

Recommended changes to the existing WCC Constitution (Charity No: SC015206)

These changes reflect recommendations in the Diocesan Briefing Paper 'WCC: Together or Apart: Buildings' of 28 September 2018 ('Route 1'), and respond to requirements laid down by the Scottish Charities Regulator (OSCR) concerning the transfer of assets and winding up of a charity.

Art 4 Heritable Property and Shares.

The heritable property and Shares of the Charge shall be vested in the Trustees of Westhill Community Church ~~the Diocese~~ ("the Property Trustees") in trust for the Charge. Save as hereinafter provided in Article 28 hereof, the Property Trustees shall be under no duty to take active part in the management of the property vested in them, and shall have no personal responsibility in regard thereto, but may rely upon the proper management thereof by the Vestry, and the Property Trustees shall be indemnified out of the funds of the Charge against any liability undertaken or incurred by them.

Comment. This change foresees the existing Diocesan Property Trustees appointing new Property Trustees nominated by WCC.

Art 13 Duties of Vestry

The Vestry shall ...
The Vestry shall ...
The funds ...
The Vestry should ...

The vestry may only apply the property and funds of the Charge in furtherance of the Charge's charitable purposes. With the agreement of the Bishop, the Vestry may transfer all the property and funds of the Charge to the Scottish Charitable Incorporated Organisation known as Westhill Community Church SCIO, Scottish Charity No. SC049910 for nil consideration.

Comment: This proposed addition addresses the concern that the Vestry may not have the authority to transfer the church's property to the new SCIO.

Art 28 Possible extinction of Charge.

If it shall be decided by the Bishop in Synod, with the concurrence of the Diocesan Synod, that it is impracticable to maintain the services of the Charge, all the rights and duties of the Vestry as guardians of the property and funds shall devolve upon the Property Trustees as previously appointed in Article 4 hereof, a majority of whom - subject always to the veto of the Bishop - shall form a quorum for transacting any necessary business, including the winding up or dissolution of the Charge. ~~and~~ All such properties and funds as may be disposable shall be disposed of or utilised as the Bishop in Synod, with the concurrence of the Diocesan Synod, may from time to time determine. In the event of an emergency, pending the summoning of the Diocesan Synod, the Bishop in consultation with the Property Trustees will take such steps as may seem to him to be necessary and right. The Bishop or Property Trustees shall ensure that appropriate consents are obtained from OSCR in relation to any amalgamation, winding up or dissolution of the Charge.

Comment. OSCR requires that an unincorporated organisation has clear powers in its constitution to wind up the charity before becoming a Scottish Charitable Incorporated Organisation. The current constitution mentions the possibility of the Charity being wound up, but does not set out any procedure. The proposed amendment would clarify that the Property Trustees are empowered to wind up or dissolve the Charity – subject to a veto by the Bishop – after the Bishop in Synod had decided that it was impractical to maintain the services of the charge. At the time that this clause would be invoked, the WCC charity would be an empty shell with no assets.

Note that, once the amendment to Art 4 above is implemented, the Property Trustees would be the WCC Property Trustees.