

**CONSTITUTION**  
**Of**  
**Scran Academy SCIO**

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## **GENERAL**

### **Type of organisation**

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

### **Scottish principal office**

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

### **Name**

- 3 The name of the organisation is Scran Academy SCIO.

### **Purposes**

- 4 The organisation's purposes are:
  - 4.1 to promote and assist with the provision of activities provided in the interest of social welfare, designed to improve the lives of young people primarily across Edinburgh;
  - 4.2 to help young people, through the implementation of a catering social enterprise and other educational activities, to develop their capabilities so that they may overcome life barriers and realise their full potential, specifically by:
    - 4.2.1 providing alternative education programmes that enable young people with learning barriers to manage mainstream education and successfully access employment opportunities;
    - 4.2.2 providing good value and nutritious meals for young people attending schools in economically and socially challenged parts of Edinburgh; and
    - 4.2.3 delivering a range of training so that young people may progress to national academic qualifications, accreditation and other achievements;
  - 4.3 to act as a resource for young people by providing advice and assistance and organising programmes that allow young people to realise their full potential in learning work and life; and
  - 4.4 more generally:
    - 4.4.1 to support the most vulnerable young people based in schools in Edinburgh to transition beyond the classroom into the workplace and wider life;

- 4.4.2 to offer young people pre-work and pre-apprenticeship development journeys within a social enterprise; and
- 4.4.3 to adopt an approach that focuses on what young people can do rather than what they do not have.

### **Powers**

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

### **Liability of members**

- 7 The members of the organisation have no liability to pay any sums to help to meet the debts (or other liabilities) of the organisation if it is wound up; accordingly, if the organisation is unable to meet its debts, the members will not be held responsible.
- 8 The members and charity trustees have certain legal duties under the Charities and Trustee Investment (Scotland) Act 2005; and clause 7 does not exclude (or limit) any personal liabilities they might incur if they are in breach of those duties or in breach of other legal obligations or duties that apply to them personally.

### **General structure**

- 9 The structure of the organisation consists of:-
- 9.1 the MEMBERS - who have the right to attend members' meetings (including any annual general meeting) and have important powers under the constitution; in particular, the members appoint people to serve on the board and take decisions on changes to the constitution itself;
- 9.2 the BOARD - who hold regular meetings, and generally control the activities of the organisation; for example, the board is responsible for monitoring and controlling the financial position of the organisation.
- 10 The people serving on the board are referred to in this constitution as TRUSTEES.

### **MEMBERS**

#### **Number of members**

- 11 There is no limit on the maximum number of members.

12 The minimum number of members is two.

### **Qualifications for membership**

13 Membership will be open to any individual aged 14 or over who is:

13.1 a beneficiary or service user of Scran Academy provision;

13.2 family, guardian or friend of those involved in Scran Academy;

13.3 member of the local community in which programmes are delivered – such as community council member, councillor or local youth forum;

13.4 from a partner organisation, connected agency or school; or

13.5 a volunteer, donor or supporter of the work delivered.

14 Employees of the organisation are not eligible for membership.

### **Application for membership**

15 Any person who wishes to become a member must request this in writing to the organisation, by indicating this including their name, address and e-mail address.

16 The board may accept/refuse/revoke any person to membership, and will provide reasonable explanation for any refusal or revocation.

17 The board must notify each applicant promptly (in writing or by e-mail) of any decision outlined in clause 16.

### **Membership subscription**

18 No compulsory membership subscription will be payable.

### **Register of members**

19 The board must keep a register of members, setting out:

19.1 for each current member:

19.1.1 their full name, address and e-mail address; and

19.1.2 the date on which they were registered as a member of the organisation; and

19.2 for each former member - for at least six years from the date on which they ceased to be a member:

19.2.1 their name; and

19.2.2 the date on which they ceased to be a member.

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

20.1 which arises from a resolution of the board or a resolution passed by the members of the organisation; or

20.2 which is notified to the organisation.

21 If a member or charity trustee of the organisation requests a copy of the register of members, the board must ensure that a copy is supplied to them within 28 days, providing the request is reasonable; if the request is made by a member (rather than a charity trustee), the board may provide a copy which has the addresses blanked out.

### **Withdrawal from membership**

22 Any person who wants to withdraw from membership must give a written notice of withdrawal to the organisation, signed by them; they will cease to be a member as from the time when the notice is received by the organisation.

### **Transfer of membership**

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

### **Re-registration of members**

24 The board may, at any time, issue notices to the members requiring them to confirm that they wish to remain as members of the organisation, and allowing them a period of 28 days (running from the date of issue of the notice) to provide that confirmation to the board.

25 If a member fails to provide confirmation to the board (in writing or by e-mail) that they wish to remain as a member of the organisation before the expiry of the 28-day period referred to in clause 24, the board may revoke their membership.

26 A notice under clause 24 will not be valid unless it refers specifically to the consequences (under clause 25) of failing to provide confirmation within the 28-day period.

### **Termination**

27 Membership of the organisation will terminate on death.

### **Members - general duties**

28 Each of the members has a duty to act in the interests of the organisation and seek, in good faith, to ensure that the organisation acts in a manner which is consistent with its charitable purposes.

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

## **Members' meetings**

- 29 The board must arrange a meeting of members (an annual general meeting or "AGM") in each calendar year.
- 30 The gap between one AGM and the next must not be longer than 15 months.
- 31 Notwithstanding clause 29, an AGM does not need to be held during the calendar year in which the organisation is formed; but the first AGM must still be held within 15 months of the date on which the organisation is formed.
- 32 The business of each AGM must include:
- 32.1 a report by the chair on the activities of the organisation;
  - 32.2 consideration of the annual accounts of the organisation; and
  - 32.3 the election/re-election of charity trustees, as referred to in clauses 61 to 64.
- 33 The board may arrange a special members' meeting at any time.

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

- 34 The board must arrange a special members' meeting if they are requested to do so by a notice signed (which may take the form of two or more documents in the same terms, each signed by one or more members) by members who amount to 5% or more of the total membership of the organisation at the time, providing:
- 34.1 the notice states the purposes for which the meeting is to be held; and
  - 34.2 those purposes are not inconsistent with the terms of this constitution, the Charities and Trustee (Investment) Scotland Act 2005 or any other statutory provision.
- 35 If the board receives a notice under clause 34, the date for the meeting which they arrange in accordance with the notice must not be later than 28 days from the date on which they received the notice.

## **Notice of members' meetings**

- 36 At least 14 clear days' notice must be given of any AGM or any special members' meeting.
- 37 The notice calling a members' meeting must specify in general terms what business is to be dealt with at the meeting; and

- 37.1 in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s); or
- 37.2 in the case of any other resolution falling within clause 49 (requirement for two-thirds majority) must set out the exact terms of the resolution.
- 38 The reference to “clear days” in clause 36 shall be taken to mean that, in calculating the period of notice:
  - 38.1 the day after the notices are posted (or sent by e-mail) should be excluded; and
  - 38.2 the day of the meeting itself should also be excluded.
- 39 Notice of every members' meeting must be given to all the members of the organisation, and to all the charity trustees; but the accidental omission to give notice to one or more members will not invalidate the proceedings at the meeting.
- 40 Any notice which requires to be given to a member under this constitution must be:
  - 40.1 sent by post to the member, at the address last notified by them to the organisation; or
  - 40.2 sent by e-mail to the member, at the e-mail address last notified by them to the organisation.

### **Procedure at members' meetings**

- 41 No valid decisions can be taken at any members' meeting unless a quorum is present.
- 42 The quorum for a members' meeting is 15 members, present in person unless the organisation has less than 15 members in which case a majority of members must be present in person.
- 43 If a quorum is not present within 15 minutes after the time at which a members' meeting was due to start - or if a quorum ceases to be present during a members' meeting - the meeting cannot proceed; and fresh notices of meeting will require to be sent out, to deal with the business (or remaining business) which was intended to be conducted.
- 44 The chair of the organisation should act as chairperson of each members' meeting.
- 45 If the chair of the organisation is not present within 15 minutes after the time at which the meeting was due to start (or is not willing to act as chairperson), the charity trustees present at the meeting must elect

(from among themselves) the person who will act as chairperson of that meeting.

- 46 The board may make arrangements in advance of a members' meeting to allow members to fully participate remotely (including by telephone or video conferencing), so long as all those participating in the meeting can communicate with each other; and all members may vote during the meeting. A member participating remotely by such means shall be deemed to be present in person at such members' meeting.

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

- 47 Every member has one vote, which must be given personally.
- 48 All decisions at members' meetings will be made by majority vote - with the exception of the types of resolution listed in clause 49.
- 49 The following resolutions will be valid only if passed by not less than two thirds of those voting on the resolution at a members' meeting (or if passed by way of a written resolution under clause 53):
- 49.1 a resolution amending the constitution;
  - 49.2 a resolution directing the board to take any particular step (or directing the board not to take any particular step);
  - 49.3 a resolution approving the amalgamation of the organisation with another SCIO (or approving the constitution of the new SCIO to be constituted as the successor pursuant to that amalgamation);
  - 49.4 a resolution to the effect that all of the organisation's property, rights and liabilities should be transferred to another SCIO (or agreeing to the transfer from another SCIO of all of its property, rights and liabilities);
  - 49.5 a resolution for the winding up or dissolution of the organisation.
- 50 If there is an equal number of votes for and against any resolution, the chairperson of the meeting will be entitled to a second (casting) vote.
- 51 A resolution put to the vote at a members' meeting will be decided on a show of hands - unless the chairperson (or at least two other members present at the meeting) ask for a secret ballot.
- 52 The chairperson will decide how any secret ballot is to be conducted, and they will declare the result of the ballot at the meeting.

### **Written resolutions by members**



- 53 A resolution agreed to in writing (or by e-mail) by all the members will be as valid as if it had been passed at a members' meeting; the date of the resolution will be taken to be the date on which the last member agreed to it.

## **Minutes**

- 54 The board must ensure that proper minutes are kept in relation to all members' meetings.
- 55 Minutes of members' meetings must include the names of those present; and (so far as possible) should be signed by the chairperson of the meeting.

## **BOARD**

### **Number of charity trustees**

- 56 The maximum number of charity trustees is 12. Out of that:
- 56.1 no more than 6 shall be charity trustees who were elected/appointed under clauses 61 and 62 (or deemed to have been appointed under clause 60); and
- 56.2 no more than 6 shall be charity trustees who were co-opted under the provisions of clauses 65 and 66.
- 57 The minimum number of charity trustees is 3.

### **Eligibility**

- 58 A person shall not be eligible for election/appointment to the board under clauses 61 to 64 unless they are a member of the organisation; a person appointed to the board under clause 65 need not, however, be a member of the organisation.
- 59 A person will not be eligible for election or appointment to the board if they are disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005.

### **Initial charity trustees**

- 60 The individuals who signed the charity trustee declaration forms which accompanied the application for incorporation of the organisation shall be deemed to have been appointed by the members as charity trustees with effect from the date of incorporation of the organisation.

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

- 61 At each AGM, the members may elect any member (unless they are debarred from membership under clause 59) to be a charity trustee.

- 62 The board may at any time appoint any member (unless they are debarred from membership under clause 59) to be a charity trustee.
- 63 At each AGM, all of the charity trustees elected/appointed under clauses 61 and 62 (and, in the case of the first AGM, those deemed to have been appointed under clause 60) shall retire from office – but shall then be eligible for re-election under clause 61.
- 64 A charity trustee retiring at an AGM will be deemed to have been re-elected unless:
- 64.1 they advise the board prior to the conclusion of the AGM that they do not wish to be re-appointed as a charity trustee; or
  - 64.2 an election process was held at the AGM and they were not among those elected/re-elected through that process; or
  - 64.3 a resolution for the re-election of that charity trustee was put to the AGM and was not carried.

#### **Appointment/re-appointment of co-opted charity trustees**

- 65 In addition to their powers under clause 62, the board may at any time appoint any non-member of the organisation to be a charity trustee (subject to clause 56, and providing they are not debarred from membership under clause 59) on the basis that they have specialist experience and/or skills which could be of assistance to the board.
- 66 At each AGM, all of the charity trustees appointed under clause 65 shall retire from office – but shall then be eligible for re-appointment under that clause.

#### **Termination of office**

- 67 A charity trustee will automatically cease to hold office if:
- 67.1 they become disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005;
  - 67.2 they become incapable for medical reasons of carrying out their duties as a charity trustee - but only if that has continued (or is expected to continue) for a period of more than six months;
  - 67.3 (in the case of a charity trustee elected/appointed under clauses 61 to 64) they cease to be a member of the organisation;
  - 67.4 they give the organisation a notice of resignation, signed by them;

- 67.5 they are absent (without good reason, in the opinion of the board) from more than three consecutive meetings of the board - but only if the board resolves to remove them from office;
  - 67.6 they are removed from office by resolution of the board on the grounds that they are considered to have committed a material breach of the code of conduct for charity trustees (as referred to in clause 84);
  - 67.7 they are removed from office by resolution of the board on the grounds that they are considered to have been in serious or persistent breach of their duties under section 66(1) or (2) of the Charities and Trustee Investment (Scotland) Act 2005; or
  - 67.8 they are removed from office by a resolution of the members passed at a members' meeting.
- 68 A resolution under paragraph 67.6, 67.7 or 67.8 shall be valid only if:
- 68.1 the charity trustee who is the subject of the resolution is given reasonable prior written notice of the grounds upon which the resolution for their removal is to be proposed;
  - 68.2 the charity trustee concerned is given the opportunity to address the meeting at which the resolution is proposed, prior to the resolution being put to the vote; and
  - 68.3 (in the case of a resolution under paragraph 67.6 or 67.7) at least two thirds (to the nearest round number) of the charity trustees then in office vote in favour of the resolution.

### **Register of charity trustees**

- 69 The board must keep a register of charity trustees, setting out
- 69.1 for each current charity trustee:
    - 69.1.1 their full name and address;
    - 69.1.2 the date on which they were appointed as a charity trustee; and
    - 69.1.3 any office held by them in the organisation;
  - 69.2 for each former charity trustee - for at least 6 years from the date on which they ceased to be a charity trustee:
    - 69.2.1 the name of the charity trustee;
    - 69.2.2 any office held by them in the organisation; and
    - 69.2.3 the date on which they ceased to be a charity trustee.

- 70 The board must ensure that the register of charity trustees is updated within 28 days of any change:
- 70.1 which arises from a resolution of the board or a resolution passed by the members of the organisation; or
  - 70.2 which is notified to the organisation.
- 71 If any person requests a copy of the register of charity trustees, the board must ensure that a copy is supplied to them within 28 days, providing the request is reasonable; if the request is made by a person who is not a charity trustee of the organisation, the board may provide a copy which has the addresses blanked out - if the organisation is satisfied that including that information is likely to jeopardise the safety or security of any person or premises.

### **Office-bearers**

- 72 The charity trustees must elect (from among themselves) a chair, a treasurer and a secretary.
- 73 In addition to the office-bearers required under clause 72, the charity trustees may elect (from among themselves) further office-bearers if they consider that appropriate.
- 74 All of the office-bearers will cease to hold office at the conclusion of each AGM, but may then be re-elected under clause 72 or 73.
- 75 A person elected to any office will automatically cease to hold that office:
- 75.1 if they cease to be a charity trustee; or
  - 75.2 if they give to the organisation a notice of resignation from that office, signed by them.

### **Powers of board**

- 76 Except where this constitution states otherwise, the organisation (and its assets and operations) will be managed by the board; and the board may exercise all the powers of the organisation.
- 77 A meeting of the board at which a quorum is present may exercise all powers exercisable by the board.
- 78 The members may, by way of a resolution passed in compliance with clause 49 (requirement for two-thirds majority), direct the board to take any particular step or direct the board not to take any particular step; and the board shall give effect to any such direction accordingly.

### **Charity trustees - general duties**

- 79 Each of the charity trustees has a duty, in exercising functions as a charity trustee, to act in the interests of the organisation; and, in particular, must:-
- 79.1 seek, in good faith, to ensure that the organisation acts in a manner which is in accordance with its purposes;
  - 79.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
  - 79.3 in circumstances giving rise to the possibility of a conflict of interest between the organisation and any other party:
    - 79.3.1 put the interests of the organisation before that of the other party; and
    - 79.3.2 where any other duty prevents them from doing so, disclose the conflicting interest to the organisation and refrain from participating in any deliberation or decision of the other charity trustees with regard to the matter in question; and
  - 79.4 ensure that the organisation complies with any direction, requirement, notice or duty imposed under or by virtue of the Charities and Trustee Investment (Scotland) Act 2005.
- 80 In addition to the duties outlined in clause 79, all of the charity trustees must take such steps as are reasonably practicable for the purpose of ensuring:
- 80.1 that any breach of any of those duties by a charity trustee is corrected by the charity trustee concerned and not repeated; and
  - 80.2 that any trustee who has been in serious and persistent breach of those duties is removed as a trustee.
- 81 Provided they have declared their interest - and have not voted on the question of whether or not the organisation should enter into the arrangement - a charity trustee will not be debarred from entering into an arrangement with the organisation in which they have a personal interest; and (subject to clause 82 and to the provisions relating to remuneration for services contained in the Charities and Trustee Investment (Scotland) Act 2005), they may retain any personal benefit which arises from that arrangement.
- 82 Subject to the provisions relating to remuneration for services contained in the Charities and Trustee Investment (Scotland) Act 2005, the charity trustees may serve as paid employees (full time or part time) of the organisation and may be given remuneration for

services provided to the organisation that go beyond the duties they owe the organisation as charity trustees.

- 83 The charity trustees may be paid all travelling and other expenses reasonably incurred by them in connection with carrying out their duties; this may include expenses relating to their attendance at meetings.

### **Code of conduct for charity trustees**

- 84 Each of the charity trustees shall comply with the code of conduct (incorporating detailed rules on conflict of interest) prescribed by the board from time to time.
- 85 The code of conduct referred to in clause 84 shall be supplemental to the provisions relating to the conduct of charity trustees contained in this constitution and the duties imposed on charity trustees under the Charities and Trustee Investment (Scotland) Act 2005; and all relevant provisions of this constitution shall be interpreted and applied in accordance with the provisions of the code of conduct in force from time to time.

## **DECISION-MAKING BY THE CHARITY TRUSTEES**

### **Notice of board meetings**

- 86 Any charity trustee may call a meeting of the board or ask the secretary to call a meeting of the board.
- 87 At least 7 days' notice must be given of each board meeting, unless (in the opinion of the person calling the meeting) there is a degree of urgency which makes that inappropriate.

### **Procedure at board meetings**

- 88 No valid decisions can be taken at a board meeting unless a quorum is present; the quorum for board meetings is 3 charity trustees, present in person.
- 89 If at any time the number of charity trustees in office falls below the number stated as the quorum in clause 88, the remaining charity trustee(s) will have power to fill the vacancies or call a members' meeting - but will not be able to take any other valid decisions.
- 90 The chair of the organisation should act as chairperson of each board meeting.
- 91 If the chair is not present within 15 minutes after the time at which the meeting was due to start (or is not willing to act as chairperson), the charity trustees present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.

- 92 Every charity trustee has one vote, which must be given personally.
- 93 All decisions at board meetings will be made by majority vote.
- 94 If there is an equal number of votes for and against any resolution, the chairperson of the meeting will be entitled to a second (casting) vote.
- 95 The board may, at its discretion, allow any person to attend and speak at a board meeting notwithstanding that they are not a charity trustee - but on the basis that they must not participate in decision-making.
- 96 A charity trustee must not vote at a board meeting (or at a meeting of a sub-committee) on any resolution which relates to a matter in which they have a personal interest or duty which conflicts (or may conflict) with the interests of the organisation; they must withdraw from the meeting while an item of that nature is being dealt with.
- 97 For the purposes of clause 96:
- 97.1 an interest held by an individual who is “connected” with the charity trustee under section 68(2) of the Charities and Trustee Investment (Scotland) Act 2005 (husband/wife, partner, child, parent, brother/sister etc) shall be deemed to be held by that charity trustee; and
- 97.2 a charity trustee will be deemed to have a personal interest in relation to a particular matter if a body in relation to which they are an employee, director, member of the management committee, officer or elected representative has an interest in that matter.

## **Minutes**

- 98 The board must ensure that proper minutes are kept in relation to all board meetings and meetings of sub-committees.
- 99 The minutes to be kept under clause 98 must include the names of those present; and (so far as possible) should be signed by the chairperson of the meeting.

## **ADMINISTRATION**

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

- 100 The board may delegate any of their powers to sub-committees; a sub-committee must include at least one charity trustee, but other members of a sub-committee need not be charity trustees.
- 101 The board may also delegate to the chair of the organisation (or the holder of any other post) such of their powers as they may consider appropriate.

- 102 When delegating powers under clause 100 or 101, the board must set out appropriate conditions (which must include an obligation to report regularly to the board).
- 103 Any delegation of powers under clause 100 or 101 may be revoked or altered by the board at any time.
- 104 The rules of procedure for each sub-committee, and the provisions relating to membership of each sub-committee, shall be set by the board.

### **Operation of accounts**

- 105 Subject to clause 106, the signatures of two signatories appointed by the board will be required in relation to all operations (other than the lodging of funds) on the bank and building society accounts held by the organisation; at least one out of the two signatures must be the signature of a charity trustee.
- 106 Where the organisation uses electronic facilities for the operation of any bank or building society account, the authorisations required for operations on that account must be consistent with the approach reflected in clause 105.

### **Accounting records and annual accounts**

- 107 The board must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.
- 108 The board must prepare annual accounts, complying with all relevant statutory requirements; if an audit is required under any statutory provisions (or if the board consider that an audit would be appropriate for some other reason), the board should ensure that an audit of the accounts is carried out by a qualified auditor.

## **MISCELLANEOUS**

### **Winding-up**

- 109 If the organisation is to be wound up or dissolved, the winding-up or dissolution process will be carried out in accordance with the procedures set out under the Charities and Trustee Investment (Scotland) Act 2005.
- 110 Any surplus assets available to the organisation immediately preceding its winding up or dissolution must be used for purposes which are the same as - or which closely resemble - the purposes of the organisation as set out in this constitution.

### **Alterations to the constitution**



- 111 This constitution may (subject to clause 112) be altered by resolution of the members passed at a members' meeting (subject to achieving the two thirds majority referred to in clause 49) or by way of a written resolution of the members.
- 112 The Charities and Trustee Investment (Scotland) Act 2005 prohibits taking certain steps (e.g. change of name, an alteration to the purposes, amalgamation, winding-up) without the consent of the Office of the Scottish Charity Regulator (OSCR).

### **Interpretation**

- 113 References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005 should be taken to include:
- 113.1 any statutory provision which adds to, modifies or replaces that Act; and
- 113.2 any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under paragraph 113.1 above.
- 114 In this constitution:
- 114.1 "charity" means a body which is either a "Scottish charity" within the meaning of section 13 of the Charities and Trustee Investment (Scotland) Act 2005 or a "charity" within the meaning of section 1 of the Charities Act 2011, providing (in either case) that its objects are limited to charitable purposes;
- 114.2 "charitable purpose" means a charitable purpose under section 7 of the Charities and Trustee Investment (Scotland) Act 2005 which is also regarded as a charitable purpose in relation to the application of the Taxes Acts.