

## The Croquet Association

# Proposed Change of Legal Status

*Membership Consultation September, 2021*

## 1 Background and How to Respond

The Croquet Association (CA) was formed in 1897 and is constituted as a (non-charitable) Unincorporated Association of, currently, some 5,000 individual members, 200 member clubs and 9 member regional federations. Only individual members have votes at general meetings.

An Unincorporated Association is the traditional structure for a members' club, but has the significant disadvantage that the organisation has no legal personality and can only enter into contracts by individuals acting on its behalf, who ultimately carry personal liability for them. This can be avoided by adopting some form of corporate structure. However, before deciding on one, it makes sense to consider whether the CA should also seek to become a charity.

In January 2021, the CA Council agreed to take up an offer, from Brabners LLP through the Sport & Recreation Alliance, for pro-bono advice about modernising the CA's legal status. It has considered the advice received and is in general agreement about a broad direction of travel and timetable for making a change, but wishes to consult the membership before deciding on a formal proposal and asking for approval at a general meeting. It is satisfied that the costs of any transition and the additional administrative burden of any new structure would not be significant factors when deciding whether to proceed.

This document summarises Council's current thinking and, in section 4, outlines options for the voting membership structure of any new organisation.

Members are invited to express their views on any part of it, but in particular on section 4. Please respond by 23<sup>rd</sup> October, using the survey facility on the website, either as an [individual](#) or on behalf of [clubs or federations](#). Any queries should be addressed to [lswg@croquet.org.uk](mailto:lswg@croquet.org.uk).

## 2 Incorporation

The clear advice, which Council accepted, is that the activities, staff, assets and liabilities of the current Unincorporated Association should be transferred to a newly created corporate organisation, with limited liability, and the Unincorporated Association then dissolved. This will remove the individual liability of members who act on its behalf.

## 3 Charitable Status

Becoming a charity became possible when a new charitable purpose of "the advancement of amateur sport" was introduced by the Charities Act 2006. Brabners do not foresee a problem with the CA obtaining charitable status should it wish to do so, as there are sufficient precedents to suggest that the objectives in its current constitution could be cast into a form that would be acceptable to the Charity Commission as meeting the public benefit test.

Becoming a charity would enhance the CA's reputation, as it would clearly be seen as a governing body acting in the interests of all those playing the sport rather than as a private members' club, and doing so would offer potential taxation and other financial benefits.

Two structures are available that would accomplish both incorporation and charitable status:

- a Charitable Incorporated Organisation (CIO)
- a Charitable Company Limited by Guarantee (CCLG).

The latter is the longer established structure, which is used by the majority of other charitable national governing bodies. A CIO is a more recent one, introduced in 2013 with the aim of simplifying administration. It reports to one regulator (the Charity Commission) rather than two (both that and Companies House), but lacks a charges register, should we ever want to take out loans secured against property.

Council has agreed to propose that the CA should seek charitable status but has yet to come to a settled decision about the more technical issue of which of the two structures to adopt.

## 4 Trustee and Membership Structure

A charity needs trustees to govern it and, unless the trustees are to be self-appointing, a wider group of voting members, who elect/appoint them and vote on resolutions at general meetings. This is provided for in the CIO "Association" model constitution provided by the Charity Commission, which also allows for classes of non-voting, associate, membership to be created. The body of trustees would be the equivalent of the Council in our current structure, but would report to the Charity Commission as well as the voting members. A more open question is who the voting members of the charity should be. (Note that a similar question would arise if we became a CCLG: a company needs directors, who would also be the trustees of the charity, and voting members to appoint them.)

Under our current constitution, all individual members, both those who subscribe directly (e.g. Premium Members) and those who are members through their membership of a club (Standard Members) have a vote, but Member Clubs and Federations do not.

The following possibilities have been considered for a restructured CA:

### **a) To have the same membership structure as the existing CA, with all individual members having a vote.**

Advantages:

- The structure is familiar and conceptually the simplest. It is the default provision of the model constitution.
- Every player can have an equal say, which could be seen as one of the benefits of membership.

Disadvantages:

- A membership of 5,000 is difficult to meaningfully engage with and can allow a vocal minority to dominate.

- In percentage terms a very low quorum needs to be set for general meetings to ensure that the requirement is met.

Mitigations:

- Greater use of electronic communication.
- Use of polling to take decisions after, rather than at, general meetings.

**b) To have voting members nominated by clubs. For example, a system whereby clubs would each nominate one voting member, with an additional one for each 100 club members, would give a voting membership of about 250.**

Advantages:

- The voting membership would be of a more manageable size and should have a greater incentive to be involved.
- Clubs provide the infrastructure for the sport and are the level in its organisation to which players have the greatest allegiance. This would ensure that their collective views are heard.

Disadvantages:

- Individuals who were not members of a club, or members of one which did not nominate them, would be disenfranchised.
- Additional administration would be required to solicit and record the voting members nominated by clubs.

Mitigations:

- If a voting membership of 250 was thought too small, the number nominated by each club could be increased.

**c) To have voting members nominated by Federations and/or elected in a similar way as members of Council currently are. For example, each Federation could nominate 3 voting members with additional ones elected by the players in the region, on the basis of one for each 200 of them, giving a total voting membership of about 50.**

Advantages:

- The voting membership would be of a more manageable size and should have a greater incentive to be involved.
- Federations are the highest level members of the current CA and are best placed to have an overview of the interests of the sport in their areas and to know candidates for election as trustees.

Disadvantages:

- Individuals who were not nominated/elected would be disenfranchised.
- Additional administration would be required to solicit and record the voting members nominated by Federations and to organise elections of additional ones.
- The membership would be likely to be dominated by those already on Federation committees.

- The size of the voting membership would only be about four times the number of trustees.

Mitigations:

- The existing mechanism for electing members of Council could be used to elect the additional voting members.
- If a voting membership of 50 was thought too small, the parameters in the example could be adjusted to increase it.

The size of voting membership is a significant factor when choosing between these possibilities. In some cases it can be adjusted by fine-tuning, so it would be useful to know what members think would be the ideal size.

For options (b) and (c) it would probably be desirable to retain individual membership of the CA, both to be able to communicate with them and to generate income. Individuals could be classed as Associate Members. They would not have a vote, but the trustees could agree to consult them. Associate membership could also be useful for defining which club members counted for determining the number of club representatives in option (b), or which players counted towards a Federation's size in option (c).

## 5 Timetable

The anticipated timetable is that Council will consider the responses to this consultation and take a decision in November about what new structure to propose. A new governance document will then be drafted and a motion put to an SGM in late spring 2022, to seek approval to make the necessary application(s) to register the new structure, with a view to the change being effective from 1<sup>st</sup> January 2023 (noting that in practice the entire transition does not need to occur on this date).

## 6 Links to Further Information

[Introduction by Sport & Recreation Alliance](#)

[Summary of Brabner's advice prepared for Council](#)

[Charity Commission's Association Model CIO constitution](#)