



## Communities Directorate

2 December 2014

### Licensing Regulatory Sub Committee

**Date:** 10 December 2014

**Time:** 7:00pm

**Venue:** Council Chamber, Civic Centre, Shoreham-by-Sea

**Committee Membership:** Councillors Carson Albury (Chairman), Brian Coomber, David Lambourne

## Agenda

### Part A

#### 1. Declarations of Substitutions

Members are invited to declare any substitutions.

#### 2. Declarations of Interest

Members and Officers are invited to make any declarations of disclosable pecuniary interests that they may have in relation to any items on this Agenda. The declaration should refer both to the nature of the interest as well as its existence.

Members and Officers may seek advice upon any relevant interest from the Monitoring Officer prior to the meeting.

Any substitute members should declare their substitution.

#### 3. Public Question Time

Members of the public are invited to ask questions or make statements about any matter for which the Council has a responsibility or which affects the District. The Chairman has discretion to limit questions and statements to general policy unless in

relation to matters on the remainder of this agenda.

**4. Items Raised Under Urgency Provisions**

To consider any items the Chairman of the meeting considers to be urgent.

**5. Procedure**

To agree the procedure, copy attached as item 5

**6. Discretionary Rate Relief – Mr James Lowe (SOLD)**

To consider a report by CenSus, copy attached as item 6

**Part B - Not for Publication – Exempt Information Reports**

None

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For Democratic Services enquiries relating to this meeting please contact:

Chris Cadman-Dando  
Democratic Services Officer  
01903 221364  
chris.cadman-dando@adur-worthing.gov.uk

For Legal Services enquiries relating to this meeting please contact:

Michele Wilkinson  
Solicitor  
01903 221030  
Michele.wilkinson@adur-worthing.gov.uk

**Duration of the Meeting:** Four hours after the commencement of the meeting the Chairperson will require the meeting to consider if it wishes to continue. A vote will be taken and a simple majority in favour will be necessary for the meeting to continue.

## **Procedure for the Licensing Regulatory Sub Committee - Rate Relief Appeals**

1. Chairperson to introduce everyone.
2. Chairperson to explain procedure.
3. Officers to explain the background to the Council's case.
4. Appellant (or representative) to ask any questions of the Officers.
5. Sub-Committee Members to ask any questions of the Officers.
6. Appellant (or representative) to outline grounds for appeal.
7. Officers to ask any question of Appellant (or representative).
8. Sub-Committee Members to ask any question of Appellant (or representative).
9. Officers and Appellant to be offered opportunity of last word (in this order).
10. Officers and Appellant to be asked to leave room while Sub-Committee Members, with legal advisor, come to a decision. (If a point of clarification necessary, both parties to be invited back).
11. Officers and Appellant to be asked to return to hear decision, or be advised when decision will be made.
12. Decision confirmed in writing within five working days.

Rules of natural justice apply.



## Discretionary Rate Relief – Mr James Lowe (SOLD)

### Report by the CenSus Revenues Manager

#### 1.0 Summary

1.1 This report sets out the details of an application for discretionary rate relief by Mr James Lowe on behalf of SOLD (Shoreham Opportunities for Learning Disabilities), which was determined by the Cabinet Member for Resources. The applicant wishes to appeal against this decision to the Licensing Regulatory Sub Committee.

#### 2.0 Background

2.1 This application for discretionary rate relief was dated 15<sup>th</sup> December 2013 requesting discretionary rate relief from 4<sup>th</sup> November 2013. A copy of the application is attached as Annex A.

2.2 Based on the returned application SOLD scored a total of +2 on Adur District Council's discretionary relief scoring matrix. A copy of the completed scoring matrix is attached as Annex B.

2.2.1 Under Adur District Council's discretionary relief policy, for charity shops a score of +2 will equal 10% relief.

2.3 The relevant extract from the report by the CenSus Head of Revenues and Benefits which was considered by the Cabinet Member for Resources is attached in Annex C. (The application was considered by the Cabinet Member for Resources as application number 2 on 20<sup>th</sup> March 2014).

2.3.1 This application for Discretionary Relief was determined by the Cabinet Member for Resources on 20<sup>th</sup> March 2014 (Ref no: RES/018/13-14).

2.3.2 The Cabinet Member for Resources determined to grant 10% discretionary rate relief for the financial year 2013/14. The period of this relief is from 4<sup>th</sup> November 2013 – 31<sup>st</sup> March 2014. Copies of the Record of these Decisions are attached as Annex D.

2.4 SOLD took over the premises on 15<sup>th</sup> October 2013, however did not occupy premises until 4<sup>th</sup> November 2013. As SOLD was a non-profit making social enterprise prior to it becoming a registered charity on 14<sup>th</sup> February 2014, the appellant is not eligible for 80% mandatory charitable relief prior to this date.

2.5 The current rate relief in award for SOLD is:

15.10.13– 04.11.13: no relief as premise empty.

04.11.13 – 14.02.14: 10% discretionary relief only as not eligible for mandatory as not a registered charity.

14.02.14 – 31.03.14: 80% mandatory & 10% discretionary as SOLD became registered charity on 14.02.14.

- 2.6 As the appellant is not eligible for 80% mandatory charitable relief, the appellant is appealing that 10% discretionary rate relief has been awarded and not 100% discretionary rate relief. A copy of letter dated 27<sup>th</sup> May 2014 detailing the applicants appeal is attached as Annex E.
- 2.7 Adur District Council's Discretionary Rate Relief policy is to award 10% relief for charity shops which score 2 on the scoring matrix.
- 2.7.1 Adur District Council has the discretion to award 100% discretionary rate relief on the grounds of hardship.
- 2.7.2 80% Mandatory Charitable Relief cannot be awarded for a non-profit making social enterprise prior to it becoming a registered charity.
- 2.8 If 100% discretionary relief is awarded for the period the premises was empty this would cost £412.93.
- 2.8.1 If an additional 90% discretionary relief is awarded for the period 04.11.13 – 14.02.14 when SOLD were in occupation, but not a registered charity this would cost £1859.14.
- 2.8.2 If an additional 10% discretionary relief is awarded from 14<sup>th</sup> February 2014 when SOLD became a registered charity this would cost £94.98.
- 2.9 As the budget for 2013/14 is closed any additional relief would be from the current financial year's budget. The 2014/15 budget is currently approximately £4,000 in deficit.

### **3.0 Legal**

- 3.1 As set out in the attached report by the CenSus Head of Revenues and Benefits.

### **4.0 Financial implications**

- 4.1 As set out in the attached report by the CenSus Head of Revenues and Benefits.

### **5.0 Recommendation**

- 5.1 The Licensing Regulatory Sub Committee is asked to consider and determine the level of discretionary rate relief for this application.

## **Local Government Act 1972**

### **Background Papers:**

Licensing Regulatory Sub-Committee  
02 December 2014

Agenda item 6

Record of Decision and Report for RES/018/13-14 Rate Relief Applications.

**Contact Officer:**

Sarah Edmonds  
CenSus Revenues Team Manager  
Adur District Council  
01403 215548  
[Sarah.edmonds@centralsussex.gov.uk](mailto:Sarah.edmonds@centralsussex.gov.uk)

## **Schedule of Other Matters**

[To be completed on all reports. If no issues are identified under a heading then it should read "Matter considered and no issues identified."]

### **1.0 Council Priority**

1.1 Matter considered and no issues identified.

### **2.0 Specific Action Plans**

2.1 Matter considered and no issues identified.

### **3.0 Sustainability Issues**

3.1 Matter considered and no issues identified.

### **4.0 Equality Issues**

4.1 Matter considered and no issues identified.

### **5.0 Community Safety Issues (Section 17)**

5.1 Matter considered and no issues identified.

### **6.0 Human Rights Issues**

6.1 [Matter considered and no issues identified.

### **7.0 Reputation**

7.1 Matter considered and no issues identified.

### **8.0 Consultations**

8.1 None undertaken.

### **9.0 Risk Assessment**

9.1 Matter considered and no issues identified.

### **10.0 Health & Safety Issues**

10.1 Matter considered and no issues identified.

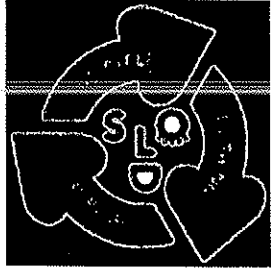
### **11.0 Procurement Strategy**

11.1 Matter considered and no issues identified.

### **12.0 Partnership Working**

12.1 Matter considered and no issues identified.



|   |   |   |
|---|---|---|
|  | <p><b>SOLD</b><br/> <b>Shoreham</b><br/> <b>Opportunities for</b><br/> <b>Learning</b><br/> <b>Disabilities</b></p> | <p>62 High Street<br/>         Shoreham by Sea<br/>         West Sussex<br/>         BN43 5DB<br/>         T 01273 441418<br/>         T 07984 703115<br/> <a href="mailto:james@soldshop.org.uk">james@soldshop.org.uk</a><br/> <a href="http://www.soldshop.org.uk">www.soldshop.org.uk</a></p> |
|---|---|---|

18139126

Manddisc

15/12/13

Dear Madam/Sir,

We have recently opened a Charity shop called SOLD - Shoreham Opportunities for Learning Disabilities at 62 High Street, Shoreham by Sea, BN435DB.

I called your office about relief on charities with work with disabilities & they said to send a covering letter along with the relief form.

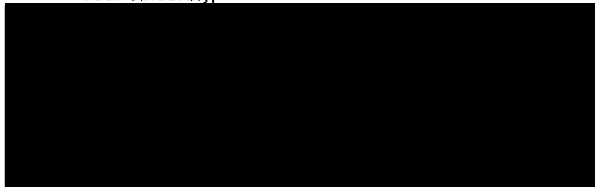
We set the shop up to give people with learning disabilities work experience in a busy high street shop. Hopefully gaining the skills to then go on and get paid jobs elsewhere.

The shop is a dynamic, realistic working environment that has become an integral part of the community & as we are self funding, any relief on the rates will be greatly received.

SOLD has turned over the required £5000 to register as a charity and we are now in the process of acquiring our registered number.

Please find enclosed the form for rates relief and flyer for the shop.

Your sincerely,



James Lowe

Trustee





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PO Box 505  
Haywards Heath  
RH16 1AQ

Prop Ref:  
Account Ref:

Dear

**Mandatory/Discretionary Rate Relief for 2013/2014:**

I enclose an application form for you to complete and return. Please see below additional information that is now required to accompany your application.

Due to recommendations from recent Audit you are required to enclose a copy of the organisation or Society Constitution if your organisation is NOT a registered charity or CASC, and this is your first application. In order to qualify for discretionary relief the constitution documents should contain the following or similar clauses:

- i. Members would not be able to profit from the organisation or society and that
- ii. Surplus profits and property could only be distributed on a winding up to other organisations or societies with the same objects, restrictions on distributions to Members and dissolution procedures or failing that, then the profits and property would only be distributable to a registered charity.

In addition to the above please supply a copy of correspondence from the Inland Revenue which confirms the Tax Exempt Status of the organisation or society.

Please ensure that **all** information requested is provided as soon as possible, as Members will not consider the application at the Housing and Central Services Committee, unless full details have been received.

Yours sincerely

J Watts

**Revenues Manager**

Julie Watts  
CenSus Revenue Account Manager



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**LOCAL GOVERNMENT FINANCE ACT 1988**

Application by a Charity or Organisation claiming relief under Sections 43(5) (6), 45(5)(6) and 47 of the Local Government Finance Act 1988.

Property Reference No: AN8012020062004 Account No: 18139126  
Name of Charity/Organisation: SOLD - SHOREHAM OPPORTUNITIES FOR LEARNING DISABILITIES  
Property Address: 62 HIGH STREET, SHOREHAM-BY-SEA BN43 5DB

**PARTICULARS IN SUPPORT OF CLAIM**

**1. Particulars of the Charity or Organisation.**

- a) Is it registered with the Charity Commissioners or the Minister of Education  
If yes, please state registration number... NOT RECEIVED YET AS IN PROCESS OF REGISTERING Yes/No  
 Yes  No
- b) Is it registered as a Community Amateur Sports Club (CASC)?  
If yes, please state registration number... Yes/No  
 Yes  No
- c) If exempt from registration, please state on what grounds.....

**2. Details of property for which relief is claimed.**

- a) Purpose/s for which used CHARITY SHOP GIVING RETAIL TRAINING TO PEOPLE WITH LEARNING DISABILITIES
- b) If used for any purpose other than those of the claimant, please give details ... N/A

**3. Section/s under which relief is being claimed.**

- a) Section 43(5)(6), 45(5)(6) Mandatory Relief Yes/No
- b) Section 47 Discretionary Relief Yes/No

Notes: In cases where the application is being made for relief under Section 47, the following documentation and information must also be forwarded with the application:-

- 1) Copy of the Memorandum and Articles of Association, or Rules of the Association (These will be returned after the application has been considered, if requested).
- 2) Copies of the most recent audited accounts and balance sheets (see additional information sheet).
- 3) Membership numbers, including juniors and students, and how many reside within the Adur District (see additional information sheet).
- 4) Child Protection Policy if applicable.

I HEREBY CERTIFY that the particulars given above are correct to the best of my knowledge and belief.

Signed: [REDACTED] Name (in block capitals): JAMES LOWE  
 Date: 11/12/13 Capacity in which signed: TRUSTEE

Address for correspondence if not as above: AS ABOVE

**HOW WE USE YOUR INFORMATION.** We may use the information provided on this form to prevent and detect crime, and may also share this information with other public bodies for similar purposes. In addition we may use this information to promote other council services you may be entitled to, but we will not share this information with third parties for marketing purposes. Information on this form will be made available to the public. If there is a particular reason why you think we should not do so you can let us know by writing to the address at the top of the page.

Julie Watts  
Census Revenue Account Manager



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Name of Charity/Organisation:  
Property Reference:

Account Number:

**ORGANISATIONS WITH MEMBERSHIP PLEASE COMPLETE THE FOLLOWING:**

|  |                       |                       |                            |
|--|-----------------------|-----------------------|----------------------------|
| Total number of members  | % under 18 years      | % age between 18 & 60 | % aged over 60             |
| % from ethnic minority groups  | % registered disabled | % members female/male | % of live in Adur District |
| Is there a membership fee? <b>Yes/No</b> If YES: how much £ _____ per annum/per month.                       |                       |                       |                            |
| Are there any discounts, e.g. for unemployed, low-waged? _____   |                       |                       |                            |
| Is there any criterion for membership (age, interests, etc)? _____   |                       |                       |                            |
| How are members recruited (any specific targeted groups) _____   |                       |                       |                            |
| Is this a Registered Community Amateur Sports Club (CASC)? <b>Yes/No</b>                                     |                       |                       |                            |
| If yes, is it: (a) open to the whole community <b>Yes/No</b> (b) organised on an amateur basis <b>Yes/No</b> |                       |                       |                            |

**ALL ORGANISATIONS PLEASE COMPLETE:**

What is the main source of income? SELLING DONATED GOODS

**Ownership of premises / funding**  
Please give details of how built / purchased / lease funded: LEASED UNTIL DEC 2016

Details of how any rent is paid, by organisation or other body: DIRECT DEBIT MONTHLY

Level of rent: \_\_\_\_\_

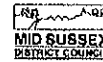
**In relation to the facilities**  
What is the nature of the facility (i.e. hall, room, etc) SHOP  
The size / capacity of the facility \_\_\_\_\_  
If it is an organisation with members, are the facilities available to non-members? N/A **Yes/No**  
If YES: on what basis? \_\_\_\_\_  
If NO: why not? \_\_\_\_\_  
How have the facilities been provided (monies raised by organisation itself, Council or other grants) SELF-FUNDED

Does the organisation run a bar or similar income-generation facility (e.g. canteen) **Yes/No**  
If YES: (a) what is the level of profit (income over expenditure)? \_\_\_\_\_  
(b) what is the profit used for? N/A  
(c) who may use the bar/facility (members, guests, etc)? \_\_\_\_\_

Where the organisation has profits/savings, is there any particular project for which they are ear-marked?  
TO SUPPORT PEOPLE WITH LEARNING DISABILITIES IN FUTURE WORK PLACEMENTS

Does the organisation employ any staff? **Yes/No** If YES, how many? ONE

Julie Watts  
CenSus Revenue Account Manager



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Give examples of your organisation's contribution and/or service to the community in general:  
**PROVIDES WORK EXPERIENCE OPPORTUNITIES FOR PEOPLE WITH LEARNING DISABILITIES IN A BUSY, HIGH STREET SHOP. GIVING THE LOCAL COMMUNITY A CHANCE TO POSITIVELY INTERACT WITH PEOPLE WITH LEARNING DISABILITIES & TO RECYCLE**

If the organisation has links or support from any other source, what are those links or support?  
**LINKS TO WORKAID, WORKFIT, & GRACE EYRE & SHARED LIVES MENCAP**

Are there any training or development opportunities for members? **THE WHOLE PREMISE OF THE CHARITY IS TO TRAIN & GIVE REALISTIC & VALUABLE WORK EXPERIENCE & FOR STAFF TO ACQUIRE USEFUL & MEANINGFUL SKILLS THAT CAN POTENTIALLY BE TRANSFERRED TO OTHER WORK PLACEMENTS**

Any involvement in local/national development of interest? **NOT SURE WHAT THIS MEANS? BUT, AS ABOVE, LINKED TO WORKFIT, WORKAID, GRACE EYRE & MENCAP, SHARED LIVES**

Give a brief explanation of why you consider your organisation should be granted discretionary rate relief:  
**BECAUSE WE ARE A LOCAL CHARITY SUPPORTING LOCAL PEOPLE FOR THE BENEFIT OF THE COMMUNITY. WE ARE PRO INTEGRATION, INCLUSIVITY, DISABILITY & RECYCLING & AN ASSET TO THE HIGH STREET**

**Charity Shops: Please provide the following information**

|  |               |   |
|--|---------------|---|
| What percentage of sales space is occupied by donated / fair trade goods?  | 100%          | % |
| What percentage of sales is generated by donated / fair trade goods?   | 100%          | % |
| Is the sale of donated / fair trade goods the most important part of the business?   | <b>YES/NO</b> |   |
| Purposes for which the proceeds of the sale of goods, after deducting expenses, are used:<br><b>IF THERE IS ANY PROFIT, IT WILL BE USED TO SUPPORT OUR TRAINEES WITH LEARNING DISABILITIES TO DEVELOP THEIR CAREERS HOPEFULLY INTO PAID EMPLOYMENT</b> |               |   |

Please complete the section overleaf giving a summary of your most recent audited accounts. If the form is not completed, it will be returned to you for this to be done before the matter can proceed.

**HOW WE USE YOUR INFORMATION.** We may use the information provided on this form to prevent and detect crime, and may also share this information with other public bodies for similar purposes. In addition we may use this information to promote other council services you may be entitled to, but we will not share this information with third parties for marketing purposes. Information on this form will be made available to the public. If there is a particular reason why you think we should not do so you can let us know by writing to the address at the application form.

Julie Watts  
CenSus Revenue Account Manager



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**SUMMARY OF EXPENDITURE AND INCOME OF YOUR LOCAL ORGANISATION**

YEAR ENDED \_\_\_\_ / \_\_\_\_ / \_\_\_\_

| Expenditure   | £ | Income       | £ |
|---|---|--------------|---|
| WE ARE A NEW CHARITY. PLEASE FIND ENCLOSED ESTIMATED EXPENDITURE ON A SEPARATE SHEET. |   |              |   |
| <b>Total</b>  |   | <b>Total</b> |   |
| Notes to Accounts:  |   |              |   |
| Balances at ____ / ____ / ____  |   |              |   |
| (Net Current Assets):   |   |              |   |
| NONE  |   |              |   |

**CHECK LIST**

Have you included the following:

YES

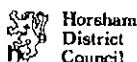
NO

- The completed application form  YES  NO
- Copies of the most recent audited accounts and balance sheets for the local organisation (accounts should be relevant to the premises occupied and not the national body accounts).  YES  NO

**Please complete all boxes on all forms, including N/A (not applicable), if appropriate.**

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**Criteria for determination as to whether or not to grant discretionary rate relief and if so at what level.**

1. The starting point for discretionary relief will be 0%.
2. Membership:
  - a. Open to all sections of community +1
  - b. Open to all sections of community but subject to a qualifying interest (e.g. football club needs ability to play football) +1
  - c. Membership fee less than £2.00 per month +1
  - d. Discounts for registered unemployed or person from family with no wage earner +1
  - e. Membership restricted by area within the district -1
  - f. Membership encouraged from particular groups in the community +1
  - g. Sections of the community actively excluded -1
  - h. Membership fee more than £5.00 per month -1
  - i. 25% of membership from outside district -1
  - j. 50% of membership from outside district -2
  - k. 75% of membership from outside district -5
3. Facilities – funding
  - a. Building paid for by funds raised by members +1
  - b. Rent paid for by funders raised by members +1
  - c. Buildings paid for by grants from organisations other than the Council 0
  - d. Rent paid for by grants from organisations other than the Council 0
  - e. Building paid for by grant from the Council -1
  - f. Rent paid for by grant from the Council -1
  - g. Building provided by the Council -1
  - h. Building on peppercorn rent from the Council -1
  - i. Building owned by another organisation -2
4. Facilities – usage
  - a. Organisation has sole usage 0
  - b. Organisation owns/leases and allows usage by other organisations that could be entitled to discretionary relief +1
  - c. Organisation owns/leases and allows usage by other organisations not entitled to Relief -2
  - d. Organisation owns/leases and charges for use by others -2
5. Facilities – other
  - a. Organisation runs a bar -1
  - b. Organisation runs a canteen or other income generating facility -1
  - c. Bar available for non-members -2
6. Staff
  - a. Employing 2 or more staff -1

Julie Watts  
CenSus Revenue Account Manager



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7. Activity

- |   |           |
|---|-----------|
| a. Activity is one that indirectly relieves the Council of the need to do so  | (2)<br>+2 |
| b. Activity helps to meet a target in the community strategy  |           |
| c. Voluntary Youth Organisation   | up to +15 |
| d. Voluntary Emergency service  | up to +20 |
| e. Provides specialist medical or palliative services to residents of Adur & elsewhere  | up to +20 |
| f. Shops supporting a West Sussex local charity which provides specialist medical or palliative services to residents of Adur & elsewhere | up to +20 |

8. National links

- |  |    |
|--|----|
| a. Linked with national organisation                                     | 0  |
| b. Financial support available from national non-charitable organisation | -2 |
| c. Supporting development of interest at national level                  | +1 |

9. Charity shops

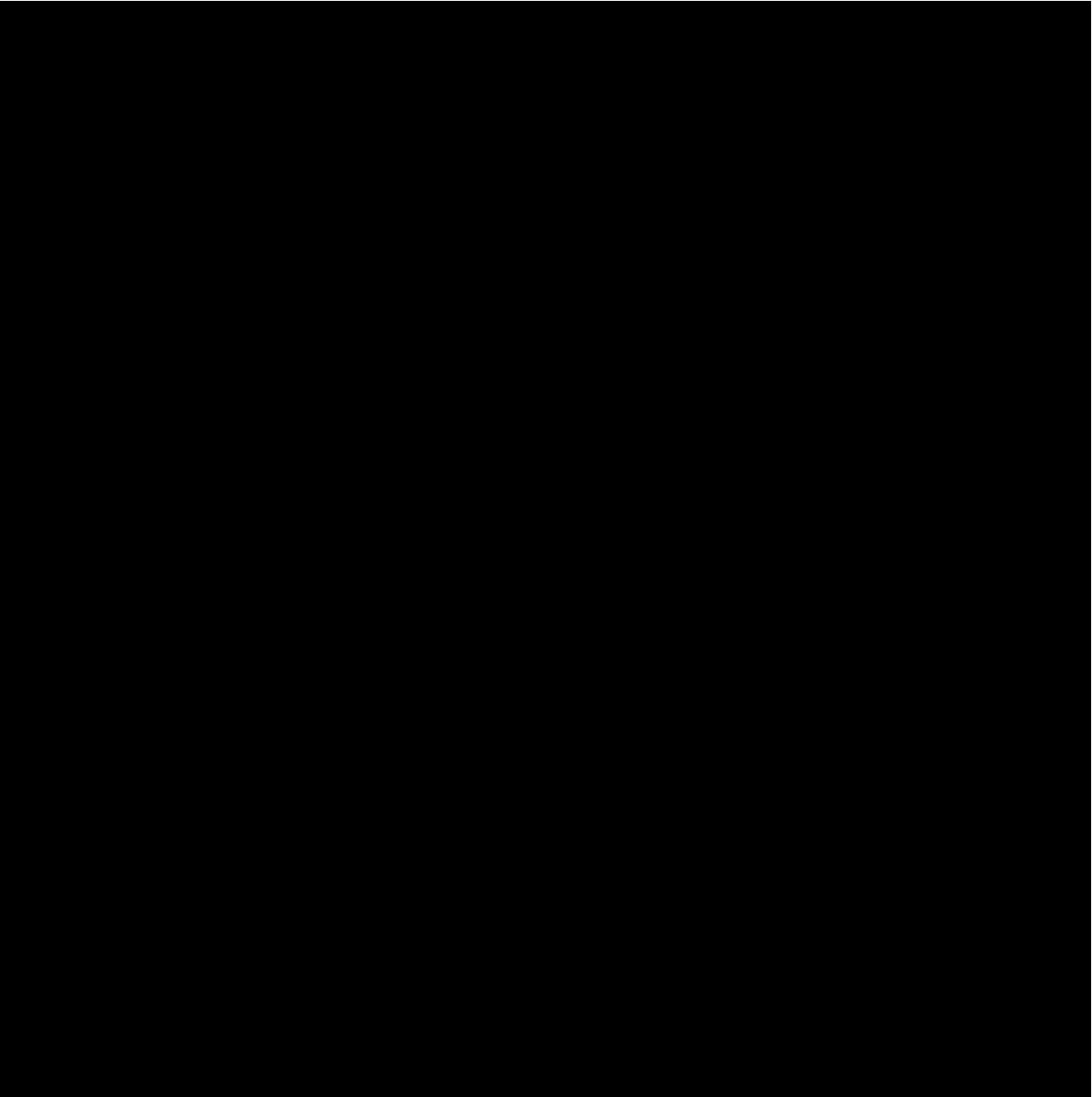
- |  |           |
|--|-----------|
| a. 90-100% of goods donated                    | (2)<br>+2 |
| b. 75-89% of goods donated                     | +1        |
| c. 60-74% of goods donated                     | 0         |
| d. 50-59% of goods donated                     | -1        |
| e. Less than 50% then no discretionary relief. |           |

How points will equate to percentage relief

- i. For applicants other than charity shops, a score of +11 points against the criteria will lead to a 10% relief and this will be reduced by 1% per point under 11
- ii. For charity shops a score of +2 will equal 10% relief, +1 will equal 5% relief and 0 will equal 2% relief.

Julie Watts  
CenSus Revenue Account Manager





The Constitution of

# **SOLD**

**Shoreham**  
**Opportunities**  
for  
**Learning**  
**Disabilities**

A Charitable Incorporated Organisation  
(**C.I.O.**)

## Notes

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

Inserting the date of the constitution is good practice, and helps to ensure everyone has the same document.

**Clause 1 - Name** - You **must** include the name of the CIO in the constitution. In general, the Commission can accept any charity name unless it would be misleading, offensive or too similar to the name of an existing charity (unless the CIO is replacing that charity). The Commission has powers to require a charity to change its name if this happens. Further information on this is provided in our publication *Registering as a Charity (CC21)* and in our Operational Guidance (0618 - 'Names'), which are available on our website. There are also legal restrictions on using the same name as an existing company (unless it is a charitable company that is converting to a CIO) or as a former company or CIO that underwent insolvent liquidation - if in doubt seek professional advice.

**Clause 2 - Principal office** - The constitution **must** state whether the CIO's principal office is in England or Wales.

**Clause 3 - Objects** - The CIO **must** have exclusively charitable objects which you **must** set out in the constitution. Guidance on appropriate wording is available on our website. The key elements to include are:

- the purpose or purposes for which the CIO is being established;
- the people who can benefit, and, if appropriate;
- any geographic limits defining the area of benefit. If you include an area of benefit, it is common to define it by reference to a local government area: this has the advantage of clarity and simplicity, but can create problems if the area is subsequently altered or abolished. If this happens in future, contact the Commission for advice on amending the objects.

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

If the CIO needs to be recognised as a charity in Scotland and/or Northern Ireland you will need to include the

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

### ('Foundation' model constitution)

Date of constitution (last amended):

..... 11th Dec 2013 .....

#### 1. Name

The name of the Charitable Incorporated Organisation ("the CIO") is

SHARENAM OPPORTUNITY (FOR) LEARNING DISABILITIES  
S.O.L.D.

#### 2. National location of principal office

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

#### 3. Object[s]

The object[s] of the CIO [is][are] the main premise of the charity is to provide meaningful and quality work experience for adults with learning disabilities in a realistic work situation that both meets their needs and helps develop new skills. It is a stimulating, rewarding & challenging environment, situated in a busy, active shop on a town high street.

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

#### 4. Powers

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

- (1) ~~borrow money and to charge the whole or any part of its~~ <sup>11.12.13</sup> ~~property as security for the repayment of the money borrowed. The CIO must comply as appropriate with sections 124 and 125 of the Charities Act 2011, if it wishes to mortgage land;~~
- (2) buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use;
- (3) sell, lease or otherwise dispose of all or any part of the property belonging to the CIO. In exercising this power, the CIO must comply as appropriate with sections 117 and 119-123 of the Charities Act 2011;

## Notes

relevant parts of the wording in square brackets to meet the requirements of charity law in those countries

**Clause 4 - Powers** – The Charities Act 2011 ('2011 Act') gives a CIO power to do 'anything which is calculated to further its purposes or is conducive or incidental to doing so'. Strictly speaking, this is the only power a CIO needs. It can, however, be helpful to state certain powers explicitly in the constitution. In particular, a stated power to borrow **(1)** may reassure potential lenders. For this reason we recommend that you include the example powers set out in the model (these include powers to buy, sell and lease property, employ staff and delegate investment management to a professional fund-manager). You **may** add other express powers here if you wish to.

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

**Clause 5 – Application of income and property** – We recommend that you include this clause.

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

**(2)** reflects charity law requirements that the income and property of a CIO must be applied solely to further its objects and not to benefit the members or charity trustees (except as permitted by the governing document (see clause 6) or other express power). The trustees have a duty to ensure that the funds are correctly applied in accordance with this principle.

**Clause 6 - Benefits and payments to charity trustees and connected persons** – Charity trustees may only benefit from their charity if they have express legal authorisation to do so (such as a clause in the constitution). This restriction extends to people closely connected to a trustee ('connected persons' – this term is defined in the interpretation clause). You **should** include this clause so that charity trustees are clear about the restrictions that apply to them; and unless you include it, the statutory provisions will apply. Even

- (4) employ and remunerate such staff as are necessary for carrying out the work of the CIO. The CIO may employ or remunerate a charity trustee only to the extent that it is permitted to do so by clause 6 (Benefits and payments to charity trustees and connected persons) and provided it complies with the conditions of that clause;
- (5) ~~deposit or invest funds, employ a professional fund-manager, and arrange for the investments or other property of the CIO to be held in the name of a nominee, in the same manner and subject to the same conditions as the trustees of a trust are permitted to do by the Trustee Act 2000.~~ 11.12.13

## 5. Application of income and property

- (1) The income and property of the CIO must be applied solely towards the promotion of the objects.
- (a) A charity trustee is entitled to be reimbursed from the property of the CIO or may pay out of such property reasonable expenses properly incurred by him or her when acting on behalf of the CIO.
- (b) A charity trustee may benefit from trustee indemnity insurance cover purchased at the CIO's expense in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011.
- (2) None of the income or property of the CIO may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to any member of the CIO.
- (3) Nothing in this clause shall prevent a charity trustee or connected person receiving any benefit or payment which is authorised by Clause 6.

## 6. Benefits and payments to charity trustees and connected persons

### (1) General provisions

No charity trustee or connected person may:

- (a) buy or receive any goods or services from the CIO on terms preferential to those applicable to members of the public;
- (b) sell goods, services, or any interest in land to the CIO;
- (c) be employed by, or receive any remuneration from, the CIO;
- (d) receive any other financial benefit from the CIO;

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

## Notes

where trustees are allowed to benefit from the CIO, this must only happen where the benefit is in the interests of the CIO. Our guidance *Trustee expenses and payments (CC11)* provides more information about trustee benefits.

The model clause permits a minority of the charity trustees or connected persons to receive payments and other benefits in certain instances (such as for goods and services they supply to the CIO), subject to the stated controls. The option also allows other types of trustee benefit, subject to the Commission's prior consent.

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

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

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

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

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

- (a) A charity trustee or connected person may receive a benefit from the CIO as a beneficiary of the CIO provided that a majority of the trustees do not benefit in this way.
- (b) A charity trustee or connected person may enter into a contract for the supply of services, or of goods that are supplied in connection with the provision of services, to the CIO where that is permitted in accordance with, and subject to the conditions in, sections 185 to 188 of the Charities Act 2011.
- (c) Subject to sub-clause (3) of this clause a charity trustee or connected person may provide the CIO with goods that are not supplied in connection with services provided to the CIO by the charity trustee or connected person.
- (d) A charity trustee or connected person may receive interest on money lent to the CIO at a reasonable and proper rate which must be not more than the Bank of England bank rate (also known as the base rate).
- (e) A charity trustee or connected person may receive rent for premises let by the trustee or connected person to the CIO. The amount of the rent and the other terms of the lease must be reasonable and proper. The charity trustee concerned must withdraw from any meeting at which such a proposal or the rent or other terms of the lease are under discussion.
- (f) A charity trustee or connected person may take part in the normal trading and fundraising activities of the CIO on the same terms as members of the public.

## (3) Payment for supply of goods only – controls

The CIO and its charity trustees may only rely upon the authority provided by sub-clause (2)(c) of this clause if each of the following conditions is satisfied:

- (a) The amount or maximum amount of the payment for the goods is set out in a written agreement between the CIO and the charity trustee or connected person supplying the goods ("the supplier").
- (b) The amount or maximum amount of the payment for the goods does not exceed what is reasonable in the circumstances for the supply of the goods in question.

**Clause 7 - Conflicts of interest and conflicts of loyalty** – The General Regulations provide that a charity trustee of a CIO must not take part in any decision from which they would directly or indirectly benefit personally, unless they cannot reasonably be regarded as having a conflict of interest. This clause reminds the trustees of this requirement and also reflects wider good practice on managing conflicts of interest and conflicts of loyalty. We recommend that you include it.

- (c) The other charity trustees are satisfied that it is in the best interests of the CIO to contract with the supplier rather than with someone who is not a charity trustee or connected person. In reaching that decision the charity trustees must balance the advantage of contracting with a charity trustee or connected person against the disadvantages of doing so.
  - (d) The supplier is absent from the part of any meeting at which there is discussion of the proposal to enter into a contract or arrangement with him or her or it with regard to the supply of goods to the CIO.
  - (e) The supplier does not vote on any such matter and is not to be counted when calculating whether a quorum of charity trustees is present at the meeting.
  - (f) The reason for their decision is recorded by the charity trustees in the minute book.
  - (g) A majority of the charity trustees then in office are not in receipt of remuneration or payments authorised by clause 6.
- (4) In sub-clauses (2) and (3) of this clause:
- (a) "the CIO" includes any company in which the CIO:
    - (i) holds more than 50% of the shares; or
    - (ii) controls more than 50% of the voting rights attached to the shares; or
    - (iii) has the right to appoint one or more directors to the board of the company;
  - (b) "connected person" includes any person within the definition set out in clause [30] (Interpretation);

## 7. Conflicts of interest and conflicts of loyalty

A charity trustee must:

- (1) declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with the CIO or in any transaction or arrangement entered into by the CIO which has not previously been declared; and
- (2) absent himself or herself from any discussions of the charity trustees in which it is possible that a conflict of interest will arise between his or her duty to act solely in the interests of the CIO and any personal interest (including but not limited to any financial interest).

## Notes

**Clause 8 - Liability of members -**  
The constitution **must** state whether members of the CIO **either**

- (a) have no liability to contribute to the assets of the CIO if it is wound up **[option 1] or:**
- (b) will be liable to contribute up to a maximum amount each if the CIO cannot meet its financial obligations when it is wound up **[option 2].**

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

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

### Clause 9 - Charity trustees

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

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

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

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

Any charity trustee absenting himself or herself from any discussions in accordance with this clause must not vote or be counted as part of the quorum in any decision of the charity trustees on the matter.

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

### Option 1

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

### Option 2

- (1) If the CIO is wound up, each member of the CIO is liable to contribute to the assets of the CIO such amount (but not more than £[ ] ) as may be required for payment of the debts and liabilities of the CIO contracted before that person ceases to be a member, for payment of the costs, charges and expenses of winding up, and for adjustment of the rights of the contributing members among themselves.
- (2) In sub-clause (1) of this clause "member" includes any person who was a member of the CIO within 12 months before the commencement of the winding up. 11, 12, 13
- (3) But subject to that, the members of the CIO have no liability to contribute to its assets if it is wound up, and accordingly have no personal responsibility for the settlement of its debts and liabilities beyond the amount that they are liable to contribute.

## 9. Charity trustees

### (1) Functions and duties of charity trustees

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

- (a) to exercise his or her powers and to perform his or her functions in his or her capacity as a trustee of the CIO in the way he or she decides in good faith would be most likely to further the purposes of the CIO; and
- (b) to exercise, in the performance of those functions, such care and skill as is reasonable in the circumstances having regard in particular to:
  - (i) any special knowledge or experience that he or she has or holds himself or herself out as having; and,

## Notes

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

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

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

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

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

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

Choose Clause 9(3) Option 1 (and Option 1a or b) and Clause 10 Option 1 or choose Clause 9(3) Option 2 and Clause 10 Option 2 (selecting the relevant parts of each section). Delete the options that you have not chosen.

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

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

## (2) Eligibility for trusteeship

- (a) Every charity trustee must be a natural person.
- (b) No individual may be appointed as a charity trustee of the CIO:
  - if he or she is under the age of 16 years; or
  - if he or she would automatically cease to hold office under the provisions of clause [12(1)(e)].
- (c) No one is entitled to act as a charity trustee whether on appointment or on any re-appointment until he or she has expressly acknowledged, in whatever way the charity trustees decide, his or her acceptance of the office of charity trustee.
- [(d) At least one of the trustees of the CIO must be 18 years of age or over. If there is no trustee aged at least 18 years, the remaining trustees may only act to call a meeting of the charity trustees, or appoint a new charity trustee.]

## (3) Number of charity trustees

### Option 1

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

### Option 1a

- (b) The maximum number of charity trustees is [12]. The charity trustees may not appoint any charity trustee if as a result the number of charity trustees would exceed the maximum. JS 11.12.13

### Option 1b

- (b) There is no maximum number of charity trustees that may be appointed to the CIO. JS 11.12.13



## Notes

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

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

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

**10 - Appointment of charity trustees**  
- The constitution must make provision about the appointment of one or more persons to be Charity trustees.

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

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

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

### Option 2

(a) There should be:

~~[Not less than... nor more than]... appointed trustees;  
[... ex officio trustee(s); and  
[Not less than... nor more than]... nominated trustees.]~~

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

(c) The maximum number of charity trustees that can be appointed is as provided in sub-clause (a) of this clause. No trustee appointment may be made in excess of these provisions. ~~11.12.13~~

### (4) First charity trustees

The first charity trustees are as follows[, and are appointed for the following terms] -

JAMES LAWE ..... [for [4] years]  
JOANNE SNOW ..... [for [3] years]  
DEIDRE SOLOMON ..... [for [2] years]

## 10. Appointment of charity trustees

### Option 1

- (1) Apart from the first charity trustees, every trustee must be appointed [for a term of [three] years] by a resolution passed at a properly convened meeting of the charity trustees.
- (2) In selecting individuals for appointment as charity trustees, the charity trustees must have regard to the skills, knowledge and experience needed for the effective administration of the CIO.

### Option 2

#### (1) Appointed charity trustees

- (a) ~~Apart from the first charity trustees, every appointed trustee must be appointed [for a term of [three] years] by a resolution passed at a properly convened meeting of the charity trustees.~~ ~~11.12.13~~
- (b) ~~In selecting individuals for appointment as appointed charity trustees, the charity trustees must have regard to the skills, knowledge and experience needed for the effective administration of the CIO.~~

## Notes

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

### [(2) Ex officio Trustee[s]]

- (a) ~~The [insert role] for the time being ("the office holder") shall automatically ("ex-officio") be a charity trustee, for as long as he or she holds that office.~~
- (b) If unwilling to act as a charity trustee, the office holder may:
- (i) ~~before accepting appointment as a charity trustee, give notice in writing to the trustees of his or her unwillingness to act in that capacity; or~~
  - (ii) ~~after accepting appointment as a charity trustee, resign under the provisions contained in clause [12] (Retirement and removal of charity trustees).~~

§ 11.12.13

The office of ex officio charity trustee will then remain vacant until the office holder ceases to hold office.]

### [(3) Nominated Trustee[s]]

- (a) [insert name of appointing body] ("the appointing body") may appoint [insert number] charity trustees.
- (b) Any appointment must be made at a meeting held according to the ordinary practice of the appointing body.
- (c) Each appointment must be for a term of [three] years.
- (d) The appointment will be effective from the later of:
- (i) the date of the vacancy; and
  - (ii) the date on which the charity trustees or their secretary or clerk are informed of the appointment.
- (e) The person appointed need not be a member of the appointing body.
- (f) A trustee appointed by the appointing body has the same duty under clause 9(1) as the other charity trustees to act in the way he or she decides in good faith would be most likely to further the purposes of the CIO]

§ 11.12.13

**Clause 11 - Information for new charity trustees** - This clause represents good practice; we recommend that you include it. It is vital for new trustees to have easy access to the information and training that they need in order to become effective members of the trustee body.

## 11. Information for new charity trustees

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

- (a) a copy of the current version of this constitution; and
- (b) a copy of the CIO's latest Trustees' Annual Report and statement of accounts.

## Notes

**Clause 12 – Retirement and removal of charity trustees** - The General Regulations require that the constitution **must** contain provisions setting out how charity trustees (and members) may retire or otherwise cease to hold office. The provisions in the model follow recommended good practice. There is an optional provision (sub clause (3)) to ensure that trustees do not serve for more than three consecutive terms, which may help to encourage regular turnover and change on the trustee board. (It is good practice to aim for a balance between continuity and change.)

**Clause 13 – Taking of decisions by charity trustees** - The power to take decisions by resolution in writing or electronic form outside meetings is optional, but if the trustees intend to use it, it **must** be included in the constitution. Such a decision must be unanimous (ie all of the trustees must agree).

**Clause 14 – Delegation by charity trustees** - This power is optional. We recommend you include it for the smooth-running of the CIO. The General Regulations give charity trustees of a CIO automatic power to delegate tasks to sub-committees, staff or agents; but without this additional constitutional power, the trustees will be unable to delegate any power to make decisions.

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

## 12. Retirement and removal of charity trustees

- (1) A charity trustee ceases to hold office if he or she:
  - (a) retires by notifying the CIO in writing (but only if enough charity trustees will remain in office when the notice of resignation takes effect to form a quorum for meetings);
  - (b) is absent without the permission of the charity trustees from all their meetings held within a period of six months and the trustees resolve that his or her office be vacated;
  - (c) dies;
  - (d) in the written opinion, given to the company, of a registered medical practitioner treating that person, has become physically or mentally incapable of acting as a director and may remain so for more than three months;
  - (e) is disqualified from acting as a charity trustee by virtue of sections 178-180 of the Charities Act 2011 (or any statutory re-enactment or modification of that provision).
- (2) Any person retiring as a charity trustee is eligible for reappointment.
- ~~(3) A charity trustee who has served for [three] consecutive terms may not be reappointed for a [fourth] consecutive term but may be reappointed after an interval of at least [one year].~~ § 11.12.13

## 13. Taking of decisions by charity trustees

Any decision may be taken either:

- at a meeting of the charity trustees; or
- by resolution in writing or electronic form agreed by all of the charity trustees, which may comprise either a single document or several documents containing the text of the resolution in like form to each of which one or more charity trustees has signified their agreement.

## 14. Delegation by charity trustees

- (1) The charity trustees may delegate any of their powers or functions to a committee or committees, and, if they do, they shall determine the terms and conditions on which the delegation is made. The charity trustees may at any time alter those terms and conditions, or revoke the delegation.
- (2) This power is in addition to the power of delegation in the General Regulations and any other power of delegation available to the charity trustees, but is subject to the following requirements:

**Clause 15 – Meetings of charity trustees** – The General Regulations require that the Constitution **must** include provisions for the calling and running of meetings including the minimum number of trustees who shall form a quorum, appointment of a chair and, if trustees will be able to demand a poll (a counted vote, normally with voting papers), the procedure for conducting such a poll. The provisions in this model are good practice recommendations.

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

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

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

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

- (a) a committee may consist of two or more persons, but at least one member of each committee must be a charity trustee;
- (b) the acts and proceedings of any committee must be brought to the attention of the charity trustees as a whole as soon as is reasonably practicable; and
- (c) the charity trustees shall from time to time review the arrangements which they have made for the delegation of their powers.

## 15. Meetings of charity trustees

### (1) Calling meetings

- (a) Any charity trustee may call a meeting of the charity trustees.
- (b) Subject to that, the charity trustees shall decide how their meetings are to be called, and what notice is required.

### (2) Chairing of meetings

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

### (3) Procedure at meetings

- (a) No decision shall be taken at a meeting unless a quorum is present at the time when the decision is taken. The quorum is two charity trustees, or the number nearest to one third of the total number of charity trustees, whichever is greater, or such larger number as the charity trustees may decide from time to time. A charity trustee shall not be counted in the quorum present when any decision is made about a matter upon which he or she is not entitled to vote.
- (b) Questions arising at a meeting shall be decided by a majority of those eligible to vote.
- [(c) In the case of an equality of votes, the person who chairs the meeting shall have a second or casting vote.]

**Clause 16 – Membership of the CIO** - A CIO must have one or more members. In this model constitution the charity trustees are the only members and become members automatically. If the CIO is going to have a wider voting membership you will need use the **Association Model Constitution**.

The constitution must set out who is eligible for membership and how someone becomes a member. The constitution must contain provision for retirement and termination of membership. This model clause fulfils these requirements.

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

**Clause 17 – Informal or associate (non-voting) membership** – we advise CIOs to include this power if they contemplate having an informal (associate) membership. Membership of this kind does not count as membership for legal purposes, for example in terms of voting rights, legal obligations to act in the interests of the charity or any liability to contribute to the assets of the CIO on dissolution.

**Clause 18 – Decisions which must be made by the members of the CIO** – we recommend that you include these powers and provisions in full

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

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

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

- (a) A meeting may be held by suitable electronic means agreed by the charity trustees in which each participant may communicate with all the other participants.
- (b) Any charity trustee participating at a meeting by suitable electronic means agreed by the charity trustees in which a participant or participants may communicate with all the other participants shall qualify as being present at the meeting.
- (c) Meetings held by electronic means must comply with rules for meetings, including chairing and the taking of minutes.

**16. Membership of the CIO**

- (1) The members of the CIO shall be its charity trustees for the time being. The only persons eligible to be members of the CIO are its charity trustees. Membership of the CIO cannot be transferred to anyone else.
- (2) Any member and charity trustee who ceases to be a charity trustee automatically ceases to be a member of the CIO.

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

- (1) The charity trustees may create associate or other classes of non-voting membership, and may determine the rights and obligations of any such members (including payment of membership fees), and the conditions for admission to, and termination of membership of any such class of members.
- (2) Other references in this constitution to "members" and "membership" do not apply to non-voting members, and non-voting members do not qualify as members for any purpose under the Charities Acts, General Regulations or Dissolution Regulations.]

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

- (1) Any decision to:
  - (a) amend the constitution of the CIO;
  - (b) amalgamate the CIO with, or transfer its undertaking to, one or more other CIOs, in accordance with the Charities Act 2011; or
  - (c) wind up or dissolve the CIO (including transferring its business to any other charity)

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

## Notes

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

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

- (2) Decisions of the members may be made either:
- (a) by resolution at a general meeting; or
  - (b) by resolution in writing, in accordance with sub-clause (4) of this clause.
- (3) Any decision specified in sub-clause (1) of this clause must be made in accordance with the provisions of clause [28] (amendment of constitution), clause [29] (Voluntary winding up or dissolution), or the provisions of the Charities Act 2011, the General Regulations or the Dissolution Regulations as applicable. Those provisions require the resolution to be agreed by a 75% majority of those members voting at a general meeting, or agreed by all members in writing.
- (4) Except where a resolution in writing must be agreed by all the members, such a resolution may be agreed by a simple majority of all the members who are entitled to vote on it. Such a resolution shall be effective provided that:
- (a) a copy of the proposed resolution has been sent to all the members eligible to vote; and
  - (b) the required majority of members has signified its agreement to the resolution in a document or documents which are received at the principal office within the period of 28 days beginning with the circulation date. The document signifying a member's agreement must be authenticated by their signature, by a statement of their identity accompanying the document, or in such other manner as the CIO has specified.

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

**Clause 19 - General meetings of members** - The General Regulations state that the constitution must make provision about the holding and calling of general meetings, and procedure at such meetings including the minimum number of members who shall form a quorum, whether members can demand a poll, and the procedure for conducting such a poll. The provisions in this clause are good practice recommendations.

(1) In a CIO with the 'foundation' model constitution, all of the members are trustees, so the trustees may decide which of their meetings should be treated as a general meeting of the members (subject to the notice requirements in (2)).

## 19. General meetings of members

### (1) Calling of general meetings of members

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

### (2) Notice of general meetings of members

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

## Notes

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

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

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

- (a) how a member appoints a proxy;
- (b) the rights of the proxy; and
- (c) how the appointment is terminated.

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

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

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

**Clause 20 – Saving provisions** – We recommend that you include this clause, to reduce the risk of trustees' decisions being declared invalid for purely technical reasons. This is, however, also covered in the General Regulations.

### Clause 21 – Execution of documents

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

- (b) Except where a specified period of notice is strictly required by another clause in this constitution, by the Charities Act 2011 or by the General Regulations, a general meeting may be called by shorter notice if it is so agreed by a majority of the members of the CIO.
- (c) Proof that an envelope containing a notice was properly addressed, prepaid and posted; or that an electronic form of notice was properly addressed and sent, shall be conclusive evidence that the notice was given. Notice shall be deemed to be given 48 hours after it was posted or sent.

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

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

## 20. Saving provisions

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

- who was disqualified from holding office;
- who had previously retired or who had been obliged by the constitution to vacate office;
- who was not entitled to vote on the matter, whether by reason of a conflict of interest or otherwise;

if, without the vote of that charity trustee and that charity trustee being counted in the quorum, the decision has been made by a majority of the charity trustees at a quorate meeting.

- (2) Sub-clause (1) of this clause does not permit a charity trustee to keep any benefit that may be conferred upon him or her by a resolution of the charity trustees or of a committee of charity trustees if, but for sub-clause (1), the resolution would have been void, or if the charity trustee has not complied with clause 7 (Conflicts of interest).

## 21. Execution of documents

- (1) The CIO shall execute documents either by signature or by affixing its seal (if it has one)
- (2) A document is validly executed by signature if it is signed by at least two of the charity trustees.

## Notes

**Clause 22 – Use of electronic communications** – The General Regulations include provisions governing the use of electronic communication, and we recommend that CIO trustees familiarise themselves with the requirements. Failure to comply with the requirement to provide a hard copy would constitute an offence.

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

**Clause 23 – Keeping of registers** – This clause reflects the requirements in the General Regulations that the CIO keeps registers of members and charity trustees and makes this information available for inspection by interested persons. This does not have to be stated in the constitution but is included to serve as a reminder.

**Clause 24 – Minutes** – This clause reflects the requirements of the General Regulations regarding record keeping. We recommend that this clause is included, to remind the trustees of their responsibilities.

(3) If the CIO has a seal:

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

## 22. Use of electronic communications

### [(1) General]

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

- (a) the requirement to provide within 21 days to any member on request a hard copy of any document or information sent to the member otherwise than in hard copy form;
- (b) any requirements to provide information to the Commission in a particular form or manner.

## 23. Keeping of Registers

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

## 24. Minutes

The charity trustees must keep minutes of all:

- (1) appointments of officers made by the charity trustees;
- (2) proceedings at general meetings of the CIO;
- (3) meetings of the charity trustees and committees of charity trustees including:
  - the names of the trustees present at the meeting;
  - the decisions made at the meetings; and
  - where appropriate the reasons for the decisions;
- (4) decisions made by the charity trustees otherwise than in meetings.



## Notes

**Clause 25 – Accounting records (etc) –**  
This clause reflects the trustees' duties under the 2011 Act. We recommend that this clause is included, to remind the trustees of their responsibilities.

**Clause 26 – Rules –** We recommend that this power **should** be included for clarity, but charities automatically have this power and it does not have to be stated in the constitution. It is important that members are made aware of, and can easily obtain, copies of any rules.

**Clause 27 – Disputes –** It is good practice to include provisions for dealing with any disputes that arise between members of the CIO. Litigation can be expensive, and litigation about the internal affairs of a charity would almost certainly constitute "charity proceedings", which can be taken only with the Commission's authority. We would usually require the parties to a dispute to have tried mediation first.

**Clause 28 – Amendment of constitution –** This reflects the CIOs' statutory power of amendment in sections 224-227 of the Charities Act 2011. A CIO's constitution **should** include these provisions for ease of reference. The constitution of a CIO cannot extend the statutory power of constitutional amendment, but the General Regulations provide that you **may** include additional restrictions in some or all cases, for example requiring a longer period of notice before the meeting, or a higher majority, for certain changes. Additional restrictions are not provided for in this model and if you are considering this, we recommend that you take appropriate advice. To request the Commission's consent to an amendment or to inform the Commission of an amendment, please complete our online form, which is available at *[link to be inserted]*

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

- (1) The charity trustees must comply with the requirements of the Charities Act 2011 with regard to the keeping of accounting records, to the preparation and scrutiny of statements of account, and to the preparation of annual reports and returns. The statements of account, reports and returns must be sent to the Charity Commission, regardless of the income of the CIO, within 10 months of the financial year end.
- (2) The charity trustees must comply with their obligation to inform the Commission within 28 days of any change in the particulars of the CIO entered on the Central Register of Charities..

## 26. Rules

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

## 27. Disputes

If a dispute arises between members of the CIO about the validity or propriety of anything done by the members under this constitution, and the dispute cannot be resolved by agreement, the parties to the dispute must first try in good faith to settle the dispute by mediation before resorting to litigation.

## 28. Amendment of constitution

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

- (1) This constitution can only be amended:
  - (a) by ~~resolution agreed~~ in writing <sup>66%</sup> by all members of the CIO; or <sup>11.12.13</sup>
  - (b) by a resolution passed by a <sup>75%</sup> majority of those voting at a general meeting of the members of the CIO called in accordance with clause 19 (General meetings of members).
- (2) Any alteration of clause 3 (Objects), clause [29] (Voluntary winding up or dissolution), this clause, or of any provision where the alteration would provide authorisation for any benefit to be obtained by charity trustees or members of the CIO or persons connected with them, requires the prior written consent of the Charity Commission.

## Notes

**Clause 29 – Voluntary winding up or dissolution** – This clause reflects the provisions of the 2011 Act and the General Regulations and Dissolution Regulations. We recommend that it is included in the constitution for ease of reference. It also highlights that there are other requirements in the Dissolution Regulations that the trustees must comply with, as there are offences for non-compliance. To inform the Commission of your CIO's dissolution, please complete our online form, which is available at *[link to be inserted]*.

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

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

- (3) No amendment that is inconsistent with the provisions of the Charities Act 2011 or the General Regulations shall be valid.
- (4) A copy of every resolution amending the constitution, together with a copy of the CIO's constitution as amended must be sent to the Commission by the end of the period of 15 days beginning with the date of passing of the resolution, and the amendment does not take effect until it has been recorded in the Register of Charities.

## 29. Voluntary winding up or dissolution

- (1) As provided by the Dissolution Regulations, the CIO may be dissolved by resolution of its members. Any decision by the members to wind up or dissolve the CIO can only be made:
  - (a) at a general meeting of the members of the CIO called in accordance with clause 19 (General meetings of members), of which not less than 14 days' notice has been given to those eligible to attend and vote:
    - (i) by a resolution passed by a <sup>66%</sup> 75% majority of those voting, or
    - (ii) by a resolution passed by decision taken without a vote and without any expression of dissent in response to the question put to the general meeting; or
  - (b) by a resolution agreed in writing by all members of the CIO.
- (2) Subject to the payment of all the CIO's debts:
  - (a) Any resolution for the winding up of the CIO, or for the dissolution of the CIO without winding up, may contain a provision directing how any remaining assets of the CIO shall be applied.
  - (b) If the resolution does not contain such a provision, the charity trustees must decide how any remaining assets of the CIO shall be applied.
  - (c) In either case the remaining assets must be applied for charitable purposes the same as or similar to those of the CIO.
- (3) The CIO must observe the requirements of the Dissolution Regulations in applying to the Commission for the CIO to be removed from the Register of Charities, and in particular:
  - (a) the charity trustees must send with their application to the Commission:
    - (i) a copy of the resolution passed by the members of the CIO;

## Notes

**Clause 30 – Interpretation** – this clause explains some terms used in the rest of the constitution.

- (ii) a declaration by the charity trustees that any debts and other liabilities of the CIO have been settled or otherwise provided for in full; and
- (iii) a statement by the charity trustees setting out the way in which any property of the CIO has been or is to be applied prior to its dissolution in accordance with this constitution;
- (b) the charity trustees must ensure that a copy of the application is sent within seven days to every member and employee of the CIO, and to any charity trustee of the CIO who was not privy to the application.
- (4) If the CIO is to be wound up or dissolved in any other circumstances, the provisions of the Dissolution Regulations must be followed.

### 30. Interpretation

In this constitution:

**“connected person”** means:

- (a) a child, parent, grandchild, grandparent, brother or sister of the charity trustee;
- (b) the spouse or civil partner of the charity trustee or of any person falling within sub-clause (a) above;
- (c) a person carrying on business in partnership with the charity trustee or with any person falling within sub-clause (a) or (b) above;
- (d) an institution which is controlled –
  - (i) by the charity trustee or any connected person falling within sub-clause (a), (b), or (c) above; or
  - (ii) by two or more persons falling within sub-clause (d)(i), when taken together
- (e) a body corporate in which –
  - (i) the charity trustee or any connected person falling within sub-clauses (a) to (c) has a substantial interest; or
  - (ii) two or more persons falling within sub-clause (e)(i) who, when taken together, have a substantial interest.

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

## Notes

**“General Regulations”** means the Charitable Incorporated Organisations (General) Regulations 2012.

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

The **“Communications Provisions”** means the Communications Provisions in [Part 10, Chapter 4] of the General Regulations.

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

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

## Appendix

The following provisions do not form part of the 'Foundation' model constitution but are available as options under clauses 19 (General meetings of members) and 22 (Use of electronic communications). For CIOs intending to include these powers in their constitutions, we recommend that you use the following wording. Notes on these clauses are included with the explanatory notes accompanying the clauses in the model.

### General meetings of members

#### (4) Proxy voting

- (a) Any member of the CIO may appoint another person as a proxy to exercise all or any of that member's rights to attend, speak and vote at a general meeting of the CIO. Proxies must be appointed by a notice in writing (a "proxy notice") which:
  - (i) states the name and address of the member appointing the proxy;
  - (ii) identifies the person appointed to be that member's proxy and the general meeting in relation to which that person is appointed;
  - (iii) is signed by or on behalf of the member appointing the proxy, or is authenticated in such manner as the CIO may determine; and
  - (iv) is delivered to the CIO in accordance with the constitution and any instructions contained in the notice of the general meeting to which they relate.
- (b) The CIO may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- (c) Proxy notices may (but do not have to) specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- (d) Unless a proxy notice indicates otherwise, it must be treated as :
  - (i) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and
  - (ii) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

- (e) A member who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the CIO by or on behalf of that member.
- (f) An appointment under a proxy notice may be revoked by delivering to the CIO a notice in writing given by or on behalf of the member by whom or on whose behalf the proxy notice was given.
- (g) A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.
- (h) If a proxy notice is not signed or authenticated by the member appointing the proxy, it must be accompanied by written evidence that the person who signed or authenticated it on that member's behalf had authority to do so.

(5) **Postal Voting**

- (a) The CIO may, if the charity trustees so decide, allow the members to vote by post or electronic mail ("email") to elect charity trustees or to make a decision on any matter that is being decided at a general meeting of the members.
- (b) The charity trustees must appoint at least two persons independent of the CIO to serve as scrutineers to supervise the conduct of the postal/email ballot and the counting of votes.
- (c) If postal and/or email voting is to be allowed on a matter, the CIO must send to members of the CIO not less than [21] days before the deadline for receipt of votes cast in this way:
  - (i) a notice by email, if the member has agreed to receive notices in this way under clause [21] (Use of electronic communication, including an explanation of the purpose of the vote and the voting procedure to be followed by the member, and a voting form capable of being returned by email or post to the CIO, containing details of the resolution being put to a vote, or of the candidates for election, as applicable;
  - (ii) a notice by post to all other members, including a written explanation of the purpose of the postal vote and the voting procedure to be followed by the member; and a postal voting form containing details of the resolution being put to a vote, or of the candidates for election, as applicable.

- (d) The voting procedure must require all forms returned by post to be in an envelope with the member's name and signature, and nothing else, on the outside, inside another envelope addressed to 'The Scrutineers for [name of CIO]', at the CIO's principal office or such other postal address as is specified in the voting procedure.
- (e) The voting procedure for votes cast by email must require the member's name to be at the top of the email, and the email must be authenticated in the manner specified in the voting procedure.
- (f) Email votes must be returned to an email address used only for this purpose and must be accessed only by a scrutineer.
- (g) The voting procedure must specify the closing date and time for receipt of votes, and must state that any votes received after the closing date or not complying with the voting procedure will be invalid and not be counted.
- (h) The scrutineers must make a list of names of members casting valid votes, and a separate list of members casting votes which were invalid. These lists must be provided to a charity trustee or other person overseeing admission to, and voting at, the general meeting. A member who has cast a valid postal or email vote must not vote at the meeting, and must not be counted in the quorum for any part of the meeting on which he, she or it has already cast a valid vote. A member who has cast an invalid vote by post or email is allowed to vote at the meeting and counts towards the quorum.
- (i) For postal votes, the scrutineers must retain the internal envelopes (with the member's name and signature). For email votes, the scrutineers must cut off and retain any part of the email that includes the member's name. In each case, a scrutineer must record on this evidence of the member's name that the vote has been counted, or if the vote has been declared invalid, the reason for such declaration.
- (j) Votes cast by post or email must be counted by all the scrutineers before the meeting at which the vote is to be taken. The scrutineers must provide to the person chairing the meeting written confirmation of the number of valid votes received by post and email and the number of votes received which were invalid.

- (k) The scrutineers must not disclose the result of the postal/email ballot until after votes taken by hand or by poll at the meeting, or by poll after the meeting, have been counted. Only at this point shall the scrutineers declare the result of the valid votes received, and these votes shall be included in the declaration of the result of the vote.
- (l) Following the final declaration of the result of the vote, the scrutineers must provide to a charity trustee or other authorised person bundles containing the evidence of members submitting valid postal votes; evidence of members submitting valid email votes; evidence of invalid votes; the valid votes; and the invalid votes.
- (m) Any dispute about the conduct of a postal or email ballot must be referred initially to a panel set up by the charity trustees, to consist of two trustees and two persons independent of the CIO. If the dispute cannot be satisfactorily resolved by the panel, it must be referred to the Electoral Reform Society.

#### **Use of electronic communications**

##### **(2) To the CIO**

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

##### **(3) By the CIO**

- (a) Any member or charity trustee of the CIO, by providing the CIO with his or her email address or similar, is taken to have agreed to receive communications from the CIO in electronic form at that address, unless the member has indicated to the CIO his or her unwillingness to receive such communications in that form.
- (b) The charity trustees may, subject to compliance with any legal requirements, by means of publication on its website :
  - (i) provide the members with the notice referred to in clause 19(2) (Notice of general meetings);
  - (ii) give charity trustees notice of their meetings in accordance with clause 15(1) (Calling meetings); [and



Notes

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

(c) The charity trustees must –

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

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



18139126

Application 2

Score 2 = 100%  
Charity ShopMr James Lowe  
TA Sold.

Criteria for determination as to whether or not to grant discretionary rate relief and if so at what level.

1. The starting point for discretionary relief will be 0%.
2. Membership:
  - a. Open to all sections of community +1
  - b. Open to all sections of community but subject to a qualifying interest or ability (e.g football club needs ability to play football) +1
  - c. Membership fee less than £ 2.00 per month +1
  - d. Discounts for registered unemployed or person from family with no wage earner +1
  - e. Membership restricted by area within the district -1
  - f. Membership encouraged from particular groups in the community +1
  - g. Sections of community actively excluded -1
  - h. Membership fee more than £5.00 per month -1
  - i. 25% of membership from outside district -1
  - j. 50% of membership from outside district -2
  - k. 75% of membership from outside district -5
3. Facilities - funding
  - a. Building paid for by funds raised by members +1
  - b. Rent paid for by funds raised by members +1
  - c. Buildings paid for by grants from organisations other than the Council *Not clear who Pays rent.* 0
  - d. Rent paid for by grants from organisations other than the Council *PIA* 0
  - e. Building paid for by grant from the Council *Pay £17,500* -1
  - f. Rent paid for by grant from the Council *Presumed self funded.* -1
  - g. Building provided by the Council -1
  - h. Building on peppercorn rent from the Council -1
  - i. Building owned by another organisation -2
4. Facilities - usage
  - a. Organisation has sole usage 0
  - b. Organisation owns / leases and allows usage by other organisations that could be entitled to discretionary relief +1
  - c. Organisation owns / leases and allows usage by other organisations not entitled to relief -2
  - d. Organisation owns / leases and charges for use by others -2



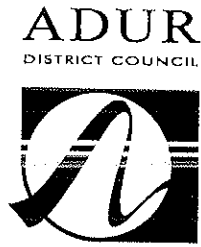
|    |                    |  |           |
|----|--------------------|--|-----------|
| 5. | Facilities – other |  |           |
|    | a.                 | Organisation runs a bar  | -1        |
|    | b.                 | Organisation runs a canteen or other income generating facility  | -1        |
|    | c.                 | Bar available for non-members  | -2        |
| 6. | Staff              |  |           |
|    | a.                 | Employing 2 or more staff  | -1        |
| 7. | Activity           |  |           |
|    | a.                 | Activity is one that indirectly relieves the Council of the need to do so  | +1        |
|    | b.                 | Activity helps to meet a target in the community strategy  | +2        |
|    | c.                 | Voluntary Youth Organisation   | up to +15 |
|    | d.                 | Voluntary Emergency service  | up to +20 |
|    | e.                 | Provides specialist medical or palliative services to residents of Adur & elsewhere  | up to +20 |
|    | f.                 | Shops supporting a West Sussex local charity which provides specialist medical or palliative services to residents of Adur & elsewhere | up to +20 |
| 8. | National links     |  |           |
|    | a.                 | Linked with national organisation  | 0         |
|    | b.                 | Financial support available from national non-charitable organisation  | -2        |
|    | c.                 | Supporting development of interest at national level   | +1        |
| 9. | Charity shops      |  |           |
|    | a.                 | 90-100% of goods donated   | +2        |
|    | b.                 | 75-89% of goods donated  | +1        |
|    | c.                 | 60-74% of goods donated  | 0         |
|    | d.                 | 50-59% of goods donated  | -1        |
|    | e.                 | Less than 50% then no discretionary relief.  | -1        |

+2  
=  
10% relief

How points will equate to percentage relief

- (i) For applicants other than charity shops, a score of +11 points against the criteria will lead to a 10% relief and this will be reduced by 1% per point under 11
- (ii) For charity shops a score of +2 will equal 10% relief, +1 will equal 5% relief and 0 will equal 2% relief.





Cabinet Member for Resources  
January 2014  
Decision to be taken by 2014

Key Decision: Yes / No

Ward: All

## Rate Relief Applications

### Report by the CenSus Head of Revenues and Benefits

#### 1.0 Summary

1.1 This report asks the Cabinet Member for Resources to note and approve applications for rate relief to non-domestic ratepayers.

#### 2.0 Background

2.1 Under the Local Government Finance Act 1988, the Council is

- obliged to give 80% national non-domestic rate (NNDR) relief on any property occupied by a charity;
- obliged to give 80% NNDR relief on any property occupied by a sports club registered with the Inland Revenue as a Community Amateur Sports Club (CASCs) (effective from 1 April 2004);
- has the discretion to give up to a further 20% NNDR relief on property occupied by charities, CASCs, non-profit making organisations and recreational bodies;
- has the discretion to give up to 100% NNDR relief on property occupied by ratepayers suffering hardship if it is in the interests of council taxpayers.

2.2 The Council has an agreed policy for the granting of discretionary rate relief to charities, non-profit making organisations and other recreational bodies under Section 47 of the Act. It is proposed the same criteria is used for the granting of hardship relief to business ratepayers under Section 49 of the Act both of which are reproduced at Annex 1.

#### 3.0 Costs

3.1 All NNDR monies collected are paid into a central pool, which is redistributed, to district councils on a per capita basis. The costs of the mandatory 80% relief for charities is met from the pool and has no further impact on this Council's finances.

3.2 Any discretionary relief, between 0% and 100%, is the billing authority's decision i.e. Adur District Council, and has a direct cost to the Council, as in the table below:

| Body               | Relief                                 | Met by central pool | Met by district council |
|--------------------|--|---------------------|-------------------------|
| Charity/CASCs      | a) Mandatory - 80%                     | 100%                | -                       |
|                    | b) Discretionary - up to a further 20% | 25%                 | 75%                     |
| Non-profit making  | c) Discretionary - up to 100%          | 75%                 | 25%                     |
| Business ratepayer | d) Hardship - up to 100%               | 75%                 | 25%                     |

3.3 The budget provision for 2013/14 for the cost of discretionary rate relief to the Council is £26,560. Monies allocated so far = £28,769.13, of which £20,652.85 has been met by the council.

#### 4.0 Mandatory Relief

4.1 The information in the schedule at Annex 2 gives details of new NNDR accounts where registered charities are in occupation and where 80% mandatory rate relief has been given. This mandatory rate relief is for noting only.

#### 5.0 Discretionary Relief

5.1 Discretionary relief falls into two main categories, a potential 20% for charities and CASCs (to bring their total relief up to 100%) and all other applicants between 0% and 100%.

5.2 Any organisation who in the future attain the status of a CASC would become entitled to mandatory relief of 80% and would then be considered in line with other charities.

5.3 As previously requested by Members, all organisations applying for discretionary rate relief and deemed suitable to register as a CASC were written to in these terms and some guidance notes were also provided.

5.4 The information in the schedule at Annex 2 gives details of new NNDR accounts where registered charities are in occupation, where 80% mandatory rate relief has been given and where up to 20% discretionary rate relief has also been applied for. These applications for up to 20% discretionary rate relief are for the Cabinet Member's determination. Also included are copies of the relevant supporting information provided by applicants.

5.5 The information in the schedule at Annex 3 contains details of non-profit making/recreational organisations where up to 100% discretionary relief has been applied for the period shown. These applications for up to 100% discretionary rate relief are for the Cabinet Member's determination. Also included are copies of the relevant supporting information provided by applicants.



- 5.6 The amounts shown in the Annexes under the headings for mandatory and discretionary rate relief for 2012/13 are based on the percentage of discretionary relief approved for the previous year, if applicable. The Cabinet Member is requested to determine applications by granting a percentage relief for the current year.

**Please note:** The supporting information from applicants to supplement Annexes 2 and 3 of this report is exempt from publication, as defined in paragraphs 1 and 2 of Part 1, Schedule 12 A, Section 100A(4) of the Local Government Act 1972

## **6.0 Legal**

- 6.1 As set out in paragraph 2.0 of the report.

## **7.0 Financial implications**

- 7.1 As set out in paragraph 3.0 of the report.

## **8.0 Recommendations**

- 8.1 The Cabinet Member for Resources is recommended to
- (i) note the accounts which qualify for mandatory rate relief; and
  - (ii) determine the level of discretionary rate relief in respect of charitable organisations or CASC as set out in Annexes 2 and 3;

### **Local Government Act 1972**

#### **Background Papers:**

None

#### **Contact Officer:**

Corinne McNeill  
CenSus Revenues Manager  
07872420248  
corinne.mcneall@centralsussex.gov.uk

## Appendix

### **1.0 Council Priority**

1.1 Matter considered and none identified.

### **2.0 Specific Action Plans**

2.1 Matter considered and no issues identified.

### **3.0 Sustainability Issues**

3.1 Matter considered and no issues identified.

### **4.0 Equality Issues**

4.1 Matter considered and no issues identified.

### **5.0 Community Safety Issues (Section 17)**

5.1 Matter considered and no issues identified.

### **6.0 Human Rights Issues**

6.1 Matter considered and no issues identified.

### **7.0 Reputation**

7.1 Matter considered and no issues identified.

### **8.0 Consultations**

8.1 None undertaken.

### **9.0 Risk assessment**

9.1 Matter considered and no issues identified.

### **10.0 Health & Safety Issues**

10.1 Matter considered and no issues identified.

### **11.0 Procurement Strategy**

11.1 Matter considered and no issues identified.

### **12.0 Partnership working**

12.1 Matter considered and no issues identified.

|     |  |                   |
|-----|--|-------------------|
| 5.  | <b>Facilities - other</b>  |                   |
| a.  | Organisation runs a bar  | -1                |
| b.  | Organisation runs a canteen or other income generating facility  | -1                |
| c.  | Bar available for non-members  | -2                |
| 6.  | <b>Staff</b>   |                   |
| a.  | Employing 2 or more staff  | -1                |
| 7.  | <b>Activity</b>  |                   |
| a.  | Activity is one that indirectly relieves the Council of the need to do so  | +1                |
| b.  | Activity helps to meet a target in the community strategy  | +2                |
| 8.  | <b>National links</b>  |                   |
| a.  | Linked with national organisation  | 0                 |
| b.  | Financial support available from national non-charitable organisation  | -2                |
| c.  | Supporting development of interest at national level   | +1                |
| 9.  | <b>Additional Criteria</b>   |                   |
| a.  | <b>Voluntary youth organisations –</b>   | <b>up to + 15</b> |
| b.  | <b>Voluntary Emergency services –</b>  | <b>up to + 20</b> |
| c.  | <b>Organisations that provide specialist medical or palliative services to the residents of Adur and elsewhere –</b>                           | <b>up to +20</b>  |
| 10. | <b>Charity shops</b>   |                   |
| a.  | 90-100% of goods donated   | +2                |
| b.  | 75-89% of goods donated  | +1                |
| c.  | 60-74% of goods donated  | 0                 |
| d.  | 50-59% of goods donated  | -1                |
| e.  | Less than 50% then no discretionary relief.  |                   |
| f.  | Shops supporting a West Sussex local charity which provides specialist medical or palliative services to the residents of Adur and elsewhere – | up to +20         |

How points will equate to percentage relief

- (i) For applicants other than charity shops, that a score of 11 points against the criteria will lead to a 10% relief and this will be reduced by 1% per point under 11
- (ii) For charity shops a score of 2 will equal 10% relief, 1 will equal 5% relief and 0 will equal 2% relief.

**Criteria for determination as to whether or not to grant discretionary rate relief and if so at what level.**

1. The starting point for discretionary relief will be 0%.
  
2. **Membership:**

|    |   |    |
|----|---|----|
| a. | Open to all sections of community   | +1 |
| b. | Open to all sections of community but subject to a qualifying interest or ability (e.g. football club needs ability to play football) | +1 |
| c. | Membership fee less than £ 2.00 per month   | +1 |
| d. | Discounts for registered unemployed or person from family with no wage earner   | +1 |
| e. | Membership restricted by area within the district   | -1 |
| f. | Membership encouraged from particular groups in the community   | +1 |
| g. | Sections of community actively excluded   | -1 |
| h. | Membership fee more than £5.00 per month  | -1 |
| i. | 25% of membership from outside district   | -1 |
| j. | 50% of membership from outside district   | -2 |
| k. | 75% of membership from outside district   | -5 |
  
3. **Facilities - funding**

|    |  |    |
|----|--|----|
| a. | Building paid for by funds raised by Members                           | +1 |
| b. | Rent paid for by funds raised by Members                               | +1 |
| c. | Buildings paid for by grants from organisations other than the Council | 0  |
| d. | Rent paid for by grants from organisations other than the Council      | 0  |
| e. | Building paid for by grant from the Council                            | -1 |
| f. | Rent paid for by grant from the Council                                | -1 |
| g. | Building provided by the Council                                       | -1 |
| h. | Building on peppercorn rent from the Council                           | -1 |
| i. | Building owned by another organisation                                 | -2 |
  
4. **Facilities - usage**

|    |   |    |
|----|---|----|
| a. | Organisation has sole usage   | 0  |
| b. | Organisation owns / leases and allows usage by other organisations that could be entitled to discretionary relief | +1 |
| c. | Organisation owns / leases and allows usage by other organisations not entitled to relief                         | -2 |
| d. | Organisation owns / leases and charges for use by others  | -2 |



**POLICY GUIDELINES RE HARDSHIP RELIEF FROM RATES UNDER SECTION 49 OF THE LOCAL GOVERNMENT FINANCE ACT 1988**

- i) Reduction or remission of rates on grounds of hardship will be the exception rather than the rule
- ii) Each case will be considered on its own merits.
- iii) Relief will only be given where a facility is regarded as unique or essential to the local community, where without such a relief would be lost and where no reasonably accessible alternative is available.
- iv) In determining hardship, all relevant factors affecting the ability of a business to meet its liability for rates will be taken into account.
- v) Any decision to grant relief must be in the interest of the council taxpayers of Adur District Council.

**GOOD PRACTICE**

The Housing and Central Services Committee considered a report at its meeting on 25<sup>th</sup> February 2003 which reviewed the criteria previously agreed by Members and which detailed the criteria the Department of the Environment (DoE) considered should be taken into account when considering individual cases for relief.

APPLICATIONS FOR DISCRETIONARY RATE RELIEF FROM OTHER ORGANISATIONS  
UNDER SECTION 47 OF THE LOCAL GOVERNMENT FINANCE ACT 1988

| Account No.   | Name & Address of Organisation. | 2012/13<br>% Discretionary Relief<br>£ | Application Form Received<br>Item No | 2013/14<br>%<br>Discretionary Relief<br>£. | Officer Advice<br>% and £ | Notes |
|---------------|---------------------------------|--|--------------------------------------|--|---------------------------|-------|
|               |                                 |  |                                      |  |                           |       |
|               |                                 |  |                                      |  |                           |       |
|               |                                 |  |                                      |  |                           |       |
|               |                                 |  |                                      |  |                           |       |
|               |                                 |  |                                      |  |                           |       |
|               |                                 |  |                                      |  |                           |       |
| <b>TOTALS</b> | <b>COST TO COUNCIL</b>          |  |                                      |  |                           |       |
|               | <b>DISCRETIONARY - 25%</b>      |  |                                      |  |                           |       |





ADUR  
DISTRICT COUNCIL



## Record of Decision

Ref. No: RES/018/13-14

Date of Decision: 20 March 2014

If you have any questions about this decision please contact Democratic Services on 01903 221006 or email [democratic.services@worthing.gov.uk](mailto:democratic.services@worthing.gov.uk)

|  |     |                             |     |
|--|-----|-----------------------------|-----|
| <b>Record of Decision: Rate Relief Applications</b>  |     |                             |     |
| <b>Decision taken by:</b> Cabinet Member for Resources   |     |                             |     |
| <b>Declaration of Disclosable Pecuniary Interests:</b> I hereby confirm that I do not have any disclosable pecuniary interest in this item.  |     |                             |     |
| <b>Decision:</b>   |     |                             |     |
| (i) Application 1 – noted<br>Application 2 – registered as a charity 14 February 2014 – mandatory relief to be allowed from 14 February 2014<br>Application 3 & 4 noted                                  |     |                             |     |
| (ii) Application 1 – 84% discretionary<br>Application 2 – 10% in accordance with Council policy<br>Application 3 & 4 – 0%  |     |                             |     |
| <b>Key Decision:</b> Yes / No  |     |                             |     |
| <b>Reasons for the Decision:</b> As per report and Council policy, Applicant 1 considered as non-profit making and award is equivalent to 80% mandatory plus 4% discretionary scored per Council policy. |     |                             |     |
| <b>Alternative Options Considered:</b> None applicable   |     |                             |     |
| <b>Other Matters Considered:</b>   |     |                             |     |
| Legal Advice and Issues  | Yes | Financial Advice and Issues | Yes |
| Sustainability Issues  | Yes | Equality Issues             | Yes |
| Community Safety Issues  | Yes | Human Rights Issues         | Yes |
| Reputation   | Yes | Risk Assessment             | Yes |
| Health and Safety Issues   | Yes |                             |     |
| <b>Consultation:</b> This report was circulated to Councillors, and published on the Council's website on 22 January 2014. The following consultation responses were noted by the decision maker: None   |     |                             |     |

**Background Papers:**

None

**Lead Officer:**

Corinne McNeall  
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07872420248  
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**Call-in:** The call in deadline for this decision will be 5:00pm on Thursday 27 March 2014.

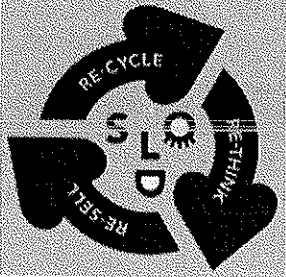
**Signed:**



**Date:** 20 March 2014

**Name:** Councillor Angus Dunn

**Decision Ref No:** RES/018/13-14



**SOLD**  
Shoreham  
Opportunities for  
Learning  
Disabilities

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Shoreham-by-Sea  
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[james@soldshop.org.uk](mailto:james@soldshop.org.uk)  
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Charity number 1155796

27-05-14

Dear Director of Corporate Services,

I am writing to you to appeal against the 10% rates relief you allocated our charity in the months before we became a registered charity. Initially, we were a non-profit making social enterprise and therefore still of a charitable nature. We were led to believe by your department before we started, that such an operation concerned with disability would be entitled to up to 80% rates relief from the onset. We became a charity on 14-02-14 and have since received the full 80% relief, but wish to claim it from the start as we feel is our entitlement.

The main premise of the charity is to give people with learning disabilities work experience and retail shop training. We currently support 19 trainees working in the shop. These include candidates from Work Aid and students on work experience from Northbrook College plus other independent referrals.

We trust you will agree that we meet the criteria for full relief and will reimburse us accordingly.

Thank-you for your help in this matter.

Yours sincerely,

James Lowe

Trustee