

Ymddiriedolaeth Rhandiroedd Dyffryn Aeron Aeron Vale Allotments Trust **CONSTITUTION**

This Charitable Incorporated Organisation is governed by the Charities Act 2006 (now absorbed into the Charities Act 2011) and which is regulated by the Charities Commission for England and Wales. Nothing in this constitution shall authorise an application of the property of this charitable incorporated organisation for the purposes which are not charitable in accordance with section 7 of the Charities and Trustee Investment (Scotland)

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recreational leisure time occupation with the objective of improving life for the residents.

- (3.2) The relief of financial hardship among people living in the Aeron Vale communities in the county of Ceredigion and the surrounding area, by providing food to individuals in need, or charities or other organisations working to relieve poverty.

4. Powers

Y.Rh.D.A. has power to do anything which is calculated to further its objects or is conducive or incidental to doing so. In particular, Y.Rh.D.A. has power to:

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

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- (4.2) buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use;
- (4.3) sell, lease or otherwise dispose of all or any part of the property belonging to Y.Rh.D.A.. In exercising this power, Y.Rh.D.A. must comply as appropriate with sections 117 and 119-123 of the Charities Act 2011;
- (4.4) employ and remunerate such staff as are necessary for carrying out the work of Y.Rh.D.A.. Y.Rh.D.A. 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;
- (4.5) deposit or invest funds, employ a professional fund-manager, and arrange for the investments or other property of Y.Rh.D.A. to be held in

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

unless the payment or benefit is permitted by sub-clause (2) of this clause or authorised by the court or the prior written consent of the Charity Commission

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("the Commission") has been obtained. In this clause, a "financial benefit" means a benefit, direct or indirect, which is either money or has a monetary value.

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

- (a) A charity trustee or connected person may receive a benefit from Y.Rh.D.A. as a beneficiary of Y.Rh.D.A. 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 Y.Rh.D.A. 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

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Y.Rh.D.A. 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 Y.Rh.D.A. 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.
- (c) The other charity trustees are satisfied that it is in the best interests of Y.Rh.D.A. 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 Y.Rh.D.A..
- (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) "Y Rh D A " includes any company in which Y Rh D A :

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which it is possible that a conflict of interest will arise between his or her duty to act solely in the interests of Y.Rh.D.A. and any personal interest (including but not limited to any financial interest).

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

8. Liability of members to contribute to the assets of Y.Rh.D.A. if it is wound up

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

9. Charity trustees

(1) Functions and duties of charity trustees

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The charity trustees shall manage the affairs of Y.Rh.D.A. and may for that purpose exercise all the powers of Y.Rh.D.A.. 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 Y.Rh.D.A. in the way he or she decides in good faith would be most likely to further the purposes of Y.Rh.D.A.; and
- (b) to exercise, in the performance of those functions, such care and skill as is reasonable in the circumstances having regard in particular to:
 - (i) any special knowledge or experience that he or she has or holds himself or herself out as having; and,
 - (ii) if he or she acts as a charity trustee of Y.Rh.D.A. 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.

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(3) Number of charity trustees

There is no maximum number of charity trustees that may be appointed to Y.Rh.D.A.

(4) First charity trustees

The first charity trustees are as follows:

1. **Gwilym ab Ioan** [for [for life]
2. **Stephen John Parry** [for life]

10. Appointment of charity trustees

(1) Appointed charity trustees

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- (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 board of trustees of the charity.
- (b) In selecting individuals for appointment as appointed charity trustees, the board of charity trustees must have regard to the skills, knowledge and experience needed for the effective administration of Y.Rh.D.A..

(2) Ex officio Trustees

- (a) Any appointed executive officer (chair, secretary, treasurer etc.) of Y.Rh.D.A. 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

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- (d) a copy of Y.Rh.D.A.’s “Members Handbook”.

12. Retirement and removal of charity trustees

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

- (a) retires by notifying Y.Rh.D.A. 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.

A charity trustee who has served for three consecutive terms may not be reappointed for a fourth consecutive term unless under special circumstances where the trustee is reappointed for a special and specific reason by the Board of Charity Trustees.

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is made. The charity trustees may at any time alter those terms and conditions, or revoke the delegation.

- (14.2) This power is in addition to the power of delegation in the General Regulations and any other power of delegation available to the charity trustees, but is subject to the following requirements:
 - (a) a committee may consist of two or more persons, but at least one member of each committee must be a charity trustee;
 - (b) the acts and proceedings of any committee must be brought to the attention of the board of 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

(15.1) 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.

(15.2) Chairing of meetings

The chair of the board of trustees will chair all meetings of the board and any other full meetings of all trustees. The chair will be appointed by the board of trustees. The trustees may appoint one of their number to chair delegated committee 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, any members of the board of charity trustees present may appoint one of their number to chair that

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meeting shall have a second or casting vote.]

(15.4) 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.
- (d) Under certain circumstances on-line voting will take place via Y.Rh.D.A.'s web-site where eligible voters will decide a "yes", "no" or "abstention" by first 'logging in' to a portal, providing a password and voting on a set issue. This provision will be for trustees only,

unless a poll is required of all associated members of the trust, where a matter requires feedback from all members.

16. Membership of Y.Rh.D.A.

- (16.1) The primary members of Y.Rh.D.A. shall be its charity trustees for the time being. The only persons eligible to be members of Y.Rh.D.A. are its charity trustees. Trustee membership of Y.Rh.D.A. cannot be transferred to anyone else.
- (16.2) Any member and charity trustee who ceases to be a charity trustee does not automatically ceases to be a member of Y.Rh.D.A. however that member no longer has voting rights within the trust. He/she becomes a non voting member.

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(b) amalgamate Y.Rh.D.A. with, or transfer its undertaking to, one or more other CIOs, in accordance with the Charities Act 2011; or

(c) wind up or dissolve Y.Rh.D.A. (including transferring its business to any other charity)

must be made by a resolution of the members of Y.Rh.D.A. (rather than a resolution of the charity trustees)

(18.22) 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.

(18.3) 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.

(18.4) 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

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- (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 Y.Rh.D.A..
- (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.

(19.3) 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 all the members, with all references to trustees to be taken as references to members.

(19.4) Voting

Proxy voting is not permitted in any form under the provisions of this constitution.

20. Saving provisions

(20.1) Subject to sub-clause (20.2) 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

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(21.3) If Y.Rh.D.A. 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 board of charity trustees or of a committee of charity trustees duly authorised by the board of charity trustees. The board of 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

(22.1) General

Y.Rh.D.A. 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.

(22.2) To Y.Rh.D.A.

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

(22.3) By Y.Rh.D.A.

- (a) Any member or charity trustee of Y.Rh.D.A., by providing Y.Rh.D.A. with his or her email address or similar, is taken to have agreed to

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the ability to receive electronic communications.

23. Keeping of Registers

Y.Rh.D.A. 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 Y.Rh.D.A.;
- (3) meetings of the charity trustees and committees of charity trustees including:

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

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

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

(25.1) 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,

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27. Disputes

If a dispute arises between members of Y.Rh.D.A. 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.

Detailed procedures including an appeal process are contained in Y.Rh.D.A.'s document 'Rules, Regulations and Guidelines for the Overall and Day to Day Governance and Management of Y.Rh.D.A.'.

28. Amendment of constitution

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

(1) This constitution can only be amended:

- (a) by resolution agreed in writing by all members of Y.Rh.D.A.; or

- (b) by a resolution passed by a 75% majority of those voting at a general meeting of the members of Y.Rh.D.A. 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 Y.Rh.D.A. or persons connected with them, requires the prior written consent of the Charity Commission.
- (3)** No amendment that is inconsistent with the provisions of the Charities Act 2011 or the General Regulations shall be valid.
- (4)** A copy of every resolution amending the constitution, together with a copy of Y.Rh.D.A.'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

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- (29.2)** Subject to the payment of all Y.Rh.D.A.'s debts:
 - (a) Any resolution for the winding up of Y.Rh.D.A., or for the dissolution of Y.Rh.D.A. without winding up, may contain a provision directing how any remaining assets of Y.Rh.D.A. shall be applied.
 - (b) If the resolution does not contain such a provision, the charity trustees must decide how any remaining assets of Y.Rh.D.A. shall be applied.
 - (c) In either case the remaining assets must be applied for charitable purposes the same as or similar to those of Y.Rh.D.A..
- (29.3)** Y.Rh.D.A. must observe the requirements of the Dissolution Regulations in applying to the Commission for Y.Rh.D.A. 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 Y.Rh.D.A.

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- (ii) a declaration by the charity trustees that any debts and other liabilities of Y.Rh.D.A. 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 Y.Rh.D.A. 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 Y.Rh.D.A., and to any charity trustee of Y.Rh.D.A. who was not privy to the application.
- (29.4)** If Y.Rh.D.A. is to be wound up or dissolved in any other circumstances, the provisions of the Dissolution Regulations must be followed.

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taken together

- (e) a body corporate in which –
 - (i) the charity trustee or any connected person falling within sub-clauses (a) to (c) has a substantial interest; or
 - (ii) two or more persons falling within sub-clause (e)(i) who, when taken together, have a substantial interest.

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

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

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

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

“**charity trustee**” means a charity trustee of Y.Rh.D.A..

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



APPENDIX

Monday, March the 14th 2016

It was unanimously agreed to accept, adopt and ratify this amended final draft of the constitution for presentation to the Charities Commission for England and Wales.

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