

Guidance note on draft CIO Constitution

The General Assembly of Unitarian and Free Christian Churches

1 Introduction

- 1.1 This note accompanies the draft constitution (the **Constitution**) for The General Assembly of Unitarian and Free Christian Churches (the **Assembly**), which it is proposed should be "incorporated" as a new Charitable Incorporated Organisation (or "**CIO**"). The purpose of the incorporation is to enable the Assembly to operate within a distinct legal entity which limits the potential personal liability of the members of its Executive Committee (so that there is no disincentive for its members to act) and which will also simplify its administration in terms of its ability to hold assets, enter into contracts, employ staff etc.
- 1.2 The draft Constitution is based on the Charity Commission's model constitution for an "association" CIO. We have amended the model as appropriate to mirror as closely as possible the provisions of the Assembly's existing constitution as regards its governance arrangements. We have made amendments where required in order to include CIO-specific provisions and also to reflect best practice in relation to charity governance in a number of areas which are not addressed in the Assembly's existing constitution (for example, clauses 5, 6 and 7 of the draft Constitution). The draft Constitution refers at certain points to the By-Laws and Standing Orders, where the Executive Committee, subject to the approval of the Assembly's members where this is required, will determine from time to time more detailed processes and procedures in relation to aspects of the Assembly's governance.
- 1.3 We have summarised below the key provisions of the draft Constitution.

2 Key provisions of the draft Constitution

- 2.1 **Objects and powers (clauses 3 and 4)** - we have not altered the existing charitable objects of the Assembly. The CIO has all of the powers which will be required in order to advance its charitable objects.
- 2.2 **Benefits to members and trustees (clauses 5 and 6)** - there are strict rules under charity law which prevent the members or trustees of a charity from receiving benefits from their charity, except where this is authorised. Authorisation can either come from the Commission or from provisions in a charity's constitution. Because the Assembly's governance structure is made up of the Executive Committee and a separate group of members and some different considerations apply to each group, we have provided for two sets of authorisations in the draft Constitution.
- 2.3 **Conflicts of interest (clause 7)** - the legal provisions which apply to charities (and the regulations which apply to CIOs) require their trustees to manage any conflicts of interest which may arise. Clause 7 reflects these provisions and is intended to enable the members of the Executive Committee to manage any conflicts of interest which arise in practice, in line with their general duty as charity trustees.
- 2.4 **Liability of members on winding up (clause 8)** - the draft Constitution confirms that the members of the Assembly have no liability to contribute to the CIO's debts and other liabilities in the event that it is wound-up. This limitation on the members' liability as regards the CIO is important because it limits any personal financial risk for the individuals and organisations who make up the CIO's membership.

- 2.5 **Members (clauses 9 to 11)** - the draft Constitution maintains the Assembly's existing "two tier" governance structure, which is made up of the Executive Committee and the Assembly's members. The draft Constitution confirms the membership of the CIO and maintains the existing categories of "full", "honorary" and "associate" membership (including the full membership of Congregations, Regional Associations and Societies, as well as Ministers, Lay Pastors and Lay Leaders). As under the Assembly's existing constitution, the admission of new members is a decision for the existing members to take in a general meeting in accordance with criteria and a procedure set out in By-Laws made by the Executive Committee.
- 2.6 The draft Constitution includes a range of provisions in relation to AGMs and Special Meetings of the Assembly's members, reflecting the importance of general meetings as the forum within which the members exercise the powers reserved to them by the Constitution. The business which will be dealt with at each AGM is specified expressly in clause 11.2. The draft Constitution provides the ability to hold general meetings physically as well as by electronic means or a combination of a physical and electronic means.
- 2.7 The draft Constitution does not deal with the process for proposing resolutions (which is the term used in the draft Constitution to describe the "motions" referred to in the existing constitution, and which is in line with terminology in the Commission's model CIO constitution) at general meetings in the same level of detail as the existing constitution. It instead provides that the detailed arrangements for this will be set out in "Standing Orders" made and amended by the Executive Committee from time to time. The draft does however provide that such Standing Orders must be approved by the members, so that they remain subject to the members' oversight. This is intended to give greater flexibility to regulate the process for proposing resolutions while maintaining the rights of the members in this regard.
- 2.8 The proposed quorum for a general meeting of the members is 100 voting members present in person, whether on a show of hands or a "poll" (i.e. a ballot). As is the case under the existing constitution, there are no provisions for proxy voting, although Congregations, Societies and Regional Associations continue to be represented at general meetings by delegates.
- 2.9 The draft Constitution maintains the existing relationship between the Executive Committee and the members but includes a new provision which enables the Executive Committee to remove a member if they consider that this is in the best interests of the Assembly. This provision is in line with the approach often taken in modern charity constitutions but is subject to safeguards as regards the process that must be undertaken by the Executive Committee (see clause 9.12). A decision to remove a Congregation, Society or Regional Association is also subject to ratification by the members at a general meeting.
- 2.10 The draft Constitution (reflecting the law and regulations which apply to CIOs generally) also provides that certain decisions can only be taken by the members:
- 2.10.1 a decision to amend the Constitution, which can only be amended by 75% of the members voting at a meeting (a 75% majority is required by the Charities Act 2011) while certain amendments (e.g. to the Assembly's charitable objects) can also only be made with the prior written consent of the Charity Commission); and
- 2.10.2 a decision to wind up or dissolve the Assembly, which can only be made by 75% of the members voting at a meeting (again, a 75% majority is required by the relevant regulations).

- 2.11 The draft Constitution provides expressly that every member of the Assembly must exercise their powers in the way they decide in good faith would be most likely to further its purposes. This reflects an express duty under the regulations which govern CIOs and also the provisions of the Commission's model constitution for CIOs.
- 2.12 **Executive Committee (clauses 12 to 15 and 17 to 19)** - the members of the Executive Committee will continue to be the charity trustees of the Assembly. The draft Constitution reflects the Assembly's current constitution as regards the composition of the Executive Committee, as well as its functions, duties and governance. Clause 12.7 enables the Executive Committee to set the procedure and criteria for elections in By-Laws, but maintains the key requirements for elections to be carried out by a postal ballot of the members which is overseen by an Electoral Panel. Clause 14.1 sets out the circumstances in which a member of the Executive Committee will vacate office.
- 2.13 **Use of electronic communications (clause 22)** - the draft Constitution enables the Assembly to use electronic communications or a website to send formal communications to its members and members of the Executive Committee; and for the Assembly to accept communications in this form.
- 2.14 **Voluntary winding up or dissolution (clause 29)** - if the Assembly were to be wound-up or dissolved, any remaining assets (once all liabilities are paid) must be applied for charitable objects which are the same as, or similar to, the Assembly's objects and which may be directed by the members when they vote on the winding-up or dissolution. These provisions are a standard requirement within a CIO constitution.

3 The Assembly's status as an "excepting body"

- 3.1 The Assembly is an "excepting body" under the *Charities (Exception from Registration) Regulations 1996 (as amended by subsequent regulations)*. Its excepting status is in force until 31 March 2031 and applies to churches and other charities that are wholly or mainly for public religious worship linked to the Assembly if their income is £100,000 or less. This will include e.g. some Congregations. Steps will be taken as part of the incorporation process to confirm the Assembly's status as an excepting body under the relevant regulations once it has become incorporated as a CIO.

4 Timetable

- 4.1 We have set out below an indicative timetable for the incorporation of the Assembly, on the assumption that this is supported by the members at their AGM in April 2024.

Action	Time period	Target date
Application to the Charity Commission to register the CIO	April to July 2024	31 July 2024
Preparing for the incorporation of the Assembly by way of a transfer of its assets and liabilities to the CIO (including drafting a transfer agreement and other documents which will be required)	April to September 2024	30 September 2024

Special Meeting of Members to approve the incorporation of the Assembly and to provide authority to the Executive Committee to implement the incorporation		October 2024 (date to be confirmed)
Completion of the incorporation by the Executive Committee	October to December 2024	31 December 2024 (at the latest)

VWV LLP
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