

The Companies Act 2006

Community Interest Company Limited by Guarantee

Articles of Association
of
HEALTHWATCH HAMPSHIRE C.I.C.

Adopted on 29 April 2013
and altered by special resolutions passed in February 2017 and June 2019

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Articles of Association

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HEALTHWATCH HAMPSHIRE C.I.C.

INTERPRETATION

1. Defined terms

1.1 In the Articles, unless the context requires otherwise, the following terms shall have the meanings or interpretation assigned to them

Address	includes a number or address used for the purposes of sending or receiving Documents by Electronic Means
Appointment Board	a board established by the members to nominate non-executive directors
Articles	the Company's articles of association
Asset-locked body	a community interest company, a charity or a Permitted Industrial and Provident Society or a body established outside the United Kingdom that is equivalent to any of those
Bankruptcy	includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy
CAH	Community Action Hampshire, a company limited by guarantee and incorporated and registered in England and Wales with company number 3162873
Chair	has the meaning given in Article 10
Circulation Date	in relation to a written resolution, has the meaning given to it in the Companies Acts
CitAH	Citizens Advice Hampshire, a company limited by guarantee and incorporated and registered in England and Wales with company number 6435678
Clear Days	in relation to the period of a notice, that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect
Community	is to be construed in accordance with Section 35(5) of the Company's (Audit) Investigations and Community Enterprise) Act 2004
Companies Acts	the Companies Acts (as defined in Section 2 of the Companies Act 2006), in so far as they apply to the Company
Company	Healthwatch Hampshire C.I.C.
Conflict of Interest	any direct or indirect interest of a Director (whether personal, by virtue of a duty of loyalty to another organisation or otherwise) that conflicts, or might conflict with the interests of the Company
Director	a director of the Company, and includes any person occupying the position of director, by whatever name called

Document	includes, unless otherwise indicated, any document sent or supplied in Electronic Form
"Electronic Form" and "Electronic Means"	have the meanings respectively given to them in Section 1168 of the Companies Act 2006
Hard Copy Form	has the meaning given to it in the Companies Act 2006
H&C	Help and Care a company limited by guarantee incorporated and registered in England and Wales with company number 03187574 and registered as a charity with the Charity Commission for England and Wales with number 1055056 whose registered office is at The Pokesdown Centre, 896 Christchurch Road, Bournemouth BH7 6DL
Initial Members	H&C, CitAH and CAH
Memorandum	the Company's memorandum of association
Participate	in relation to a Directors' meeting, has the meaning given in Article 14
Permitted Industrial and Provident Society	an industrial and provident society which has a restriction on the use of its assets in accordance with Regulation 4 of the Community Benefit Societies (Restriction on Use of Assets) Regulations 2006 or Regulation 4 of the Community Benefit Societies (Restriction on Use of Assets) Regulations (Northern Ireland) 2006
The Regulator	the Regulator of Community Interest Companies
Secretary	the secretary of the Company (if any)
Specified	specified in the Memorandum or Articles of the Company for the purposes of this paragraph
Subsidiary	has the meaning given in section 1159 of the Companies Act 2006
Transfer	includes every description of disposition, payment, release or distribution, and the creation or extinction of an estate or interest in, or right over, any property
Writing	the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in Electronic Form or otherwise

1.2 Subject to Article 1.3, any reference in the Articles to an enactment includes a reference to that enactment as re-enacted or amended from time to time and to any subordinate legislation made under it.

1.3 Unless the context otherwise requires, other words or expressions contained in these Articles bear the same meaning as in the Companies Acts as in force on the date when these Articles become binding on the Company.

2. Company and Asset Lock

2.1 The Company is to be a Community Interest Company.

- 2.2 The Company shall not transfer any of its assets other than for full consideration.
- 2.3 Provided that the conditions in Article 2.4 are satisfied, Article 2.2 shall not apply to:
- a) the transfer of assets to any specified Asset-locked body, or (with the consent of the Regulator) to any other Asset-locked body; and
 - b) the transfer of assets made for the benefit of the Community other than by way of a transfer of assets into an Asset-locked body.
- 2.4 The conditions are that the transfer of assets must comply with any restrictions on the transfer of assets for less than full consideration which may be set out elsewhere in the Memorandum and Articles of the Company.
- 2.5 If:
- 2.5.1 the Company is wound up under the Insolvency Act 1986; and
 - 2.5.2 all its liabilities have been satisfied
- any residual assets shall be given or transferred to an Asset-locked body in Hampshire, determined by the Regulator.

3. Not for Private Gain

The Company is not established or conducted for private gain: any surplus or assets must be used principally for the benefit of the community.

OBJECTS, POWERS AND LIMITATION OF LIABILITY

4. Objects

The objects of the Company are to carry on activities which benefit the Community and in particular (without limitation) to carry out the functions of a local healthwatch company as defined in Section 221 of the Local Government and Public Involvement in Health Act 2007

5. Powers

To further its objects the Company may do all such lawful things as may further the Company's objects and, in particular, but, without limitation, may borrow or raise and secure the payment of money for any purpose including for the purposes of investment or raising funds.

6. Liability of members

- 6.1 The liability of each member is limited to £1, being the amount that each member undertakes to contribute to the assets of the Company in the event of its being wound up while he or she is a member or within one year after he or she ceases to be a member, for:

- 6.1.1 payment of the Company's debts and liabilities contracted before he or she ceases to be a member;
- 6.1.2 payment of the costs, charges and expenses of winding up; and
- 6.1.3 adjustment of the rights of the contributories among themselves.

DIRECTORS

DIRECTORS' POWERS AND RESPONSIBILITIES

7. Directors' general authority

Subject to the Articles, the Directors are responsible for the management of the Company's business, for which purpose they may exercise all the powers of the Company.

8. Members' reserve power

- 8.1 The members may, by special resolution, direct the Directors to take, or refrain from taking, specific action.
- 8.2 No such special resolution invalidates anything which the Directors have done before the passing of the resolution.

9. Composition of the Board

- 9.1 The board shall comprise seven (7) Directors of whom three (3) shall be executive directors appointed by the members and four (4) shall be non-executive directors appointed by the members from persons nominated by the appointment board.
- 9.2 The Board may resolve to increase the number of non-executive Directors, to be appointed by the members from persons nominated by the Appointment Board following a transparent recruitment process.
- 9.3 If the Board shall at any time comprise less than seven (7) Directors the following provisions shall apply:
 - 9.3.1 If the Board has less than four (4) non-executive directors the members shall request the Appointment Board to nominate persons from whom the relevant number of non-executive directors may be appointed. If the Appointment Board fails to do so within twelve weeks, the members may make the appointments.
 - 9.3.2 If the Board has less than three (3) executive directors, the relevant members shall appoint an executive director.
 - 9.3.3 Notwithstanding the vacancies in the Board, the remaining Directors may meet and conduct business provided that there are sufficient Directors to

form a quorum irrespective of the relative numbers of executive and non-executive directors.

10. Chair

The chair of the Directors shall be appointed by the Appointment Board for a term of one year but shall be eligible for re-appointment for a further term or terms. The Chair of the Directors shall be a non-executive director. If there is no chair who has been appointed by the Appointment Board or if the chair is not present at a meeting of the Directors within fifteen minutes of the time fixed for the start of the meeting, the directors shall appoint one of the non-executive directors to chair the meeting. Any director appointed as chair by the directors shall act as chair only for the meeting at which he or she was appointed or until the Appointment Board appoints a chair as the case may be.

11. Directors may delegate

11.1 Subject to the Articles, the Directors may delegate any of the powers which are conferred on them under the Articles or the implementation of their decisions or day to day management of the affairs of the Company:

- 11.1.1 to such person or committee;
- 11.1.2 by such means (including by power of attorney);
- 11.1.3 to such an extent;
- 11.1.4 in relation to such matters or territories; and
- 11.1.5 on such terms and conditions;

as they think fit.

11.2 If the Directors so specify, any such delegation of this power may authorise further delegation of the Directors' powers by any person to whom they are delegated.

11.3 The Directors may revoke any delegation in whole or part, or alter its terms and conditions.

DECISION-MAKING BY DIRECTORS

12. Directors to take decisions collectively

Any decision of the Directors must be either a majority decision at a meeting or a decision taken in accordance with Article 18 but no resolution shall be passed unless at least two executive directors have voted in favour of it.

13. Calling a Directors' meeting

- 13.1 A Director may (and the Secretary, if any, must at the request of a Director) call a Directors' meeting.
- 13.2 A Directors' meeting must be called by at least seven Clear Days' notice unless either:
 - 13.2.1 all the Directors agree; or
 - 13.2.2 urgent circumstances require shorter notice.
- 13.3 Notice of Directors' meetings must be given to each Director
- 13.4 Every notice calling a Directors' meeting must specify:
 - 13.4.1 the place, day and time of the meeting; and
 - 13.4.2 if it is expected that Directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.
- 13.5 Notice of Directors' meetings need not be in Writing.
- 13.6 Notice of Directors' meetings may be sent by Electronic Means to an Address provided by the Director for the purpose.

14. Participation in Directors' meetings

- 14.1 Subject to the Articles, Directors participate in a Directors' meeting, or part of a Directors' meeting, when:
 - 14.1.1 the meeting has been called and takes place in accordance with the Articles; and
 - 14.1.2 they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.
- 14.2 In determining whether Directors are participating in a Directors' meeting, it is irrelevant where any Director is or how they communicate with each other.
- 14.3 If all the Directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

15. Quorum for Directors' meetings

- 15.1 At a Directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.
- 15.2 The quorum for Directors' meetings may be fixed from time to time by a decision of the Directors, but it must:

- 15.2.1 never be less than three, (and unless otherwise fixed it is three); and
 - 15.2.2 if any non-executive Directors have been appointed and remain in office, it must comprise at least two executive directors and one non-executive director.
- 15.3 If the total number of Directors for the time being is less than the quorum required, the Directors must not take any decision other than a decision to request the members to appoint and the Appointment Board to nominate the appropriate number of Directors.

16. Chairing of Directors' meetings

The Chair, if any, or in his or her absence, another non-executive Director nominated by the Directors present shall preside as chair of each Directors' meeting.

17. Decision-making at meetings

- 17.1 Questions arising at a Directors' meeting shall be decided by a majority of votes provided that no resolution shall be passed unless at least two executive directors have voted in favour of it.
- 17.2 In all proceedings of Directors each Director must not have more than one vote.
- 17.3 In case of an equality of votes, the Chair shall have a second or casting vote unless the Chair has a Conflict of interest (as determined in accordance with Article 19 below).

18. Decisions without a meeting

- 18.1 The Directors may take a unanimous decision without a Directors' meeting in accordance with this Article by indicating to each other by any means, including without limitation by Electronic Means, that they share a common view on a matter. Such a decision may, but need not, take the form of a resolution in Writing, copies of which have been signed by each Director or to which each Director has otherwise indicated agreement in Writing.
- 18.2 A decision which is made in accordance with Article 18.1 shall be as valid and effectual as if it had been passed at a meeting duly convened and held, provided the following conditions are complied with:
 - 18.2.1 approval from each Director must be received by one person being either such person as all the Directors have nominated in advance for that purpose or such other person as volunteers if necessary ("the Recipient"), which person may, for the avoidance of doubt, be one of the Directors;
 - 18.2.2 following receipt of responses from all of the Directors, the Recipient must communicate to all of the Directors by any means whether the

resolution has been formally approved by the Directors in accordance with this Article 18.2;

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

18.2.4 the Recipient must prepare a minute of the decision in accordance with Article 31.

19. Conflicts of Interest

19.1 Whenever a Director finds himself or herself in a situation that is reasonably likely to give rise to a Conflict of Interest, he or she must declare his or her interest to the Directors unless, or except to the extent that, the other Directors are or ought reasonably to be aware of it.

19.2 If any question arises as to whether a Director has a Conflict of Interest, the question shall be decided by a majority decision of the other Directors.

19.3 Whenever a matter is to be discussed at a meeting or decided in accordance with Article 18 and a Director has a Conflict of Interest in respect of that matter then he or she must:

19.3.1 remain only for such part of the meeting as in the view of the other Directors is necessary to inform the debate;

19.3.2 not be counted in the quorum for that part of the meeting; and

19.3.3 withdraw during any discussion of the matter and whilst the vote is taken and have no vote on the matter.

19.4 When a Director has a Conflict of Interest which he or she has declared to the Directors, he or she shall not be in breach of his or her duties to the Company by withholding confidential information from the Company if to disclose it would result in a breach of any other duty or obligation of confidence owed by him or her.

20. Register of Directors' interests

The Directors shall cause a register of Directors' interests to be kept. A Director must declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with the Company or in any transaction or arrangement entered into by the Company which has not previously been declared.

APPOINTMENT AND RETIREMENT OF DIRECTORS

21. Methods of appointing and removing Directors

21.1 Those persons notified to the Registrar of Companies as the first Directors of the Company shall be the first Directors. Those of the first Directors who have been

nominated by the Appointment Board shall be the first non-executive directors and those nominated by the Initial Members shall be the first executive directors.

- 21.2 Thereafter the members shall appoint the non-executive directors from persons nominated by the Appointment Board and each member will appoint one executive director. Non-executive directors shall be appointed for terms of three years, renewable for one further period of up to three years, with a limit of six consecutive years.
- 21.3 A member may remove any executive director appointed by that member. The members acting unanimously may remove any non-executive director provided that the total number of non-executive directors removed in the current financial year does not exceed the number of the remaining directors.
- 21.4 The appointment or removal of any director shall be effected by notice in writing to the Company at its Address, or in any other manner approved by the Directors.
- 21.5 A member who removes any Executive Director shall be solely responsible for any liability of the Company arising from the removal of that Director.

22. Termination of Director's appointment

A person ceases to be a Director as soon as:

- 22.1.1 that person ceases to be a Director by virtue of any provision of the Companies Act 2006, or is prohibited from being a Director by law;
- 22.1.2 a Bankruptcy Order is made against that person, or an order is made against that person in individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of Bankruptcy;
- 22.1.3 a composition is made with that person's creditors generally in satisfaction of that person's debts;
- 22.1.4 notification is received by the Company from the Director that the Director is resigning from office, and such resignation has taken effect in accordance with its terms (but only if at least two Directors will remain in office when such resignation has taken effect); or
- 22.1.5 the Director fails to attend three consecutive meetings of the Directors and the Directors resolve that the Director be removed for this reason.
- 22.1.6 the Director is removed pursuant to Article 21.

23. Directors' remuneration

A Director shall not be entitled to any remuneration for acting as a director of the Company.

24. Directors' expenses

24.1 The Company may pay any reasonable expenses which the Directors properly incur in connection with their attendance at:

24.1.1 meetings of Directors or committees of Directors;

24.1.2 general meetings; or

or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the Company.

MEMBERS

BECOMING AND CEASING TO BE A MEMBER

25. Members

25.1 The subscribers to the Memorandum are the first members of the Company.

25.2 Such other persons as are admitted to membership in accordance with the Articles shall be members of the Company.

25.3 No person shall be admitted a member of the Company unless he or she is approved by the Directors.

25.4 Every person who wishes to become a member shall deliver to the company an application for membership in such form (and containing such information) as the Directors require and executed by him or her.

25.5 In addition to approval by the Directors in accordance with Article 25.3 any applicant for membership of the Company may only be admitted by the unanimous agreement of the members from time to time.

26. Termination of membership

26.1 Membership is not transferable to anyone else.

26.2 Membership is terminated if:

26.2.1 the member dies or ceases to exist; or

26.2.2 otherwise in accordance with the Articles.

26.3 In addition to clause 26.2 membership of the Company shall be terminated if:

26.3.1 the member resigns by notice in writing to the Address of the Company;
or

26.3.2 a resolution is passed for the liquidation of the member; or

- 26.3.3 a petition for the winding up of the member is presented at court by a competent person which is not withdrawn or dismissed within seven (7) days of such presentation; or
- 26.3.4 the member is removed from the register of charities; or
- 26.3.5 an inquiry is instigated into the member by the Charity Commission pursuant to Section 46 Charities Act 2011; or
- 26.3.6 the member is unable to pay its debts as they fall due for the purposes of section 123 of the Insolvency Act 1986; or
- 26.3.7 the member enters into a composition or arrangement with its creditors; or
- 26.3.8 a process has been instituted that could lead to the member being dissolved and its assets being distributed to another institution or directly for the objects of that member; or
- 26.3.9 the member ceases to carry on its charitable activities or substantially all of its charitable activities.

DECISION MAKING BY MEMBERS

27. Members' meetings

- 27.1 The Directors may call a general meeting at any time and the Secretary must call a general meeting at the request of any member if there is no Secretary, any member can call a general meeting by notice to the others.
- 27.2 General meetings must be held in accordance with the provisions regarding such meetings in the Companies Acts.
- 27.3 All members shall have one vote each.
- 27.4 A person who is not a member of the Company shall not have any right to vote at a general meeting of the Company; but this is without prejudice to any right to vote on a resolution affecting the rights attached to a class of the Company's debentures.
- 27.5 Article 27.4 shall not prevent a person who is a proxy for a member or a duly authorised representative of a member from voting at a general meeting of the Company.

28. Written resolutions

- 28.1 Subject to Article 28.3, a written resolution of the Company passed in accordance with this Article 28 shall have effect as if passed by the Company in general meeting.
- 28.2 A written resolution is passed as an ordinary resolution if it is passed by a simple majority of the total voting rights of eligible members.

- 28.3 A written resolution is passed as a special resolution if it is passed by members representing not less than 75% of the total voting rights of eligible members. A written resolution is not a special resolution unless it states that it was proposed as a special resolution.
- 28.4 In relation to a resolution proposed as a written resolution of the Company the eligible members are the members who would have been entitled to vote on the resolution on the circulation date of the resolution.
- 28.5 A members' resolution under the Companies Acts removing a Director or an auditor before the expiration of his or her term of office may not be passed as a written resolution.
- 28.6 A copy of the written resolution must be sent to every member together with a statement informing the member how to signify their agreement to the resolution and the date by which the resolution must be passed if it is not to lapse. Communications in relation to written notices shall be sent to the Company's auditors in accordance with the Companies Acts.
- 28.7 A member signifies their agreement to a proposed written resolution when the Company receives from him or her an authenticated Document identifying the resolution to which it relates and indicating his or her agreement to the resolution.
- 28.8 If the Document is sent to the Company in Hard Copy Form, it is authenticated if it bears the member's signature.
- 28.9 If the Document is sent to the Company by Electronic Means, it is authenticated if it bears the member's signature or if it is accompanied by a statement of the identity of the member and the Company has no reason to doubt the truth of that statement or if it is from an email Address notified by the member to the Company for the purposes of receiving Documents or information by Electronic Means.
- 28.10 A written resolution is passed when the required majority of eligible members have signified their agreement to it.
- 28.11 A proposed written resolution lapses if it is not passed within 28 days beginning with the circulation date.

ADMINISTRATIVE ARRANGEMENTS AND MISCELLANEOUS

29. Means of communication to be used

- 29.1 Subject to the Articles, anything sent or supplied by or to the Company under the Articles may be sent or supplied in any way in which the Companies Act 2006 provides for Documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the Company.
- 29.2 Subject to the Articles, any notice or Document to be sent or supplied to a Director in connection with the taking of decisions by Directors may also be sent or supplied by

the means by which that Director has asked to be sent or supplied with such notices or Documents for the time being.

- 29.3 A Director may agree with the Company that notices or Documents sent to that Director in a particular way are to be deemed to have been received within an agreed time of their being sent, and for the agreed time to be less than 48 hours.

30. Irregularities

The proceedings at any meeting or on the taking of any poll or the passing of a written resolution or the making of any decision shall not be invalidated by reason of any accidental informality or irregularity (including any accidental omission to give or any non-receipt of notice) or any want of qualification in any of the persons present or voting or by reason of any business being considered which is not referred to in the notice unless a provision of the Companies Acts specifies that such informality, irregularity or want of qualification shall invalidate it.

31. Minutes

- 31.1 The Directors must cause minutes to be made in books kept for the purpose:

31.1.1 of all appointments of officers made by the Directors;

31.1.2 of all resolutions of the Company and of the Directors (including, without limitation, decisions of the Directors made without a meeting); and

31.1.3 of all proceedings at meetings of the Company and of the Directors, and of committees of Directors, including the names of the Directors present at each such meeting;

and any such minute, if purported to be signed (or in the case of minutes of Directors' meetings signed or authenticated) by the chair of the meeting at which the proceedings were had, or by the chair of the next succeeding meeting, shall, as against any member or Director of the Company, be sufficient evidence of the proceedings.

- 31.2 The minutes must be kept for at least ten years from the date of the meeting, resolution or decision.

32. Records and accounts

- 32.1 The Directors shall comply with the requirements of the Companies Acts as to maintaining a members' register, keeping financial records, the audit or examination of accounts and the preparation and transmission to the Registrar of Companies and the Regulator of:

32.1.1 annual reports;

32.1.2 annual returns; and

32.1.3 annual statements of account.

32.2 Except as provided by law or authorised by the Directors or an ordinary resolution of the Company, no person is entitled to inspect any of the Company's accounting or other records or Documents merely by virtue of being a member

33. Indemnity

33.1 Subject to Article 33.2, a relevant Director of the Company or an associated company may be indemnified out of the Company's assets against:

33.1.1 any liability incurred by that Director in connection with any negligence, default, breach of duty or breach of trust in relation to the Company or an associated company;

33.1.2 any liability incurred by that Director in connection with the activities of the Company or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006); and

33.1.3 any other liability incurred by that Director as an officer of the Company or an associated company.

33.2 This Article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

33.3 In this Article:

33.3.1 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate; and

33.3.2 a "relevant Director" means any Director or former Director of the Company or an associated company

34. Insurance

34.1 The Directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant Director in respect of any relevant loss.

34.2 In this Article:

34.2.1 a "relevant Director" means any Director or former Director of the Company or an associated company;

34.2.2 a "relevant loss" means any loss or liability which has been or may be incurred by a relevant Director in connection with that Director's duties or powers in relation to the Company, any associated company or any pension fund or employees' share scheme of the company or associated company; and

34.2.3 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

35. Exclusion of model articles

The relevant model articles for a company limited by guarantee are hereby expressly excluded.