

Westerlands Cross Country Club

SCIO (SC049593)

CONSTITUTION

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GENERAL**Organisation type and identity**

1. The organisation will be a Scottish Charitable Incorporated Organisation (SCIO).
2. The principal office of the organisation will be in Scotland and must remain in Scotland.
3. The name of the organisation is WESTERLANDS CROSS COUNTRY CLUB.
4. In the general operation of the organisation, it will also be referred to as: WESTERLANDS CCC and WESTIES.
5. The organisation's colours will consist of a gold vest (with black trim where appropriate) and a large uppercase letter black "W" on the back.

Purposes

6. The organisation's purposes are to promote the advancement of public participation in hill running, cross country and trail running; and the organisation of recreational activities connected to running and the natural environment in Scotland and beyond.
7. Equal emphasis will be placed on the social and competitive aspects of activities of the organisation.

Powers

8. The organisation has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so.
9. No part of the income or property of the organisation may be paid or transferred (directly or indirectly) to the members—either in the course of the organisation's existence or on dissolution—except where this is done in direct furtherance of the organisation's charitable purposes.

Liability of members

10. The members of the organisation have no liability to pay any sums to help to meet the debts (or other liabilities) of the organisation if it is wound up; accordingly, if the organisation is unable to meet its debts, the members will not be held responsible.
11. The members and trustees have certain legal duties under the Charities and Trustee Investment (Scotland) Act 2005; and clause 10 does not exclude (or limit) any personal liabilities they might incur if they are in breach of those duties or in breach of other legal obligations or duties that apply to them personally.

General structure

12. The structure of the organisation consists of:
 - 12.1. the MEMBERS – who have the right to attend members' meetings (including any annual general meeting) and have important powers under the constitution; in particular, the members appoint people to serve as trustees and take decisions on changes to the constitution itself;
 - 12.2. the TRUSTEES – who are the charity trustees and hold regular meetings, and generally control the activities of the organisation, focussed on ensuring its operation under the guidelines of a SCIO, for example: the trustees are responsible for monitoring and controlling the financial position of the organisation;
 - 12.3. the COMMITTEE – who are members elected to serve on a permanent sub-committee, under clause 101, and assist with the general activities of the organisation under clause 6, for example: running captains and social secretary; and
 - 12.4. the RACE ORGANISERS – who are members elected to serve on a sub-committee, under clause 101, and organise races on behalf of the organisation; or in association with the organisation.

Employees

13. The organisation will not have any employees.

MEMBERS

Qualifications for membership

14. Membership is open to any individual aged 18 or over.
15. There will be no discrimination on grounds of age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation as laid out in the Equality Act 2010.

Membership subscription and life members

16. Membership subscription will be charged annually from November 1st to October 31st the following year, at a rate agreed at the AGM.
17. The trustees may elect a member to permanent LIFE MEMBER status following significant or continued exceptional service to the organisation, limited to a maximum of one appointment per calendar year.
18. No membership subscription will be payable for members who have been elected to be life members.

Application for membership and membership renewal

19. Any person who wishes to become a member must complete a membership application and submit it to the trustees along with the appropriate membership subscription.
20. No reasonable membership will be refused (subject to the requirements of clause 14); unless a person has been previously expelled under clause 28 or expelled similarly from another organisation, in which case the trustees must approve admission to membership by majority vote.
21. Membership will commence at the time at which an application is acknowledged by the trustees; and this must be no more than 28 days after receipt of the application and appropriate membership subscription by the trustees.
22. Any person who was a member at the end of the previous subscription period will continue to be a member in the current subscription period, unless they have withdrawn their membership under clause 23.

Withdrawal, transfer and termination of membership

23. Any person who wants to withdraw from membership must give notice of withdrawal to the organisation:
 - 23.1. in writing to the trustees; and will cease to be a member from the time the receipt of the notice is acknowledged by the organisation; which will be no more than 28 days after the date on which the notice was sent; or
 - 23.2. in person at a members' meeting; and will cease to be a member at that meeting.
24. Membership of the organisation may not be transferred by a member.
25. Membership of the organisation will terminate upon non-payment of the membership subscription by the deadline agreed at the AGM.
26. Membership of the organisation will terminate on death.
27. A person who ceases (for whatever reason) to be a member shall not be entitled to any refund of the membership subscription.

Expulsion and suspension from membership

28. Any person may be expelled from membership by way of a resolution passed by not less than two thirds of those present and voting at a members' meeting, providing the following procedures have been observed:
 - 28.1. at least 21 days' notice of the intention to propose the resolution must be given to the member concerned, specifying the grounds for the proposed expulsion; and
 - 28.2. the member concerned will be entitled to be heard on the resolution at the members' meeting at which the resolution is proposed.
29. Any person may be suspended from membership by way of a unanimous decision of all trustees, if they have been found to:
 - 29.1. be in serious violation of rules laid out in a sporting event;
 - 29.2. endanger the health and safety of other members or the general public; or
 - 29.3. endanger the organisation's position in relation to upholding statutory provisions.
30. Any person suspended from membership under clause 29 will be entitled to appeal the decision by calling a members' meeting or at an AGM; at which time that member will be expelled under clause 28 or the suspension will be lifted.
31. Any member who has been notified of a suspension will not be able to attend events organised by the organisation (except for those described in clause 30); or participate in sporting events under the organisation's name.

Register of members

32. The trustees must keep a register of members, setting out
 - 32.1. for each current member:
 - 32.1.1. their full name and, postal or e-mail address;
 - 32.1.2. the date on which they were registered as a member of the organisation; and
 - 32.1.3. their current membership status within the organisation.
 - 32.2. for each former member – for at least six years from the date on which they ceased to be a member:
 - 32.2.1. their full name; and
 - 32.2.2. the date on which they ceased to be a member.
33. The trustees must ensure that the register of members is updated within 28 days of any change notified to them.
34. If a member or trustee of the organisation requests a copy of the register of members, the trustees must ensure that a copy is supplied to them within 28 days, providing the request is reasonable; if the request is made by a member (rather than a trustee), the trustees may provide a copy that only includes full name and the date on which they were registered as a member of the organisation.
35. Any notice which requires to be given to a member under this constitution must be:
 - 35.1. sent by post to the member, at the address last notified by them to the organisation; or
 - 35.2. sent by e-mail to the member, at the e-mail address last notified by them to the organisation.

Members' privacy and data collection

36. The organisation will protect members' personal data and issue a privacy notice detailing the data collected and its use; as laid out in the General Data Protection Regulation and Data Protection Act 2018.

DECISION-MAKING BY THE MEMBERS**Members' meetings: AGM**

37. The trustees must arrange an ANNUAL GENERAL MEETING (AGM) in each calendar year.
38. The gap between one AGM and the next must not be longer than 15 months.
39. The business of each AGM must include:
 - 39.1. a report by the trustees on the activities of the organisation;
 - 39.2. consideration of the annual accounts of the organisation;
 - 39.3. the election/re-election of trustees, as referred to in clauses 66;
 - 39.4. the election/re-election of any sub-committees;
 - 39.5. the agreement of current membership subscription rates and deadlines for payment of membership subscription; and
 - 39.6. consideration of any motions raised by members.
40. Members may submit motions for consideration at an AGM by delivering the terms thereof to the trustees no less than 21 days before the AGM; provided that the motion is supported by one or more other members; and is not inconsistent with the terms of this constitution, the Charities and Trustee (Investment) Scotland Act 2005 or any other statutory provision.

Special members' meetings

41. The trustees may arrange a special members' meeting at any time.
42. The trustees must arrange a special members' meeting if they are requested to do so by a notice (which may take the form of one or more documents in the same terms) by members who amount to 15% or more of the total membership of the organisation at the time, providing:
 - 42.1. the notice states the purposes for which the meeting is to be held; and
 - 42.2. those purposes are not inconsistent with the terms of this constitution, the Charities and Trustee (Investment) Scotland Act 2005 or any other statutory provision.
43. If the trustees receive a notice under clause 42, the date for the meeting which they arrange in accordance with the notice must not be later than 28 days from the date on which they received the notice.

Notice of members' meetings

44. At least 14 days' notice must be given of any AGM or any special members' meeting; not including the day the notice is issued, the day after the notice is issued or the day of the meeting itself.
45. The notice calling a members' meeting must specify in general terms what business is to be dealt with at the meeting; or in the case of any resolution falling within clause 54 must set out the exact terms of the resolution.
46. Notice of every members' meeting must be given to all the members of the organisation, and to all the trustees; but the accidental omission to give notice to one or more members will not invalidate the proceedings at the meeting.

Procedure at members' meetings

47. No valid decisions can be taken at any members' meeting unless a quorum is present.
48. The trustees may make arrangements, in advance of any members' meeting, to allow members to participate in the members' meeting by means of a conference telephone, video conferencing facility or similar communications equipment – so long as all those participating in the meeting can hear each other; a member participating in a members' meeting in this manner shall be deemed to be present in person at the meeting.
49. The quorum for a members' meeting is whichever is lower of: 15 members; or members amounting to 10% of the total membership; present in person.
50. If a quorum is not present within 15 minutes after the time at which a members' meeting was due to start—or if a quorum ceases to be present during a members' meeting—the meeting cannot proceed; and fresh notices of meeting will require to be sent out, to deal with the business (or remaining business) which was intended to be conducted.
51. The chair of the organisation should act as chairperson of each members' meeting but if the chair of the organisation is not willing to act as chairperson; or is not present within 15 minutes after the time at which the meeting was due to start, the trustees present at the meeting must elect from among themselves a chairperson for that meeting.

Voting at members' meetings

52. Every member has one vote, which must be given personally; a vote given by a member participating in the meeting through any of the methods referred to in clause 48 will be taken to be given personally for the purposes of this clause.
53. All decisions at members' meetings will be made by majority vote, except for the types of resolution listed in clause 54.

54. The following resolutions will be valid only if passed by not less than two thirds of those voting on the resolution at a members' meeting (or if passed by way of a written resolution under clause 58):
 - 54.1. a resolution amending the constitution;
 - 54.2. a resolution expelling a person from membership under clause 28;
 - 54.3. a resolution directing the trustees to take (or to not take) a particular step;
 - 54.4. a resolution approving the amalgamation of the organisation with another SCIO (or approving the constitution of the new SCIO to be constituted as the successor pursuant to that amalgamation);
 - 54.5. a resolution to the effect that all of the organisation's property, rights and liabilities should be transferred to another SCIO (or agreeing to the transfer from another SCIO of all of its property, rights and liabilities);
 - 54.6. a resolution for the winding up or dissolution of the organisation.
55. If there is an equal number of votes for and against any resolution, the chairperson of the meeting will be entitled to a second (casting) vote.
56. A resolution put to the vote at a members' meeting will be decided on a show of hands – unless the chairperson (or at least two other members present at the meeting) asks for a secret ballot.
57. The chairperson will decide how any secret ballot is to be conducted, and they will declare the result of the ballot at the meeting.

Written resolutions by members

58. A resolution agreed to in writing by all the members will be as valid as if it had been passed at a members' meeting; the date of the resolution will be taken to be the date on which the last member agreed to it.

Minutes

59. The trustees must ensure that proper minutes are kept in relation to all members' meetings.
60. Minutes of members' meetings must include the names of those present; and (so far as possible) should be signed by the chairperson of the meeting.

TRUSTEES**Number of charity trustees**

61. The maximum number of trustees is 7; out of whom:
 - 61.1. no more than 2 shall be trustees appointed under clause 67; and
 - 61.2. there shall not be more trustees appointed under clause 67 than elected at a members' meeting.
62. The minimum number of trustees is 3.

Eligibility

63. A person shall not be eligible for election or appointment as a trustee unless they are a member of the organisation.
64. A person will not be eligible for election or appointment as a trustee if they are disqualified from being a trustee under the Charities and Trustee Investment (Scotland) Act 2005.
65. A person shall not be eligible for election or appointment as a trustee if they have served as trustee of the organisation for more than 9 contiguous years (without a break of at least one year).

Election, retiral, re-election

66. At each AGM, the members may elect any member (subject to clause 64) to be a trustee.
67. The trustees may at any time appoint any member (subject to clause 64) to be a trustee.
68. At each AGM, all of the trustees shall be deemed to retire from office but shall then be eligible for re-election under clause 66.

Termination of office

69. A trustee will cease to hold office if they:
 - 69.1. give the organisation a notice of resignation;
 - 69.2. cease to be a member of the organisation;
 - 69.3. become unable to meet the criteria outlined in clause 64;
 - 69.4. become incapable of carrying out their duties as a trustee;
 - 69.5. are absent (without good reason, in the opinion of the other trustees) from more than three consecutive meetings of the trustees;
 - 69.6. are removed from office by resolution of the other trustees on the grounds that they are considered to have committed a material breach of the code of conduct for trustees (as referred to in clause 85);
 - 69.7. are removed from office by resolution of the other trustees on the grounds that they are considered to have been in serious or persistent breach of their duties under the Charities and Trustee Investment (Scotland) Act 2005; or
 - 69.8. are removed from office by a resolution of the members passed at a members' meeting.

70. A resolution under clause 69.6, 69.7, or 69.8 shall be valid only if:
 - 70.1. the trustee who is the subject of the resolution is given reasonable prior written notice of the grounds upon which the resolution for their removal is to be proposed;
 - 70.2. the trustee concerned is given the opportunity to address the meeting at which the resolution is proposed, prior to the resolution being put to the vote; and
 - 70.3. (in the case of a resolution under clause 69.6 or 69.7) at least two thirds of the trustees then in office vote in favour of the resolution.

Register of trustees

71. The trustees must keep a register of all trustees, setting out
 - 71.1. for each current trustee:
 - 71.1.1. their full name, e-mail address and postal address;
 - 71.1.2. the date on which they were appointed as a trustee; and
 - 71.1.3. any office held by them in the organisation;
 - 71.2. for each former trustee – for at least 6 years from the date on which they ceased to be a trustee:
 - 71.2.1. their full name;
 - 71.2.2. the date on which they ceased to be a trustee; and
 - 71.2.3. any office held by them in the organisation.
72. The trustees must ensure that the register of trustees is updated within 28 days of the notification of any change.
73. If any person requests a copy of the register of trustees, the trustees must ensure that a copy is supplied to them within 28 days, providing the request is reasonable; if the request is made by a person who is not a trustee of the organisation, the trustees may provide a copy which includes only the full name and date which they became, and/or ceased to be a trustee.

Roles of trustees

74. The charity trustees must select (from among themselves) a chair, a treasurer and a secretary, and
 - 74.1. any further office-bearers that they consider appropriate.
75. When assigning roles under clause 74, the trustees should take direction from members' voting where appropriate, for example any vote held during an AGM.
76. A person elected to be an office-bearer will automatically cease to hold that office if they cease to be a trustee in terms of clause 69; or give to the organisation a notice of resignation from that office.

Powers of the trustees

77. Except where this constitution states otherwise, the organisation (and its assets and operations) will be managed by the trustees; and the trustees may exercise all the powers of the organisation.
78. A meeting of the trustees at which a quorum is present may exercise all powers exercisable by the trustees.
79. The members may, by way of a resolution passed in compliance with clause 54, direct the trustees to take (or not take) any particular step and the trustees shall give effect to any such direction accordingly.

General duties of trustees

80. Each of the trustees has a duty, in exercising functions as a charity trustee, to act in the interests of the organisation; and must:
 - 80.1. seek, in good faith, to ensure that the organisation acts in a manner which is in accordance with its purposes;
 - 80.2. act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
 - 80.3. in circumstances giving rise to the possibility of a conflict of interest between the organisation and any other party:
 - 80.4. put the interests of the organisation before that of the other party;
 - 80.5. where any other duty prevents them from doing so, disclose the conflicting interest to the organisation and refrain from participating in any deliberation or decision of the other trustees with regard to the matter in question;
 - 80.6. ensure that the organisation complies with any direction, requirement, notice or duty imposed under or by virtue of the Charities and Trustee Investment (Scotland) Act 2005.
81. In addition to the duties outlined in clause 80, all of the trustees must take such steps as are reasonably practicable for the purpose of ensuring:
 - 81.1. that any breach of any of those duties by a trustee is corrected by the trustee concerned and not repeated; and
 - 81.2. that any trustee who has been in serious and persistent breach of those duties is removed as a trustee.
82. Provided they have declared their interest—and have not voted on the question of whether or not the organisation should enter into the arrangement—a trustee will not be debarred from entering into an arrangement with the organisation in which they have a personal interest; and (subject to clause 83 and to the provisions relating to remuneration for services contained in the Charities and Trustee Investment (Scotland) Act 2005), they may retain any personal benefit which arises from that arrangement.
83. No trustee may be given any remuneration by the organisation for carrying out their duties as a charity trustee.
84. The trustees may be paid all travelling and other expenses reasonably incurred by them in connection with carrying out their duties.

Code of conduct for charity trustees

85. Each of the trustees shall comply with the code of conduct prescribed by the trustees from time to time.
86. The code of conduct referred to in clause 85 shall be supplemental to the provisions relating to the conduct of trustees contained in this constitution and the duties imposed on charity trustees under the Charities and Trustee Investment (Scotland) Act 2005; and all relevant provisions of this constitution shall be interpreted and applied in accordance with the provisions of the code of conduct in force from time to time.

DECISION-MAKING BY THE TRUSTEES**Arranging trustee meetings**

87. Any trustee may call a meeting of the trustees or ask the secretary to call a meeting of the trustees.
88. At least 7 days' notice must be given of each trustee meeting, unless (in the reasonable opinion of the person calling the meeting) there is a degree of urgency which makes that inappropriate; or all the trustees are willing and able to arrange a meeting on shorter notice.

Procedure at trustee meetings

89. No valid decisions can be taken at a trustee meeting unless a quorum is present; the quorum for trustee meetings is 3 trustees, present in person.
90. If at any time the number of trustees in office falls below the number stated as the quorum in clause 89, the remaining trustees will have power to fill the vacancies or call a members' meeting – but will not be able to take any other valid decisions.
91. The chair of the organisation should act as chairperson of each trustee meeting but if the chair of the organisation is not willing to act as chairperson; or is not present within 15 minutes after the time at which the meeting was due to start, the trustees present at the meeting must elect from among themselves a chairperson for that meeting.
92. Every trustee has one vote, which must be given personally.
93. All decisions at trustee meetings will be made by majority vote.
94. If there is an equal number of votes for and against any resolution, the chairperson of the meeting will be entitled to a second (casting) vote.
95. The trustees may, at their discretion, allow any person to attend and speak at a trustee meeting notwithstanding that they are not a trustee – but on the basis that they must not participate in decision-making.
96. A trustee must not vote at a trustee meeting (or at a meeting of a sub-committee) on any resolution which relates to a matter in which they have a personal interest or duty which conflicts (or may conflict) with the interests of the organisation; they must withdraw from the meeting while an item of that nature is being dealt with.
97. For the purposes of clause 96:
 - 97.1. an interest held by an individual who is “connected” with the trustee under section 68(2) of the Charities and Trustee Investment (Scotland) Act 2005 (husband/wife, partner, child, parent, brother/sister etc) shall be deemed to be held by that trustee;
 - 97.2. a trustee will be deemed to have a personal interest in relation to a particular matter if a body in relation to which they are an employee, director, member of the management committee, officer or elected representative has an interest in that matter.

Minutes

98. The trustees must ensure that proper minutes are kept in relation to all trustee meetings and meetings of sub-committees.
99. The minutes to be kept under clause 98 must include the names of those present.
100. The minutes to be kept under clause 98 must be made available to any member of the organisation upon request.

ADMINISTRATION

Delegation to sub-committees

101. The trustees may delegate any of their powers to sub-committees; a sub-committee must include at least one trustee, but other members of a sub-committee need not be trustees.
102. The trustees may also delegate to the chair of the organisation (or the holder of any other post) such of their powers as they may consider appropriate.
103. When delegating powers under clause 101 or 102, the trustees must set out appropriate conditions (which must include an obligation to report regularly to the trustees).
104. Any delegation of powers under clause 101 or 102 may be revoked or altered by the trustees at any time.
105. The rules of procedure for each sub-committee, and the provisions relating to membership of each sub-committee, shall be set by the trustees.

Operation of accounts

106. The trustees must appoint three SIGNATORIES for the operation of the organisation's banking accounts; at least one of whom must be a trustee.
107. The signatures of two signatories (appointed under clause 106) will be required in relation to all operations (other than the lodging of funds) on the banking accounts held by the organisation; and the organisation's electronic banking facilities must be consistent with this requirement as far as possible.

Accounting records and annual accounts

108. The trustees must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.
109. The trustees must prepare annual accounts, complying with all relevant statutory requirements; if an audit is required under any statutory provisions (or if the trustees consider that an audit would be appropriate for some other reason), the trustees should ensure that an audit of the accounts is carried out by a qualified auditor.

MISCELLANEOUS

Winding-up

110. If the organisation is to be wound up or dissolved, the winding-up or dissolution process will be carried out in accordance with the procedures set out under the Charities and Trustee Investment (Scotland) Act 2005.
111. Any surplus assets available to the organisation immediately preceding its winding up or dissolution must be used for purposes which are the same as—or which closely resemble—the purposes of the organisation as set out in this constitution.

Alterations to this constitution

112. This constitution may (subject to clause 113) be altered by resolution of the members passed at a members' meeting (subject to requirements in clause 54) or by way of a written resolution of the members (subject to requirements in clause 58).
113. The Charities and Trustee Investment (Scotland) Act 2005 prohibits taking certain steps (e.g. change of name, an alteration to the purposes, amalgamation, winding-up) without the consent of the Office of the Scottish Charity Regulator.

Interpretation

114. References in this constitution are made to the following Acts:
- 114.1. Charities and Trustee Investment (Scotland) Act 2005;
 - 114.2. Equality Act 2010;
 - 114.3. Data Protection Act 2018;
 - 114.4. General Data Protection Regulation.
115. References in this constitution to the acts included in clause 114 should be taken to include:
- 115.1. any statutory provision which adds to, modifies or replaces that Act; and
 - 115.2. any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under paragraph 115.1.
116. In this constitution:
- 116.1. “charity” means a body which is either a “Scottish charity” within the meaning of section 13 of the Charities and Trustee Investment (Scotland) Act 2005 or a “charity” within the meaning of section 1 of the Charities Act 2011, providing (in either case) that its objects are limited to charitable purposes;
 - 116.2. “charitable purpose” means a charitable purpose under section 7 of the Charities and Trustee Investment (Scotland) Act 2005 which is also regarded as a charitable purpose in relation to the application of the Taxes Acts;
 - 116.3. “trustee” means charity trustee; and
 - 116.4. where reference is made to documents or notification that should to be supplied to the organisation, this includes paper copies, and electronic copies delivered by e-mail.

Special considerations during the formation of the organisation

117. Notwithstanding clause 37, an AGM does not need to be held during the calendar year in which the organisation is formed; but the first AGM must still be held within 15 months of the date on which the organisation is formed.
118. The individuals who signed the charity trustee declaration forms which accompanied the application for incorporation of the organisation shall be deemed to have been appointed by the members as trustees with effect from the date of incorporation of the organisation.
119. The trustees may confer life membership to those individuals who hold life membership in an organisation that is amalgamated with this organisation at the time of amalgamation.
120. At the first AGM, all of the trustees deemed to have been appointed under clause 118 shall retire from office – but shall then be eligible for re-election.
121. Clauses 117 to 121 may be removed from the constitution at closing of the first AGM where their requirements have been fulfilled by majority decision of the trustees without the requirements of clause 54.