

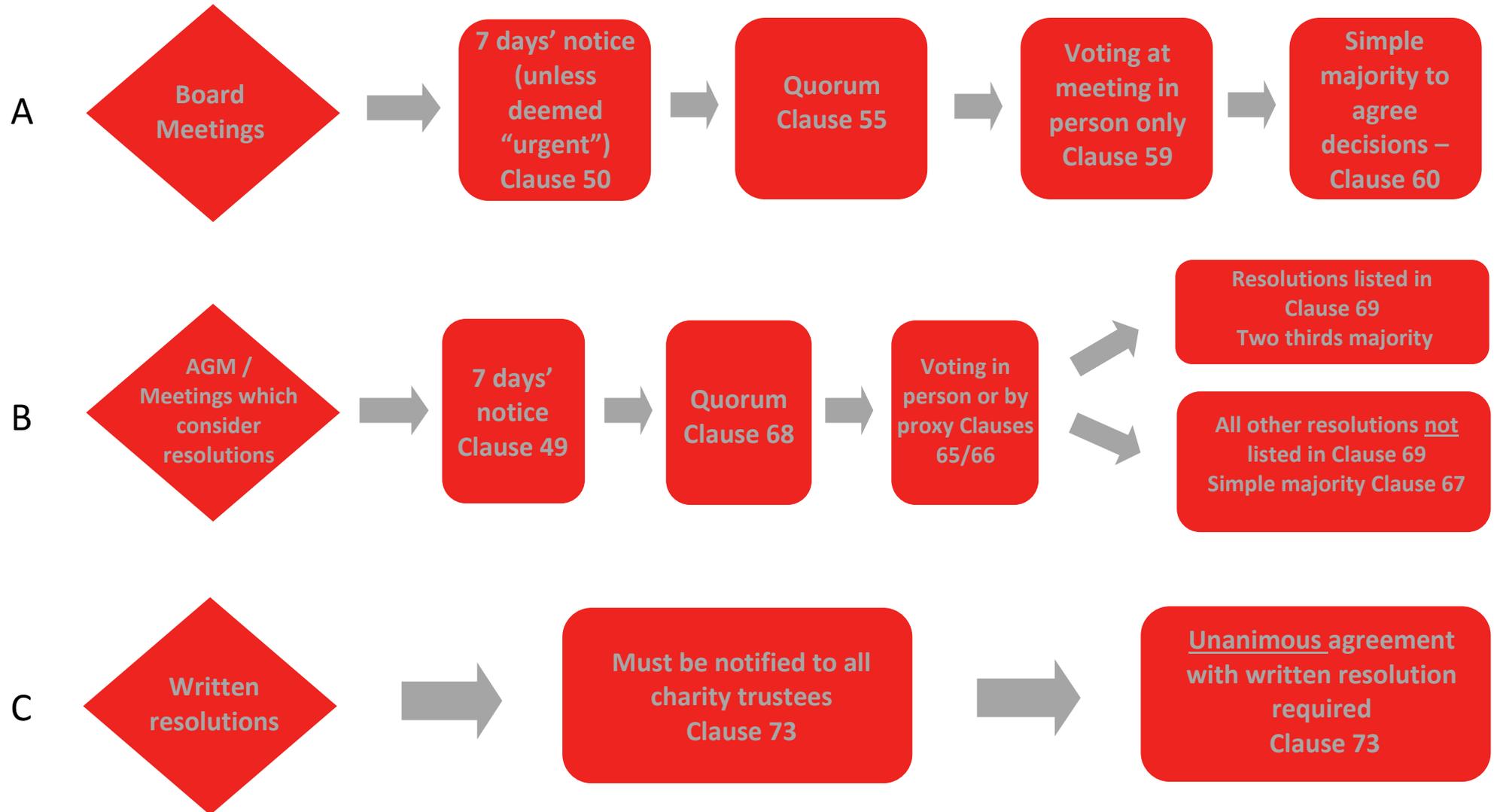


Constitution of

Aberdeen FC Community Trust

Scottish Charitable Incorporated Incorporation (SCIO)
Scottish Charity Register Number SC044720

Decision Making – Single Tier SCIO



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 “Aberdeen FC Community Trust (SCIO)”.

Purposes, Area of Benefit & Beneficiaries

- 4 The organisation is established for charitable purposes only, and, the objects are:

4.1 The **advancement of public participation in sport** in Aberdeen City and Shire through the promotion, alone or in conjunction with others, of participation in football and other sporting activities and acting as advisors in relation to the development of football and other sporting activities.

4.2 The **advancement of health** in Aberdeen City and Shire by the promotion, alone or in conjunction with others, of the benefits of physical activity and provision of assistance in relation to sports-related and healthy lifestyle matters.

4.3 The **advancement of community development** in Aberdeen City and Shire by promoting alone or in conjunction with others, participation in football clubs and other sports, literacy, numeracy, employment skills, life skills, social inclusion, and social activities to all sections of the community.

4.4 The **promotion of equality and diversity** by encouraging participation and integration into a range of inclusive and accessible programmes which strive to bring together all sections of the community, regardless of race, religion or creed, age, gender, sexuality or physical ability.

4.5 The **provision of recreational facilities**, or the organisation of recreational activities, with the object of improving conditions of life for the persons for whom the facilities or activities are primarily intended.

4.6 The **advancement of education** by the promotion, alone or in conjunction with others, of programmes and activities which have educational value.

- 5 The area within which the organisation shall operate (in this constitution referred to as the ‘Area of Benefit’) shall be Aberdeen City and Shire and the surrounding areas.

- 6 The organisation shall promote (but not promote exclusively) its activities and delivery operations to people within the 'Area of Benefit' who will benefit from the activities of the SCIO. These people will be the organisation's beneficiaries.

Powers

- 7 The organisation has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so, as stated in Section 50 (5) of the Charities and Trustee Investment (Scotland) Act 2005.
- 8 No part of the income or property of the organisation may be paid or transferred (directly or indirectly) to the members/Charity Trustees - either during the organisation's existence or on dissolution - except where this is done in direct furtherance of the organisation's charitable purposes.

General structure

- 9 The structure of the organisation consists of the CHARITY TRUSTEES who are also the organisation's only members and comprise the organisation's BOARD.

Liability of Charity Trustees (members)

- 10 The Charity Trustees (the only 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 Charity Trustees will not be held responsible.
- 11 The Charity Trustees have certain legal duties under the Charities and Trustee Investment (Scotland) Act 2005; and clause 9 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.

BOARD

Qualifications for Charity Trusteeship

- 12 Charity Trusteeship is open to any person:
 - 12.1 nominated by an AFCCT Trustee or the Trust CEO; and
 - 12.2 aged 16 or over; and
 - 12.3 not excluded by virtue of clause 24; and
 - 12.4 who subscribes to the purposes of the organisation and wishes to see them fulfilled.

Application for, and Tenure of Charity Trusteeship

- 13 Any eligible person nominated, who wishes to become a Charity Trustee, must confirm their interest in writing (includes email) for Charity Trusteeship.
- 14 The application will be considered by the Board at its next Board meeting; or shared with all Trustees via email seeking a decision by return.
- 15 The Board can appoint Trustees by a majority. In the event of a tied vote, the Chair has the casting vote.
- 16 The Board may, at its discretion, refuse to admit any nominated person.
- 17 The Board will notify each applicant (in writing, including e-mail) of its decision on whether to admit the applicant to Charity Trusteeship.
- 18 To encourage an appropriate level of turnover, Trustees will be appointed for an initial maximum period of three years, after which they must step down; or
- 19 Trustees can be appointed for a second period, up to a maximum of an additional three years, providing their extension is supported by a minimum of two thirds of all Board members; or
- 20 In exceptional circumstances, Trustees can be appointed for a third term, up to a maximum of an additional 3 years, providing the exceptional extension is supported unanimously by all Board members.

Subscription to the SCIO

- 21 No subscription will be payable.

Number of Charity Trustees

- 22 The maximum number of Charity Trustees is twelve.
- 23 The minimum number of Charity Trustees is three.

Eligibility

- 24 A person will not be eligible for election or appointment to the Board if he/she: -
 - 24.1 is disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005; or
 - 24.2 has entered into a full time or part time employment contract with the organisation, apart from employment as described in clauses 46 and 47.

Initial Charity Trustees

- 25 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 as Charity Trustees with effect from the date of incorporation of the organisation and its entry on the Scottish Charity Register.

Annual General Meeting

- 26 The Board must arrange a meeting of the Charity Trustees (an annual general meeting or "AGM") in each calendar year, reporting on the immediately preceding financial year of the organisation.
- 27 The gap between one AGM and the next must not be longer than 15 months.
- 28 Notwithstanding clause 30, 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 incorporated and entered on the Scottish charity Register.
- 29 The business of each AGM must include: -
 - 29.1 a report by the Chairperson on the activities of the organisation;
 - 29.2 consideration of the annual statement of account of the organisation, as prepared under Section 44 of the Charities and Trustee Investment (Scotland) Act 2005;
 - 29.3 the election/re-election of Charity Trustees, as referred to in clauses 30 and 31.

Election, retiral, re-election

- 30 At each AGM, all the charity trustees must retire from office - but may then be re-elected under clause 31.
- 31 A charity trustee retiring at an AGM will be deemed to have been re-elected unless: -
 - 31.1 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
 - 31.2 an election process was held at the AGM and they were not among those elected/re-elected through that process; or
 - 31.3 They are excluded by virtue of tenure as outlined in clauses 18, 19 or 20.
 - 31.4 a resolution under sub-clauses 32.5, 32.6, 32.7, 32.8 was put to the AGM and was carried.

Termination of office

- 32 A Charity Trustee will automatically cease to hold office if: -
- 32.1 they become disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005; or
 - 32.2 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; or
 - 32.3 they enter into a full time or part time employment contract with the organisation, except for employment as described in clauses 46 and 47; or
 - 32.4 they give the organisation notice of their resignation, in person or writing; or
 - 32.5 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; or
 - 32.6 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 clauses 50 and 51); or
 - 32.7 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
 - 32.8 they are removed from office for any other reason by resolution of the Board.
- 33 A resolution under sub-clauses 32.5, 32.6, 32.7, 32.8 shall be valid only if: -
- 33.1 the Charity Trustee who is the subject of the resolution is given 14 days written notice of the grounds upon which the resolution for their removal is to be proposed;
 - 33.2 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
 - 33.3 at least two thirds (to the nearest round number) of the Charity Trustees vote in favour of the resolution as set out in clause 73.

Register of Charity Trustees

- 34 The Board must keep a register of Charity Trustees, setting out
- 34.1 for each current Charity Trustee:
 - 34.1.1 their full name and address; and
 - 34.1.2 the date on which they were appointed as a Charity Trustee; and
 - 34.1.3 any office held by them in the organisation; and
 - 34.2 for each former Charity Trustee - for at least 6 years from the date on which they ceased to be a Charity Trustee:
 - 34.2.1 the name of the Charity Trustee; and
 - 34.2.2 any office held by them in the organisation; and
 - 34.2.3 the date on which they ceased to be a Charity Trustee.
- 35 The Board must ensure that the register of Charity Trustees is updated within 28 days of any change:
- 35.1 which arises from a resolution of the Board; or
 - 35.2 which is notified to the organisation.
- 36 If any person requests a copy of the register of charity trustees, the Board must ensure that a copy is supplied to that person 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

- 37 The Charity Trustees must elect (from among themselves) a Chairperson and Deputy Chairperson.
- 38 In addition to the office-bearers required under clause 37, the Charity Trustees may elect (from among themselves) further office-bearers if they consider that appropriate.
- 39 All the office-bearers will cease to hold office at the end of each AGM but may then be re-elected at the first Board meeting after the AGM, under clause 37 and 38.
- 40 A person elected to any office will automatically cease to hold that office if they cease to be a charity trustee.

Powers of Board

- 41 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.
- 42 A meeting of the Board at which the appropriate quorum (as set out in clauses 59 and 72) is present may exercise all powers exercisable by the Board. (NOTE: Minimum of one third of Trustees present, or three Trustees, whichever is the highest)

Charity Trustees - general duties & remuneration

- 43 Each of the Charity Trustees has a duty, in exercising their functions as a Charity Trustee, to act in the interests of the organisation; and must: -
 - 43.1 seek, in good faith, to ensure that the organisation acts in a manner which is in accordance with its purposes; and
 - 43.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person; and
 - 43.3 in circumstances giving rise to the possibility of a conflict of interest between the organisation and any other party:
 - 43.3.1 put the interests of the organisation before that of the other party; or
 - 43.3.2 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 regarding the matter in question;
 - 43.4 ensure that the organisation complies with any direction, requirement, notice or duty imposed under or by the Charities and Trustee Investment (Scotland) Act 2005.
- 44 In addition to the duties outlined in clause 43, all the Charity Trustees must take such steps as are reasonably practicable for the purpose of ensuring: -
 - 44.1 that any breach of any of those duties by a Charity Trustee is corrected by the Charity Trustee concerned and not repeated; and
 - 44.2 that any Charity Trustee who has been in serious and persistent breach of those duties is removed as a Charity Trustee as described in clause 32.7.

- 45 Provided they have declared their interest - and has 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 private interest; and (subject to clauses 46 and 47 and to the provisions relating to remuneration for services contained in Sections 67, 68 and 68A of the Charities and Trustee Investment (Scotland) Act 2005), they may retain any private benefit which arises from that arrangement.
- 46 No Charity Trustee may serve as an employee (having entered into a full time or part time contract) of the organisation with the only exception being as stated in clause 47.
- 47 For the avoidance of doubt, it is permissible for a Charity Trustee to be employed as a temporary sessional worker, provided that:
- 47.1 such employment is explicitly authorised by the Board; and
 - 47.2 it is temporary; and
 - 47.3 it is in accordance with the rules laid down in clause 45.
- 48 No Charity Trustee may be given any remuneration by the organisation for carrying out their duties as a Charity Trustee.
- 49 The Charity Trustees may be paid all 'out of pocket' 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

- 50 Each of the Charity Trustees shall comply with the code of conduct of the organisation (incorporating detailed rules on conflict(s) of interest) adopted by the Board.
- 51 The code of conduct referred to in clause 50 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. All relevant provisions of this constitution shall be interpreted and applied in accordance with the provisions of the code of conduct which must be annually reviewed by the Board.

DECISION-MAKING BY THE CHARITY TRUSTEES

Notice of meetings

- 52 Any Charity Trustee may call a meeting of the Board *and/or* ask the Chairperson to call a meeting of the Board.

- 53 At least 7 clear days' notice must be given of the AGM, or of a Board meeting at which the business of the meeting includes consideration of any resolution.
- 54 At least 7 clear days' notice must be given for other Board meetings unless in the opinion of the Chairperson there is a degree of urgency which makes that inappropriate.
- 55 The notice calling an AGM or a Board meeting at which the business of the meeting includes consideration of any resolution, must specify in general terms what business is to be dealt with at the meeting; and
- 55.1 in the case of any other resolution falling within clause 69 (requirement for two-thirds majority) must set out the exact terms of the resolution.
- 56 The reference to "clear days" in clauses 53 and 54 shall be taken to mean that, in calculating the period of notice,
- 56.1 the day after the notices are posted (or the same day notices are sent by e-mail) should be excluded; and
- 56.2 the day of the meeting itself should also be excluded.
- 57 Notice of the AGM and Board meetings must be given to all the Charity Trustees; but the accidental omission to give notice to one or more Charity Trustees will not invalidate the proceedings at the meeting.
- 58 Any notice which requires to be given to a Charity Trustee under this constitution must be: -
- 58.1 sent by post to the Charity Trustee, at the address last notified by him/her to the organisation and on the register of charity trustees as described in clause 34; *and/or*
- 58.2 sent by e-mail to the Charity Trustee, at the e-mail address last notified by him/her to the organisation. It is the responsibility of each Charity Trustee to keep their personal email details up to date.

Procedure at Board meetings

- 59 No valid decisions can be taken at a Board meeting unless a quorum is present; the quorum for Board meetings is one third of the actual number of Charity Trustees, present in person, or three, whichever is the higher number, except for Board meetings at which a resolution(s) is to be considered, as described in clause 72. ***At least one of the quorum must be external to both AFC Community Trust and AFC plc.***
- 60 If at any time the number of Charity Trustees in office falls below the number stated as the quorum in clause 59, the remaining Charity Trustee(s) will have power to fill the vacancies - but will not be able to take any other valid decisions.

- 61 The Chairperson of the organisation should act as convenor of each Board meeting.
- 62 If the Chairperson and Deputy Chairperson are not present within 15 minutes after the time at which the meeting was due to start (or is not willing to act as such), the Charity Trustees present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.
- 63 Every Charity Trustee has one vote, which must be given personally except in the case of a vote with regard to a resolution under clause 69 and 70.
- 64 All decisions at Board meetings will be made by majority vote. (For procedure on resolutions either at Board meetings or AGMs see clauses 69 - 76).
- 65 If there are an equal number of votes for and against any decision, the chairperson of the meeting (in the circumstances described in clause 62) will be entitled to a second (casting) vote.
- 66 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. The minute of that meeting must make the status of any such person clear for the avoidance of doubt as to their status.
- 67 A Charity Trustee must not vote at a Board meeting (or at a meeting of a sub-committee) on any decision which relates to a matter in which they have a private 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 as described in clause 43, 50 and 51.
- 68 For the purposes of clause 67: -
- 68.1 Any private 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 and their spouses etc.) shall be deemed to be held by that Charity Trustee; and/or
- 68.2 a Charity Trustee will be automatically deemed to have a private interest in relation to a particular matter, if a body in relation to which he/she is an employee, director, member of the management committee, charity trustee, officer or elected representative has an interest in that matter.

Voting on Resolutions

- 69 Every Charity Trustee has one vote with regard to voting on resolutions, which (whether on a show of hands or on a secret ballot as described in clauses 75 and 76) may be given either personally, or by proxy given to a fellow Charity Trustee.

- 70 A member who wishes to appoint a fellow Charity Trustee as their proxy to vote on their behalf with regard to (and only with regard to) resolutions, must lodge with the chairperson of that meeting (in the circumstances described in clause 62), prior to the time when the meeting commences, an email authorising the proxy vote, or alternatively in writing.
- 71 All decisions on resolutions will be made by majority vote - with the exception of the types of resolution listed in clause 73.
- 72 The quorum for meetings (AGMs or Board meetings) at which a resolution(s) is to be considered is one third of the actual number of charity trustees plus one or three, whichever is the higher number. For these meetings, and these meetings only, this quorum shall include proxies as described in clauses 69 and 70.
- 73 The following resolutions will be valid only if passed by not less than two thirds of those voting (either in person or by proxy as described in clauses 69 and 70) on the resolution at an AGM or at a Board meeting (or if passed unanimously by way of a written resolution under clause 77) and will also be subject, (with the exception of clauses 73.2 and 73.3) to clause 93:
- 73.1 a resolution amending the constitution (including changing the name of the organisation); or
 - 73.2 a resolution expelling a person from Charity Trusteeship under clauses 32.5, 32.6, 32.7 or 32.8; or
 - 73.3 a resolution directing the Board to take any particular action (or directing the board not to take any particular action); or
 - 73.4 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); or
 - 73.5 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 its property, rights and liabilities); or
 - 73.6 a resolution for the winding-up of the organisation.
- 74 If there are an equal number of votes for and against any resolution, the chairperson of the meeting (in the circumstances described in clause 58), will be entitled to a second (casting) vote.
- 75 A resolution put to the vote at an AGM or Board meeting will be decided on a show of hands - unless the chairperson of the meeting (or at least two other Charity Trustees present at the meeting, whether voting personally or as proxies), ask for a secret ballot.
- 76 The chairperson of the meeting 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 Charity Trustees

- 77 A resolution agreed to in writing (including by e-mail) by all the Charity Trustees will be as valid as if it had been passed at an AGM or Board meeting; the date of the resolution will be taken to be the date on which the last member agreed to it and it must be unanimous.

Minutes

- 78 The Board must ensure that proper minutes are kept in relation to all Board meetings and meetings of sub-committees.
- 79 The minutes to be kept under clause 78 must include the names of those present; and (as far as possible) should be signed by the Chairperson of the meeting.
- 80 With due reference to all applicable statutory requirements, it is wholly at the discretion of the Board as to whether the minute of a meeting, or any excerpt from the minute of a meeting, is to be made available to members of the public or any body.

ADMINISTRATION

Delegation to sub-committees

- 81 The Board may delegate any of their functions or 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.
- 82 The Board may also delegate to the Chairperson of the organisation (or the holder of any other post) such of their powers (but not their responsibilities) as they may consider appropriate.
- 83 When delegating powers under clause 81 or 82, the Board must set out appropriate conditions (which must include an obligation to report regularly to the Board).
- 84 Any delegation of powers under clause 81 or 82 may be revoked or altered by the Board at any time.
- 85 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

- 86 Subject to clause 87, the signatures of two out of the panel of seven 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; all payments must be pre-approved in accordance with the Trust Authority Matrix.

- 87 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 86.

Accounting records and annual accounts

- 88 The Board must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.
- 89 The Board must prepare an annual statement of account, complying with all relevant statutory requirements; which includes deciding the correct format of the accounts, and the appropriate external scrutiny requirement by either a registered auditor or an appropriately qualified independent examiner.

MISCELLANEOUS

Dissolution and wind-up of the organisation

- 90 If the organisation is to be dissolved and wound-up, the dissolution and wind-up process will be carried out in accordance with the procedures set out under the Charities and Trustee Investment (Scotland) Act 2005 and the Scottish Charitable Incorporated Organisation (Removal from Register and Dissolution) Regulations 2011.
- 91 Any surplus assets available to the organisation immediately preceding its winding-up 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

- 92 This constitution may (subject to clause 93) be altered by resolution of the Charity Trustees passed at an AGM or Board meeting (subject to achieving the two thirds majority referred to in clause 73) or by way of a unanimous written resolution of the members (as described in clause 77).
- 93 The Charities and Trustee Investment (Scotland) Act 2005 requires that consent is sought from the Office of the Scottish Charity Regulator (OSCR) to action the following changes: change of name, an alteration to the purposes, amalgamation and/or winding-up.

Interpretation

- 94 References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005 and other statutory regulations should be taken to include:
- 94.1 any statutory provision which adds to, modifies or replaces that Act or the regulations; and

94.2 any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under paragraph 94.1 above.

In this constitution:

94.3 “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 2006, providing (in either case) that its objects are limited to charitable purposes; and

94.4 “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.

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