

## REPORT OF THE EXTERNAL FUNDING MANAGER

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### **SUBJECT: PEMBROKESHIRE COAST NATIONAL PARK TRUST**

This report discusses the following proposal:

- to create the Pembrokeshire Coast National Park Trust and appoint two Members of the Authority to become Trustees for the Pembrokeshire Coast National Park Trust

#### **1. Creation of the Pembrokeshire Coast National Park Trust**

In the February Authority meeting Members voted unanimously to set up a local Charitable Trust, subject to the relevant documentation being presented and approved by Members, prior to submission to the Charity Commission for registration.

The Memorandum of Understanding between the Pembrokeshire Coast National Park Authority (Authority) and the Pembrokeshire Coast National Park Trust (Trust) has now been drafted. Alongside the Constitution; which the Charity Commission request all unregistered Charities applying to form Charitable Incorporated Organisations complete, in order to become registered. Legal advice has been sought and both documents are included in this report for review and approval by Members.

The Charity Commission also requires the founding Trustees to be appointed prior to submitting an application to register a Charitable Trust. The founding Board of Trustees will consist of six Trustees in total, two of these will be Members of the Authority and the remaining four will be non-Members of the Authority. It is important for the Trust to be independent from the Authority and for that reason the majority of the Trustees should always be made of non-Members. This policy is in-line with other National Parks who have successfully registered Charities.

#### **Proposal**

To review and approve the Memorandum of Understanding and Constitution for the Pembrokeshire Coast National Park Trust.

To appoint two Members to become Trustees for the Pembrokeshire Coast National Park Trust. The remaining Trustees will then be appointed by the Member Trustees, subject to an interview process to assess suitability for the role.

Once the Trustees are in place and have agreed charitable objectives, the Memorandum of Understanding and the Constitution, an application can be submitted to the Charity Commission to register the Pembrokeshire Coast National Park Trust.

## **Financial Considerations**

The legal cost to review the Memorandum of Understanding, the Constitution and submit the application to the Charity Commission is £2000+VAT. In addition to this there will be annual costs for auditing the Trust of approx £1000+VAT. All other costs associated with the Trust are to be gifts in kind by the Authority, as laid out in the Memorandum of Understanding. There are no further costs anticipated at this time for setting up the Trust.

Should the Trust's establishment be a successful catalyst for receipt of significant financial donations, then forward resourcing can be considered at that point, with the benefit of any finances raised being made available to support any additional costs incurred.

## **Risk Considerations**

There is a risk that the Charity Commission won't consider the Trust as independent from the Authority.

This has been mitigated and is highly unlikely for the reasons laid out below:

- There is already a precedent for National Parks setting up independent Charitable Trusts.
- The Trust will have a separate bank account to the Authority and will be audited separately from the Authority.
- Non-Member Trustees will always have the majority on the Board of Trustees.

## **Equality Considerations**

The Trust will have a legal duty to comply with the Equality Act 2010.

The Trust will ensure its selection process for Trustees complies with equality legislation and best practice and that a clear code of conduct is in place for Trustee/Trustee Members.

## **Welsh Language Considerations**

All communications and marketing relating to the Trust will be available bilingually. Donor's language preferences will be sought, noted and adhered to. The public interface will comply with the Welsh Language Standards.

## **RECOMMENDATION**

- a) For Members to approve the Memorandum of Understanding and Constitution.***
- b) For Members to appoint two Members to become Trustees of the Trust.***
- c) For Members to agree an application can be submitted to the Charity Commission to register the Pembrokeshire Coast National Park Trust.***

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**Dated:** 10<sup>th</sup> April 2018

PEMBROKESHIRE COAST NATIONAL PARK AUTHORITY

PEMBROKESHIRE COAST NATIONAL PARK TRUST

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**Memorandum of Understanding**

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**BETWEEN:**

- (1) Pembrokeshire Coast National Park Authority of Llanion Park, Pembroke Dock, Pembrokeshire, SA72 6DY ("**PCNPA**"); and
- (2) Pembrokeshire Coast National Park Trust of Llanion Park, Pembroke Dock, Pembrokeshire, SA72 6DY ("**the Trust**").

**1. BACKGROUND**

- 1.1 PCNPA and The Trust have agreed to work together on the project detailed in Schedule 1 ("**Project**").
- 1.2 The parties wish to record the basis on which they will collaborate with each other on the Project. This Memorandum of Understanding ("**MoU**") sets out:
  - 1.2.1 the key objectives of the Project;
  - 1.2.2 the principles of collaboration; and
  - 1.2.3 the respective roles and responsibilities the parties will have during the Project.

**2. KEY OBJECTIVES FOR THE PROJECT**

The parties shall undertake the Project, between 2018 and 2023, to achieve the key objective set out in Schedule 1 to this MoU ("**Key Objective**").

**3. STATUS**

- 3.1 This MoU is not intended to be legally binding, and no legal obligations or legal rights shall arise between the parties from this MoU. The parties enter into the MoU intending to honour all their obligations.
- 3.2 Nothing in this MoU is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party as the agent of the other party, nor authorise either of the parties to make or enter into any commitments for or on behalf of the other party.

**4. PRINCIPLES OF COLLABORATION**

- 4.1 The parties agree to adopt the following principles when carrying out the Project ("**Principles**"):
  - 4.1.1 collaborate and co-operate;
  - 4.1.2 be accountable. Take on, manage and account to each other for performance of the respective roles and responsibilities set out in this MoU;
  - 4.1.3 be open. Communicate openly about concerns, issues or opportunities relating to the Project;
  - 4.1.4 learn, develop and seek to achieve full potential. Share information, experience, materials and skills, as appropriate, to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost;

- 4.1.5 adopt a positive outlook. Behave in a positive, proactive manner;
- 4.1.6 adhere to statutory requirements and best practice. Comply with applicable laws and standards including EU procurement rules, data protection and freedom of information legislation employment, safeguarding and health and safety legislation, fundraising and financial legislation and regulations (if applicable);
- 4.1.7 act in a timely manner;
- 4.1.8 manage stakeholders effectively;
- 4.1.9 deploy appropriate resources. Ensure sufficient and appropriately qualified resources are available and authorised to fulfil the responsibilities set out in this MoU; and
- 4.1.10 act in good faith to support achievement of the Key Objective and compliance with these Principles.

#### 4.2 **Meetings**

- 4.2.1 The Trust (represented by its Chair of trustees, Charity Director and/or another trustee) and the Chair and CEO of the PCNPA will meet at least two times a year. In addition, the Trust shall present an update on progress on an annual basis at the most appropriate meeting of the PCNPA.

### 5. **ROLES AND RESPONSIBILITIES**

- 5.1 The parties, to the extent that each determines that it is in their best interests to do so, shall undertake the roles and responsibilities set out in Schedule 2.
- 5.2 For the avoidance of doubt, either party may cease to undertake any of the roles and/or responsibilities set out in Schedule 2 if it determines that it is in its best interests.

### 6. **ESCALATION**

- 6.1 If either party has any issues, concerns or complaints about the Project, or any matter in this MoU, that party shall notify the other party and the parties shall then seek to resolve the issue by a process of consultation. If the issue cannot be resolved within a reasonable period of time, the matter shall be escalated to the CEO of the PCNPA in consultation with the Chair of the PCNPA and the Chair of the Trust, who shall decide on the appropriate course of action to take.
- 6.2 If either party receives any formal inquiry, complaint, claim or threat of action from a third party (including, but not limited to, claims made by a supplier or requests for information made under the Freedom of Information Act 2000) in relation to the Project, the matter shall be promptly referred to the CEO of the PCNPA in consultation with the Chair of the PCNPA and the Chair of the Trust. No action shall be taken in response to any such inquiry, complaint, claim or action, without the prior approval of the CEO of the PCNPA in consultation with the Chair of the PCNPA, and the Chair of the Trust.

### 7. **INTELLECTUAL PROPERTY**

- 7.1 The parties intend that notwithstanding any secondment any intellectual property rights created in the course of the Project shall vest in the party whose employee created them (or in the case of any intellectual property rights created jointly by employees of both parties in the party that is lead party noted in Schedule 3 below for the part of the Project that the intellectual property right relates to).

7.2 Where any intellectual property right vests in either party in accordance with the intention set out in clause 7.1 above, that party may grant a licence to the other party to use that intellectual property for the purposes of the Project.

**8. TERM AND TERMINATION**

8.1 This MoU shall commence on the date of signature by both parties, and shall expire on the fifth anniversary of the date of signature by both parties.

8.2 Either party may terminate this MoU by giving at least six months' notice in writing to the other party (such notice to be given on the anniversary of the date of this MoU only).

**9. VARIATION**

This MoU, including the Schedules, may only be varied by written agreement of both parties.

**10. CHARGES AND LIABILITIES**

10.1 Except as otherwise provided, the parties shall each bear their own costs and expenses incurred in complying with their obligations under this MoU.

10.2 Both parties shall remain liable for any losses or liabilities incurred due to their own or their employee's actions and neither party intends that the other party shall be liable for any loss it suffers as a result of this MoU.

**11. GOVERNING LAW AND JURISDICTION**

This MoU shall be governed by and construed in accordance with English and Welsh law and, without affecting the escalation procedure set out in clause 6, each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

<b>Signed for and on behalf of Pembrokeshire Coast National Park Authority</b>	
Signature:	.....
Name:	.....
Position:	.....
Date:	.....
<b>Signed for and on behalf of Pembrokeshire Coast National Park Trust</b>	
Signature:	.....
Name:	.....
Position:	.....
Date:	.....

## **SCHEDULE 1**

### **THE PROJECT**

#### **Key Objective**

Over the course of this MoU the parties agree to work together to establish a financially stable, independent charity to support the development and delivery of Pembrokeshire Coast National Park's Management Plan to the extent that it furthers the Trust's charitable objects as set out in its constitution.

#### **Provisions**

In accordance with this MoU:

The PCNPA agrees to: provide support, in the form of resource and income, until the 5th anniversary of this MoU. The resource will not be fixed and can be varied with agreement by both parties. However, initially the PCNPA commits to provide the following:

- Secondment of 0.8 of the PCNPA's External Funding Manager, to act as the Charity Director.
- Use of the Pembrokeshire Coast National Park Authority shared identity logo and/or any other appropriate logo developed by PCNPA
- Other resource (inclusive of accommodation, support and facility needs) as necessary to achieve the roles and responsibilities identified in this agreement and which the PCNPA is happy to provide.
- Adopt the Trust as its official charity.

The Pembrokeshire Coast National Park Trust agrees to:

- Use the resource provided by The PCNPA to fundraise for work and projects that support the Pembrokeshire Coast National Park's Management Plan, where this meets with the Trust's own charitable objects as set out in its constitution.
- Ensure best practice, through its governance, operation and fundraising in order not to bring the National Park into disrepute.



## SCHEDULE 2

### ROLES AND RESPONSIBILITIES

	<b>PCNPA</b>	<b>The Trust</b>
<b>1. Pembrokeshire Coast National Park Management Plan and Long Term Vision for the National Park</b>	With the relevant stakeholders, which will include a nominated individual from the Trust, amongst other organisations, carry out the consultation, drafting and approving of the Pembrokeshire Coast National Park Management Plan.	Input into the drafting and approval process of the Pembrokeshire Coast National Park Management Plan and assist in its delivery to the extent that this furthers the Trust's own charitable objects.
<b>2. Trust's Strategic Plan and Policies</b>	Provide the Trust with assistance by providing any expertise for the formation of the Trust's strategic plan, as agreed by the PCNPA and the Trust.  Annual review of progress towards the achievement of the National Park Management Plan at the Trust's AGM.	Determining the overall strategic direction of the Trust.  Including sub-strategies which expedite the implementation of the Strategic Plan.  Annual review of progress towards the Trust Strategic Plan, at the PCNPA's AGM.
<b>3. Fundraising</b>	Support of Trust fundraising activity through communications and marketing activity and other means as agreed between the PCNPA and the Trust.	Determining and driving forward fundraising strategy, plan and activity.  Ensure all activities are carried out in line with the relevant legislation and guidance from the Charity Commission and the Fundraising Regulator.
<b>4. Support</b>	Approval of the set-up funds and any periodic variations if further funds are needed in the future. As agreed between the PCNPA and the Trust.	Report to the PCNPA as required by its members, and at a minimum annually at the PCNPA's AGM.
<b>5. Annual Report &amp; Accounts</b>	Provide assistance as required with the drawing up of the Trust's Annual Report & Accounts.	Production of Annual Report and Accounts, and of the financial policies used therein, in conjunction with the Charity Director and relevant staff (inc the appointment of auditors where necessary).

<p><b>6. Cash, Funds and Assets</b></p>	<p>Provide assistance with preparation of financial policy proposals for the Trust (if requested to do so by the Trust) and arrangement of insurance cover.</p>	<p>Ensuring that the Trust remains solvent and ensuring the safe and secure management of all assets.</p> <p>Setting the financial investment, reserves and other policies and procedures and monitoring performance against them.</p>
<p><b>7. Risk Management</b></p>	<p>Provide assistance with preparations of risk assessment and management policy and procedure for the Trust (if requested to do so by the Trust).</p>	<p>Regular review and implementation of the Trust's Risk Register.</p> <p>Annual discussions of necessary changes to the Trust Risk Register to ensure continued robustness of the Trust's strategy.</p> <p>Maintenance of appropriate systems of internal control and risk management and provision of regular reports to Trustees.</p> <p>Ensuring that Trustees are advised of any material change to perceived risks, in line with Charity Commission guidance.</p>
<p><b>8. HR Issues</b></p>	<p>Line management of the Trust's Charity Director, plus the setting of the Charity Director's terms and conditions of employment/secondment.</p>	<p>Inputs into the current Charity Director's objectives, performance reviews (annual and otherwise) and the recruitment of any future replacement.</p>
<p><b>9. Health &amp; Safety plus Safeguarding</b></p>	<p>Provide assistance to the Trust on Health &amp; Safety matters.</p>	<p>Ensure that any activities entered into by the Trust have the required Health and Safety and Safeguarding measures (i.e. Children and Vulnerable Adults where applicable) in line with relevant legislation and best practice.</p>
<p><b>10. Communication Issues</b></p>	<p>May refer issues to the Trust to be considered by the trustees. Provide PR and other Communication support where requested by the Trust.</p>	<p>Production of the Trust's Communication Strategy</p> <p>The Trustees will sign off all press releases in the Trust's name and other statements related to the Trust where the statement is on a matter of public, political or reputational significance.</p>
<p><b>11. Grant Giving Matters, plus Other Charitable</b></p>	<p>Provide grant specific expertise and</p>	<p>Determining Trust grants and grant giving</p>

<b>Activity</b>	advice, where requested by the Trust.	policies, in line with its charitable objects. Approval of all grants to external bodies.
<b>12. Data</b>	Responsible for IT security and data management where systems are shared with the Trust subject to a formal agreement with the Trust.	Oversight of data systems and management processes. Responsible for the management of all data owned by the Trust.

## SCHEDULE 3

### CONTACTS

CONTACT POINTS	
<b>PCNPA</b>	
Name:	Tegryn Jones
Office address:	Pembrokeshire Coast National Park Authority, Llanion Park, Pembroke Dock, Pembrokeshire, SA72 6DY
Tel No:	01646624803
E-mail Address:	<a href="mailto:tegryni@pembrokeshirecoast.org.uk">tegryni@pembrokeshirecoast.org.uk</a>
<b>The Trust</b>	
Name:	TBC
Office Address:	Pembrokeshire Coast National Park Trust, Llanion Park, Pembroke Dock, Pembrokeshire, SA72 6DY
Tel No:	TBC
E-mail Address:	TBC

**PEMBROKESHIRE COAST NATIONAL PARK TRUST**

**CONSTITUTION OF A CHARITABLE INCORPORATED ORGANISATION WHOSE ONLY VOTING MEMBERS ARE ITS CHARITY TRUSTEES**

**(“Foundation” model constitution)**

**Date of constitution (last amended):**

.....

**1. Name**

The name of the Charitable Incorporated Organisation (“the CIO”) is PEMBROKESHIRE COAST NATIONAL PARK TRUST.

**2. National location of principal office**

The location of the principal office of the CIO is in Wales and may not be changed to be outside England and Wales.

**3. Objects**

3.1 The objects of the CIO for the public benefit, are:-

- (a) to promote the conservation, protection and enhancement of the physical and natural environment of the Pembrokeshire Coast National Park and surrounding area (“**the National Park**”), including wildlife within the National Park;
- (b) advancing the education of the general public about the importance of the physical and natural environment of the National Park, the wildlife within the National Park and natural landscapes generally;
- (c) advancing the physical and mental health of the general public, including but not exclusively by encouraging people to walk and take exercise within the National Park and through the provision of education and practical advice on the benefits of taking regular exercise; and
- (d) to promote, for the benefit of the people who live and work in the National Park and the surrounding area, the provision of facilities for recreation or other leisure time occupation for the public at large in the interests of social welfare and with the object of improving the conditions of life of said people.

**4. Powers**

4.1 The CIO has power to do anything which is calculated to further its objects or is conducive or incidental to doing so. In particular, the CIO has power to:

- (a) borrow money and to charge the whole or any part of its property as security for the repayment of the money borrowed. The CIO must

comply as appropriate with sections 124 and 125 of the Charities Act 2011, if it wishes to mortgage land;

- (b) buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use;
- (c) sell, lease or otherwise dispose of all or any part of the property belonging to the CIO. In exercising the power, the CIO must comply as appropriate with sections 117 and 119-123 of the Charities Act 2011;
- (d) employ and remunerate such staff as are necessary for carrying out the work of the CIO. The CIO 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 that clause;
- (e) deposit or invest funds, employ a professional fund-manager, and arrange for the investments or other property of the CIO 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;
- (f) make grants or loans of money and to give guarantees;
- (g) raise funds by any means other than taxable trading;
- (h) to cooperate with other bodies;
- (i) to amalgamate or merge with or support any other organisation, company or undertaking whose objects may (in the opinion of the charity trustees) advantageously be combined with the Objects;
- (j) to do anything else within the law which promotes or helps to promote the Objects.

## **5. Application of income and property**

5.1 The income and property of the CIO must be applied solely towards the promotion of the objects.

- (a) A charity trustee is entitled to be reimbursed from the property of the CIO or may pay out of such property reasonable expenses properly incurred by him or her when acting on behalf of the CIO.
- (b) A charity trustee may benefit from trustee indemnity insurance cover purchased at the CIO'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 the CIO may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to any member of the CIO.

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.

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

### **6.1 General provisions**

No charity trustee or connected person may:

- (a) buy or receive any goods or services from the CIO on terms preferential to those applicable to members of the public;
- (b) sell goods, services, or any interest in land to the CIO;
- (c) be employed by, or receive any remuneration from, the CIO;
- (d) receive any other financial benefit from the CIO;

unless the payment or benefit is permitted by sub-clause 6.2 of this clause 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**

- (a) A charity trustee or connected person may receive a benefit from the CIO as a beneficiary of the CIO provided that it is available generally to beneficiaries of the CIO.
- (b) 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 the CIO where that is permitted in accordance with, and subject to the conditions in, section 185 to 188 of the Charities Act 2011.
- (c) Subject to sub-clause 6.3 of this clause a charity trustee or connected person may provide the CIO with goods that are not supplied in connection with services provided to the CIO by the charity trustee or connected person.
- (d) A charity trustee or connected person may receive interest on money lent to the CIO at a reasonable and proper rate which must be not more than the Bank of England bank rate (also known as the base rate).
- (e) A charity trustee or connected person may receive rent for premises let by the trustee or connected person to the CIO. 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.
- (f) A charity trustee or connected person may take part in the normal trading and fundraising activities of the CIO on the same terms as members of the public.

### **6.3 Payment for supply of goods only - controls**

The CIO and its charity trustees may only rely upon the authority provided by sub-clause 6.2(c) of this clause if each of the following conditions is satisfied:

- (a) The amount or maximum amount of the payment for the goods is set out in a written agreement between the CIO and the charity trustee or connected person supplying the goods ("the supplier").
- (b) 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.
- (c) The other charity trustees are satisfied that it is in the best interests of the CIO 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.
- (d) 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 the CIO.
- (e) 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.
- (f) The reason for their decision is recorded by the charity trustees in the minute book.
- (g) 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:

- (a) "the CIO" includes any company in which the CIO:
  - (i) holds more than 50% of the shares; or
  - (ii) controls more than 50% of the voting rights attached to the shares; or
  - (iii) has the right to appoint one or more directors to the board of the company;
- (b) "connected person" includes any person within the definition set out in clause 30 (Interpretation);

## **7. Conflicts of interest and conflicts of loyalty**

7.1 A charity trustee must:

- (a) declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with the CIO



or in any transaction or arrangement entered into by the CIO which has not previously been declared; and

- (b) 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 the CIO and any personal interest (including but not limited to any financial interest).

Any charity trustee absents 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 the CIO if it is wound up**

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

## **9. Charity trustees**

### **9.1 Functions and duties of charity trustees**

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

- (a) to exercise his or her powers and to perform his or her functions in his or her capacity as a trustee of the CIO in the way he or she decides in good faith would be most likely to further the purposes of the CIO; and
- (b) to exercise, in the performance of those functions, such care and skill as is reasonable in the circumstances having regard in particular to:
  - (i) any special knowledge or experience that he or she has or holds himself or herself out as having; and,
  - (ii) if he or she acts as a charity trustee of the CIO 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.

### **9.2 Eligibility for trusteeship**

- (a) Every charity trustee must be a natural person.
- (b) No one individual may be appointed as a charity trustee of the CIO:
  - (i) if he or she is under the age of 16 years; or
  - (ii) if he or she would automatically cease to hold office under the provisions of clause 12.1(e).
- (c) No one is entitled to act as a charity trustee whether on appointment or on any re-appointment until he or she has expressly acknowledged, in whatever way the charity trustees decide, his or her acceptance of the office of charity trustee.

- (d) At least one of the trustees of the CIO must be 18 years of age or over. If there is no trustee aged at least 18 years, the remaining trustees may act only to call a meeting of the charity trustees, or appoint a new charity trustee.
- (e) At least one of the trustees (but no more than one third of the total number of charity trustees) shall be a member or members of the Pembrokeshire Coast National Park Authority.

**9.3 Number of charity trustees**

- (a) 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.
- (b) The maximum number of charity trustees is 12. The charity trustees may not appoint any charity trustee if as a result the number of charity trustees would exceed the maximum.

**9.4 First charity trustees**

The first charity trustees are as follows, and are appointed for the following terms -

- .....[for [2] years]
- .....[for [3] years]
- .....[for [3] years]
- .....[for [3] years]
- .....[for [4] years]
- .....[for [4] years]

**10. Appointment of charity trustees**

- 10.1 Apart from the first charity trustees, every trustee must be appointed for a term of three years by a resolution passed at a properly convened meeting of the charity trustees.
- 10.2 In selecting individuals for appointment as charity trustees, the charity trustees must have regard to the skills, knowledge and experience needed for the effective administration of the CIO.

**11. Information for new charity trustees**

- 11.1 The charity trustees will make available to each new charity trustee, on or before his or her first appointment:
  - (a) a copy of the current version of this constitution; and
  - (b) a copy of the CIO's latest Trustees' Annual Report and statement of accounts.

## **12. Retirement and removal of charity trustees**

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

- (a) retires by notifying the CIO 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);
- (b) 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;
- (c) dies;
- (d) becomes incapable by reason of mental disorder, illness or injury of managing and administering his or her own affairs; or
- (e) is disqualified from acting as a charity trustee by virtue of sections 178-180 of the Charities Act 2011 (or any statutory reenactment or modification of that provision).

12.2 Any person retiring as a charity trustee is eligible for reappointment.

12.3 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.

## **13. Taking of decisions by charity trustees**

13.1 Any decision may be taken either:

- (a) at a meeting of the charity trustees; or
- (b) by resolution in writing or electronic form agreed by a majority of the charity trustees, which may comprise either a single document or several documents containing the text of the resolution in like form to which the majority of all of the charity trustees has signified their agreement.

## **14. Delegation by charity trustees**

14.1 The charity trustees may delegate any of their powers or functions to a committee or committees, and, if they do, they shall 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.

14.2 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:

- (a) a committee may consist of two or more persons, but at least one member of each committee must be a charity trustee;
- (b) 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

- (c) the charity trustees shall from time to time review the arrangements which they have made for the delegation of their powers.

## **15. Meetings of charity trustees**

### **15.1 Calling meetings**

- (a) Any charity trustee may call a meeting of the charity trustees.
- (b) Subject to that, the charity trustees shall decide how their meetings are to be called, and what notice is required.

### **15.2 Chairing of meetings**

The first chair of trustees shall be appointed by the trustees who are members of Pembrokeshire Coast National Park Authority. Thereafter, 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.

### **15.3 Procedure at meetings**

- (a) 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.
- (b) Questions arising at a meeting shall be decided by a majority of those eligible to vote.
- (c) In the case of an equality of votes, the person who chairs the meeting shall have a second or casting vote.

### **15.4 Participation in meetings by electronic means**

- (a) 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.
- (b) 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.
- (c) Meetings held by electronic means must comply with rules for meetings, including chairing and the taking of minutes.

**16. Membership of the CIO**

- 16.1 The members of the CIO shall be its charity trustees for the time being. The only persons eligible to be members of the CIO are its charity trustees. Membership of the CIO cannot be transferred to anyone else.
- 16.2 Any member and charity trustee who ceases to be a charity trustee automatically ceases to be a member of the CIO.

**17. Informal or associate (non-voting) membership**

- 17.1 The charity trustees 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.
- 17.2 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.

**18. Decisions which must be made by the members of the CIO**

- 18.1 Any decision to:
- (a) amend the constitution of the CIO;
  - (b) amalgamate the CIO with, or transfer its undertaking to, one or more other CIOs, in accordance with the Charities Act 2011; or
  - (c) wind up or dissolve the CIO (including transferring its business to any other charity)

must be made by a resolution of the members of the CIO (rather than a resolution of the charity trustees).

- 18.2 Decisions of the members may be made either:
- (a) by resolution at a general meeting; or
  - (b) by resolution in writing, in accordance with sub-clause 18.4 of this clause.
- 18.3 Any decision specified in sub-clause 18.1 of this clause must be made in accordance with the provisions of clause 28 (amendment of constitution), clause 29 (Voluntary winding up or dissolution), or the provisions of the Charities Act 2011, the General Regulations or the Dissolution Regulations as applicable. Those provisions require the resolution to be agreed by a 75% majority of those members voting at a general meeting, or agreed by all members in writing.
- 18.4 Except where a resolution in writing must be agreed by all the members, such a resolution may be agreed by a simple majority of all the members who are entitled to vote on it. Such a resolution shall be effective provided that:

- (a) a copy of the proposed resolution has been sent to all the members eligible to vote; and
- (b) the required majority of members has signified its agreement to the resolution in a document or documents which are received at the principal office within the period of 28 days beginning with the circulation date. The document signifying a member's agreement must be authenticated by their signature, by a statement of their identity accompanying the document, or in such other manner as the CIO has specified.

The resolution in writing may comprise several copies to which one or more members has signified their agreement. Eligibility to vote on the resolution is limited to members who are members of the CIO on the date when the proposal is first circulated.

## **19. General meetings of members**

### **19.1 Calling of general meetings of members**

The charity trustees may designate any of their meetings as a general meeting of the members of the CIO. The purpose of such a meeting is to discharge any business which must by law be discharged by a resolution of the members of the CIO as specified in clause 18] (Decisions which must be made by the members of the CIO).

### **19.2 Notice of general meetings of members**

- (a) The minimum period of notice required to hold a general meeting of the members of the CIO is 14 days.
- (b) Except 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, a general meeting may be called by shorter notice if it is so agreed by a majority of the members of the CIO.
- (c) Proof 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.

### **19.3 Procedure at general meetings of members**

The provisions in clause 15.2 - 15.4 governing the chairing of meetings, procedure at meetings and participation in meetings by electronic means apply to any general meeting of the members, with all references to trustees to be taken as references to members.

## **20. Saving provisions**

- 20.1 Subject to sub-clause 20.2 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:

- (a) who was disqualified from holding office;
- (b) who had previously retired or who had been obliged by the constitution to vacate office;
- (c) who was not entitled to vote on the matter, whether by reason of a conflict of interest or otherwise;

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 20.1 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 sub-clause 20.1 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 The CIO shall execute documents either by signature or by affixing its seal (if it has one).
- 21.2 A document is validly executed by signature if it is signed by at least two of the charity trustees.

## **22. Use of electronic communications**

### **22.1 General**

The CIO will comply with the requirements of the Communications Provisions in the General Regulations and in particular:

- (a) 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;
- (b) any requirements to provide information to the Commission in a particular form or manner.

### **22.2 To the CIO**

Any member or charity trustee of the CIO may communicate electronically with the CIO to an address specified by the CIO for the purpose, so long as the communication is authenticated in a manner which is satisfactory to the CIO.

### **22.3 By the CIO**

- (a) Any member or charity trustee of the CIO, by providing the CIO with his or her email address or similar, is taken to have agreed to receive communications from the CIO in electronic form at that address, unless the member has indicated to the CIO his or her unwillingness to receive such communications in that form.

- (b) The charity trustees may, subject to compliance with any legal requirements, by means of publication on its website:
  - (i) provide the members with the notice referred to in clause 19.2 (Notice of general meetings);
  - (ii) give charity trustees notice of their meetings in accordance with clause 15.1 (Calling meetings); and
  - (iii) submit any proposal to the members or charity trustees for decision by written resolution or in accordance with the CIO's powers under clause 18.4 (Members' decisions), or 13 (Decisions taken by resolution in writing).
- (c) The charity trustees must –
  - (i) take reasonable steps to ensure that members and charity trustees are promptly notified of the publication of any such notice or proposal; and
  - (ii) send any such notice or proposal in hard copy form to any member or charity trustee who has not consented to receive communications in electronic form.

### **23. Keeping of Registers**

The CIO must comply with its obligations under the General Regulations in relation to the keeping of, and provision of access to, a (combined) register of its members and charity trustees.

### **24. Minutes**

24.1 The charity trustees must keep minutes of all:

- (a) appointments of officers made by the charity trustees;
- (b) proceedings at general meetings of the CIO;
- (c) meetings of the charity trustees and committees of charity trustees including:
  - (i) the names of the trustees present at the meeting;
  - (ii) the decisions made at the meetings; and
  - (iii) where appropriate the reasons for the decisions;
- (d) 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 account, and to the preparation of annual reports and returns. The statements of account, reports and returns must be sent to the Charity Commission, regardless of the income of the CIO, 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 the CIO entered on the Central Register of Charities.

## **26. Rules**

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 the CIO, but such rules or bye laws must not be inconsistent with any provision of this constitution. Copies of any such rules or bye laws currently in force must be made available to any member of the CIO on request.

## **27. Disputes**

If a dispute arises between members of the CIO 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 sections 224-227 of the Charities Act 2011:

- (a) This constitution can only be amended:
  - (i) by resolution agreed in writing by all members of the CIO; or
  - (ii) by a resolution passed by a 75% majority of those voting at a general meeting of the members of the CIO called in accordance with clause 18 (General meetings of members).
- (b) 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 the CIO or persons connected with them, requires the prior written consent of the Charity Commission.
- (c) No amendment that is inconsistent with the provisions of the Charities Act 2011 or the General Regulations shall be valid.
- (d) A copy of every resolution amending the constitution, together with a copy of the CIO's constitution as amended must be sent to the Commission by the end of the period of 15 days beginning with the date of passing of the resolution, and 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, the CIO may be dissolved by resolution of its members. Any decision by the members to wind up or dissolve the CIO can only be made:

- (a) at a general meeting of the members of the CIO called in accordance with clause 18 (General meetings of members), of which not less than 14 days' notice has been given to those eligible to attend and vote:
  - (i) by a resolution passed by a 75% majority of those voting, or
  - (ii) 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
- (b) by a resolution agreed in writing by all members of the CIO.

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

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

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

- (a) the charity trustees must send with their application to the Commission:
  - (i) a copy of the resolution passed by the members of the CIO;
  - (ii) declaration by the charity trustees that any debts and other liabilities of the CIO have been settled or otherwise provided for in full; and
  - (iii) a statement by the charity trustees setting out the way in which any property of the CIO has been or is to be applied prior to its dissolution in accordance with this constitution;
- (b) the charity trustees must ensure that a copy of the application is sent within seven days to every member and employee of the CIO, and to any charity trustee of the CIO who was not privy to the application.

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

### 30. Interpretation

In this constitution:

<p><b>connected person</b></p>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) a child, parent, grandchild, grandparent, brother or sister of the charity trustee;</li> <li>(b) the spouse or civil partner of the charity trustee or of any person falling within sub-clause (a) above;</li> <li>(c) a person carrying on business in partnership with the charity trustee or with any person falling within sub-clause (a) or (b) above;</li> <li>(d) an institution which is controlled: <ul style="list-style-type: none"> <li>(i) by the charity trustee or any connected person falling within sub-clauses (a), (b), or (c) above; or</li> <li>(ii) by two or more persons falling within sub-clauses (d)(i), when taken together</li> </ul> </li> <li>(e) a body corporate in which: <ul style="list-style-type: none"> <li>(i) the charity trustee or any connected person falling within sub-clauses (a) to (c) has a substantial interest; or</li> <li>(ii) two or more persons falling within sub-clause (e)(i) who, when taken together, have a substantial interest.</li> </ul> </li> </ul> <p>Sections 118 of the Charities Act 2011 apply for the purposes of interpreting the terms used in this constitution.</p>
<p><b>General Regulations</b></p>	<p>Means the Charitable Incorporated Organisations (General) Regulations 2012.</p>
<p><b>Dissolution Regulations</b></p>	<p>means the Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012.</p>
<p><b>Communications Provisions</b></p>	<p>means the Communications Provisions in Part 9 of the General Regulations.</p>

<b>charity trustee</b>	means a charity trustee of the CIO.
<b>Pembrokeshire Coast National Park Authority</b>	means the Pembrokeshire Coast National Park Authority whose office is at Llanion Park Pembroke Dock, Pembrokeshire, SA72 6DY.
<b>poll</b>	means a counted vote or ballot, usually (but not necessarily) in writing.
<b>taxable trading</b>	means carrying on a trade or business for the principal purpose of raising funds and not for the purpose of actually carrying out the objects, the profits of which are subject to corporation tax.

.....(Authorised signatory)

.....(Name)



Parc Cenedlaethol  
Arfordir Penfro  
Pembrokeshire Coast  
National Park

## Appointment Brief

### Trustee

#### Pembrokeshire Coast National Park Trust (PCNPA)

We are looking for exceptional people to form the first trustee board for a new charity, the Pembrokeshire Coast National Park Trust. The charity will look to generate income to protect and conserve the UK's only National Park which is primarily designated for its coastal landscape. This is a unique opportunity to be at the heart of shaping the future of our National Park and driving forward a new culture of giving to support this incredible Welsh asset.

#### Responsibilities

The board of trustees are responsible for the governance and ways of working of the charity. They will support staff to ensure that the Pembrokeshire Coast National Park Trust (PCNPT) is run in the most efficient and effective way and meets its duties in accordance with the requirements of the Charities Act 2011.

PCNPT will have a strong relationship with the Pembrokeshire Coast National Park Authority: carrying out its work in line with their Corporate and Management Plan, which seeks to conserve and enhance the National Park for the enjoyment of the public.

The board of trustees will also be responsible for driving forward our philanthropy programme by helping to secure significant support for projects that seek to achieve the charity's aims to conserve and enhance the National Park.

#### The Role

##### Assisting with the fundraising programme

- Work with External Fundraising Manager and any relevant Officer to identify potential major donors – philanthropists, companies, trusts and foundations
- To introduce new contacts to PCNPT from your personal or professional networks
- Actively seek financial support to assist the trust in its objectives
- Provide guidance and support on the future introduction and marketing of a broader fundraising programme

##### Represent the Pembrokeshire Coast National Park Trust

- Act as figureheads for the PCNPT fundraising programme, allowing the trust to use their names in literature, press releases and other materials
- Act as an ambassador for PCNPT, be passionate about its work and communicate this effectively to the external world
- To attend PCNPT's donor meetings and events whenever possible and participate in gaining support as requested

## **Charity governance and standards**

- To work in partnership with members of the Pembrokeshire Coast National Park Authority, in order to meet our shared objectives in respect of the National Park
- To help establish and advise on Governance issues, particularly those associated with the operational aspects of the charity
- To declare any conflict of interest while carrying out the duties of a trustee
- To participate in grant making panels as a representative of the PCNPT, as required
- To ensure that the PCNPT complies with its constitution, charity law and any other relevant legislation or regulation and has the resources, policies and structures necessary to be effective
- To contribute to the strategic direction of the organisation by setting overall policy, defining goals and regularly reviewing performance.
- To ensure that fundraising is conducted in line with the values of the organisation and in line with best practice, as established by the Fundraising Regulator
- To act in the best interests of PCNPT at all times
- To attend quarterly trustee meetings and the AGM

## **Personal Specifications**

- Strong relevant national networks or connections
- Ability to negotiate and influence others to secure results
- Ability to support and constructively challenge
- Ability to analyse and evaluate complex issues and options
- Ability to communicate clearly in non-technical language
- Ability to provide leadership and advocacy (in team or organisation)
- Knowledge of Income Generation and or Fundraising
- Financial awareness
- Strong creative and innovative thinker
- Integrity
- A willingness to devote the necessary time and effort to their duties as a trustee

## **Terms of Appointment**

- This is a volunteer position which is not remunerated. Travel and reasonable subsistence expenses will be reimbursed. You will not be employed by Pembrokeshire Coast National Park Trust
- The initial time commitment will be to support establishing the charity. Thereafter the commitment will be approx. 8 days per year.
- The position is initially offered on a 3 or 4 year renewable term.

## **How to Apply**

Interested parties should apply by the 20<sup>th</sup> May 2018, sending a CV and covering letter to Nichola Couceiro, External Funding Manager at [nicholac@pembrokeshirecoast.org.uk](mailto:nicholac@pembrokeshirecoast.org.uk). Or for more information about the role and Pembrokeshire Coast National Park Trust, please call 01646 642808.