Model SCIO Constitution (two tier)

CONSTITUTION

of

Dunfermline Greenspace

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GENERAL

Type of organisation

1. The organisation will, upon registration, be a Scottish Charitable Incorporated Organisation (SCIO).

Scottish principal office

2. The principal office of the organisation will be in Scotland (and must remain in Scotland).

Name

3. The name of the organisation is “Dunfermline Greenspace”.

Purposes

4. The organisation has been formed to benefit the community of the City of Dunfermline and the organisation’s purposes are:

(a) To preserve, restore and improve the environment through the provision, maintenance and/or improvement of public open space and other public amenities and other environmental and regeneration projects (but subject to appropriate safeguards to ensure that the public benefits so arising clearly outweigh any private benefit thereby conferred on private landowners).

(b) To promote and protect the wellbeing and physical health of the residents of the Community and to assist in the relief of ill health and the provision of health education for such residents.

(c) To provide in the interests of social welfare, facilities within the Community for recreation and other leisure time occupation available to the public at large.

(d) To advance education and in particular to promote opportunities for learning for the benefit of the general public.

(e) To promote training, particularly among residents of the Community, and with particular reference to skills which will assist the participants in obtaining paid employment.

(f) To encourage, stimulate and support volunteering principally in the Community.

(g) To promote, establish, operate and/or support other projects of a charitable nature for the benefit of the residents of the Community.

Powers

5. The organisation has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so.

6. No part of the income or property of the organisation may be paid or transferred (directly or indirectly) to the members - either in the course of the organisation's existence or on dissolution - except where this is done in direct furtherance of the organisation's charitable purposes.

7. Clause 6 does not prevent the organisation making any payment which is permitted under clauses 95 to 99 (remuneration and expenses).

Liability of members

8. The members of the organisation have no liability to pay any sums to help to meet the debts (or other liabilities) of the organisation if it is wound up; accordingly, if the organisation is unable to meet its debts, the members will not be held responsible.

9. The members and charity trustees have certain legal duties under the Scottish Charities Act; and clause 8 does not exclude (or limit) any personal liabilities they might incur if they are in breach of those duties, or in breach of other legal obligations or duties that apply to them personally.

General structure

10. The structure of the organisation consists of:

    (a) the MEMBERS - who have the right to participate in members' meetings (including any annual members' meeting) and have important powers under the constitution; for example, Full members elect people to serve on the board and take decisions on changes to the constitution itself;

    (b) the BOARD - who hold regular meetings, and generally control the activities of the organisation; for example, the board is responsible for monitoring and controlling the financial position of the organisation.

11. The people serving on the board are referred to in this constitution as CHARITY TRUSTEES.

MEMBERS

Qualifications for membership

12. **Full m**embership is open to any individual aged 16 or over who lives within Fife Council's City of Dunfermline Area Committee boundary.

13. Associate membership is open to to any individual who is not eligible for full membership but wishes to support the aims and activities of the organisation AND any individual nominated by a voluntary organisation or corporate body wherever located which wishes to support the aims and activities of the organisation.

14. Employees of the organisation are not eligible for membership; and a person who becomes an employee of the organisation after admission to membership will automatically cease to be a member.

Application for membership

15. Any person who wishes to become a member must submit an application for membership (in writing or by email); the application will then be considered by the board at its next board meeting.

16. The board may, at its discretion, refuse to admit any person to membership.

17. The board must notify each applicant promptly (in writing or by email) of its decision on whether or not to admit them to membership.

Membership subscription

18. No membership subscription will be payable.

Register of members

19. The board must keep a register of members, setting out:

    (a) for each current member:

        (i) their full name and address; and

        (ii) the date on which they were registered as a member of the organisation;

    (b) for each former member - for at least six years from the date on which they ceased to be a member:

        (i) their name; and

        (ii) the date on which they ceased to be a member.

20. The board must ensure that the register of members is updated within 28 days of any change:

    (a) which arises from a resolution of the board or a resolution passed by the members of the organisation; or

    (b) which is notified to the organisation.

21. If a member or charity trustee of the organisation requests a copy of the register of members, the board must ensure that a copy is supplied to them within 28 days, providing the request is reasonable; if the request is made by a member (rather than a charity trustee), the board may provide a copy which has the addresses blanked out.

Withdrawal from membership

22. Any person who wants to withdraw from membership must submit a notice of withdrawal to the organisation (either in writing or by email); they will cease to be a member as from the time when the notice is received by the organisation.

Transfer of membership

23. Membership of the organisation may not be transferred by a member.

Re-registration of members

24. The board may, at any time, issue notices to the members (either in writing or by email) requiring them to confirm that they wish to remain as members of the organisation, and allowing them a period of 28 days (running from the date of issue of the notice) to provide that confirmation to the board.

25. If a member fails to provide confirmation to the board (in writing or by email) that they wish to remain as a member of the organisation before the expiry of the 28-day period referred to in clause 23, the board may expel them from membership.

26. A notice under clause 24 will not be valid unless it refers specifically to the consequences (under clause 25) of failing to provide confirmation within the 28-day period.

Expulsion from membership

27. Any person may be expelled from membership by way of a resolution passed by not less than two thirds of those present and voting at a members' meeting, providing the following procedures have been observed:

(a) at least 21 days' notice of the intention to propose the resolution must be given to the member concerned, specifying the grounds for the proposed expulsion;

(b) the member concerned will be entitled to be heard on the resolution at the members' meeting at which the resolution is proposed.

Termination of membership

28. Membership of the organisation will terminate on death.

DECISION-MAKING BY THE MEMBERS

Members' meetings

29. The board must arrange a meeting of members (an annual members' meeting or "AGM") in each calendar year.

30. The gap between one AGM and the next must not be longer than 15 months.

31. Notwithstanding clause 29, an AGM does not need to be held during the calendar year in which the organisation is formed; but the first AGM must still be held within 15 months of the date on which the organisation is formed.

32. The business of each AGM must include:

(a) a report by the chair on the activities of the organisation;

(b) consideration of the annual accounts of the organisation;

(c) the election/re-election of charity trustees, as referred to in clauses 74 to 77.

33. The board may arrange a special members' meeting at any time.

Power to request the board to arrange a special members' meeting

34. The board must arrange a special members' meeting if they are requested to do so by a notice (in writing or by email) by members who amount to 5% or more of the total membership of the organisation at the time, providing:

(a) the notice states the purposes for which the meeting is to be held; and

(b) those purposes are not inconsistent with the terms of this constitution, the Scottish Charities Act or any other statutory provision.

35. A notice under clause 34 may take the form of:

(a) two or more documents in the same terms, each signed by one or more members; and/or

(b) a number of emails, each issued by a member;

and the board will be taken to have received the notice on the date on which they receive sufficient documents and/or emails to equal or exceed the 5% threshold referred to in clause 34.

36. If the board receive a notice under clause 34, the date for the meeting which they arrange in accordance with the notice must not be later than 28 days from the date on which they received the notice.

Notice of members' meetings

37. At least 14 clear days' notice must be given of any AGM or any special members' meeting.

38. The notice calling a members' meeting must specify in general terms what business is to be dealt with at the meeting; and

(a) in the case of any resolution falling within clause 56 (requirement for two-thirds majority) must set out the exact terms of the resolution; and

(b) in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s).

39. The reference to "clear days" in clause 37 shall be taken to mean that, in calculating the period of notice:

(a) the day after the notices are posted (or sent by email) should be excluded; and

(b) the day of the meeting itself should also be excluded.

40. Notice of every members' meeting must be given to all the members of the organisation, and to all the charity trustees; but the accidental omission to give notice to one or more members or charity trustees will not invalidate the proceedings at the meeting.

41. Any notice which requires to be given to a member under this constitution must be:

(a) sent by post to the member, at the address last notified by them to the organisation; or

(b) sent by email to the member, at the email address last notified by them to the organisation.

42. If members and charity trustees are to be permitted to participate in a members' meeting by way of audio and/or audio-visual link(s) (see clause 45), the notice (or notes accompanying the notice) must:

(a) set out details of how to connect and participate via that link or links; and

(b) (particularly for the benefit of those members who may have difficulties in using a computer or laptop for this purpose) draw members' attention to the following options:

(i) participating in the meeting via an audio link accessed by phone, using dial-in details (if that forms part of the arrangements);

(ii) appointing the chairperson of the meeting as proxy, and directing the chairperson on how they should use that proxy vote in relation to each resolution to be proposed at the meeting;

(iii) where attendance in person is to be permitted, (either on an open basis or with a restriction on the total number who will be permitted to attend) attending and voting in person at the meeting;

(iv) (where clause 43 applies) submitting questions and/or comments in advance of the meeting;

43. Where a members' meeting is to involve participation *solely* via audio and/or audio-visual link(s), the notice (or notes accompanying the notice) must include a statement inviting members to submit questions and/or comments in advance of the meeting, which (subject to clause 44) the chairperson of the meeting will be expected to read out, and address, in the course of the meeting.

44. Where clause 43 applies, the chairperson of a members' meeting will not require to read out or address any questions or comments submitted by members in advance of the meeting if and to the extent that the questions or comments are of an unreasonable length (individually or taken together), or contain material which is defamatory, racist or otherwise offensive.

Procedure at members' meetings

45. The board may if they consider appropriate (and must, if this is required under clause 46) make arrangements for members and charity trustees to participate in members' meetings by way of audio and/or audio-visual link(s) which allow them to hear and contribute to discussions at the meeting, providing:

    (a) the means by which members and charity trustees can participate via that link or links are not subject to technical complexities, significant costs or other factors which are likely to represent - for all or a significant proportion of the membership - a barrier to participation;

    (b) the notice calling the meeting (or notes accompanying the notice) contains the information required under clause 42; and

    (c) the manner in which the meeting is conducted ensures, so far as reasonably possible, that those members and charity trustees who participate via an audio or audio-visual link are not disadvantaged with regard to their ability to contribute to discussions at the meeting, as compared with those members and charity trustees (if any) who are attending in person (and vice versa).

46. If restrictions arising from public health legislation or guidance are likely to mean that attendance in person at a proposed members' meeting would not be possible or advisable for all or a significant proportion of the membership, the board must make arrangements for members and charity trustees to participate in that members' meeting by way of audio and/or audio-visual link(s) which allow them to hear and contribute to discussions at the meeting; and on the basis that the requirements set out in paragraphs (a) to (c) of clause 45 will apply.

47. A members' meeting may involve two or more members or charity trustees participating via attendance in person while other members and/or charity trustees participate via audio and/or audio-visual links; or it may involve participation solely via audio and/or audio-visual links.

48. References in clauses 42 to 47 to members should be taken to include proxies for members and authorised representatives of members which are voluntary organisations or corporate bodies.

49. The quorum for a members' meeting is 10 members, present in person.

50. An individual participating in a members' meeting via an audio or audio-visual link which allows them to hear and contribute to discussions at the meeting will be deemed to be present in person (or, if they are not a member [or the authorised representative of a member which is a voluntary organisation or corporate body), will be deemed to be in attendance) at the meeting.

51. If a quorum is not present within 15 minutes after the time at which a members' meeting was due to start - or if a quorum ceases to be present during a members' meeting - the meeting cannot proceed; and fresh notices of meeting will require to be sent out, to deal with the business (or remaining business) which was intended to be conducted.

52. The chair of the organisation should act as chairperson of each members' meeting.

53. If the chair of the organisation is not present within 15 minutes after the time at which the meeting was due to start (or is not willing to act as chairperson), the charity trustees present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.

Voting at members' meetings

54. Every full member has one vote, which must be given personally (subject to clause 59).

55. All decisions at members' meetings will be made by majority vote - with the exception of the types of resolution listed in clause 56.

56. The following resolutions will be valid only if passed by not less than two thirds of those voting on the resolution at a members' meeting (or if passed by way of a written resolution under clause 64):

    (a) a resolution amending the constitution;

    (b) a resolution expelling a person from membership under clause 27;

    (c) a resolution removing a person from office as a charity trustee under paragraph (i) of clause 80;

    (d) a resolution directing the board to take any particular step (or directing the board not to take any particular step) under clause 91;

    (e) a resolution approving the amalgamation of the organisation with another SCIO (or approving the constitution of the new

SCIO to be constituted as the successor pursuant to that amalgamation);

(f) a resolution to the effect that all of the organisation's property, rights and liabilities should be transferred to another SCIO (or agreeing to the transfer from another SCIO of all of its property, rights and liabilities);

(g) a resolution for the winding up or dissolution of the organisation.

57. If there is an equal number of votes for and against any resolution, the chairperson of the meeting will be entitled to a second (casting) vote.

58. A resolution put to the vote at a members' meeting will be decided on a show of hands - unless the chairperson (or at least two other members present at the meeting) ask for a secret ballot.

59. Where members are participating in a meeting via an audio or audio-visual link, they may cast their votes on any resolution orally, or by way of some form of visual indication, or by use of a voting button or similar, or by way of a message sent electronically - and providing the board have no reasonable grounds for suspicion as regards authenticity, any such action shall be deemed to be a vote cast personally via a show of hands.

60. The chairperson will decide how any secret ballot is to be conducted, and they will declare the result of the ballot at the meeting.

61. Where members are participating in a meeting via audio and/or audio-visual links, the chairperson's directions regarding how a secret ballot is to be conducted may allow those members to cast their votes on the secret ballot via any or all of the methods referred to in clause 59, providing reasonable steps are taken to preserve anonymity (while at the same time, addressing any risk of irregularities in the process).

62. The principles set out in clauses 59 and 61 shall also apply in relation to the casting of votes by an individual in their capacity as proxy for a member.

Technical objections to remote participation in members' meetings

63. This constitution imposes certain requirements regarding the use of audio and/or audio-visual links as a means of participation and voting at members' meetings; providing the arrangements made by the board in relation to a given members' meeting (and the manner in which the meeting is conducted) are consistent with those requirements:

(a) a member cannot insist on participating in the members' meeting, or voting at the members' meeting, by any particular means;

(b) the members' meeting need not be held in any particular place;

(c) the members' meeting may be held without any particular number of those participating in the meeting being present in person at the same place (but, notwithstanding that, the quorum requirements - taking account of those participating via audio and/or audio-visual links - must still be met);

(d) the members' meeting may be held by any means which permits those participating in the meeting to hear and contribute to discussions at the meeting;

(e) a member will be able to exercise the right to vote at the members' meeting (including where a secret ballot is to be held) by such means as is determined by the chairperson of the meeting (consistent with the arrangements made by the board) and which permits that member's vote to be taken into account in determining whether or not a resolution is passed.

Written resolutions by members

64. A resolution agreed to in writing (or by email) by all the members will be as valid as if it had been passed at a members' meeting; the date of the resolution will be taken to be the date on which the last member agreed to it.

Minutes of members' meetings

65. The board must ensure that proper minutes are kept in relation to all members' meetings, and that a proper record is kept of all resolutions agreed to in writing or by email under clause 64.

66. Minutes of members' meetings must include the names of those present; and (so far as possible) should be signed by the chairperson of the meeting.

67. The records of resolutions kept under clause 65 must include a record of voting for each resolution; and should be signed by the chair of the organisation.

68. The board shall make available copies of the minutes and records of resolutions referred to in clause 65 to any member of the public requesting them; but on the basis that the board may exclude confidential material to the extent permitted under clause 130.

BOARD

Number of charity trustees

69. The maximum number of charity trustees is 11; out of that:

    (a) no more than 9 shall be charity trustees who were elected/ appointed under clauses 74 to 77 (or deemed to have been appointed by the members under clause 73); and

    (b) no more than 2 shall be charity trustees who were co-opted by the board under the provisions of clauses 78 and 79.

70. The minimum number of charity trustees is 3.

Eligibility

71. A person shall not be eligible for election/appointment to the board under clauses 74 to 77 unless they are a full member of the organisation; a person appointed to the board under clauses 78 and 79 need not, however, be a member of the organisation.

72. A person will not be eligible for election or appointment to the board if they are:

    (a) disqualified from being a charity trustee under the Scottish Charities Act; or

    (b) an employee of the organisation.

Initial charity trustees

73. The individuals who signed the charity trustee declaration forms which accompanied the application for incorporation of the organisation shall be deemed to have been appointed by the members as charity trustees with effect from the date of incorporation of the organisation.

Election, retiral, re-election

74. At each AGM, the members may elect any member (subject to clause 69, and providing they are not debarred under clause 72) to be a charity trustee.

75. The board may at any time appoint any member (subject to clause 69, and providing they are not debarred under clause 72) to be a charity trustee.

76. At each AGM, one third of the charity trustees elected/appointed under clauses 74 and 75 (and, in the case of the first AGM all those

deemed to have been appointed by the members under clause 73) shall retire from office – but shall then be eligible for re-election under clause 74.

77. The directors to retire each year under clause 76 shall be those who have been longest in office since they were last appointed or reappointed; if two or more directors were appointed or reappointed on the same date, the question of which of them is to retire shall be decided by some random method.

Appointment/re-appointment of co-opted charity trustees

78. In addition to their powers under clause 75, the board may at any time appoint any non-member of the organisation to be a charity trustee (subject to clause 69, and providing they are not debarred under clause 72) either on the basis that they have been nominated by *a body with which the organisation has close contact in the course of its activities or* on the basis that they have specialist experience and/or skills which could be of assistance to the board.

79. At each AGM, all of the charity trustees appointed under clause 78 shall retire from office – but shall then be eligible for re-appointment by the board (after the AGM) under that clause.

Termination of office

80. A charity trustee will automatically cease to hold office if:

(a) they become disqualified from being a charity trustee under the Scottish Charities Act;

(b) they become incapable for medical reasons of carrying out their duties as a charity trustee - but only if that has continued (or is expected to continue) for a period of more than six months;

(c) (in the case of a charity trustee elected/appointed under clauses 74 to 77, or deemed to have been appointed by the members under clause 73) they cease to be a member of the organisation;

(d) they become an employee of the organisation;

(e) they give the organisation a notice of resignation (either in writing or by email);

(f) they are absent (without good reason, in the opinion of the board) from more than three consecutive board meetings - but only if the board resolve to remove them from office;

(g) they are removed from office by resolution of the board on the grounds that they are considered to have committed a serious breach of the code of conduct for charity trustees (as referred to in clause 101);

(h) they are removed from office by resolution of the board on the grounds that they are considered to have been in serious or persistent breach of their duties under section 66(1) or (2) of the Scottish Charities Act; or

(i) they are removed from office by a resolution of the members passed at a members' meeting.

81. A resolution under paragraph (g), (h) or (i) of clause 80 shall be valid only if:

(a) the charity trustee concerned is given reasonable prior notice (in writing or by email) of the grounds upon which the resolution for their removal is to be proposed;

(b) the charity trustee concerned is given the opportunity to address the meeting at which the resolution is proposed, prior to the resolution being put to the vote;

(c) (in the case of a resolution under paragraph (g) or (h)) at least two thirds (to the nearest round number) of the charity trustees then in office vote in favour of the resolution; and

(d) (in the case of a resolution under paragraph (i)) at least two thirds (to the nearest round number) of the votes cast in relation to the resolution were in favour of the resolution.

Register of charity trustees

82. The board must keep a register of charity trustees, setting out:

(a) for each current charity trustee:

(i) their full name and address;

(ii) the date on which they were appointed as a charity trustee; and

(iii) any office held by them in the organisation;

(b) for each former charity trustee - for at least 6 years from the date on which they ceased to be a charity trustee:

(i) the name of the charity trustee;

(ii) any office held by them in the organisation; and

(iii) the date on which they ceased to be a charity trustee.

83. The board must ensure that the register of charity trustees is updated within 28 days of any change:

(a) which arises from a resolution of the board or a resolution passed by the members of the organisation; or

(b) which is notified to the organisation.

84. If any person requests a copy of the register of charity trustees, the board must ensure that a copy is supplied to them within 28 days, providing the request is reasonable; if the request is made by a person who is not a charity trustee of the organisation, the board may provide a copy which has the addresses blanked out - if the organisation is satisfied that including that information is likely to jeopardise the safety or security of any person or premises.

Office-bearers

85. The charity trustees must elect (from among themselves) a chair.

86. In addition the charity trustees may elect (from among themselves) further office-bearers if they consider that appropriate.

87. All of the office-bearers will cease to hold office at the conclusion of each AGM, but may then be re-elected by the board (after the AGM) under clause 85 or 86.

88. A person elected to any office will automatically cease to hold that office:

(a) if they cease to be a charity trustee; or

(b) if they give to the organisation a notice of resignation from that office (either in writing or by email).

Powers of board

89. Except where this constitution states otherwise:

(a) the organisation (and its assets and operations) will be managed by the board; and

(b) the board may exercise all the powers of the organisation.

90. A meeting of the board at which a quorum is present may exercise all powers exercisable by the board.

91. The members may, by way of a resolution passed in compliance with clause 56 (requirement for two-thirds majority), direct the board to take any particular step or direct the board not to take any particular step; and the board shall give effect to any such direction accordingly.

Charity trustees - general duties

92. Each of the charity trustees has a duty, in exercising functions as a charity trustee, to act in the interests of the organisation; and, in particular, must:

(a) seek, in good faith, to ensure that the organisation acts in a manner which is in accordance with its purposes;

(b) act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;

(c) in circumstances giving rise to the possibility of a conflict of interest between the organisation and any other party:

(i) put the interests of the organisation before that of the other party; or

(ii) where any other duty prevents them from doing so, disclose the conflicting interest to the organisation and refrain from participating in any deliberation or decision of the other charity trustees with regard to the matter in question;

(d) ensure that the organisation complies with any direction, requirement, notice or duty imposed under or by virtue of the Scottish Charities Act.

93. In addition to the duties outlined in clause 91, all of the charity trustees must take such steps as are reasonably practicable for the purpose of ensuring:

(a) that any breach of any of those duties by a charity trustee is corrected by the charity trustee concerned and not repeated; and

(b) that any charity trustee who has been in serious or persistent breach of those duties is removed as a charity trustee.

Conflicts of interest involving charity trustees - general

94. The board must use every effort to ensure that conflicts of interest involving charity trustees (including those which relate to individuals or bodies connected with charity trustees) are identified at the earliest opportunity and appropriately managed; the following provisions of this constitution are of particular relevance:

    (a) clauses 95 and 98 require charity trustees to declare any personal interest which they may have in any transaction or other arrangement with the organisation;

    (b) clause 119 prohibits a charity trustee with a personal interest in a proposed arrangement from voting on the question of whether the organisation should enter into that arrangement;

    (c) clause 97 (reflecting similar provisions contained in the Scottish Charities Act) sets out restrictions and conditions for any arrangement under which remuneration would be paid to a charity trustee (or where the charity trustee might benefit from remuneration paid to a connected party).

95. In addition to complying with the provisions referred to in clause 94::

    (a) the board must maintain a register of charity trustees' interests;

    (b) the chairperson of each board meeting must invite declarations of interest, shortly after the start of the meeting;

    (c) the minutes of each board meeting must record any conflicts of interest which have been declared at the meeting, and must set out in detail how any such conflicts of interest have been managed.

Remuneration and expenses

96. No charity trustee may serve as an employee (full time or part time) of the organisation; and no charity trustee may be given any remuneration by the organisation for carrying out their duties as a charity trustee.

97. Where a charity trustee provides services to the organisation or might benefit from any remuneration paid to a connected party for such services:

    (a) the maximum amount of the remuneration must be specified in a written agreement and must be reasonable;

(b) the board must be satisfied that it would be in the interests of the organisation to enter into the arrangement (taking account of that maximum amount); and

(c) less than half of the charity trustees must be receiving remuneration from the organisation (or benefit from remuneration of that nature).

98. Provided they have declared their interest - and have not voted on the question of whether or not the organisation should enter into the arrangement - a charity trustee will not be debarred from entering into an arrangement with the organisation in which they have a personal interest where that is not prohibited under clause 96 or 97; and (subject to clause 97 and to the provisions relating to remuneration for services contained in the Scottish Charities Act), they may retain any personal benefit which arises from that arrangement.

99. The organisation may also enter into an arrangement with a member who is not a charity trustee (or with a person or body *connected* with a member who is not a charity trustee) under which that member (or the connected person or body) receives payment for goods or services provided by them to the organisation, but only if:

(a) the terms and conditions (including the amount of the payment(s)) are at least as good (from the organisation's point of view) as those which would be expected if the goods or services had been sourced on the open market; and

(b) the board are satisfied, after careful consideration, that the arrangement is in the best interests of the organisation;

and the same principles will apply in relation to any arrangement under which a member (or a person or body connected with a member) lets premises to the organisation or makes a loan to the organisation.

100. The charity trustees may be paid all travelling and other expenses reasonably incurred by them in connection with carrying out their duties; this may include expenses relating to their attendance at meetings.

Code of conduct for charity trustees

101. Each of the charity trustees shall comply with the code of conduct (incorporating detailed rules on conflict of interest) prescribed by the board from time to time.

102. The code of conduct referred to in clause 101 shall be supplemental to the provisions relating to the conduct of charity trustees contained in this constitution and the duties imposed on charity trustees under the Scottish Charities Act; and all relevant provisions of this constitution shall be interpreted and applied in accordance with the provisions of the code of conduct in force from time to time

DECISION-MAKING BY THE CHARITY TRUSTEES

Notice of board meetings

103. Any charity trustee may call a meeting of the board or may ask the secretary to call a meeting of the board.

104. At least 7 days' notice must be given of each board meeting, unless (in the opinion of the person calling the meeting) there is a degree of urgency which makes that inappropriate.

105. If charity trustees are to be permitted to participate in a board meeting by way of audio and/or audio-visual link(s), the charity trustees must, in advance of the meeting, be provided with details of how to connect and participate via that link or links; and (particularly for the benefit of those charity trustees who may have difficulties in using a computer or laptop for this purpose) the charity trustees' attention should be drawn to the following options:

    (a) participating in the meeting via an audio link accessed by phone, using dial-in details (if that forms part of the arrangements);

    (b) (where attendance in person is to be permitted, either on an open basis or subject to a restriction on the total number who will be permitted to attend) the ability to attend the meeting in person.

Procedure at board meetings

106. No valid decisions can be taken at a board meeting unless a quorum is present; the quorum for board meetings is 3 charity trustees, present in person.

107. An individual participating in a board meeting via an audio or audio-visual link which allows them to hear and contribute to discussions at the meeting will be deemed to be present in person (or, if they are not a charity trustee, will be deemed to be in attendance) at the meeting.

108. If at any time the number of charity trustees in office falls below the number stated as the quorum in clause 106, the remaining charity trustee(s) will have power to fill the vacancies or call a members' meeting - but will not be able to take any other valid decisions.

109. The chair of the organisation should act as chairperson of each board meeting.

110. If the chair is not present within 15 minutes after the time at which the meeting was due to start (or is not willing to act as chairperson), the charity trustees present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.

111. Every charity trustee has one vote, which must be given personally (subject to clause 117).

112. All decisions at board meetings will be made by majority vote.

113. If there is an equal number of votes for and against any resolution, the chairperson of the meeting will be entitled to a second (casting) vote.

114. The board may if they consider appropriate (and must, if this is required under clause 115), allow charity trustees to participate in board meetings by way of an audio and/or audio-visual link or links which allow them to hear and contribute to discussions at the meeting, providing:

    (a) the means by which charity trustees can participate via that link or links are not subject to technical complexities, significant costs or other factors which are likely to represent - for all, or a significant proportion, of the charity trustees - a barrier to participation; and

    (b) the manner in which the meeting is conducted ensures, so far as reasonably possible, that those charity trustees who participate via an audio or audio-visual link are not disadvantaged with regard to their ability to contribute to discussions at the meeting, as compared with those charity trustees (if any) who are attending in person (and vice versa).

115. If restrictions arising from public health legislation or guidance are likely to mean that attendance in person at a proposed board meeting would not be possible or advisable for one or more of the charity trustees, the board must make arrangements for charity trustees to participate in that board meeting by way of audio and/or audio-visual link(s); and on the basis that:

(a) the requirements set out in paragraphs (a) and (b) of clause 114 will apply; and

(b) the board must use all reasonable endeavours to ensure that all charity trustees have access to one or more means by which they may hear and contribute to discussions at the meeting.

116. A board meeting may involve two or more charity trustees participating via attendance in person while other charity trustees participate via audio and/or audio-visual links; or it may involve participation solely via audio and/or audio-visual links.

117. Where a charity trustee or charity trustees are participating in a board meeting via an audio or audio-visual link, they may cast their vote on any resolution orally, or by way of some form of visual indication, or by use of a voting button or similar, or by way of a message sent electronically.

118. The board may, at its discretion, allow any person to attend (whether in person or by way of an audio or audio-visual link) and speak at a board meeting notwithstanding that they are not a charity trustee - but on the basis that they must not participate in decision-making.

119. A charity trustee must not vote at a board meeting (or at a meeting of a sub-committee) on any resolution which relates to a matter in which they have a personal interest or duty which conflicts (or may conflict) with the interests of the organisation; they must withdraw from the meeting while an item of that nature is being dealt with.

120. For the purposes of clause 119:

(a) an interest held by an individual who is “connected” with the charity trustee under section 68(2) of the Scottish Charities Act (husband/wife, partner, child, parent, brother/sister etc) shall be deemed to be held by that charity trustee;

(b) a charity trustee will (subject to clause 121) be deemed to have a personal interest in relation to a particular matter if a body in relation to which they are an employee, director, member of the management committee, officer or elected representative (or a body in relation to which they are a major shareholder or have some other significant financial interest) has an interest in that matter.

121. Where a subsidiary of the organisation has an interest in a particular matter which is to be considered by the board, a charity trustee who is also a director of that subsidiary will not be debarred from voting on

that matter (unless they have a different personal interest in that matter, unrelated to their position as a director of that subsidiary).

Technical objections to remote participation in board meetings

122. The principles set out in clause 63 (technical objections to remote participation) shall apply in relation to remote participation and voting at board meetings, as if each reference in that clause to a member were a reference to a charity trustee and each reference in that clause to a members' meeting were a reference to a board meeting.

Board resolutions agreed in writing or by email

123. A resolution agreed to in writing (or by email) by a majority of the charity trustees then in office shall (subject to clauses 124 and 125) be as valid as if duly passed at a board meeting.

124. A resolution under clause 3 shall not be valid unless a copy of the resolution was circulated to all of the charity trustees, along with a cut-off time (which must be reasonable in the circumstances) for notifications under clause 125.

125. If a resolution is circulated to the charity trustees under clause 124, any one or more charity trustees may, following receipt of a copy of the resolution, notify the secretary that they consider that a board meeting should be held to discuss the matter which is the subject of the resolution; and if any such notification is received by the secretary prior to the cut-off time:

    (a) the secretary must convene a board meeting accordingly, and on the basis that it will take place as soon as reasonably possible;

    (b) the resolution cannot be treated as valid under clause 123 unless and until that board meeting has taken place;

    (c) the board may (if they consider appropriate, on the basis of the discussions at the meeting) resolve at that board meeting that the resolution should be treated as invalid, notwithstanding that it had previously been agreed to in writing (or by email) by a majority of the charity trustees then in office.

Minutes of board meetings

126. The board must ensure that proper minutes are kept in relation to all board meetings and meetings of sub-committees; and that a proper record is kept of all resolutions agreed to (in writing or by email) by the charity trustees under clause 123.

127. The minutes to be kept under clause 126 must include the names of those present; and (so far as possible) should be signed by the chairperson of the meeting.

128. The records of resolutions kept under clause 126 must include the names of those charity trustees who agreed to the resolution (as well as the names of any charity trustees who stated that they disagreed with the resolution); and should be signed by the chair of the organisation.

129. The board shall (subject to clause 130) make available copies of the minutes and records of resolutions referred to in clause 126 to any member of the public requesting them.

130. The board may exclude from any copy minutes, or records of resolutions, made available to a member of the public under clause 129 any material which the board considers ought properly to be kept confidential - on the grounds that allowing access to such material could cause significant prejudice to the interests of the organisation or on the basis that the material contains reference to employee or other matters which it would be inappropriate to divulge.

ADMINISTRATION

Delegation to sub-committees

131. The board may delegate any of their powers to sub-committees; a sub-committee must include at least one charity trustee, but other members of a sub-committee need not be charity trustees.

132. The board may also delegate to the chair of the organisation (or the holder of any other post) such of their powers as they may consider appropriate.

133. When delegating powers under clause 131 or 132, the board must set out appropriate conditions (which must include an obligation to report regularly to the board).

134. Any delegation of powers under clause 131 or 132 may be revoked or altered by the board at any time.

135. The rules of procedure for each sub-committee, and the provisions relating to membership of each sub-committee, shall be set by the board.

Operation of accounts

136. The board should ensure that the systems of financial control adopted by the organisation in relation to the operation of the organisation's bank accounts (including online banking) reflect the recommendations made from time to time by the organisation's auditors (or independent examiners) or other external accountants.

Accounting records and annual accounts

137. The board must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.

138. The board must prepare annual accounts, complying with all relevant statutory requirements; and

(a) if an audit is required under any statutory provisions (or if the board consider that an audit would be appropriate for some other reason), the board should ensure that an audit of the accounts is carried out by a qualified auditor;

(b) if an audit is not carried out, the board must ensure that an independent examination of the accounts is carried out by a qualified independent examiner.

MISCELLANEOUS

Winding-up

139. If the organisation is to be wound up or dissolved, the winding-up or dissolution process will be carried out in accordance with the procedures set out under the Scottish Charities Act.

140. Any surplus assets available to the organisation immediately preceding its winding up or dissolution must be used for purposes which are the same as - or which closely resemble - the purposes of the organisation as set out in this constitution; and the named recipient body (or bodies) in the resolution for the winding-up and dissolution of the organisation must also comply with any additional requirements which apply at the time under the regulations which govern the winding up and dissolution of SCIOs.

Alterations to the constitution

141. This constitution may (subject to clause 142) be altered by resolution of the members passed at a members' meeting (subject to achieving the two thirds majority referred to in clause 56) or by way of a written resolution of the members.

142. The Scottish Charities Act prohibits taking certain steps (eg change of name, an alteration to the purposes, amalgamation, winding-up) without the consent of the Office of the Scottish Charity Regulator (OSCR).

Interpretation

143. References in this constitution to the Scottish Charities Act should be taken to include:

(a) any statutory provision which adds to, modifies or replaces that Act; and

(b) any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under paragraph (a) above.

144. In this constitution:

(a) "Scottish Charities Act" means (subject to clause 143) the Charities and Trustee Investment (Scotland) Act 2005;

(b) "charitable purpose" means a charitable purpose under section 7 of the Scottish Charities Act which is also regarded as a charitable purpose in relation to the application of the Taxes Acts.