



WPCC CONSTITUTION WORKING GROUP ("the Group") TERMS OF REFERENCE

Overriding Purpose

The purpose of the Group is to consider amendments necessary to WPCC's constitutional framework that will enhance WPCC's ability to achieve its fundamental purpose of preserving, protecting and enhancing the Commons for the purposes of exercise and recreation as established by the Wimbledon and Putney Commons Act 1871.

As such the review will consider the existing powers and rights that govern the activities that WPCC undertakes in meeting its duties and obligations with a view to identifying areas where existing powers and rights are effective, partially effective, ineffective or absent.

The review will identify areas where amendments to the constitutional framework are required in order to provide clarity, alignment, operational practicality and deliverability to WPCC's powers and rights and in doing so allow the organisation to consistently achieve high operational and strategic performance standards.

The relevant documentation that will be considered will include the Wimbledon and Putney Commons Act 1871 (as amended) as well as the Commissions Clauses Act of 1847 (as amended) and byelaws made under the 1871 Act, both of which are subordinate to the 1871 Act.

WPCC's obligations as a charity under the Charities Act 2011 are also relevant, particularly in governance matters.

In addition, policy documents that remain within the jurisdiction and control of WPCC will be considered as part of the review.

Context

There are three fundamental drivers behind the need to review the legislation:

1. Governance – The practical challenges of working under legislation dating from 1871 (and standing orders dating from 1847) complicate effective decision making as they are silent on many aspects of technological advances and good governance practice that we take for granted in the 21st century. The Charity Commission has also highlighted the need for WPCC to have a workable set of rules. Government Departments responsible for appointing Conservators have also questioned their own continued relevance in the governance of the charity.
2. Finance – Under the current funding arrangements, WPCC is unable to establish the sustainable long-term investment programme in its assets that is required.
3. Operations – Issues directly related to the existing constitutional framework present significant barriers to WPCC's ability to properly house machinery and staff, provide public amenities and effectively enforce operational policies.

Legal advice received in recent years has recognised that the constitution of the Charity needs reviewing. This is not about introducing a more permissive regime or diluting the fundamental purposes of the Charity, but about introducing a workable set of rules to enable the organisation to fulfil its core objectives.

The constitutional review must also recognise the very unique and special character of WPCC as well as the independence that the organisation enjoys. The review process should not be seen as

an attempt to standardise the organisation in line with other charities or other bodies with similar purposes.

Work of the Group

The Group is an advisory body and does not have decision making powers; it will make recommendations to the Board. The Group has no budget or authority to spend WPCC resources unless agreed by the Chief Executive and only then to a maximum of £500.

The Group will prepare progress reports to the Board at regular intervals. These reports should include details of:

- areas needing change, risks identified and priorities agreed;
- the reasons these changes are required;
- reviewing the available mechanisms for achieving the amendments to the constitution and recommending preferred option(s);
- considering alternative ways in which WPCC could resolve each of the problems it faces, other than via a scheme granting amended/new powers;
- the consultation strategy so that major stakeholders are aware of and can comment on any proposed changes.

Membership

The membership of the Group shall comprise the following:

- The Chief Executive who shall be Chairman;
- At least two Conservators;
- Up to three external representatives who have expertise, knowledge and understanding of charity law and/or a detailed knowledge of WPCC constitutional documents and/or are major users of the Commons;
- Additionally, as required from time to time, person(s) with specific relevant expertise/experience may be invited to advise the Group.

Meetings

It is proposed that the Group will initially meet on a monthly basis. These meetings may need to be supplemented by additional meetings as required by the Chairman. The Agenda for each meeting shall be prepared by the Chairman. Action Notes and recommendations of each meeting shall be taken and these shall be presented to the Board.

Non-Negotiable Issues

Wimbledon and Putney Commons Act 1871 (“the Act”)

The preamble to the Act sets out the principles that are not negotiable in terms of updating the Act to make it “fit for purpose” in the twentieth century. The Charity’s fundamental purpose is to protect the Commons and make it available for the purposes of exercise and recreation. The Act is supplemented by the Commissioners Clauses Act 1847 which deals with the constitution and regulation of Wimbledon and Putney Commons Conservators:

“And whereas it is expedient that provision be made for the transfer from Earl Spencer of his estate and interest in the commons to a body of Conservators to be constituted so as to represent both public and local interests.”

The public interest is currently represented by the three Government Departments and the local interest by elected Conservators. The wider public interest must be represented. The holding of triennial elections is a democratic non-negotiable process.

“whose duty it shall be to keep the commons for ever open, unenclosed and unbuilt on their natural aspect and state being, as far as may be, preserved”

It is the responsibility of the Conservators to keep the commons open and unenclosed and to preserve their natural aspect.

“And, to protect the turf, gorse, timber, and underwood thereon, and to preserve the same for, public and local use, for purposes of exercise and recreation, and other purposes.”

There are two underlying charitable principles – protection of the environment and making the site available for exercise and recreation.

“And where it is expedient that the body of Conservators to be constituted as aforesaid be empowered to raise a competent revenue principally by means of rates (special levy) to be levied upon such property as will primarily benefited the operation of this Act.”

The special levy raises funds to support the Wimbledon and Putney Commons Conservancy Fund.

“There shall be a body of Conservators for carrying this Act into execution, ..., and who are hereby incorporated by the name of the Wimbledon and Putney Conservators, and by that name shall be one body corporate, with perpetual succession and a common seal, and with power to take and hold and to dispose of (by grant, demise, or otherwise) land and other property.”

The Conservators are a statutory corporation and charity. They must exercise their powers for proper and exclusively charitable purposes. They must also act reasonably, having regard to relevant matters and disregard matters that are irrelevant.