

Proposed amendments to the constitution of the Hertfordshire Natural History Society (Registered Charity 218418)

The Society's Management Committee has written approval from the Charity Commission to propose the following constitutional amendments for adoption by the 2023 Annual General Meeting (taking place on the afternoon of Saturday 7 October at the offices of Affinity Water in Hatfield) :

Clause 4, 'Powers'

sub-section VI:

After 'voluntary' insert '*and private*'; after 'advice with them' insert '*as permitted by law*'

New sub-section VI to read:

power to co-operate with other charities, voluntary and private bodies and statutory authorities operating in furtherance of the objects, or of similar charitable purposes, and to exchange information and advice with them as permitted by law.

MC comment: This change gives HNHS the formal power to co-operate with private bodies as well as those in the voluntary and public sectors.

Clause 5, 'Membership'

sub-clause 4

Delete 'Each member organisation shall appoint one individual to represent it and vote on its behalf at meetings of the Charity;' and replace with '*Any member corporate body or organisation may appoint one individual to represent it and vote on its behalf at meetings of the Charity;*'

New sub-clause 4 to read:

Any member corporate body or organisation may appoint one individual to represent it and vote on its behalf at meetings of the Charity; and may appoint an alternate to replace its appointed representative at any meeting of the Charity if the appointed representative is unable to attend.

MC comment: This change makes it clear that corporate members of the HNHS may send one, voting representative to the AGM and other formal meetings.

Clause 7 'Management Committee'

Sub-clause 1

Delete existing sub-clause and replace with:

'The Management Committee (the Trustees) shall consist of no more than 15 full members, including the honorary officers specified in Clause 6.'

Sub-clause 2

Delete existing sub-clause and replace with:

'The Management Committee may in addition appoint up to three co-opted members to attend its meetings in a non-voting, advisory capacity. Co-opted members shall not be appointed as Trustees unless subsequently elected to the Management Committee at an Annual General Meeting.'

Sub-clause 3

Delete existing sub-clause and replace with:

'Members of the Management Committee shall retire together at the end of the next Annual General Meeting, but they may be re-elected.'

Sub-clause 4

Delete all after 'number'

New sub-clause 4 to read:

'The proceedings of the Management Committee shall not be invalidated by any vacancy among their number.'

MC comment: These changes recognise current practice and simplify rules governing the size and composition of the Management Committee, election arrangements and provision for up to three co-opted members to fill mid-year vacancies between AGMs.

Sub-clause 6

Delete all

MC comment: The committee nowadays keeps its minutes electronically and publishes them online. There is no longer a 'minute book' for new members to sign.

Clause 8 'Determination of membership of the Management Committee'

Sub-clause 4

Delete all after 'resign'

New sub-clause 4 to read:

'notifies to the Management Committee a wish to resign'

MC comment: This simplifies arrangements by removing an unnecessary requirement for at least three committee members to remain in office following a resignation.

Clause 9 'Management Committee members not to be personally interested'

Replace in its entirety with new Clause 9 'Conflicts of Interest'

New clause to read:

9. Conflicts of interest

- 1) *No member of the Management Committee shall acquire any interest in property belonging to the Charity (otherwise than as a trustee for the Charity), or receive any remuneration, or be interested (otherwise than as a member of the Management Committee) in any contract entered into by the Management Committee.*
- 2) *To prevent conflicts of interest arising in discussions and decision-making, members of the Management Committee must:*
 - I. *declare the nature and extent of any interest, direct or indirect, in a proposed transaction or arrangement with the Society or in any transaction or arrangement entered into by the Society which has not previously been declared; and*
 - II. *absent themselves from any discussions 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 Society and any personal interest (including but not limited to any financial interest).*

MC comment: This extension to the existing clause specifies the circumstances in which committee members must declare a conflict of interest at meetings and absent themselves from discussions

New (additional) Clause 10 'Benefits and payments to charity trustees and connected persons'

Insert the Charity Commission's model / standard clause on trustees benefits (and re-number remaining clauses) to read:

10. 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.

3. Payment for supply of goods only – controls

The charity 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 an agreement in writing between the charity and the charity trustee or connected person supplying the goods ('the supplier') under which the supplier is to supply the goods in question to or on behalf of the charity.

(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 the charity 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 charity.

(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 approved minutes.

(g) A majority of the charity trustees then in office are not in receipt of remuneration or payments.

4. In sub-clauses (2) and (3) of this clause:

(a) 'the charity' includes any company in which the charity:

(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 trustees to the board of the company.

MC comment: The Charity Commission has approved an opportunity for HNHS to adopt this 'model' clause specifying exceptional, limited circumstances in which a trustee may receive a benefit from the charity or enter into a contract with the Society for the supply of services or goods. The strict conditions applying to any payment are specified in detail.

Clause 10 'Meetings and procedures of the Management Committee (New Clause 11)

Sub-clause 1

After 'shall' insert 'normally'

New sub-clause 1 to read:

The Management Committee shall normally hold at least three ordinary meetings each year. A special meeting may be called at any time by the Chair, or by any two members of the Management Committee upon not less than 4 days' notice being given to the other members of the Management Committee of the matters to be discussed.

New (additional) Sub-clause 2

Insert a new sub-clause to read:

2. *Meetings of the Management Committee can be held in-person, 'online' (via the internet) or a combination of the two.*

MC comment: These changes recognise current practice for holding committee meetings, including use of online meetings and attendance.

Sub-clause 6 (new Sub-clause 7)

Delete all and replace with:

'The Management Committee shall keep minutes of its proceedings. Minutes that have been approved as a true record by the Management Committee shall be made available to the Society's members via the website.

MC comment: As previously noted, the committee's minutes are now kept electronically and published online

Sub-clause 8 (new sub-clause 9)

After '...reported to the Management Committee' delete all and replace with: *'All such sub-committees shall include at least one representative from the Management Committee present at meetings, or in their stead another member of the Management Committee.*

New sub-clause 9 to read:

'The Management Committee may appoint one or more sub-committees for the purposes of making an inquiry or supervising or performing any function or duty which in the opinion of the Management Committee would be more conveniently undertaken or carried out by a sub-committee, provided that all acts and proceedings of any such sub-committees shall be fully and promptly reported to the Management Committee. All such sub-committees shall include at least one representative from the Management Committee present at meetings, or in their stead another member of the Management Committee.

MC comment: This change simplifies the arrangements for sub-committees by reducing the requirement for at least two MC members to attend meetings to one.

Clause 11 'Receipts and expenditure' (new Clause 12)

Sub-clause 1

After 'account' insert 'or accounts'

New sub-clause 1 to read:

'The funds of the Charity, including all donations, contributions and bequests, shall be paid into an account or accounts operated by the Management Committee in the name of the Charity at such recognised financial institutions as the Management Committee shall decide from time to time.'

Sub-clause 2

Delete existing sub-clause and replace with:

'Payments drawn on the accounts must be authorised by at least two members of the Management committee who have been previously authorised to do so by the Treasurer with the agreement of the Management Committee and recorded as such in the minutes.'

MC comment: These changes recognise the Society's current banking and investment arrangements, including the use of online account management.

Clause 13 'Accounts' (new clause 14)

Update legislative reference: replace 'Charities Act 1993' with *Charities Act 2011*

Clause 14 'Annual Report' (new clause 15)

Update legislative reference: replace 'Charities Act 1993' with *Charities Act 2011*

Clause 15 'Annual Return' (new clause 16)

Update legislative reference: replace 'Charities Act 1993' with *Charities Act 2011*

Clause 16 'Annual General Meeting' (new clause 17)

Sub-clause 1

Delete existing sub-clause and replace with:

'There shall be an Annual General Meeting of the Charity, which shall be held in sufficient time to enable the returns required under clauses 14 and 15 to be sent to the Charity Commission.'

(NB: new clause numbering)

MC comment: This change links the timing of the Annual General Meeting to the timing requirements for annual reporting to the Charity Commission without specifying particular months. In practice, the AGM will continue to take place in October or November.

Sub-clause 4

Delete existing sub-clause and replace with:

'The Management Committee shall present to each Annual General Meeting the report and accounts of the Charity for the preceding year, in accord with the requirements of the Charity Commission.'

MC comment: Linking presentation of the report and accounts to the Charity Commission's requirements acknowledges that the accounts do not have to be independently examined if annual expenditure is below a specified level (currently £25,000).

Clause 18 'Procedure at General Meetings (new clause 19)

Insert new Sub-clause 2 (and re-number remaining sub-clauses)

Sub-clause 2 to read:

'General Meetings may be held in-person, 'online' (via the internet) or a combination of the two.'

MC comment: This formally recognises the use of online AGMs (as already held during the Covid-19 pandemic).

Clause 19 'Notices' (new clause 20)

Delete all after 'United Kingdom,' and replace with:

'..., or electronically where an e-mail address has been supplied by the member. Any such communication shall be deemed to have been received within 10 days of despatch.'

MC comment: This formally recognises the use of e-mail and other electronic communications as an alternative to written notifications.

Clause 20 'Alterations to the Constitution' (new clause 21)

Sub-section (2)

Delete and replace with:

'No amendments may be made to clause 1 (the name of the Charity), clause 3 (the objects), clause 9 (Conflicts of Interest), clause 22 (the dissolution clause), or this clause without the prior consent in writing of the Charity Commission.'

MC comment: This will amend the title of clause 9 if the proposed change is approved