

## **PAPER 2 RESOLUTION BY THE DONS TRUST BOARD ON A REVISION TO THE CONSTITUTION**

### **Resolution 2**

Following the announcement on 13 September that Kris Stewart was stepping down from the Dons Trust Board in order to take up a temporary position overseeing stadium business and operations whilst the club recruits a new Managing Director, the Board were left with only seven elected members.

We immediately took advice from our secretary and also The Football Supporters Association (FSA) (as the sponsor of our rules). The Board then appointed Edward Leek to fill what's known as a 'casual vacancy' until December to bring the number of Board members up to eight, being the required number to operate fully. We did this using a section of our rules, specifically Rules 62 & 64 that allow for the appointment of these casual vacancies.

Subsequently, this decision was queried by some Dons Trust members who were understandably concerned whether this decision had been made according to our constitution. As a result, we then sought further legal advice via the FSA's legal counsel.

We reproduce the advice received below:

*I agree that the rules require a minimum of 8 elected directors, under rule 54b.*

*However, rule 62 is also clear that it applies to "the members of the Society Board **elected by the members**" (my emphasis).*

*This rule makes it clear that a vacancy occurring among the elected directors by "death or resignation" (rule 62b), as here, "may be filled by the Society Board."*

*Rule 62c stipulates that the person appointed serves until the next AGM, and there must be an election to fill the place at that AGM.*

*In my view, the society board are quite correct to have appointed a director pursuant to rule 62, in order to allow the society to continue to operate.*

Having received this advice, we are content that the board has acted in line with its rules in the appointment of Edward Leek, and can continue to operate.

However, it is apparent that the constitution does not presently fully reflect current model rules that are now in place and that the rules should therefore be updated to provide some greater clarification and reassurance to members.

The Dons Trust Board are therefore proposing the following resolution to reflect most recent 'model rules' for supporters trusts:

It is proposed to amend clauses 54(c), 62 and 64 of the constitution, which are the relevant clauses under discussion. Set out below is the current wording of those clauses, followed by the proposed amended wording:

Current wording

54. The Society Board is to have not fewer than eight and not more than 12 members. A Society Board Membership Policy, that the Society Board will develop and adopt, shall be subject to the following:
- a. Subject to the limits above the Society Board shall determine the total number of Society Board members as well as be the mix of elected and co-opted members.
  - b. A minimum of eight members of the Society Board will be elected by the members in accordance with such arrangements as shall be determined by the Society Board;
  - c. Up to three members may be co-opted by the Society Board.
62. Casual vacancies arising amongst the members of the Society Board elected by the members will be dealt with as follows:
- a. If a vacancy caused by retirement or removal is not filled at the meeting at which they retire or are removed, the vacancy may be filled by the Society Board.
  - b. A vacancy occurring by death or resignation may be filled by the Society Board.
  - c. In each case the member appointed to fill the vacancy is to retire at the next annual general meeting and the Society Board will make provision for an election to be held. For the avoidance of doubt the retiring member may stand for re-election at the meeting at which they retire.
64. If at any time and for any reason the number of members of the Society Board shall drop below 8 elected members the remaining Society Board Members may act but only for the purposes of filling vacancies or calling a general meeting;

**The Dons Trust Board recommends that clauses 54(c), 62 and 64 be amended as follows to:**

54. The Society Board is to have not fewer than eight and not more than 12 members. A Society Board Membership Policy, that the Society Board will develop and adopt, shall be subject to the following:
- a. Subject to the limits above the Society Board shall determine the total number of Society Board members as well as be the mix of elected and co-opted members.
  - b. A minimum of eight members of the Society Board will be elected by the members in accordance with such arrangements as shall be determined by the Society Board;
  - c. Up to three members may be co-opted by the Society Board, **provided that at no time shall more than one-third of the Society Club Board be co-opted members.**
62. **Subject to the Rules relating to maximum numbers of co-opted members, the Society Board may at any time co-opt to fill a casual vacancy in the Society Board. A casual vacancy shall be deemed to exist if the number of**

**Directors should drop below the minimum prescribed in these Rules or below the number elected at the preceding Annual General Meeting.**

In each case the member appointed to fill the vacancy is to retire at the next annual general meeting and the Society Board will make provision for an election to be held. For the avoidance of doubt the retiring member may stand for re-election at the meeting at which they retire.

64. **If at any time and for any reason the number of members of the Society Board shall drop below the minimum number of members prescribed in these Rules, the remaining Society Board Members may act to increase their number or to call a General Meeting, but for no other purpose.**

**As a Board resolution, Resolution 2 will require a two-thirds majority in order to be passed.**