

Pensford, Publow and the Stantons Community Trust (“PPSCT”)

NOTE FOR ITEM 5 ON THE PPSCT AGENDA 26th May 2023

1. PPSCT is a Charitable Incorporated organisation (“CIO”), which is a specific type of charity recognised by the Charity Commission. Its charity registration number is 1160279 and the CIO was registered on 2 February 2015.
2. On incorporation PPSCT adopted the Charity Commission’s model constitution for CIOs, with modifications as relevant to its particular circumstances but in compliance with the Commission’s authorisation.
3. This paper and recommendation focuses purely on Trustees as set out in Clauses 12 and 13. These are set out in full below.

“12. 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 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*
 - (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 one may be appointed as a charity trustee:*
 - 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 [15(1)(f)].*
- (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 trustee or trustees may only act to call a meeting of the charity trustees, or appoint a new charity trustee.*

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(3) Number of charity trustees

- (a) There should be not less than 2 nor more than 4 elected trustees; and*
- (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 may be appointed in excess of these provisions.*

(4) First charity trustees

The first charity trustees of the CIO are –

Mr. Andrew Hillman

Mrs. J.E. Stephenson

Mr. J.A. Heaford

Mrs. J. Chubb-Whittle

Mr. K. Payne

Mrs. S.E. Osborne

13. Appointment of charity trustees

(1) Elected charity trustees

- (a) At the first annual general meeting of the members of the CIO all the elected charity trustees shall retire from office.*
- (b) At every subsequent annual general meeting of the members of the CIO, one third of the elected charity trustees shall retire from office. If the number of elected charity trustees is not three or a multiple of three, then the number nearest to one-third shall retire from office, but if there is only one charity trustee, he or she shall retire;*
- (c) The charity trustees to retire by rotation shall be those who have been longest in office since their last appointment or re-appointment. If any trustees were last appointed or re-appointed on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot;*
- (d) The vacancies so arising may be filled by the decision of the members at the annual general meeting; any vacancies not filled at the annual general meeting may be filled as provided in sub-clause (e) of this clause;*
- (e) The members or the charity trustees may at any time decide to appoint s new charity trustee, whether in place of a charity trustee who has retired or been removed in accordance with clause 15 (Retirement and removal of charity trustees), or as an additional charity trustee, provided that the limit specified in clause 12(3) on the number of charity trustees would not as a result be exceeded;*

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- (f) A person so appointed by the members of the CIO shall retire in accordance with the provisions of sub-clauses (b) and (c) of this clause. A person so appointed by the charity trustees shall retire at the conclusion of the annual general meeting next following the date of his appointment, and shall not be counted for the purpose of determining which of the charity trustees is to retire by rotation at that meeting.*

(2) Ex officio charity trustees

The Chair of Publow with Pensford Parish Council and the Chair of Stanton Drew Parish Council for the time being (“the office holders”) shall automatically by virtue of holding that office (“ex officio”) be a charity trustee.

If unwilling to act as a charity trustee, the office holder may:

- (a) 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*
- (b) after accepting appointment as a charity trustee, resign under the provisions contained in clause 15 (Retirement and removal of charity trustee).*

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

(3) Nominated Charity Trustees

- (a) Publow with Pensford Parish Council and Stanton Drew Parish Council (“the appointing bodies”) may each appoint one charity trustee.*
- (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 3 years.*
- (d) The appointment will be effective from the later of:*
 - (i) The date of the vacancy; or*
 - (ii) The date on which the CIO is 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 12(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.*

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4. Present Position as approved at AGM 2019

These changes had the effect of clarifying some of the provisions of the original constitution but subsequently concerns have been raised, not least that the disbursement of monies effectively donated by members may be at the decision of trustees who are not actually members.

“There shall be not more than eight Trustees.

All Trustees must reside within one of the two administrative parishes of Stanton Drew and Pensford with Publow, and at least three must reside in each of the parishes.

Trustees shall initially be elected for terms of three years, renewable a maximum of twice (so a maximum period of office of nine years consecutively).

One third of Trustees shall retire in rotation every year. The appointment or re-appointment of Trustees shall be approved by a simple majority of members voting in general meeting. The Trustees may appoint a new Trustee between general meetings but such appointment shall automatically be subject to approval at the next general meeting.

Any Trustee moving principal private residence from the parish of residence when last elected must retire at the next AGM. If the new residence is within the other parish, subject to other constraints within this paragraph, the Trustee may be re-elected.”

5. Concerns

Our membership is drawn principally from the two villages but a considerable number, including several very active supporters, live outside the Parish boundaries.

The present constraint on only drawing Trustees strictly from the two parishes may restrict the recruitment of excellent members becoming Trustees even if they live very close by. Nevertheless, in making any change, Trustees are minded to ensure that Trustees are closely identified with the two villages.

As the Trust matures, a number of members from the limited membership of about 100 will become time-barred from being considered for Trusteeship

A relaxation of the geographic constraint to allow members who live within three miles of the boundaries of one of the two parishes would be in line with the rules covering elections to parish councils.

In making any change, it may be helpful to reconsider the requirement for not less than three Trustees to be drawn from each parish in order to have the best possible pool of candidates.

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The “ex officio” and “nominated” trustee categories are seen as no longer appropriate. They were helpful in providing stability and local endorsement beyond the membership but with the trust now mature it is felt that members should decide on all trustee appointments.

6. Proposals

It is therefore proposed that **the Article 12, Clause (2) has new sub-sections (e) and (f):**

- (e) All trustees should have their principal residence within one of the two administrative parishes of Stanton Drew and Publow with Pensford or within three miles of the boundaries of one of the two parishes.*
- (f) All trustees must be members of the CIO.*

The existing **Clause 12(3)** shall be replaced with:

“There shall be not more than eight and no fewer than four trustees. No fewer than two Trustees should have their principal residence within each of the parishes and not more than two Trustees should reside outside one of the two parishes. Should the number of trustees fall below the minimum, the remaining trustee or trustees may act only to call a meeting of the membership, or to appoint a new trustee.”

Clauses 13(2) and 13(3) shall be deleted.