

~~BURNESS~~

**CONSTITUTION
of
SOUTH CARRICK COMMUNITY LEISURE**

CONSTITUTION
of
SOUTH CARRICK COMMUNITY LEISURE

CONTENTS		
GENERAL	type of organisation, Scottish principal office, name, purposes, powers, liability of members, general structure	clauses 1 - 10
MEMBERS	qualifications for membership, application, subscription, register of members, withdrawal, transfer of membership, expulsion, termination of membership	clauses 11 - 38
DECISION-MAKING BY THE MEMBERS	members' meetings, notice, procedure at members' meetings, voting at members' meetings, written resolutions, minutes	clauses 39 - 76
BOARD (CHARITY TRUSTEES)	number, composition of the board, initial charity trustees, eligibility, charity trustees, eligibility, appointment, retiral, removal, termination of office, register of charity trustees, office-bearers, powers, general duties, code of conduct	clauses 77 - 116
DECISION-MAKING BY THE CHARITY TRUSTEES	notice, procedure at board meetings, substitutes, minutes	clauses 117 - 138
ADMINISTRATION	sub-committees, Youth Forum, operation of accounts, accounting records and annual accounts	clauses 139 - 151
MISCELLANEOUS	winding up, alterations to the constitution, interpretation	clauses 152 - 157

GENERAL

Type of organisation

- 1 The organisation ("the SCIO") will, upon registration, be a Scottish Charitable Incorporated Organisation.

Scottish principal office

- 2 The principal office of the SCIO will be in Scotland (and must remain in Scotland).

Name

- 3 The name of the SCIO is "South Carrick Community Leisure".

Purposes

- 4 The SCIO's purposes are:
 - 4.1 To assist in the provision of recreational facilities (and, where appropriate, the organisation of recreational activities) available to members of the public at large, with the object of improving their conditions of life;
 - 4.2 To advance citizenship and community development (including urban and rural regeneration);
 - 4.3 To promote civic responsibility, volunteering, the voluntary sector and the effectiveness and efficiency of charities; and
 - 4.4 To advance public participation in sport;

in particular within the area ("the Community") shown outlined in red on the map attached to this constitution, primarily through (a) the establishment and operation of a community arts and leisure facility in Girvan, Ayrshire (incorporating accommodation for community groups and a café/restaurant) and (b) the provision of support (whether financial or otherwise) to a range of organisations, initiatives, activities and events which further one or more of the above purposes.

Powers

- 5 The SCIO has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so.
- 6 No part of the income or property of the SCIO may be paid or transferred (directly or indirectly) to the members - either in the course of the SCIO's existence or on dissolution - except where this is done in direct furtherance of the SCIO's purposes.

Liability of members

- 7 The members of the SCIO have no liability to pay any sums to help to meet the debts (or other liabilities) of the SCIO if it is wound up; accordingly, if the SCIO 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 SCIO consists of:-
 - 9.1 the MEMBERS - who have the right to attend members' meetings (including any annual members' 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 SCIO; for example, the board is responsible for monitoring and controlling the financial position of the SCIO.
- 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 the following (subject to clauses 12, 13, 15, 22 and 23):
 - 11.1 any individual aged 16 or over who is a resident within the Community;
 - 11.2 any voluntary sector organisation which operates in the Community;
 - 11.3 any private sector business, or grouping of private sector businesses, which operates in the Community;
 - 11.4 South Ayrshire Council;
 - 11.5 any individual serving as a charity trustee on the basis of having been appointed by South Ayrshire Council under clauses 94 to 96.
- 12 Employees of the SCIO are not eligible for membership.
- 13 If an organisation is not a corporate body, it cannot be a member in its own right, but may nominate an individual to be entered as a member in the register of members.
- 14 No more than one individual nominated under clause 13 by each organisation may be a member at any given time.
- 15 At any given time, a majority of the membership must consist of individuals admitted to membership under paragraph 11.1 (individuals resident in the Community).

Application for membership

- 16 Any individual eligible for membership under paragraph 11.1 who wishes to become a member must (subject to clause 30) submit a written application for membership, signed by him/her.
- 17 Any corporate body eligible for membership under paragraph 11.2, 11.3 or 11.4 which wishes to become a member must (subject to clause 30) submit a written application for membership, signed by an appropriate officer of that body.
- 18 An individual nominated under clause 13 (individuals nominated by unincorporated bodies) who wishes to become a member must (subject to clause 30) submit a written application for membership, signed by him/her and also signed by an appropriate officer of the organisation nominating him/her for membership.
- 19 An individual or body applying for membership shall

- 19.1 (if a membership subscription is payable at the time, as provided for in clause 24) make a payment to the SCIO to meet the annual membership subscription applicable to the category of membership for which he/she/it is applying; and
- 19.2 give to the SCIO such evidence to confirm eligibility for membership as the SCIO may reasonably request.
- 20 Each application for membership must be considered by the board at the next board meeting which follows receipt of the application and any remittance and/or evidence required under clause 19.
- 21 Subject to clauses 22 and 23, the board must admit to membership any individual or body who/which is eligible for membership under clauses 11 to 14, providing he/she/it has complied with clauses 16 to 19.
- 22 The board may, at their discretion, refuse to admit any individual or body to membership where they have reasonable grounds to believe that he/she/it might, if admitted to membership, act in a manner which would damage the reputation of the organisation, undermine the efficiency of its operations and/or disrupt the proper conduct of its meetings.
- 23 The board must refuse to admit to membership any individual or body applying for membership under paragraph 11.2 or 11.3 (as read with clause 13) if the effect of admitting him/her/it to membership would be that the members admitted under paragraph 11.1 (individuals resident in the Community) would no longer form a majority of the total membership.

Membership subscription

- 24 The board may at any time introduce membership subscriptions, and may similarly discontinue membership subscriptions (and subsequently restore them) at their discretion; the provisions of clauses 25 to 28 will apply only during any period for which annual membership subscriptions are payable.
- 25 During any period for which a membership subscription is in force, all members shall require to pay an annual membership subscription; the amount of the annual membership subscription shall be fixed by a resolution passed by majority vote by the members at each AGM, and on the basis that
 - 25.1 the amount of the subscription may differ as between different categories of membership;
 - 25.2 the level of the subscription applicable to individuals resident in the Community must be consistent with the principle set out in clause 26; and
 - 25.3 concessionary rates may be set, to reflect cases of financial hardship or (in the case of organisations) limited access to funds.
- 26 If annual membership subscriptions are introduced, the annual subscription applicable to individuals admitted to membership under paragraph 11.1 shall

be set at a level which is considered to be unlikely to discourage individuals resident in the Community from applying for membership or remaining in membership.

- 27 The date on which annual membership subscriptions are to be payable shall be fixed by the board; and they may vary the date at their discretion from time to time.
- 28 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/it has been given at least one reminder (whether by post or email) - the board may, by resolution to that effect, expel him/her/it from membership.
- 29 An individual or body who/which ceases (for whatever reason) to be a member shall not be entitled to any refund of the membership subscription.

Arrangements involving the organisation's website

- 30 The board may, if they consider appropriate, introduce arrangements under which an individual or body can apply for membership (and, in the case of an unincorporated body, can nominate an individual for membership) and/or membership subscriptions may be paid, by accessing the company's website (and, where applicable, links from the company's website), and completing and submitting forms electronically; the board shall ensure that any such arrangements incorporate appropriate security measures and reserve the right for the board to request signed hard copy documentation and/or evidence of eligibility in any case where the board considers that to be appropriate.

Register of members

- 31 The board must keep a register of members, setting out
 - 31.1 for each current member:
 - 31.1.1 his/her/its full name and address;
 - 31.1.2 in the case of an individual admitted to membership under clause 18, the name and address of the organisation which nominated him/her for membership; and
 - 31.1.3 the date on which he/she was registered as a member of the SCIO;
 - 31.2 for each former member - for at least six years from the date on he/she ceased to be a member:
 - 31.2.1 his/her name;
 - 31.2.2 in the case of an individual admitted to membership under clause 18, the name and address of the organisation which nominated him/her for membership; and

31.2.3 the date on which he/she ceased to be a member.

32 The board must ensure that the register of members is updated within 28 days of any change:

32.1 which arises from a resolution of the board or a resolution passed by the members of the SCIO; or

32.2 which is notified to the SCIO.

33 If a member or charity trustee of the SCIO requests a copy of the register of members, the board must ensure that a copy is supplied to him/her/it 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 deleted or omitted.

Withdrawal from membership

34 Any individual or body who/which wants to withdraw from membership must give a written notice of withdrawal to the SCIO, signed by him/her or (in the case of a corporate body) signed on its behalf by an appropriate officer; he/she/it will cease to be a member as from the time when the notice is received by the SCIO.

35 An organisation which is not a corporate body and which has nominated an individual for membership under clause 13, may withdraw its nomination at any time by notice to the SCIO to that effect; the individual will automatically cease to be a member of the SCIO with effect from receipt of the notice by the SCIO.

Transfer of membership

36 Membership of the SCIO may not be transferred by a member.

Expulsion from membership

37 Any person may be expelled from membership by way of a resolution passed by not less than two thirds of those present (or represented) and voting at a members' meeting, providing the following procedures have been observed:-

37.1 at least 21 days' notice of the intention to propose the resolution must be given to the member concerned, specifying the grounds for the proposed expulsion;

37.2 the member concerned will be entitled to be heard on the resolution at the members' meeting at which the resolution is proposed.

37.3 Termination of membership

38 Membership will automatically terminate:

38.1 in the case of an individual, on death;

- 38.2 in the case of a corporate body, on the appointment of an administrator or receiver, on liquidation, on dissolution or on striking-off;
- 38.3 in the case of an individual admitted to membership on the basis of nomination by an unincorporated organisation, if that organisation is dissolved or if it ceases to carry on its operations;
- 38.4 in the case of an individual admitted to membership under paragraph 11.1, if he/she ceases to be a resident within the Community;
- 38.5 in the case of an individual admitted to membership under paragraph 11.5, if he/she ceases for any reason to be a charity trustee.

DECISION-MAKING BY THE MEMBERS

Members' meetings

- 39 The board must convene a meeting of members (an annual general meeting or "AGM") in each calendar year.
- 40 The gap between one AGM and the next must not be longer than 15 months.
- 41 Notwithstanding clause 39, an AGM does not need to be held during the calendar year in which the SCIO is formed; but the first AGM must still be held within 15 months of the date on which the SCIO is formed.
- 42 The business of each AGM must include:-
- 42.1 a report by the chair on the activities of the SCIO;
 - 42.2 the election/re-election of charity trustees, as provided for in clauses 84 to 91; and
 - 42.3 consideration of the annual accounts of the SCIO.
- 43 The board may convene a special members' meeting at any time.

Notice of members' meetings

- 44 At least 14 clear days' notice must be given of any AGM or any special members' meeting.
- 45 The notice calling a members' meeting must specify in general terms what business is to be dealt with at the meeting; and
- 45.1 in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s); or
 - 45.2 in the case of any other resolution falling within clause 70 (requirement for two-thirds majority) must set out the exact terms of the resolution.
- 46 The reference to "clear days" in clause 44 shall be taken to mean that, in calculating the period of notice,
- 46.1 the day after the notices are posted (or sent by e-mail) should be excluded; and
 - 46.2 the day of the meeting itself should also be excluded.
- 47 Notice of every members' meeting must be given to all the members of the SCIO, 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.

- 48 Any notice which requires to be given to a member under this constitution must be: -
- 48.1 sent by post to the member, at the address last notified by him/her/it to the SCIO; *or*
- 48.2 sent by e-mail to the member, at the e-mail address last intimated by him/her/it to the SCIO.
- 48.3 Procedure at members' meetings
- 49 No valid decisions can be taken at any members' meeting unless a quorum is present.
- 50 Subject to clause 51, the quorum for a members' meeting is 10 members, present in person (in the case of a member which is a corporate body, present via its duly authorised representative) or represented by proxy.
- 51 A quorum will not be deemed to be present at any members' meeting at which any resolution of the nature referred to in clause 59 is to be proposed unless both of the following requirements are met:
- 51.1 an authorised representative of, or proxy for, South Ayrshire Council is present at the meeting; and
- 51.2 the individual appointed by South Ayrshire Council as a charity trustee is present or represented by proxy at the meeting.
- 52 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.
- 53 The chair of the SCIO should act as chairperson of each members' meeting.
- 54 If the chair of the SCIO 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 vice chair should act as chairperson.
- 55 If neither the chair nor the vice chair of the SCIO is present within 15 minutes after the time at which the meeting was due to start - or if neither of them is 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.
- 56 Members of the Youth Forum (as defined in clause 144) shall be entitled to attend and speak (but not vote) at members' meetings.

Voting at members' meetings

- 57 Subject to clause 58, every member has one vote, which may be given *either* personally (in the case of a member which is a corporate body, via its authorised representative present at the meeting) *or* by proxy.
- 58 In relation to any resolution of the nature referred to in clause 59,
- 58.1 South Ayrshire Council shall have one vote; and
- 58.2 any individual appointed by South Ayrshire Council as a charity trustee shall have one vote;
- and no other member shall be entitled to vote.
- 59 Clauses 51 and 58 shall apply in relation to any resolution altering the constitution of the SCIO in such a way as to remove, or otherwise affect the operation of, clauses 94 to 96 (power of South Ayrshire Council to appoint one charity trustee).
- 60 A member who/which wishes to appoint a proxy to vote on his/her/its behalf at any members' meeting:-
- 60.1 must give to the SCIO a proxy form (in such terms as the board requires), signed by him/her or (in the case of a member which is a corporate body) signed by an appropriate officer of the member; or
- 60.2 must send by electronic means to the SCIO at such electronic address as may have been notified to the members for that purpose, a proxy form (in such terms as the board requires)
- providing (in either case) the proxy form is received by the SCIO at the relevant address not less than 48 hours before the time for holding the meeting (or, as the case may be, adjourned meeting).
- 61 In calculating the 48-hour period referred to in clause 59, no account shall be taken of any part of a day that is not a working day
- 62 An instrument of proxy which does not comply with the provisions of clause 59, or which is not lodged or given in accordance with such provisions, shall be invalid.
- 63 A member shall not be entitled to appoint more than one proxy to attend on the same occasion.
- 64 Subject to clause 65, in relation to each resolution proposed at a members' meeting, an individual shall not be entitled to cast more than one vote (as the representative of a member which is a corporate body; or as a proxy), in addition to any vote to which he/she is entitled in his/her own right as a member.

- 65 Where members have appointed the chair of a members' meeting to vote as their proxy - and have directed the chair (through wording in the instrument of proxy) on whether he/she should vote on their behalf in favour of, or against, each resolution - the provisions of clause 64 shall not apply in relation to the chair, in acting as proxy for those members.
- 66 A proxy appointed to attend and vote at any members' meeting instead of a member shall have the same right as the member who/which appointed him/her to speak at the meeting; and need not be a member of the SCIO.
- 67 A member which is a corporate body may authorise an individual to act as its representative at any members' meeting, providing particulars of the individual so authorised and of the body which he/she is to represent are received by the SCIO prior to the commencement of the members' meeting.
- 68 An individual authorised under clause 67 as the representative of a corporate body shall be entitled to exercise the same powers on behalf of the member which he/she represents as that corporate body could exercise if it were an individual member.
- 69 All decisions at members' meetings will be made by majority vote - with the exception of the types of resolution listed in clause 70.
- 70 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 74):
- 70.1 a resolution amending the constitution;
 - 70.2 a resolution directing the board to take any particular step (or directing the board not to take any particular step);
 - 70.3 a resolution approving the amalgamation of the SCIO with another SCIO (or approving the constitution of the new SCIO to be constituted as the successor pursuant to that amalgamation);
 - 70.4 a resolution to the effect that all of the SCIO'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);
 - 70.5 a resolution for the winding up or dissolution of the SCIO.
- 71 If there is an equal number of votes for and against any resolution at a members' meeting, the chairperson of the meeting will be entitled to a second (casting) vote.
- 72 A resolution put to the vote at a members' meeting will be decided on a show of hands - unless the chairperson (or at least two other individuals present at the meeting and entitled to vote, whether as members, proxies for members or representatives of members which are corporate bodies) ask for a secret ballot.

- 73 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.

Written resolutions by members

- 74 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

- 75 The board must ensure that proper minutes are kept in relation to all members' meetings.
- 76 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.

BOARD

Number of charity trustees

77 The maximum number of charity trustees is 14.

78 The minimum number of charity trustees is 7.

Composition of the board

79 Subject to any vacancies which may exist from time to time, the board shall consist of:

79.1 up to 10 charity trustees elected/appointed under clauses 84 to 91 (trustees drawn from the membership);

79.2 up to 3 charity trustees appointed by the board under clauses 92 and 93 on the basis of (a) special skills/experience that they are able to contribute to the work of the board and/or (b) their connection with a partner organisation with which the SCIO has close contact in the course of its activities;

79.3 up to 1 charity trustee appointed under clauses 94 to 96.

80 A majority of the charity trustees at any given time must be individuals admitted to membership under paragraph 11.1 (individuals who are residents within the Community).

81 The members of the company and the board should, in exercising their powers in relation to election/appointment of charity trustees, have due regard to equalities issues.

Initial charity trustees

82 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.

Eligibility

83 A person will not be eligible for appointment to the board if he/she is: -

83.1 disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005; or

83.2 an employee of the SCIO.

Charity trustees drawn from the membership - election/appointment

- 84 At each AGM, the members may (subject to clauses 79 and 80) elect any member (unless he/she is debarred from membership under clause 83) to be a charity trustee.
- 85 The board may at any time (subject to clauses 79 and 80) appoint any member (unless he/she is debarred from membership under clause 83) to be a charity trustee.
- 86 A member which is a corporate body may (subject to clause 87) nominate any individual for election/appointment to the board; he/she will then be deemed to be a member of the SCIO for the purposes of clauses 84 and 85.
- 87 No more than one individual nominated under clause 86 by each corporate member may serve as a charity trustee at any given time.
- 88 At the first AGM, 3 of the charity trustees (disregarding for this purpose those appointed under clauses 92 and 94) shall retire from office; the question of which of them is to retire shall be determined by some random method.
- 89 At each AGM (other than the first):
- 89.1 any charity trustees appointed under clause 85 during the period since the preceding AGM shall retire from office;
- 89.2 out of the remaining charity trustees (disregarding for this purpose those appointed under clauses 92 and 94), 3 shall retire from office.
- 90 The charity trustees to retire under paragraph 89.2 shall be those who have been longest in office since they were last elected or re-elected; as between persons who were last elected/re-elected on the same date, the question of which of them is to retire shall be determined by some random method.
- 91 A charity trustee retiring at an AGM under clause 88 or 89 will (subject to clauses 79 and 80) be eligible for re-election.

Charity trustees appointed on the basis of special skills/experience etc

- 92 The board may at any time (subject to clauses 79 and 80) appoint any individual to be a charity trustee - but on the understanding that the board's powers of appointment under this clause shall be directed towards:
- 92.1 ensuring an appropriate balance of skills and experience on the board, in the interests of good governance; and
- 92.2 fostering links with key partner bodies where appropriate, by inviting individuals drawn from those bodies to serve as charity trustees.

- 93 At the conclusion of each AGM, each of the charity trustees appointed under clause 92 will vacate office - but will then be eligible (subject to clauses 79 and 80) for re-appointment under clause 92, at the discretion of the board.

Charity trustees appointed by the Council - appointment/removal

- 94 South Ayrshire Council (so long as it remains a member of the SCIO) may (subject to clause 79) by notice in writing, signed on its behalf by an authorised officer and given to the SCIO:-

94.1 appoint any senior officer of South Ayrshire Council (providing he/she is willing so to act) to be a charity trustee; or

94.2 remove any individual previously appointed by it, from office as a charity trustee.

- 95 Any appointment or removal of a charity trustee under clause 94 shall have effect from

95.1 the date on which the relevant notice is given to the SCIO; or

95.2 any later date stated in the notice.

- 96 At the conclusion of each AGM, the charity trustee appointed by South Ayrshire Council will retire from office, but may then be re-appointed under clause 94.

Termination of office

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

97.1 he/she becomes disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005;

97.2 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;

97.3 (in the case of a charity trustee elected/appointed under clauses 84 to 91) he/she ceases to be a member of the SCIO or (if he/she was nominated by a corporate body) the corporate body which nominated him/her ceases to be a member of the SCIO;

97.4 (in the case of a charity trustee appointed under clause 94) if he/she ceases to be a senior officer of South Ayrshire Council;

97.5 he/she becomes an employee of the SCIO;

97.6 he/she gives the SCIO a notice of resignation, signed by him/her;

- 97.7 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;
 - 97.8 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 115);
 - 97.9 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
 - 97.10 he/she is removed from office by a resolution of the members passed at a members' meeting.
- 98 A resolution under paragraph 97.8, 97.9 or 97.10 shall be valid only if: -
- 98.1 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;
 - 98.2 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
 - 98.3 (in the case of a resolution under paragraph 97.8 or 97.9) 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

- 99 The board must keep a register of charity trustees, setting out
- 99.1 for each current charity trustee:
 - 99.1.1 his/her full name and address;
 - 99.1.2 the date on which he/she was appointed as a charity trustee;
 - 99.1.3 (where applicable) the name of the corporate body which nominated or appointed him/her as a charity trustee; and
 - 99.1.4 any office held by him/her in the SCIO;
 - 99.2 for each former charity trustee - for at least 6 years from the date on which he/she ceased to be a charity trustee:
 - 99.2.1 the name of the charity trustee;

99.2.2 (where applicable) the name of the corporate body which nominated or appointed him/her as a charity trustee;

99.2.3 any office held by him/her in the SCIO; and

99.2.4 the date on which he/she ceased to be a charity trustee.

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

100.1 which arises from a resolution of the board or a resolution passed by the members of the SCIO; or

100.2 which is notified to the SCIO.

101 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 SCIO, the board may provide a copy which has the addresses deleted or omitted - if the SCIO is satisfied that including that information is likely to jeopardise the safety or security of any person or premises.

Office-bearers

102 The charity trustees must elect (from among themselves) a chair, a vice chair, a treasurer and a secretary.

103 In addition to the office-bearers required under clause 102, the charity trustees may elect (from among themselves) further office-bearers if they consider that appropriate.

104 A charity trustee will not be eligible for appointment as the chair unless he/she is a member admitted under paragraph 11.1 (residents within the Community).

105 All of the office-bearers will cease to hold office at the conclusion of each AGM, but may then be re-elected under clause 102 or 103.

106 A person elected to any office will automatically cease to hold that office: -

106.1 if he/she ceases to be a charity trustee; *or*

106.2 if he/she gives to the SCIO a notice of resignation from that office, signed by him/her.

Powers of board

107 Except where this constitution states otherwise, the SCIO (and its assets and operations) will be managed by the board; and the board may exercise all the powers of the SCIO.

- 108 A meeting of the board at which a quorum is present may exercise all powers exercisable by the board.
- 109 The members may, by way of a resolution passed in compliance with clause 70 (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

- 110 Each of the charity trustees has a duty, in exercising functions as a charity trustee, to act in the interests of the SCIO; and, in particular, must:-
- 110.1 seek, in good faith, to ensure that the SCIO acts in a manner which is in accordance with its purposes;
 - 110.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
 - 110.3 in circumstances giving rise to the possibility of a conflict of interest between the SCIO and any other party:
 - 110.3.1 put the interests of the SCIO before that of the other party;
 - 110.3.2 where any other duty prevents him/her from doing so, disclose the conflicting interest to the SCIO and refrain from participating in any deliberation or decision of the other charity trustees with regard to the matter in question;
 - 110.4 ensure that the SCIO complies with any direction, requirement, notice or duty imposed under or by virtue of the Charities and Trustee Investment (Scotland) Act 2005.
- 111 In addition to the duties outlined in clause 110, all of the charity trustees must take such steps as are reasonably practicable for the purpose of ensuring: -
- 111.1 that any breach of any of those duties by a charity trustee is corrected by the charity trustee concerned and not repeated; and
 - 111.2 that any trustee who has been in serious and persistent breach of those duties is removed as a trustee.
- 112 Provided he/she has declared his/her interest - and has not voted on the question of whether or not the SCIO should enter into the arrangement - a charity trustee will not be debarred from entering into an arrangement with the SCIO in which he/she has a personal interest; and (subject to clause 113 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.

- 113 No charity trustee may serve as an employee (full time or part time) of the SCIO; and no charity trustee may be given any remuneration by the SCIO for carrying out his/her duties as a charity trustee.
- 114 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

- 115 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.
- 116 The code of conduct referred to in clause 115 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

- 117 Any charity trustee may call a meeting of the board *or* ask the secretary to call a meeting of the board.
- 118 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

- 119 No valid decisions can be taken at a board meeting unless a quorum is present; the quorum for board meetings is as follows:
- 119.1 if the number of charity trustees in office at the time is 7, 8 or 9 - the quorum shall be 5 charity trustees;
- 119.2 if the number of charity trustees in office at the time is 10, 11, 12, 13 or 14 - the quorum shall be 7 charity trustees.
- 120 A substitute appointed under clause 131 (applicable to charity trustees appointed by South Ayrshire Council only) present at a board meeting shall be taken to be a charity trustee in determining how many charity trustees are present at that board meeting - but only if the charity trustee who appointed him/her is not present.
- 121 If at any time the number of charity trustees in office falls below 5, 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.
- 122 The chair of the SCIO should act as chairperson of each board meeting.
- 123 If the chair of the SCIO 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 vice chair should act as chairperson.
- 124 If neither the chair nor the vice chair is present within 15 minutes after the time at which the meeting was due to start - or if neither of them is 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.
- 125 Every charity trustee has one vote, which must be given personally.
- 126 All decisions at board meetings will be made by majority vote.
- 127 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.

- 128 The board must allow one individual representing the Youth Forum to attend and speak at board meetings - but on the basis that he/she will not have a vote.
- 129 Elected members of South Ayrshire Council whose wards lie wholly or mainly within the Community (as defined in clause 4) shall be entitled to attend board meetings - but on the basis that
- 129.1 any such elected member will not be entitled to speak unless and to the extent that he/she is invited to speak on any particular item by the chairperson of the meeting, and will not have a vote; and
- 129.2 the board shall be entitled to require any such elected member to leave the meeting during the discussion of any item of business which the board regard as confidential.
- 130 In addition to the provisions of clauses 128 and 129, the board may, at its discretion, allow any other 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.
- 131 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 SCIO; he/she must withdraw from the meeting while an item of that nature is being dealt with.
- 132 For the purposes of clause 131: -
- 132.1 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;
- 132.2 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.

Substitutes

- 133 A charity trustee appointed under clause 94 (charity trustees appointed by South Ayrshire Council) will be entitled to appoint any individual as his/her substitute, by way of a notice signed by that charity trustee and given to the SCIO; and may remove any such substitute by a similar notice.
- 134 A substitute appointed by a charity trustee under clause 133 will be entitled to attend, speak and vote at any board meeting in place of that charity trustee, and shall be taken to be a charity trustee for the purposes of this constitution (other than in relation to provisions which refer to the number of charity trustees in office).

- 135 Any interest held, or deemed to be held, by a charity trustee who has appointed a substitute under clause 133 will be taken to be an interest held by that substitute; and, in addition, any other interest held or deemed to be held by that substitute will be relevant in relation to the operation of all provisions of this constitution relating to conflict-of-interest.
- 136 For the avoidance of doubt, no charity trustees - other than a charity trustee appointed under clause 90 (charity trustees appointed by South Ayrshire Council) will have the right to appoint a substitute.

Minutes

- 137 The board must ensure that proper minutes are kept in relation to all board meetings and meetings of sub-committees.
- 138 The minutes to be kept under clause 137 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

- 139 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.
- 140 The board may also delegate to the chair of the SCIO (or the holder of any other post) such of their powers as they may consider appropriate.
- 141 When delegating powers under clauses 139 or 140, the board must set out appropriate conditions (which must include an obligation to report regularly to the board).
- 142 Any delegation of powers under clause 139 or 140 may be revoked or altered by the board at any time.
- 143 The rules of procedure for each sub-committee, and the provisions relating to membership of each sub-committee, shall be set by the board.

Youth Forum

- 144 The board must establish a committee (“the Youth Forum”) consisting of people aged 17 or under who are either residents within the Community or attend schools located in the Community.
- 145 The remit of the Youth Forum shall be:
- 145.1 to discuss and make recommendations to the board with regard to issues of particular interest to young people; and
 - 145.2 to seek to encourage young people from all sections of the community to engage with the SCIO and make fullest use of the opportunities provided by the facilities operated by the SCIO and the other projects and initiatives supported directly or indirectly by the work of the SCIO.
- 146 The rules of procedure for the Youth Forum, and the provisions relating to membership of the Youth Forum, shall be set by the board.
- 147 The board shall give due consideration to all reports and recommendations issued to it by the Youth Forum, but shall be under no obligation to give effect to such reports or recommendations.

Operation of accounts

- 148 Subject to clause 149, 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 SCIO; at least one out of the two signatures must be the signature of a charity trustee.

- 149 Where the SCIO 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 148.

Accounting records and annual accounts

- 150 The board must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.
- 151 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

- 152 If the SCIO 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.
- 153 Any surplus assets available to the SCIO 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 SCIO, as set out in this constitution.

Alterations to the constitution

- 154 This constitution may (subject to clause 155) be altered by resolution of the members passed at a members' meeting (subject to achieving the two thirds majority referred to in clause 70) or by way of a written resolution of the members.
- 155 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

- 156 References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005 should be taken to include: -
- 156.1 any statutory provision which adds to, modifies or replaces that Act; and
- 156.2 any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under paragraph 156.1 above.
- 157 In this constitution: -
- 157.1 "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 2006, providing (in either case) that its objects are limited to charitable purposes;

157.2 “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.

This is the proposed constitution referred to in the accompanying form, applying for an SCIO to be constituted with the name set out in clause 3 above.