

## **Constitution of City of Coventry Swimming Club a Charitable Incorporated Organisation with voting members other than its charity trustees.**

**Date of Constitution (last amended): 28/11/2017 Charity Number 1175684**

### **1. Name**

- 1.1 The name of the Charitable Incorporated Organisation (“CIO”) is City of Coventry Swimming Club (or “COCS”).

### **2. National location of Principal Office**

- 2.1 The principal office of COCS is in England.

### **3. Objects**

- 3.1 The Objects of COCS are:
- 3.1.1 The promotion of community participation in healthy recreation, primarily but not exclusively, for the benefit of the inhabitants living in Coventry and the surrounding area by the provision of facilities for swimming, water polo and para-swimming.
  - 3.1.2 Nothing in this constitution shall authorise an application of the property of COCS for the purposes which are not charitable in accordance with [section 7 of the Charities and Trustee Investment (Scotland) Act 2005] and [section 2 of the Charities Act (Northern Ireland) 2008].
- 3.2 In the furtherance of the Objects:
- 3.2.1 COCS is committed to treat everyone equally within the context of its activity. This shall be, for example, regardless of age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity.
  - 3.2.2 COCS shall implement the ASA Equal Opportunities policy.
  - 3.2.3 This constitution shall be read in conjunction with the laws of the land, in particular, the Charities Act 2011 (as may be amended). For the avoidance of doubt, nothing in this Constitution shall seek supremacy over the law of the land. In the event of any conflict between the Governing Body rules and the laws of the land, the laws of the land shall prevail. In the event that there shall be any conflict between any rule or bylaw of the Charity and any of the Governing Body Rules then the Governing Body Rules shall prevail, to the extent that they do not conflict with the Objects of the Charity.
  - 3.2.4 The byelaws of COCS are to be compatible with the laws of the governing body unless the latter conflicts with the Objects of COCS.

- 3.2.5 COCSC will ensure that the above principles of equity and equal opportunity are incorporated into all aspects of its activities and COCSC also recognises and adopts the Sport England definition of Sports Equity.

## 4 Powers

- 4.1 COCSC has power to do anything which is calculated to further its Objects or is conducive or incidental to doing so. In particular, COCSC powers include but are not limited to the power to:
- 4.1.1 Borrow money and to charge the whole or any part of its property as security for the repayment of the money borrowed. COCSC must comply as appropriate with sections 124 and 125 of the Charities Act 2011 if it wishes to mortgage land.
  - 4.1.1 Buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use.
  - 4.1.2 Sell, lease or otherwise dispose of all or any part of the property belonging to COCSC. In exercising this power, COCSC must comply as appropriate with sections 117 and 119-123 of the Charities Act 2011.
  - 4.1.3 Employ and remunerate such staff as are necessary for carrying out the work of COCSC. COCSC may employ or remunerate a charity trustee only to the extent that it is permitted to do so by clause (6) (Benefits and payments to charity trustees and connected persons) and provided it complies with the conditions of those clauses.
  - 4.1.4 Deposit or invest funds, employ a professional fund-manager, and arrange for the investments or other property of COCSC to be held in the name of a nominee, in the same manner and subject to the same conditions as the trustees of a trust are permitted to do by the Trustee Act 2000.

## 5 Application of income and property

- 5.1 The income and property of COCSC must be applied solely towards the promotion of the Objects.
- 5.1.1 A trustee is entitled to be reimbursed from the property of COCSC or may pay out of such property reasonable expenses properly incurred by him or her when acting on behalf of the COCSC.
  - 5.1.1 A trustee may benefit from trustee indemnity insurance cover purchased at COCSC's expense in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011.
- 5.2 None of the income or property of COCSC may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to any member of COCSC. This does not prevent a member who is not also a charity trustee receiving:
- 5.2.1 A benefit from COCSC as a beneficiary of the COCSC.
  - 5.2.2 Reasonable and proper remuneration for any goods or services supplied to COCSC.

- 5.3 Nothing in this clause shall prevent a charity trustee or connected person receiving any benefit or payment which is authorised by clause (6).
- 5.4 The property of the Club, other than cash at bank, shall be invested in not more than four Custodians. They shall deal with the property as directed by resolution of the charity trustees and entry in the minute book shall be evidence of such a resolution.
- 5.5 The Custodians shall be elected at a general meeting of the COCSC and shall hold office until death or resignation unless removed by a resolution passed at a general meeting.
- 5.6 The Custodians shall be entitled to an indemnity out of the property of the COCSC for all expenses and other liabilities properly incurred by them in the discharge of their duties.
- 5.7 The trustees must ensure the title to:
- 5.7.1 All land held by or in trust for COCSC that is not vested in the Official Custodian of Charities and
- 5.7.2 All investments held by or on behalf of COCSC, is vested in COCSC.
- 5.8 The trustees must keep in repair and insure to their full value against fire and usual risks all the buildings of COCSC (except those buildings that are required to be kept in repair and insured by a tenant). They must also insure suitability in respect of public liability and employers liability.

## 6 Benefits and payments to charity trustees and connected persons

### 6.1 General provisions

No charity trustee or connected person may:

- 6.1.1 Buy or receive any goods or services from COCSC on terms preferential to those applicable to members of the public.
- 6.1.2 Sell goods, services, or any interest in land to COCSC.
- 6.1.3 Be employed by, or receive any remuneration from, COCSC.
- 6.1.4 Receive any other financial benefit from COCSC.

Unless the payment or benefit is permitted by clause (6.2), or authorised by the court or the Charity Commission ("the Commission"). In this clause, a "financial benefit" means a benefit, direct or indirect, which is either money or has a monetary value.

### 6.2 Scope and powers permitting trustees' or connected persons' benefits

- 6.2.1 A charity trustee or connected person may receive a benefit from COCSC as a beneficiary of COCSC provided that it is available generally to the beneficiaries of COCSC.
- 6.2.2 A charity trustee or connected person may enter into a contract for the supply of services, or of goods that are supplied in connection with the provision of services, to COCSC where

that is permitted in accordance with, and subject to the conditions in, section 185 to 188 of the Charities Act 2011.

- 6.2.3 Subject to clause (6.3) a charity trustee or connected person may provide COCSC with goods that are not supplied in connection with services provided to COCSC by the charity trustee or connected person.
- 6.2.4 A charity trustee or connected person may receive interest on money lent to COCSC at a reasonable and proper rate which must be not more than the Bank of England bank rate (also known as the base rate).
- 6.2.5 A charity trustee or connected person may receive rent for premises let by the trustee or connected person to COCSC. The amount of the rent and the other terms of the lease must be reasonable and proper. The charity trustee concerned must withdraw from any meeting at which such a proposal or the rent or other terms of the lease are under discussion.
- 6.2.6 A charity trustee or connected person may take part in the normal trading and fundraising activities of COCSC on the same terms as members of the public.
- 6.2.7 The trustees may arrange for the purchase, out of funds of the charity, of insurance designed to indemnify the trustees in accordance with the terms of, and subject to the condition in, sections 185 and 186 of the Charities Act 2011.
- 6.2.8 If the trustee fails to follow this procedure, the resolution to confer a benefit upon the trustee will be void and the trustee must repay to COCSC the value of any benefit received by the trustee from COCSC.
- 6.2.9 All cash and cheques received shall be deposited in a bank account in the name of COCSC. No sum shall be drawn from that account except as approved by two of the three signatories, who shall be Chairperson, Secretary and Treasurer (the Executive Officers). No two signatories should be related.
- 6.2.10 The income and property of COCSC shall be applied only in furtherance of the objects of COCSC and no part thereof shall be paid by way of bonus, dividend or profit to any member of COCSC.
- 6.2.11 The trustees shall have the power to authorise the payment of remuneration and expenses to any member or employee of COCSC and to any other person or persons for services rendered to COCSC. The trustees shall also have the power to authorise payment of expenses to any officer of COCSC.
- 6.2.12 The financial transactions of COCSC shall be recorded by the treasurer in such manner as the trustees think fit.

### 6.3 Payment for supply of goods only – controls

COCSC and its charity trustees may only rely upon the authority provided by clause (6.2.4) if each of the following conditions is satisfied:

- 6.3.1 The amount or maximum amount of the payment for the goods is set out in a written agreement between COCSC and the charity trustee or connected person supplying the goods (“the supplier”).

- 6.3.2 The amount or maximum amount of the payment for the goods does not exceed what is reasonable in the circumstances for the supply of the goods in question.
  - 6.3.3 The other charity trustees are satisfied that it is in the best interests of COCSC to contract with the supplier rather than with someone who is not a charity trustee or connected person. In reaching that decision the charity trustees must balance the advantage of contracting with a charity trustee or connected person against the disadvantages of doing so.
  - 6.3.4 The supplier is absent from the part of any meeting at which there is discussion of the proposal to enter into a contract or arrangement with him or her or it with regard to the supply of goods to COCSC.
  - 6.3.5 The supplier does not vote on any such matter and is not to be counted when calculating whether a quorum of charity trustees is present at the meeting.
  - 6.3.6 The reason for their decision is recorded by the charity trustees in the minute book.
  - 6.3.7 A majority of the charity trustees then in office are not in receipt of remuneration or payments authorised by clause (6).
- 6.4 In sub-clauses (6.2) and (6.3) of this clause:
- 6.4.1 “COCSC” includes any company in which COCSC:
    - a. Holds more than 50% of the shares or
    - b. Controls more than 50% of the voting rights attached to the shares or
    - c. Has the right to appoint one or more directors to the board of the company.
  - 6.4.2 “connected person” includes any person within the definition set out in clause (30) (Interpretation).

## 7 Conflicts of interest and conflicts of loyalty

A charity trustee must:

- 7.1 Declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with COCSC or in any transaction or arrangement entered into by COCSC which has not previously been declared and
- 7.2 Absent himself or herself from any discussions of the charity trustees in which it is possible that a conflict of interest will arise between his or her duty to act solely in the interests of COCSC and any personal interest (including but not limited to any financial interest).

Any charity trustee absenting himself or herself from any discussions in accordance with this clause must not vote or be counted as part of the quorum in any decision of the charity trustees on the matter.

## 8 Liability of members to contribute to the assets of COCSC if it is wound up

- 8.1 If COCSC is wound up, the members of COCSC have no liability to contribute to its assets and no personal responsibility for settling its debts and liabilities.

## 9 Membership of COCSC

### 9.1 Admission of new members

- 9.1.1 Eligibility: Membership of COCSC is open to anyone who is interested in furthering its purposes, and who, by applying for membership, has indicated his or her agreement to become a member and acceptance of the duty of members set out in sub-clause (3) of this clause.

The total membership of COCSC shall not normally be limited. If, however the relevant committee consider that there is a good reason to impose any limit from time to time then the relevant committee shall put forward appropriate proposals for consideration at a general meeting of COCSC. The relevant committee shall have the right to impose (and remove) from time to time any limits on total membership (or any category of membership) of COCSC.

- 9.1.2 All persons who assist or participate in any way with COCSC's activities shall become members of the Club and hence of the ASA and the relevant ASA membership fee shall be paid. Assisting with COCSC's activities shall include, but not be restricted to, athletes, administrators, voluntary instructors, teachers and coaches, committee members, helpers, honorary members, active life members, Officers, patrons, Presidents, technical and non-technical officials, temporary members, Vice Presidents and verifiers or tutors of the ASA's educational certificates.
- 9.1.3 Paid instructors, teachers and coaches who are not members of COCSC's must be members of a body which accepts that its members are bound by the ASA's Code of Ethics, the Laws relating to Child Protection and those parts of the Judicial Laws, Judicial Rules and procedures necessary for their implementation and whilst engaged in activities under the jurisdiction of the ASA shall be subject to all the constraints and privileges of the Judicial Laws and Rules.
- 9.1.4 Any person who wishes to become a member of COCSC must submit a signed application to the Membership Secretary (and in the case of a junior swimmer the application must be signed by the swimmer's parent or guardian). Election to membership shall be determined by the Membership Secretary but other person(s) authorised by the relevant committee may make recommendation as to the applicant's acceptability. The Membership Secretary shall be required to give reasons for the refusal of any application for membership. Any person refused membership may seek a review of this decision before a Review Panel appointed by the Executive Committee ("Review Panel") comprised of not less than three members (who may or may not be members of the Executive Committee). The Review Panel shall include one independent member nominated by the ASA West Midlands Region. The person refused membership shall be entitled to make representations to the Review Panel. The procedures for review shall be at the discretion of the Review Panel whose decision shall be final and binding.
- 9.1.5 COCSC shall not refuse an application for membership on discriminatory grounds, whether in relation to ethnic origin, sex, religion, disability, political persuasion or sexual orientation.

- 9.1.6 COCSC may refuse membership only for good and sufficient cause, such as conduct or character likely to bring COCSC or the sport into disrepute or is in arrears with another ASA affiliated club.
- 9.1.7 Admission procedure: The relevant committee
- 9.1.7.1 Will require applications for membership to be made in accordance with clause (9.1.4).
- 9.1.7.2 Shall, if they approve an application for membership, notify the applicant of their decision within 21 days.
- 9.1.7.3 Shall, if they decide to refuse an application for membership, give the applicant their reasons for doing so, within 21 days of the decision being taken, and give the applicant the opportunity to appeal against the refusal; and; shall give fair consideration to any such appeal, and shall inform the applicant of their decision, but any decision to confirm refusal of the application for membership shall be final.
- 9.2 Transfer of membership
- 9.2.1 Membership of the COCSC cannot be transferred to anyone else.
- 9.3 Duty of members
- 9.3.1 It is the duty of each member of COCSC to exercise his or her powers as a member of COCSC in the way he or she decides in good faith would be most likely to further the purposes of the COCSC.
- 9.4 Termination of membership
- 9.4.1 Membership of the COCSC comes to an end if:
- 9.4.1.1 the member dies or
- 9.4.1.2 the member sends a notice of resignation to the membership secretary or
- 9.4.1.3 any sum of money owed by the member to COCSC is not paid in full within three months of its falling due or
- 9.4.1.4 COCSC decide that it is in the best interests of the Club that the member in question should be removed from membership, and pass a resolution to that effect subject to the adherence of 9.4.2.3.
- 9.4.2 COCSC shall have power to expel a member when, in its opinion, it would not be in the interests of the Club for the individual to remain a member. COCSC in exercising this power must:
- 9.4.2.1 Inform the member of the reasons why it is proposed to remove him, her or it from membership.
- 9.4.2.2 Give the member at least 21 clear days' notice in which to make representations to COCSC as to why they should not be removed from membership.
- 9.4.2.3 Shall comply with the relevant Judicial Rules for handling Internal Club Disputes ("the Rules") as the same may be revised from time to time. The Rules are set



- out in the ASA Judicial Laws and appear in the ASA Handbook. (A copy of the current Rules may be obtained from the ASA Department of Legal Affairs.)
- 9.4.2.4 Comply with the provisions of Rules 9.6 and 9.7 below.
- 9.5 Upon expulsion, the former member shall not be entitled to have any part of the annual membership fee to be refunded and must return any Club or external body's trophy or trophies held forthwith. Clubs in exercising this power are required to comply with the provision of Rules 9.6 and 9.7 below.
- 9.6 A member may not be expelled or (subject to Rule 9.7 below) be made the subject of any other penalty unless the panel hearing the complaint shall by a two-thirds majority vote in favour of the expulsion of (or other penalty imposed upon) the member.
- 9.7 COCSC may temporarily suspend or exclude a member from particular activity or training sessions and/or wider club activities, when in their opinion, such action is in the interests of the Club. Where such action is taken the incident or matter will thereafter be dealt with in accordance with the appropriate Judicial Rules.
- 9.8 Membership fees
- 9.8.1 COCSC may require members to pay reasonable membership fees to the Club.
- 9.8.1.1 The annual membership and training fees (as applicable) and other fees levied for services provided by COCSC shall be determined from time to time by the Executive Committee and they shall in so doing make special provision for different classes of membership as they shall determine.
- 9.8.1.2 Any increase in subscriptions shall be advised to the members in writing at the next annual general meeting.
- 9.8.1.3 The annual subscription and joining fee shall be due on joining COCSC and thereafter the annual subscription shall be due on the 1st day of January each year.
- 9.8.1.4 Any member whose subscription is unpaid by the date falling 30 days after the due date for payment may be suspended from some or all activities from a date to be determined by the relevant committee and until such payment is made.
- 9.8.1.5 COCSC shall have the power in special circumstances to remit the whole or part of the fees, including the ASA membership fees, to address issues of social inclusion.
- 9.8.2 Any member who resigns from COCSC in accordance with clause (9.4.1.2) above shall not be entitled to have any part of the annual membership fee or any other fees returned. Any member removed from membership by COCSC shall not be entitled to have any part of the annual membership fee refunded and must return any COCSC property held forthwith.
- 9.9 Informal or associate (non-voting) membership
- 9.9.1 COCSC may create associate or other classes of non-voting membership, and may determine the rights and obligations of any such members (including payment of membership fees), and the conditions for admission to, and termination of membership of



any such class of members. Other references in this constitution to “members” and “membership” do not apply to non-voting members, and non-voting members do not qualify as members for any purpose under the Charities Acts, General Regulations or Dissolution Regulations.

## 10 Members' decisions

### 10.1 General provisions

10.1.1 Except for those decisions that must be taken in a particular way as indicated in sub-clause (3) of this clause, decisions of the members of the COCSC must be taken by vote at a general meeting as provided in sub-clause (2) of this clause.

### 10.2 Taking ordinary decisions by vote

10.2.1 Subject to sub-clause (3) of this clause, any decision of the members of COCSC may be taken by means of a resolution at a general meeting. Such a resolution may be passed by a simple majority of votes cast at the meeting.

### 10.3 Decisions that must be taken in a particular way

10.3.1 Any decision to remove a trustee must be taken in accordance with clause (15.2).

10.3.2 Any decision to amend this constitution must be taken in accordance with clause (28) of this constitution (Amendment of Constitution).

10.3.3 Any decision to wind up or dissolve COCSC must be taken in accordance with clause (29) of this constitution (Voluntary winding up or dissolution).

10.3.4 Any decision to amalgamate or transfer the undertaking of COCSC to one or more other CIOs must be taken in accordance with the provisions of the Charities Act 2011.

## 11 General meetings of members

### 11.1 Types of general meeting

11.1.1 There must be an annual general meeting (AGM) of COCSC. The first AGM must be held within 18 months of the registration of COCSC, and subsequent AGMs must be held at intervals of not more than 15 months. The AGM must receive the annual statement of accounts (duly audited or examined where applicable), remove and elect the independent examiner (who must not be a charity trustee or a member of a charity trustee's family) and the Club's annual report, and must elect trustees as required under clause (13).

11.1.2 Other general meeting of the members of COCSC may be held at any time.

11.1.3 All general meetings must be held in accordance with the following provisions:

### 11.2 Calling general meetings

- 11.2.1 The Officers of COCSC:
- 11.2.1.1 must call the annual general meeting of the members of COCSC in accordance with sub-clause (1) of this clause, and identify it as such in the notice of the meeting and
  - 11.2.1.2 may call any other general meeting of the members at any time.
- 11.2.2 The Officers of COCSC must, within 21 days, call a general meeting of the members of COCSC if:
- 11.2.2.1 They receive a request to do so from at least 10% of the voting members of COCSC and
  - 11.2.2.2 The request states the general nature of the business to be dealt with at the meeting, and is authenticated by the member(s) making the request.
- 11.2.3 If, at the time of any such request, there has not been any general meeting of the members of COCSC for more than 12 months, then sub-clause (11.2.2.1) of this clause shall have effect as if 5% were substituted for 10%.
- 11.2.4 Any such request may include particulars of a resolution that may properly be proposed, and is intended to be proposed, at the meeting.
- 11.2.5 A resolution may only properly be proposed if it is lawful, and is not defamatory, frivolous or vexatious.
- 11.2.6 Any general meeting called by COCSC at the request of the voting members of COCSC must be held within 28 days from the date on which it is called.
- 11.2.7 If COCSC fail to comply with this obligation to call a general meeting at the request of its voting members, then the members who requested the meeting may themselves call a general meeting.
- 11.2.8 A general meeting called in this way must be held not more than three months after the date when the voting members first requested the meeting.
- 11.2.9 COCSC must reimburse any reasonable expenses incurred by the voting members calling a general meeting by reason of the failure of COCSC to duly call the meeting, but COCSC shall be entitled to be indemnified by the Officers who were responsible for such failure.
- 11.3 Notice of general meetings
- 11.3.1 The Officers, or, as the case may be, the relevant members of COCSC, must give at least 14 clear days' notice of any general meeting to all of the members, and to any charity trustee of COCSC who is not a member.
  - 11.3.2 If it is agreed by not less than 90% of all voting members of COCSC, any resolution may be proposed and passed at the meeting even though the requirements of sub-clause (3.1) of this clause have not been met. This sub-clause does not apply where a specified period of notice is strictly required by another clause in this constitution, by the Charities Act 2011 or by the General Regulations.

11.3.3 The notice of any general meeting must :

11.3.3.1 State the time and date of the meeting.

11.3.3.2 Give the address at which the meeting is to take place.

11.3.3.3 Give particulars of any resolution which is to be moved at the meeting, and of the general nature of any other business to be dealt with at the meeting and

11.3.3.4 If a proposal to alter the constitution of COCSC is to be considered at the meeting, include the text of the proposed alteration.

11.3.3.5 include, with the notice for the AGM, the annual statement of accounts and annual report, details of persons standing for election or re-election or where allowed under clause (22) (Use of electronic communication), details of where the information may be found on the COCSC's website.

11.3.4 Prove that an envelope containing a notice was properly addressed, prepaid and posted; or that an electronic form of notice was properly addressed and sent, shall be conclusive evidence that the notice was given. Notice shall be deemed to be given 48 hours after it was posted or sent.

11.3.5 The proceedings of a meeting shall not be invalidated because a member who was entitled to receive notice of the meeting did not receive it because of accidental omission by COCSC.

11.4 Chairing of general meetings

11.4.1 The person nominated as chair by COCSC under clause (19.2) (Chairing of meetings), shall, if present at the general meeting and willing to act, preside as chair of the meeting. Subject to that, the members of COCSC who are present at a general meeting shall elect a chair to preside at the meeting.

11.5 Quorum at general meetings

11.5.1 No business may be transacted at any general meeting of the voting members of COCSC unless a quorum is present when the meeting starts.

11.5.2 Subject to the following provisions, the quorum for general meetings shall be the greater of 3% or 10 members. An organisation represented by a person present at the meeting in accordance with sub-clause (7) of this clause, is counted as being present in person.

11.5.3 If the meeting has been called by or at the request of the voting members and a quorum is not present within 15 minutes of the starting time specified in the notice of the meeting, the meeting is closed.

11.5.4 If the meeting has been called in any other way and a quorum is not present within 15 minutes of the starting time specified in the notice of the meeting, the chair must adjourn the meeting. The date, time and place at which the meeting will resume must be notified to COCSC's voting members at least seven clear days before the date on which it will resume.

11.5.5 If a quorum is not present within 15 minutes of the start time of the adjourned meeting, the member or members present at the meeting constitute a quorum.

11.5.6 If at any time during the meeting a quorum ceases to be present, the meeting may discuss issues and make recommendations to the Officers but may not make any decisions. If decisions are required which must be made by a meeting of the members, the meeting must be adjourned.

#### 11.6 Voting at general meetings

11.6.1 Any decision other than one falling within clause (10.3) (Decisions that must be taken in a particular way) shall be taken by a simple majority of votes cast at the meeting. Only members who have reached their 16th birthday shall be entitled to be heard and to vote on all matters. Every eligible member has one vote.

11.6.2 A resolution put to the vote of a meeting shall be decided on a show of hands, unless (before or on the declaration of the result of the show of hands) a poll is duly demanded. A poll may be demanded by the chair or by at least 50% of the voting members present in person at the meeting.

11.6.3 A poll demanded on the election of a person to chair the meeting or on a question of adjournment must be taken immediately. A poll on any other matter shall be taken, and the result of the poll shall be announced, in such manner as the chair of the meeting shall decide, provided that the poll must be taken, and the result of the poll announced, within 30 days of the demand for the poll.

11.6.4 A poll may be taken:

- a. at the meeting at which it was demanded or
- b. at some other time and place specified by the chair or
- c. through the use of postal or electronic communications.

11.6.5 In the event of an equality of votes, whether on a show of hands or on a poll, the chair of the meeting shall have a second, or casting vote.

11.6.6 Any objection to the qualification of any voter must be raised at the meeting at which the vote is cast and the decision of the chair of the meeting shall be final.

#### 11.7 Adjournment of meetings

11.7.1 The chair may with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting to another time and/or place. No business may be transacted at an adjourned meeting except business which could properly have been transacted at the original meeting.

#### 11.8 Minutes of meetings

11.8.1 The secretary or in his/her absence another Executive Committee member shall take minutes at the annual and special general meetings.

## 12 Charity trustees

### 12.1 Functions and duties of charity trustees

12.1.1 The charity trustees shall manage the affairs of COCSC and may for that purpose exercise all the powers of COCSC. It is the duty of each charity trustee:

12.1.1.1 To exercise his or her powers and to perform his or her functions as a trustee of COCSC in the way he or she decides in good faith would be most likely to further the purposes of COCSC and

12.1.1.2 To exercise, in the performance of those functions, such care and skill as is reasonable in the circumstances having regard in particular to:

12.1.1.2.1 Any special knowledge or experience that he or she has or holds himself or herself out as having and

12.1.1.2.2 If he or she acts as a charity trustee of COCSC in the course of a business or profession, to any special knowledge or experience that it is reasonable to expect of a person acting in the course of that kind of business or profession.

## 12.2 Eligibility for trusteeship

12.2.1 Every charity trustee must be a natural person.

12.2.2 No one may be appointed as a charity trustee:

12.2.2.1 If he or she is under the age of 18 years or

12.2.2.2 If he or she would automatically cease to hold office under the provisions of clause (15.1.6).

12.2.3 No one is entitled to act as a charity trustee whether on appointment or on any reappointment until he or she has expressly acknowledged, in whatever way the charity trustees decide, his or her acceptance of the office of charity trustee.

## 12.3 Number of charity trustees

12.3.1 There must be at least three charity trustees. If the number falls below this minimum, the remaining trustee or trustees may act only to call a meeting of the charity trustees, or appoint a new charity trustee who shall hold office on a temporary basis until the next AGM whereupon that temporary charity trustee shall be deemed to be the charity trustee retiring under Clause (13.2).

12.3.2 The maximum number of charity trustees is five, of which 3 are to be elected by the membership of the COCSC at the AGM and 2 may be co-opted by the Executive Committee. The Executive Committee may not appoint any charity trustee if as a result the number of charity trustees would exceed the maximum.

## 12.4 First charity trustees

12.4.1 The first charity trustees of COCSC are:

12.4.1.1 Elizabeth Sykes

12.4.1.2 Ruth Jelley

12.4.1.3 Hayley Ward.

12.4.1.4 Charles (Kevin) Sherwood and

12.4.1.5 Simon Sinclair

## **13 Appointment of charity trustees**

- 13.1 Nominations for election of charity trustees shall be made in writing by the proposer and seconder to the secretary not later than 14 days before the annual general meeting. The nominee shall indicate in writing his/her willingness to stand for election.
- 13.2 At every annual general meeting of the members of COCSC, one-third of the charity trustees shall retire from office. If the number of charity trustees is not three or a multiple of three, then the number nearest to one-third shall retire from office, but if there is only one charity trustee, he or she shall retire.
- 13.3 The charity trustees to retire by rotation shall be those who have been longest in office since their last appointment or reappointment. If any trustees were last appointed or reappointed on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.
- 13.4 The vacancies so arising may be filled by the decision of the members at the annual general meeting; any vacancies not filled at the annual general meeting may be filled as provided in sub-clause (6) of this clause.
- 13.5 The members or the charity trustees may at any time decide to appoint a new charity trustee, whether in place of a charity trustee who has retired or been removed in accordance with clause (15) Retirement and removal of charity trustees), or as an additional charity trustee, provided that the limit specified in clause (12.3) on the number of charity trustees would not as a result be exceeded.
- 13.6 A person so appointed by the members of COCSC shall retire in accordance with the provisions of sub-clause (2) of this clause. A person so appointed by the charity trustees shall retire at the conclusion of the next annual general meeting after the date of his or her appointment, and shall not be counted for the purpose of determining which of the charity trustees is to retire by rotation at that meeting.

## **14 Information for new charity trustees**

- 14.1 The charity trustees will make available to each new charity trustee, on or before his or her first appointment:
- 14.1.1 A copy of this constitution and any amendments made to it and
- 14.1.2 A copy of COCSC's latest annual report and statement of accounts.

## 15 Retirement and removal of charity trustees

15.1 A charity trustee ceases to hold office if he or she:

- 15.1.1 Retires by notifying COCSC in writing (but only if enough charity trustees will remain in office when the notice of resignation takes effect to form a quorum for meetings).
- 15.1.2 Is absent without the permission of the charity trustees from all their meetings held within a period of six months and the trustees resolve that his or her office be vacated.
- 15.1.3 Dies.
- 15.1.4 Becomes incapable by reason of mental disorder, illness or injury of managing and administering his or her own affairs.
- 15.1.5 Is removed by the voting members of COCSC in accordance with sub-clause (2) of this clause or
- 15.1.6 Is disqualified from acting as a charity trustee by virtue of section 178-180 of the Charities Act 2011 (or any statutory re-enactment or modification of that provision).

15.2 A charity trustee shall be removed from office if a resolution to remove that trustee is proposed at a general meeting of the voting members called for that purpose and properly convened in accordance with clause (11), and the resolution is passed by a two-thirds majority of votes cast at the meeting.

15.3 A resolution to remove a charity trustee in accordance with this clause shall not take effect unless the individual concerned has been given at least 14 clear days' notice in writing that the resolution is to be proposed, specifying the circumstances alleged to justify removal from office, and has been given a reasonable opportunity of making oral and/or written representations to the voting members of COCSC.

## 16 Reappointment of charity trustees

16.1 Any person who retires as a charity trustee by rotation or by giving notice to COCSC is eligible for reappointment. A charity trustee who has served for three consecutive terms may not be reappointed for a fourth consecutive term but may be reappointed after an interval of at least one year.

## 17 Taking of decisions by charity trustees

17.1 Any decision may be taken either:

- 17.1.1 At a meeting of the charity trustees or
- 17.1.2 By resolution in writing or electronic form agreed by all of the charity trustees, which may comprise either a single document or several documents containing the text of the resolution in like form to each of which one or more charity trustees has signified their agreement.



## 18 Delegation by charity trustees

- 18.1 The charity trustees may delegate any of their powers or functions to a committee or committees, and, if they do, they must determine the terms and conditions on which the delegation is made. The charity trustees may at any time alter those terms and conditions, or revoke the delegation.
- 18.2 This power is in addition to the power of delegation in the General Regulations and any other power of delegation available to the charity trustees, but is subject to the following requirements:
- 18.2.1 A committee may consist of two or more persons.
- 18.2.2 The acts and proceedings of any committee must be brought to the attention of the charity trustees as a whole as soon as is reasonably practicable and
- 18.2.3 The charity trustees shall from time to time review the arrangements which they have made for the delegation of their powers.

## 19 Meetings and proceedings of charity trustees

### 19.1 Calling meetings

- 19.1.1 Meetings of the charity trustees shall be held not less than quarterly (save where the charity trustees shall by a simple majority resolve not to meet), and the quorum of those meetings shall be such number as shall represent not less than a simple majority of the charity trustees.
- 19.1.2 Any charity trustee may call a meeting of the charity trustees.
- 19.1.3 Subject to that, the charity trustees shall decide how their meetings are to be called, and what notice is required.

### 19.2 Chairing of meetings

- 19.2.1 The charity trustees may appoint one of their number to chair their meetings and may at any time revoke such appointment. If no-one has been so appointed, or if the person appointed is unwilling to preside or is not present within 10 minutes after the time of the meeting, the charity trustees present may appoint one of their number to chair that meeting.

### 19.3 Procedure at meetings

- 19.3.1 No decision shall be taken at a meeting unless a quorum is present at the time when the decision is taken. The quorum is two charity trustees, or the number nearest to one third of the total number of charity trustees, whichever is greater, or such larger number as the charity trustees may decide from time to time. A charity trustee shall not be counted in the quorum present when any decision is made about a matter upon which he or she is not entitled to vote.
- 19.3.2 In the event that a quorum is not present within 30 minutes of the published start time, a meeting shall stand adjourned to the time and date falling seven days after the date of the meeting, or such other date and time as may be determined by the Chairman. If a quorum

is not present at the adjourned meeting then those charity trustees attending may act for the purpose of calling a Special General Meeting of the members, to which the provisions as to minimum notice contained in clause (11.3) shall not apply.

19.3.3 Questions arising at a meeting shall be decided by a majority of those eligible to vote.

19.3.4 In the case of an equality of votes, the chair shall have a second or casting vote.

#### 19.4 Participation in meetings by electronic means

19.4.1 A meeting may be held by suitable electronic means agreed by the charity trustees in which each participant may communicate with all the other participants.

19.4.2 Any charity trustee participating at a meeting by suitable electronic means agreed by the charity trustees in which a participant or participants may communicate with all the other participants shall qualify as being present at the meeting.

19.4.3 Meetings held by electronic means must comply with rules for meetings, including chairing and the taking of minutes.

## 20 Saving provisions

20.1 Subject to sub-clause (2) of this clause, all decisions of the charity trustees, or of a committee of charity trustees, shall be valid notwithstanding the participation in any vote of a charity trustee:

20.1.1 Who was disqualified from holding office.

20.1.2 Who had previously retired or who had been obliged by the constitution to vacate office.

20.1.3 Who was not entitled to vote on the matter, whether by reason of a conflict of interest or otherwise.

20.1.4 If, without the vote of that charity trustee and that charity trustee being counted in the quorum, the decision has been made by a majority of the charity trustees at a quorate meeting.

20.2 Sub-clause (1) of this clause does not permit a charity trustee to keep any benefit that may be conferred upon him or her by a resolution of the charity trustees or of a committee of charity trustees if, but for clause (1), the resolution would have been void, or if the charity trustee has not complied with clause (7) (Conflicts of interest).

## 21 Execution of documents

21.1 COCSC shall execute documents by signature which shall include electronic signatures where permitted by law.

21.2 A document is validly executed by signature if it is signed by at least two of the Officers.

## 22 Use of electronic communications

### 22.1 General

CO CSC will comply with the requirements of the Communications Provisions in the General Regulations and in particular:

- 22.1.1 The requirement to provide within 21 days to any member on request a hard copy of any document or information sent to the member otherwise than in hard copy form.
- 22.1.2 Any requirements to provide information to the Commission in a particular form or manner.

## 23 Keeping of Registers

- 23.1 CO CSC must comply with its obligations under the General Regulations in relation to the keeping of, and provision of access to, registers of its members and charity trustees.

## 24 Minutes

- 24.1 The Executive Committee must keep minutes of all:

- 24.1.1 Appointments of officers made by voting members.
- 24.1.2 Proceedings at general meetings of CO CSC.
- 24.1.3 Meetings of the charity trustees and relevant committees CO CSC including:
  - 24.1.3.1 The names of the trustees and/or voting members present at the meeting.
  - 24.1.3.2 The decisions made at the meetings and
  - 24.1.3.3 Where appropriate the reasons for the decisions.
- 24.1.4 Decisions made by the charity trustees otherwise than in meetings.

## 25 Accounting records, accounts, annual reports and returns, register maintenance

- 25.1 The charity trustees must comply with the requirements of the Charities Act 2011 with regard to the keeping of accounting records, to the preparation and scrutiny of statements of accounts, and to the preparation of annual reports and returns. The statements of accounts, reports and returns must be sent to the Charity Commission, regardless of the income of CO CSC, within 10 months of the financial year end.
- 25.2 The charity trustees must comply with their obligation to inform the Commission within 28 days of any change in the particulars of CO CSC entered on the Central Register of Charities.

## 26 Rules

- 26.1 The charity trustees may from time to time make such reasonable and proper rules or byelaws as they may deem necessary or expedient for the proper conduct and management of COCSC, but such rules or byelaws must not be inconsistent with any provision of this constitution. Copies of any such rules or byelaws currently in force must be made available to any member of COCSC on request.

## 27 Dispute

- 27.1 If a dispute arises between voting members of COCSC about the validity or propriety of anything done by the members under this constitution, and the dispute cannot be resolved by agreement, the parties to the dispute must first try in good faith to settle the dispute by mediation before resorting to litigation.

## 28 Amendment of constitution

- 28.1 As provided by clauses 224-227 of the Charities Act 2011:
- 28.1.1 This constitution can only be amended:
    - 28.1.1.1 by resolution agreed in writing by all members of COCSC; or
    - 28.1.1.2 by a resolution passed by a majority of votes cast at a general meeting of the voting members of COCSC.
  - 28.1.2 Any alteration of clause (3) (Objects), clause (29) (Voluntary winding up or dissolution), this clause, or of any provision where the alteration would provide authorisation for any benefit to be obtained by charity trustees or members of COCSC or persons connected with them, requires the prior written consent of the Charity Commission.
  - 28.1.3 No amendment that is inconsistent with the provisions of the Charities Act 2011 or the General Regulations shall be valid.
  - 28.1.4 A copy of any resolution altering the constitution, together with a copy of the COCSC's constitution as amended, must be sent to the Commission within 15 days from the date on which the resolution is passed. The amendment does not take effect until it has been recorded in the Register of Charities.

## 29 Voluntary winding up or dissolution

- 29.1 As provided by the Dissolution Regulations, COCSC may be dissolved by resolution of its members. Any decision by the members to wind up or dissolve COCSC can only be made:
- 29.1.1 at a general meeting of the voting members of COCSC called in accordance with clause (11) (Meetings of Members), of which not less than 14 days' notice has been given to those eligible to attend and vote:
    - 29.1.1.1 By a resolution passed by a majority of those voting or

- 29.1.1.2 By a resolution passed by decision taken without a vote and without any expression of dissent in response to the question put to the general meeting; or by a resolution agreed in writing by all voting members of COCSC.

29.2 Subject to the payment of all COCSC's debts:

- 29.2.1 Any resolution for the winding up of COCSC, or for the dissolution of COCSC without winding up, may contain a provision directing how any remaining assets of COCSC shall be applied.
- 29.2.2 If the resolution does not contain such a provision, the charity trustees must decide how any remaining assets of COCSC shall be applied.
- 29.2.3 In either case the remaining assets must be applied for charitable purposes the same as or similar to those of COCSC.

29.3 COCSC must observe the requirements of the Dissolution Regulations in applying to the Commission for COCSC to be removed from the Register of Charities, and in particular:

29.3.1 The charity trustees must send with their application to the Commission:

- 29.3.1.1 A copy of the resolution passed by the members of COCSC.
- 29.3.1.2 A declaration by the charity trustees that any debts and other liabilities of COCSC have been settled or otherwise provided for in full and
- 29.3.1.3 A statement by the charity trustees setting out the way in which any property of COCSC has been or is to be applied prior to its dissolution in accordance with this constitution.

29.3.2 The charity trustees must ensure that a copy of the application is sent within seven days to every member and employee of COCSC, and to any charity trustee of COCSC who was not privy to the application.

29.4 If COCSC is to be wound up or dissolved in any other circumstances, the provisions of the Dissolution Regulations must be followed.

## 30 Interpretation

30.1 In this constitution:

30.1.1 "connected person" means:

- 30.1.1.1 A child, parent, grandchild, grandparent, brother or sister of the charity trustee.
- 30.1.1.2 The spouse or civil partner of the charity trustee or of any person falling within sub-clause (30.1.1.1) above.
- 30.1.1.3 A person carrying on business in partnership with the charity trustee or with any person falling within sub-clause (30.1.1.1) or (30.1.1.2) above.

- 30.1.1.4 An institution which is controlled:
  - 30.1.1.4.1 By the charity trustee or any connected person falling within sub-clause (30.1.1.1), (30.1.1.2), or (30.1.1.3) above or
  - 30.1.1.4.2 By two or more persons falling within sub-clause (30.1.1.4.1), when taken together.
- 30.1.1.5 A body corporate in which
  - 30.1.1.5.1 The charity trustee or any connected person falling within sub-clauses (30.1.1.1) to (30.1.1.3) has a substantial interest or
  - 30.1.1.5.2 Two or more persons falling within sub-clause (30.1.1.5.1) who, when taken together, have a substantial interest.
- 30.1.1.6 Section 118 of the Charities Act 2011 apply for the purposes of interpreting the terms used in this constitution.
- 30.1.2 “General Regulations” means the Charitable Incorporated Organisations (General) Regulations 2012.
- 30.1.3 “Dissolution Regulations” means the Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012.
- 30.1.4 The “Communications Provisions” means the Communications Provisions in [Part 10, Chapter 4] of the General Regulations.
- 30.1.5 “Charity Trustee” means a charity trustee of COCSC.
- 30.1.6 A “poll” means a counted vote or ballot, usually (but not necessarily) in writing.
- 30.1.7 The “Club” means City of Coventry Swimming Club.