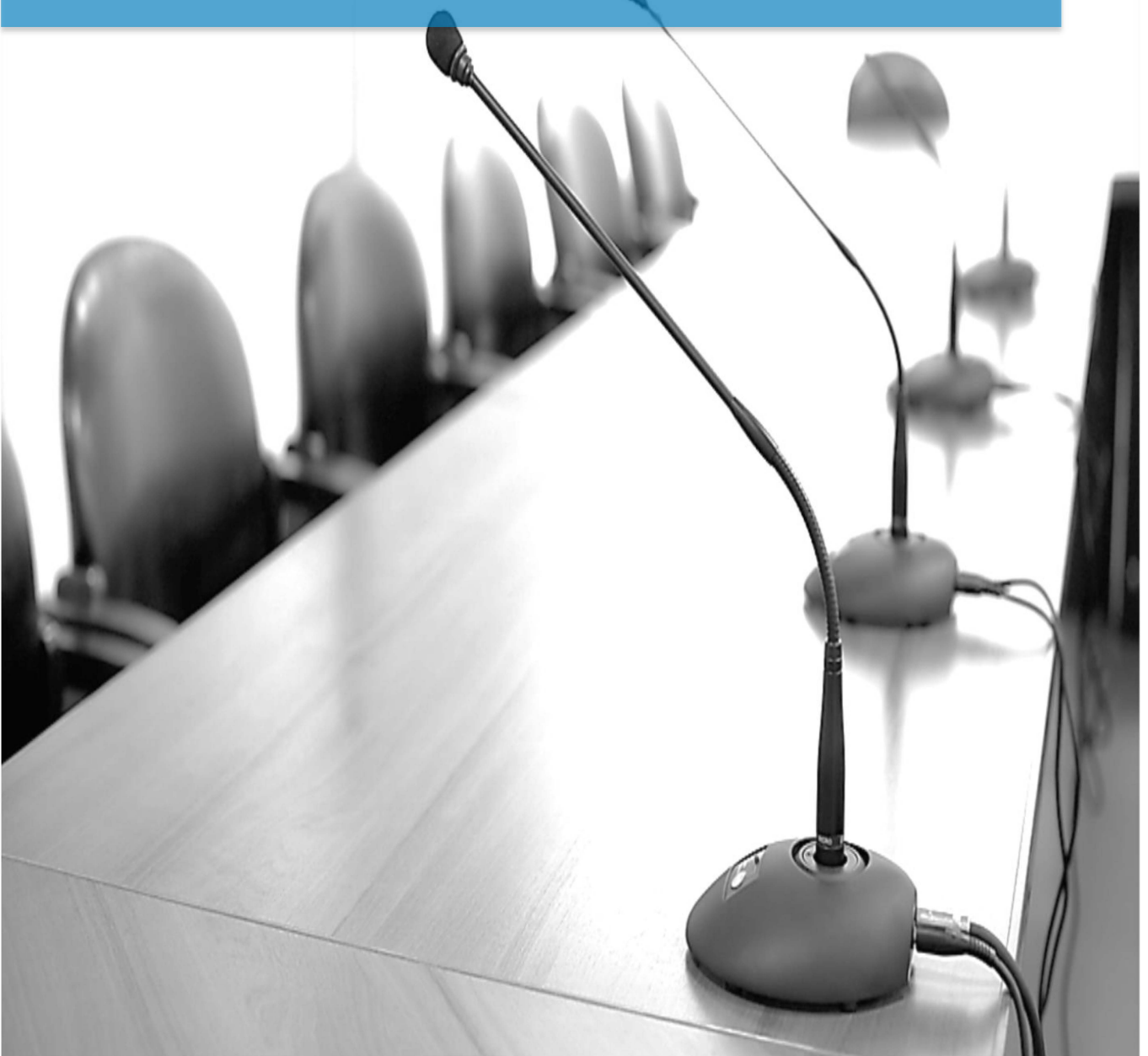
Vice-Chair

The person who is currently elected as vice-chair of a Committee Region or Group



THE BESA CODE OF CONDUCT

In conjunction with the 16th Edition (2016)
of the Building Engineering Services
Association's Constitution



Standard of behaviour of BESA representatives

The **Building Engineering Services Association's ("BESA") Code of Conduct** sets out the standards of conduct expected from any individual in a capacity whereby it is representing the interests of or acting on behalf of BESA.

Representatives shall:

- at all times, ensure that their decisions and actions consider the safety and welfare of those affected or impacted by those decisions or actions.
- uphold the integrity of the organisation through impartiality, responsibility, and truthfulness whilst discharging their duties as representatives of BESA – which for the avoidance of doubt will include taking reasonable steps to prevent and minimise:
 - theft or fraud
 - discrimination, physical violence or bullying
 - serious misuse of the BESA property or name
 - bringing the BESA into serious disrepute
 - incapacity brought on by alcohol or illegal drugs
 - inappropriate and unbecoming behaviour
 - a serious breach of confidence.
- exercise reasonable judgment in discharging their duties as representatives of BESA. The duties are to be carried out to the best of the representative's ability.
- act ethically, professionally and conscientiously in all activities connected with the BESA (including but not limited to, attending events, meetings or other functions as representatives of BESA).
- respect the confidentiality of BESA and the privacy of others.
- avoid conflicts of interest. If a conflict arises, they should declare it to those parties affected and either remove its cause, or withdraw from that situation.
- respect the beliefs and opinions of other people, recognise social diversity and treat everyone fairly and with dignity.
- communicate and interact, verbally or in writing, including on social and electronic media, respectfully with other representatives of BESA, staff of BESA and any other person who the representatives have to deal with in their role for BESA.

