

ML211 Chair's Bit

Everybody says it. "We are living in strange times". Indeed we are. Hugely difficult times for the RHDR – revenue virtually stopped, staff stood-down, services halted. Now, some staff working, hopes of a very limited summer service – see the many pieces through the Magazine. All very tentative, as I write – and uncertain.

This piece is in two main sections:

A. HOUSEKEEPING - and WHAT WE WOULD LIKE YOU TO DO

B. SORTING OUT SUPPORT FOR THE RAILWAY

A comes before B – so here goes:

A. HOUSEKEEPING

It was my intention to have a good chunk of time at our AGM where what follows could be discussed, explained, and debated. Coronavirus has put paid to that – but, as you will see, we have to do this for the good of the Railway and the Association.

I don't like spending time on the Constitution. I confess, I thought we were there with our revisions a few years 'back. Not quite. We did that to try and bring the RHDRA fully into line with the legal requirements as they had developed since the Association became a Charity. To a large extent we achieved that, but the law carried on changing.

Also, because we needed to know how to manage our role as shareholder in the Company to best help the Railway, we formed a Working Group (and I again record our thanks to its members), to report through the FLC Portfolio Group, to the Trustees. Their brief was to give us a complete understanding of the character and capacity of the Association's shareholding and relationship with the two RHDR Companies. This very helpful Report arrived just as we lost Sir William and we all recognised it was not the right time to get into a deep discussion.

Then, toward the end of last year we were offered a trial package at a hugely discounted rate of an external compliance Audit from Lee Bolton Monier Williams ("LBMW"), a solicitors firm specialising in charity matters – which we accepted. As an employee of that firm myself, I took no part in discussions to instruct LBMW and the negotiation of its fees. Joe Bannister led those discussions. This Report returned our focus to the Constitution.

As a result, dear Members, the Trustees wish to recommend we Incorporate the RHDRA as a "Charitable Incorporated Organisation" and have formally resolved to ask you to support this move.

Here are the reasons why. If this stuff bores you, as well it might, the headlines give the gist in bold, and the paragraphs add some explanation.

- 1. The RHDRA's major shareholding needs to be put onto a proper basis under current Charity Law.**

- 1.1. The legal advice is straightforward. It is no longer possible for the trustees to hold shares in the RHDR Companies without establishing a corporate body to hold them. There are other options, such as forming a separate Company, but the Charitable Incorporated Organisation (CIO) model is specifically designed for circumstances such as this. In the opinion of our legal advisers and of the trustees, this offers us the best available model.
- 1.2. Because of the legal advice, we MUST change to a corporate model. We cannot stay as we are.
2. **We need to put the Association on a better footing, by ensuring its trustees' liabilities are properly covered.**
 - 2.1. Charity trustees that are unprotected by structures or insurance carry unlimited liability for any errors or losses arising from their actions. This is quite correct at one level but most individuals will not wish to incur that exposure. The RHDRA trustees are not comfortable with the existing liability level. We are advised that the Charity Commission know of no circumstance where any Insurer has ever paid out for trustees' liability. This makes people anxious about becoming or serving as trustees of the RHDRA. We MUST solve this problem for the RHDRA to be able to find and keep trustees.
 - 2.2. Incorporation means there is properly managed liability for the Trustees (or indeed any member of the RHDRA) to contribute to its liabilities. Any bad practice or corruption remains punishable by imprisonment or fines. Each of these is a powerful deterrent and regularly used by the Charity Commission.
 - 2.3. Incorporation should therefore make it easier to find and keep trustees, and for the members and trustees to provide support on a planned basis for the railway – both for long and short term projects.

From these two main reasons the following second two reasons flow

3. **The RHDRA Constitution will have to be renewed so that it can become a CIO. Thus we have made some changes to bring it absolutely up to date with contemporary charity law and governance best practice.**
 - 3.1. You can read the new Constitution on the RHDRA website (www.rhdra.org) and you can have a printed copy of it and other papers on the website on request by sending an A4 size s.a.e. to our General Secretary, Simon Haynes.
 - 3.2. The Membership Rules are being separated from the Constitution. This does NOT remove Members' control over the Rules – they must be approved by Members at an AGM. But it does mean the RHDRA trustees and Members can change the rules without it having to wait for Charity Commission approval – which it would need if it was a change inside the Constitution.
4. **Coronavirus means we also need to add provisions to enable members to be able to vote electronically (as is already the case for trustees).**
 - 4.1. In a sense this is part of point 3 but I wanted to make it quite 'open' to everyone what this means and why.
 - 4.2. If Coronavirus has taught us nothing else it is that in strange times even some people who have told me themselves, they are "dinosaurs" have mastered new technology and communicated electronically! It does work. It's often not as good as face-to-face communications, though sometimes it's better. And so once again I appeal to members to log into the online membership records and UPDATE YOUR EMAIL ADDRESSES. And if you want to be really helpful, put your First Name into the

system, because otherwise one day you might get an email addressed to 'Dear S', and I think that's awfully rude.

Of course, we can't see any way we can plan for an AGM this year, so we are carrying all this through by a procedure which our EXISTING constitution allows, "Written Resolution". It is vital we do this so that we can respond to the urgent needs of the Railway at this time! The trustees have resolved to ask the Members to make this change – please see the pages in this edition of Marshlander for the complete wording.

WHAT WE WOULD LIKE YOU TO DO

Please vote on the Resolutions. If you read the pages in this order it should make sense:

- 1) Read the **Notice of Written Resolution on p*****. This is the formal explanation that, since we cannot have an AGM, we are asking you to carry out formal business of the Association in writing
- 2) Read the four **Resolutions** in the document "**Resolution – Final Form**" that follow – on p***. These are what we as Trustees recommend you approve. They have been written with expert legal advice. If the resolutions are passed, they will enable the RHDRA to dissolve and re-form as a legally Incorporated body.
- 3) Send back the email resolution in exactly the same way described in the **Notice**. All emails must include the word "Resolutions" in the subject line and contain the following confirmation:

"Resolutions 1,2,3 and 4 notified to me on 8th June 2020.

This email is my signed consent to each and every resolution set out above."

This should be sent to the email address voting2020@rhdra.org. You can, of course, reply on paper by post to Simon Haynes. Responses sent to any other addresses will have to be considered 'spoilt' I am afraid.

Please do read the 'Note' at the end of the resolutions. The Association will always seek to hold and process its members' data legally and carefully, with the members' best interests in mind.

Members will have realised from the above that we no longer plan to hold an AGM this year. It just seems impossible to plan at the moment. If the situation eases such that we feel confident to do so, we will let you know and of course give you proper notice of any proposed changes of plan. I will be working with the other trustees to ensure that if we do find it is possible to hold a 2020 AGM, we do that in a manner that is appropriate to the prevailing circumstances.

As a result, we very much regret that we are clear that we absolutely cannot plan to run a Special Train for members this year.

B. SORTING OUT SUPPORT FOR THE RAILWAY

The Railway is going to need everyone's continued help and goodwill in the coming weeks and months, especially to achieve any kind of winter programme and hold together its skilled staff team and volunteer base. We have asked Danny Martin to communicate with the Directors our willingness to developing a package of material purchases that may, subject of course to full discussion with and approval by the Trustees well amount to £150,000 or more. Whatever amount we propose will be a sum that the Association can afford to contribute from its reserves We intend to dip deeply into those reserves at this critical hour of need in two ways:

1. by putting forward up to £200,000 of direct spending to support identified projects which meet our charitable objects and obligations;
2. by asking Members to contribute on top of the RHDRA's funding, AND then by further match-funding each Member's giving so long as we can afford to do so (obviously if a single Member gave a huge amount of money through the scheme, as trustees the Association would not be able to match that without bankrupting itself!).

This should be an immensely exciting scheme. On top of the money already spent on Black Prince and committed in other ways, and the money spent on the Heritage Interpretation Centre, 2020 will be the RHDRA's most generous year in its 50-year history.

FINALLY

Thank you for reading this far, for sticking with the Railway and the Association, and helping us try to make such a difficult year have the best possible outcome. I hope we will see that, even if no trains run at all – and that isn't likely – there will still be new work going on at the Romney and we shall be ready to steam again just as soon as we can! I know these are unusual times, and there is much that is new above. Please do get in touch with me, or any of the trustees, if you wish to discuss any aspect. All our contact details are in the magazine and on the website.

Simon Foulkes
June 2020