

Association of Charity Independent Examiners

FULL CONSTITUTION

EFFECTIVE FROM 1 OCTOBER 2007

A Name

The name of the Association is the Association of Charity Independent Examiners ("the Association").

B Administration

The Association and its property shall be administered and managed in accordance with this constitution by the Council Members of the Association, who are the Trustees of the Charity, constituted by clause H of this constitution ("the Council").

C Objects

The objects of the Association ("the objects") are to promote the greater effectiveness of charities in the United Kingdom in the achievement of their charitable objects:

- (1) by providing advice, support, and training to any person acting or wishing to act as an Independent Examiner of charity accounts;
- (2) by promoting and maintaining high standards of practice and professional conduct by its members; and
- (3) by providing charity trustees with information in connection with the selection and appointment of independent examiners.

D Powers

In furtherance of the objects, but not otherwise, the Council may exercise the following powers:

- (1) power to raise funds and to invite and receive contributions: provided that in raising funds the Council shall not undertake any substantial permanent trading activities and shall conform to any relevant requirements of the law;
- (2) power to buy, take on lease or take in exchange any property necessary for the achievement of the objects and to maintain and equip it for use;
- (3) power, subject to any consents required by law, to sell, lease or dispose of all or any part of the property of the Association;
- (4) power, subject to any consents required by law, to borrow money and to charge all or any part of the property of the Association with repayment of the money borrowed;
- (5) power:

(a) to employ such staff as are necessary for the proper pursuit of the objects and to make all reasonable and necessary provision for the payment of pensions and superannuation for staff and their dependants; and/or

(b) to contract with a person or firm to provide such services (a "contractor");

subject to the provision of Clause J;

(6) power to co-operate with other charities, voluntary bodies and statutory authorities operating in furtherance of the objects or of similar charitable purposes, and to exchange information and advice with them;

(7) power to establish or support any charitable trusts, associations or institutions formed for all or any of the objects;

(8) power to appoint and constitute such advisory committees as the Council may think fit; and

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

E Membership

(1) The Association shall have two classes of membership: Full Member and Associate Member. Unless otherwise stated, in this constitution the terms "member" and "members" shall include both classes of member.

(2) Associate Membership of the Association shall be open to any individual (over the age of 18 years) who is interested in furthering the work of the Association, and who agrees to abide by any Regulations issued by the Association.

(3) Full Membership of the Association shall be open to any individual who meets the requirement for Associate Membership and who also meets the requirements of clause F.

(4) Every member shall pay the subscription laid down from time to time by the Council applicable to his or her class of membership. No person shall remain a member if his/her subscription is more than 30 days overdue.

(5) The Council may terminate the membership of any individual, or may declare that a Full Member be re-classified to an Associate Member, where in the opinion of the Council the member has acted prejudicially to the interests of the Association: provided that the individual concerned shall have the right to be heard by the Council, accompanied by a friend, before a final decision is made. The friend may advise the member, but may not address the Council directly.

F Full Members

- (1) It is the duty of Full Members to set the highest standards in the practice of charity independent examinations.
- (2) No person shall be admitted to any category of Full Membership except by resolution of the Council.
- (3) The broad criteria to be used by the Council in admitting Full Members shall be issued in the form of regulations.
- (4) A Full Member shall be entitled to use designatory letters as determined by the Council after his/her name.

G Honorary President

The Annual General Meeting of the Association may appoint a suitable member of the Association to the Office of Honorary President (with the consent of the person so appointed).

H Council

- (1) The Council shall consist of not more than nine elected members and, in addition, not more than three co-opted members.
- (2) Only members of the Association may be Council Members, and a majority of the Council Members shall be Full Members. If at any time the number of Associate Members serving on the Council is more than the number of Full Members on the Council, the Council shall at its next meeting co-opt further Full Members (up to the maximum permitted) or require one or more Associate Members to resign from the Council, in order to leave the Full Members in a majority.
- (3)
 - (a) Except as provided below, three Council members shall be elected at each Annual General Meeting.
 - (b) In the event of a Council member ceasing to hold office after less than the full three-year term, the place thus vacated shall be open for election at the next Annual General Meeting, but the Council member so elected shall serve only for the remaining term of the place vacated.
- (4) At each Annual General Meeting, there shall be:
 - (a) an election for the minimum number (if any) of Full Members necessary to ensure that the majority of the Council will be Full Members; and
 - (b) an election for such further places on Council (if any) as are available in accordance with the provisions above, such places being open to any member.

- (5) At any time where there are vacancies on Council for different lengths of time, those candidates obtaining the most votes (whether under clause H(4)(a) or H(4)(b)) shall serve for the longer or longest periods of time, unless the Council members agree otherwise amongst themselves at the first Council meeting after the Annual General Meeting.
- (6) Each appointment of a co-opted member shall be made at a meeting of the Council called under clause K(1) and shall take effect from the end of that meeting, unless the appointment is to fill a place which has not then been vacated, in which case the appointment shall run from the date when the post becomes vacant. No-one may be appointed as a co-opted member if, as a result, more than one third of the Council Members would be co-opted members. The Council may also co-opt to fill a casual vacancy in the elected members until the next Annual General Meeting.
- (7) Individual Council Members shall be appointed by the Council to hold the positions of Chair of the Council, Vice-Chair of the Council, Treasurer of the Association, and such other positions as the Council considers appropriate. The positions of Chair, Vice-Chair and Treasurer shall be held only by Full Members.
- (8) Subject to (9) below, all Council Members shall retire from office no later than at the end of the third Annual General Meeting after the date on which they came into office, but they may be re-elected or re-appointed.
- (9) No person shall serve as a Council Member for more than eight consecutive years.
- (10) The proceedings of the Council shall not be invalidated by any vacancy among its number or by any failure to appoint or any defect in the appointment or qualification of a Council Member.
- (11) Nobody shall be appointed as a Council Member who would if appointed be disqualified under the provisions of clause I.
- (12) No person shall be entitled to act as a Council Member, whether on a first or on any subsequent entry into office, until after signing a declaration of acceptance and of willingness to act in accordance with the objects of the Association.

I Determination of Membership of Council

A Council Member shall cease to hold office if he or she:

- (1) is disqualified from acting as a Council Member by virtue of section 72 of the Charities Act 1993 (or any statutory re-enactment or modification of that provision); or
- (2) becomes incapable by reason of mental disorder, illness or injury of managing and administering his or her own affairs; or

- (3) is absent without the permission of the Council from all of its meetings held within a period of six months and the Council resolves that his or her office be vacated; or
- (4) notifies to the Council a wish to resign (but only if at least three Council Members will remain in office when the notice of resignation is to take effect).

J Application of the Income and Property

- (1) The income and property of the Association shall be applied solely towards the Promotion of the Objects.
- (2) A Council Member may pay out of, or be reimbursed from, the property of the Association reasonable expenses properly incurred by him or her when acting on behalf of the Association.
- (3) None of the income or property of the Association may be paid or transferred directly or indirectly by way of dividend bonus or otherwise by way of profit to any member of the Association. This does not prevent:
 - (a) a member who is not also a Council Member from receiving reasonable and proper remuneration for any goods or services supplied to the Association;
 - (b) a Council Member from:
 - (i) buying goods or services from the Association upon the same terms as other members or members of the public;
 - (ii) receiving a benefit from the Association in the capacity of a beneficiary of the Association, provided that the Council Members comply with the provisions of sub clause (6) of this clause, or as a member of the Association and upon the same terms as other members;
 - (c) the purchase of indemnity insurance for the Council Members against any liability that by virtue of any rule of law would otherwise attach to a Council Member or other officer in respect of any negligence, default breach of duty or breach of trust of which he or she may be guilty in relation to the Association but excluding:
 - (i) fines;
 - (ii) costs of unsuccessfully defending criminal prosecutions for offences arising out of the fraud, dishonesty or wilful or reckless misconduct of the Council Member or other officer;
 - (iii) liabilities to the Association that result from conduct that the Council Member or other officer knew or ought to have known was not in the best interests of the Association or in respect of which the person concerned did not care whether that conduct was in the best interests of the Association or not.

- (4) No Council Member may be paid or receive any other benefit for being a Council Member.
- (5) A Council Member may:
 - (a) sell goods, services or any interest in land to the Association;
 - (b) be employed by or receive any remuneration from the Association;
 - (c) receive any other financial benefit from the Association, if:
 - (d) he or she is not prevented from so doing by sub-clause (4) of this clause; and
 - (e) the benefit is permitted by sub-clause (3) of this clause; or
 - (f) the benefit is authorised by the Council Members in accordance with the conditions in sub-clause (6) of this clause.
- (6)
 - (a) If it is proposed that a Council Member should receive a benefit from the Association that is not already permitted under sub-clause (3) of this clause, he or she must:
 - (i) declare his or her interest in the proposal;
 - (ii) be absent from that part of any meeting at which the proposal is discussed and take no part in any discussion of it;
 - (iii) not be counted in determining whether the meeting is quorate;
 - (iv) not vote on the proposal.
 - (b) In cases covered by sub-clause (5) of this clause, those Council Members who do not stand to receive the proposed benefit must be satisfied that it is in the interests of the Association to contract with or employ that Council Member rather than with someone who is not a Council Member and they must record the reason for their decision in the minutes. In reaching that decision the Council Members must balance the advantage of contracting with or employing a Council Member against the disadvantage of doing so (especially the loss of the Council Member's services as a result of dealing with the Council Member's conflict of interest).
 - (c) The Council Members may only authorise a transaction falling within paragraphs 5(a) - (c) of this clause if the Council comprises a majority of Council Members who have not received any such benefit.
 - (d) If the Council Members fail to follow this procedure, the resolution to confer a benefit upon the Council Member will be void and the Council Member must repay to the Association the value of any benefit received by the Council Member from the Association.

- (7) A Council Member must absent himself or herself from any discussions of the Council Members in which it is possible that a conflict will arise between his or her duty to act solely in the interests of the Association and any personal interest (including but not limited to any personal financial interest) and take no part in the voting upon the matter.
- (8) In this Clause J, "Council Member" shall include any person firm or company connected with the Council Member.

K Meetings and proceedings of the Council

- (1) The Council shall hold at least two ordinary meetings each year, of which at least one will be a physical meeting. A special meeting may be called at any time by the Chair or by any two Council Members upon not less than 7 days' notice being given to the other Council Members of the matters to be discussed but if the matters include an appointment of a co-opted member then not less than 21 days' notice must be given.
- (2) The Chair shall take the chair at meetings of the Council. If the Chair is absent from any meeting, the Vice-Chair shall chair the meeting. If the Chair and Vice-Chair are both absent, the Council Members present shall choose one of their number to chair the meeting before any other business is transacted.
- (3) There shall be a quorum when at least one third of the numbers of Council Members for the time being or three Council Members, whichever is the greater, are present at a meeting.
- (4) Every matter shall be determined by a majority of votes of the Council Members present and voting on the question but, in the case of equality of votes, the chair of the meeting shall have a second or casting vote.
- (5) The Council may from time to time make and alter rules for the conduct of its business, the summoning and conduct of its meetings and the custody of the Association's documents. In the event that any rule is inconsistent with this Constitution, the Constitution shall prevail.
- (6) The Council may appoint one or more Committees for the purpose of making any inquiry or supervising or performing any function or duty which in the opinion of the Council would be more conveniently undertaken or carried out by a Committee: provided that all acts and proceedings of any such Committees shall be fully and promptly reported to the Council. All such Committees shall include at least two Council members, and may also include other members of the Association.
- (7) The Council shall keep minutes, in books kept for the purpose, of the proceedings at meetings of the Council and any Committee.
- (8) In this constitution the expression "meeting" includes, except where inconsistent with any legal obligation;

a physical meeting;
a video conference, an internet video facility or similar electronic method allowing simultaneous visual and audio participation; and
telephone conferencing.

L Control of Finance

The funds of the Association, including all donations, contributions and bequests, shall be paid into an account operated by the Council in the name of the Association at such bank as the Council shall from time to time decide. Council shall appoint not less than three cheque signatories. All cheques drawn on the account for amounts of £200 or more shall be signed by two signatories. For smaller amounts, a single signatory shall suffice where the Council considers this expedient.

M Property

- (1) Subject to the provisions of sub-clause (2) of this clause, the Council shall cause the title to:
 - (a) all land held by or in trust for the Association which is not vested in the Official Custodian for Charities; and
 - (b) all investments held by or on behalf of the Association;

to be vested either in a corporation entitled to act as custodian trustee or in not less than three individuals appointed by them as custodian trustees. Custodian trustees may be removed by the Council at its pleasure and shall act in accordance with the lawful directions of the Council. Provided they act only in accordance with the lawful directions of the Council, the custodian trustees shall not be liable for the acts and defaults of Council Members.

- (2) If a corporation entitled to act as custodian trustee has not been appointed to hold the property of the Association, the Council may permit any investments held by or in trust for the Association to be held in the name of a clearing bank, trust corporation or any stockbroking company that is a member of the London Stock Exchange (or any subsidiary of any such stockbroking company) as nominee for the Council, and may pay such nominee reasonable and proper remuneration for acting as such.

N Accounts

The Council shall comply with its obligations under the Charities Act 1993 (or any statutory re-enactment or modification of that Act) with regard to:

- (1) the keeping of accounting records for the Association;
- (2) the preparation of annual statements of account for the Association;
- (3) the auditing or independent examination of the statements of account of the Association; and

- (4) the transmission of the statements of account of the Association to the Charity Commission.

O Annual Report

The Council shall comply with its obligations under the Charities Act 1993 (or any statutory re-enactment or modification of that Act) with regard to the preparation of an annual report and its transmission to the Charity Commission.

P Annual Return

The Council shall comply its obligations under the Charities Act 1993 (or any statutory re-enactment or modification of that Act) with regard to the preparation of an annual return and its transmission to the Charity Commission.

Q Annual General Meeting

- (1) There shall be an Annual General Meeting of the Association in each calendar year.
- (2) Every Annual General Meeting shall be called by the Council. The Chair of the Council shall give at least 21 days' notice of the Annual General Meeting to all the members of the Association. All members of the Association shall be entitled to attend and vote at the meeting.
- (3) The Chair of the Council if present shall take the chair at all General Meetings, or in his/her absence, the Vice-Chair of the Council, and in the absence of both the Chair and Vice-Chair, the members present shall appoint a person to chair the meeting.
- (4) The Council shall present to each Annual General Meeting the report and accounts of the Association for the preceding financial year.
- (5) Nominations for election to the Council shall be made by members of the Association in writing and shall be in the hands of the General Secretary at least seven days before the Annual General Meeting. Should nominations exceed vacancies, election shall be by ballot, and provided that the Association has at least 25 Full Members at the date of the Annual General Meeting, there shall be two ballots:
 - (a) for five places on the Council open only to Full Members of the Association; and
 - (b) for a further four places on the Council open to any member of the Association.

R Special General Meetings

- (1) The Council may call a Special General Meeting of the Association at any time.

- (2) If at least ten members request such a meeting in writing stating the business to be considered the Chair of the Council shall call such a meeting.
- (3) At least 21 days' notice shall be given for any Special General Meeting and the notice shall state the business to be discussed.

S Procedure at General Meetings

- (1) Each member of the Association shall have one vote.
- (2) The Council shall ensure that a full record of proceedings at every General Meeting of the Association shall be kept.
- (3) There shall be a quorum when at least one tenth of the number of members of the Association for the time being or ten members of the Association, whichever is the greater, are present at any General Meeting.
- (4) Any business of a Special General Meeting may, at the discretion of the Council, instead be transacted by a postal vote of all members: provided that in any postal vote at least 21 days shall be allowed between the date of despatch of voting papers and the deadline for their return. Any reference in this constitution to a General Meeting shall be deemed to include a postal vote conducted in accordance with this clause.

T Notices

Any notice required to be served on any member of the Association shall be in writing and shall be served by the Council or senior member of staff on any member either personally or by sending it through the post in a prepaid letter addressed to such member at his or her last known address in the United Kingdom, and any letter so sent shall be deemed to have been received within 10 days of posting.

U Alterations to the Constitution

- (1) Subject to the following provisions of this clause, the Constitution may be altered by a resolution passed by not less than two thirds of the members present and voting at a General Meeting, or in a postal vote under the provisions of clause S(4). The notice of the General Meeting or the papers distributed for a postal vote shall include notice of the resolution, setting out the terms of the alteration proposed.
- (2) No alteration may be made to clause A (the name of charity clause), clause C (the objects clause), clause J (Application of the Income and Property), clause V (the dissolution clause) or this clause without the prior consent in writing of the Charity Commissioners.
- (3) No alteration may be made to the Constitution which would have the effect of making the Association cease to be a charity at law.
- (4) The Council shall send promptly to the Charity Commission a copy of any alteration made to the Constitution under this clause.

V Dissolution

- (1) If the Council decides that it is necessary or advisable to dissolve the Association it shall call a Special General Meeting, stating the terms of the resolution to be proposed.
- (2) If the proposal is confirmed by a two-thirds majority of those present and voting the Council shall have power to realise any assets held by or on behalf of the Association.
- (3) Any assets remaining after the satisfaction of any proper debts and liabilities shall be given or transferred to such other charitable institution or institutions having objects similar to the objects of the Association as the members of the Association may determine or, failing that, shall be applied for some other charitable purpose.
- (4) Nothing in this constitution shall authorise an application of the property of the Association for purposes which are not charitable in accordance with section 7 Charities and Trustee Investment (Scotland) Act 2005.
- (5) A copy of the statement of accounts, or account and statement, for the final accounting period of the Association shall be sent to the Charity Commission.

W Regulations

The Council may from time to time make regulations concerning:

- (1) the Code of Ethics of the Association;
- (2) the criteria for admission of Full Members; and
- (3) any other matters which, in its opinion, are necessary for the proper pursuit of the objects;

provided that, in the event of any conflict between a regulation and the Constitution, the Constitution shall prevail.

X Interpretation

This Constitution shall be interpreted in accordance with the laws of England.