

# APPLA

Association for the Promotion of Polish Language Abroad

**CONSTITUTION OF**

**THE ASSOCIATION FOR THE PROMOTION**

**OF POLISH LANGUAGE ABROAD (APPLA)**

***SCIO***

March 2015

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of  
**THE ASSOCIATION FOR THE PROMOTION  
OF POLISH LANGUAGE ABROAD (APPLA)  
[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 "Association for the Promotion of Polish Language Abroad [SCIO]". The abbreviated name is "APPLA [SCIO]"

### **Purposes**

- 4 The organisation's purposes are:
  - 4.1. The advancement of the arts, heritage and culture by initiating, supporting and delivering projects celebrating and promoting Polish language and Polish culture within a multicultural environment in Scotland and elsewhere.
  - 4.2. The advancement of education through the teaching as well as promotion of teaching and learning of Polish as a heritage and foreign language; development and provision of resources for teaching Polish as a heritage and foreign language; organising conferences, workshops and training opportunities for teachers teaching Polish as a heritage language, foreign language and teachers working with schoolchildren of Polish origin.
  - 4.3. The promotion of equality and diversity through: organising and supporting educational programmes, events and other initiatives related to the use of the Polish language outside of Poland; supporting initiatives related to the use and maintenance of other minority/heritage languages in Scotland and elsewhere; cooperation with relevant stakeholders towards greater mutual understanding and respect for speakers of minority/heritage languages and active promotion of bilingualism among the Polish communities.
  - 4.4 The advancement of citizenship, integration and inclusion processes in Scotland and beyond by promoting active involvement of minority/heritage language speakers in public life and public debates and especially in programmes and initiatives focused on multilingualism, education (including language learning) and preservation of minority/heritage languages.

## **Powers**

- 5 The organisation has the 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
  - 11.1 any individual aged 16 or over who wishes to further the objectives of APPLA [SCIO]
  - 11.2 any corporate body which wishes to further the objectives of APPLA [SCIO]
  - 11.3 any individual who has been nominated for membership by an unincorporated body which wishes to further the objectives of APPLA [SCIO]
- 12 Employees of the organisation are eligible for membership providing that they do not make up the majority of members.

### **Application for membership**

- 13 Any person or body who/which wishes to become a member must sign a written application for membership and lodge this with the organisation along with a remittance to meet the annual membership subscription; in the case of a corporate body, the application must be signed by an appropriate officer of that body; in the case of an application under paragraph 11.3, the application must also be signed by an appropriate office bearer of the unincorporated body which is nominating him/her for membership.
- 14 An application for membership received by the organisation will be considered by the board at the next board meeting.
- 15 The board may, at its discretion, refuse to admit any person or body to membership.
- 16 The board must notify each applicant promptly (in writing or by e-mail) of its decision on whether or not to admit him/her/it to membership. If the decision is to refuse admission, the board shall return to the applicant the remittance lodged by him/her/it under clause 13.

### **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 £10.00 per annum for individuals and £30.00 for bodies and individuals nominated for membership by an unincorporated body.

- 18 The annual membership subscriptions shall be payable on or before 01 June in each year.
- 19 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.
- 20 If the membership subscription payable by any member remains outstanding more than 8 weeks after the date on which it fell due – and providing he/she has been given at least one written reminder (sent by post or electronic mail) - the board may, by resolution to that effect, expel him/her from membership.
- 21 A person who ceases (for whatever reason) to be a member shall not be entitled to any refund of the membership subscription.
- 22 All membership fees should be invested fully for advancing the objectives of APPLA [SCIO].

### **Register of members**

- 23 The board must keep a register of members, setting out
  - 23.1 for each current member:
    - 23.1.1 his/her/its full name and address; and
    - 23.1.2 the date on which he/she/it was registered as a member of the organisation;
    - 23.1.3 in the case of an individual nominated under paragraph 11.3, the name of the unincorporated body which nominated him/her for membership.
  - 23.2 for each former member - for at least six years from the date on he/she/it ceased to be a member:
    - 23.2.1 his/her/its name; and
    - 23.2.2 the date on which he/she/it ceased to be a member.
- 24 The board must ensure that the register of members is updated within 28 days of any change:
  - 24.1 which arises from a resolution of the board or a resolution passed by the members of the organisation; or
  - 24.2 which is notified to the organisation.
- 25 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 him/her 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**

- 26 Any person or body who/which wishes to withdraw from membership must give a written notice of withdrawal to the organisation, signed by him/her or (in the case of a corporate body) signed by an appropriate officer of that body; he/she/it will cease to be a member as from the time when the notice is received by the organisation.
- 27 An unincorporated body which has nominated an individual for membership may withdraw its nomination at any time by written notice to the organisation to that effect, signed by an appropriate office bearer of that body; on receipt of the notice by the organisation, the individual in question shall automatically cease to be a member of the organisation .

### **Transfer of membership**

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

### **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 25 days before sending the notice calling a members' meeting a 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 present his/her/its statement in writing by the date indicated in the letter, giving him at least 18 days to reply
- 29.3 the statement referred to in clause 29.2 will be send by post or by e-mail to all members within 7 days of being received.

### **Termination**

- 30 In the case of individual members the membership of the organisation will terminate on death.
- 31 In the case of a corporate body the membership of the organisation will terminate on the liquidation, receivership, winding-up or dissolution of that body.

- 32 In the case of an individual admitted to membership on the basis of nomination by an unincorporated body the membership of the organisation will terminate if the unincorporated body is dissolved.

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

### **Members' meetings**

- 33 The board must arrange a meeting of members (an annual general meeting or "AGM") in each calendar year.
- 34 The gap between one AGM and the next must not be longer than 15 months.
- 35 Notwithstanding clause 33, 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.
- 36 The business of each AGM must include:-
- 36.1 a report by the chair on the activities of the organisation;
  - 36.2 consideration of the annual accounts of the organisation;
  - 36.3 the election/re-election of charity trustees, as referred to in clauses 78 to 81.
- 37 The board may arrange a special members' meeting at any time.

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

- 38 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 (in the case of a member which is a corporate body, signed by an appropriate officer of that body) by members who amount to 5% or more of the total membership of the organisation at the time, providing:
- 38.1 the notice states the purposes for which the meeting is to be held; and
  - 38.2 those purposes are not inconsistent with the terms of this constitution, the Charities and Trustee (Investment) Scotland Act 2005 or any other statutory provision.
- 39 If the board receive a notice under clause 38, 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**

- 40 At least 21 clear days' notice must be given of any AGM or any special members' meeting.
- 41 The notice calling a members' meeting must specify in general terms what business is to be dealt with at the meeting; and
- 41.1 in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s); or
- 41.2 in the case of any other resolution falling within clause 51 (requirement for two-thirds majority) must set out the exact terms of the resolution.
- 41.3 in the case of AGMs, include, the annual statement of accounts and trustees' annual report, minutes from all members' meetings held since the last AGM (including the minutes from the last AGM) and details of persons standing for election or reelection as trustees.
- 42 The reference to "clear days" in clause 40 shall be taken to mean that, in calculating the period of notice,
- 42.1 the day after the notices are posted (or sent by e-mail) should be excluded; and
- 42.2 the day of the meeting itself should also be excluded.
- 43 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.
- 44 Any notice which requires to be given to a member under this constitution must be: -
- 44.1 sent by post to the member, at the address last notified by him/her/it to the organisation; *or*
- 44.2 sent by e-mail to the member, at the e-mail address last notified by him/her/it to the organisation.

## **Procedure at members' meetings**

- 45 No valid decisions can be taken at any members' meeting unless a quorum is present.
- 46 The quorum for a members' meeting is 51% of members, present in person or casting their votes by post or by e-mail under clause 56.

- 47 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.
- 48 The chair of the organisation should act as chairperson of each members' meeting.
- 49 If the chair of the organisation is not present within 15 minutes after the time at which the meeting was due to start (or is not willing to act as chairperson), the charity trustees present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.

### **Voting at members' meetings**

- 50 Every member has one vote, which must be given personally, by post or email under clause 56.
- 51 All decisions at members' meetings will be made by majority vote - with the exception of the types of resolution listed in clause 52.
- 52 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 69):
- 52.1 a resolution amending the constitution;
  - 52.2 a resolution expelling a person from membership under clause 29;
  - 52.3 a resolution directing the board to take any particular step (or directing the board not to take any particular step);
  - 52.4 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);
  - 52.5 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);
  - 52.6 a resolution for the winding up or dissolution of the organisation.
- 53 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.

- 54 A resolution put to the vote at a members' meeting will be decided on a show of hands and announcement of postal and email voting results - unless the chairperson (or at least two other members present at the meeting) ask for a secret ballot.
- 55 The chairperson will decide how any secret ballot is to be conducted, and he/she will declare the result of the ballot at the meeting.

### **Postal and e-mail voting**

- 56 The members have the right to vote by post or electronic mail (e-mail) to elect charity trustees or to make a decision on any matter that is being decided at a general meeting of the members.
- 57 The charity trustees must appoint at least two persons independent of APPLA [SCIO] to serve as scrutineers to supervise the conduct of the postal/e-mail ballot and the counting of votes.
- 58 The postal/e-mail ballot must send to members of the Association not less than 21 days before the deadline for receipt of votes cast in this way:
- 58.1 a notice by e-mail, if the member has agreed to receive notices in this way, including an explanation of the purpose of the vote and the voting procedure to be followed by the member, and a voting form capable of being returned by e-mail or post to APPLA [SCIO], containing details of the resolution being put to a vote, or of the candidates for election, as applicable;
- 58.2 a notice by post to all other members, including a written explanation of the purpose of the postal vote and the voting procedure to be followed by the member; and a postal voting form containing details of the resolution being put to a vote, or of the candidates for election, as applicable.
- 59 The voting procedure must require all forms returned by post to be in an envelope with the member's name and signature, and nothing else, on the outside, inside another envelope addressed to 'The Scrutineers for APPLA [SCIO]' at the APPLA SCIO's principal office or such other postal address as is specified in the voting procedure.
- 60 The voting procedure for votes cast by e-mail must require the member's name to be at the top of the e-mail, and the e-mail must be authenticated in the manner specified in the voting procedure.
- 61 E-mail votes must be returned to an e-mail address used only for this purpose and must be accessed only by a scrutineer.
- 62 The voting procedure must specify the closing date and time for receipt of votes, and must state that any votes received after the

closing date or not complying with the voting procedure will be invalid and not be counted.

- 63 The scrutineers must make a list of names of members casting valid votes, and a separate list of members casting votes which were invalid. These lists must be provided to a charity trustee or other person overseeing admission to, and voting at, the general meeting. A member who has cast a valid postal or e-mail vote must not vote at the meeting, and must not be counted in the quorum for any part of the meeting on which he, she or it has already cast a valid vote. A member who has cast an invalid vote by post or e-mail is allowed to vote at the meeting and counts towards the quorum.
- 64 For postal votes, the scrutineers must retain the internal envelopes (with the member's name and signature). For e-mail votes, the scrutineers must cut off and retain any part of the e-mail that includes the member's name. In each case, a scrutineer must record on this evidence of the member's name that the vote has been counted, or if the vote has been declared invalid, the reason for such declaration.
- 65 Votes cast by post or e-mail must be counted by all the scrutineers before the meeting at which the vote is to be taken. The scrutineers must provide to the person chairing the meeting written confirmation of the number of valid votes received by post and e-mail and the number of votes received which were invalid.
- 66 The scrutineers must not disclose the result of the postal/e-mail ballot until after votes taken by hand or by poll at the meeting, or by poll after the meeting, have been counted. Only at this point shall the scrutineers declare the result of the valid votes received, and these votes shall be included in the declaration of the result of the vote.
- 67 Following the final declaration of the result of the vote, the scrutineers must provide to a charity trustee or other authorised person bundles containing the evidence of members submitting valid postal votes; evidence of members submitting valid e-mail votes; evidence of invalid votes; the valid votes; and the invalid votes.
- 68 Any dispute about the conduct of a postal or e-mail ballot must be referred initially to a panel set up by the charity trustees, to consist of two trustees and two persons independent of APPLA [SCIO]. If the dispute cannot be satisfactorily resolved by the panel, it must be referred to the Office of the Scottish Charity Regulator (OSCR).

### **Written resolutions by members**

- 69 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**

- 70 The board must ensure that proper minutes are kept in relation to all members' meetings.
- 71 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 at the next meeting.

## **BOARD**

### **Number of charity trustees**

- 72 The maximum number of charity trustees is 5; out of that:
- 72.1 no more than 1 shall be a charity trustee who was elected/appointed under clauses 78 and 79 (or deemed to have been appointed under clause 76); and
  - 72.2 no more than 1 shall be a charity trustee who was co-opted under the provisions of clauses 82 and 83.
  - 72.3 no more than one shall be a charity trustee appointed under the provisions of clause 84 (chief executive).
- 73 The minimum number of charity trustees is 3.

### **Eligibility**

- 74 Subject to clause 77, a person shall not be eligible for election/appointment to the board under clauses 76 to 80 unless he/she is a member of the organisation; a person appointed to the board under clause 82 need not, however, be a member of the organisation.
- 75 Subject to clause 77 a person will not be eligible for election or appointment to the board if he/she is: -
- 75.1 disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005; or
  - 75.2 an employee of the organisation.

### **Initial charity trustees**

- 76 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.
- 77 Clause 74 and paragraph 75.2 shall not apply to a person appointed to the board under clause 84 (chief executive).

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

- 78 At each AGM, the members may elect any member (unless he/she is debarred from membership under clause 75) to be a charity trustee.
- 79 The board may at any time appoint any member (unless he/she is debarred from membership under clause 75) to be a charity trustee.
- 80 At each AGM, all of the charity trustees elected/appointed under clauses 78 and 79 (and, in the case of the first AGM, those deemed to have been appointed under clause 76) shall retire from office – but shall then be eligible for re-election under clause 78.
- 81 A charity trustee retiring at an AGM will be deemed to have been re-elected unless: -
- 81.1 he/she advises the board prior to the conclusion of the AGM that he/she does not wish to be re-appointed as a charity trustee; or
  - 81.2 an election process was held at the AGM and he/she was not among those elected/re-elected through that process; or
  - 81.3 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**

- 82 In addition to their powers under clause 79, the board may at any time appoint any non-member of the organisation to be a charity trustee (subject to clause 72, and providing he/she is not debarred from membership under clause 75) either on the basis that he/she has been nominated by a body with which the organisation has close contact in the course of its activities or on the basis that he/she has specialist experience and/or skills which could be of assistance to the board.
- 83 At each AGM, all of the charity trustees appointed under clause 82 shall retire from office – but shall then be eligible for re-appointment under that clause.

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

- 84 The board shall, at the first board meeting following the appointment of any individual as the chief executive of the organisation, appoint him/her as a charity trustee.
- 85 The chief executive shall continue to be a charity trustee unless and until he/she ceases (for any reason) to hold the post of chief executive of the organisation.

## Termination of office

- 86 A charity trustee will automatically cease to hold office if: -
- 86.1 he/she becomes disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005;
  - 86.2 he/she becomes incapable for medical reasons of carrying out his/her duties as a charity trustee - but only if that has continued (or is expected to continue) for a period of more than six months;
  - 86.3 (in the case of a charity trustee elected/appointed under clauses 76 to 81) he/she ceases to be a member of the organisation;
  - 86.4 (except in the case of the chief executive) he/she becomes an employee of the organisation;
  - 86.5 (in the case of the chief executive) he/she ceases (for whatever reason) to hold the post of chief executive of the organisation;
  - 86.6 he/she gives the organisation a notice of resignation, signed by him/her;
  - 86.7 he/she is 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 him/her from office;
  - 86.8 he/she is removed from office by resolution of the board on the grounds that he/she is considered to have committed a serious breach of the code of conduct for charity trustees (as referred to in clause 101);
  - 86.9 he/she is removed from office by resolution of the board on the grounds that he/she is considered to have been in serious or persistent breach of his/her duties under section 66(1) or (2) of the Charities and Trustee Investment (Scotland) Act 2005; or
  - 86.10 he/she is removed from office by a resolution of the members passed at a members' meeting.
- 87 A resolution under paragraph 86.8, 86.9 or 86.10 shall be valid only if:
- 87.1 the charity trustee who is the subject of the resolution is given reasonable prior written notice of the grounds upon which the resolution for his/her removal is to be proposed;
  - 87.2 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

87.3 (in the case of a resolution under paragraph 86.8 or 86.9) 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**

- 88 The board must keep a register of charity trustees, setting out
- 88.1 for each current charity trustee:
    - 88.1.1 his/her full name and address;
    - 88.1.2 the date on which he/she was appointed as a charity trustee; and
    - 88.1.3 any office held by him/her in the organisation;
  - 88.2 for each former charity trustee - for at least 6 years from the date on which he/she ceased to be a charity trustee:
    - 88.2.1 the name of the charity trustee;
    - 88.2.2 any office held by him/her in the organisation; and
    - 88.2.3 the date on which he/she ceased to be a charity trustee.
- 89 The board must ensure that the register of charity trustees is updated within 28 days of any change:
- 89.1 which arises from a resolution of the board or a resolution passed by the members of the organisation; or
  - 89.2 which is notified to the organisation.
- 90 If any person requests a copy of the register of charity trustees, the board must ensure that a copy is supplied to him/her 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**

- 91 The charity trustees must elect (from among themselves) a chair, a treasurer and a secretary.
- 92 In addition to the office-bearers required under clause 91, the charity trustees may elect (from among themselves) further office-bearers if they consider that appropriate.

- 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 or 92.
- 94 A person elected to any office will automatically cease to hold that office: -
- 94.1 if he/she ceases to be a charity trustee; *or*
- 94.2 if he/she gives to the organisation a notice of resignation from that office, signed by him/her.

### **Powers of board**

- 95 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.
- 96 A meeting of the board at which a quorum is present may exercise all powers exercisable by the board.
- 97 The members may, by way of a resolution passed in compliance with clause 52 (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**

- 98 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:-
- 98.1 seek, in good faith, to ensure that the organisation acts in a manner which is in accordance with its purposes;
- 98.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
- 98.3 in circumstances giving rise to the possibility of a conflict of interest between the organisation and any other party:
- 98.3.1 put the interests of the organisation before that of the other party;
- 98.3.2 where any other duty prevents him/her 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;
- 98.4 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.

- 99 In addition to the duties outlined in clause 98, all of the charity trustees must take such steps as are reasonably practicable for the purpose of ensuring: -
- 99.1 that any breach of any of those duties by a charity trustee is corrected by the charity trustee concerned and not repeated; and
- 99.2 that any trustee who has been in serious and persistent breach of those duties is removed as a trustee.
- 100 Provided he/she has declared his/her 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 he/she has a personal interest; and (subject to clause 101 and to the provisions relating to remuneration for services contained in the Charities and Trustee Investment (Scotland) Act 2005), he/she may retain any personal benefit which arises from that arrangement.
- 101 Subject to clause 102, 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 his/her duties as a charity trustee.
- 102 The chief executive of the organisation may retain all remuneration, and all pension and/or other benefits, paid or provided to him/her in his/her capacity as an employee of the organisation.
- 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**

- 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.
- 105 The code of conduct referred to in clause 104 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**

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

- 108 No valid decisions can be taken at a board meeting unless a quorum is present; the quorum for board meetings is 2 charity trustees, present in person.
- 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 a meeting in this manner shall be deemed to be present in person at the meeting.
- 110 If at any time the number of charity trustees in office falls below the number stated as the quorum in clause 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.
- 111 The chair of the organisation should act as chairperson of each board meeting.
- 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.
- 113 Every charity trustee has one vote, which must be given personally.
- 114 All decisions at board meetings will be made by majority vote.
- 115 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.
- 116 The board may, at its discretion, allow any person to attend and speak at a board meeting notwithstanding that he/she is not a charity trustee - but on the basis that he/she must not participate in decision-making.
- 117 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 he/she has a personal interest or duty which conflicts (or may conflict)

with the interests of the organisation; he/she must withdraw from the meeting while an item of that nature is being dealt with.

118 For the purposes of clause 117: -

118.1 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;

118.2 a charity trustee will be deemed to have a personal interest in relation to a particular matter if a body in relation to which he/she is an employee, director, member of the management committee, officer or elected representative has an interest in that matter.

119 For the avoidance of doubt, the chief executive shall not be entitled to vote in relation to any matter connected with his/her remuneration or other terms and conditions of employment.

## **Minutes**

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

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

## **ADMINISTRATION**

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

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

123 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.

124 When delegating powers under clause 122 or 123, the board must set out appropriate conditions (which must include an obligation to report regularly to the board).

125 Any delegation of powers under clause 122 or 123 may be revoked or altered by the board at any time.

126 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**

- 127 Subject to clause 128, 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.
- 128 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 127.

## **Accounting records and annual accounts**

- 129 The board must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.
- 130 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**

- 131 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.
- 132 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**

- 133 This constitution may (subject to clause 134) be altered by resolution of the members passed at a members' meeting (subject to achieving the two thirds majority referred to in clause 52) or by way of a written resolution of the members.
- 134 The Charities and Trustee Investment (Scotland) Act 2005 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**

- 135 References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005 should be taken to include: -
- 135.1 any statutory provision which adds to, modifies or replaces that Act; and
  - 135.2 any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under paragraph 135.1 above.
- 136 In this constitution: -
- 136.1 “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;
  - 136.2 “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.