

# PORTOBELLO TOWN HALL

PORTOBELLO CENTRAL SCIO

CONSTITUTION



March 2022

Registered at OSCR

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# CONSTITUTION

of

## PORTOBELLO CENTRAL SCIO

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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 Portobello Central SCIO.

### **Purposes**

- 4 The organisation's purposes are:
  - 4.1 The advancement of citizenship or community development (including rural or urban regeneration)
  - 4.2 The advancement of the arts, heritage, culture or science
  - 4.3 The provision of recreational facilities or the organisation of recreational activities with the object of improving the conditions of life for the persons for whom the facilities or activities are primarily intended.

### **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.

### **Liability of members**

- 7 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.
- 8 The members and charity trustees have certain legal duties under the Charities and Trustee Investment (Scotland) Act 2005; and clause 7 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

- 9 The structure of the organisation consists of:-
- 9.1 the MEMBERS - who have the right to attend members' meetings (including any annual general meeting) and have important powers under the constitution; in particular, the members appoint people to serve on the board and take decisions on changes to the constitution itself;
- 9.2 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.
- 10 The people serving on the board are referred to in this constitution as CHARITY TRUSTEES.

### MEMBERS

#### Qualifications for membership

- 11 Membership is open to any individual aged 16 or over.
- 12 Employees of the organisation are not eligible for membership.

#### Application for membership

- 13 Any person who wishes to become a member must ~~sign~~**complete** a written application for membership ~~or online application form~~ and lodge this with the organisation along with a remittance to meet ~~the any~~ annual membership subscription; ~~the application will then be considered by the board at its next board meeting if one is required.~~
- 14 The board may, at its discretion, refuse to admit any person to membership.
- 15 The board must notify each applicant promptly (in writing ~~or~~, by e-mail ~~or other electronic means~~) of its decision on whether or not to admit them to membership. If the decision was to refuse admission, the board shall return to the applicant ~~the any~~ remittance ~~lodge~~**lodged** by them under clause 13.

#### Membership subscription

- 16 Members shall require to pay no annual membership subscription unless and until otherwise determined by the members.
- 17 The annual membership subscriptions shall be payable on or before 1 April in each year.
- 18 The members may vary the amount of the annual membership subscription and/or the date on which it falls due in each year, by way of a resolution to that effect passed at an AGM.
- 19 If the membership subscription payable by any member remains outstanding more than 12 weeks after the date on which it fell due – and providing they have been given at least one written reminder – the board may, by resolution to that effect, expel them from membership.
- 20 A person who ceases (for whatever reason) to be a member shall not be entitled to any refund of the membership subscription.

### **Register of members**

- 21 The board must keep a register of members, setting out
  - 21.1 for each current member:
    - 21.1.1 their full name and address; and
    - 21.1.2 the date on which they were registered as a member of the organisation;
  - 21.2 for each former member - for at least six years from the date on which they ceased to be a member:
    - 21.2.1 their name; and
    - 21.2.2 the date on which they ceased to be a member.
- 22 The board must ensure that the register of members is updated within 28 days of any change:
  - 22.1 which arises from a resolution of the board or a resolution passed by the members of the organisation; or
  - 22.2 which is notified to the organisation.
- 23 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**

- 24 Any person who wants to withdraw from membership must give a written notice of withdrawal to the organisation, signed by them; they will cease to be a member as from the time when the notice is received by the organisation.

**Transfer of membership**

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

**Re-registration of members**

- 26 The board may, at any time, issue notices to the members 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.
- 27 If a member fails to provide confirmation to the board (in writing ~~or~~, by e-mail ~~or other electronic means~~) that they wish to remain as a member of the organisation before the expiry of the 28-day period referred to in clause ~~2626~~, the board may expel them from membership.
- 28 A notice under clause ~~2626~~ will not be valid unless it refers specifically to the consequences (under clause ~~2727~~) of failing to provide confirmation within the 28-day period.

**Expulsion from membership**

- 29 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:-
- 29.1 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;
- 29.2 the member concerned will be entitled to be heard on the resolution at the members' meeting at which the resolution is proposed.

**Termination**

- 30 Membership of the organisation will terminate on death.

**DECISION-MAKING BY THE MEMBERS**

**Members' meetings**

- 31 The board must arrange a meeting of members (an annual general meeting or "AGM") in each calendar year.
- 32 The gap between one AGM and the next must not be longer than 15 months.
- 33 Notwithstanding clause ~~3134~~, 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.
- 34 The business of each AGM must include:-
- 34.1 a report by the chair on the activities of the organisation;
  - 34.2 consideration of the annual accounts of the organisation;
  - 34.3 the election/re-election of charity trustees, as referred to in clauses ~~7272~~ to ~~175~~.
- 35 The board may arrange a special members' meeting at any time.

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

- 36 The board must arrange a special members' meeting if they are requested to do so by a notice (which may take the form of two or more documents in the same terms, each signed by one or more members) by members who amount to 5% or more of the total membership of the organisation at the time, providing:
- 36.1 the notice states the purposes for which the meeting is to be held; and
  - 36.2 those purposes are not inconsistent with the terms of this constitution, the Charities and Trustee (Investment) Scotland Act 2005 or any other statutory provision.
- 37 If the board receive a notice under clause ~~3636~~, 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**

- 38 At least 14 clear days' notice must be given of any AGM or any special members' meeting.
- 39 The notice calling a members' meeting must specify in general terms what business is to be dealt with at the meeting; and



- 39.1 in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s); or
- 39.2 in the case of any other resolution falling within clause 58 (requirement for two-thirds majority) must set out the exact terms of the resolution.
- 40 The reference to “clear days” in clause ~~38~~ shall be taken to mean that, in calculating the period of notice,
- 40.1 the day after the notices are posted (or sent by e-mail) should be excluded; and
- 40.2 the day of the meeting itself should also be excluded.
- 41 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 will not invalidate the proceedings at the meeting.
- 42 Any notice which requires to be given to a member under this constitution must be: -
- 42.1 sent by post to the member, at the address last notified by them to the organisation; *or*
- 42.2 sent by e-mail to the member, at the e-mail address last notified by them to the organisation.

#### **Procedure at members' meetings**

- 43 No valid decisions can be taken at any members' meeting unless a quorum is present.
- 44 The quorum for a members' meeting shall be 12 persons entitled to vote, each being a member or a proxy for a member.
- 45 The board may make arrangements in advance of any members' meeting, to allow members to participate in the members' meeting by means of a conference telephone, video conferencing facility or similar communications equipment – so long as all those participating in the meeting can hear each other; a member participating in a members' meeting in this manner shall be deemed to be present in person at the meeting.
- 46 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.

- 47 The chair of the organisation should act as chairperson of each members' meeting.
- 48 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.
- 49 A member who wishes to give appoint a proxy to vote on their behalf at any members' meeting:
- 49.1 must give to the SCIO a proxy form (in such terms as the board requires), signed by them or
- 49.2 must send by electronic means to the SCIO at the email address notified to the members for that purpose, a proxy form (in such terms as the board requires)
- providing (in either case) the proxy form is received by the SCIO at the relevant address not less than 48 hours before the time for holding the members' meeting.
- 50 An instrument of proxy which does not comply with the provisions of clause 49, or which is not lodged or given in accordance with such provisions, shall be invalid.
- 51 A member shall not be entitled to appoint more than one proxy to attend on the same occasion.
- 52 A proxy need not be a member of the organisation.
- 53 Subject to clause 54 in relation to each resolution proposed at a members' meeting, an individual shall not be entitled to cast more than 5 votes as a proxy (in addition to any vote to which they are entitled personally, if they are a member of the SCIO).
- 54 Where members have appointed the chair of a members' meeting to vote as their proxy – and have directed the chair (through wording in the proxy form) on whether they should vote on their behalf in favour of, or against, each resolution – the provisions of clause 53 shall not apply in relation to the chair, in acting as proxy for those members.
- 55 A proxy appointed to attend and vote at any members' meeting instead of a member shall have the same right as the member who appointed them to speak at the meeting.

**Voting at members' meetings**

- 56 Every member has one vote, which (whether on a show of hands or on secret ballot) may be given either personally or by proxy; for the avoidance of doubt a vote given by a member participating through any of the methods referred to in clause 45 will be taken to be given personally for the purposes of this clause.
- 57 All decisions at members' meetings will be made by majority vote - with the exception of the types of resolution listed in clause [5858](#).
- 58 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 [6262](#)):
- 58.1 a resolution amending the constitution;
  - 58.2 a resolution expelling a person from membership under clause [2929](#);
  - 58.3 a resolution directing the board to take any particular step (or directing the board not to take any particular step);
  - 58.4 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);
  - 58.5 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);
  - 58.6 a resolution for the winding up or dissolution of the organisation.
- 59 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.
- 60 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 person present at the meeting and entitled to vote, whether as members or as proxies for members) ask for a secret ballot.
- 61 The chairperson will decide how any secret ballot is to be conducted, and they will declare the result of the ballot at the meeting.

**Written resolutions by members**

- 62 A resolution agreed to in writing (or by e-mail) 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

- 63 The board must ensure that proper minutes are kept in relation to all members' meetings.
- 64 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.
- 65 The board shall make available copies of the minutes referred to in clause ~~6363~~ 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 ~~123117~~.

### BOARD

#### Number of charity trustees

- 66 The maximum number of charity trustees is 15; out of that:
- 66.1 no more than 15 shall be charity trustees who were elected/appointed under clauses ~~797972~~ and ~~808073~~ (or deemed to have been appointed under clause ~~7171~~); and
- 66.2 no more than 4 shall be charity trustees who were co-opted under the provisions of clauses ~~828276~~ and ~~838377~~ and
- 66.3 no more than one shall be a charity trustee appointed under the provisions of clauses ~~848478~~ and ~~858579~~ (~~{chief executive}~~).
- 67 The minimum number of charity trustees is 5.

#### Eligibility

- 68 Subject to clause 70 a person shall not be eligible for election/appointment to the board under clauses ~~727272~~ to ~~808075~~ unless they are a member of the organisation; a person appointed to the board under clause ~~828276~~ need not, however, be a member of the organisation.
- 69 A person will not be eligible for election or appointment to the board if they are: -
- 69.1 disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005; or
- 69.2 an employee of the organisation.

70 Clause 68 and paragraph 69.2 shall not apply to a person appointed to the board under clause ~~848478~~ (chief executive).

### Initial charity trustees

71 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

~~72~~ ~~At each AGM, the members may elect any member (unless they are debarred) Prior to the AGM the board will seek candidates for election to the post of Trustee from the membership under clause 69) to be base. This list will close three weeks before the AGM date.~~

~~7273~~ ~~Charity trustees can remain for up to three years before retiring. They can immediately put themselves forward for election again as long as they haven't served six years unbroken as a charity trustee (clause 7474).~~

~~74~~ ~~Charity trustees who have served six years unbroken as a trustee must retire at the next AGM and may not be elected or appointed as a trustee for at least one year (after which they may put themselves forward for election again).~~

~~75~~ ~~Prior to the AGM, the board will ensure that there are sufficient vacancies on the board for at least one-third of the maximum number of charity trustees (as defined in clause 6666).~~

~~75.1~~ ~~In the regular course of events this would be facilitated by the retirement of the cohort of trustees elected three years previously who would all retire as described in clause 7373.~~

~~75.2~~ ~~However, in the event of previously unfilled trustee positions and/or interim trustee resignations some AGMs may appoint more than one-third of the charity trustees at once. Depending on the number in that trustee cohort some trustees may have to retire before serving three years as a trustee (although they can put themselves forward for election again as described in clause 7373).~~

~~75.3~~ ~~If a trustee cohort includes more than one-third of the maximum number of charity trustees (as defined in clause 6666) those chosen to retire early will be agreed between the members of that cohort of trustees or, in the event that agreement cannot be reached, by the random drawing of names.~~

- ~~76~~ Candidates will provide a short written statement describing their experience and reason for standing.
- ~~77~~ All candidate statements will be circulated to members in advance of the AGM along with other AGM papers.
- ~~78~~ In the event that more candidates than there are available spaces on the board are put forward before the deadline described in clause ~~7272~~, an election will be required. This will be added to the order of business for the AGM and a formal list of candidates included in the agenda for the AGM.
- ~~79~~ At each AGM if there are no more candidates proposed than there are available spaces on the board a single vote to accept all as charity trustees will be put to the meeting.
- ~~79.1~~ A simple majority in favour will accept all proposed candidates as charity trustees.
- ~~79.2~~ If the vote is not passed by the meeting a series of individual votes will need to be held, one for each candidate.
- ~~79.3~~ Voting will follow standard voting procedures as described in clauses ~~5656-6161~~. All those receiving a simple majority in their favour will be elected as charity trustees.
- ~~80~~ At each AGM if there are more candidates proposed than there are available spaces on the board an election is required
- ~~80.1~~ Ballot papers will be provided to all members attending the AGM.
- ~~80.2~~ Members can vote for as many candidates as there are available spaces on the board.
- ~~80.3~~ The candidates receiving the most votes will be elected to be charity trustees up to the number of available spaces on the board.
- ~~80.4~~ Proxy votes are accepted under the same provisions as other proxy voting (clauses ~~4949-5555~~).
- ~~7381~~ The board may at any time appoint any member (unless they are debarred from membership under clause ~~6969~~) to be a charity trustee as long as there are vacant spaces on the board (clause ~~6666~~).
- ~~74~~ At each AGM, all of the charity trustees elected/appointed under clauses ~~72 and 73~~ (and, in the case of the first AGM, those deemed to have been

~~appointed under clause 71) shall retire from office – but shall then be eligible for re-election under clause 72:~~

~~75—A charity trustee retiring at an AGM will be deemed to have been re-elected unless:—~~

~~75.1—they advise the board prior to the conclusion of the AGM that they do not wish to be re-appointed as a charity trustee; or~~

~~75.2—an election process was held at the AGM and they were not among those elected/re-elected through that process; or~~

~~75.3 a resolution for the re-election of that charity trustee was put to the AGM and was not carried.~~

### **Appointment/re-appointment of co-opted charity trustees**

~~7682~~ In addition to their powers under clause ~~818173~~, the board may at any time appoint any non-member of the organisation to be a charity trustee (subject to clause ~~6666~~, and providing they are not debarred from membership under clause ~~6969~~) 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.

~~7783~~ At each AGM, all of the charity trustees appointed under clause ~~827682~~ shall retire from office – but shall then be eligible for re-appointment under that clause.

### **Appointment of chief executive as a charity trustee**

~~7884~~ The board shall, at the first board meeting following the appointment of any individual as the chief executive of the organisation, appoint them as a charity trustee.

~~7985~~ The chief executive shall continue to be a charity trustee unless and until they cease (for any reason) to hold the post of chief executive of the organisation.

### **Termination of office**

~~8086~~ A charity trustee will automatically cease to hold office if: -

~~80.186.1~~ they become disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005;

~~80.286.2~~ 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;

~~80.386.3~~ (in the case of a charity trustee elected/appointed under clauses ~~72 to 75~~~~7171 to 8282~~) they cease to be a member of the organisation;

~~80.486.4~~ (except in the case of the chief executive) they become an employee of the organisation;

~~80.586.5~~ they give the organisation a notice of resignation, signed by them;

~~80.686.6~~ they are absent (without good reason, in the opinion of the board) from more than three consecutive meetings of the board - but only if the board resolves to remove them from office;

~~80.786.7~~ they are removed from office by resolution of the board on the grounds that they are considered to have committed a material breach of the code of conduct for charity trustees (as referred to in clause ~~10498~~);

~~80.886.8~~ 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 Charities and Trustee Investment (Scotland) Act 2005; or

~~80.986.9~~ they are removed from office by a resolution of the members passed at a members' meeting.

~~8187~~ A resolution under paragraph ~~86.78086.7~~, ~~86.88086.8~~ or ~~86.98086.9~~ shall be valid only if: -

~~81.187.1~~ the charity trustee who is the subject of the resolution is given reasonable prior written notice of the grounds upon which the resolution for their removal is to be proposed;

~~81.287.2~~ 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; and

~~81.387.3~~ (in the case of a resolution under paragraph ~~86.78086.7~~ or ~~86.88086.8~~) at least two thirds (to the nearest round number) of the charity trustees then in office vote in favour of the resolution.

### **Register of charity trustees**

~~8288~~ The board must keep a register of charity trustees, setting out

~~82.188.1~~ for each current charity trustee:

~~82.1.188.1.1~~ their full name and address;



~~82.1.2~~88.1.2 the date on which they were appointed as a charity trustee; and

~~82.1.3~~88.1.3 any office held by them in the organisation;

~~82.2~~88.2 for each former charity trustee - for at least 6 years from the date on which they ceased to be a charity trustee:

~~82.2.1~~88.2.1 the name of the charity trustee;

~~82.2.2~~88.2.2 any office held by them in the organisation; and

~~82.2.3~~88.2.3 the date on which they ceased to be a charity trustee.

~~83~~89 The board must ensure that the register of charity trustees is updated within 28 days of any change:

~~83.1~~89.1 which arises from a resolution of the board or a resolution passed by the members of the organisation; or

~~83.2~~89.2 which is notified to the organisation.

~~84~~90 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 SCIO is satisfied that including that information is likely to jeopardise the safety or security of any person or premises.

### **Office-bearers**

~~85~~91 The charity trustees must elect (from among themselves) a chair, a treasurer and a secretary.

~~86~~92 In addition to the office-bearers required under clause ~~91~~85~~91~~, the charity trustees may elect (from among themselves) further office-bearers if they consider that appropriate.

~~87~~93 All of the office-bearers will cease to hold office at the conclusion of each AGM, but may then be re-elected under clause ~~91~~85~~91~~ or ~~92~~86~~92~~.

~~88~~94 A person elected to any office will automatically cease to hold that office: -

~~88.1~~94.1 if they cease to be a charity trustee; or

~~88.2~~94.2 if they give to the organisation a notice of resignation from that office, signed by them.

**Powers of board**

[8995](#) Except where this constitution states otherwise, the organisation (and its assets and operations) will be managed by the board; and the board may exercise all the powers of the organisation.

[9096](#) A meeting of the board at which a quorum is present may exercise all powers exercisable by the board.

[9497](#) The members may, by way of a resolution passed in compliance with clause [5858](#) (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**

[9298](#) 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:-

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

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

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

[92.3.198.3.1](#) put the interests of the organisation before that of the other party;

[92.3.298.3.2](#) 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;

[92.498.4](#) ensure that the organisation complies with any direction, requirement, notice or duty imposed under or by virtue of the Charities and Trustee Investment (Scotland) Act 2005.

[9399](#) In addition to the duties outlined in clause [989298](#), all of the charity trustees must take such steps as are reasonably practicable for the purpose of ensuring: -

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

~~93.299.2~~ that any trustee who has been in serious and persistent breach of those duties is removed as a trustee.

~~94~~100 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; and (subject to clause ~~10195101~~ and to the provisions relating to remuneration for services contained in the Charities and Trustee Investment (Scotland) Act 2005), they may retain any personal benefit which arises from that arrangement.

~~95~~101 Subject to clause ~~96,100100~~, 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.

~~96~~102 The chief executive of the organisation may retain all remuneration and all pension and/or other benefits, paid or provided to them in their capacity as an employee of the organisation.

~~97~~103 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**

~~98~~104 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.

~~99~~105 The code of conduct referred to in clause ~~10498104~~ 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 Charities and Trustee Investment (Scotland) Act 2005; 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

~~100~~106 Any charity trustee may call a meeting of the board or ask the secretary to call a meeting of the board.

~~104~~107 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.

### Procedure at board meetings

~~102~~108 No valid decisions can be taken at a board meeting unless a quorum is present; the quorum for board meetings is 5 charity trustees, present in person.

~~103~~109 A charity trustee may participate in a meeting of the board by means of a conference telephone, video conferencing facility or similar communications equipment – so long as all the charity trustees participating in the meeting can hear each other; a charity trustee participating in this manner shall be deemed to be present in person at the meeting.

~~104~~110 If at any time the number of charity trustees in office falls below the number stated as the quorum in clause ~~108~~~~102~~108, 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.

~~105~~111 The chair of the organisation should act as chairperson of each board meeting.

~~106~~112 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.

~~107~~113 For the avoidance of doubt, the chief executive shall not be entitled to vote in relation to any matter connected with their remuneration or other terms and conditions of employment.

~~108~~114 Every charity trustee has one vote, which must be given personally; for the avoidance of doubt a vote given by a charity trustee participating through any of the methods referred to in clause ~~103~~~~109~~109 will be taken to be given personally for the purposes of this clause .

~~109~~115 All decisions at board meetings will be made by majority vote.

~~140~~116 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.

~~144~~117 The board may, at its discretion, allow any person to attend 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.

~~142~~118 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.

~~143~~119 For the purposes of clause ~~118~~~~12~~118: -

~~113.1~~119.1 an interest held by an individual who is “connected” with the charity trustee under section 68(2) of the Charities and Trustee Investment (Scotland) Act 2005 (husband/wife, partner, child, parent, brother/sister etc) shall be deemed to be held by that charity trustee;

~~113.2~~119.2 a charity trustee will 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 has an interest in that matter.

## Minutes

~~144~~120 The board must ensure that proper minutes are kept in relation to all board meetings and meetings of sub-committees.

~~145~~121 The minutes to be kept under clause ~~120~~~~14~~120 must include the names of those present; and (so far as possible) should be signed by the chairperson of the meeting.

~~146~~122 The board shall (subject to clause ~~123~~~~17~~123) make available copies of the minutes referred to in clause ~~120~~~~14~~120 to any member of the public requesting them.]

~~147~~123 The board may exclude from any copy minutes made available to a member of the public under clause ~~122~~~~16~~122 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

~~118~~124 The board may delegate any of their powers to sub-committees; a sub-committee must include at least one charity trustee and ideally two for organisational resilience and continuity, but other members of a sub-committee need not be charity trustees.

~~119~~125 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.

~~120~~126 When delegating powers under clause ~~124~~118~~124~~ or ~~125~~119~~125~~, the board must set out appropriate conditions (which must include an obligation to report regularly to the board).

~~121~~127 Any delegation of powers under clause ~~124~~118~~124~~ or ~~125~~119~~125~~ may be revoked or altered by the board at any time.

~~122~~128 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

~~123~~129 Subject to clause ~~130~~124~~130~~, the signatures of two out of three signatories appointed by the board will be required in relation to all operations (other than the lodging of funds) on the bank and building society accounts held by the organisation; at least one out of the two signatures must be the signature of a charity trustee.

~~124~~130 Where the organisation uses electronic facilities for the operation of any bank or building society account, the authorisations required for operations on that account must be consistent with the approach reflected in clause ~~129~~123~~129~~.

### Accounting records and annual accounts

~~125~~131 The board must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.

~~126~~132 The board must prepare annual accounts, complying with all relevant statutory requirements; 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.

## MISCELLANEOUS

**Winding-up**

~~427~~133 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 Charities and Trustee Investment (Scotland) Act 2005.

~~428~~134 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.

**Alterations to the constitution**

~~429~~135 This constitution may (subject to clause ~~136~~130~~136~~) be altered by resolution of the members passed at a members' meeting (subject to achieving the two thirds majority referred to in clause ~~58~~58) or by way of a written resolution of the members.

~~430~~136 The Charities and Trustee Investment (Scotland) Act 2005 prohibits taking certain steps (e.g. change of name, an alteration to the purposes, amalgamation, winding-up) without the consent of the Office of the Scottish Charity Regulator (OSCR).

**Interpretation**

~~431~~137 References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005 should be taken to include: -

~~431.1~~137.1 any statutory provision which adds to, modifies or replaces that Act; and

~~431.2~~137.2 any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under paragraph ~~137.1~~137.1 above.

~~432~~138 In this constitution: -

~~432.1~~138.1 "charity" means a body which is either a "Scottish charity" within the meaning of section 13 of the Charities and Trustee Investment (Scotland) Act 2005 or a "charity" within the meaning of section 1 of the Charities Act 2011, providing (in either case) that its objects are limited to charitable purposes;

~~432.2~~138.2 "charitable purpose" means a charitable purpose under section 7 of the Charities and Trustee Investment (Scotland) Act

2005 which is also regarded as a charitable purpose in relation to the application of the Taxes Acts.