

east renfrewshire
**CULTURE
& LEISURE**

East Renfrewshire Culture & Leisure Trust

Board Charter

Dated: 23 May 2022

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1. Role of Trust

1.1 Purpose

The Charitable objectives of the Trust are laid out in the *Articles of Association*:-

The Company will promote, advance and further Charitable Purposes and activities through the provision of services which enhance and contribute to the health, fitness, personal development and wellbeing of the residents of East Renfrewshire (and beyond) including, but not limited to, educational, sporting, culture and heritage based and community activities.

In promoting, advancing and furthering Charitable Purposes and activities the Company seeks to:-

- *encourage the population of the East Renfrewshire area to be more active in promoting and supporting the development of sporting and health and fitness opportunities that are accessible for everyone;*
- *support people to be more creative and nurture potential for personal success and wellbeing through the provision of cultural facilities and resources;*
- *help individuals and community groups to benefit from social engagement, community interaction and volunteering; and*
- *promote and make available lifelong learning opportunities, including the promotion of literacy and digital inclusion and stemming from these opportunities make a social and economic contribution to society.*

For the purposes of the Charities Act the following Charitable Purposes are relevant and have been identified as applicable from section 7(2) of the 2005 Charities Act:-

- the advancement of education;
- the advancement of the arts, heritage, culture or science;
- the advancement of public participation in sport; and
- the provision of recreational facilities, or the organisation of recreational activities, with the object of improving the condition of life for the persons from whom the facilities or activities are primarily intended.

2. Strategic Focus

The Trustees have determined the following strategic focus for the Trust through its vision, mission and statements of intent.

2.1 Vision

Our vision is to help and inspire people to be actively involved in sport, arts and culture.

2.2 Mission

Our mission is to be the highest-performing Leisure Trust in Scotland.

We take this to mean that we will not only be more efficient and achieve more from our resources, but that we will grow with a view to becoming self-sufficient.

2.3 Strategic Aims

The following strategic aims have been identified:

Create a financially sustainable business model, balancing strong ambitions with commercial viability

Develop an understanding of our customers and audiences and an offer that attracts them, working in partnership with organisations across the region to remove barriers to participation

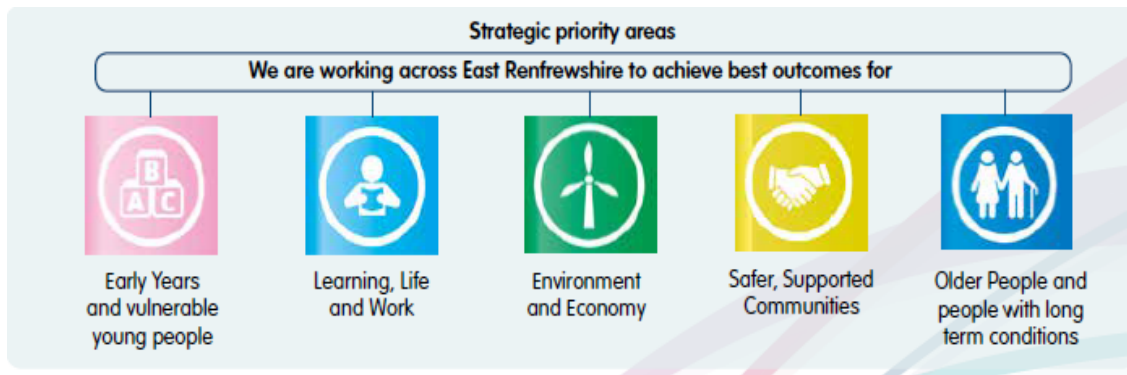
Develop a strong, diverse, resilient and committed workforce, building on our commitment to growing people and ideas

Establishing East Renfrewshire Culture and Leisure's role at the heart of Vibrant Communities through the services we deliver, the opportunities we provide and the support we offer.

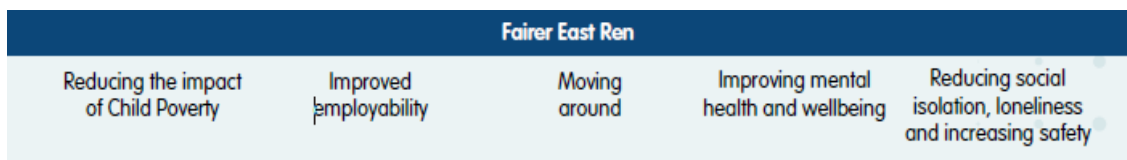
Developing resilient, dynamic and productive partnerships that are developed and nurtured to grow our business and maximise the impact we have in our communities.

These aims support the Company's charitable objectives and plans for ongoing organisational development and reflect the ambition to grow services and develop their range, quality, spread and impact. They reflect our commitment to ongoing service improvement, and they support our principal partner ERC, in meeting its commitments as outlined in the Single Outcome Agreement (SOA), and its succeeding Fairer East Ren and community plans:-

The Community Plan is structured around five strategic priority areas following the key life stages of our residents, with a sharpened focus on inequalities. An obvious focus for ERCL will be the support of the intermediate outcome associated with Learning Life and Work (2.4 Residents are as healthy and active as possible), ERCL activities and programmes support a number of the outcomes associated with these themes:-



The role of work in adult education, libraries and information services, community facilities, holiday hunger programmes, GP referral schemes, the Vitality programme, Community Connections or MacMillan Cancer Support all delivered by ERCL, will all contribute to key measures for the areas of focus for the Fairer East Ren community plan:-



ERCL is represented within the Community Planning Partnership and reports to the Performance Accountability Review which assesses progress against the objectives of the plan.

3. Board Structure

Article 7 of the Articles of Association (Appendix 1) specifies that the maximum number of Trustees shall be 9 comprising:

- a maximum of four Council Trustees;
- a maximum of four Independent Trustees; and
- a maximum of one Employee Representative Trustees.

Governance in relation to the appointment and removal of the Trustees is contained within Articles 8 to 12 (Appendix 1).

4. Relationship with the Council

The Council is the Sole Member of the Trust, and consequently has power to appoint or remove Trustees to the Board, including those designated as *Independent, Employee Representative, or Council Trustees*.

The Council exercises control over the Trust through:-

- Adoption by the Board of a Board charter which specifies matters reserved to the Council, to the Board or to the Trust Executives.
- Agreement by the Board to refer such reserved matters to the Council
- A *Services Agreement* which details the levels, type, quality and scope of services commissioned by the Council from the Trust
- A *Support Services Agreement* which details the levels, type, quality and scope of services provided by the Council to support the Trust in delivering these services on behalf of the Council
- Adoption by the Trust of policies which meet the requirements of the policies adopted by the Council and / or any of its other arms-length external organisations (ALEOs)
- Agreement by the Board that the Chief Executive is responsible for reporting to the Council on:-
 - Performance against statutory performance indicators
 - Performance in supporting the Council in meeting its commitments as outlined in its Fairer East Ren and community plans.
 - Delivery and performance of plans and budgets relating to the Trust and approved by the Council

5. Role and Responsibilities of the Chair, Chief Executive, Non-Executive Directors and Management Team

5.1 The Chair

The principal role of the Chair is to ensure the effective management of the Trust's governance process. The Chair presides at meetings of the Trust, and where necessary has a casting vote.

The Chair is the authorised spokesperson of the Trust at public meetings; this authority may be delegated to the Chief Executive or other Trustees as appropriate to the occasion.

In selecting the Chair, the Trustees shall endeavour to select an Independent Trustee as Chairperson, provided an Independent Trustee is willing to act in such a role.

The Chair's responsibilities are:-

- Set the agenda, style and conduct of Board meetings to promote effective decision making, and constructive debate, including appropriate scrutiny and consideration of issues
- In conjunction with the Chief Executive, represent the company to external stakeholders
- Promote the highest standards of governance
- Ensure the Board Members receive accurate, timely and clear reports
- Ensure that the performance of individual Board members and of the Board as a whole is evaluated once a year
- Lead the Company Secretary in identifying and meeting the development needs of individual Board members
- Encourage active engagement by all members of the Board
- Work closely with the Chief Executive providing support and advice on all matters relevant to strategy and operations while respecting the executive authority of the Chief Executive to manage the company.

5.2 The Board

The Board of Trustees is responsible for the Trust's overall performance in accordance with the relevant sections of its Articles of Association (dated 12 June 2015) and in accordance with the Companies Act 2006, and the Charities and Trustee Investment (Scotland) Act 2005. It provides direction, guidance and oversight to the Trust's Executive

As such, it has the following responsibilities:

- Setting strategic direction and policy;
- Determining the direction of the Trust by agreeing plans and objectives;
- Governing the Trust by establishing broad policies and overseeing their implementation;
- Establishing the availability of adequate financial resources, including approving annual budgets;
- Ensuring compliance to the Charities and Trustee Investment (Scotland) Act 2005, and any other legislation or areas of compliance;
- Accounting to the stakeholders for the Trust's performance;
- Maintaining proper relationships with the local and national government, funders, sponsors and the general public;
- Selecting, appointing, supporting and reviewing the performance of the Chief Executive;
- Monitoring performance of Trustees and Management;

5.3 The Chief Executive

The role of the Chief Executive is to implement the Board's strategies and manage the day-to-day business of the Trust within the parameters laid down by the Board, and to assist the Board in carrying out its role by providing advice and recommendations consistent with the agreed strategic direction and operational, regulatory and financial best practice.

In fulfilling their executive role the Chief Executive acts within the authorities delegated to them by the Board.

The Chief Executive's responsibilities are:-

Strategy and Management

- Lead the executives in the day-to-day running of the Trust
- Ensure the effective implementation of Board decisions
- Monitor the operational performance and strategic direction of the Trust and its subsidiary
- Optimise as far as possible the use and Management of the Trust's resources
- Prepare and Recommend to the Board the Business Plan and Budget
- Put in place appropriate management structures to ensure the company's objectives can be met
- In conjunction with the Chair, represent the company to external stakeholders

Risk Management and Controls

- Manage the Internal control risk framework of the company and subsidiaries, including control policies

Board Committees

- Regularly report to the Board with accurate, timely and clear information to allow the Board to discharge its responsibilities effectively.

6 Matters Reserved for the Approval of the Board

6.1 Strategy

Approval of:-

- the Trust strategic objectives and review of their implementation and achievement.

6.2 Structure

Approval of:-

- Approval of the organisation's overall corporate structure, and any material changes to it (as distinct to staff structure).

6.3 Capital

Approval of:-

- proposed capital developments with agreement for submission to ERC under the Capital Programme Allocation

6.4 Management

Approval of:-

- The Trust annual Business Plan and Budget and any material changes to them
- The company's pricing strategy and any material changes to it
- The internal risk management framework or any material changes to it

6.5 Financial Reporting and Internal Controls

Approval of:-

- Annual audited accounts and financial statements of the Trust and its subsidiaries
- Letter of representation to the Auditors
- Material changes in accounting policies and practices followed by the Trust and its subsidiaries
- The Trust's decision on the appointment or removal of external auditors
- Banking Arrangements including overdraft facilities

On the recommendation of the Finance, Audit and Risk Committee, approval of the formal reports from the Chair of the committee on its proceedings, or recommendations.

6.6 Transactions and Business

Approval of:-

- Any business developments or decisions that would result in one of the following:-
 - Any contract or decision that would result in spend of over £50,000 in any given year or over £140,000 in a three-year period, in accordance with Contract Standing Orders (see Appendix 4)
 - Any contract for the purchase of moveable assets resulting in spend of over £25,000
 - Creation of a new risk which would increase the overall risk exposure of the council, as per the Shared Risk Register
 - Variation of any activity commissioned by the Council from the Trust and outlined in the Services Agreement, by more than 5%
 - Cessation of the operation of any material part of the business
- Complete withdrawal of services or operations from a licensed property; or recommendation to the Council that any licensed property be closed
- Any transaction with a related party as per the Code of Conduct (see Appendix 1)
- Any outsourcing of services by the Trust and its subsidiary with a value of over £50,000 in any given year or over £140,000 in a three-year period
- The early termination of any Contract or Service Level Agreement with a value of over £50,000 in any given year or over £140,000 in a three-year period
- Contracts entered into the Trust not in the ordinary course of business

6.7 Communication

Announcements and PR concerning matters as agreed by the Board.

6.8 Corporate Governance

Approval of:-

- The Board Charter
- Appointment and removal of the Company Secretary
- Management of Conflicts of Interest
- Appointment and removal of Chairs and Members of Board sub-committees, and the Board of the Trust subsidiary trading company, and their roles and responsibilities
- Procedures for all Boards of all Trust sub-committees and the Board of the Trust subsidiary trading company
- Monitoring and evaluating the performance of the Trust Chief Executive

6.9 Policies

Approval of:-

- Code of Conduct
- Whistleblowing Policy
- Safeguarding Policy
- Management Rules for Facilities

On the recommendation of the HR, Health and Safety and Appeals Committee, all HR policies, and the Health & Safety Policy

6.10 Other

- Appeals
- Board Evaluation Processes

7 Role and terms of reference of Board sub-committees and Subsidiary Company Board

There are two standing Committees to advise the Board on any issue covered by its term of reference and to investigate any matters referred to it by the Board, and provision for a Board of the subsidiary trading company. Full Terms of Reference for each of the Committees can be found at Appendix 3. A separate Board Charter and authorities will be presented to the ERCLT Board for approval in relation to the Trading Company in advance of it being activated.

7.1 The Trading Company Board (ERCLT Ltd)

(a company registered in Scotland with number SC486591) is currently dormant.

Under normal operations the Board of the trading company, ERCLT Ltd, will meet quarterly and be responsible for the direction, guidance and oversight of the Trust's subsidiary trading company, and its activities. Members are appointed by the ERCL Board but can include representatives who are independent of it.

7.2 The Finance, Audit and Risk Committee (FAR)

The FAR Committee meets quarterly to oversee and scrutinise internal controls, management accounts, budgets, cash flows, risk management together with any operational business which either requires additional ERC funding or increases the risk rating of the Company.

The FAR has no decision making authorities, but instead reviews and recommends relevant information and decisions to the Board.

7.3 The HR, Health and Safety and Appeals Committee. (HRHSA)

The HRHSA Committee meets twice yearly to oversee and scrutinise HR issues and Health & Safety performance, and can be convened on an ad hoc basis to hear appeals.

The HRHSA has the authority to make decisions in relation to HR Appeals, but no decision making authorities in respect of H&S or other HR activities, but instead reviews and recommends relevant information and decisions to the Board.

7.4 The Nominations Committee

A Nominations Committee, comprising an equal mix of (two) independent and (two) council Trustees together with external HR support is tasked with managing the appointment of independent Trustees.

Again the Nominations Committee has no decision making authorities but instead reviews and recommends relevant information and decisions to the Board.

8. Trustee Appointments

Trustees are appointed for a maximum term of four years and may serve a further term of four years. In the event of special circumstances, as provided for in the Articles of Association, the Board may approve a further extension where justified, to allow that Trustee to serve one or more additional terms in addition to their second term.

The current Board has identified a wide range of skills and knowledge that it believes are necessary for effective governance. They are:

- Governance
- Legal
- Sports, Arts and Culture
- Advertising/Marketing
- Public Relations and/or Journalism
- HR
- Accounting and Finance
- Education
- Fundraising
- Charity/Not for profit

The Board will consider skill gaps when selecting new / additional Trustees, and all Trustees are asked to complete a Board Skills Matrix to assist in ensuring the Board has the correct mix of skills and abilities, and that Board members are supported with training and development to fulfil their roles.

8.1 New Appointments – Independent Trustees

Subject to the Articles of Association which allow Trustees' discretion in establishing rules of procedure for all committees, a Nominations Committee, comprising an equal mix of (two) independent and (two) council Trustees together with external HR support is tasked with managing the appointment of independent Trustees.

- The Trust will maintain the Board skills matrix, and review it annually, together with a register of any suitable candidates for future reference.
- Based on the consideration of the Board's available and desired skills and abilities, nominations are sought from existing Trustees of suitable and potentially interested persons. These may be from the local community, or from other stakeholders or communities of interest.
- Nominations are collated along with the skills/experience base of each nominee and are reviewed by the Board against the skill gaps of the current Trustees.
- After an initial interview with the Chair, the Nominations Committee shall meet to consider any recommended nominees. (A short-listed nominee may be asked to provide referees who may be contacted for validation.)
- The Nominations Committee will recommend a chosen Nominee to Board for approval.
- The Board will then recommend the nominee to the Council formally and in writing for approval. (Recommendations will be presented to Elected Members [in Cabinet or Council] for agreement.).

8.2 New Appointments - Council Trustees

The Council, as Member, will appoint or remove any elected member as Trustee as it sees fit, and will do so formally and in writing.

8.3 New Appointments – Employee Representative Trustee

The Council, as Member, will appoint or remove any Employee Representative Trustee, drawn from representatives of trade unions that represent employees of the Trust, as it sees fit, and will do so formally and in writing.

Appendix 1: Articles of Association

Company number SC486489

PRIVATE COMPANY LIMITED BY GUARANTEE

WRITTEN RESOLUTION of EAST RENFREWSHIRE CULTURE & LEISURE LIMITED (the "Company")

10 June 2015 (Circulation Date)

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, the directors of the Company propose that the following resolution is passed as a special resolution (the "Resolution").

SPECIAL RESOLUTION

THAT the draft regulations attached to this resolution be adopted as the articles of association of the Company in substitution for, and to the exclusion of, the existing articles of association.

AGREEMENT

Please read the notes at the end of this document before signifying your agreement to the Resolution.

The undersigned, a person entitled to vote on the Resolution on the Circulation Date, hereby irrevocably agrees to the Resolution:

Signed by

| | |
|--|----------------------|
| Signature of authorised signatory | <i>L. A. Millan</i> |
| Print Name | LORRAINE ANNE MILLAN |
| For and on behalf of East Renfrewshire Council | |
| Date | 10/6/15 |

Witnessed by

| | |
|----------------------|--|
| Signature of witness | <i>Ruth E Adams</i> |
| Print Name | RUTH ELIZABETH ADAMS |
| Address | 35 WILLIAMWOOD DR. GLASGOW G44 3TA |
| Date | 10/6/15 |

FRIDAY



THE COMPANIES ACT 2006
PRIVATE COMPANY LIMITED BY GUARANTEE
ARTICLES OF ASSOCIATION
of
EAST RENFREWSHIRE CULTURE & LEISURE LIMITED

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PART 1 - INTERPRETATION AND LIMITATION OF LIABILITY

1 Definitions and Interpretation

1.1 In these Articles, unless the context requires otherwise:

"Act" means the Companies Act 2006;

"Articles" means these articles of association;

"Bankruptcy" includes individual insolvency proceedings in a jurisdiction other than Scotland which have an effect similar to that of bankruptcy or sequestration;

"Charitable Purposes" means a charitable purpose under section 7 of the Charities Act which is also regarded as a charitable purpose in relation to the application of the Taxes Acts;

"Chairperson" has the meaning given in article 26;

"Chairperson of the Meeting" has the meaning given in article 34;

"Charities Act" means the Charities and Trustee Investment (Scotland) Act 2005;

"Clear Days" means the period of the length specified in these Articles excluding the day of the meeting and the day on which the notice is given. Where the notice is sent by post to an address in the United Kingdom, and the Company can show that it was properly addressed, pre-paid and posted, notice is deemed to have been given to the intended recipient 48 hours after it was posted;

"Company" means East Renfrewshire Culture & Leisure Limited;

"Council" means East Renfrewshire Council, a local authority constituted in terms of the Local Government etc. (Scotland) Act 1994 and having a principal office at Eastwood Park, Giffnock, East Renfrewshire G46 6UG;

"Council Trustee" means a Trustee appointed or re-appointed under article 8

"Document" includes, unless otherwise specified, any document sent or supplied in Electronic Form;

"Electronic Form" means, in relation to the sending or supply of a document or information, the sending or supply by electronic means (such as by e-mail or fax) or by any other means while in an electronic form (such as sending a disk by post);

"Eligible Trustee" means a Trustee who would be entitled to vote on the matter at a meeting of Trustees, but excluding any Trustee whose vote is not to be counted in respect of the particular matter;

"Employee Representative Trustee" means a Trustee appointed or re-appointed under article 11;

"Independent Trustee" means a Trustee appointed or reappointed under article 9;

"Member" has the meaning given in section 112 of the Act;

"Objects" means the objects of the Company described in article 2;

"Ordinary Resolution" has the meaning given in section 282 of the Act;

"Participate", in relation to a Trustees' meeting, has the meaning given in article 23 and "Participating" shall be construed accordingly;

"Proxy Notice" has the meaning given in article 40;

"Special Resolution" has the meaning given in section 283 of the Act;

"Trustee" means a director of the Company and includes any person occupying such position, such persons being charity trustees for the purposes of the Charities Act, by whatever name called; and

"Writing" means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in Electronic Form or otherwise.

1.2 Unless the context otherwise requires:

1.2.1 other words or expressions contained in these Articles bear the same meaning as in the Act as in force on the date when these Articles become binding on the Company;

1.2.2 words in the singular include the plural and in the plural include the singular; and

1.2.3 Unless the context otherwise requires, a reference to one gender includes a reference to the other gender;

1.3 These Articles apply instead, and to the exclusion, of the model articles for private companies limited by guarantee set out in schedule 2 of The Companies (Model Articles) Regulations 2008.

2 Objects

2.1 The Company will promote, advance and further Charitable Purposes and activities through the provision of services which enhance and contribute to the health, fitness and personal development and wellbeing of the residents of East Renfrewshire (and beyond) including, but not limited to, educational, sporting, culture and heritage based community activities.

2.2 In promoting, advancing and furthering Charitable Purposes and activities as detailed in article 2.1 the Company seeks to:-

2.2.1 encourage the population of the East Renfrewshire area to be more active in promoting and supporting the development of sporting and health and fitness opportunities that are accessible for everyone;

2.2.2 support people to be more creative and nurture potential for personal success and wellbeing through the provision of cultural facilities and resources;

2.2.3 help individuals and community groups to benefit from social engagement, community interaction and volunteering; and

2.2.4 promote and make available lifelong learning opportunities, including the promotion of literacy and digital inclusion, and stemming from these opportunities make a social and economic contribution to society.

2.3 For the purposes of the Charities Act the following Charitable Purposes are relevant and for the purposes of the Charities Act are the Charitable Purposes identified as applicable from section 7 of the Charities Act:-

2.3.1 the advancement of education;

2.3.2 the advancement of the arts, heritage or culture;

2.3.3 the advancement of public participation in sport; and

2.3.4 the provision of recreational facilities, or the organisation of recreational activities, with the object of improving the condition of life for the persons from whom the facilities or activities are primarily intended.

2.4 For the purposes of the Taxes Acts the provisions set out in articles 2.1 to 2.3 inclusive shall be read together to ensure the Charitable Purposes of the Company are compliant with the Taxes Act.

3 Charitable Declaration

3.1 It is declared that the assets of the Company shall only be applied for Charitable Purposes and the Trustees shall:-

3.1.1 act in accordance with the Charities Act; and

3.1.2 do nothing to prevent the Company qualifying and continuing to qualify as charitable.

3.2 Each of the Trustees shall, in exercising his powers and duties as a Trustee, act in the interests of the Company. In doing so the Trustees must seek, in good faith, to ensure that the Trustees act in

a manner which is in accordance with the purposes of the Company and act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person.

4 Powers

In furtherance of the Objects the Company shall have the following powers:

SERVICES

- 4.1 to promote, establish, operate and manage facilities for culture, education, recreation, sports and other leisure time activities;
- 4.2 to prepare, organise, support (financially and/or otherwise) participate in, and/or conduct conferences, seminars, courses, programmes and events of all kinds;
- 4.3 to commission and/or conduct research, and to publish and promote the results of such research;
- 4.4 to design, prepare, publish and/or distribute informational and promotional materials, including information packs, leaflets, books, newsletters, magazines, posters and other publications, audio and video recordings, multimedia products, display materials and online or electronic resources;

FINANCIAL

- 4.5 to raise and accept funds and contributions from any source, and appeal and apply for funds and contributions;
- 4.6 to effect insurance against risks relating to the activities of the Company and insurance referred to in article 47;

PERSONNEL

- 4.7 to employ and remunerate such employees as are considered necessary from time to time for the furtherance of the Objects, and to make arrangements for the putting in place of pensions provision for such employees and their partners and dependants;
- 4.8 to engage such consultants and advisers as are considered appropriate from time to time;

COLLABORATION

- 4.9 to liaise with any other person, including European, UK, Scottish and local government authorities and agencies, local enterprise companies, local economic development companies, voluntary sector bodies and others, all with a view to maximising the effectiveness of the Company in pursuing its Objects;
- 4.10 to initiate, promote, conduct, participate in (whether via a wholly owned subsidiary, a joint venture company, limited liability partnership or otherwise), co-ordinate, monitor and/or assist (whether

financially or otherwise), projects, initiatives and schemes of all kinds which further any of the Objects;

- 4.11 to promote companies and/or bodies whose activities may further one or more of the above Objects or may generate income to support the activities of the Company, acquire and hold shares, stocks, debentures and other interests in such companies, and carry out in relation to any such company which is a subsidiary of the company, all such functions as may be associated with a holding company;
- 4.12 to enter into any arrangement with any person which may be advantageous for the purposes of the activities of the Company, and to enter into any arrangement for co-operation or mutual assistance with any charity;

PROPERTY

- 4.13 to purchase, take on lease or in exchange, hire or otherwise acquire any property and any rights or privileges and to construct, maintain and alter any buildings or erections which the Company may think necessary for the promotion of its Objects;
- 4.14 to sell, let, mortgage, dispose of or turn to account all or any of the property or assets of the Company with a view to the furtherance of the Objects;
- 4.15 to improve, manage, exploit, develop and otherwise deal with all or any part of the undertaking, property and rights of the Company;
- 4.16 to acquire and take over the whole or any part of the undertaking and liabilities of any person entitled to any property or rights suitable for any of the Objects;
- 4.17 to purchase, take on lease, hire, take in exchange, and otherwise acquire any property and rights which may be advantageous for the purposes of the activity of the Company;
- 4.18 to sell, let, hire, license, give in exchange and otherwise dispose of all or any part of the undertaking, property and rights of the Company;
- 4.19 to improve, manage, enhance, develop, turn to account and otherwise deal with all or any part of the undertaking, property and rights of the Company;
- 4.20 to oppose or object to any application or proceedings which may prejudice the Company's interests; and
- 4.21 to do any or all such other lawful things as are necessary for the attainment of, or which might reasonably be regarded as likely to further, or which might appropriately be carried out in connection with, any or all of the Objects.

5 Income and Property

- 5.1 The income and property of the Company shall be applied solely towards the promotion of its Objects set out in article 2 and no portion shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise howsoever by way of profit, to Members of the Company nor shall any payments be made to Trustees except as permitted by these Articles.

6 Liability of Members

- 6.1 The liability of each Member is limited to £1, being the amount that each Member undertakes to contribute to the assets of the Company in the event of its being wound up while he is a Member or within one year after he ceases to be a Member, for:

- 6.1.1 payment of the Company's debts and liabilities contracted before he ceases to be a Member;
- 6.1.2 payment of the costs, charges and expenses of winding up; and
- 6.1.3 adjustment of the rights of the contributories among themselves.

PART 2 - TRUSTEES

7 Number of Trustees

The maximum number of Trustees shall be 9 comprising:

- 7.1 a maximum of four Council Trustees;
- 7.2 a maximum of four Independent Trustees; and
- 7.3 a maximum of one Employee Representative Trustees.

APPOINTMENT AND REMOVAL OF TRUSTEES

8 Appointment and removal of Council Trustees

- 8.1 Subject to article 7 the Council, for so long as it remains a Member of the Company, may by notice in writing given to the Company:
- 8.1.1 appoint any elected member of the Council who is willing so to act be a Council Trustee; or
- 8.1.2 remove any Council Trustee from the office of Trustee.
- 8.2 Any appointment or removal of a Trustee under this article 8 shall be effective from the date on which the relevant notice is given to the Company.

9 Appointment and removal of Independent Trustees

9.1 Subject to articles 7, 9.3 and 10 the Council, for so long as it remains a Member of the Company, may by notice in writing, signed on its behalf by an appropriate officer and given to the Company:

9.1.1 appoint any person from among the candidates recommended to it by the Nominations Committee (other than an elected member, officer, or employee of the Council) who is willing so to act to be an Independent Trustee; or

9.1.2 remove any Independent Trustee from the office of Trustee.

9.2 Any appointment or removal of a Trustee under this article 9 shall be effective from the date on which the relevant notice is given to the Company.

9.3 The Independent Trustees shall be appointed on the basis of their being representative of the East Renfrewshire area and/or together representing or possessing a comprehensive range of skills and interests relevant to the Objects of the Company, and of their having skills and experience which, in the opinion of the Member, would be of assistance to the board of Trustees.

9.4 Subject to article 9.3, and notwithstanding the provisions of article 9.1 and article 10, if, at any time, there is less than two appointed Independent Trustees, the Council shall have the power to appoint Independent Trustees (other than elected members, officers, or employees of the Council) who are willing so to act to be Independent Trustees in order to make up the number of appointed Independent Trustees to no more than two.

10 Nominations Committee

10.1 The Trustees shall establish a committee (the "Nominations Committee") to make recommendations to the Council in relation to the selection of appropriate Individuals for appointment as Independent Trustees.

10.2 The members of the Nominations Committee shall comprise:

10.2.1 two (2) Council Trustees;

10.2.2 two (2) Independent Trustees; and

10.2.3 one (1) Individual (not being a Trustee) who shall have expertise in HR matters.

10.3 Subject to articles 10.2 to 10.4, the composition and proceedings of the Nominations Committee shall be governed by such standing orders as may be issued by the Trustees from time to time.

10.4 In carrying out its functions, the Nominations Committee shall give effect to the following principles:-

- 10.4.1 the Nominations Committee should set an appropriate skills matrix to guide it in selecting and evaluating appropriate candidates, and should review and adjust that skills matrix from time to time;
- 10.4.2 nominations for Independent Trustees falling within the remit of the Nominations Committee should be sought from representatives of the local community and/or other stakeholders and/or others having skills that could assist the Company in carrying out its objects including (but not limited to) community representatives, sports representatives, facility users/customers, academic representatives and members of the business community;
- 10.4.3 all expressions of interest submitted via a formal and prescribed selection and recruitment process which has been set by the Nominations Committee should be considered by the Nominations Committee; and
- 10.4.4 the Nominations Committee should maintain a register of suitable candidates for future reference.

11 Appointment and removal of Employee Representative Trustees

- 11.1 Subject to article 7 the Council, for so long as it remains a Member of the Company, may by notice in writing, signed on its behalf by an appropriate officer and given to the Company:
 - 11.1.1 appoint an Eligible Employee Representative, who shall be agreed upon amongst Eligible Employee Representatives from time to time and is willing so to act as an Employee Representative Trustee; or
 - 11.1.2 remove any Employee Representative Trustee from the office of Trustee.
- 11.2 Any appointment or removal of a Trustee under this article 11 shall be effective from the date on which the relevant notice is given to the Company.
- 11.3 In this clause, an Eligible Employee Representative shall mean a representative of a trade union that represents employees of the Company from time to time.

12 Term and Termination of Trustee's appointment

- 12.1 Each Trustee shall, once appointed, hold office for no more than four years from the date on which he is appointed ("Set Term"). At the end of a Set Term that Trustee may (subject to article 12.2) be reappointed or nominated for re-appointment (as the case may be) always in accordance with the provisions of these Articles.
- 12.2 Subject to article 12.3 a Trustee shall serve a maximum of two consecutive Set Terms.
- 12.3 Notwithstanding the provisions of article 12.2, a Trustee may serve one or more additional Set Term in addition to his second Set Term if the remaining Trustees determine at a meeting of the

Trustees that special circumstances exist which justify the appointment of that Trustee for each Set Term in addition to his second Set Term.

12.4 A person ceases to be a Trustee if:

- 12.4.1 that person ceases to be a Trustee by virtue of any provision of the Act or is prohibited from being a Trustee by law;
- 12.4.2 that person becomes prohibited by law from being a charity trustee;
- 12.4.3 a Bankruptcy order is made against that person;
- 12.4.4 a composition is made with that person's creditors generally in satisfaction of that person's debts;
- 12.4.5 notification is received by the Company from the Trustee that the Trustee is resigning from office, and such resignation has taken effect in accordance with its terms.

13 Trustees' and secretary's expenses and remuneration

- 13.1 The Company may pay any reasonable expenses which the Trustees and the company secretary (if any) properly incur in connection with their attendance at meetings of Trustees or committees of Trustees or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the Company.
- 13.2 No Trustee shall be appointed to any office under the Company in respect of which a salary or fee is payable.
- 13.3 No benefit (in money or money's worth) shall be given by the Company to any Trustee except for the repayment of reasonable out of pocket expenses.
- 13.4 The Employee Representative Trustee (if he/she is also an employee of the Company) shall, notwithstanding that he/she is a Trustee of the Company, be entitled to all remuneration, and all pensions and/or other benefits, paid or provided to him/her in his/her capacity as an employee of the Company.

TRUSTEES' POWERS AND RESPONSIBILITIES

14 Trustees' general authority

- 14.1 Subject to these Articles, the Trustees are responsible for the management of the Company's business, for which purpose they may exercise all the powers of the Company.

15 Members' reserve power

- 15.1 The Members may, by Special Resolution, direct the Trustees to take, or refrain from taking, specified action.

- 15.2 No such Special Resolution invalidates anything which the Trustees have done before the passing of the resolution.

16 Trustees' interests

- 16.1 Subject to the provisions of the Act, articles 2, 17.3 and 28.2 and provided that he/she has disclosed to the Trustees the nature and extent of any personal interest which he/she has (unless immaterial), a Trustee:

16.1.1 may be a party to, or have some other personal interest in, any transaction or arrangement with the Company or any associated company;

16.1.2 may be party to, or have some other personal interest in, any transaction or arrangement in which the Company or any associated company has an interest;

16.1.3 in the case of the Employee Representative Trustee, may be employed by the Company;

16.1.4 may be a trustee or secretary of, or employed by, or have some other personal interest in any associated company;

16.1.5 shall not, because of his/her office, be accountable to the Company for any benefit which he/she derives from any such office or employment or from any such transaction or arrangement or from any interest in any such company,

16.1.6 and no such transaction or arrangement shall be liable to be treated as void on the grounds of any such interest or benefit.

- 16.2 Without prejudice to 16.1 above, a Trustee may be an elected member, officer, or employee of the Council and the duty of Trustees under section 175 of the Act to avoid situations under which they have, or could have, a direct or indirect interest that conflicts, or possibly might conflict, with the interests of the Company shall not extend to any such relationship with the Council.

17 Conduct of Trustees

- 17.1 Each of the Trustees shall comply with the code of conduct (incorporating detailed rules on conflict of interest) prescribed by the Trustees or the Members from time to time; for the avoidance of doubt, the code of conduct shall be supplemental to the provisions relating to the conduct of directors contained in these Articles, and the relevant provisions of these Articles shall be interpreted and applied in accordance with the provisions of the code of conduct in force from time to time.

- 17.2 It is the duty of each Trustee to take decisions (and exercise his/her other powers and responsibilities as a Trustee) in such a way as he/she considers, in good faith, will be most likely to promote the success of the Company and will be in the interests of the Company, and irrespective

of office, post, engagement or other connection which he/she may have with any other body which may have an interest in the matter in question.

17.3 Without prejudice to 17.2 above, each of the Trustees shall have a duty, in exercising functions as a charity trustee, to act in the interests of the Company; and in particular, must:

17.3.1 seek, in good faith, to ensure that the Company acts in a manner which is in accordance with its purposes;

17.3.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;

17.3.3 in circumstances giving rise to the possibility of a conflict of interest between the Company and any party responsible for the appointment of a Trustee:

17.3.3.1 put the interests of the Company before the other party;

17.3.3.2 where any other duty prevents him/her from doing so, disclose the conflicting interest to the Company and refrain from participating in any deliberation or decision of the other Trustees with regard to the matter in question;

17.3.4 ensure that the Company complies with any direction, requirement, notice or duty imposed under or by virtue of the Charities Act ; and

17.3.5 comply with the rules and/or bye laws prescribed by the board of Trustees from time to time, in accordance with article 17.1; for the avoidance of doubt, such rules and/or bye laws shall be supplemental to the provisions relating to the conduct of Trustees contained in these Articles, and the relevant provisions of these Articles shall be interpreted and applied in accordance with the provisions of the rules and/or bye laws in force from time to time.

18 Trustees may delegate

18.1 Subject to these Articles, the Trustees may delegate any of the powers which are conferred on them under these Articles:

18.1.1 to such person or committee;

18.1.2 by such means (including by power of attorney);

18.1.3 to such an extent;

18.1.4 in relation to such matters or territories; and

18.1.5 on such terms and conditions;

as they think fit.

18.2 If the Trustees so specify, any such delegation may authorise further delegation of the Trustees' powers by any person to whom they are delegated.

18.3 The Trustees may revoke any delegation in whole or part, or alter its terms and conditions.

19 Committees

19.1 Committees to which the Trustees delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of these Articles which govern the taking of decisions by Trustees.

19.2 The Trustees may make rules of procedure for all or any committees, which prevail over rules derived from these Articles if they are not consistent with them.

DECISION MAKING BY TRUSTEES

20 Trustees to take decisions collectively

20.1 The general rule about decision-making by Trustees is that any decision of the Trustees must be either a majority decision at a meeting or a decision taken in accordance with article 21.

20.2 If:

20.2.1 the Company only has one Trustee for the time being; and

20.2.2 no provision of these Articles requires it to have more than one Trustee,

the general rule does not apply, and the Trustee may (for so long as he remains the sole Trustee) take decisions without regard to the provisions of articles 20 to 30 inclusive.

21 Unanimous decisions

21.1 A decision of the Trustees is taken in accordance with this article when all Eligible Trustees indicate to each other by any means that they share a common view on a matter.

21.2 Such a decision may take the form of a resolution in Writing where each Eligible Trustee has signed one or more copies of it or to which each Eligible Trustee has otherwise indicated agreement in Writing.

21.3 A decision may not be taken in accordance with this article if the Eligible Trustees would not have formed a quorum at such a meeting in accordance with article 25 below.

22 Calling a Trustees' meeting

22.1 Any Trustee may call a Trustees' meeting by giving notice of the meeting to the Trustees or by authorising the company secretary (if any) to give such notice.

22.2 Notice of any Trustees' meeting must indicate:

22.2.1 its proposed date and time;

22.2.2 where it is to take place; and

22.2.3 if it is anticipated that Trustees Participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.

22.3 Notice of a Trustees' meeting must be given to each Trustee, but need not be in Writing.

22.4 Notice of a Trustees' meeting need not be given to Trustees who waive their entitlement to notice of that meeting, by giving notice to that effect to the Company not more than 7 days after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

23 Participation in Trustees' meetings

23.1 Subject to these Articles, Trustees participate in a Trustees' meeting, or part of a Trustees' meeting ("Participate") when:

23.1.1 the meeting has been called and takes place in accordance with these Articles; and

23.1.2 they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.

23.2 In determining whether Trustees are Participating in a Trustees' meeting, it is irrelevant where any Trustee is or how they communicate with each other.

23.3 If all the Trustees Participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

24 Council observers at meetings of the Trustees

24.1 The Trustees shall allow individuals, nominated by the Council (for so long as it is a Member of the Company), to attend and speak (but not vote) at any meeting of the Trustees; any such person shall not be entitled to exercise any of the powers of a Trustee, and shall not be deemed to constitute a Trustee for the purposes of the Act, the Charities Act or any provision of these Articles.

25 Quorum for Trustees' meetings

- 25.1 At a Trustees' meeting, unless a quorum is Participating, no proposal is to be voted on, except a proposal to call another meeting.
- 25.2 The quorum for Trustees' meetings may be fixed from time to time by a decision of the Trustees, but where the Company has two or more Trustees it must never be less than two, and unless otherwise fixed it is five.
- 25.3 A quorum shall not be deemed to be present at any meeting of the Trustees unless there is at least one Council Trustee and one Independent Trustee present at that meeting (except if at any time there is no Council Trustee appointed to the Company, in which case the quorum shall be present only if all Independent Trustees and the Employee Representative Trustee are present).
- 25.4 If the total number of Trustees for the time being is less than the quorum required, the Trustees must not take any decision other than a decision to call a general meeting so as to enable the Members to appoint further Trustees.

26 Chairing of Trustees' meetings

- 26.1 The Trustees may appoint a Trustee to chair their meetings.
- 26.2 The person so appointed for the time being is known as the Chairperson.
- 26.3 The Trustees shall endeavour to select an Independent Trustee as Chairperson, provided an Independent Trustee is willing to act in such a role.
- 26.4 The Trustees may terminate the Chairperson's appointment at any time.
- 26.5 If the Chairperson is not Participating in a Trustees' meeting within ten minutes of the time at which it was to start, the Participating Trustees must appoint one of themselves to chair it.

27 Casting vote

- 27.1 If the numbers of votes for and against a proposal are equal, the Chairperson or other Trustee chairing the meeting has a casting vote.
- 27.2 Article 27.1 does not apply if, in accordance with these Articles, the Chairperson or other Trustee is not to be counted as Participating in the decision-making process for quorum or voting purposes.

28 Trustees' conflicts of interest in transactions or arrangements

- 28.1 If a proposed decision of the Trustees is concerned with an existing or proposed transaction or arrangement with the Company in which a Trustee is interested (whether directly or indirectly), that

Trustee shall disclose the nature and extent of that interest to the other Trustees in accordance with sections 177 or 182 of the Act and the Charities Act as applicable.

28.2 Subject to 28.4, 28.5 and 28.7, a Trustee shall not vote at a meeting of Trustees or at a meeting of a committee of Trustees on any resolution concerning a matter in which he/she has, directly or indirectly, a personal interest or duty (unless immaterial) which conflicts or may conflict with the interests of the Company.

28.3 For the purposes of 28.1 above:

28.3.1 an interest of a person who is taken to be connected with a Trustee for any purpose of the Act, shall be treated as a personal interest in the Trustee; and

28.3.2 a Trustee shall (subject to 28.4) be deemed to have a personal interest in relation to a particular matter if a body in relation to which he/she is an employee, Trustee, member of the management committee, officer or elected representative has an interest in that matter.

28.4 A Council Trustee shall, notwithstanding the provisions of 28.1 and 28.3.2, be entitled to vote in relation to a particular matter notwithstanding that the Council has an interest in that matter; but on the basis that in the exercising their voting rights in respect of any such matter, the Council Trustees shall comply with the provisions of article 17.

28.5 A Trustee shall, notwithstanding the provisions of 28.1 and 28.2, be entitled to vote in relation to a particular matter notwithstanding that he/she has an interest in that matter; but only on the basis that:

28.5.1 a majority of the Trustees present at the meeting who are not interested in the matter approve that he/she be entitled to vote; and

28.5.2 in the exercising their voting rights in respect of any such matter, he/she shall comply with the provisions of article 17.

28.6 A Trustee will not count towards the quorum of a meeting (or part of a meeting) at which he/she is not entitled to vote.

28.7 The Company may (subject to the Charities Act) by Ordinary Resolution suspend or relax to any extent, either generally or in relation to any particular matter, the provisions of this article 28.

29 Minutes of meetings

29.1 The Trustees shall ensure that the Company records minutes of proceedings at any Trustees' meetings and that such records are kept for at least 10 years from the date of the relevant meeting.

30 Trustees' discretion to make further rules

Subject to these Articles, and provided it does not conflict with these Articles, the Trustees may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to Trustees. **PART 3 – DECISION-MAKING BY MEMBERS**

ORGANISATION OF GENERAL MEETINGS**31 Convening a general meeting**

31.1 The Trustees of the Company may call a general meeting of the Company.

31.2 In accordance with the provisions of the Act, the Members of the Company may require the Trustees to call a general meeting of the Company provided the request is made by Members representing at least 5% of the total voting rights of all the Members having a right to vote at general meetings.

31.3 A general meeting must be called by notice of at least 14 Clear Days. It may be called by shorter notice than this if agreed to by a majority in number of Members having a right to attend and vote at the meeting, being a majority who together hold not less than 90% of the total voting rights at that meeting of all the Members.

31.4 Notice of a general meeting must be sent to every Member, every Trustee and the Company's auditors (if any).

31.5 A notice of a general meeting must include:

31.5.1 the time, date and place of the meeting;

31.5.2 the general nature of the business to be dealt with at the meeting; and

31.5.3 notification of the Member's right to appoint one or more proxies to exercise all or any of his rights to attend, speak and vote at a meeting as set out in section 324 of the Act.

32 Attendance and speaking at general meetings

32.1 A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.

32.2 A person is able to exercise the right to vote at a general meeting when:

32.2.1 that person is able to vote, during the meeting, on resolutions put to the vote at the meeting; and

32.2.2 that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.

32.3 The Trustees may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.

32.4 In determining attendance at a general meeting, it is immaterial whether any two or more Members attending it are in the same place as each other.

32.5 Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

33 Quorum for general meetings

33.1 No business other than the appointment of the Chairperson of the Meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.

33.2 If and for so long as the Company has only one Member, the quorum is one qualifying person. In any other case, the quorum is two qualifying persons subject to section 318(2) of the Act. A "qualifying person" means an individual who is a Member of the Company, a corporate representative duly authorised under section 323 of the Act, or a person appointed as a proxy of a Member in relation to a meeting.

34 Chairing general meetings

34.1 If the Trustees have appointed a Chairperson, the Chairperson shall chair general meetings if present and willing to do so.

34.2 If the Trustees have not appointed a Chairperson, or if the Chairperson is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start:

34.2.1 the Trustees present; or

34.2.2 (if no Trustees are present), the meeting,

must appoint a Trustee or Member to chair the meeting, and the appointment of the Chairperson of the Meeting must be the first business of the meeting.

34.3 The person chairing a meeting in accordance with this article is referred to as "the Chairperson of the Meeting".

35 Attendance and speaking by Trustees and non-Members

35.1 Trustees may attend and speak at general meetings, whether or not they are Members.

- 35.2 The Chairperson of the Meeting may permit other persons who are not Members of the Company to attend and speak at a general meeting.

36 Adjournment

- 36.1 If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the Chairperson of the Meeting must adjourn it.
- 36.2 The Chairperson of the Meeting may adjourn a general meeting at which a quorum is present if:
- 36.2.1 the meeting consents to an adjournment; or
 - 36.2.2 it appears to the Chairperson of the Meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.
- 36.3 The Chairperson of the Meeting must adjourn a general meeting if directed to do so by the meeting.
- 36.4 When adjourning a general meeting, the Chairperson of the Meeting must:
- 36.4.1 either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the Trustees; and
 - 36.4.2 have regard to any directions as to the time and place of any adjournment which have been given by the meeting.
- 36.5 If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the Company must give at least 7 Clear Days' notice of it:
- 36.5.1 to the same persons to whom notice of the Company's general meetings is required to be given; and
 - 36.5.2 containing the same information which such notice is required to contain.
- 36.6 No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

VOTING AT GENERAL MEETINGS

37 Voting: general

- 37.1 A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with these Articles.
- 37.2 On a vote on a resolution on a show of hands:

- 37.2.1 every Member who (being an individual) is present in person shall have one vote;
- 37.2.2 every proxy present who has been duly appointed by one or more Members entitled to vote on the resolution shall have one vote unless article 37.2.4 or article 37.2.5 applies;
- 37.2.3 every Member who (being a body corporate, including any local authority) is present by a duly authorised corporate representative shall have one vote;
- 37.2.4 a proxy has one vote for and one vote against the resolution if he has been duly appointed by more than one Member entitled to vote on the resolution and he has been instructed by one or more of those Members to vote for the resolution and by one or more other of those Members to vote against it;
- 37.2.5 where a proxy has been duly appointed by more than one Member entitled to vote on the resolution and has received concrete instructions to vote in the same way from one or more of those Members and been given a discretion as to how he votes by one or more other of those Members, he may, if he chooses, cast a second vote the other way under the discretionary authority.

37.3 On a vote on a resolution on a poll taken at a meeting, every Member has one vote. On a poll, votes may be given personally or by proxy.

38 Errors and disputes

38.1 No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.

38.2 Any such objection must be referred to the Chairperson of the Meeting whose decision is final.

39 Poll votes

39.1 A poll on a resolution may be demanded:

39.1.1 in advance of the general meeting where it is to be put to the vote; or

39.1.2 at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.

39.2 A poll may be demanded by:

39.2.1 the Chairperson of the Meeting;

39.2.2 the Trustees;

39.2.3 two or more persons having the right to vote on the resolution; or

39.2.4 a person or persons representing not less than one tenth of the total voting rights of all the Members having the right to vote on the resolution.

39.3 A demand for a poll may be withdrawn if:

39.3.1 the poll has not yet been taken; and

39.3.2 the Chairperson of the Meeting consents to the withdrawal.

39.4 Polls must be taken immediately and in such manner as the Chairperson of the Meeting directs.

40 Content of Proxy Notices

40.1 Proxies may only validly be appointed by a notice in Writing (a "Proxy Notice") which:

40.1.1 states the name and address of the Member appointing the proxy;

40.1.2 identifies the person appointed to be that Member's proxy and the general meeting in relation to which that person is appointed;

40.1.3 is signed by or on behalf of the Member appointing the proxy, or is authenticated in such manner as the Trustees may determine; and

40.1.4 is either delivered to the Company in accordance with these Articles and any instructions contained in or accompanying the notice of the general meeting or the proxy form, or whose delivery is otherwise accepted by the Chairperson of the Meeting at his discretion.

40.2 The Company may require Proxy Notices to be delivered in a particular form, and may specify different forms for different purposes.

40.3 Proxy Notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.

40.4 Unless a Proxy Notice indicates otherwise, it must be treated as:

40.4.1 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

40.4.2 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.

41 Delivery of Proxy Notices

41.1 A person 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 Company by or on behalf of that person.

- 41.2 An appointment under a Proxy Notice may be revoked by delivering to the Company a notice in Writing given by or on behalf of the person by whom or on whose behalf the Proxy Notice was given.
- 41.3 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.
- 41.4 If a Proxy Notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.

42 Amendments to resolutions

- 42.1 An Ordinary Resolution to be proposed at a general meeting may be amended by Ordinary Resolution if:
- 42.1.1 notice of the proposed amendment is given to the Company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the Chairperson of the Meeting may determine; and
 - 42.1.2 the proposed amendment does not, in the reasonable opinion of the Chairperson of the Meeting, materially alter the scope of the resolution.
- 42.2 A Special Resolution to be proposed at a general meeting may be amended by Ordinary Resolution, if:
- 42.2.1 the Chairperson of the Meeting proposes the amendment at the general meeting at which the resolution is to be proposed; and
 - 42.2.2 the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.
- 42.3 If the Chairperson of the Meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, his error does not invalidate the vote on that resolution.

WRITTEN RESOLUTIONS

43 Written resolutions

The Members may pass any resolution (other than a resolution to remove a Trustee or auditor before expiry of his term of office) as a written resolution in accordance with Chapter 2 of Part 13 of the Act.

Part 5 – ADMINISTRATIVE ARRANGEMENTS

44 Means of communication to be used

- 44.1 Subject to these Articles, anything sent or supplied by or to the Company under these Articles may be sent or supplied in any way in which the Act provides for documents or information which are authorised or required by any provision of the Act to be sent or supplied by or to the Company.
- 44.2 Subject to these Articles, any notice or Document to be sent or supplied to a Trustee in connection with the taking of decisions by Trustees may also be sent or supplied by the means by which that Trustee has asked to be sent or supplied with such notices or Documents for the time being.
- 44.3 A Trustee may agree with the Company that notices or Documents sent to that Trustee in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

45 Winding-up

- 45.1 If on the winding-up of the Company any property remains after satisfaction of all the Company's debts and liabilities, such property shall be paid or transferred to, the Council to be applied solely for a Charitable Purpose or purposes.
- 45.2 To the extent that effect cannot be given to Article 45.1 above, the relevant property shall be transferred to another charity to be applied for a Charitable Purpose or purposes.

TRUSTEES' AND COMPANY SECRETARY'S INDEMNITY AND INSURANCE

46 Indemnity

- 46.1 Subject to articles 46.2 and 46.3, but without prejudice to any indemnity to which a Trustee is otherwise entitled:
- 46.1.1 each Trustee may be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a Trustee:
- 46.1.1.1 in the actual or purported execution and/or discharge of his duties (including the duties of a charity trustee) or in relation to them; and
- 46.1.1.2 in relation to the activities of the Company or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Act);

including (In each case) any liability incurred by him in defending any civil or criminal proceedings in which judgement is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him, in his capacity as a relevant officer, relief from liability for negligence,

default, breach of duty or breach of trust in relation to the Company's or an associated company's affairs; and

46.1.2 the Company may provide any Trustee with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in article 46.1.1 and otherwise may take any action to enable any such Trustee to avoid incurring such expenditure.

46.2 This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Act or by any other provision of law including any provision of the Charities Act.

46.3 This article does not authorise indemnification in respect of any liability incurred by the Trustee to make payment in respect of the matters set out in article 47.2.

46.4 In this article 46, companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

47 Insurance

47.1 The Trustees may arrange for the purchase, from the Company's funds, of insurance designed to indemnify the Trustees against personal liability in respect of any negligence, default or breach of duty committed by them in their capacity as:

47.1.1 a charity trustee of the Company, or

47.1.2 Trustees or officers carrying on any activities on behalf of the Company.

47.2 The terms of such insurance must, however, be framed to exclude the provision of any indemnity in respect of any liability incurred by the Trustee to pay:

47.2.1 a fine imposed in criminal proceedings;

47.2.2 a sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature;

47.2.3 in respect of representation in any criminal proceedings in which the Trustee is convicted of an offence arising out of any fraud or dishonesty, or wilful or reckless misconduct, by the Trustee;

47.2.4 to the Company that arises out of any conduct which the Trustee knew (or must reasonably be assumed to have known) was not in the interests of the Company or in the case of which the Trustee did not care whether it was in the interests of the Company or not.

47.3 For the purposes of article 47.2, the reference to conviction does not include a conviction:

- 47.3.1 quashed by an order under section 118(1)(b) or 183(1)(c) of the Criminal Procedure (Scotland) Act 1995;
- 47.3.2 quashed by an order under section 118(1)(c) of that Act and which order has the effect of an acquittal by virtue of section 119(9) of that Act or otherwise;
- 47.3.3 in relation to which the verdict is set aside by an order under section 183(1)(d) of that Act and which order has the effect of an acquittal by virtue of section 185(9) of that Act or otherwise.

48 Accounts and independent examination / audit

- 48.1 Except as provided by law or authorised by the Trustees by a resolution, no person is entitled to inspect any of the Company's accounting or other records or documents merely by virtue of being a Member.
- 48.2 The Trustees shall comply with the provisions of the Charities Accounts (Scotland) Regulations 2006 (or any statutory modification or re-enactment thereof for the time being in force). The Chartered Accountant (or firm) or Independent Examiner shall have access to all papers, books, vouchers, accounts and documents relating to the Company.

Appendix 2 - Code of Conduct

east renfrewshire
**CULTURE
& LEISURE**

**East Renfrewshire Culture and Leisure
Trustees Code of Conduct**

Dated: 31 May 2022

Trustees Code of Conduct

Introduction

The objective of the Code of Conduct is to ensure that all Trustees operate the highest standards of integrity at all times, as they are required to do. This code expands upon the Articles of Association of East Renfrewshire Culture & Leisure Limited, in particular clause 17, *Code of Conduct*. The purpose of the Code of Conduct is to ensure that Trustees of East Renfrewshire Culture & Leisure Limited are above any criticism or suspicion in terms of propriety and integrity in their conduct.

The Code of Conduct is reinforced by:

- A commitment from all Trustees to the Code of Conduct.
- A commitment from all Trustees to declare any personal conflicts of interest.
- A commitment from all Trustees to take steps to avoid conflicts of interest by not participating in decision-making where a potential conflict has been declared.
- A commitment from all Trustees to ongoing review and updating of a register of interests.
- The duties of the Board, as set out in the Articles of Association of East Renfrewshire Culture & Leisure Limited.

Enhancing Governance

- I will participate in induction, training and development activities for Board Members.
- I will continually seek ways to improve Board Governance practice.
- I will support the Chair in his/her efforts to lead the organisation.
- I will support the Chief Executive and his/her staff team in their own development, and the effectiveness of East Renfrewshire Culture & Leisure Limited.

Leaving the Board

(There are a number of constitutional requirements set out in The Articles of Association.)

- I understand that any substantial breach of any part of this Code of Practice may result in my removal from the Board of Trustees.
- Should I decide to resign from the Board, I will inform the Chair in advance, in writing, stating my reasons for resigning. Additionally, I will participate in an exit interview.

Protecting East Renfrewshire Culture & Leisure Limited's Reputation

- I will strive to establish respectful, collegiate and positive relationships with those with whom I come into contact in my capacity as an ambassador for East Renfrewshire Culture & Leisure Limited
- I will not speak as a Board Member of East Renfrewshire Culture & Leisure Limited to the media or in a public forum without the prior knowledge and approval of the Chair and the Chief Executive
- When prior consent has not been obtained, I will inform the Chair or Chief Executive at once when I have spoken as a Board Member of East Renfrewshire Culture & Leisure Limited to the media or in a public forum.
- When I am speaking as a Member of the Board of East Renfrewshire Culture & Leisure Limited, my comments will reflect current organisational policy, as agreed by the Board, even if these do not agree with my personal views.
- I will respect organisational, Board and individual confidentiality.
- I will take an active interest in East Renfrewshire Culture & Leisure Limited's public image, noting news articles, public opinion, and the like, and provide comment and advice on how the reputation of East Renfrewshire Culture & Leisure Limited might be enhanced.

Personal Gain

- I will not personally gain materially or financially from my role as a Trustee, nor will I permit others who serve on the Board to do so as a result of my actions.
- I will document and receipt all legitimate expenses according to agreed procedures.
- I will not accept gifts or hospitality without the prior consent of the Chair, and without these being recorded in the Declaration of Interests.
- I will use organisational resources responsibly when authorised, and in accordance with agreed procedures.

Board Meetings

(This section reflects each Trustee's personal commitment to the Board, and is supplementary to the provisions relating to conduct of board meetings, as set out the Articles of Association.)

- I will strive to embody the principles of leadership in all my actions, and live up to the aspirations and values of East Renfrewshire Culture & Leisure Limited.
- I will abide by all Policies, Procedures and Practices relating to governance at Board level and be held to the same standards for these as the employees.
- I will strive to attend all Board meetings, giving apologies ahead of time to the Chief Executive if unable to attend.
- I will study the agenda and other information sent to me in advance of the meeting, and be prepared to debate and vote on agreed items during the meeting.
- I will honour the authority of the Chair and respect his/her role as meeting leader.
- I will engage in debate and voting in meetings according to procedures, maintaining a respectful attitude towards the opinions of others, while making my opinion heard.
- I will accept a majority Board vote on any issue as decisive and final.
- I will maintain confidentiality about what goes on in the Board Room, unless authorised by the Chair or the Board to speak of it.
- I will serve the organisation regardless of my personal political outlook.

The Seven Principles of Public Life

East Renfrewshire Culture & Leisure Limited is a charity registered with the Office of the Scottish Charity Regulator (OSCR) and will follow the relevant guidelines laid out by them. Trustees will be expected to follow the seven principles of public life:

- **Selflessness:** Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.
- **Integrity:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.
- **Objectivity:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- **Accountability:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- **Openness:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- **Honesty:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- **Leadership:** Holders of public office should promote and support these principles by leadership and example.

Appendix 3 – Committee Terms of Reference

- a) FAR
- b) HRHSA
- c) Nominations Committee

FINANCE AUDIT AND RISK COMMITTEE (FAR)

Terms of Reference

31 May 2022

Draft for ERCL Board Approval

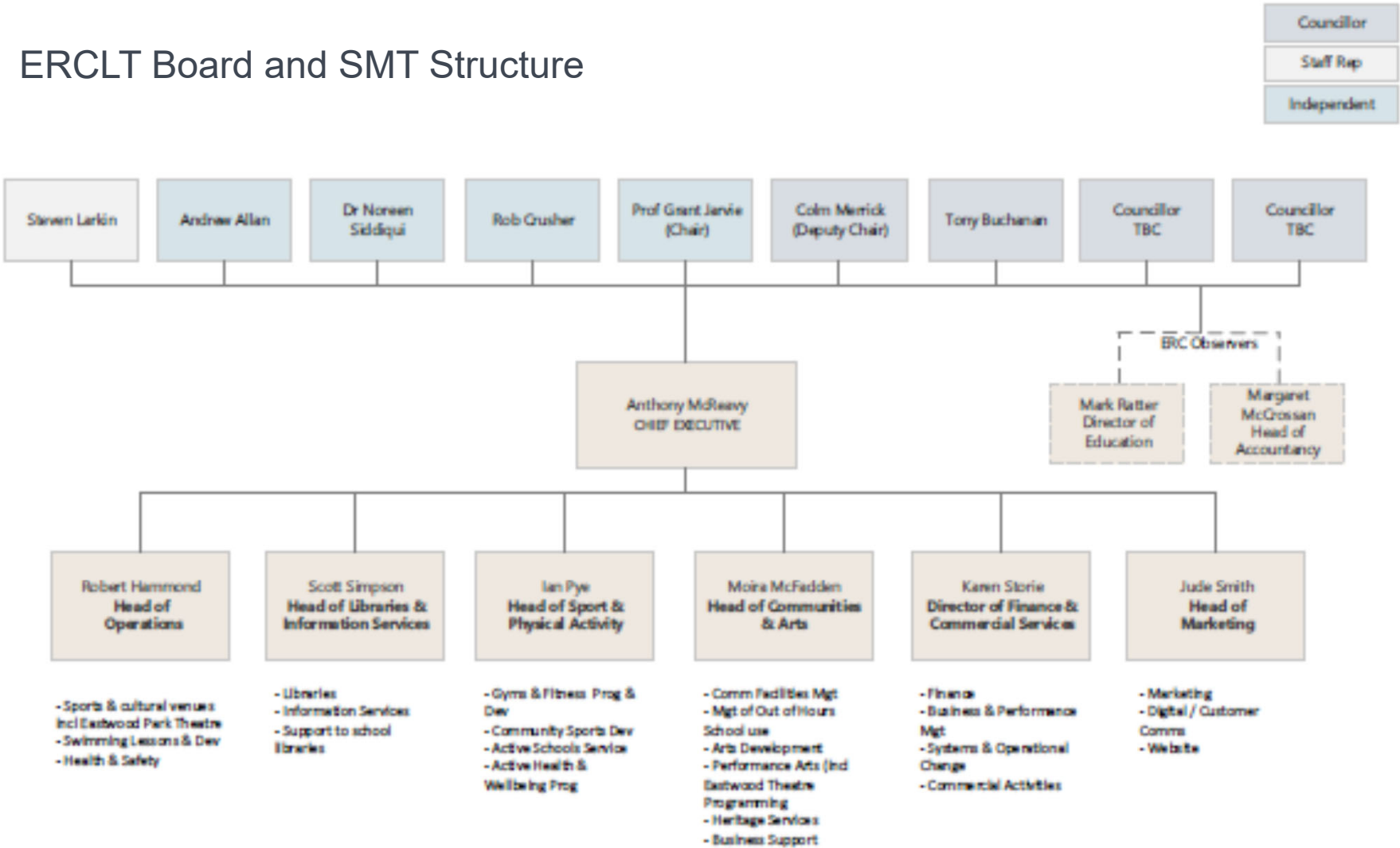


Governance Overview

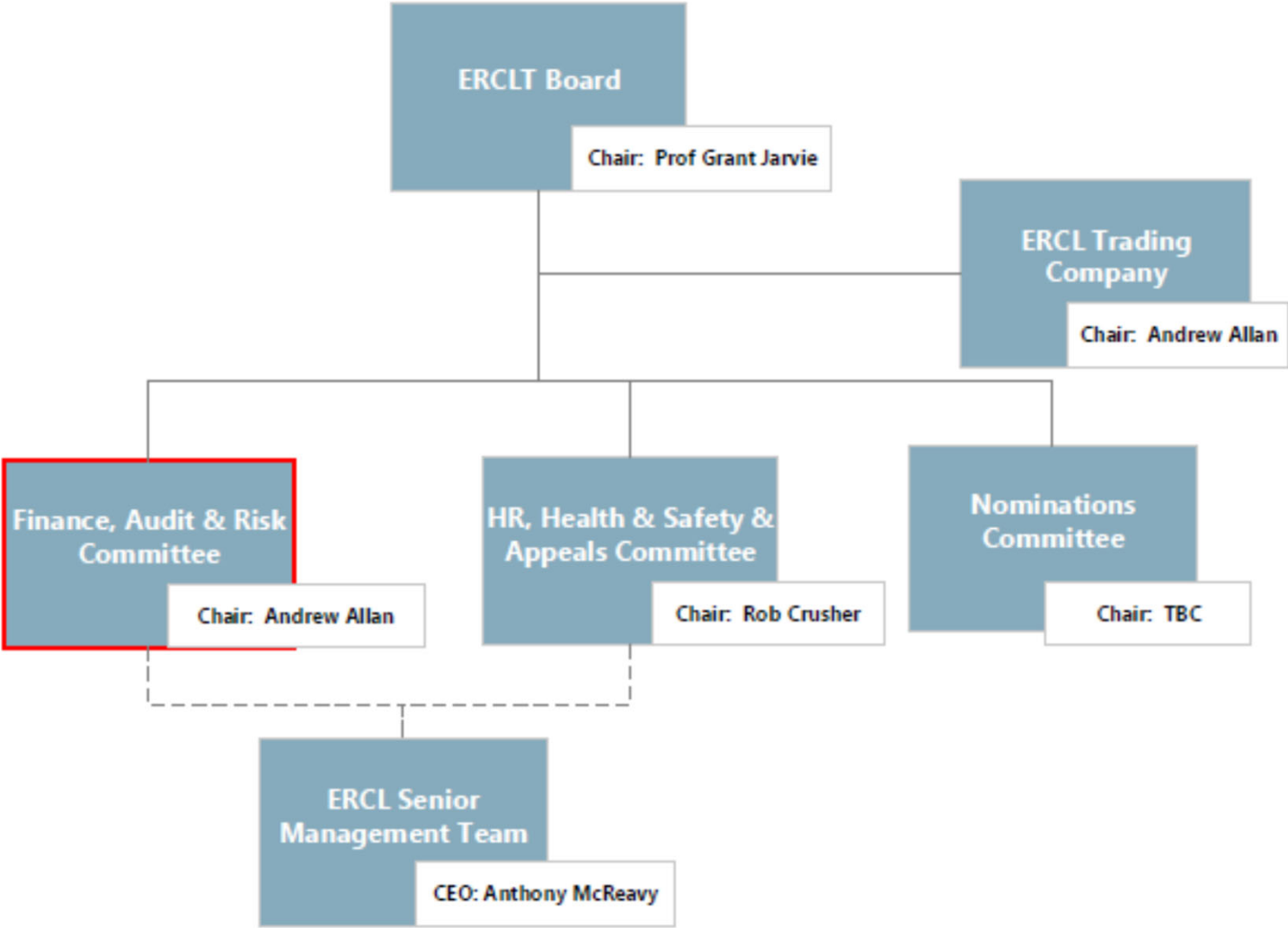
This document provides an overview of the governance structure of ERCLT, together with the Terms of Reference for the Finance, Audit and Risk Committee.

Governance Overview

ERCLT Board and SMT Structure



Governance Structure



Membership

Appointment:

The FAR Committee are all appointed by the Board. All members are non-executive Board members of the Company; with at least one member who has recent and relevant financial experience (Andrew Allan, Chair); the secretary of the committee is the Chief Executive's PA.

Membership:

- Andrew Allan (Chair)
- Professor Grant Jarvie
- Dr Noreen Siddiqui
- TBC

Authority & Purpose

Authority

- The FAR has no decision making authorities, but instead reviews and recommends relevant information and decisions to the Board.

Purpose

- To oversee and scrutinise internal controls, management accounts, budgets, cash flows, risk management together with any operational business which either requires additional ERC funding or increases the risk rating of the Company.

Accountability & Responsibilities

Accountability

- On a biennial basis, the members will review the Terms of Reference together with evaluating the effectiveness of the Committee, and recommend any changes it considers necessary to the Board.

Responsibilities

- Due consideration is required by members to relevant regulations and laws in respect of the Company and the environment in which it operates.
- Members will be provided with appropriate and timely training, both in the form of an induction programme for new members and on an ongoing basis for all members.
- Following each Committee meeting, the Chair, or an appointed representative will provide a verbal update to the Board including presentation of any recommendations which require a Board decision.

Escalation

- Any items requiring recommendation which have not gained consensus should be escalated to the Board for further consideration.

Conflicts of Interest

- Members are required to declare any potential conflicting interests at the beginning of each meeting and provide a Declaration of Interest on an annual basis as part of the overall ERCLT governance.

Scope

The following summarises the key elements covered by the FAR.

Finance

- Annual Financial Statements and Accounts
- Financial Performance
- Budget and Forecasting including Capital Bids
- Business cases which require additional ERC funding

Audit

- External audit
- Internal audit and controls

Risk

- Risk Register and Mitigating Actions
- Business cases which increase the Trust's risk profile

Other

- Review of SLA Services

Attendance

Meetings require a minimum of 2 members to have valid proceedings.

In addition to the current members, the following are invited to attend:

- ERCLT Senior Management Team
- ERC Chief Auditor or an appropriate alternate as required
- Appointed External Auditors to attend specific meetings as agreed by the Chair or an appointed alternate.
- Other members of management or ERC may also be invited as required

An option for at least (part of) one meeting per year should / will be between the Committee and the internal and external auditors *without* executives in attendance.

Meetings

- The FAR Committee to meet quarterly.
- Meetings dates will be approved at a meeting prior to the start of the calendar year and held at an agreed ERCLT venue, with the option of online attendance as required.
- An Annual work plan will be agreed each year to set out the schedule of standing papers.
- Agenda items will be based on the annual work plan incorporating any additional papers. The agenda will be approved by the Chair (or an appointed alternate) in advance of issuing the papers.
- Papers will be issued via email a week in advance of the meeting, following approval by Chair or an appointed alternate.
- Attendance should be confirmed to company secretary no later than 2 weeks in advance of the meeting
- Post meeting, draft minutes will be distributed within 3 weeks of the meeting for review and approval in advance of the next FAR.

HUMAN RESOURCES, HEALTH & SAFETY AND APPEALS COMMITTEE (HRHSA)

Terms of Reference

31 May 2022

Draft for ERCL Board Approval

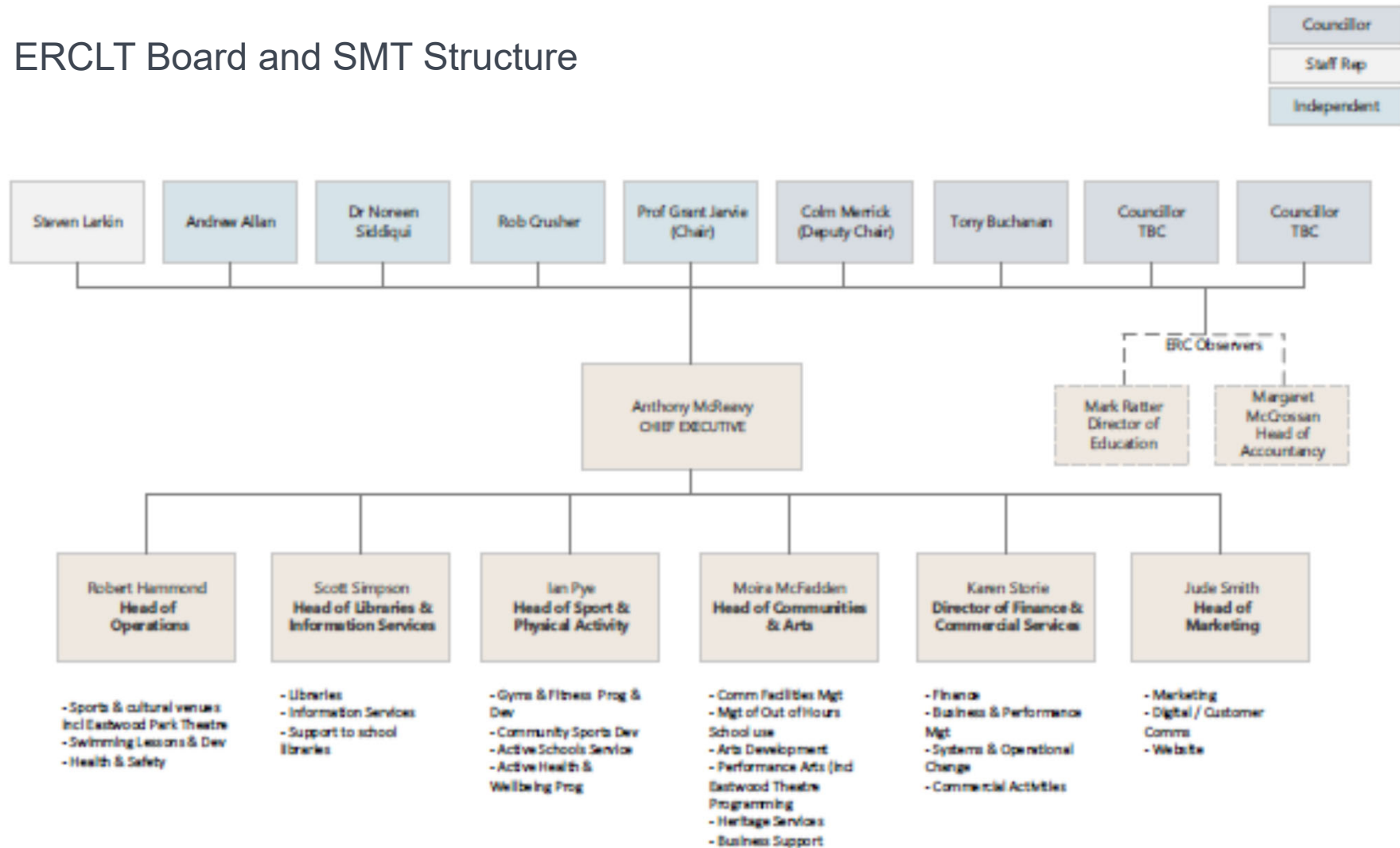


Governance Overview

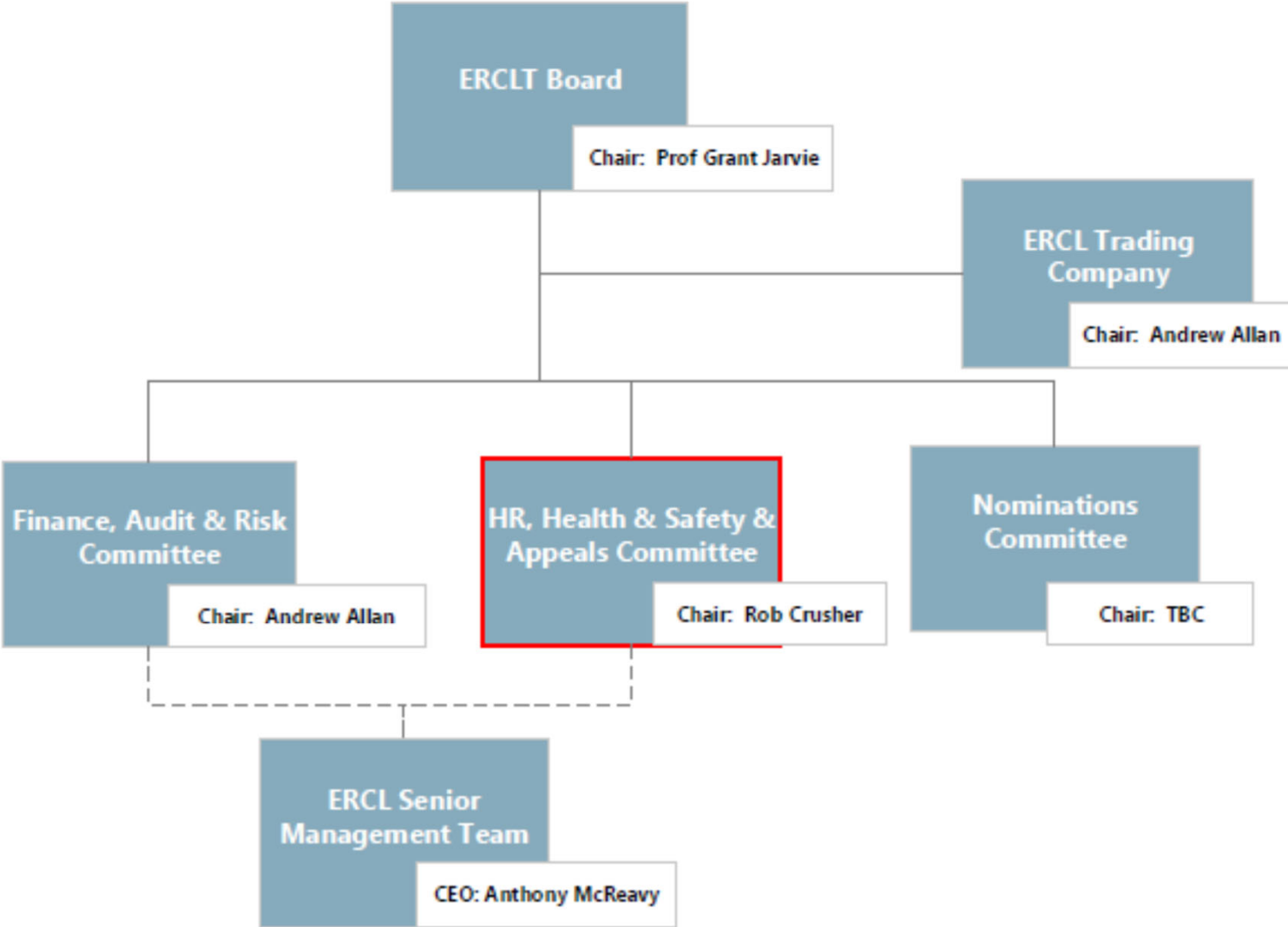
This document provides an overview of the governance structure of ERCLT, together with the Terms of Reference for the Human Resources, Health & Safety and Appeals Committee.

Governance Overview

ERCLT Board and SMT Structure



Governance Structure



Membership

Appointment:

The HRHSA Committee are all appointed by the Board. All members are non-executive Board members of the Company; with at least one member who has recent and relevant experience (Rob Crusher, Chair); the secretary of the committee is Chief Executive's PA.

Membership:

- Rob Crusher (Chair)
- Cllr Colm Merrick
- Steven Larkin
- TBC

Authority & Purpose

Authority

- The Committee has decision making authorities in relation to HR Appeals.
- The HRHSA has no decision making authorities in relation to other HR and H&S activities but instead reviews and recommends relevant information and decisions to the Board.

Purpose

- The HRHSA Committee meets twice yearly to oversee and scrutinise HR issues and Health & Safety performance, and can be convened on an ad hoc basis to hear appeals.

Accountability & Responsibilities

Accountability

- On a biennial basis, the members will review the Terms of Reference together and evaluate the effectiveness of the Committee, and recommend any changes it considers necessary to the Board.

Responsibilities

- Due consideration is required by members to relevant regulations and laws in respect of the Company and the environment in which it operates.
- Members will be provided with appropriate and timely training, both in the form of an induction programme for new members and on an ongoing basis for all members.
- Following each Committee meeting, the Chair, or an appointed representative will provide a verbal update to the Board including presentation of any recommendations which require a Board decision.

Escalation

- Any items requiring recommendation which have not gained consensus should be escalated to the Board for further consideration.

Conflicts of Interest

- Members are required to declare any potential conflicting interests at the beginning of each meeting and provide a Declaration of Interest on an annual basis as part of the overall ERCLT governance.

Scope

The following summarises the key elements covered by the HRHSA.

Human Resources

- HR Strategies and Policies
- HR performance (Absence, Recruitment, Training etc.)
- Service Redesign or Transformation Programmes.

Health & Safety

- H&S Strategies and Policies.
- Half Year and Full Year H&S Report (incl. Performance and Audits)

Appeals

- Employment appeals
- Customer Exclusions Appeals

Other

- Review of the SLA's or Contracts appropriate to this committee
- Review the annual joint report from the JCC.

Attendance

Meetings require a minimum of 2 members to have valid proceedings.

In addition to the current members, the following are invited to attend:

- ERCLT Senior Management Team (as required)
- ERC HR Business Partner (as required)
- ERC H&S Auditor / Business Partner (as required)
- QLM H&S Consultant (as required)
- Other members of management or ERC may also be invited as appropriate

Meetings

- The HRHSA Committee to meet twice per year – provisionally January and September to align with H&S reporting timescales.
- Meetings dates will be approved at a meeting prior to the start of the calendar year and held at an agreed ERCLT venue, with the option of online attendance as required.
- An Annual work plan will be agreed each year to set out the schedule of standing papers.
- Agenda items will be based on the annual work plan incorporating any additional papers. The agenda will be approved by the Chair (or an appointed alternate) in advance of issuing the papers.
- Papers will be issued via email a week in advance of the meeting, following approval by Chair or an appointed alternate.
- Attendance should be confirmed to company secretary no later than 2 weeks in advance of the meeting
- Post meeting, draft minutes will be distributed within 3 weeks of the meeting for review and approval in advance of the next HRHSA

NOMINATIONS COMMITTEE

Terms of Reference

31 May 2022

Draft for ERCL Board Approval

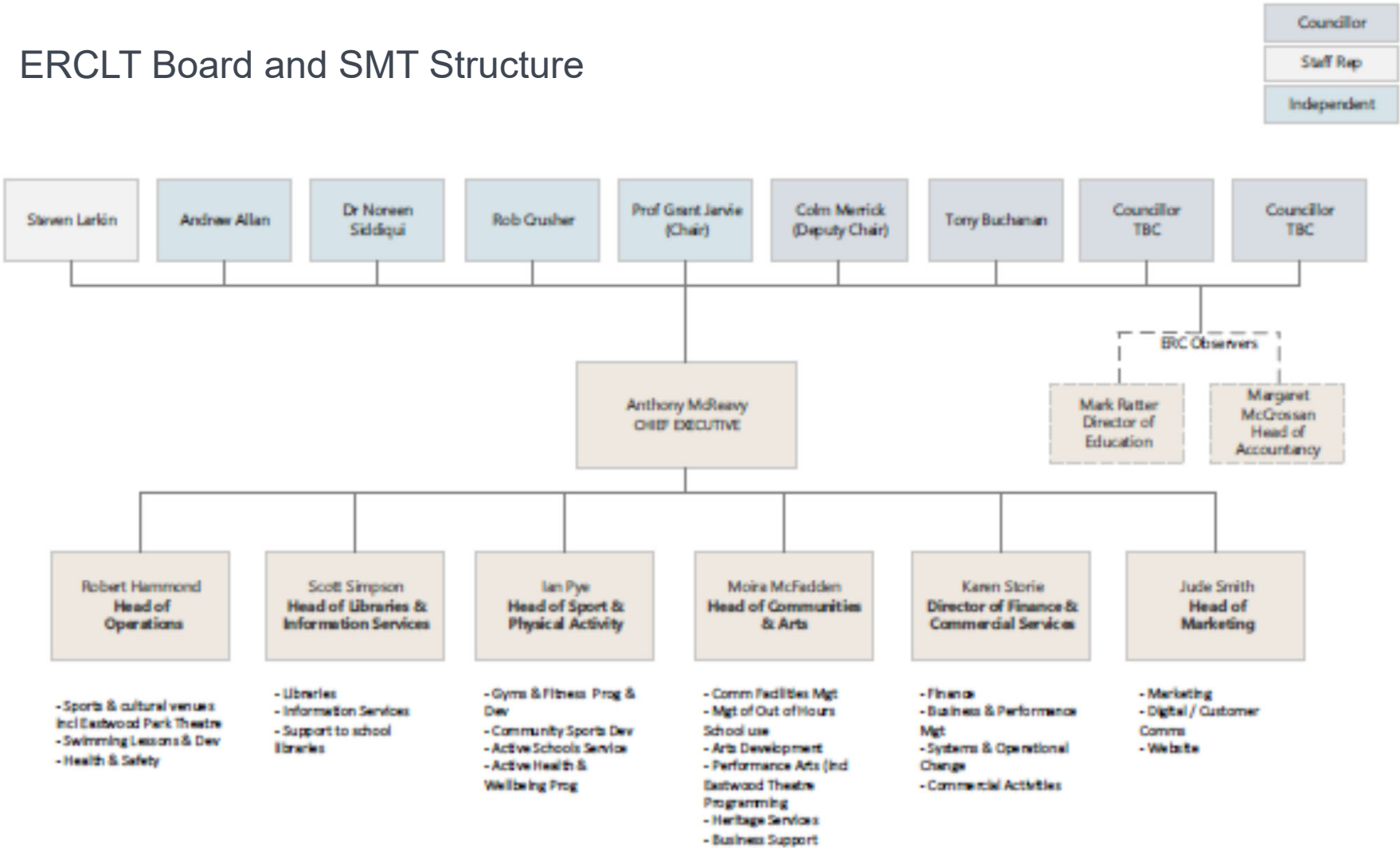


Governance Overview

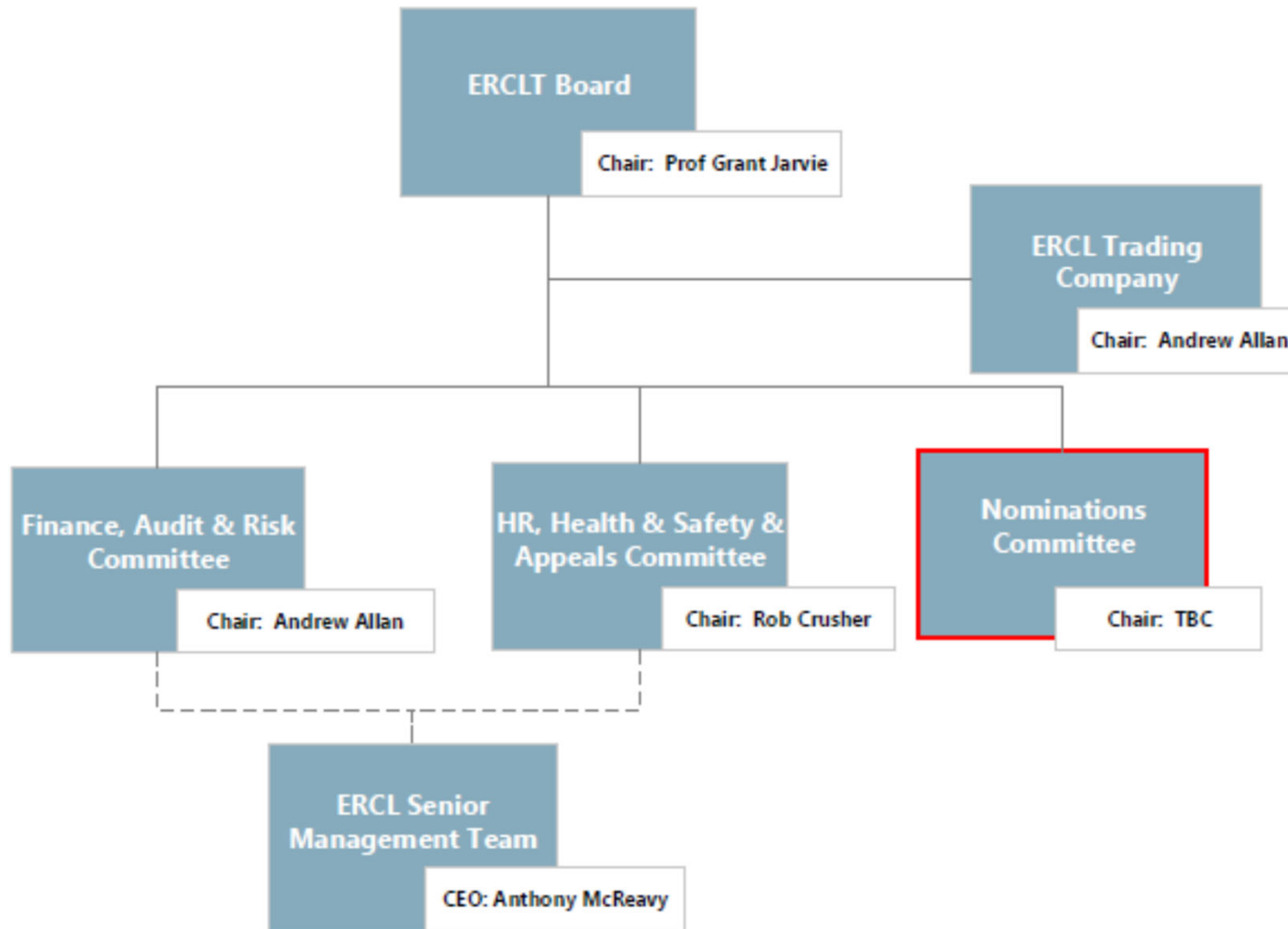
This document provides an overview of the governance structure of ERCLT, together with the Terms of Reference for the Nominations Committee.

Governance Overview

ERCLT Board and SMT Structure



Governance Structure



Membership

Appointment:

The Nominations Committee comprises four non Executive Board members, with an equal mix of two independent and two Council Trustees, together with representation from external HR function.

At least one member who has recent and relevant experience (TBC, Chair); the secretary of the committee is the Chief Executive's PA.

Membership:

- Independent Trustee x 2
- Council Trustee x 2

Authority & Purpose

Authority

- The Nominations Committee has no decision making authorities, but instead reviews and recommends relevant information and decisions to the Board.

Purpose

- The Committee is tasked with managing the appointment of independent trustees.

Accountability & Responsibilities

Accountability

- On a biennial basis, the members will review the Terms of Reference together with evaluating the effectiveness of the Committee, and recommend any changes it considers necessary to the Board.

Responsibilities

- Due consideration is required by members to relevant regulations and laws in respect of the Company and the environment in which it operates.
- The Committee will set an appropriate skills matrix to guide in selecting and evaluating appropriate candidates
- The Nominations Committee will maintain a register of suitable candidates for future reference (subject to GDPR regulations)
- Following each Committee meeting, the Chair, or an appointed representative will provide a verbal update to the Board, including presentation of any recommendations which require a Board decision.

Conflicts of Interest

- Members are required to declare any potential conflicting interests at the beginning of each meeting and provide a Declaration of Interest on an annual basis as part of the overall ERCLT governance.

Appointment Approval

- Appointment of an Independent Trustee is subject to formal approval in writing by ERC

Attendance

Meetings require a minimum of 2 members to have valid proceedings, one independent and one Council Trustee.

In addition to the current members, the following are invited to attend:

- ERCLT CEO
- Other members of management or ERC as the Committee deems appropriate.

Meetings

- The Nominations Committee meets on an ad-hoc basis as required.
- Meetings will be arranged at least 4 weeks in advance of the Committee and held at an agreed ERCLT venue, with the option of online attendance as required.
- The agenda will be approved by the Chair (or an appointed alternate) in advance of issuing the papers.
- Papers will be issued via email a week in advance of the meeting, following approval by Chair or an appointed alternate.
- Attendance should be confirmed by the secretary no later than 1 week in advance of the meeting

Appendix 4 – Contract Standing Orders

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**CULTURE
& LEISURE**

East Renfrewshire Culture and Leisure

Contract Standing Orders

Purpose of document:

Outline the trust's process and delegated authorities in regards to procurement to ensure all obligations are met.

Contents:

1. Introduction
2. Compliance
3. Exemptions
4. Budgetary Provision
5. Contract Values
6. Content of Invitation To Tender (ITT)
7. Content of Contracts
8. Submission and Opening of Tender Returns
9. Tender Evaluations
10. Award Notification
11. Financial Appraisal, Risk Assessment, Performance Bonds and Guarantees
12. Conflicts of interest, Bribery and Corruption
13. Waivers and Exemptions
14. Modification of Contracts mid-term
15. Monitoring

1. Introduction

The following document summarises the procurement standing orders and associated authorities relevant to East Renfrewshire Culture and Leisure Trust.

2. Compliance

- 2.1 Every employee of the Trust must comply with these Contract Standing Orders.
- 2.2 Any other person who is engaged in the letting, management or supervision of a contract on behalf of the Trust must comply with these Rules as if they were an officer of the Trust.
- 2.3 These Rules apply to all procurement decisions, regardless of the source of funding.
- 2.4 Every contract must be let in compliance with [The Public Contracts \(Scotland\) Regulations 2015 with applicable European and domestic legal requirements.](#)

3. Exemptions

- 3.1 The following contracts are exempt from the requirements of these Rules:
 - i. Orders placed through a framework agreement established by a central or regional purchasing body to which the Trust is a named party.
 - ii. Employment contracts, including Instructors / Tutors providing services at arm's length
 - iii. Legal advice sought by the executive, connected with the business of the Trust
 - iv. Arbitration or conciliation services
 - v. Financial advice sought by the Chief Executive and/or Director of Finance in connection with Trust business
 - vi. Central banking services
 - vii. Grants to external organisations
 - viii. Sponsorship deals and associated benefits

4. Budgetary Provision

- 4.1 No quotation or tender shall be invited or order placed unless there is sufficient approved budgetary provision.
- 4.2 Authority to place orders must be confirmed in advance of any order being placed:

5. Contract Values

5.1 All monetary values referred to in these Rules are total contract values, not annual values, and if >£50k must include VAT unless otherwise stated. They cover all expenditure contracts and income generating contracts.

5.2 Contracts must be packaged appropriately to achieve maximum value for the Trust. They should not be split in order to avoid quotation or tendering limits in these Rules or procurement thresholds, or packaged in a way to reduce the potential for fair and open competition.

5.3 *Less than £50,000 (incl VAT)*

Where the estimated value of a contract is between £10,000 and £50,000 a minimum of three quotations must be invited (via desk-top quotation) for a goods or services contract. ERCL terms and conditions should be used unless otherwise agreed with Legal Services.

Alternatively, suitable suppliers for a restricted quotation (Quick Quote) should be nominated by the Head of Service and confirmed with either the Chief Executive or Director of Finance. Procurement will invite quotations via the QQ / e-procurement system. However, the option to convert from restricted to open advertising will be used if a wider supplier search would benefit the Trust. Advertising of contracts at this level is not mandatory.

Appendices 1 and 2 detail the authorities and supporting processes.

5.4 *Over £50,000 (incl VAT)*

Where the estimated value of a goods or services contract is greater than £50,000 (incl VAT) suitable suppliers for a restricted quotation (Quick Quote) should be nominated by the Head of Service and confirmed with either the Chief Executive or Director of Finance. Procurement will invite quotations via the QQ / e-procurement system. However, the option to convert from restricted to open advertising will be used if a wider supplier search would benefit the Trust. Advertising of contracts at this level is not mandatory.

All contracts with an annual value of £50,000 (incl VAT) (or £140,000 in a three year contract term period) must be approved by the ERCLT Board as per the Board Charter.

Appendices 1 and 2 detail the authorities and supporting processes.

5.5 *Procurement Threshold*

- 5.6.1 Where the estimated contract value for a goods or services contract exceeds £50,000 (incl VAT) but does not exceed the relevant Scottish public procurement threshold or does not fall within a category subject to the public procurement rules, an open tender should be issued.
- 5.6.2 Where the estimated contract value for a goods or services contract exceeds the relevant public procurement threshold any contract must be issued in compliance with the relevant legal requirements, in particular the Public Contracts (Scotland) Regulations 2015 and these Rules.
- 5.6.3 ERC Procurement will arrange for the issue of a Contract Notice (advert) in the UK system Tenders Electronical Daily (TED) followed by tender doc on Public Contracts Scotland Tender system, followed by an invitation to tender using one of the mandated procedures set out in the Public Contract (Scotland) Regulations 2015 (namely; open; restricted; competitive dialogue; competitive procedure with negotiation; or innovation partnership). Procurement will advise on the most appropriate procedure to be followed.

Where there is a conflict between legislation and these Rules, the legislation will prevail.

6. Content of ITT

A Head of Service, or a suitable alternative will oversee the contents of all invitation to tender or requests for quotation to ensure they include:

- i. A description of the goods or services being procured
- ii. A specification indicating the outcome required
- iii. Terms and conditions of contract
- iv. The evaluation criteria including any weightings
- v. The Cost (pricing) mechanism and instructions for completing the tender sum response
- vi. The Quality and Service requirements and associated response form
- viii. The form and content of any method statements to be provided

7. Content of Contracts

- 7.1 The choice of contract terms applicable for a Procurement project should be decided at the start of the process by seeking advice from ERC Procurement and/or Legal Services / The Trust's appointed Legal advisors.

8. Submission and Opening of Tender Returns

- 8.1 All invitations to tender or submit a quotation must specify requirements for their submission. Such requirements shall include a time by which tenders or quotations must be received by the Trust / ERC Procurement.
- 8.2 All quotations with an estimated value below £25,000 must be opened, recorded and retained by the nominated officer of relevant Service Team (who is independent of the quotation process). Quotation instructions shall clearly state that the quotations must be returned to the nominated officer only. This can be by email or by post. Returned quotations must be held securely and unopened by the nominated officer until the specified return date. The Contract Administrator must supply the details of the suppliers that have been invited to quote to the nominated officer prior to the quotations being received.
- 8.3 All quotations and tenders with an estimated value in excess of £50,000 (or any issued by Procurement via ERC's e-procurement system) must be opened by Procurement. Audit history of the opening process will be maintained by the e-procurement system.
- 8.4 Any quotations / tenders received after the specified opening date whether by post or email should not be opened or included in the evaluation.
- 8.5 In the case of quotations / tenders received via the e-procurement system Procurement and ERC Legal Services can agree to accept a late quotation / tender response received via the e-Procurement system in exceptional cases.
- 8.6 If a Quotation or Tender exercise fails to return more than 1 bid response, then the Contract Administrator and Procurement should decide whether the bid represents value for money and delivers the specification in full. A decision to proceed to award based on single bid OR suspension of the procurement exercise should be agreed, documented and approved. If the procurement exercise is suspended a decision to a) revise the project and re-tender OR b) abandon the whole project should be documented.

9. Tender Evaluations

- 9.1 Tenders and quotations will be evaluated as per the agreed evaluation criteria set out in the quotation or tender documentation.
- 9.2 The Contract Administrator must ensure that evaluation of tenders takes place involving suitably experienced officers to form "the evaluation panel". The results of the evaluation must reflect the consensus of the panel and be approved by the appropriate Senior Manager.
- 9.3 It is permissible to use consultants to assist with tender evaluation, but the final decision must be made by a Trust officer with delegated authority.
- 9.4 If during the evaluation of tenders the panel requires post-tender clarifications from any or all of the tenderers, this must be communicated and recorded appropriately.

- 9.5 The results of the evaluation must be retained for the period of 2 years from the end of the contract. A copy of the approved evaluation matrix will be provided to Procurement to store electronically in the e-procurement system (along with the award decision letters and final contract documents).

10. Award Notification

- 10.1 Signing and entering into contracts must be strictly in accordance with the Trust's scheme of delegated authority laid out in the Board Charter.
- 10.2 The notification of the outcome of a desk-top quotation for contracts below £50,000 will be administered by the relevant Contract Administrator. Service Manager Approval to award contract is required. All tenderers (successful and unsuccessful) will be notified on the same date along with details of their evaluation scores.
- 10.3 The notification of the outcome of a quotation or tender for contracts issued and received via the e-procurement system will be administered by ERC Procurement. All tenderers (successful and unsuccessful) will be notified along with details of their evaluation scores.
- 10.4 Suppliers / Contractors are required to hold and maintain appropriate levels of insurance during the period of any contract awarded by the Trust. Evidence of the insurance cover held must be confirmed prior to the award of contract.
- 10.5 An official purchase order will be issued (unless otherwise agreed with the Director of Finance) to awarded supplier(s) to call-off goods or services, cross referencing the contract number and awarded suppliers quotation number (if available). The terms and conditions of contract will be as set out in the quotation / tender pack.

11. Financial Appraisal, Risk Assessment, Performance Bonds and Guarantees

- 11.1 As part of the evaluation of short-listed tender responses the Contract Administrator should request via ERC Procurement an independent financial appraisal report.
- 11.2 The financial appraisal provides an overall financial risk score (referred to as failure score) used to assess the applicant's financial standing.
- 11.3 In larger contracts a performance bond (PB) or parent company guarantee (PCG) can provide a financial guarantee, typically limited to 10% of the contract price to protect against losses and/or damages as result of the Contractor failing to perform its contractual obligations up to practical completion. A performance bond is a tripartite agreement between the Contractor, its surety (a bank / insurer) and the Trust. Likewise, a parent company guarantee is a tripartite agreement between the Contractor, its Parent Company and the Trust.
- 11.4 The decision to seek the assurance of a performance bond (PB) or parent company guarantee (PCG) will depend on the risk factors related to the specific contractor and proportionate to the contract value and cost to the Trust of the assurance. Advice from Chief Executive, Director of Finance, Procurement and/or Legal should

be sought by the Contract Administrator where a contractor's financial appraisal highlights concerns.

12. Conflicts of interest, Bribery and Corruption

- 12.1 All officers involved with the award of contracts must comply with the Trust's Anti-Fraud, Bribery and Corruption Policy.
- 12.2 No gifts or hospitality, other than simple refreshments, shall be accepted by Officers or members from any tenderers to any contract being let by the Council until the time that the contract has been awarded.
- 12.3 No contract can be wholly awarded or managed by an officer who has other interests in the arrangement.

13. Waivers and Exemptions

- 13.1 A waiver is the process to follow where circumstances mean that Contract Standing Orders cannot be adhered to, in accordance with the following rules:
- A waiver must not result in a breach of Public Procurement Regulations for contracts within the procurement tendering thresholds or of procurement law below procurement thresholds. In all cases, the Trust must apply general principles of equal treatment, transparency and non-discrimination.
 - An officer may request a waiver by seeking the approval of the Chief Executive up to the value of £50,000 (incl VAT), or Board approval thereafter.
 - All approved waivers where a contract award is sanctioned shall be recorded on the Contracts Exceptions Register, which is held by the Director of Finance.

14. Modification of Contracts mid-term

- 14.1 Under Public Contracts (Scotland) Regulations 2015, a modification to an existing pre-tendered contract may be possible, without the need to re-advertise or re-tender, under the following circumstances:-
- 14.2 The Contract Administrator, following legal advice, has included a modification (or review) clause in the original contract Terms & Conditions at tender stage providing the possible options for a modification (or variation) to the contract (if required) based on quantity, time or monetary value. Any such modification clause must be clear, precise and unequivocal and must not alter the overall nature of the Contract. Legal approval is required to invoke any modification clause.

14.3 Where no modification clause was added at tender stage, a modification to the contract may be undertaken providing that:

- the additional costs incurred are below 10% of the original goods / services contract value; or
- Where there are “unforeseen circumstances”, and the increase is not greater than 50%; or

Any modification of a contract should be documented, including confirmation that the modification does not exceed available budget and/or authority levels; and include Board approval where necessary.

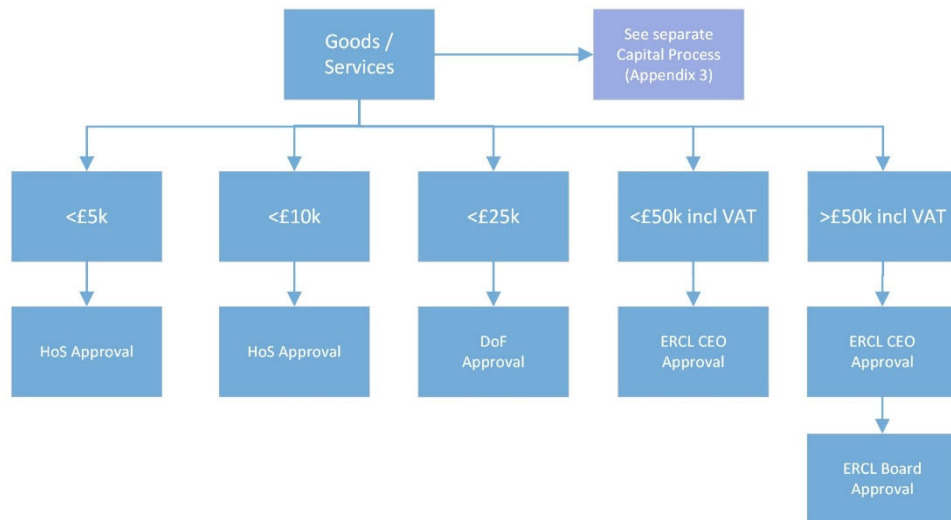
15. Monitoring

15.1 Managers are accountable for ensuring the performance monitoring regime for awarded contracts is maintained in line with the contract documents and project guidelines.

Appendix 1 – Route to Tender Decision Tree & Approval Authorities

The following decision tree details the authorities for each level of spend, together with the available route to tender, including exceptions approval process.

Where the goods / services contract is over £140k (incl VAT) over a 3 year period, Appendix 2 should be referred to.



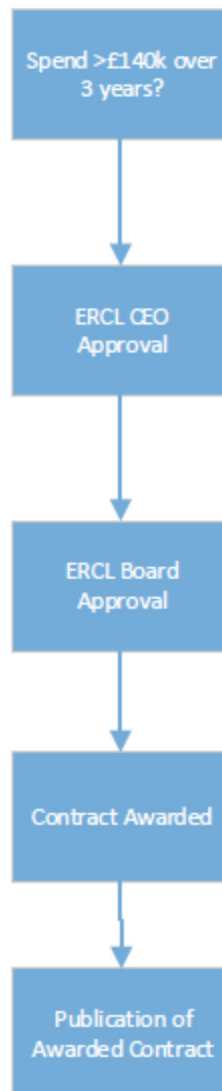
| Exceptions Approval Process | <£5k | <£10k | <£25k | <£50k incl VAT | >£50k incl VAT |
|-----------------------------|--------------------|--------------------|--------------|---------------------|----------------------|
| DoF / CEO Approval | DoF / CEO Approval | DoF / CEO Approval | CEO Approval | ERCL Board Approval | Procurement Notified |

| | | | | | |
|--------------------------|---|---|---|---|---|
| Existing Supplier | ✓ | ✓ | | | |
| Desktop 3 Quotes | ✓ | ✓ | ✓ | ✓ | |
| Quick Quote | ✓ | ✓ | ✓ | ✓ | ✓ |
| SG Procurement Framework | ✓ | ✓ | ✓ | ✓ | ✓ |
| Full Tender | ✓ | ✓ | ✓ | ✓ | ✓ |

Appendix 2

The following details the approval process **ONLY** in relation to contract spend which is greater than £140k over a 3 year period.

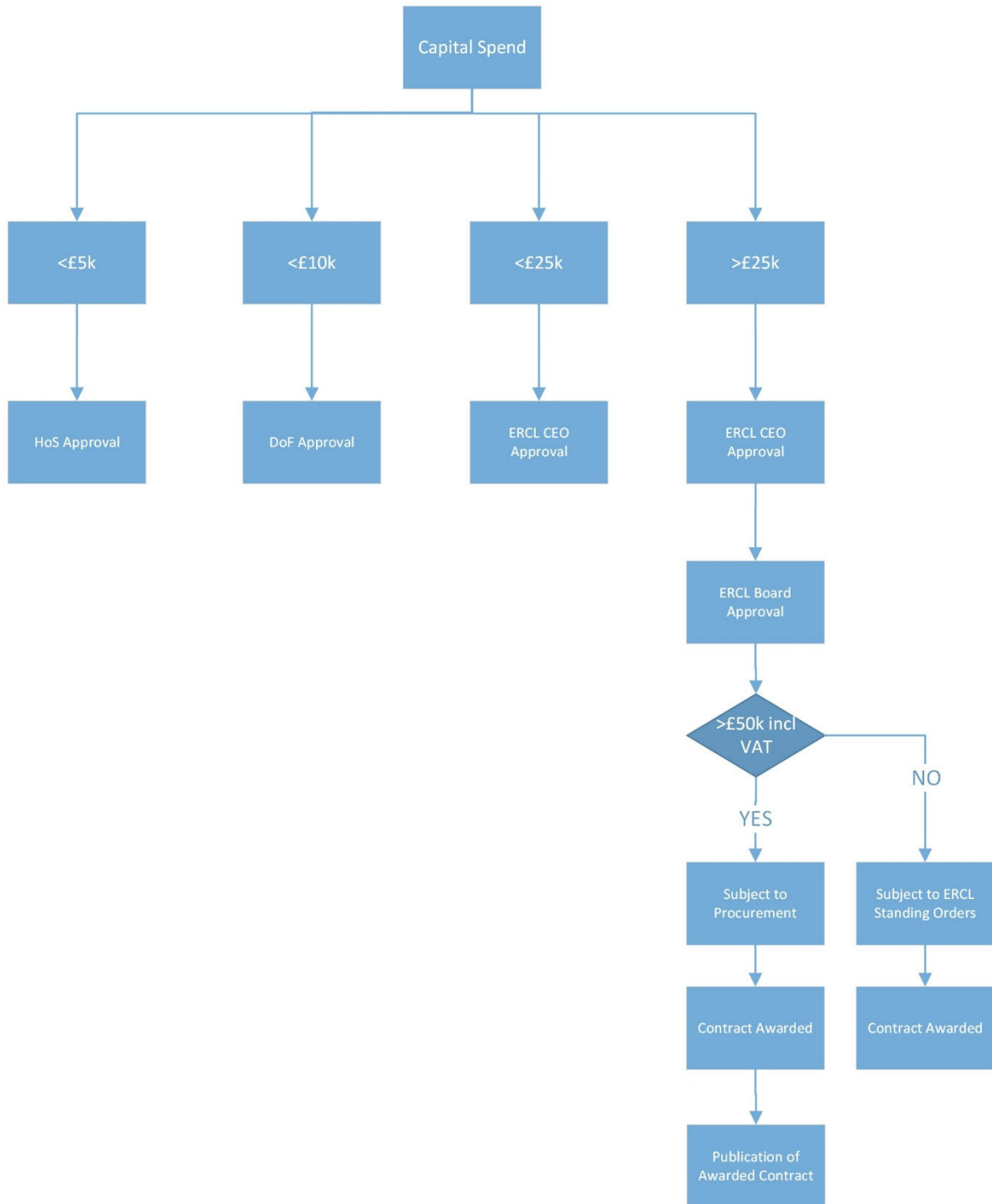
The procurement process is summarised in Appendix 1 in terms of route to tender.



Appendix 3 – Capital Spend

The following decision tree details the authority levels and approval processes for ERCL revenue spend which is committed to securing moveable fixed assets.

This does not include ERC capital fund spend.



Appendix 5 – Current ERCL Board Trustees

Professor Grant Jarvie (Chair)

Andrew Allan

Councillor Tony Buchanan

Rob Crusher

Steven Larkin

Councillor Colm Merrick (Deputy Chair)

Dr Noreen Siddiqui

Councillor Trustees x 2

Appointment of Councillor Trustees following the local elections on 5 May 2022 will be confirmed in advance of the Board meeting on 31 May 2022 and this document will be updated accordingly post meeting.