CHARITY COMMISSION
FOR ENGLAND AND WALES

Charitable Associations: Model Constitution

NOVEMBER 2013
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Charitable Associations: Model Constitution

It may be appropriate to establish an unincorporated association where the organisation:

- is to be relatively small in terms of assets;
- has a membership;
- is to be run by charity trustees who will be elected by members or appointed to hold office for fixed terms;
- wants to take account of the views of local residents and organisations through membership or as users;
- wishes to carry out its work wholly or partly through the voluntary effort and contributions of its members.

Where the organisation is to have a membership but is expected to have considerable resources and/or employ staff and become engaged in charitable purposes which involve commercial risks it is usually more appropriate to take the form of a charitable company for which our Model Articles of Association (GD1) can be used.

Guidance to consider before you begin

You may find it helpful to begin by reading the following guidance on our website:

- The comprehensive information under Start up a charity
- Registering as a Charity (CC21) - its checklist of questions will help you to decide how best to set up the charity
- Choosing and Preparing a Governing Document (CC22) - this gives advice on the practicalities of completing the charity's governing document and on the different provisions which may be needed
- The Essential Trustee - What you need to know (CC3), which sets out the basics that all charity trustees need to know

Next steps

1. Completing the constitution

Once you have decided to apply to register a charitable association, please read the constitution and its accompanying guidance notes carefully.

Some clauses contain blank spaces that you will need to fill in.

Notes

The model is intended to be sufficiently flexible to deal with most eventualities. If you want to include special or complex provisions which are not contained in it you should consider asking a solicitor to help you. Please make clear any changes you make and why they are necessary. This will help us to consider your application as quickly as possible. We cannot guarantee to accept every organisation which uses the model constitution as charitable. We must consider each case separately.

2. Adopting the constitution

Once you have completed the constitution, the organisation's members need to adopt it.

3. Applying to register

To register a new charity, apply online. (The online application material includes Application for registration - guidance notes.)

Please attach a copy of your final signed constitution as adopted by the members and your signed Trustee Declaration to your application. If you cannot attach these documents to your application please proceed to apply online and we will email you instructions about how to send them to us.

If you cannot apply online, please contact us using the link from our website homepage.

4. How long will it take?

We can normally make a decision in 15 working days if an organisation:

- uses our model wording for its objects (as set out in the Example charitable objects on our website);
- shows that its activities that are consistent with the objects;
- shows that any private benefit is incidental and is properly managed; and
- uses our model governing document.

Other applications will need closer consideration and so will take longer (especially where the charity's purposes are novel and/or at the boundaries of what is charitable).

Notes

Model Constitution guidance notes

Insert the date of the meeting at which it was decided to adopt this constitution.

Clause 1 - The constitution is in 2 parts. Part 1 covers the purposes of the charity and how its money and other property can be used. It also contains the powers to change the constitution and to wind the charity up. Part 2 sets out the administrative provisions, including membership, the appointment of charity trustees, members' and trustees' meetings and the powers available to the trustees in running the charity. The provisions in part 1 can only be changed by a 2/3rds majority of members present and voting at a meeting whereas those in part 2 can be changed by a simple majority of them.

Clause 2 - Insert the name of the charity. In general, the Commission can accept any name unless it infringes the principles set out in section 42 of the Charities Act 2011, which are explained in our guidance Registering as a Charity (CC21) and in our Operational Guidance Names of Charities on our website. In very broad terms, the name should not be misleading, offensive or likely to be confused with the name of an existing charity.

Clause 3 - Insert the purpose for which the charity has been formed. A charity's objects must be expressed in exclusively charitable terms and this calls for precise drafting. Guidance is available in Choosing and Preparing a Governing Document (CC22) and example objects covering some of the most common charitable purposes are available on our website. The key elements to include are:

- the purpose itself (eg establishing and running a school);
- the people who can benefit (in our example, school age children); and, if appropriate
- any geographic limits which may be needed to define the area of benefit. This will not always be necessary. If you do include an area of benefit, it is common to define it by reference to a local government area: this has the advantage of clarity and simplicity, but can create problems if the area is subsequently altered or abolished.

If the charity will operate in Scotland and/or Northern Ireland you should include the wording in square brackets to meet the requirements of charity law in that/those countries, deleting as required if the charity works in one of those two countries.

Constitution

adopted on the 30th April 2018

PART 1

1. Adoption of the constitution

The association and its property will be administered and managed in accordance with the provisions in Parts 1 and 2 of this constitution.

2. Name

The association's name is

The Association of Parents, Teachers, and Friends of St Paul's School

(and in this document it is called the charity).

3. Objects

The charity's objects ('the objects') are

To advance the education of the pupils at the school by providing and assisting in the provision of facilities for education and enrichment at the school (not normally provided by the local education authority).

[Nothing in this constitution shall authorise an application of the property of the charity for purposes which are not charitable in accordance with section 7 of the Charities and Trustee Investment (Scotland) Act 2005 and/or section 2 of the Charities Act (Northern Ireland) 2008.]

Notes

Clause 4(1) - sets out a trustees' entitlement to reasonable expenses and reflects statutory the provisions in the 2011 Act about a charity trustee's entitlement to benefit from trustee indemnity insurance. It is included in the constitution to inform people involved with the charity.

Clause 4(2) - reflects charity law requirements that the income and property of a charity must be applied solely to further its objects and not to benefit the members or charity trustees (except as permitted by the governing document (see clause 5) or other express power). The trustees have a duty to ensure that the funds are correctly applied in accordance with this principle.

Clause 5 - Charity trustees may only benefit from their charity if they have express legal authorisation to do so (such as a clause in the constitution). This restriction extends to people closely connected to a trustee ('connected persons' - this term is defined in interpretation clause 34). This clause clarifies the restrictions that apply to the charity trustees. Even where trustees are allowed to benefit from the charity, this must only happen where the benefit is in the interests of the charity. Our guidance Trustee expenses and payments (CC11) provides more information about trustee benefits.

This clause permits a minority of the charity trustees or connected persons to receive payments and other benefits in certain instances (such as for goods and services they supply to the charity), subject to the stated controls. The option also allows other types of trustee benefit subject to the Commission's prior consent.

No part of the clause allows trustees to receive payment for acting as a trustee.

4. Application of income and property

(1) The income and property of the charity shall be applied solely towards the promotion of the objects.

(a) A charity trustee is entitled to be reimbursed from the property of the charity or may pay out of such property reasonable expenses properly incurred by him or her when acting on behalf of the charity.

(b) A charity trustee may benefit from trustee indemnity insurance cover purchased at the charity's expense in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011.

(2) None of the income or property of the charity may be paid or transferred directly or indirectly by way of dividend bonus or otherwise by way of profit to any member of the charity. This does not prevent a member who is not also a trustee from receiving:

(a) a benefit from the charity in the capacity of a beneficiary of the charity;

(b) reasonable and proper remuneration for any goods or services supplied to the charity.

5. Benefits and payments to charity trustees and connected persons

(1) General provisions

No charity trustee or connected person may:

(a) buy or receive any goods or services from the charity on terms preferential to those applicable to members of the public;

(b) sell goods, services or any interest in land to the charity;

(c) be employed by, or receive any remuneration from, the charity;

(d) receive any other financial benefit from the charity;

unless the payment is permitted by sub-clause (2) of this clause, or authorised by the court or the Charity Commission ('the Commission'). In this clause, a 'financial benefit' means a benefit, direct or indirect, which is either money or has a monetary value.

Notes

Clause 5(2)(a) - If your charity will benefit all local inhabitants in a specific geographical area (eg as a community association) you may wish to substitute the following: 'A trustee or connected person may receive a benefit from the charity as a beneficiary provided that it is available generally to the beneficiaries of the charity.'

Clause 5(2)(d) - The charity should document the amount of, and the terms of, the trustee's or connected person's loan.

(2) Scope and powers permitting trustees' or connected persons' benefits

(a) A charity trustee or connected person may receive a benefit from the charity in the capacity of a beneficiary of the charity provided that a majority of the trustees do not benefit in this way.

(b) A charity trustee or connected person may enter into a contract for the supply of services, or of goods that are supplied in connection with the provision of services, to the charity where that is permitted in accordance with, and subject to the conditions in, section 185 of the Charities Act 2011.

(c) Subject to sub-clause (3) of this clause a charity trustee or connected person may provide the charity with goods that are not supplied in connection with services provided to the charity by the charity trustee or connected person.

(d) A charity trustee or connected person may receive interest on money lent to the charity at a reasonable and proper rate which must be not more than the Bank of England bank rate (also known as the base rate).

(e) A charity trustee or connected person may receive rent for premises let by the trustee or connected person to the charity. The amount of the rent and the other terms of the lease must be reasonable and proper. The charity trustee concerned must withdraw from any meeting at which such a proposal or the rent or other terms of the lease are under discussion.

(f) A charity trustee or connected person may take part in the normal trading and fundraising activities of the charity on the same terms as members of the public.

(3) Payment for supply of goods only - controls

The charity and its charity trustees may only rely upon the authority provided by sub-clause 2(c) of this clause if each of the following conditions is satisfied:

(a) The amount or maximum amount of the payment for the goods is set out in an agreement in writing between the charity and the charity trustee or connected person supplying the goods ('the supplier') under which the supplier is to supply the goods in question to or on behalf of the charity.

(b) The amount or maximum amount of the payment for the goods does not exceed what is reasonable in the circumstances for the supply of the goods in question.

(c) The other charity trustees are satisfied that it is in the best interests of the charity to contract with the supplier rather than with someone who is not a charity trustee or connected person. In reaching that decision the charity trustees must balance the advantage of contracting with a charity trustee or connected person against the disadvantages of doing so.

(d) The supplier is absent from the part of any meeting at which there is discussion of the proposal to enter into a contract or arrangement with him or her or it with regard to the supply of goods to the charity.

(e) The supplier does not vote on any such matter and is not to be counted when calculating whether a quorum of charity trustees is present at the meeting.

(f) The reason for their decision is recorded by the charity trustees in the minute book.

(g) A majority of the charity trustees then in office are not in receipt of remuneration or payments authorised by clause 5.

(4) In sub-clauses (2) and (3) of this clause:

(a) 'the charity' includes any company in which the charity:

(i) holds more than 50% of the shares; or

(ii) controls more than 50% of the voting rights attached to the shares; or

(iii) has the right to appoint one or more trustees to the board of the company.

(b) 'connected person' includes any person within the definition set out in clause 34 (Interpretation).

6. Dissolution

(1) If the members resolve to dissolve the charity the trustees will remain in office as charity trustees and be responsible for winding up the affairs of the charity in accordance with this clause.

(2) The trustees must collect in all the assets of the charity and must pay or make provision for all the liabilities of the charity.

(3) The trustees must apply any remaining property or money:

(a) directly for the objects;

(b) by transfer to any charity or charities for purposes the same as or similar to the charity;

(c) in such other manner as the Charity Commission for England and Wales ('the Commission') may approve in writing in advance.

(4) The members may pass a resolution before or at the same time as the resolution to dissolve the charity specifying the manner in which the trustees are to apply the remaining property or assets of the charity and the trustees must comply with the resolution if it is consistent with paragraphs (a) - (c) inclusive in sub-clause (3) above.

(5) In no circumstances shall the net assets of the charity be paid to or distributed among the members of the charity (except to a member that is itself a charity).

Sub-clause 6(6) - The Charities Act 2011 sets out the accounting obligations on charities: see our website for further guidance.

(6) The trustees must notify the Commission promptly that the charity has been dissolved. If the trustees are obliged to send the charity's accounts to the Commission for the accounting period which ended before its dissolution, they must send the Commission the charity's final accounts.

7. Amendment of constitution

(1) The charity may amend any provision contained in Part 1 of this constitution provided that:

(a) no amendment may be made that would have the effect of making the charity cease to be a charity at law;

(b) no amendment may be made to alter the objects if the change would undermine or work against the previous objects of the charity;

(c) no amendment may be made to clause 3 (Objects), 4 (Application of income and property), clause 5 (Benefits and payments to charity trustees and connected persons), clause 6 (Dissolution) or this clause without the prior consent in writing of the Commission;

(d) any resolution to amend a provision of Part 1 of this constitution is passed by not less than two thirds of the members present and voting at a general meeting.

(2) Any provision contained in Part 2 of this constitution may be amended, provided that any such amendment is made by resolution passed by a simple majority of the members present and voting at a general meeting.

(3) A copy of any resolution amending this constitution shall be sent to the Commission within twenty one days of it being passed.

Notes

Clause 8 - For advice and guidance on best practice for running membership organisations, see Membership Charities (RS7) on our website.

Sub Clause 8(1) - The law says people under 18 cannot be trustees or take on the administrative rights and duties of full members. Associations can have separate junior membership arrangements if it is clear that they do not have the rights and responsibilities of administration of full members, like voting. See our website for detailed guidance on involving younger people under Running a charity - good practice for charities.

Sub-clause 8(4) - It is very important for the good administration of the charity to keep the register of members up to date: failure to do so can result in a number of problems, including serious difficulties with the calling of annual or extraordinary general meetings. The trustees must ensure that they handle personal data in accordance with the requirements of the Data Protection Act 1998.

Sub-clause 9(3) - The notice for any general meeting should remind members of this requirement. We would recommend that there is a reasonable gap between the deadline for payment of subscriptions (or any other regular payments by members to the charity) and the holding of a general meeting to reduce the risk of this becoming an administrative problem for the charity.

Part 2

8. Membership

(1) Membership is open to individuals over eighteen or organisations who are approved by the trustees.

(2) (a) The trustees may only refuse an application for membership if, acting reasonably and properly, they consider it to be in the best interests of the charity to refuse the application.

(b) The trustees must inform the applicant in writing of the reasons for the refusal within twenty-one days of the decision.

(c) The trustees must consider any written representations the applicant may make about the decision. The trustees' decision following any written representations must be notified to the applicant in writing but shall be final.

(3) Membership is not transferable to anyone else.

(4) The trustees must keep a register of names and addresses of the members which must be made available to any member upon request.

9. Termination of membership

Membership is terminated if:

(1) the member dies or, if it is an organisation, ceases to exist;

(2) the member resigns by written notice to the charity unless, after the resignation, there would be less than two members;

(3) any sum due from the member to the charity is not paid in full within six months of it falling due;

(4) the member is removed from membership by a resolution of the trustees that it is in the best interests of the charity that his or her membership is terminated. A resolution to remove a member from membership may only be passed if:

(a) the member has been given at least twenty one days' notice in writing of the meeting of the trustees at which the resolution will be proposed and the reasons why it is to be proposed;

(b) the member or, at the option of the member, the member's representative (who need not be a member of the charity) has been allowed to make representations to the meeting.

Notes

Clause 10 - We provide guidance on meetings in Charities and Meetings (CC48), produced in association with ICSA (The Institute of Chartered Secretaries and Administrators).

10. General meetings

(1) The charity must hold a general meeting within twelve months of the date of the adoption of this constitution.

(2) An annual general meeting must be held in each subsequent year and not more than fifteen months may elapse between successive annual general meetings.

(3) All general meetings other than annual general meetings shall be called special general meetings.

(4) The trustees may call a special general meeting at any time.

(5) The trustees must call a special general meeting if requested to do so in writing by at least ten members or one tenth of the membership, which ever is the greater. The request must state the nature of the business that is to be discussed. If the trustees fail to hold the meeting within twenty-eight days of the request, the members may proceed to call a special general meeting but in doing so they must comply with the provisions of this constitution.

11. Notice

Sub-clause 11(1) - 'Clear days' does not include the day on which the notice would be received by the member or the day on which the meeting is held - see sub-clause 31(5)(c). Section 332 of the Charities Act 2011 sets out how notice may be given by post. In broad terms, the charity may send notice to each trustee at the UK address held in the charity's records: no notice is required for trustees living outside the UK.

(1) The minimum period of notice required to hold any general meeting of the charity is fourteen clear days from the date on which the notice is deemed to have been given.

(2) A general meeting may be called by shorter notice, if it is so agreed by all the members entitled to attend and vote.

(3) The notice must specify the date, time and place of the meeting and the general nature of the business to be transacted. If the meeting is to be an annual general meeting, the notice must say so.

(4) The notice must be given to all the members and to the trustees.

12. Quorum

Sub-clause 12(1) - This means that a quorum must be present when a matter is being discussed and voted on, in order for a decision on it to be validly made. If the meeting subsequently becomes inquorate, this will not invalidate earlier, quorate decisions.

Sub-clause 12(2)(a) - Insert the figure for the quorum. This should be set with care. If it is too high, any absences may make it difficult to have a valid meeting. If it is too low, a small minority may be able to impose its views unreasonably. Note that sub-clauses 12(4)-(6) set out the procedure for dealing with situations where the meeting is inquorate.

(1) No business shall be transacted at any general meeting unless a quorum is present.

(2) A quorum is:

(a) [8] members entitled to vote upon the business to be conducted at the meeting; or

(b) one tenth of the total membership at the time,

whichever is the greater.

(3) The authorised representative of a member organisation shall be counted in the quorum.

Notes

(4) If:

(a) a quorum is not present within half an hour from the time appointed for the meeting; or

(b) during a meeting a quorum ceases to be present,

the meeting shall be adjourned to such time and place as the trustees shall determine.

(5) The trustees must re-convene the meeting and must give at least seven clear days' notice of the re-convened meeting stating the date time and place of the meeting.

Sub-clause 12(6) - Note that this provision permits the re-scheduled meeting to proceed without a quorum being present within 15 minutes of the specified start time. It also means that the number of members present 15 minutes after the scheduled start of the meeting will form the quorum if the quorum required at sub-clause 12(2) is not achieved.

(6) If no quorum is present at the re-convened meeting within fifteen minutes of the time specified for the start of the meeting the members present at that time shall constitute the quorum for that meeting.

13. Chair

(1) General meetings shall be chaired by the person who has been elected as Chair.

(2) If there is no such person or he or she is not present within fifteen minutes of the time appointed for the meeting a trustee nominated by the trustees shall chair the meeting.

(3) If there is only one trustee present and willing to act, he or she shall chair the meeting.

(4) If no trustee is present and willing to chair the meeting within fifteen minutes after the time appointed for holding it, the members present and entitled to vote must choose one of their number to chair the meeting.

Clause 14 - This is a discretionary power for the members to adjourn a quorate meeting - when the meeting is reconvened it must be quorate. This provision differs from the adjournment provisions in Clause 12 which are not discretionary and must be used where a general meeting is not quorate.

14. Adjournments

(1) The members present at a meeting may resolve that the meeting shall be adjourned.

(2) The person who is chairing the meeting must decide the date time and place at which meeting is to be re-convened unless those details are specified in the resolution.

(3) No business shall be conducted at an adjourned meeting unless it could properly have been conducted at the meeting had the adjournment not taken place.

(4) If a meeting is adjourned by a resolution of the members for more than seven days, at least seven clear days' notice shall be given of the re-convened meeting stating the date time and place of the meeting.

15. Votes

(1) Each member shall have one vote but if there is an equality of votes the person who is chairing the meeting shall have a casting vote in addition to any other vote he or she may have.

(2) A resolution in writing signed by each member (or in the case of a member that is an organisation, by its authorised representative) who would have been entitled to vote upon it had it been proposed at a general meeting shall be effective. It may comprise several copies each signed by or on behalf of one or more members.

Clause 16 - Organisations which are members ('corporate members') enjoy the same rights and duties as individual members. Our research report Membership Charities (RS7) provides advice and guidance on managing corporate members.

16. Representatives of other bodies

(1) Any organisation that is a member of the charity may nominate any person to act as its representative at any meeting of the charity.

(2) The organisation must give written notice to the charity of the name of its representative. The nominee shall not be entitled to represent the organisation at any meeting unless the notice has been received by the charity. The nominee may continue to represent the organisation until written notice to the contrary is received by the charity.

(3) Any notice given to the charity will be conclusive evidence that the nominee is entitled to represent the organisation or that his or her authority has been revoked. The charity shall not be required to consider whether the nominee has been properly appointed by the organisation.

17. Officers and trustees

(1) The charity and its property shall be managed and administered by a committee comprising the officers and other members elected in accordance with this constitution. The officers and other members of the committee shall be the trustees of the Charity and in this constitution are together called 'the trustees'.

(2) The charity shall have the following officers:

(a) A chair,

(b) A secretary,

(c) A treasurer.

(3) A trustee must be a member of the charity or the nominated representative of an organisation that is a member of the charity.

(4) No one may be appointed a trustee if he or she would be disqualified from acting under the provisions of clause 20.

Notes

(5) The number of trustees shall be not less than three but (unless otherwise determined by a resolution of the charity in general meeting) shall not be subject to any maximum.

(6) The first trustees (including officers) shall be those persons elected as trustees and officers at the meeting at which this constitution is adopted.

(7) A trustee may not appoint anyone to act on his or her behalf at meetings of the trustees.

Clause 18 - Finding New Trustees: What charities need to know (CC30) provides guidance on effective methods of recruiting new charity trustees and of familiarising them with the charity.

18. Appointment of trustees

(1) The charity in general meeting shall elect the officers and the other trustees.

(2) The trustees may appoint any person who is willing to act as a trustee. Subject to sub-clause 5(b) of this clause, they may also appoint trustees to act as officers.

(3) Each of the trustees shall retire with effect from the conclusion of the annual general meeting next after his or her appointment but shall be eligible for re-election at that annual general meeting.

(4) No-one may be elected a trustee or an officer at any annual general meeting unless prior to the meeting the charity is given a notice that:

(a) is signed by a member entitled to vote at the meeting;

(b) states the member's intention to propose the appointment of a person as a trustee or as an officer;

(c) is signed by the person who is to be proposed to show his or her willingness to be appointed.

(5) (a) The appointment of a trustee, whether by the charity in general meeting or by the other trustees, must not cause the number of trustees to exceed any number fixed in accordance with this constitution as the maximum number of trustees.

(b) The trustees may not appoint a person to be an officer if a person has already been elected or appointed to that office and has not vacated the office.

Notes

Clause 19 - It is sensible to set out all the powers that the charity will commonly need, for the avoidance of doubt and to remind trustees of the conditions that have to be met when they exercise those powers. Some of these powers are implicit in a charity's objects (for example, if the object is to provide a school, the trustees have an implicit power to acquire premises). Other powers are given by statute, often only if specific conditions are met. For example, the Trustee Act 2000 gives trustees power to acquire and dispose of land, to borrow money in many circumstances, to delegate much of the running of the charity and to invest. However, there are some things that can be done only if the charity's governing document provides express power to do them.

Sub-clause 19(1)(a) - This sub-clause provides a general power to raise funds through a wide variety of methods. The only restriction here is that it does not allow the charity to engage in substantial permanent trading for the purpose of raising funds. (Trading on a small scale is allowed. HM Revenue and Customs provide guidance on the tax treatment of different sorts of trading). The terms of this power do not prevent trading in order to carry out the charity's object - for example, an educational charity can charge fees for the educational services it provides.

Sub-clause 19(1)(b) - This power is helpful if the charity is to acquire property either for use as office premises or functionally (such as a playground or school site). Acquiring Land (CC33) contains further guidance on the issue. See also notes to sub-clause 19(1)(d) and clause 29.

Sub-clause 19(1)(c) - This power enables the trustees to dispose of property belonging to the charity (for example, by selling or leasing it). Sections 117 - 122 of the Charities Act 2011 apply to most charities and require compliance with certain conditions to ensure that charity property is disposed of for the best terms reasonably obtainable. Our guidance Disposing of Charity Land (CC28) provides more information about this.

Sub-clause 19(1)(d) - This provides the trustees with a power to borrow. It also makes clear that if this power involves securing the loan on land of the charity, it must comply with the requirements of sections 124 - 126 of the Charities Act 2011. Briefly, the Act requires that the trustees take advice and provide certain certificates/statements when they are borrowing money by way of mortgage.

19. Powers of trustees

(1) The trustees must manage the business of the charity and have the following powers in order to further the objects (but not for any other purpose):

(a) to raise funds. In doing so, the trustees must not undertake any taxable permanent trading activity and must comply with any relevant statutory regulations;

(b) to buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use;

(c) to sell, lease or otherwise dispose of all or any part of the property belonging to the charity. In exercising this power, the trustees must comply as appropriate with sections 117 - 122 of the Charities Act 2011;

(d) to borrow money and to charge the whole or any part of the property belonging to the charity as security for repayment of the money borrowed. The trustees must comply as appropriate with sections 124 - 126 of the Charities Act 2011, if they intend to mortgage land;

(e) to co-operate with other charities, voluntary bodies and statutory authorities and to exchange information and advice with them;

(f) to establish or support any charitable trusts, associations or institutions formed for any of the charitable purposes included in the objects;

(g) to acquire, merge with or enter into any partnership or joint venture arrangement with any other charity formed for any of the objects;

(h) to set aside income as a reserve against future expenditure but only in accordance with a written policy about reserves;

(i) to obtain and pay for such goods and services as are necessary for carrying out the work of the charity;

(j) to open and operate such bank and other accounts as the trustees consider necessary and to invest funds and to delegate the management of funds in the same manner and subject to the same conditions as the trustees of a trust are permitted to do by the Trustee Act 2000;

(k) to do all such other lawful things as are necessary for the achievement of the objects.

(2) No alteration of this constitution or any special resolution shall have retrospective effect to invalidate any prior act of the trustees.

Notes

Our Operational Guidance Borrowing and Mortgages on our website provides detailed information on this.

Sub-clause 19(1)(i) - This power cannot be used if the goods or services are being provided by a trustee: see Clause 5.

Sub-clause 19(1)(j) - Bank accounts - the trustees can make rules (under clause 32) to allow others associated with the operation of the charity such as employees or volunteers to sign cheques and other orders in relation to the charity's bank accounts so long as these activities are properly managed so as to reduce the risk of fraud. For example, the trustees might allow two senior volunteers to sign cheques up to a defined face value, with a limit on the total value of cheques which they are authorised to sign in any one month. For charities which operate electronic bank accounts, there is guidance on trustee duties and operational best practice in Internal Controls for Charities (CC8) on our website. With regard to the delegation and management of funds, the Trustee Act 2000 provides wide powers of investment and requires the charity to take advice and to consider the need to invest in a range of different investments. Our guidance Investment of Charitable Funds: Basic Principles (CC14) provides more information about charity investments. The powers to employ agents, nominees and custodians are of particular use where the charity wishes to use an investment manager.

Clause 20 - Our guidance Finding New Trustees: What charities need to know (CC30) explains what sections 178 and 179 of this Act covers. In very broad terms, someone who has been convicted of offences involving deception or fraud, or who is an undischarged bankrupt or who has been removed from office as a charity trustee by us will be disqualified for acting as a trustee.

Clause 21 - We provide further guidance on meetings in Charities and Meetings (CC48).

Sub-clause 21(7) - Where the total number of trustees is the mid-point between two numbers which can be divided by three, we recommend rounding up to the next multiple of three.

(3) Any meeting of trustees at which a quorum is present at the time the relevant decision is made may exercise all the powers exercisable by the trustees.

20. Disqualification and removal of trustees

A trustee shall cease to hold office if he or she:

(1) is disqualified from acting as a trustee by virtue of sections 178 and 179 of the Charities Act 2011 (or any statutory re-enactment or modification of that provision);

(2) ceases to be a member of the charity;

(3) in the written opinion, given to the charity, of a registered medical practitioner treating that person, has become physically or mentally incapable of acting as a trustee and may remain so for more than three months;

(4) resigns as a trustee by notice to the charity (but only if at least two trustees will remain in office when the notice of resignation is to take effect); or

(5) is absent without the permission of the trustees from all their meetings held within a period of six consecutive months and the trustees resolve that his or her office be vacated.

21. Proceedings of trustees

(1) The trustees may regulate their proceedings as they think fit, subject to the provisions of this constitution.

(2) Any trustee may call a meeting of the trustees.

(3) The secretary must call a meeting of the trustees if requested to do so by a trustee.

(4) Questions arising at a meeting must be decided by a majority of votes.

(5) In the case of an equality of votes, the person who chairs the meeting shall have a second or casting vote.

(6) No decision may be made by a meeting of the trustees unless a quorum is present at the time the decision is purported to be made.

(7) The quorum shall be two or the number nearest to one-third of the total number of trustees, whichever is the greater or such larger number as may be decided from time to time by the trustees.

(8) A trustee shall not be counted in the quorum present when any decision is made about a matter upon which that trustee is not entitled to vote.

(9) If the number of trustees is less than the number fixed as the quorum, the continuing trustees or trustee may act only for the purpose of filling vacancies or of calling a general meeting.

(10) The person elected as the Chair shall chair meetings of the trustees.

(11) If the Chair is unwilling to preside or is not present within ten minutes after the time appointed for the meeting, the trustees present may appoint one of their number to chair that meeting.

(12) The person appointed to chair meetings of the trustees shall have no functions or powers except those conferred by this constitution or delegated to him or her in writing by the trustees.

(13) A resolution in writing signed by all the trustees entitled to receive notice of a meeting of trustees or of a committee of trustees and to vote upon the resolution shall be as valid and effectual as if it had been passed at a meeting of the trustees or (as the case may be) a committee of trustees duly convened and held.

(14) The resolution in writing may comprise several documents containing the text of the resolution in like form each signed by one or more trustees.

Clause 22 - This reflects good practice on managing conflicts of interests and conflicts of loyalties.

22. Conflicts of interests and conflicts of loyalties

A charity trustee must:

(1) declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with the charity or in any transaction or arrangement entered into by the charity which has not been previously declared; and

(2) absent himself or herself from any discussions of the charity trustees in which it is possible that a conflict will arise between his or her duty to act solely in the interests of the charity and any personal interest (including but not limited to any personal financial interest).

Any charity trustee absenting himself or herself from any discussions in accordance with this clause must not vote or be counted as part of the quorum in any decision of the charity trustees on the matter.

Clause 23 - This reduces the risk of trustees' decisions being declared invalid for purely technical reasons.

23. Saving provisions

(1) Subject to sub-clause (2) of this clause, all decisions of the charity trustees, or of a committee of the charity trustees, shall be valid notwithstanding the participation in any vote of a charity trustee:

(a) who is disqualified from holding office;

(b) who had previously retired or who had been obliged by this constitution to vacate office;

(c) who was not entitled to vote on the matter, whether by reason of a conflict of interests or otherwise;

if, without the vote of that charity trustee and that charity trustee being counted in the quorum, the decision has been made by a majority of the charity trustees at a quorate meeting.

(2) Sub-clause (1) of this clause does not permit a charity trustee to keep any benefit that may be conferred upon him or her by a resolution of the charity trustees or of a committee of charity trustees if, but for sub-clause (1), the resolution would have been void, or if the charity trustee has not complied with clause 22 (Conflicts of interests and conflicts of loyalties).

24. Delegation

(1) The trustees may delegate any of their powers or functions to a committee of two or more trustees but the terms of any such delegation must be recorded in the minute book.

(2) The trustees may impose conditions when delegating, including the conditions that:

(a) the relevant powers are to be exercised exclusively by the committee to whom they delegate;

(b) no expenditure may be incurred on behalf of the charity except in accordance with a budget previously agreed with the trustees.

(3) The trustees may revoke or alter a delegation.

(4) All acts and proceedings of any committees must be fully and promptly reported to the trustees.

25. Irregularities in proceedings

(1) Subject to sub-clause (2) of this clause, all acts done by a meeting of Trustees, or of a committee of trustees, shall be valid notwithstanding the participation in any vote of a trustee:

(a) who was disqualified from holding office;

(b) who had previously retired or who had been obliged by the constitution to vacate office;

(c) who was not entitled to vote on the matter, whether by reason of a conflict of interests or otherwise;

if, without:

(d) the vote of that trustee; and

(e) that trustee being counted in the quorum,

the decision has been made by a majority of the trustees at a quorate meeting.

Notes

Sub-clause 25(2) - see clause 5 (and in particular sub-clauses 5(2) and 5(3)) which sets out the restrictions on trustee benefits and the procedures to be followed if a benefit is to be allowed to a trustee.

(2) Sub-clause (1) of this clause does not permit a trustee to keep any benefit that may be conferred upon him or her by a resolution of the trustees or of a committee of trustees if the resolution would otherwise have been void.

(3) No resolution or act of

(a) the trustees

(b) any committee of the trustees

(c) the charity in general meeting

shall be invalidated by reason of the failure to give notice to any trustee or member or by reason of any procedural defect in the meeting unless it is shown that the failure or defect has materially prejudiced a member or the beneficiaries of the charity.

Clause 26 - Using the power to make rules at clause 32, the trustees can decide in what format the minutes should be kept and how to validate them.

26. Minutes

The trustees must keep minutes of all:

(1) appointments of officers and trustees made by the trustees;

(2) proceedings at meetings of the charity;

(3) meetings of the trustees and committees of trustees including:

(a) the names of the trustees present at the meeting;

(b) the decisions made at the meetings; and

(c) where appropriate the reasons for the decisions.

Clause 27 - The key accounting requirements for charities are set out on our website. All registered charities with incomes over £10k must send accounts, Annual Report and Annual Return to us within 10 months of the end of their financial year.

Sub-clause 27(1)(e) - The Annual Return provides a summary of key financial data and is used by us for monitoring purposes to detect issues which might require our attention or guidance.

Sub-clause 27(2) - The Statement of Recommended Practice for charities (SORP 2005) is available as a free PDF download, but you can also buy a printed copy:

- Download the SORP as a PDF file
- Find out how to order a printed copy of the SORP

27. Accounts, Annual Report, Annual Return

(1) The trustees must comply with their obligations under the Charities Act 2011 with regard to:

(a) the keeping of accounting records for the charity;

(b) the preparation of annual statements of account for the charity;

(c) the transmission of the statements of account to the Commission;

(d) the preparation of an Annual Report and its transmission to the Commission;

(e) the preparation of an Annual Return and its transmission to the Commission.

(2) Accounts must be prepared in accordance with the provisions of any Statement of Recommended Practice issued by the Commission, unless the trustees are required to prepare accounts in accordance with the provisions of such a Statement prepared by another body.

Clause 28 - A charity's entry includes its name, correspondence address, objects, governing document (and any amendment) and names of its trustees. The Commission issues to every charity an Annual Update form and Annual Return on which these details can conveniently be supplied, although changes to the correspondent details should be provided as soon as possible.

28. Registered particulars

The trustees must notify the Commission promptly of any changes to the charity's entry on the Central Register of Charities.

Clause 29 - When the trustees acquire land for the charity, the ownership of the land cannot rest with the charity directly as it has no separate legal identity. The trustees will therefore need to ensure that title to the charity's land is held in the name of individuals ('holding trustees') or a company, in trust on behalf of the charity. Typically this can be some or all of the trustees, the Official Custodian for Charities (see our guidance The Official Custodian for Charities' Land Holding Service (CC13)) or a nominee.

29. Property

(1) The trustees must ensure the title to:

(a) all land held by or in trust for the charity that is not vested in the Official Custodian of Charities; and

(b) all investments held by or on behalf of the charity, is vested either in a corporation entitled to act as custodian trustee or in not less than three individuals appointed by them as holding trustees.

(2) The terms of the appointment of any holding trustees must provide that they may act only in accordance with lawful directions of the trustees and that if they do so they will not be liable for the acts and defaults of the trustees or of the members of the charity.

(3) The trustees may remove the holding trustees at any time.

Clause 30 - These are the minimum requirements and trustees should consider if any other forms of insurance are needed.

30. Repair and insurance

The trustees must keep in repair and insure to their full value against fire and other usual risks all the buildings of the charity (except those buildings that are required to be kept in repair and insured by a tenant). They must also insure suitably in respect of public liability and employer's liability.

31. Notices

(1) Any notice required by this constitution to be given to or by any person must be:

(a) in writing; or

(b) given using electronic communications.

(2) The charity may give any notice to a member either:

(a) personally; or

(b) by sending it by post in a prepaid envelope addressed to the member at his or her address; or

(c) by leaving it at the address of the member; or

(d) by giving it using electronic communications to the member's address.

(3) A member who does not register an address with the charity or who registers only a postal address that is not within the United Kingdom shall not be entitled to receive any notice from the charity.

(4) A member present in person at any meeting of the charity shall be deemed to have received notice of the meeting and of the purposes for which it was called.

(5) (a) Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given.

(b) Proof that a notice contained in an electronic communication was sent in accordance with guidance issued by the Institute of Chartered Secretaries and Administrators shall be conclusive evidence that the notice was given.

(c) A notice shall be deemed to be given 48 hours after the envelope containing it was posted or, in the case of an electronic communication, 48 hours after it was sent.

Clause 32 - Rules are effectively the internal procedures adopted by the trustees for the proper administration of the charity. They cannot be used to change any of the provisions in this constitution. Clause 7 of this constitution sets out the procedure for amending the provisions of this constitution.

32. Rules

(1) The trustees may from time to time make rules or bye-laws for the conduct of their business.

(2) The bye-laws may regulate the following matters but are not restricted to them:

(a) the admission of members of the charity (including the admission of organisations to membership) and the rights and privileges of such members, and the entrance fees, subscriptions and other fees or payments to be made by members;

(b) the conduct of members of the charity in relation to one another, and to the charity's employees and volunteers;

(c) the setting aside of the whole or any part or parts of the charity's premises at any particular time or times or for any particular purpose or purposes;

(d) the procedure at general meeting and meetings of the trustees in so far as such procedure is not regulated by this constitution;

Notes

Sub-clause 32(2)(e) - The Electronic Communications Act 2000 and the Electronic Signatures Regulations 2002 permit electronic signatures to be accepted as evidence, subject to certain conditions. This sub-clause summarises those conditions.

(e) the keeping and authenticating of records. (If regulations made under this clause permit records of the charity to be kept in electronic form and requires a trustee to sign the record, the regulations must specify a method of recording the signature that enables it to be properly authenticated.)

(f) generally, all such matters as are commonly the subject matter of the rules of an unincorporated association.

(3) The charity in general meeting has the power to alter, add to or repeal the rules or bye-laws.

(4) The trustees must adopt such means as they think sufficient to bring the rules and bye-laws to the notice of members of the charity.

(5) The rules or bye-laws shall be binding on all members of the charity. No rule or bye-law shall be inconsistent with, or shall affect or repeal anything contained in, this constitution.

Clause 33 - It is good practice to include provisions for dealing with any disputes that arise between members of the charity. Litigation can be expensive, and litigation about the internal affairs of a charity would almost certainly constitute 'charity proceedings', which can be taken only with the Commission's authority. We would usually require the parties to a dispute to have tried mediation first.

33. Disputes

If a dispute arises between members of the charity about the validity or propriety of anything done by the members under this constitution, and the dispute cannot be resolved by agreement, the parties to the dispute must first try in good faith to settle the dispute by mediation before resorting to litigation.

34. Interpretation

In this constitution 'connected person' means:

(1) a child, parent, grandchild, grandparent, brother or sister of the trustee;

(2) the spouse or civil partner of the trustee or of any person falling within sub-clause (1) above;

(3) a person carrying on business in partnership with the trustee or with any person falling within sub-clause (1) or (2) above;

(4) an institution which is controlled -

(a) by the trustee or any connected person falling within sub-clause (1), (2), or (3) above; or

(b) by two or more persons falling within sub-clause (4)(a), when taken together

(5) a body corporate in which -

(a) the charity trustee or any connected person falling within sub-clauses (1) to (3) has a substantial interest; or

Notes

Addenda:

All parents/carers of a child currently attending St. Paul's, along with current teachers, staff, and governors of the school, are considered members of the PTFA. No dues are required. Membership may be extended to other persons or organisations as outlined in section 8.

(b) two or more persons falling within sub-clause (5)(a) who, when taken together, have a substantial interest.

(6) Sections 350 - 352 of the Charities Act 2011 apply for the purposes of interpreting the terms used in this clause.

Signatures

30/4/2018.

CO-CHAIR ST PAULS SCHOOL PTFA.

ELISSA THOMSON

30/4/18.

CO-CHAIR (ABIGAIL YOUNGMAN)