

**CONSTITUTION**

**of**

**Rosyth Concert Band [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 '**Rosyth Concert Band [SCIO]**'

### **Purposes**

- 4 The organisation's purposes are:
  - 4.1 The charitable purposes are the advancement of arts, heritage and culture of music.
  - 4.2 In the furtherance thereof the Band shall seek:
    - 4.2.1 To provide facilities, instruments and such necessary equipment as to facilitate the learning and playing of music, particularly pertaining to playing in the concert band;
    - 4.2.2 To participate actively and be an effective influence in the cultural activities within the community and the wider area of Fife and central Scotland.

### **Powers**

- 5 The organisation has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so:
  - 5.1 Hire, purchase or acquire local premises and any appropriate equipment as and when necessary. To meet, rehearse or hold events;
  - 5.2 Engage with appropriate statutory, professional and other referring agencies;
  - 5.3 Employ staff and provide any pension contributions, as necessary;

5.4 Engage the services of volunteers when necessary to assist in the work of the Band and approve out-of-pocket expenses;

5.5 Promote the Band and activities within Fife and surrounding area;

5.6 Hold bank/building society accounts in the name of the Band;

5.7 Receive contributions by way of donations, legacies, make grant, applications, borrow and raise funds by whatever means, to further the purposes of the Band and expend money received from any source as the trustees deem appropriate;

5.8 Secure appropriate insurance cover to provide the public service;

5.9 Develop appropriate operational policies and procedures to provide the service, including PVG (Protection of Vulnerable Groups – Disclosure);

5.10 Do all such other lawful things that appear to the trustees to be necessary or desirable in pursuance of these purposes.

- 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 82 to 86 (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 Management Committee Members/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 – subject to clauses 13 – 16 who have the right to attend members' meetings (including any annual general meeting) and have important powers under this constitution; for example, the members elect people to serve on the board and take decisions on changes to the constitution itself;
  - (i) the MANAGEMENT COMMITTEE - who hold regular meetings, and generally control the activities of the Band. For example, the Management Committee is responsible for monitoring and controlling the financial position of the organisation.
- 11 The people serving on the Management Committee are referred to in this constitution as MANAGEMENT COMMITTEE MEMBERS/CHARITY TRUSTEES.

## **MEMBERS**

### **Qualifications for membership**

- 12 Membership is open to any individuals or organisations who is interested in furthering the aims of the Band.
- 12.1 Adult Membership. Adult membership shall be open to any individual age 18 and over and this category of membership shall be entitled to vote at members' meetings and shall be eligible for election to the Management Committee.
- 12.2 Junior Membership. Junior membership shall be open to anyone aged 9 – 17 years of age and this category of membership shall not be entitled to vote at members' meetings and shall not be eligible for election to the Management Committee.
- 13 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**

- 14 Any person who wishes to become a member must submit an application for membership (in writing or by email) to the Secretary; the application will then be considered by the Management Committee at its next board meeting. Prospective members will be welcome to

play at rehearsals and performances of the Band for a maximum of 4 weeks, after which they will be expected to apply for membership.

14.1 No person shall be refused membership on the grounds of protected characteristics as defined by the Equality and Human Rights Commission (EHRC).

- 15 The board may, at its discretion, refuse to admit any person to membership.
- 16 The board must notify each applicant promptly (in writing or by email) of its decision on whether or not to admit them to membership. On approval of membership the applicant's annual membership ship fee shall become due.

### **Membership subscription**

- 17 Members shall require to pay an annual membership subscription; unless and until otherwise determined by the members, the amount of the annual membership subscription shall be £84.

17.1 The annual subscriptions shall be payable on or before 1 September in each year.

17.2 The members may vary the amount of the annual membership subscription and/or the date on which it falls due each year, by way of a resolution to that effect passed at an AGM.

17.3 If the membership subscription payable by any member remains outstanding more than 4 weeks after the date on which it fell due, and providing they have been given at least one written reminder, shall be considered to have lapsed their membership until payment is made.

17.4 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**

- 18 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.
- 19 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 Management Committee or a resolution passed by the members of the organisation; or
  - (b) which is notified to the organisation.
- 20 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**

- 21 Any person who wants to withdraw from membership (subject to Clause 17.3) 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**

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

### **Re-registration of members**

- 23 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.
- 24 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.
- 25 A notice under clause 23 will not be valid unless it refers specifically to the consequences (under clause 24) of failing to provide confirmation within the 28-day period.

### **Expulsion from membership**

- 26 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**

- 27 Membership of the organisation will terminate on death.

## **DECISION-MAKING BY THE MEMBERS**

### **Members' meetings**

- 28 The board must arrange a meeting of members (an annual members' meeting or "AGM") in each calendar year.
- 29 The gap between one AGM and the next must not be longer than 15 months.
- 30 Notwithstanding clause 28, 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.
- 31 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 Management Committee Members/Charity Trustees, as referred to in clauses 28 to 54
- 32 The board may arrange a special members' meeting at any time.

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

- 33 The board must arrange a special members' meeting if they are requested to do so by a notice (in writing or by email) by no less than 5 members, 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.
- 34 A notice under clause 33 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 threshold referred to in clause 33.
- 35 If the board receive a notice under clause 33, 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**

- 36 At least 14 clear days' notice must be given of any AGM or any special members' meeting.
- 37 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 47 (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).
- 38 The reference to "clear days" in clause 36 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.
- 39 Notice of every members' meeting must be given to all the members of the organisation, and to all the Management Committee Members/Charity Trustees; but the accidental omission to give notice to one or more members or Management Committee



Members/Charity Trustees will not invalidate the proceedings at the meeting.

- 40 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.

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

- 41 The quorum for a members' meeting is one-third of members, present in person.
- 42 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. At such a reconvened meeting a quorum will consist of those present.
- 43 The chair of the organisation should act as chairperson of each members' meeting.
- 44 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 Management Committee Members/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**

- 45 Every member has one vote, which must be given personally.
- 46 All decisions at members' meetings will be made by majority vote - with the exception of the types of resolution listed in clause 47.
- 47 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:
- (a) a resolution amending the constitution;
  - (b) a resolution expelling a person from membership under clause 26;

- (c) a resolution removing a person from office as a charity trustee under paragraph (i) of clause 66;
  - (d) a resolution directing the board to take any particular step (or directing the board not to take any particular step) under clause 77;
  - (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.
- 48 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.
- 49 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.
- 50 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**

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

### **Minutes of members' meetings**

- 52 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.
- 53 The records of resolutions must include confirmation that all members agreed to the resolution; and should be signed by the chair of the organisation.

- 54 Record of resolutions kept under clause 51 must include confirmation that all members agreed to the resolution; and should be signed by the chairperson of the meeting.
- 55 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 shall make arrangements for members and Management Committee Members/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.

## **MANAGEMENT COMMITTEE/BOARD OF TRUSTEES**

### **Number of Management Committee/Trustees**

- 56 The maximum number of Management Committee is 10; out of that:
- (a) no more than 10 shall be those who were elected/appointed under clauses 28 to 54 (or deemed to have been appointed by the members under clause 63); and
  - (b) no more than one third shall be those who were co-opted by the board under the provisions of clauses 64 and 65.
- 57 The minimum number of Management Committee/Trustees is 6.

### **Eligibility**

- 58 A person shall not be eligible for election/appointment to the Committee under clauses 28 to 54 unless they are a member of the organisation; a person appointed to under clauses 64 and 65 need not, however, be a member of the organisation.
- 59 A person will not be eligible for election or appointment to the Management Committee if they are:
- (a) disqualified from being a charity trustee under the Scottish Charities Act; or
  - (b) an employee of the organisation.

### **Initial Management Committee Members/Charity Trustees**

- 60 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 Management

Committee Members/Charity Trustees with effect from the date of incorporation of the organisation.

### **Election, retirement, re-election**

At each AGM, the members may elect any member (subject to clause 56, and providing they are not debarred under clause 59) to the Management Committee/Board of Trustees.

- 61 The Committee may at any time appoint any member (subject to clause 56, and providing they are not debarred under clause 59) to be a charity trustee.
- 62 At each AGM, all of the Management Committee elected/appointed under clauses 28 and 61 (and, in the case of the first AGM, those deemed to have been appointed by the members under clause 60) shall retire from office – but shall then be eligible for re-election under clause 60.
- 63 A Management Committee Member/Trustee retiring at an AGM will be deemed to have been re-elected unless:
- (a) they advise the board prior to the conclusion of the AGM that they do not wish to be re-appointed; or
  - (b) an election process was held at the AGM and they were not among those elected/re-elected through that process.

### **Appointment/re-appointment of co-opted Committee Members/trustees**

- 64 In addition to their powers under clause 61, the Committee may at any time appoint any non-member of the organisation to be a member of the committee/trustee (subject to clause 56, and providing they are not debarred under clause 59) either on the basis that they have specialist experience and/or skills which could be of assistance to the Committee.
- 65 At each AGM, all of the Committee members/ trustees appointed under clause 64 shall retire from office – but shall then be eligible for re-appointment by the board (after the AGM) under that clause.

### **Termination of office**

- 66 A member of the Management Committee 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 committee member/trustee elected/appointed under clauses 28 to 54, or deemed to have been appointed by the members under clause 60) 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 committee meetings - but only if the board resolve to remove them from office;
- (g) they are removed from office by resolution of the committee on the grounds that they are considered to have committed a serious breach of the code of conduct for Management Committee Members/Charity Trustees (as referred to in clause 87);
- (h) they are removed from office by resolution of the committee 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.

67 A resolution under paragraph (g), (h) or (i) of clause 66 shall be valid only if:

- (a) the person 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 person 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 management committee 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 Management Committee Members/Charity Trustees**

- 68 The board must keep a register of management committee/Management Committee Members/Charity Trustees, setting out:
- (a) for each current management committee member/trustee:
    - (i) their full name and address;
    - (ii) the date on which they were appointed; and
    - (iii) any office held by them in the organisation;
  - (b) for each former committee member/trustee - for at least 6 years from the date on which they ceased to be a charity trustee:
    - (i) the name of the committee member/charity trustee;
    - (ii) any office held by them in the organisation; and
    - (iii) the date on which they ceased to be a committee member/trustee.
- 69 The board must ensure that the register of committee members/Management Committee Members/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.
- 70 If any person requests a copy of the register of committee members/Management Committee Members/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 committee member/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**

- 71 The Management Committee/Management Committee Members/Charity Trustees including office bearers must elect by the members at an AGM.

The office bearers so appointed shall be:

- (a) Chairperson
- (b) Secretary
- (c) Treasurer
- (d) Protection of Vulnerable Groups Officer (PVG)
- (e) Librarian

73.1 The posts of PVG Officer and Librarian may be held jointly with one or other of the posts.

73.2 The management committee shall appoint a Conductor/Musical Director, who will not be a member of the management committee. The Band's Conductor/Musical Director, whether remunerated or otherwise, may attend committee meetings except where their position is being considered. They shall not be eligible to vote in committee meetings.

- 72 In addition to the office-bearers required under clause 71, the Management Committee/trustees may elect (from among themselves) further office-bearers if they consider that appropriate.
- 73 All of the office-bearers will cease to hold office prior to each AGM, but may then be re-elected at the AGM.
- 74 A person elected to any office will automatically cease to hold that office:
- (a) if they cease to be a committee member/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 Management Committee/Board of Trustees**

- 75 Except where this constitution states otherwise:
- (a) the organisation (and its assets and operations) will be managed by the Committee/Board; and
  - (b) the Committee/Board may exercise all the powers of the organisation.

- 76 A meeting of the committee/board at which a quorum is present may exercise all powers exercisable by the board.
- 77 The members may, by way of a resolution passed in compliance with clause 47 (requirement for two-thirds majority), direct the committee/board to take any particular step or direct the committee/board not to take any particular step; and the committee/board shall give effect to any such direction accordingly.

**Management Committee Members/Charity Trustees - general duties**

- 78 Each charity trustee 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 Management Committee Members/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.
- 79 In addition to the duties outlined in clause 78, all of the Management Committee Members/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 management committee members/Management Committee Members/Charity Trustees - general**

80 The board must use every effort to ensure that conflicts of interest involving committee members/Management Committee Members/Charity Trustees (including those which relate to individuals or bodies connected with Management Committee Members/Charity Trustees) are identified at the earliest opportunity and appropriately managed; the following provisions of this constitution are of particular relevance:

- (a) clauses 81 and 84 require Management Committee Members/Charity Trustees to declare any personal interest which they may have in any transaction or other arrangement with the organisation;
- (b) clause 98 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 83 (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).

81 In addition to complying with the provisions referred to in clause 80:

- (a) the board must maintain a register of Management Committee Members/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**

82 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.

83 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 Management Committee Members/Charity Trustees must be receiving remuneration from the organisation (or benefit from remuneration of that nature).
- 84 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 82 or 83; and (subject to clause 83 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.
- 85 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.
- 86 The Management Committee Members/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 Management Committee Members/Charity Trustees**

- 87 Each of the Management Committee Members/Charity Trustees shall comply with the code of conduct (incorporating detailed rules on conflict of interest) prescribed by the board from time to time.
- 88 The code of conduct referred to in clause 87 shall be supplemental to the provisions relating to the conduct of Management Committee Members/Charity Trustees contained in this constitution and the duties imposed on Management Committee Members/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 MANAGEMENT COMMITTEE MEMBERS/CHARITY TRUSTEES**

### **Notice of board meetings**

- 89 Any charity trustee may call a meeting of the board or may ask the secretary to call a meeting of the board.
- 90 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**

- 91 No valid decisions can be taken at a board meeting unless a quorum is present; the quorum for board meetings is 4 Management Committee Members/Charity Trustees, present in person.
- 92 If at any time the number of Management Committee Members/Charity Trustees in office falls below the number stated as the quorum in clause 91, 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.
- 93 The chair of the organisation should act as chairperson of each board meeting.
- 94 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 Management Committee Members/Charity Trustees present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.
- 95 Every charity trustee has one vote, which must be given personally.
- 96 All decisions at board meetings will be made by majority vote.

- 97 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.
- 98 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.
- 99 For the purposes of clause 98:
- (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 100) 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.
- 100 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).
- 101 If restrictions arising from public health legislation or guidance are likely to mean that attendance in person at a proposed management committee meeting would not be possible or advisable for all or a significant proportion of the members, the board must make arrangements Management Committee Members/Charity Trustees to participate in that management committee meeting by way of audio and/or audio-visual link(s) which allow them to hear and contribute to discussions at the meeting.

**Management Committee/Board resolutions agreed in writing or by email**

- 102 A resolution agreed to in writing (or by email) by a majority of the Management Committee Members/Charity Trustees then in office shall (subject to clauses 103 and 104) be as valid as if duly passed at a board meeting.
- 103 A resolution under clause 102 shall not be valid unless a copy of the resolution was circulated to all of the Management Committee Members/Charity Trustees, along with a cut-off time (which must be reasonable in the circumstances) for notifications under clause 104.
- 104 If a resolution is circulated to the Management Committee Members/Charity Trustees under clause 103, any one or more Management Committee Members/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 102 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 Management Committee Members/Charity Trustees then in office.

### **Minutes of board meetings**

- 105 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 Management Committee Members/Charity Trustees under clause 102.
- 106 The minutes to be kept under clause 105 must include the names of those present; and (so far as possible) should be signed by the chairperson of the meeting.
- 107 The records of resolutions kept under clause 105 must include the names of those Management Committee Members/Charity Trustees who agreed to the resolution (as well as the names of any Management Committee Members/Charity Trustees who stated that

they disagreed with the resolution); and should be signed by the chair of the organisation.

## **ADMINISTRATION**

### **Delegation to sub-committees**

- 108 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 Management Committee Members/Charity Trustees.
- 109 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.
- 110 When delegating powers under clause 108 or 109, the board must set out appropriate conditions (which must include an obligation to report regularly to the board).
- 111 Any delegation of powers under clause 108 or 109 may be revoked or altered by the board at any time.
- 112 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**

- 113 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**

- 114 The board must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.
- 115 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**

- 116 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.
- 117 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**

- 118 This constitution may (subject to clause 119) be altered by resolution of the members passed at a members' meeting (subject to achieving the two thirds majority referred to in clause 47) or by way of a written resolution of the members.
- 119 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**

- 120 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.
- 121 In this constitution:
  - (a) "Scottish Charities Act" means (subject to clause 120) 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.