

**British Marine Federation  
Rules and Code of Practice**

**Updated June 2021  
Version 1.2**

# RULES AND CODE OF PRACTICE FOR MEMBERS OF THE BMF

VERSION 1.2 June 2021

## Contents

1. Categories of Membership, Eligibility and Associations
2. Application Process
3. Terms of Membership
4. Use of British Marine Logo
5. Code of Practice
6. Finance Matters and Financial Year
7. Annual Subscription
8. Office Bearers
9. Limit of Federation's Liability
10. Voting Rights at Council Meetings
11. Terms of Reference for Council
12. Terms of Reference of Management Board
13. Attendance and Voting Rights at Management Board Meetings
14. Election Procedure for the Management Board

Schedule 1. Terms of Reference – Council

Schedule 2. Principal Activities of Management Board

Schedule 3. Code of Practice

Schedule 4. Complaints Procedure

## **Introduction**

These Rules of Membership (hereinafter referred to as the “**Rules**”) set out the terms and conditions applicable to all members of the British Marine Federation (hereinafter referred to by its trading name “**British Marine**”).

In these Rules, unless the context otherwise requires, the following words or expressions shall have the following meanings:

“**Eligible Entity**” shall mean a company, partnership, LLP, sole trader, Yacht Club, College or Charity which is actively involved within the leisure, small commercial or superyacht sectors of the marine industry. Where a company is a subsidiary of or a holding company for another company both such companies (and any other companies forming part of the same group) (a “**Group**”) shall be Eligible Entities and all members of the Group must become members of British Marine if they wish to enjoy the benefits of membership. For the avoidance of doubt, membership benefits cannot be used by any Group company which is not itself a member.

“**Insolvency Event**” shall mean the appointment of a trustee, supervisor, receiver, administrative receiver, liquidator, administrator or similar officer in respect of the affairs of a business or where a business has been dissolved or otherwise wound-up in any manner (other than through the voluntary dissolution by its members or owners while solvent) or by an analogous event in a jurisdiction other than England and Wales.

## **1 CATEGORIES OF MEMBERSHIP, ELIGIBILITY AND ASSOCIATIONS**

### **1.1 Categories of membership**

There are two categories of membership of British Marine, namely:

#### **1.1.1 Full Member**

Any Eligible Entity which has a trading/operating address within the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland may be a Full Member of British Marine. There shall be a number of tiers of Full Membership, as determined by the Council of British Marine from time to time taking into consideration factors such as the annual turnover of the member and the annual subscription paid. Full Members have access to all services and benefits of British Marine commensurate with their tier of membership and are entitled to use the British Marine logo and the logo of any British Marine Association of which they are a member in accordance with Rule 4.

#### **1.1.2 International Member**

An International Member shall be any Eligible Entity which does not have a trading/operating address within the United Kingdom, the Channel Islands or the Isle of Man but does have such an address within Europe. International Members have access only to such services and benefits of British Marine as may be agreed upon their application for membership and are not entitled to use the British Marine logo. International Members are not eligible for membership of any British Marine Regional or Group Association, with the exception of British Marine Access to Boating and British Marine Electrical and Electronics.

## **1.2 Honorary Ambassador**

Honorary ambassadorship of British Marine may be conferred by the Council of British Marine to any individual who has made a significant contribution to the marine industry, provided that such award is supported by the Committee of at least one Regional or Group Association. Honorary ambassadors are not required to comply with the Code of Practice and shall not be entitled to any of the services and benefits of British Marine or be entitled to use the British Marine logo.

## **1.3 Eligibility for Membership**

1.3.1 Any Eligible Entity shall be eligible for membership of British Marine provided that it satisfies the relevant conditions for membership.

1.3.2 An Eligible Entity shall not however be eligible for membership of British Marine if, within the previous 12 months, any director, shadow director, partner, manager or person with significant influence or control of that Eligible Entity has acted as a director, shadow director, partner, manager or person with significant influence or control of any business that has suffered an Insolvency Event.

## **1.4 Regional and Group Associations**

1.4.1 There are a number of Regional and Group Associations within British Marine, each focusing upon its own geographical area or sector specific interests. Upon application for membership of British Marine all applicants will automatically be referred to the committee of the Regional Association with which their principal trading address is most closely geographically connected (unless they request otherwise) and the Group Association most relevant to their business (unless they are applying for International Membership).

1.4.2 Full Members must remain members of the appropriate Regional Association at all times while they are a member of British Marine. Members may apply to join additional Group Associations relevant to their business and in accordance with their appropriate member package or may leave Group Associations at any time at their option.

1.4.3 Provided that consent has been obtained from British Marine's Head of Member Relations, a Regional or Group Association may invite an entity (such as a trade or members Association or a Government Agency) to become a strategic partner of that Association. Any entity which is granted strategic partner status in these circumstances shall not hold itself out as a member of British Marine, shall have no voting rights in any matter relating to the Regional or Group Association concerned or to British Marine, shall not be entitled to any of the services and benefits of British Marine or be entitled to use the British Marine logo unless expressly agreed otherwise in writing by British Marine's Head of Member Relations.

## 2 APPLICATION PROCESS

- 2.1 All applicants for membership of British Marine shall complete and submit an Application Form, preferably online, certifying that the information they are providing is true and accurate. They must also pay the non-refundable joining fee if applicable to their package and the applicable annual subscription.
- 2.2 Once an Application Form has been submitted British Marine's Membership Team may undertake appropriate due diligence checks on the applicant. During this period the applicant will be deemed to be a Full Member of British Marine but their membership shall be subject to ratification by Membership Team upon completion of the due diligence process.
- 2.3 If further information is required in order for the application to be considered the Membership Team will notify the applicant accordingly. The Membership Team will also ask the relevant Regional and Group Association committees for comment on each application submitted.
- 2.4 The Membership Team may refuse an application for membership if, in the reasonable opinion of the Membership Team, the applicant does not satisfy the requirements for eligibility for membership.
- 2.5 The Membership Team may also refuse an application for membership if:
  - 2.5.1 the applicant has acquired a substantial proportion of the business, assets and/or goodwill of a business which within the previous 12 months has suffered an Insolvency Event;
  - 2.5.2 the applicant has been operating under the name of a business which is the same as or could (in the reasonable opinion of the Membership Team) be mistaken for or be assumed to be connected with a business which has suffered an Insolvency Event within the previous 12 months;
  - 2.5.3 the information provided by the applicant as part of the application process is found to be untrue or inaccurate; or
  - 2.5.4 there are any other circumstances which, in the reasonable opinion of the Membership Team, make the applicant unsuitable for membership or whose membership may damage the reputation, standing and good name of British Marine.
- 2.6 Where an application for membership has been refused pursuant to Rules 2.4 or 2.5 the Membership Team shall, on request by the applicant, provide the applicant with a summary of the reasons for such refusal. An applicant whose application for membership has been refused may have the matter reviewed by a panel comprising the President Elect, the President and one other member of the Council of British Marine appointed for that purpose by the Management Board of British Marine (the "**Review**

**Panel”**), to ensure that the Rules and conditions of membership have been fairly applied to their case.

2.7 Membership of any category, is not transferable.

### **3 TERMS OF MEMBERSHIP**

3.1 All members of British Marine agree to:

3.1.1 abide by the provisions of the Code of Practice and the Rules of British Marine, as may be amended from time to time; and

3.1.2 pay on demand all annual subscriptions.

3.2 Members must notify the Membership Team in writing as soon as practicably possible if there is any change in:

3.2.1 the ownership, management or person(s) with significant influence or control of the Member;

3.2.2 any trading name used by the Member;

3.2.3 the nature of the business undertaken by the Member; or

3.2.4 any other circumstances which may be relevant to the Member's continued membership of British Marine (including, but not limited to, any court orders, judgments or convictions being made against the Member which may impact upon the creditworthiness, reputation and good standing of the Member concerned).

3.3 Upon receipt of a notice from a Member in any of the circumstances set out in Rule 3.2 the Membership Team shall review the circumstances concerned and may, if appropriate (in the reasonable opinion of the Membership Team), terminate or suspend the Member's membership or impose such terms or conditions upon the continued membership of the Member concerned as the Membership Team shall (in its sole and absolute discretion) think fit.

3.4 The Membership Team may also suspend or terminate the membership of a Member with immediate effect by giving written notice in this respect to the member concerned if:

3.4.1 in the case of an individual, the Member shall be of unsound mind;

3.4.2 the Member suffers an Insolvency Event;

3.4.3 the Member has failed to pay the annual subscription due despite receiving a written reminder to do so;

- 3.4.4 the Membership Team reasonably considers that the activities or objects of the Member are no longer sufficiently associated with or allied to the leisure, small commercial or superyacht sectors of the marine industry;
  - 3.4.5 the information provided by the applicant as part of the application process is found to have been untrue or inaccurate;
  - 3.4.6 there are any other circumstances which, in the reasonable opinion of the Membership Team, make the applicant unsuitable for continued membership or whose membership may damage the reputation, standing and good name of British Marine; or
  - 3.4.7 the Member has breached the Code of Practice or these Rules.
- 3.5 A Member whose membership has been terminated or suspended in accordance with Rule 3.3 or 3.4 or who does not agree with the terms or conditions of continued membership which have been imposed may have the matter reviewed the Review Panel. Where a Member's membership is suspended or terminated pursuant to any of the provisions set out in Rules 3.3 or 3.4 the Member shall not be entitled to a refund of any part of the annual subscription paid for the balance of the year in question.
- 3.6 A Member whose membership has been suspended or terminated shall immediately cease to be entitled to the services and benefits of British Marine membership, including the use of the British Marine logo, and shall not at any time thereafter or, in the case of suspension at any time during the period of suspension, hold itself out as a member of British Marine.

#### **4 USE OF BRITISH MARINE LOGO AND BOAT SHOW DISCOUNTS**

- 4.1 Full Members are entitled to use the British Marine logo and the logo of any British Marine Association of which they are a member in connection with their marine business or operation. Use of the British Marine logo is strictly subject to these Rules and any conditions imposed by British Marine and notified to members from time to time.
- 4.2 A Full Member's right to use the British Marine logo/British Marine Association logo applies only to the member concerned and does not confer a right to do so on any other person or entity connected to or associated with the member, including but not limited to any joint venture partner, subsidiary, franchisee, franchisor, licensee, licensor, employee, director or other officer. A Member shall not in any circumstances permit any such person or entity to use the British Marine logo nor shall a Member use the British Marine logo for the benefit of any other person or entity or in relation to any business of the member other than that in respect of which its membership has been granted.
- 4.3 International Members are not entitled to use the British Marine logo or any British Marine Association logos unless given the express written permission by British Marine to do so.

4.4 Southampton International Boat Show discounts are only applicable to Full members and are not transferable save in exceptional circumstances and/ or in the event of insolvency and then only at the discretion of the Membership Team.

## **5 CODE OF PRACTICE**

All Full Members and International Members must adhere to the Code of Practice, the provisions of which are set out in Schedule 3 below.

Any failure or alleged failure to comply with the Code of Practice shall be investigated and adjudicated upon in accordance with the Complaints Procedure, as set out in Schedule 4 below. As a condition of membership of British Marine all Full Members and International members agree to accept the jurisdiction of the Complaint Investigators and the Appeals Committee, as defined in the Complaints Procedure.

## **6 FINANCE MATTERS AND FINANCIAL YEAR**

6.1 British Marine shall maintain bank accounts in its name with such bank or banks as the Council of British Marine shall from time to time determine. All monies received by British Marine shall be paid into such accounts and all transfers from or cheques drawn on such accounts shall be authorised or signed by (as the case may be) any two persons appointed from time to time for that purpose by the Management Board.

6.2 Audited accounts shall be presented as at the end of each financial year at the next following Annual General Meeting.

6.3 British Marine shall appoint its auditors annually at the Annual General Meeting. The remuneration of the auditors shall be agreed by the Management Board.

6.4 The financial year of British Marine shall run from 1 July until 30th June the following calendar year unless amended by a resolution duly passed at the Annual General Meeting.

## **7 ANNUAL SUBSCRIPTIONS**

Subscription rates for all categories of Membership will be based upon such scales as may be determined by the Council of British Marine from time to time.

## **8 OFFICE BEARERS**

Office Bearers are as defined by Council and shall include the President, the Treasurer or Board Appointed Treasurer (as the case may be), the President Elect, the Immediate Past President and an aggregate of eight Non-Executive Directors and Board Appointed Directors. No Office Bearer other than a Board Appointed Director or Board Appointed Treasurer shall remain in office if, for any reason, that person ceases to be a director, shareholder of or other owner of or ceases to be employed by a Member of British Marine. It will be at the discretion of Council whether an Office Bearer should continue

in office if that person moves from one member firm or company to another without any time-gap in employment. In this event it will be the responsibility of the Office Bearer to notify the British Marine Chief Executive Officer in writing in time for Council to decide before the date of the move.

## **9 LIMIT OF FEDERATION'S LIABILITY**

The liability of British Marine to members shall be restricted to the implementation of the objects of British Marine as defined in the Memorandum and Articles of Association of the Federation to the best of the ability of its Council members and officials. British Marine will not in any circumstances be responsible for consequential damages or harm arising as the result of any action taken or any advice given in good faith by British Marine or its Council members, Committee members, officials and appointed representatives or agents.

## **10 ATTENDANCE AND VOTING RIGHTS AT COUNCIL MEETINGS**

The President	One vote
The President Elect	One vote
The Treasurer (or Board Appointed Treasurer)	One vote
The Immediate Past President	One vote
Each Non-Executive Director	One vote
Each Board Appointed Director	One vote

A representative of each Regional and Group Association admitted into membership under the Articles of Association and these Rules: One vote for every 25 full members of the Association or part thereof with a minimum of two.

### **NOTE A**

\*The Immediate Past President shall be a member of the Council for the period of 2 years with effect from the end of his term of office.

### **NOTE B**

The President-Elect, as Chairman of the Council meeting, shall have an additional casting vote where there is an equality of votes on any issue

### **NOTE C - Co-Option**

Without prejudice to the foregoing, the Council shall have power to co-opt any person or persons as members of the Council. Such co-opted members shall attend such meetings as the Council may from time to time decide, but shall have no voting rights.

### **NOTE D- Representation**

Only one representative of each Association or Federation, appointed in the duly authorised manner shall be required to attend Council meetings and he/she will be able to exercise on a ballot one vote for every 25 full members or part thereof belonging to his association. In the interests of continuity additional representatives from associations/services are welcome to attend Council meetings and, if appropriate, to take part in a debate, but without any voting rights.

NOTE E- Quorum  
The Quorum shall be 10.

## **11 TERMS OF REFERENCE FOR COUNCIL**

The Terms of Reference for Council are as determined from time to time by Council.  
The current terms are set out in Schedule 1 below.

## **12 TERMS OF REFERENCE FOR MANAGEMENT BOARD**

The Management Board is responsible for the management of British Marine's business, subject always to the Articles of Association.

A summary of the principal activities of the Management Board, as determined from time to time by the Management Board, are set out in Schedule 2 below.

## **13 ATTENDANCE AND VOTING RIGHTS AT MANAGEMENT BOARD MEETINGS**

The President	One vote
President Elect	One vote
The Treasurer (or Board Appointed Treasurer)	One vote
Each Non-Executive Director	One vote
Each Board Appointed Director	One vote
The British Marine Chief Executive	One vote
The British Marine Commercial Director	One vote

NOTE A  
The quorum shall be SEVEN.

NOTE B  
No co-opted member shall have voting rights.

NOTE C  
The President shall have an additional casting vote.

## **14 ELECTION PROCEDURE FOR THE MANAGEMENT BOARD**

### ***President***

The President will be appointed in accordance with British Marine's Articles of Association (as amended or replaced from time to time).

### ***President-Elect***

The President-Elect will be appointed in accordance with British Marine's Articles of Association (as amended or replaced from time to time).

### ***Treasurer***

The Treasurer will be elected to the Management Board by Council.

When nominating themselves for election or re-election to the Management Board, the Treasurer must complete an application form in such form as decided by Council from time to time.

### ***Chief Executive Officer***

The Chief Executive Officer is elected to the Management Board by virtue of holding the position of Chief Executive Officer of British Marine Federation Limited.

### ***Commercial Director***

The Commercial Director is elected to the Management Board by virtue of holding the position of Commercial Director of British Marine Federation Limited.

### ***Non-Executive Directors, Board Appointed Directors and Board Appointed Treasurer***

Each Non-Executive Director will be elected to the Management Board by Council.

When nominating themselves for election or re-election to the Management Board, each Non-Executive Director must complete an application form in such form as decided by Council from time to time.

From time to time, the Management Board will undertake a review of the skills and professional qualifications of all current directors (other than the Chief Executive Officer and Commercial Director) serving as Management Board members to identify any skills gaps which will arise when Directors step down from the Management Board at the end of their term of office. Should it be felt by the Management Board that additional or replacement skills would be desirable for good corporate governance all applicants for election or re-election to the Management Board will be informed of the skills set required for at least one of the incoming Non-Executive Directors or the Treasurer.

If a specific skill set is identified and none of the candidates standing for election or re-election as Treasurer or Non-Executive Directors (as applicable) have the skills required there shall be one less position (for Treasurer or Non-Executive Director as applicable) open for those candidates on the Management Board. The Management Board shall then be automatically empowered to recruit someone with the relevant skills set from outside of British Marine's membership to fill the vacant position on the Management Board (anyone so appointed will be a Board Appointed Director or Board Appointed Treasurer, as the case may be, and will automatically become a director, without a need for Council/member approval, and will, subject to the paragraph below, serve as a Board Appointed Director for the same term and on the same basis as all Non-Executive Directors notwithstanding that he or she may not be the owner or employee of a current member of British Marine).

Should a Board Appointed Director or Board Appointed Treasurer wish to seek re-election for a second term all members shall be informed of that fact and be invited to put themselves forward for such position, should they hold the required skills set. Any

candidates so nominated will then be put forward to Council for election together with the individual(s) seeking re-election as a Board Appointed Director or Board Appointed Treasurer (as the case may be). Should no candidates be nominated from membership with the required skills set the Management Board shall then be empowered to appoint, at their discretion, such Board Appointed Director or Board Appointed Treasurer for a second term or to recruit someone from outside British Marine's membership in accordance with the provisions set out in the paragraph above.

No more than 2 Board Appointed directors (whether Board Appointed Treasurer and/or Board Appointed Directors) may hold a position on the Management Board at any one time.

### ***Appraisal Process***

The President will carry out a formal annual appraisal of all members of the Management Board. The Management Board will in turn provide annual feedback on the President, such feedback to be provided to the President by the President-Elect.

Such appraisal process to commence from 2020.

## **SCHEDULE 1**

### **TERMS OF REFERENCE COUNCIL**

The members of Council together form a strategic forum representing the members of British Marine. Council will meet four times a year, or as required. Such meetings may be held remotely or at such venue as may be considered appropriate by the Management Board.

The Council will debate and decide issues of national significance to the industry and issues raised by Members or the Regional and Group Associations, and inform and provide strategic direction to the Management Board in respect of their views, in order to enable Management Board to formulate relevant and informed policy to be implemented. The Regional and Group Associations will also update the Council on their activities.

The members of Council will give final approval to all matters pertaining to membership.

The members of Council will elect the Treasurer and the Non-Executive Directors (other than Board Appointed Directors or a Board Appointed Treasurer) who will sit on the Management Board. Votes for such elections shall be by way of ballot in accordance with Rule 10.

At each meeting of Council the members of Council will:

- Consider and debate:
  - Proposals, suggestions and ideas received from Regional Associations, Group Associations and other members requiring debate at Council prior to consideration by the Management Board. These will usually be issues that are of importance to the whole of British Marine or issues of importance to a particular Association, but which need action at Council
  - Issues put on the agenda by Management Board members, including feedback on policy objectives, strategy and budgets
  - International developments affecting the industry
  - Any changes to the Rules and Code of Practice as proposed by the Management Board
- Receive reports from the Chief Executive and Management Board on financial performance and other issues of relevance and from members who represent British Marine on outside bodies, as and when appropriate.

Council also has the authority to authorise withdrawals from the British Marine Trust Fund in accordance with the Terms of Reference for the Trustees of the British Marine Trust Fund.

The Council may, by Special Resolution, direct the Management Board to take, or refrain from taking, specified action. No such Special Resolution shall however invalidate anything which the Management Board has done before the passing of the resolution.

NB Final approval of the statutory accounts each year will be obtained from the members in General Meeting.

## SCHEDULE 2

### **SUMMARY OF THE PRINCIPAL ACTIVITIES OF THE MANAGEMENT BOARD**

The Management Board will meet not less than six times per annum.

#### **1. FUNCTIONS:**

The Management Board:

- 1.1. will collate proposals, suggestions and ideas received from Council;
- 1.2. will prepare a British Marine Strategy and Business Plan for submission to and approval by Council;
- 1.3. thereafter, will review the Strategy and Business Plan not less than once a year with any alterations being submitted to Council for approval;
- 1.4. will recommend the financial targets and budgets for all companies and activities within the British Marine Group of Companies with regular reports to Council;
- 1.5. will set out objectives for the promotion of the Industry, including all exhibition activities at Home and Overseas;
- 1.6. will receive and approve strategy and plans in relation to Boat Shows prepared by the Boat Show Board with regular reports to Council; and
- 1.7. will review the Rules and Code of Practice annually and propose changes to Council if applicable.

#### **2. RESPONSIBILITIES:**

The Management Board will be responsible for:

- 2.1 Delegating the day to day management and operation of British Marine's affairs to such person or committee, by such means, to such extent and on such terms as it thinks fit.
- 2.2 Formulating a strategy and business plan to be approved annually by Council;
- 2.3 Providing financial oversight of British Marine and provide regular reports to Council on the financial position of British Marine;
- 2.4 Holding the Chief Executive and Commercial director to account if the annual British Marine strategy and business plan is not achieved.
- 2.5 Providing strategic overview of the Membership and Boat Show services provided by British Marine;

- 2.6 Appointing specialist working groups to address British Marine objectives needing specific skill sets and expertise;
- 2.7 Exercising overall responsibility of the British Marine Group's property portfolio;
- 2.8 Exercising overall responsibility of the British Marine Group's investment portfolio;
- 2.9 Exercising overall responsibility of British Marine's Membership & Services;
- 2.10 Exercising overall responsibility of the British Marine Boat Shows;
- 2.11 Taking collective responsibility for the success of the British Marine Group; and
- 2.12 Representing the interests of both British Marine members and exhibitors at Management Board level.

## SCHEDULE 3

### **BRITISH MARINE CODE OF PRACTICE**

#### **1. Introduction**

British Marine Federation (**BM**) requires all its Members to adhere to its Code of Practice (the **Code**). The Code has been approved by the Management Board and Council and will be reviewed annually by both to ensure that it is current and effective. The aim of the Code is to ensure that all members adhere to appropriate quality standards for the leisure, small commercial and superyacht sectors of the marine industry.

The Code concerns the way that Members of BM should deal with their customers and with each other. It is intended to ensure the promotion and observance of good, ethical business practice among Members with a view to preserving and enhancing the reputation, standing and good name of BM and thereby of its Members.

The Code is mandatory for all Members who, by the very nature of their membership of BM, have agreed to comply with the Code and accept the jurisdiction of the Complaint Investigators and the Appeals Committee, as defined in the Complaints Procedure.

Any failure or alleged failure to comply with the Code shall be investigated and adjudicated upon in accordance with the Complaints Procedure.

#### **2. Expected Standards – all Members**

##### **2.1 Compliance**

- i) Members must adhere to all relevant statutory and regulatory requirements applicable to their particular business at all times.
- ii) Members must comply with the requirements of the General Data Protection Regulations and the Data Protection Act 2018 (or any statutory modification or re-enactment thereof) and must implement and maintain a proper data processing system as required by the regulations.
- iii) Members must maintain adequate levels of public liability, employer's liability, occupier's liability and professional indemnity liability insurance cover applicable to their business.
- iv) Members shall ensure that all their employees and agents are aware of the requirements of the Code and comply with the expected standards at all times while conducting the business of the Member.
- v) Members must comply with any code of conduct, code of practice, bye-laws or other relevant rules in force in any BM Regional or Group Association of which they are a member.

## **2.2 Dealing with customers**

- i) Members should strive to maintain the best practicable standard of service to their customers, having regard to the nature and price of the goods and services supplied, at all times. Customers must always be treated fairly and courteously.
- ii) Members shall not deliberately mislead their customers in any way and must ensure that all promotional material is accurate.
- iii) Members shall provide their customers with accurate and reliable information as to price, specification and time of delivery of their products or services.
- iv) Members shall maintain proper written records of the basis of agreement reached between them and their customers in respect of all transactions entered into and to transact their business using a legally binding contract (Members may wish to make use of the British Marine template contracts in this respect but are not obliged to do so).
- v) Where possible customer's reasonable enquiries or complaints shall be acknowledged promptly and responded to within a reasonable period of time.
- vi) Where appropriate Members should encourage their customers to refer disputes which arise between them, and which cannot be resolved amicably, for resolution under the BM Mediation Scheme.
- vii) If a customer considers that a Member has failed to act in accordance with the Code, the Member should advise the customer of the procedure for submitting a complaint to BM for investigation.

## **2.3 Intellectual Property Rights**

Members shall respect the intellectual property rights of third parties and shall not market, sell or facilitate the sale of counterfeit goods or pirated material; nor shall they knowingly abuse or infringe trademark, patent or design right registrations in any jurisdiction.

## **3. Additional Requirements - Boat Builders, Brokers and Retailers**

Members who hold customers' funds on behalf of third parties when acting as brokers or intermediaries in a transaction must hold such funds in a separately operated designated client money trust account and operate such account only for the purpose for which the funds were intended and in a manner which protects the trust status of the account as far as possible.

Members who build boats must build to RCD requirements where applicable.

#### **4. Additional Requirements - Boat Hire Businesses**

Members who hire day boats and holiday boats on the inland waterways or Broads must hold a current Quality Assured Boatyard scheme certificate at all times.

#### **5. Breaches of the Code**

Any failure or alleged failure to comply with the Code shall be investigated and adjudicated upon in accordance with the Complaints Procedure. Such investigation may be instigated by BM or by any BM Member or customer of a BM Member.

## SCHEDULE 4

### **BRITISH MARINE COMPLAINTS PROCEEDURE**

This Complaints Procedure has been designed to enable British Marine Members and non-members (whether organisations or members of the public) to raise formal complaints to British Marine if they feel that a Member of British Marine has breached the Code of Practice.

#### **1. Initiating a Complaint**

1.1 Any customer of a British Marine Member who believes that the British Marine Member concerned has failed to comply with the Code of Practice should in the first instance raise the matter with the British Marine Member concerned.

1.2 Should the British Marine Member fail to respond to the complaint adequately or at all within a reasonable period of time the complainant should complete and submit an online complaint form. The complaint form (as may be amended from time to time) can be found on the British Marine website. A complainant who contacts British Marine in respect of a complaint should be referred to the online complaint form and the procedure for filing the complaint.

1.3 Any British Marine Member who wishes to file a complaint against another British Marine Member in connection with any alleged failure to comply with the British Marine Rules or Code of Practice may also submit an online complaint form.

1.4 A complaint will not be considered:

1.4.1 unless a completed online complaint form has been correctly completed and submitted;

1.4.2 in respect of any party who is not a current member of British Marine;

1.4.3 in respect of any matter which relates to the supply of goods or services by a British Marine member at a time before they were a member of British Marine;

1.4.4 where the complainant has already commenced court or other dispute resolution proceedings against the British Marine Member concerned in connection with the issues complained of; or

1.4.5 for any other reason specified in the online complaint form.

#### **2. Complaint Investigation**

2.1 Once a complaint form has been received the matter will be allocated to and investigated by a member of British Marine staff (the "**Complaint Investigator**"). The Complaint Investigator has fully delegated power of the Council to consider and determine the matter and, should a breach of the Code of Practice or the British Marine Rules be found to have occurred, to determine the appropriate sanction or to refer the matter to the Head of Member Relations in order for the sanction to be determined.

- 2.2 The Complaint Investigator may request the complainant (the “**Complainant**”) to provide further evidence in support of the alleged breach complained of. If the Complaint Investigator is of the opinion that there is insufficient evidence that a breach has been committed, he/she will notify the Complainant accordingly and the matter will be closed. The Complainant shall have no right of appeal in such circumstances.
- 2.3 When the Complaint Investigator has sufficient details of the alleged breach and is of the opinion that there is at least a prima facie case to answer he/she will contact the British Marine Member who is the subject of the complaint (the “**Respondent**”) to notify them of the details of the allegations made.
- 2.4 The Respondent must respond to the Complaint Investigator within 28 days setting out their position in relation to the allegations that have been made. If the Respondent disputes the allegations they must provide the Complaint Investigator with copies of all documents relied upon in support of their position. If the Respondent fails to respond to the Complaint Investigator within 28 days, the Respondent shall be deemed to admit the breach to which the complaint relates. The Complaint Investigator may grant the Respondent an extension of the time for response where it would be reasonable to do so in the circumstances.
- 2.5 If, following receipt of the Respondent’s response and supporting documentation, the Complaint Investigator is of the opinion that no breach has been committed, he/she will notify the Complainant and the Respondent accordingly and the matter will be closed. The Complainant shall have no right of appeal in such circumstances.
- 2.6 If, following consideration of the matter, the Complaint Investigator determines that there has been a breach of the Code of Practice or British Marine Rules by the Respondent or the Respondent admits or is deemed to admit such breach by virtue of having failed to respond to the Complaint Investigator, the Complaint Investigator shall determine the appropriate sanction to be imposed upon the Respondent.

### **3. Sanctions for a Breach of the Code of Practice**

- 3.1 Where the breach of the Code of Practice or British Marine Rules is found to have been of such a nature that a more serious sanction is not appropriate the Complaint Investigator has power to:
  - 3.1.1 require the Respondent to review its current practices and procedures with a view to preventing further breaches from occurring; or
  - 3.1.2 issue a formal warning as to the Respondent’s future conduct.
- 3.2 Where the breach of the Code of Practice or British Marine Rules is found to have been of a more serious nature, such that the Complaint Investigator considers that a more severe sanction is appropriate, the Complaint Investigator shall refer the matter to the Head of Member Relations with a recommendation as to the sanction to be imposed. The Head of Member Relations shall then report such recommendation and the relevant information to the executive directors of British Marine (the “**Executives**”). In such circumstances the Executives have power to:

- 3.2.1 impose such terms or conditions upon the Respondent's continued membership of British Marine as the Executives shall (in their sole and absolute discretion) think fit;
- 3.2.2 suspend the Respondent's membership of British Marine for such period as the Executives shall think fit or until specified corrective procedures have been implemented by the Respondent; or
- 3.2.3 terminate the Respondent's membership of British Marine.

For the avoidance of doubt, neither the Complaint Investigator nor the Executives shall have the power to award any sort of compensation to the Complainant, impose any fine or penalty against a Respondent or restrict or prevent a Respondent from carrying on its business.

- 3.3 Following the conclusion of the investigation of a complaint the Complaint Investigator shall notify the Complainant and the Respondent as soon as practicably possible of the determination that a breach of the Code of Practice or British Marine Rules by the Respondent has been found and of the sanction imposed. The Complainant shall have no right of appeal in such circumstances.
- 3.4 The Respondent may however appeal against the Complaint Investigator's finding that a breach has been committed or against the sanction imposed by filing a Notice of Appeal with the Head of Member Relations within 14 days of receipt of notice from the Complaint Investigator of the Complaint Investigator's decision. In order for an appeal to be considered the Respondent must pay an administration fee of £900 plus VAT when a Notice of Appeal is submitted. This fee will be refunded if the Appeal Committee finds in favour of the Respondent (see below).

#### **4. Appeal Process**

- 4.1 The Appeal will be considered by the President Elect, the President and one other member of the Council of British Marine appointed for that purpose by the Management Board of British Marine (the "**Appeal Committee**").
- 4.2 An appeal will only be considered by the Appeal Committee if:
  - 4.2.1 new evidence, not previously presented to the Complaint Investigator, has come to light since the matter was considered by the Complaint Investigator; or
  - 4.2.2 the Respondent is challenging the Complaint Investigator's decision on the ground of serious irregularity; and
  - 4.2.3 a Notice of Appeal has been submitted within the requisite time; and
  - 4.2.4 the administration fee has been paid.

- 4.3 Serious irregularity for the purposes of Paragraph 4.2 above means an irregularity of one or more of the following kinds which the Appeal Committee considers has caused or will cause substantial injustice to the Respondent:
- 4.3.1 failure by the Complaint Investigator to act fairly and impartially;
  - 4.3.2 the Complaint Investigator exceeding his/her powers;
  - 4.3.3 failure by the Complaint Investigator to conduct the proceedings in accordance with the procedure set out in the British Marine Complaints Procedure; or
  - 4.3.4 failure by the Complaint Investigator to deal with all the issues that were put to him/her.
- 4.4 The Appeal Committee will review all the information and documentation which was considered by the Complaint Investigator and any new evidence submitted by the Respondent. The Appeal Committee may invite the Complainant to comment upon any new evidence submitted. If the Appeal Committee considers that there has been a serious irregularity or that the Complaint Investigator may have come to a different conclusion had he/she had sight of the new evidence the Appeal Committee may request the Complaint Investigator and/or the Executives to reconsider his/her findings or the sanction imposed. Alternatively, the Appeal Committee may overturn the Complaint Investigator's finding that a breach of the Code of Practice or British Marine Rules has been committed by the Respondent or may vary the sanction imposed by the Complaint Investigator and/or the Executives.
- 4.5 If the Appeal Committee is of the opinion that the Complaint Investigator's decision was correct and that the sanction imposed was justified in the circumstances the appeal shall be dismissed and the Respondent shall have no further right of appeal.

**5. No Right of Recourse**

For the avoidance of doubt, all Complaint Investigators, the Executives and members of the Appeal Committee undertake their duties and obligations in respect of this Complaints Procedure in good faith and as agents of British Marine and no Complainant or Respondent shall, save in respect of fraud or gross negligence, have any claim against any Complaint Investigator, the Executives or Appeal Committee members in respect of any loss or damage they may suffer as a consequence of a decision or finding made by the Complaint Investigator, the Executives or Appeal Committee under this Complaints Procedure.