CHARITY COMMISSION
FOR ENGLAND AND WALES

Constitution of a Charitable Incorporated Organisation whose only voting members are its charity trustees (foundation model constitution)

NOVEMBER 2023

Charitable Incorporated Organisation: Model constitution for a CIO whose only voting members are its charity trustees

('Foundation' model constitution)

This document is a Charity Commission model constitution for a Charitable Incorporated Organisation (CIO).

This guidance briefly explains:

- What a CIO is
- How to decide whether the CIO is the right form for your charity
- How to choose the right model constitution
- How to complete the model constitution and register as a charity
- Where to get more information and advice

In Appendix 2, there are notes explaining key points about each clause in the model constitution, to help you decide how to complete it.

We also have more detailed guidance on CIOs available on our website.

What is a Charitable Incorporated Organisation?

The Charitable Incorporated Organisation (CIO) is a legal form for a charity. It is an incorporated form of charity which is not a limited company or subject to company regulation.

The Charities Act 2011 creates the basic legal framework for the CIO. This framework is completed by regulations:

- the Charitable Incorporated Organisations (General) Regulations 2012 ('General Regulations'); and
- the Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012 ('Dissolution Regulations').

Is the CIO the right structure for our charity?

Choosing the right legal structure and governing document is one of the first and most important decisions that the founders of a charity need to make. It will affect:

- how easy it will be to set up and run the charity
- how easy it will be to make changes in the future
- whether the charity can have a voting membership
- whether the charity can itself own premises, employ staff or enter contracts, or whether the trustees will have to do this personally.

There are four main legal forms that charities may take. We produce model governing documents for each of these forms:

- Trust (governing document: trust deed; could also be created by a will);
- Unincorporated association (governing document: constitution or rules);
- Company limited by guarantee (governing document: memorandum and articles of association for company formed before September 2009; articles of association for company formed since then);
- CIO (governing document: constitution).

An incorporated form, CIO or company limited by guarantee, may be suitable for a charity that will:

- own land in its own name
- control substantial funds or assets
- enter into contracts, for example by employing staff, or
- engage in charitable activities involving financial risks

Some points to note about CIOs:

- A CIO is a corporate body (like a company) that can own property, employ staff and enter into other contracts in its own name (rather than in the names of the trustees).

- Members of a company limited by guarantee have limited liability for its debts if it winds up (they only have to pay a fixed amount). Members of a CIO may either have no liability at all or (like a company) limited liability for its debts.

- Because they have additional legal protection, members of a corporate body (Company or CIO) must comply with extra regulations.

- Unlike companies, CIOs do not have to register with Companies House.

- Unlike companies, CIOs will not be fined for administrative errors like late filing of accounts, but some breaches of the CIO Regulations are legal offences.

- All CIOs must register with the Commission, regardless of their income. It follows that an exempt charity cannot be a CIO, and CIO may be unsuitable for other types of charity that don't have to register. (See our guidance on types of charity that don't have to register.)

- CIOs must produce accounts under charity law, not company law. This allows smaller CIOs (income below £250,000) to produce simpler receipts and payments accounts.

- To simplify the CIO framework, there is currently no provision for CIOs to issue debentures, or for a register of charges (mortgages etc) over CIO property.

For more information on other legal forms, see our guidance on choosing your charity's governing document.

Why are there two different model constitutions for a CIO?

Like companies (which must have both members and company directors) all CIOs must have members and charity trustees. Some CIOs may want

the only members to be the charity trustees; others may want a wider membership open to other people.

We have produced two model constitutions for CIOs:

- the **'foundation'** model (this model) is for charities whose **only** voting members will be the charity trustees;

- the **'association'** model is for charities that will have a wider membership, including voting members other than the charity trustees.

In practice a CIO using the 'foundation' model will be like an incorporated charitable trust, run by a small group of people (the charity trustees) who make all key decisions. Charity trustees may be appointed for an unlimited time and they will probably appoint new charity trustees.

A CIO using the 'association' model will have a wider voting membership who must make certain decisions (such as amending the constitution), will usually appoint some or all of the charity trustees (who will serve for fixed terms), and may be involved in the work of the CIO.

There are not two different forms of CIO. A CIO with the 'foundation' model could change its constitution to the 'association' model if it wanted a wider voting membership. (This could also happen the other way around, but members who were not trustees would have to agree to give up their membership.) Some changes would need our approval.

Using the Commission's model CIO constitutions

A CIO's constitution **must** be in the form to be specified by Commission regulations (or as near to that form as the circumstances allow). These regulations specify that the constitution should be in the form of one of our model constitutions. This still allows some flexibility, as explained in the guidance notes on the model. The constitution **must** be in English if the CIO's principal office is in England, but may be in English or Welsh if the principal office is in Wales.

A CIO's constitution **must** include certain provisions to comply with the Charities Act 2011 (the 2011 Act) and the General Regulations. However, the 2011 Act and General Regulations do not prescribe an exact wording.

There are other provisions that **must** be included **if** they apply to a particular CIO. If they do not fully apply, the constitution **must** explain to what extent or how they apply.

We have included other provisions in this model constitution because:

- they reflect good practice that we recommend
- they remind the trustees about a legal requirement
- the constitution would not work properly without them, or
- charities have said that it would be a useful option and it would be helpful to have standard wording

Using one of the Commission's models will help to ensure that you include all of the constitutional provisions that your CIO will need:

- to meet the requirements of the law
- to comply with good practice, and
- to be practical and workable

The guidance notes will prompt you to think about whether you may need to include particular powers.

How do we become a CIO?

i) New charities

To set up and register a new CIO, follow the procedure set out below under Next Steps.

ii) Existing charitable trusts and unincorporated associations

An existing unincorporated charity can only change to a CIO by:

- setting up and registering a new CIO (in the same way as for a new charity), then
- transferring its property and operations to the CIO.

You should check whether your charity can transfer its property in this way, or whether you need authorisation from the Commission. Once the transfer is complete, the original charity can normally be wound up and removed from the register, but different arrangements may apply to charities with permanent endowment (see below).

iii) Existing charities with permanent endowment

Put simply, permanent endowment is property that a charity must keep rather than spend. There are two main types of permanent endowment:

- Money or other assets given to your charity for investment. Only the investment income can be spent.

- Property given to your charity which must be used only for a particular purpose. For example, land or buildings given for use as a school or recreation ground.

Often, these charities have no power to wind up or transfer their permanent endowment.

CIOs cannot hold permanent endowment as part of their own (corporate) property.

The General Regulations make special provision to enable charities with permanent endowment to transfer to a CIO. The trustees of the permanently endowed charity need to:

- set up and register a new CIO with the Commission, then

- make a vesting declaration under section 310 of the 2011 Act (as amended by the General Regulations), transferring all property of the original charity to the new CIO.

The vesting declaration will:

- transfer expendable property to the CIO as part of its corporate property

- vest legal title to the permanent endowment in the CIO, to be held on its original trusts

- appoint the CIO as trustee for the permanent endowment trust and

give it the powers of a trust corporation for that trust

- mean that the CIO and the permanent endowment trust are treated as a single charity for registration and accounting purposes (they won't need to register separately or produce separate accounts).

If charities use a vesting declaration to carry out a merger, they must record it in the Register of Mergers. Vesting declarations are legal documents, so you may need advice from a solicitor or other professional. Read our guidance for more information.

For further information see our general guidance on CIOs.

iv) Existing charitable companies and registered societies

It is also possible for an existing charitable company or registered society to convert directly into a CIO; there are specific procedures for this.

What guidance should we consider before we begin?

- There is comprehensive guidance on setting up and registering a charity on our website.
- We also have more detailed **guidance on CIOs.**
- The Essential Trustee 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 CIO and have chosen the correct model constitution, please read the constitution and accompanying guidance notes carefully. In the guidance notes we say that something '**must**' be included in the constitution if it is a legal requirement in the 2011 Act or the General or Dissolution Regulations. We say that something '**should**' be included if we consider it to be minimum good practice. We 'recommend' that you include other provisions to help ensure the smooth running of the CIO in future.

There are guidance notes on each clause explaining what it is for, and whether you **must** or **should** include (all or part of) it, and whether it **may**

or **should** be amended to fit the circumstances. Even where clauses are completely optional, however, we advise you to follow the model provisions or suggested alternatives unless there is a particular need, in the interests of your charity, to do otherwise.

Some clauses contain options for you to choose from and blank spaces that you will need to fill in.

If you want to add any special or complex provisions that you have drafted yourself, you may need advice from a solicitor or other adviser. We may need more time to look at any specialist changes. Please make clear what 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 one of our models as charitable. We must consider each case separately.

When you have finished, please check that you have:

- filled in all the blanks,
- deleted any clauses which you don't need; and
- numbered the remaining clauses (and sub-clauses) in sequence (including cross-references).

2. Applying to register

To register a new charity, you must apply online via the Charity Commission Website.

3. How long will it take?

We can normally make a decision in 40 working days if an organisation:

- can use our model wording for its objects (Example charitable objects on our website);
- shows that its activities are or will be consistent with the objects;
- shows that any private benefit is only incidental and is properly managed; and
- uses our model governing document.

Other applications will need closer consideration and so will take longer.

Constitution of a Charitable Incorporated Organisation whose only voting members are its charity trustees

(‘Foundation’ model constitution)

Date of constitution (last amended):

17/04/2025.....
.....

1. Name

The name of the Charitable Incorporated Organisation (“the CIO”) is

Earth Balance Shed

2. National location of principal office

The CIO must have a principal office in England or Wales. The principal office of the CIO is in [England]

3. Object

The objects of the CIO is

For the public benefit, the preservation and protection of good health among people in Northumberland and the surrounding area, including those who are retired, unemployed or have health problems, through the provision of facilities for hobbies, recreation or other leisure time occupation including practical interests, skills sharing, the learning of new skills, and helping with community based projects.

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

4. Powers

The CIO has power to do anything which is calculated to further its object[s] or is conducive or incidental to doing so. In particular, the CIO has power to:

(1) borrow money and to charge the whole or any part of its property as security for the repayment of the money borrowed. The CIO must comply as appropriate with sections 124 and 125 of the Charities Act 2011, if it wishes to mortgage land;

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

(3) sell, lease or otherwise dispose of all or any part of the property belonging to the CIO. In exercising this power, the CIO must comply as appropriate with sections 117 and 119-123 of the Charities Act 2011;

(4) employ and remunerate such staff as are necessary for carrying out the work of the CIO. The CIO may employ or remunerate a charity trustee only to the extent that it is permitted to do so by clause 6 (Benefits and payments to charity trustees and connected persons) and provided it complies with the conditions of that clause;

(5) deposit or invest funds, employ a professional fund-manager, and arrange for the investments or other property of the CIO to be held in the name of a nominee, 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.

5. Application of income and property

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

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

(b) A charity trustee may benefit from trustee indemnity insurance cover purchased at the CIO'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 CIO may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to any member of the CIO.

(3) Nothing in this clause shall prevent a charity trustee or connected person receiving any benefit or payment which is authorised by Clause 6.

6. 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 CIO on terms preferential to those applicable to members of the public;

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

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

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

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

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

(a) A charity trustee or connected person may receive a benefit from the CIO as a beneficiary of the CIO 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 and/or goods to the CIO where that is permitted in accordance with, and subject to the conditions in, sections 185 to 188 of the Charities Act 2011.

(c) A charity trustee or connected person may receive interest on

money lent to the CIO at a reasonable and proper rate which must be not more than the Bank of England bank rate (also known as the base rate).

(d) A charity trustee or connected person may receive rent for premises let by the trustee or connected person to the CIO. 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.

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

(3) In sub-clause (2) of this clause:

(a) "the CIO" includes any company in which the CIO:

(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 directors to the board of the company;

(b) "connected person" includes any person within the definition set out in clause [30] (Interpretation).

7. Conflicts of interest and conflicts of loyalty

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 CIO or in any transaction or arrangement entered into by the CIO which has not previously been declared; and

(2) absent himself or herself from any discussions of the charity trustees in which it is possible that a conflict of interest will

arise between his or her duty to act solely in the interests of the CIO and any personal interest (including but not limited to any 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.

8. Liability of members to contribute to the assets of the CIO if it is wound up

Option 1

If the CIO is wound up, the members of the CIO have no liability to contribute to its assets and no personal responsibility for settling its debts and liabilities.

9. Charity trustees

(1) Functions and duties of charity trustees

The charity trustees shall manage the affairs of the CIO and may for that purpose exercise all the powers of the CIO. It is the duty of each charity trustee:

(a) to exercise his or her powers and to perform his or her functions in his or her capacity as a trustee of the CIO in the way he or she decides in good faith would be most likely to further the purposes of the CIO; and

(b) to exercise, in the performance of those functions, such care and skill as is reasonable in the circumstances having regard in particular to:

(i) any special knowledge or experience that he or she has or holds himself or herself out as having; and,

(ii) if he or she acts as a charity trustee of the CIO in the course of a business or profession, to any special knowledge or experience that it is reasonable to expect of a person acting in the course of that kind of business or profession.

(2) **Eligibility for trusteeship**

(a) Every charity trustee must be a natural person.

(b) No individual may be appointed as a charity trustee of the CIO:

- if he or she is under the age of 16 years; or
- if he or she would automatically cease to hold office under the provisions of clause [12(1)(e)].

(c) No one is entitled to act as a charity trustee whether on appointment or on any re-appointment until he or she has expressly acknowledged, in whatever way the charity trustees decide, his or her acceptance of the office of charity trustee.

[(d) At least one of the trustees of the CIO must be 18 years of age or over. If there is no trustee aged at least 18 years, the remaining trustees may only act to call a meeting of the charity trustees, or appoint a new charity trustee.]

(3) **Number of charity trustees**

(a) There must be at least [three] charity trustees. If the number falls below this minimum, the remaining trustee or trustees may act only to call a meeting of the charity trustees, or appoint a new charity trustee.

(b) The maximum number of charity trustees is [12]. The charity trustees may not appoint any charity trustee if as a result the number of charity trustees would exceed the maximum.

(4) **First charity trustees**

The first charity trustees are as follows , and are appointed for the following terms–

Brian Pill	for 3 years
Rob Ferguson	for 3 years

Dennis Matthewson	for 3 years
Adrian Hall	for 3 years
Keith Brotherton	for 3 years

10. Appointment of charity trustees

(1) Apart from the first charity trustees, every trustee must be appointed for a term of three years by a resolution passed at a properly convened meeting of the charity trustees.

(2) In selecting individuals for appointment as charity trustees, the charity trustees must have regard to the skills, knowledge and experience needed for the effective administration of the CIO.

11. Information for new charity trustees

The charity trustees will make available to each new charity trustee, on or before his or her first appointment:

(a) a copy of the current version of this constitution; and

(b) a copy of the CIO's latest Trustees' Annual Report and statement of accounts.

12. Retirement and removal of charity trustees

(1) A charity trustee ceases to hold office if he or she:

(a) retires by notifying the CIO in writing (but only if enough charity trustees will remain in office when the notice of resignation takes effect to form a quorum for meetings);

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

(c) dies;

(d) in the written opinion, given to the CIO, 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;

(e) is disqualified from acting as a charity trustee by virtue of sections 178-180 of the Charities Act 2011 (or any statutory re-enactment or modification of that provision).

(2) Any person retiring as a charity trustee is eligible for reappointment.

[(3) A charity trustee who has served for [three] consecutive terms may not be reappointed for a [fourth] consecutive term but may be reappointed after an interval of at least [one year].]

13. Taking of decisions by charity trustees

Any decision may be taken either:

- at a meeting of the charity trustees; or
- by resolution in writing [or electronic form] agreed by a majority of all of the charity trustees, which may comprise either a single document or several documents containing the text of the resolution in like form to which the majority of all of the charity trustees has signified their agreement. Such a resolution shall be effective provided that
    - a copy of the proposed resolution has been sent, at or as near as reasonably practicable to the same time, to all of the charity trustees; and
    - the majority of all of the charity trustees has signified agreement to the resolution in a document or documents which has or have been authenticated by their signature, by a statement of their identity accompanying the document or documents, or in such other manner as the charity trustees have previously resolved, and delivered to the CIO at its principal office or such other place as the trustees may resolve [within 28 days of the circulation date].

14. Delegation by charity trustees

(1) The charity trustees may delegate any of their powers or functions to a committee or committees, and, if they do, they shall determine the terms and conditions on which the delegation is made. The charity trustees may at any time alter those terms and conditions, or revoke the delegation.

(2) This power is in addition to the power of delegation in the General Regulations and any other power of delegation available to the charity trustees, but is subject to the following requirements:

(a) a committee may consist of two or more persons, but at least one member of each committee must be a charity trustee;

(b) the acts and proceedings of any committee must be brought to the attention of the charity trustees as a whole as soon as is reasonably practicable; and

(c) the charity trustees shall from time to time review the arrangements which they have made for the delegation of their powers.

15. Meetings of charity trustees

(1) **Calling meetings**

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

(b) Subject to that, the charity trustees shall decide how their meetings are to be called, and what notice is required.

(2) **Chairing of meetings**

The charity trustees may appoint one of their number to chair their meetings and may at any time revoke such appointment. If no-one has been so appointed, or if the person appointed is unwilling to preside or is not present within 10 minutes after the time of the meeting, the charity trustees present may appoint one of their number to chair that meeting.

(3) **Procedure at meetings**

(a) No decision shall be taken at a meeting unless a quorum is present at the time when the decision is taken. The quorum is two charity trustees, or the number nearest to one third of the total number of charity trustees, whichever is greater, or such larger number as the charity trustees may decide from time to time. A charity trustee shall not be counted in the quorum present when any decision is made about a matter upon which he or she is not entitled to vote.

(b) Questions arising at a meeting shall be decided by a majority of those eligible to vote.

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

(4) **Participation in meetings by electronic means**

(a) A meeting may be held by suitable electronic means agreed by the charity trustees in which each participant may communicate with all the other participants.

(b) Any charity trustee participating at a meeting by suitable electronic means agreed by the charity trustees in which a participant or participants may communicate with all the other participants shall qualify as being present at the meeting.

(c) Meetings held by electronic means must comply with rules for meetings, including chairing and the taking of minutes.

16. Membership of the CIO

(1) The members of the CIO shall be its charity trustees for the time being. The only persons eligible to be members of the CIO are its charity trustees. Membership of the CIO cannot be transferred to anyone else.

(2) Any member and charity trustee who ceases to be a charity trustee automatically ceases to be a member of the CIO.

[17. Informal or associate (non-voting) membership

(1) [The charity trustees may create associate or other classes of non-voting membership, and may determine the rights and obligations of any such members (including payment of membership fees), and the conditions for admission to, and termination of membership of any such class of members.

(2) Other references in this constitution to "members" and "membership" do not apply to non-voting members, and non-voting members do not qualify as members for any purpose under the Charities Acts, General Regulations or Dissolution Regulations.]

18. Decisions which must be made by the members of the CIO

(1) Any decision to:

(a) amend the constitution of the CIO;

(b) amalgamate the CIO with, or transfer its undertaking to, one or more other CIOs, in accordance with the Charities Act 2011; or

(c) wind up or dissolve the CIO (including transferring its business to any other charity)

must be made by a resolution of the members of the CIO (rather than a resolution of the charity trustees).

(2) Decisions of the members may be made either:

(a) by resolution at a general meeting; or

(b) by resolution in writing, in accordance with sub-clause (4) of this clause.

(3) Any decision specified in sub-clause (1) of this clause must be made in accordance with the provisions of clause [28] (amendment of constitution), clause [29] (Voluntary winding up or dissolution), or the provisions of the Charities Act 2011, the General Regulations or the Dissolution Regulations as applicable. Those provisions require the resolution to be agreed by a 75% majority of those members voting at a general meeting, or agreed by all members in

writing.

(4) Except where a resolution in writing must be agreed by all the members, such a resolution may be agreed by a simple majority of all the members who are entitled to vote on it. Such a resolution shall be effective provided that:

(a) a copy of the proposed resolution has been sent to all the members eligible to vote; and

(b) the required majority of members has signified its agreement to the resolution in a document or documents which are received at the principal office within the period of 28 days beginning with the circulation date. The document signifying a member's agreement must be authenticated by their signature, by a statement of their identity accompanying the document, or in such other manner as the CIO has specified.

The resolution in writing may comprise several copies to which one or more members has signified their agreement. Eligibility to vote on the resolution is limited to members who are members of the CIO on the date when the proposal is first circulated.

19. General meetings of members

(1) Calling of general meetings of members

The charity trustees may designate any of their meetings as a general meeting of the members of the CIO. The purpose of such a meeting is to discharge any business which must by law be discharged by a resolution of the members of the CIO as specified in clause [18] (Decisions which must be made by the members of the CIO).

(2) Notice of general meetings of members

(a) The minimum period of notice required to hold a general meeting of the members of the CIO is [14] days.

(b) Except where a specified period of notice is strictly required by another clause in this constitution, by the Charities Act 2011 or by the General Regulations, a general meeting may be called by shorter notice if it is so agreed by a majority of the members of the CIO.

(c) Proof that an envelope containing a notice was properly addressed, prepaid and posted; or that an electronic form of notice was properly addressed and sent, shall be conclusive evidence that the notice was given. Notice shall be deemed to be given 48 hours after it was posted or sent.

(3) **Procedure at general meetings of members**

The provisions in clause 15 (2)-(4) governing the chairing of meetings, procedure at meetings and participation in meetings by electronic means apply to any general meeting of the members, with all references to trustees to be taken as references to members.

20. Saving provisions

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

- who was disqualified from holding office;
- who had previously retired or who had been obliged by the constitution to vacate office;
- who was not entitled to vote on the matter, whether by reason of a conflict of interest or otherwise;
- for whom there is a technical defect in their appointment as a trustee of which the trustees were unaware at the time;

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 7 (Conflicts of interest).

21. Execution of documents

(1) The CIO shall execute documents either by signature or by affixing its seal (if it has one).

(2) A document is validly executed by signature if it is signed by at least two of the charity trustees.

(3) [If the CIO has a seal:

(a) it must comply with the provisions of the General Regulations; and

(b) the seal must only be used by the authority of the charity trustees or of a committee of charity trustees duly authorised by the charity trustees. The charity trustees may determine who shall sign any document to which the seal is affixed and unless otherwise so determined it shall be signed by two charity trustees.]

22. Use of electronic communications

[(1) General]

The CIO will comply with the requirements of the Communications Provisions in the General Regulations and in particular:

(a) the requirement to provide within 21 days to any member on request a hard copy of any document or information sent to the member otherwise than in hard copy form;

(b) any requirements to provide information to the Commission in a particular form or manner.

23. Keeping of Registers

The CIO must comply with its obligations under the General Regulations in relation to the keeping of, and provision of access to, a (combined) register of its members and charity trustees.

24. Minutes

The charity trustees must keep minutes of all:

(1) [appointments of officers made by the charity trustees].

(2) proceedings at general meetings of the CIO;

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

- the names of the trustees present at the meeting;
- the decisions made at the meetings; and
- where appropriate the reasons for the decisions;

(4) decisions made by the charity trustees otherwise than in meetings.

25. Accounting records, accounts, annual reports and returns, register maintenance

(1) The charity trustees must comply with the requirements of the Charities Act 2011 with regard to the keeping of accounting records, to the preparation and scrutiny of statements of account, and to the preparation of annual reports and returns. The statements of account, reports and returns must be sent to the Charity Commission, regardless of the income of the CIO, within 10 months of the financial year end.

(2) The charity trustees must comply with their obligation to inform the Commission within 28 days of any change in the particulars of the CIO entered on the Central Register of Charities.

26. Rules

The charity trustees may from time to time make such reasonable and proper rules or byelaws as they may deem necessary or expedient for the proper conduct and management of the CIO, but such rules or bye laws must not be inconsistent with any provision of this constitution. Copies of any such rules or bye laws currently in force must be made available to any member of the CIO on request.

27. Disputes

If a dispute arises between members of the CIO 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.

28. Amendment of constitution

As provided by sections 224-227 of the Charities Act 2011:

(1) This constitution can only be amended:

(a) by resolution agreed in writing by all members of the CIO; or

(b) by a resolution passed by a 75% majority of those voting at a general meeting of the members of the CIO called in accordance with clause 19 (General meetings of members).

(2) Any alteration of the CIO's objects, of any provision of the CIO's constitution directing the application of property on its dissolution or any provision of the CIO's constitution where the alteration would provide authorisation for any benefit to be obtained by charity trustees or members of the CIO or persons connected with them, requires the prior written consent of the Charity Commission.

(3) No amendment that is inconsistent with the provisions of the Charities Act 2011 or the General Regulations shall be valid.

(4) A copy of every resolution amending the constitution, together with a copy of the CIO's constitution as amended must be sent to the Commission by the end of the period of 15 days beginning with the date of passing of the resolution.

29. Voluntary winding up or dissolution

(1) As provided by the Dissolution Regulations, the CIO may be dissolved by resolution of its members. Any decision by the members to wind up or dissolve the CIO can only be made:

(a) at a general meeting of the members of the CIO called in accordance with clause 19 (General meetings of members), of which not less than 14 days' notice has been given to those eligible to attend and vote:

(i) by a resolution passed by a 75% majority of those voting, or

(ii) by a resolution passed by decision taken without a vote and without any expression of dissent in response to the question put to the general meeting; or

(b) by a resolution agreed in writing by all members of the CIO.

(2) Subject to the payment of all the CIO's debts:

(a) Any resolution for the winding up of the CIO, or for the dissolution of the CIO without winding up, may contain a provision directing how any remaining assets of the CIO shall be applied.

(b) If the resolution does not contain such a provision, the charity trustees must decide how any remaining assets of the CIO shall be applied.

(c) In either case the remaining assets must be applied for charitable purposes the same as or similar to those of the CIO.

(3) The CIO must observe the requirements of the Dissolution Regulations in applying to the Commission for the CIO to be removed from the Register of Charities, and in particular:

(a) the charity trustees must send with their application to the Commission:

(i) a copy of the resolution passed by the members of the CIO;

(ii) a declaration by the charity trustees that any debts and other liabilities of the CIO have been settled or otherwise provided for in full; and

(iii) a statement by the charity trustees setting out the way in which any property of the CIO has been or is to be applied prior to its dissolution in accordance with this constitution;

(b) the charity trustees must ensure that a copy of the application is sent within seven days to every member and employee of the

CIO, and to any charity trustee of the CIO who was not privy to the application.

(4) If the CIO is to be wound up or dissolved in any other circumstances, the provisions of the Dissolution Regulations must be followed.

30. Interpretation

In this constitution:

"**connected person**" means:

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

(b) the spouse or civil partner of the charity trustee or of any person falling within sub-clause (a) above;

(c) a person carrying on business in partnership with the charity trustee or with any person falling within sub-clause (a) or (b) above;

(d) an institution which is controlled –

(i) by the charity trustee or any connected person falling within sub-clause (a), (b), or (c) above; or

(ii) by two or more persons falling within sub-clause (d)(i), when taken together

(e) a body corporate in which –

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

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

Section 118 of the Charities Act 2011 apply for the purposes of interpreting the terms used in this constitution.

"General Regulations" means the Charitable Incorporated Organisations (General) Regulations 2012.

“Dissolution Regulations” means the Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012.

The **“Communications Provisions”** means the Communications Provisions in [Part 9, Chapter 4] of the General Regulations.

“charity trustee” means a charity trustee of the CIO.

A **“poll”** means a counted vote or ballot, usually (but not necessarily) in writing.

Appendix 1 – Optional provisions

The following provisions do not form part of the 'Foundation' model constitution but are available as options under clauses 19 (General meetings of members) and 22 (Use of electronic communications).

For CIOs intending to include these powers in their constitutions, we recommend that you use the following wording. Notes on these clauses are included in Appendix 2.

General meetings of members

(4) **Proxy voting**

(a) Any member of the CIO may appoint another person as a proxy to exercise all or any of that member's rights to attend, speak and vote at a general meeting of the CIO. Proxies must be appointed by a notice in writing (a "proxy notice") which:

(i) states the name and address of the member appointing the proxy;

(ii) identifies the person appointed to be that member's proxy and the general meeting in relation to which that person is appointed;

(iii) is signed by or on behalf of the member appointing the proxy, or is authenticated in such manner as the CIO may determine; and

(iv) is delivered to the CIO in accordance with the constitution and any instructions contained in the notice of the general meeting to which they relate.

(b) The CIO may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.

(c) Proxy notices may (but do not have to) specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.

(d) Unless a proxy notice indicates otherwise, it must be treated as:

(i) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and

(ii) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

(e) A member who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the CIO by or on behalf of that member.

(f) An appointment under a proxy notice may be revoked by delivering to the CIO a notice in writing given by or on behalf of the member by whom or on whose behalf the proxy notice was given.

(g) A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.

(h) If a proxy notice is not signed or authenticated by the member appointing the proxy, it must be accompanied by written evidence that the person who signed or authenticated it on that member's behalf had authority to do so.

(5) **Postal Voting**

(a) The CIO may, if the charity trustees so decide, allow the members to vote by post or electronic mail ("email") to elect charity trustees or to make a decision on any matter that is being decided at a general meeting of the members.

(b) The charity trustees must appoint at least two persons independent of the CIO to serve as scrutineers to supervise the conduct of the postal/email ballot and the counting of votes.

(c) If postal and/or email voting is to be allowed on a matter, the CIO must send to members of the CIO not less than [21] days before the deadline for receipt of votes cast in this way:

(i) a notice by email, if the member has agreed to receive notices in this way under clause [22] (Use of electronic communications), including an explanation of the purpose of the vote and the voting procedure to be followed by the member, and a voting form capable of being returned by email or post to the CIO, containing details of the resolution being put to a vote, or of the candidates for election, as applicable;

(ii) a notice by post to all other members, including a written explanation of the purpose of the postal vote and the voting procedure to be followed by the member; and a postal voting form containing details of the resolution being put to a vote, or of the candidates for election, as applicable.

(d) The voting procedure must require all forms returned by post to be in an envelope with the member's name and signature, and nothing else, on the outside, inside another envelope addressed to 'The Scrutineers for [name of CIO]', at the CIO's principal office or such other postal address as is specified in the voting procedure.

(e) The voting procedure for votes cast by email must require the member's name to be at the top of the email, and the email must be authenticated in the manner specified in the voting procedure.

(f) Email votes must be returned to an email address used only for this purpose and must be accessed only by a scrutineer.

(g) The voting procedure must specify the closing date and time for receipt of votes, and must state that any votes received after the closing date or not complying with the voting procedure will be invalid and not be counted.

(h) The scrutineers must make a list of names of members casting valid votes, and a separate list of members casting votes which

were invalid. These lists must be provided to a charity trustee or other person overseeing admission to, and voting at, the general meeting. A member who has cast a valid postal or email vote must not vote at the meeting, and must not be counted in the quorum for any part of the meeting on which he, she or it has already cast a valid vote. A member who has cast an invalid vote by post or email is allowed to vote at the meeting and counts towards the quorum.

(i) For postal votes, the scrutineers must retain the internal envelopes (with the member's name and signature). For email votes, the scrutineers must cut off and retain any part of the email that includes the member's name. In each case, a scrutineer must record on this evidence of the member's name that the vote has been counted, or if the vote has been declared invalid, the reason for such declaration.

(j) Votes cast by post or email must be counted by all the scrutineers before the meeting at which the vote is to be taken. The scrutineers must provide to the person chairing the meeting written confirmation of the number of valid votes received by post and email and the number of votes received which were invalid.

(k) The scrutineers must not disclose the result of the postal/email ballot until after votes taken by hand or by poll at the meeting, or by poll after the meeting, have been counted. Only at this point shall the scrutineers declare the result of the valid votes received, and these votes shall be included in the declaration of the result of the vote.

(l) Following the final declaration of the result of the vote, the scrutineers must provide to a charity trustee or other authorised person bundles containing the evidence of members submitting valid postal votes; evidence of members submitting valid email votes; evidence of invalid votes; the valid votes; and the invalid votes.

(m) Any dispute about the conduct of a postal or email ballot must be referred initially to a panel set up by the charity trustees, to consist of two trustees and two persons

independent of the CIO. If the dispute cannot be satisfactorily resolved by the panel, it must be referred to the Electoral Reform Services.

Use of electronic communications

(2) **To the CIO**

Any member or charity trustee of the CIO may communicate electronically with the CIO to an address specified by the CIO for the purpose, so long as the communication is authenticated in a manner which is satisfactory to the CIO.

(3) **By the CIO**

(a) Any member or charity trustee of the CIO, by providing the CIO with his or her email address or similar, is taken to have agreed to receive communications from the CIO in electronic form at that address, unless the member has indicated to the CIO his or her unwillingness to receive such communications in that form.

(b) The charity trustees may, subject to compliance with any legal requirements, by means of publication on its website:

(i) provide the members with the notice referred to in clause 19(2) (Notice of general meetings);

(ii) give charity trustees notice of their meetings in accordance with clause 15(1) (Calling meetings); [and

(iii) submit any proposal to the members or charity trustees for decision by written resolution or postal vote in accordance with the CIO's powers under clause 18 (Members' decisions), 18(4) (Decisions taken by resolution in writing), or [[the provisions for postal voting] (if you have included this optional provision, please insert the correct clause number here)].

(c) The charity trustees must –

(i) take reasonable steps to ensure that members and charity trustees are promptly notified of the publication of any such notice or proposal;

(ii) send any such notice or proposal in hard copy form to any member or charity trustee who has not consented to receive communications in electronic form.

Appendix 2 – Guidance notes

These explanatory notes are for advice and reference only and do not form part of the text of the constitution.

Date of constitution

Inserting the date of the constitution is good practice, and helps to ensure everyone has the same document. The date to enter here is the date the constitution, or any amendment to it, has taken effect. Leave this undated until the constitution has been registered or insert the date that the last amendment to the constitution took effect.

Clause 1 - Name

You must include the name of the CIO in the constitution. In general, the Commission can accept any charity name unless it would be misleading, offensive or too similar to the name or working name of an existing charity (unless the CIO is replacing that charity). The Commission has powers to require a charity to change its name if this happens. Further information on this is provided in our publication How to choose a charity name and Registering as a charity (CC21) which are available on our website. There are also legal restrictions on using the same name as an existing company (unless it is a charitable company that is converting to a CIO) or as a former company or CIO that underwent insolvent liquidation – if in doubt seek professional advice.

Clause 2 - Principal office

The constitution must state whether the CIO's principal office is in England or Wales.

Clause 3 – Objects

The CIO must have exclusively charitable objects which you must set out in the constitution. Guidance on appropriate wording is available on our website. The key elements to include are:

- the purpose or purposes for which the CIO is being established;
- the people who can benefit; and, if appropriate;
- any geographic limits defining the area of benefit. If you 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 this happens in future, contact the Commission for advice on amending the objects.

NB. If you cannot fit your objects in the space provided, please include them on a separate piece of paper and submit this with the constitution

If the CIO needs to be recognised as a charity in Scotland and/or Northern Ireland, you will need to include the relevant parts of the wording in square brackets to meet the requirements of charity law in those countries.

Clause 4 - Powers

The Charities Act 2011 ('2011 Act') gives a CIO power to do 'anything which is calculated to further its purposes or is conducive or incidental to doing so'. Strictly speaking, this is the only power a CIO needs. It can, however, be helpful to state certain powers explicitly in the constitution. In particular, a stated power to borrow [(1)] may reassure potential lenders. For this reason, we recommend that you include the example powers set out in the model (these include powers to buy, sell and lease property, employ staff and delegate investment management to a professional fund-manager). You may add other express powers here if you wish to.

You may include a constitutional provision restricting the general power in the 2011 Act. You must only include such a restriction if it is in the CIO's interests. You must not restrict the CIO's powers in a way that prevents it from disposing of its property. Restrictions on the powers are not provided for in this model and we recommend that you seek appropriate advice if you are considering this.

Clause 5 – Application of income and property

(1) reflects the provisions in the 2011 Act about a CIO charity trustee's entitlement to reasonable expenses and that they may benefit from trustee indemnity insurance. We recommend that you include it in the constitution, to inform people involved with the charity.

(2) reflects charity law requirements that the income and property of a CIO 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 6) or other express power). The trustees have a duty to ensure that the funds are correctly applied in accordance with this principle.

Clause 6 - Benefits and payments to charity trustees and connected persons

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 the interpretation clause). You should include this clause so that charity trustees are clear about the restrictions that apply to them; and unless you include it, the statutory provisions will apply. Even where trustees are allowed to benefit from the CIO, this must only happen where the benefit is in the interests of the CIO. Our guidance Trustee expenses and payments (CC11) provides more information about trustee benefits.

The model 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 CIO), subject to the stated controls. The option also allows other types of trustee benefit, subject to the Commission's prior consent.

You may restrict the benefits that the charity trustees will be allowed receive by altering these clauses, but if you later need to undo any of the restrictions it will require the Commission's consent to do so. Trustees do not have to use these powers just because they have them – we suggest you may find it simpler to keep to the model wording.

None of these options allows trustees to receive payment for acting as a trustee.

(2)(a) If all of the trustees will benefit from the activities of the CIO (for example, by using facilities available to all inhabitants of the area, such as a community centre), you may wish to substitute the following wording: "A charity trustee or connected person may receive a benefit from the CIO as a beneficiary provided that it is available generally to the beneficiaries of the CIO'

(2)(c) – The CIO should document the amount of, and the terms of, the trustee's or connected person's loan.

Clause 7 – Conflicts of interest and conflicts of loyalty

The General Regulations provide that a charity trustee of a CIO must not take part in any decision from which they would directly or indirectly benefit personally, unless they cannot reasonably be regarded as having a conflict of interest. This clause reminds the trustees of this requirement and also reflects wider good practice on managing conflicts of interest and conflicts of loyalty.

Clause 8 – Liability of members

The constitution must state whether members of the CIO *either:*

(a) have no liability to contribute to the assets of the CIO if it is wound up [option 1]

or:

(b) will be liable to contribute up to a maximum amount each if the CIO cannot meet its financial obligations when it is wound up [option 2].

Choose one option and delete the other. There is no preference or requirement in the legal framework for members to be liable to contribute anything.

If you choose option 2, you must insert the maximum amount (normally a nominal sum such as £1 or £10) for which members will be individually liable.

Clause 9 - Charity trustees

(1) This clause explains the charity trustees' legal function, legal duty to act in good faith, and statutory duty of care. We recommend that these should be set out in the constitution. The trustees cannot adopt a lower duty of care.

(2) You should include provisions setting out who is eligible to be a charity trustee of the CIO.

Sub-clause (a) requires all trustees to be individuals. It is legally permissible for a corporate body to be a charity trustee, but we would advise against a trustee body including both individuals and one or more corporate bodies.

Clauses 9-13 are drafted on the basis that the CIO will be governed by a trustee body made up of a number of individuals. If there is a good reason why the CIO will be administered by a single trustee (e.g., a corporation) or have any other trusteeship arrangement, you will need to amend these clauses, and should seek your own professional advice.

The suggested provisions in (b) reflect the law and (c) is based on good practice. Note that there are offences under the General Regulations concerning legally disqualified individuals acting as trustees.

If there are to be additional conditions for eligibility to be a charity trustee (beyond the legal restrictions), these must be stated in the constitution. For example, some charities add requirements to ensure that trustees have particular knowledge or experience (e.g., of the locality in which the CIO operates or of issues relevant to the people that the CIO serves).

(2)(d) Contains an optional restriction on the proportion of charity trustees who are under 18. The Commission encourages charities to involve young people in their governance in whatever ways are appropriate in the circumstances, but advises against having a board made up entirely of people under 18. CIO trustees cannot be under 16.

(3) The General Regulations require that the constitution must state the minimum number of charity trustees, if more than one.

We recommend setting and including minimum and maximum numbers of charity trustees.

A CIO can have a fixed number of trustees or a range between a maximum and minimum (which will give the CIO more flexibility). Option 1a provides for a specified maximum number. Option 1b provides for no maximum limit. Option 2 provides for other trustee appointment arrangements in accordance with clause 13 (see below).

Choose:

- Clause 9(3) Option 1 (and Option 1a *or* b) and Clause 10 Option 1

or

- Clause 9(3) Option 2 and Clause 10 Option 2 (selecting the relevant parts of each section).

Delete the options that you have not chosen.

For good practice, a CIO should have at least three charity trustees. If the number of trustees falls below the minimum specified in the constitution, the provisions in clause 12(3) will enable the remaining charity trustees to appoint new trustees and prevent the CIO from becoming inoperable.

A CIO should have enough charity trustees to effectively carry out their duties, but not too many so that it becomes impractical to hold effective trustee meetings where everyone can participate in decision making. We suggest a maximum of 12 trustees, but you may choose a higher or lower number depending on the CIO's needs.

(4) The General Regulations require that the constitution must state the names of the first charity trustees.

We recommend that you 'stagger' the terms of office of the first trustees to ensure that they do not all stand down at the same time. For example, if there are three trustees, one might be appointed for four years, one for three years and one for two years.

Clause 10 – Appointment of charity trustees

The constitution must make provision about the appointment of one or more persons to be Charity trustees.

This clause contains two options. Choose the corresponding options in Clause 9(3) and Clause 10.

Option 1 provides for new trustees to be appointed by the current trustees. This is the simplest, and likely to be the usual, arrangement for most foundation CIOs.

Option 2 provides for new trustees to be appointed in different ways including appointment by the current trustees, ex-officio (i.e., by virtue of holding a certain office, e.g., the local vicar) and nomination by another organisation. If you use option 2 you will need to amend it to meet the CIO's particular circumstances depending on the combination of different methods of appointment that will apply. These additional appointment methods are usually only appropriate for charities operating in particular local areas or with links to particular bodies, and where it is desired to

involve members of local councils, local churches or other external organisations on the trustee body.

It is good practice for trustees to be appointed for a fixed term, but you may instead provide for appointed trustees to be appointed indefinitely (i.e., for life or until they retire), in which case, delete the words in square brackets in clauses 9(4) and 10(1).

Clause 11 – Information for new charity trustees

This clause represents good practice; we recommend that you include it. It is vital for new trustees to have easy access to the information and training that they need in order to become effective members of the trustee body.

Clause 12 – Retirement and removal of charity trustees

The General Regulations require that the constitution must contain provisions setting out how charity trustees (and members) may retire or otherwise cease to hold office. The provisions in the model follow recommended good practice. There is an optional provision (sub clause (3)) to ensure that trustees do not serve for more than three consecutive terms, which may help to encourage regular turnover and change on the trustee board. (It is good practice to aim for a balance between continuity and change.)

If the trustees consider it appropriate for their charity to include a power to remove a trustee in specified circumstances, include it in this clause. You will need to explain why the trustees consider it appropriate to include this power and any safeguards on the exercise of this power suitable in the context of your charity. For example, the trustees of a religious charity may consider it appropriate to require the consent of the charity's religious authority before a trustee is removed.

Clause 13 - **Taking of decisions by charity trustees**

The power to take decisions by resolution in writing or electronic form outside meetings is optional, but if the trustees intend to use it, it must be included in the constitution. This sub-clause sets out the procedure for written resolutions.

Clause 14 - Delegation by charity trustees

This power is optional. We recommend you include it for the smooth-running of the CIO. The General Regulations give charity trustees of a CIO automatic power to delegate tasks to sub- committees, staff or agents; but without this additional constitutional power, the trustees will be unable to delegate any power to make decisions.

Sub-clauses (2)(a)-(c) reflect minimum good practice and are safeguards that should not be removed or diminished.

Clause 15 – Meetings of charity trustees

The General Regulations require that the Constitution must include provisions for the calling and running of meetings including the minimum number of trustees who shall form a quorum, appointment of a chair and, if trustees will be able to demand a poll (a counted vote, normally with voting papers), the procedure for conducting such a poll. The provisions in this model are good practice recommendations.

We have not included provision for trustees to demand a poll in this model constitution as feedback from our consultations suggested that most charities did not feel it was appropriate.

(3)(a) We recommend that the quorum for trustee meetings should not be less than one third of the number of trustees.

(3)(c) It is common, but not obligatory, for the Chair to have a casting vote. You may include or delete this power.

(4) – This clause is strongly recommended but will be required if one or more of the CIO's trustees may from time to time participate in meetings by telephone or other electronic means where participants may not all be able to see and hear each other.

Clause 16 – Membership of the CIO

A CIO must have one or more members. In this model constitution the charity trustees are the only members and become members automatically. If the CIO is going to have a wider voting membership you will need use the Association Model Constitution.

The constitution must set out who is eligible for membership and how someone becomes a member. The constitution must contain provision for

retirement and termination of membership. This model clause fulfils these requirements.

The General Regulations have been drafted on the basis that all members of a 'foundation' CIO will be charity trustees, and they will case to be members of the CIO when they cease to be trustees.

Clause 17 – Informal or associate (non-voting) membership

We advise CIOs to include this power if they contemplate having an informal (associate) membership. Membership of this kind does not count as membership for legal purposes, for example in terms of voting rights, legal obligations to act in the interests of the charity or any liability to contribute to the assets of the CIO on dissolution.

Clause 18 – Decisions which must be made by the members of the CIO

We recommend that you include these powers and provisions in full.

(1) This sub-clause acts as a reminder that certain decisions must be made by the members, rather than by the trustees (although in practice they are the same persons).

(2) This sub-clause allows decisions of the members to be made at a general meeting or by written resolution.

(3) The decisions specified in (1) are subject to special requirements; this sub-clause acts as a reminder of those requirements.

(4) This sub-clause sets out the procedure for written resolutions.

Clause 19 - General meetings of members

The General Regulations state that the constitution must make provision about the holding and calling of general meetings, and procedure at such meetings including the minimum number of members who shall form a quorum, whether members can demand a poll, and the procedure for conducting such a poll. The provisions in this clause are good practice recommendations.

(1) In a CIO with the 'foundation' model constitution, all of the members are trustees, so the trustees may decide which of their meetings should

be treated as a general meeting of the members (subject to the notice requirements in (2)).

(2)(a) The minimum period of notice for general meetings should be reasonable in the CIO's particular circumstances, to enable as many members (trustees) as possible to participate in such decisions. For the decisions mentioned in clause 18(1) the period of notice is specified as 14 days in the General Regulations.

(3) This sub-clause means that the usual procedural provisions for trustees' meetings will also apply when they meet as members.

Proxy voting – The General Regulations stipulate that members can only vote by proxy if there is a specific provision in the constitution, which must set out:

(a) how a member appoints a proxy;

(b) the rights of the proxy; and

(c) how the appointment is terminated.

For recommended wording (which does not form part of this model), please see Appendix 1 to this constitution.

Postal voting – The General Regulations stipulate that members can only use postal votes if there is a specific provision in the constitution, which must make provision about the circumstances in which, and the way in which, such votes may be given.

For recommended wording (which does not form part of this model), please see Appendix 1 to this constitution.

References to deemed notice periods are subject to Regulation 53 of the General Regulations and therefore exclude Saturdays and Sundays, Christmas Day, Good Friday and any bank holidays under the Banking and Financial Dealings Act 1971 in England and Wales.

Clause 20 – Saving provisions

We recommend that you include this clause, to reduce the risk of trustees' decisions being declared invalid for purely technical reasons.

Clause 21 – Execution of documents

We recommend that you include this clause, for clarity about how documents may be validly executed on behalf of the CIO. It includes provision for use of a seal, which the General Regulations stipulate must be included if the CIO is to have a seal (but there is no requirement to have one). The General Regulations require the full name of the CIO to be clearly written on the seal, and failure to comply with this is an offence.

Clause 22 – Use of electronic communications

The General Regulations include provisions governing the use of electronic communication, and we recommend that CIO trustees familiarise themselves with the requirements. Failure to comply with the requirement to provide a hard copy would constitute an offence.

The General Regulations state that if the CIO intends to automatically use electronic communication or a website to send formal communications to members, this must be stated in the constitution, which must also set out the circumstances in which this will happen. For suggested wording, please see Appendix 1 to this constitution.

Clause 23 – Keeping of registers

This clause reflects the requirements in the General Regulations that the CIO keeps registers of members and charity trustees and makes this information available for inspection by interested persons. This does not have to be stated in the constitution but is included to serve as a reminder.

Clause 24 – Minutes

This clause reflects the requirements of the General Regulations regarding record keeping. We recommend that this clause is included, to remind the trustees of their responsibilities. However, clause 24(1) should only be retained if the constitution includes other provisions on the appointment of officers.

Clause 25 – Accounting records (etc)

This clause reflects the trustees' duties under the 2011 Act. We recommend that this clause is included, to remind the trustees of their responsibilities.

Clause 26 - Rules

We recommend that this power should be included for clarity, but charities automatically have this power and it does not have to be stated in the constitution. It is important that members are made aware of, and can easily obtain, copies of any rules.

Clause 27 – Disputes

It is good practice to include provisions for dealing with any disputes that arise between members of the CIO. 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.

Clause 28 – Amendment of constitution

Before phase 3 of the Charities Act 2022 comes into force, this clause reflects the CIOs' statutory power of amendment in sections 224-227 of the Charities Act 2011. A CIO's constitution should include these provisions for ease of reference. The constitution of a CIO cannot extend the statutory power of constitutional amendment, but the General Regulations provide that you may include additional restrictions in some or all cases, for example requiring a longer period of notice before the meeting, or a higher majority, for certain changes. Additional restrictions are not provided for in this model and if you are considering this, we recommend that you take appropriate advice. To request the Commission's consent to an amendment or to inform the Commission of an amendment, please complete our online form.

After phase 3 of the Charities Act 2022 comes into force, a regulated alteration of a CIO's objects under s.226 and 227 of the Charities Act 2011 does not take effect until it has been registered or later if the resolution containing the amendment specifies this. Any other amendment to the CIO's constitution takes effect on the date that the resolution containing the amendment is passed or a later date if the resolution containing the amendment specifies this.

Clause 29 - Voluntary winding up or dissolution

This clause reflects the provisions of the 2011 Act and the General Regulations and Dissolution Regulations. We recommend that it is

included in the constitution for ease of reference. It also highlights that there are other requirements in the Dissolution Regulations that the trustees must comply with, as there are offences for non- compliance. To inform the Commission of your CIO's dissolution, please complete our online form.

(2) The constitution must contain directions about how its property will be applied if it is wound up. Any assets remaining after the payment of debts must be applied for charitable purposes that are similar to those of the CIO.

(4) It is essential for trustees to be aware that if the CIO is unable to meet its financial obligations in full when it is wound up, the provisions in sub-clauses (1)-(3) do not apply, and the relevant provisions of the Dissolution Regulations must be followed. Failure to do so is not only an offence, but could lead to personal liability for the trustees.

Clause 30 - Interpretation

This clause explains some terms used in the rest of the constitution.