

Proposed amendments to Downsouth Constitution
For consideration by Members at their AGM on 3 July 2017

The current constitution of Downsouth allows for amendments to the constitution under current Section 12 - Amendments. This clause states:

'This constitution may be amended at a general meeting by a two thirds majority of the votes cast, but

12.1 The members must be given 21 clear days' notice of the proposed amendments

12.2 No amendment is valid if it would make a fundamental change to the Objects or to this clause or destroy the charitable status of the Organisation

12.3 Clauses 1, 9.2, 9.3, 12 and 15.2 may not be amended without the prior written consent of the Commission

The following changes to the constitution, which make no fundamental change to the Objects or to clause 12 or destroy the charitable status of the Organisation, are proposed:

1. that Clauses 1, 12 and 15.2 remain unchanged as prescribed above (highlighted in red in the attached proposed new constitution)
2. that clauses 2 to 8 inclusive; 10 and 11; 13 and 14; 15.1 and 15.3 and 16 be amended to reflect current Charity law and recommended practice as per the Charity commissions model constitution.
3. That clause 9 - Property and Funds be replaced in its entirety by the wording specified below. As this contains clauses 9.2 and 9.3 as specified above, permission has been granted by the Charity Commission for this change. (highlighted in grey in the attached proposed new constitution)
4. All clauses be renumbered accordingly.

Application of income and property

1. The income and property of the charity shall be applied solely towards the promotion of the objects.
 - a) A charity trustee is entitled to be reimbursed from the property of the charity or may pay out of such property reasonable expenses properly incurred by him or her when acting on behalf of the charity.
 - b) A charity trustee may benefit from trustee indemnity insurance cover purchased at the charity'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 charity may be paid or transferred directly or indirectly by way of dividend bonus or otherwise by way of profit to any member of the charity. This does not prevent a member who is not also a trustee from receiving:
 - a) a benefit from the charity in the capacity of a beneficiary of the charity;
 - b) reasonable and proper remuneration for any goods or services supplied to the charity.

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

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

unless the payment 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.

2. Scope and powers permitting trustees' or connected persons' benefits

- a) A charity trustee or connected person may receive a benefit from the charity in the capacity of a beneficiary of the charity 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 charity where that is permitted in accordance with, and subject to the conditions in, section 185 of the Charities Act 2011.
- c) Subject to sub-clause (3) of this clause a charity trustee or connected person may provide the charity with goods that are not supplied in connection with services provided to the charity by the charity trustee or connected person.
- d) A charity trustee or connected person may receive interest on money lent to the charity 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 charity. 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 charity on the same terms as members of the public.