

## **Proposal to the BMAF AGM 30.11.2024 re incorporation of the BMAF**

A decision by more than 2/3rds of the eligible club members in attendance was taken at the BMAF AGM on 25.11.2023 to change the BMAF into a company by limited guarantee and proceed on the basis of a set of draft articles for the new company. This was a significant development and put the BMAF into a position where it will be able to more effectively manage growth and the changes that are increasingly taking place within athletics in the UK.

The AGM is now being asked to allow the Executive to take the next step and establish the new company. That will mean getting approval from Companies House and putting in place the necessary infrastructure to enable the company to start operating. Once that is in place, a due diligence examination will take place to ensure that the company is ready to take on its proposed responsibilities and to accept both the assets and liabilities of the existing BMAF. A further consultation with delegates from the Area Clubs will then take place to ensure they are happy. When that has been done an EGM will need to be called as the final stage where eligible club members will have the final say on whether the change should be allowed.

At the 2023 AGM a proposed set of the new company's Articles of Association were submitted for comment. The key point that was agreed was the overall structure and control mechanisms. The aim has always been to maintain the concept that the BMAF is a Federation of autonomous masters athletic clubs who own the Federation with officers being appointed by their members and key decisions made at AGMs and EGMs. That concept has been built into the new company structure.

At the 2024 AGM eligible club members are now being asked to allow the Executive to submit an application to Companies House for the new company to be formed. The basis of the submission will be the second draft Articles being presented to this year's AGM. This draft is substantially the same as the draft submitted in 2023 except that the many comments submitted have been considered, meetings with delegates from the Area Clubs have been held so that their comments could be taken into account and the whole draft has been looked at by people with particular company law and financial experience. The document has also been tidied up by moving some of the detailed operation of the company into separate bye-laws making it easier to manage the company, such as who has authority to sign contracts, authorise payments and authority limits.

The AGM is not being asked to authorise this second set of Articles as the final version, but the version needed to set the company up. Companies House may want changes for example and changes of wording might be needed to ensure the wording enables the company to continue to take advantage of tax exemptions. Independent expert advice has been obtained on this matter and it is currently believed that they do but nothing should be taken for granted. The final version will be submitted to the EGM that seeks authorisation for BMAF to be wound up its assets and liabilities be transferred to the new company. Even once the company is up and running, the Area Clubs will retain the right to seek and vote for changes to the Articles.

Ian Richards

BMAF Vice Chairman

## **Common questions and answers about the incorporation of the BMAF**

BMAF is building on its existing structure of an Executive plus a service company, BMAF Services Ltd, by moving much of the non-athletics matters into a main company, BMAF Holdings Ltd, with BMAF Services becoming a wholly owned subsidiary. BMAF Holdings will be responsible for the whole operation, including company policy, strategy and governance while delegating implementation and operation to BMAF Services. This is a similar model to that operated by UKA and the Home Country Athletic Federations. BMAF is using a special type of company known as a Company by Limited Guarantee.

### **What is a Company by Limited Guarantee and why has this type of company chosen?**

Most limited companies in the UK that are managed to make a profit and are owned by shareholders who benefit from any profits that are earned. They also carry the risks should the company not have sufficient funds to meet its debts. Their risk is limited to the value of their shares. This type of company is not suitable for a company that is a not for profit.

A company by limited guarantee has been designed specifically for not-for-profit organisations and is the type used by most sports governing bodies and amateur clubs, including UKA, England Athletics, Scotland Athletics, Wales Athletics and Northern Ireland Athletics. Instead of shareholders the company has members who guarantee to pay a maximum amount that has been set in the company's articles in the event of the company not being able to meet its debts. The BMAF has chosen this type of company as being the most appropriate.

The BMAF does not own property or have significant assets which makes becoming a Trust company inappropriate. It has no objectives that could be considered charitable, ruling out becoming a charity. It is a national umbrella organisation, without individual members from a specific community which also means a Community Interest Company (CIC) is not possible.

### **Who will be the Company Members and how much will they have to guarantee?**

The majority of the company members will be the Area Clubs and Associations who will each guarantee a maximum of £1. This maintains the Federation concept as the Area Clubs and Associations effectively own the company and will have statutory powers over the company's Board of Directors.

### **What are the benefits?**

As a company the BMAF will for the first time have a legal identity which will make a significant difference when entering into contracts and arranging banking facilities. It will have to operate under company law which will improve its governance, particularly in the decision-making process, transparency and accountability.

It will demonstrate that the BMAF is a serious organisation with a sound structure which will help it gain it more respect from the other athletic governing bodies and also potential sponsors.

Unlike at present where the BMAF's liabilities, without any limit, fall on each of the individual members of the Executive, they will fall on the Area Clubs and Associations but will be limited to £1 each. Unlimited liability falling on the Executives has been having an increasing impact on being able to attract new Executive Members.

The size of the BMAF's operation is growing making it more and more difficult to find volunteers to carry out all the tasks that are needed. Paying outside bodies and individuals to do them on the

BMAF's behalf will be happening more often in the future. Being a company will make this much easier.

**What are the downsides?**

The Federation has had a unique structure. It was set up to provide services to the autonomous Area Clubs and Associations with a Council that provides advice to the Executive. Club members have been able to appoint the Executive at AGM's.

Care has been taken to structure the new company in as close a way as possible to that structure but within a company wrapper. There will be a split with a main company looking after all the company matters and strategy, with a Board of Directors. The Council will still exist and will advise that Board, while the Company members ie the Area Clubs and Associations as a result of being the guarantors will have ultimate statutory control over the Board of Directors, including appointments and dismissal. BMAF Services will become a subsidiary which will look after all the athletic and event management responsibilities. It will also be advised by the Council with club members still being able to appoint the discipline officers of the subsidiary company.