

CONSTITUTION

of

LAYC

A Scottish Charitable Incorporated  
Organisation

2021  
ER/LA345 X003

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**LAWYERS**

**CONSTITUTION OF LAYC**

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## GENERAL

### Type of organisation

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

### Scottish principal office

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

### Name

- 3 The name of the organisation is “LAYC”.

### Purposes

- 4 This clause shall be interpreted as if it incorporates an over-riding qualification limiting the powers of LAYC such that any activity which would otherwise be permitted by the terms of the constitution may be carried on only if that activity furthers a purpose which is regarded as charitable. Subject to that overriding qualification, LAYC’s principal purpose is to provide the benefit of children and young people in the City of Edinburgh, East Lothian, Midlothian and West Lothian areas, without distinction of political, religious or other options by assisting the Local Authorities, statutory bodies, voluntary organisations and inhabitants in a common effort to advance education and to provide facilities in the interests of social welfare for recreation and other leisure time occupation with the object of improving the conditions of life for children and young people in the area of benefit and in furtherance thereof:-

- 4.1 to act as a link between member groups and the wider youth and children’s network;
- 4.2 to provide information/ advice to Members on matters affecting youth and children’s work;
- 4.3 to provide those services that support Member groups and serve the principal purpose;
- 4.4 to encourage public interest in youth and children’s work and to assist the formation of new groups where desired;
- 4.5 to undertake innovative work consistent with the principal purpose;
- 4.6 to raise funds to support the principal purpose; and
- 4.7 to co-operate with statutory bodies and with voluntary bodies, both within the area of benefit and outwith, which support LAYC’s purposes; and do all things which are lawful to promote the principal purpose.

### Powers

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

## Liability of members

- 7 The Members of LAYC 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 LAYC is unable to meet its debts, the Members will not be held responsible.
- 8 The Members and 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 LAYC consists of:-
- 9.1 the MEMBERS - who (on timely payment of the Annual Affiliation Fee) 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 ASSOCIATES – who (on timely payment of the Annual Affiliation Fee) have the right to attend events organised by LAYC; to receive newsletters and other publications, but who do not have rights as Members of LAYC and do not therefore have the right to vote or attend Members' meeting; and
  - 9.3 the BOARD - who hold regular meetings, and generally control the activities of LAYC; for example, the board is responsible for monitoring and controlling the financial position of LAYC.
- 10 The people serving on the board are referred to in this constitution as Trustees.

## MEMBERS

### Qualifications for membership

- 11 Membership is open to:-
- 11.1 any corporate body; and
  - 11.2 any individual who has been nominated for membership by an unincorporated body,
- who or which each meet the membership criteria set out in clause 13.
- 12 No more than one individual nominated under paragraph 11.1 by each unincorporated body may be a Member of LAYC at any given time.
- 13 Membership qualifications
- Membership is open to any youth and children's group or representative of such a group provided it:-
- 13.1 accepts the purposes of LAYC;
  - 13.2 has a membership/contact with more than 12 children or young people;
  - 13.3 holds regular meetings and offers more than one major activity;

- 13.4 keeps appropriate member records including those for insurance purposes;
  - 13.5 is operated on a not-for-profit basis;
  - 13.6 is not affiliated to or associated with any political party;
  - 13.7 has provided a copy of its constitution to LAYC;
  - 13.8 operates recruitment, selection and appointment procedures for youth and children's workers which safeguard young people and children;
  - 13.9 ensures its staff, volunteers and trustees are aware of child protection measures and adopt appropriate good practice;
  - 13.10 carries out such criminal record checks on youth and children's workers, volunteers and other adults involved in the running of their group as may be required by legislation or local authority regulations;
  - 13.11 does not allow individuals with any relevant previous conviction(s) such as might render them to be deemed not a fit person to be involved in any aspect of running of the group as determined by the legislation;
  - 13.12 does not operate as a uniform type organisation;
  - 13.13 by affiliating to LAYC will contribute and be beneficial to the work of LAYC in providing support to youth and children's work providers; and
  - 13.14 pays the Annual Affiliation Fee in place at the time.
- 14 Employees of LAYC are not eligible for membership.
- 15 An individual who supports the objectives of LAYC may apply to become an associate of LAYC (an "**Associate**"). Associates shall have the right to attend events organised by LAYC; to receive newsletters and other publications, but do not have rights as Members of LAYC and do not therefore have the right to vote or attend Members' meetings.

#### **Application for membership**

- 16 On incorporation, the Members of the SCIO shall comprise:-
- 16.1 those corporate bodies which were members of LAYC, the unincorporated organisation, immediately prior to the Conversion;
  - 16.2 representatives of unincorporated bodies which (i) were members of LAYC, the unincorporated organisation, immediately prior to the Conversion; and (ii) have nominated a representative to act as a Member prior to the Conversion; and
  - 16.3 the Trustees.

Such Members shall be deemed to have paid their Affiliation Fees to LAYC for the period to 30 November 2012.

- 17 In addition to those persons who become Members under article 16, any person or body who/which wishes to become a Member or an Associate must sign a written application along with a remittance to meet the Annual Affiliation Fee for membership.
- 18 In the case of an application by a corporate body under paragraph 11.1, the application must be signed by an appropriate officer of that body and must nominate a person to act as its representative in applying for membership, in exercising the rights of nomination and

nominating a new representative. Such nominations may also provide for an alternative nominee to represent the organisation when the primary nominee is not available. For as long as the organisation is a Member, such nomination shall continue until LAYC receives notification from the organisation of changes.

- 19 In the case of an application by an individual who has been nominated for membership by an unincorporated body under paragraph 11.2, the application must also be signed by an appropriate office bearer of the unincorporated body. Such nominations may also provide for an alternative nominee to represent the organisation when the primary nominee is not available. Such nomination shall continue until LAYC receives notification from the organisation of any changes.
- 20 The board shall delegate the consideration of applications received by LAYC to any employee of LAYC. That employee may, at his or her discretion, refuse to admit any person or body to membership or as an Associate.
- 21 A person whose application for membership or as an Associate has been rejected has the right to appeal to the board; the board will consider such an appeal at the next board meeting.
- 22 The board may, at its discretion, refuse to admit any person or body to membership or as an Associate.
- 23 Each applicant must be notified (in writing or by e-mail) of the decision on whether or not to admit him/her/it to membership or as an Associate. If the decision was to refuse admission, any remittance lodged by him/her under clause 16 shall be returned to the applicant.

#### **Membership subscription**

- 24 Members and Associates shall require to pay an annual membership subscription (the "**Annual Affiliation Fee**").
- 25 The Annual Affiliation Fees shall be payable when an initial application is made, and in subsequent years by 1 December in each year.
- 26 The board may vary the amount of the Annual Affiliation Fee and/or the date on which it falls due in each year.
- 27 If the Annual Affiliation Fee payable by any Member or Associate remains outstanding more than four weeks after the date on which it fell due - and providing he/she/it has been given at least one written reminder - the board may (at its entire discretion), by resolution to that effect, expel him/her from membership or as an Associate (and for the avoidance of doubt, there is no right of appeal to such expulsion).
- 28 A person who ceases (for whatever reason) to be a Member or an Associate shall not be entitled to any refund of the Annual Affiliation Fee.

#### **Register of members**

- 29 The board must keep a Register of Members, setting out:-
  - 29.1 for each current Member:-
    - 29.1.1 his/her/its full name and address;
    - 29.1.2 the date on which he/she/it was registered as a Member of LAYC; and
    - 29.1.3 (in the case of an individual nominated under paragraph 11.2) the name of the unincorporated body which nominated him/her for membership;

- 29.2 for each former Member - for at least six years from the date on he/she ceased to be a Member:-
- 29.2.1 his/her/its name; and
- 29.2.2 the date on which he/she/it ceased to be a Member.
- 30 The board must ensure that the Register of Members is updated within 28 days of any change:-
- 30.1 which arises from a resolution of the board or a resolution passed by the Members of LAYC; or
- 30.2 which is notified to LAYC.
- 31 If a Member or Trustee of LAYC requests a copy of the Register of Members, the board must ensure that a copy is supplied to him/her within 28 days, providing the request is reasonable; if the request is made by a Member (rather than a Trustee), the board may provide a copy which has the addresses blanked out.

### **Withdrawal from membership**

- 32 Any person or body who/which wishes to withdraw from membership must give a written notice of withdrawal to LAYC, signed by him/her or (in the case of a corporate body) signed by an appropriate officer of that body.
- 33 An unincorporated body which has nominated an individual for membership may withdraw its nomination at any time by written notice to LAYC to that effect, signed by an appropriate office bearer of that body; on receipt of the notice by the organisation, the individual in question shall automatically cease to be a Member of LAYC.

### **Transfer of membership**

- 34 Membership of LAYC may not be transferred by a Member.

### **Expulsion from membership**

- 35 Except in the case of non-payment of Annual Affiliation Fees, in which case the provisions of article 27 shall apply, any person or body expelled from membership by the board in accordance with clause 91 shall have a right of appeal to the Members. In the event that an expelled person wishes to make such an appeal, the board shall convene a Members' meeting, at which the Members shall be asked to ratify the board's decision. Such a ratification can only be passed by not less than fifty per cent of those Members present (in person or by proxy) and voting at the Members' meeting, provided the following procedures have been observed:-
- 35.1 at least 21 days' notice of the intention to propose the resolution must be given to the expelled person, specifying the grounds for the proposed expulsion; and
- 35.2 the expelled person will be entitled to be heard on the resolution at the Members' meeting at which the resolution is proposed.

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

### **Members' meetings**

- 36 The board must arrange a meeting of Members (an annual general meeting or "AGM") in each calendar year. For the avoidance of doubt, (i) office bearers; (ii) Associates; and (iii)

individuals who are not Members or a representative of a Member and who have been nominated as Trustees, are entitled to attend an AGM but are not entitled to vote.

- 37 The gap between one AGM and the next must not be longer than 15 months.
- 38 Notwithstanding clause 36, an AGM does not need to be held during the calendar year in which LAYC is formed; but the first AGM must still be held within 15 months of the date on which LAYC is formed.
- 39 The business of each AGM must include:-
- 39.1 a report by the chairperson on the activities of LAYC;
  - 39.2 consideration of the annual accounts of LAYC;
  - 39.3 the election/re-election of charity trustees, as referred to in clauses 74 to 78;
  - 39.4 the appointment/re-appointment of an independent examiner or auditor (as required by legislation); and
  - 39.5 the election/re-election of office bearers.
- 40 The board may arrange a special Members' meeting at any time.
- 41 The board may make arrangements, in advance of any Members' meeting, to allow Members to participate in the Members' meeting by means of a conference telephone, video conferencing facility or similar communications equipment - so long as all those participating in the meeting can hear each other; a Member participating in a Members' meeting in this manner shall be deemed to be present in person at the meeting.

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

- 42 The board must arrange a special Members' meeting if they are requested to do so by a notice - which may take the form of one or more documents in the same terms, each signed by one or more Members (or in the case of a Member which is a corporate body, signed by an appropriate officer of that body) by at least 10 Members of LAYC at the time, providing (i) the notice states the purposes for which the meeting is to be held; and (ii) those purposes are not inconsistent with the terms of this constitution, the Charities and Trustee (Investment) Scotland Act 2005 or any other statutory provision.
- 43 If the board receives a notice under clause 41, 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.
- 44 No other business shall be transacted at a special Members' meeting than the matters set out in the notice referred to in clause 41.

#### **Notice of members' meetings**

- 45 At least 21 clear days' notice must be given of any AGM or any special Members' meeting.
- 46 The notice calling a Members' meeting must specify in general terms what business is to be dealt with at the meeting; and:-
- 46.1 in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s); or
  - 46.2 in the case of any other resolution falling within clause 61 (requirement for two-thirds majority) must set out the exact terms of the resolution.



- 47 The reference to “clear days” in clause 44 shall be taken to mean that, in calculating the period of notice:-
- 47.1 the day after the notices are posted (or sent by e-mail) should be excluded; and
  - 47.2 the day of the meeting itself should also be excluded.
- 48 Notice of every Members' meeting must be given to all the Members of LAYC, and to all the Trustees; but the accidental omission to give notice to one or more Members will not invalidate the proceedings at the meeting.
- 49 Any notice which requires to be given to a Member under this constitution must be:-
- 49.1 sent by post to the Member, at the address last notified by him/her/it to LAYC; or
  - 49.2 sent by e-mail to the Member, at the e-mail address last notified by him/her/it to LAYC.

### **Procedure at Members' meetings**

- 50 No valid decisions can be taken at any Members' meeting unless a quorum is present.
- 51 The quorum for a Members' meeting is 10% of Members, present in person or (in the case of Members which are corporate bodies) present via their authorised representatives (or a proxy for a Member), in addition to the chairperson.
- 52 If a quorum is not present within 15 minutes after the time at which a Members' meeting was due to start - or if a quorum ceases to be present during a Members' meeting - the meeting cannot proceed; and fresh notices of meeting will require to be sent out, to deal with the business (or remaining business) which was intended to be conducted.
- 53 The president of LAYC should act as chairperson of each Members' meeting.
- 54 If the president of LAYC is not present within 15 minutes after the time at which the meeting was due to start (or is not willing to act as chair), the chairperson of LAYC shall act as chairperson of the meeting. If the chairperson is not present or willing to act, then the Trustees present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.

### **Voting at Members' meetings**

- 55 Every Member has one vote, which (whether on a show of hands or on a secret ballot) must be given personally or (in the case of a Member which is a corporate body) given via its authorised representative present at the meeting or by proxy; for the avoidance of doubt, a vote given by a Member participating in the meeting through any of the methods referred to in clause 41 will be taken to be given personally for the purposes of this clause.
- 56 A Member which is a corporate body shall be entitled to authorise an individual to attend and vote at Members' meetings; he/she will then be entitled to exercise the same powers on behalf of the body which he/she represents as that body could have exercised if it had been an individual Member of the organisation.
- 57 A Member who wishes to appoint a proxy to vote on his/her behalf at any meeting must lodge with LAYC, prior to the time when the meeting commences, a written proxy form, signed by him/her.
- 58 A proxy need not be a Member of LAYC.
- 59 A Member shall not be entitled to appoint more than one proxy to attend the same meeting.

- 60 A proxy appointed to attend and vote at any meeting instead of a Member shall have the same right as the Member who appointed him/her to speak at the meeting.
- 61 All decisions at Members' meetings will be made by majority vote - with the exception of the types of resolution listed in clause 61.
- 62 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 65):-
- 62.1 a resolution amending the constitution;
  - 62.2 a resolution expelling a person from membership under article 35;
  - 62.3 a resolution directing the board to take any particular step (or directing the board not to take any particular step);
  - 62.4 a resolution approving the amalgamation of LAYC with another SCIO (or approving the constitution of the new SCIO to be constituted as the successor pursuant to that amalgamation);
  - 62.5 a resolution to the effect that all of LAYC'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);
  - 62.6 a resolution for the winding up or dissolution of LAYC.
- 63 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.
- 64 A resolution put to the vote at a Members' meeting will be decided on a show of hands - unless the chairperson (or at least two other individuals present at the meeting and entitled to vote, whether as Members or as proxies for Members) ask for a secret ballot.
- 65 The chairperson will decide how any secret ballot is to be conducted, and he/she will declare the result of the ballot at the meeting.
- 66 A resolution seeking to alter any previously passed resolution (the "**Original Resolution**") of the Members may not be put forward within six months of that Original Resolution being passed, unless with the unanimous approval of the Trustees.

### **Written resolutions by members**

- 67 A resolution agreed to in writing (or by e-mail) by or on behalf of 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**

- 68 The board must ensure that proper minutes are kept in relation to all Members' meetings.
- 69 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**

- 70 The maximum number of Trustees is fourteen.

71 The minimum number of Trustees is three.

### **Eligibility**

72 A person need not be a Member to be eligible for election as office bearer under clause 85 or as a Trustee under clause 74.3.

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

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

73.2 an employee of LAYC.

### **Initial charity trustees**

74 The individuals who signed the charity trustee declaration forms which accompanied the application for incorporation of LAYC shall be deemed to have been appointed by the Members as Trustees with effect from the date of incorporation of LAYC and the provisions of clause 77 shall apply to their appointment and retiral and shall therefore require to stand down at the first AGM (but shall be eligible for re-election).

### **Election, retiral, re-election**

75 The Trustees of LAYC shall consist of:-

75.1 the president, the chairperson, the vice-chairperson and the treasurer;

75.2 up to seven Members (or representatives of Members) appointed by the Members at the Annual General Meeting; and

75.3 up to three co-opted Trustees (who need not be Members) elected from time to time by a resolution of the Board because they have specific skills which would be useful to LAYC.

76 Nominations for appointment as a Trustee under clause 74.2 shall be made by the Members and submitted in writing to LAYC at least seven days prior to the date on which the next Annual General Meeting is to be held.

77 If no such nominations are received for appointment as a Trustee prior to the annual general meeting, then nominations made at the annual general meeting shall be valid.

78 Trustees appointed pursuant to clauses 74.2 and 74.3 shall be required to stand down at each Annual General Meeting (other than the meeting at which they were appointed), and are eligible for re-election. Trustees appointed pursuant to clauses 74.1 and 74.3 shall automatically become Members (and shall not be required to pay any Annual Affiliation Fees), and shall automatically cease to be ex officio Members when they cease to be Trustees under those clauses.

79 No more than one individual nominated under clause 77 by each corporate member may serve as a Trustee at any given time.

### **Termination of office**

80 A Trustee will automatically cease to hold office if:-

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

- 80.2 he/she becomes incapable for medical reasons of carrying out his/her duties as a Trustee - but only if that has continued (or is expected to continue) for a period of more than six months;
  - 80.3 if he/she was nominated by a corporate body, the corporate body which nominated him/her ceases to be a Member of LAYC;
  - 80.4 he/she becomes an employee of LAYC;
  - 80.5 he/she ceases to be a Member;
  - 80.6 he/she gives LAYC a notice of resignation, signed by him/her;
  - 80.7 he/she is absent (without good reason, in the opinion of the board) from more than three consecutive meetings of the board - but only if the board resolves to remove him/her from office;
  - 80.8 he/she is removed from office by resolution of the board on the grounds that he/she is considered to have been in serious or persistent breach of his/her duties under section 66(1) or (2) of the Charities and Trustee Investment (Scotland) Act 2005; or
  - 80.9 he/she is removed from office by a resolution of the Members passed at a Members' meeting.
- 81 A resolution under paragraph 79.8 or 79.9 shall be valid only if:-
- 81.1 the Trustee who is the subject of the resolution is given reasonable prior written notice of the grounds upon which the resolution for his/her removal is to be proposed;
  - 81.2 the 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
  - 81.3 (in the case of a resolution under paragraph 79.8 or 79.9) at least two thirds (to the nearest round number) of the Trustees then in office vote in favour of the resolution.

### **Register of charity trustees**

- 82 The board must keep a Register of Trustees, setting out:-
- 82.1 for each current Trustee:-
    - 82.1.1 his/her full name and address;
    - 82.1.2 the date on which he/she was appointed as a Trustee;
    - 82.1.3 any office held by him/her in LAYC; and
    - 82.1.4 the name of the corporate member which nominated each Trustee (if applicable);
  - 82.2 for each former Trustee - for at least 6 years from the date on which he/she ceased to be a charity trustee:-
    - 82.2.1 the name of the Trustee;
    - 82.2.2 any office held by him/her in LAYC; and

82.2.3 the date on which he/she ceased to be a Trustee.

- 83 The board must ensure that the Register of Trustees is updated within 28 days of any change:-
- 83.1 which arises from a resolution of the board or a resolution passed by the Members of LAYC; or
  - 83.2 which is notified to LAYC.
- 84 If any person requests a copy of the Register of Trustees, the board must ensure that a copy is supplied to him/her within 28 days, providing the request is reasonable; if the request is made by a person who is not a Trustee, the board may provide a copy which has the addresses blanked out - if LAYC is satisfied that including that information is likely to jeopardise the safety or security of any person or premises.

#### **Office-bearers**

- 85 Where the positions are vacant (either following a retirement or resignation), at each AGM, the Members must elect a president, chairperson, vice-chairperson and a treasurer.
- 86 Nominations for appointment as an officer shall be made by the Members and submitted in writing to LAYC at least seven days prior to the date on which the next AGM is to be held. Such nominees need not be Members or representatives of Members.
- 87 If no such nominations are received for appointment as an officer prior to the AGM, then nominations made at the AGM shall be valid.
- 88 In addition to the office-bearers required under clause 84, the Trustees may elect further office-bearers if they consider that appropriate.
- 89 With the exception of the president, and subject to clause 89 all of the office-bearers may hold office for an initial period of three years, and are eligible for re-election at that time, provided that no such appointment shall exceed six years consecutively. On the expiry of such a six year period, a further period of two years must elapse before the individual may once again be nominated for re-election as an office bearer. For the avoidance of doubt, the provisions of this clause do not prevent an ex-office bearer from being appointed as a Trustee under the terms of clause 74.2 or 74.3.
- 90 A person elected to any office will automatically cease to hold that office:-
- 90.1 if he/she ceases to be a Trustee; or
  - 90.2 if he/she gives to LAYC a notice of resignation from that office, signed by him/her.
- 91 With the exception of the secretary, all office bearers shall ex officio become Trustees.

#### **Powers of board**

- 92 Except where this constitution states otherwise, LAYC (and its assets and operations) will be managed by the board; and the board may exercise all the powers of LAYC. The powers of the board shall include, but shall not be limited to:-
- 92.1 determining the strategic direction of LAYC and agreeing strategic plans and outcomes;
  - 92.2 overseeing operational work plans and holding staff to account for their implementation through effective and regular monitoring;

- 92.3 approving the recruitment and appointment of staff;
  - 92.4 allocating staff and financial resources informed by external and internal policy directions and decisions, the strategic plans and operational work plans;
  - 92.5 monitoring and evaluating performance against agreed operational outcomes;
  - 92.6 securing appropriate funding and managing the financial affairs of LAYC in line with constitutional and legal requirements;
  - 92.7 determining LAYC representation on any other agencies management or policy making bodies;
  - 92.8 convening a Members' meeting providing that the notice requirement has been complied with;
  - 92.9 amending the conditions of affiliation and setting the Annual Affiliation Fees;
  - 92.10 considering any appeals from groups who have not been accepted into affiliation;
  - 92.11 having powers to suspend or disaffiliate any Member where it believed any condition of affiliation has been breached or is liable to bring LAYC into disrepute; and
  - 92.12 the management and disbursement of the bequest left by Joyce Dunford.
- 93 A meeting of the board at which a quorum is present may exercise all powers exercisable by the board.
- 94 The Members may, by way of a resolution passed in compliance with clause 61 (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**

- 95 Each of the Trustees has a duty, in exercising functions as a charity trustee, to act in the interests of LAYC; and, in particular, must:-
- 95.1 seek, in good faith, to ensure that LAYC acts in a manner which is in accordance with its purposes;
  - 95.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
  - 95.3 in circumstances giving rise to the possibility of a conflict of interest between LAYC and any other party:-
    - 95.3.1 put the interests of LAYC before that of the other party;
    - 95.3.2 where any other duty prevents him/her from doing so, disclose the conflicting interest to LAYC and refrain from participating in any deliberation or decision of the other Trustees with regard to the matter in question;
  - 95.4 ensure that LAYC complies with any direction, requirement, notice or duty imposed under or by virtue of the Charities and Trustee Investment (Scotland) Act 2005.

- 96 In addition to the duties outlined in clause 94, all of the Trustees must take such steps as are reasonably practicable for the purpose of ensuring:-
- 96.1 that any breach of any of those duties by a Trustee is corrected by the Trustee concerned and not repeated; and
  - 96.2 that any Trustee who has been in serious and persistent breach of those duties is removed as a Trustee.
- 97 Provided he/she has declared his/her interest - and has not voted on the question of whether or not LAYC should enter into the arrangement - a Trustee will not be debarred from entering into an arrangement with the organisation in which he/she has a personal interest; and (subject to clause 97 and to the provisions relating to remuneration for services contained in the Charities and Trustee Investment (Scotland) Act 2005), he/she may retain any personal benefit which arises from that arrangement.
- 98 No Trustee may serve as an employee (full time or part time) of LAYC; and no Trustee may be given any remuneration by LAYC for carrying out his/her duties as a Trustee.
- 99 The 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.

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

### **Notice of board meetings**

- 100 Any Trustee may call a meeting of the board or ask the secretary to call a meeting of the board.
- 101 There shall be at least four meetings of the board every calendar year.
- 102 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**

- 103 No valid decisions can be taken at a board meeting unless a quorum is present; the quorum for board meetings is one third of the Trustees then appointed, present in person.
- 104 A Trustee may participate in a meeting of the Board by means of a conference telephone, video conferencing facility or similar communications equipment- so long as all the Trustees participating can hear each other; a Trustee participating in a meeting in this manner shall be deemed to be present in person at the meeting.
- 105 If at any time the number of charity Trustees in office falls below the number stated as the quorum in clause 102, the remaining 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.
- 106 The chairperson of LAYC should act as chairperson of each board meeting.
- 107 If the chairperson of LAYC is not present within 15 minutes after the time at which the meeting was due to start (or is not willing to act as chairperson), the vice-chairperson shall act as chairperson of the meeting. If the vice-chairperson is not present or willing to act, then the trustees present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.
- 108 Every Trustee has one vote, which must be given personally; for the avoidance of doubt a vote given by a Trustee participating in the meeting through any of the methods referred to in clause 104 will be taken to be given personally for the purposes of this.

- 109 All decisions at board meetings will be made by majority vote.
- 110 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.
- 111 The board may, at its discretion, allow any person to attend and speak at a board meeting notwithstanding that he/she is not a charity trustee - but on the basis that he/she must not participate in decision-making.
- 112 A Trustee must not vote at a board meeting (or at a meeting of a sub-committee) on any resolution which relates to a matter in which he/she has a personal interest or duty which conflicts (or may conflict) with the interests of the organisation; he/she must withdraw from the meeting while an item of that nature is being dealt with.
- 113 For the purposes of clause 110:-
- 113.1 an interest held by an individual who is “connected” with the 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 Trustee;
- 113.2 a Trustee will be deemed to have a personal interest in relation to a particular matter if a body in relation to which he/she is an employee, director, member of the management committee, officer or elected representative has an interest in that matter.

## **Minutes**

- 114 The board must ensure that proper minutes are kept in relation to all board meetings and meetings of sub-committees.
- 115 The minutes to be kept under clause 112 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**

- 116 The board may delegate any of their powers to sub-committees; a sub-committee must include at least one Trustee, but other members of a sub-committee need not be Trustees. Otherwise the membership, remit and procedural rules of each sub-committee shall be determined by the board. Each sub-committee shall appoint their own member to act as chair of that sub-committee.
- 117 The board may also delegate to the chair of LAYC (or the holder of any other post) such of their powers as they may consider appropriate.
- 118 When delegating powers under clause 114 or 115, the board must set out appropriate conditions (which must include an obligation to report regularly to the board).
- 119 Any delegation of powers under clause 114 or 115 may be revoked or altered by the board at any time.

### **Operation of accounts**

- 120 Subject to clause 119, in relation to all operations (other than the lodging of funds) on the bank and building society accounts held by LAYC; the following provisions shall apply:-



- 120.1 any transaction with a value of more than £1,000 shall be authorised by two Trustees; and
- 120.2 any transaction with a value of less than £1,000 may be authorised by named employees.
- 121 Where LAYC 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 118.

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

- 122 The financial year of LAYC shall run from 1 April to 31 March, or such other date as the trustees may from time to time decide.
- 123 The board must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.
- 124 The board must prepare annual accounts, complying with all relevant statutory requirements; and shall have these annual accounts independently examined or audited as required under any statutory provisions in force from time to time.

## **MISCELLANEOUS**

### **Winding-up**

- 125 If LAYC 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.
- 126 Any surplus assets available to LAYC immediately preceding its winding up or dissolution must be used for purposes which are the same as - or which closely resemble - the purposes of LAYC as set out in this constitution.

### **Alterations to the constitution**

- 127 This constitution may (subject to clause 126) be altered by resolution of the members passed at a members' meeting (subject to achieving the two thirds majority referred to in clause 61) or by way of a written resolution of all the members.
- 128 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 OSCR.

### **Interpretation**

- 129 References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005 should be taken to include:-
- 129.1 any statutory provision which adds to, modifies or replaces that Act; and
- 129.2 any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under paragraph 127.1 above.
- 130 In this constitution:-
- 130.1 "**charity**" means a body which is either a "Scottish charity" within the meaning of section 13 of the Charities and Trustee Investment (Scotland) Act 2005 or a

“charity” within the meaning of section 1 of the Charities Act 2006, providing (in either case) that its objects are limited to charitable purposes;

- 130.2 “**charitable**” and “**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;
- 130.3 “**Conversion**” means the date on which LAYC the unincorporated association, is converted to LAYC the SCIO;
- 130.4 “**Trustee**” means a trustee of LAYC from time to time;
- 130.5 “**Member**” means a member of LAYC from time to time;
- 130.6 “**OSCR**” means the Office of the Scottish Charity Regulator; and
- 130.7 “**property**” means any property, heritable or moveable, real or personal, wherever situated.