

CONSTITUTION:-

1. The Name of the Trust is “The Burnham Overy Harbour and Commons Trust” (Herein after referred to as “The Trust”)
2. The Trustees of The Trust shall comprise one representative nominated by each of Burnham Overy Parish, Scolt Head and District Common Rights Holders Association, The Landowners and a one person elected to the position by a majority vote at the Annual General Meeting of the Trust.
3. The objects of the Trust are:
 - a) To manage the Harbour area and the adjacent Marshes in the Parishes of Burnham Overy and Burnham Norton, being the land comprising CL65 on the register of common land maintained by Norfolk County Council (“the Common”) for the benefit of all lawful users in a manner consistent with its status as registered common land.
 - b) To maintain and improve the Common, which incorporates the Creek and Harbour, and to control and regulate access to the Creek for those purposes.
 - c) To recognise the importance of the NNR, ANOB, SAC, SSSI and other environmental designations and protections, which from time to time may change or be applied.
 - d) To ensure that a Management Committee is in place, as defined in para 7 below, to deliver the aims and objectives stated above.
4. Membership of the Trust shall be open to the owner of any land within the Common (“a Landowner”), any Commoner as defined below¹, any Ratepayer in respect of property in the Parishes Burnham Overy and Burnham Norton and their immediate family members over the age of 18 years and persons over the age of 18 who can demonstrate strong local ties as determined by the Management Committee. Associate Membership will be open to any regular harbour user.

For the purposes of this Constitution, a Commoner is defined as any person who is registered as a Rightholder on the Commons Register identified as CL 65 and maintained by the Norfolk County Council. Rights are those Rights defined in the CL65 Commons Register and are more particularly described in the Appendix hereto.

5. The Annual subscription for members in the first year of the formation of the Trust shall be determined and varied by the Trust from time to time. However Commoners shall be exempt from any membership fee.
6. Any member may determine his or her membership status at any time by a request in writing to the Honorary Secretary.
7. Membership
 - a. The Management Committee may, on a Resolution passed by a simple majority of its members thereof, cancel the membership of any member of the Trust whose subscription (if applicable) is six months or more in arrears.
 - b. Save in respect of a Landowner or Commoner, the Trust may, following a recommendation of the Management Committee, on a Resolution passed by a majority of its members thereof, discontinue the membership of any member of the Trust for any other reason at the absolute discretion of the Trust, provided that prior to making any such recommendation, such person or persons shall have the right to attend and be heard by the Management Committee (save in those cases where the membership subscription is six months in arrears).
 - c. If the Trust believes that a Commoner is over-exercising his or her Right, or acting unlawfully, or not acting with due consideration to other legal users of the Common, the Trust shall report this matter to The Scolt Head & District Common Rightholders Association (SH&DCRA) for due consideration, which, if the view is supported, shall undertake all necessary measures to curtail the over-exercising of such a Commoner and to protect the Common, whether through the agency of the Commons Reeve or otherwise. When such requests are made it is expected that any enforcements decided by SH&DCRA will be supported by the Trust.
8. Management of the Trust shall be delegated to the Management Committee which shall meet quarterly and shall consist of the Chairman, Vice Chairman, Honorary Treasurer and Honorary Secretary elected biannually by members, and the further committee members who shall be nominated annually from the following bodies, who will notify the Management Committee in writing 14 days prior to the AGM: -

Scolt Head and District Common Rights Holders Association x 4
Landowner's representative x 1
Kings Lynn and West Norfolk District Council x 1
Burnham Norton Parish Meeting x 1
Burnham Overy Parish Council x 1

Invited, non-voting attendees to the Trust to act in an advisory position will be: -

Working Boats & Professional Fishermen at Burnham Overy Burnham Overy & Norton
x 1
Wildfowlers Association x 1
Natural England x 1
Burnham Overy Boathouse Ltd x 1
Burnham Overy Staithe Sailing Club x 1

9. In the event that voting is tied the Chairman shall have a casting vote in addition to his/her own vote.
10. The Trust is empowered to set up a Fairways sub-committee with the responsibility to advise on and manage moorings and mooring placement. The terms of reference of the Fairways Committee are set out in Appendix II. The responsibilities of the subcommittee will include collection of fees for moorings from non-common Rightholders if directed by the Trust Management Committee to do so. The sub-committee, with the agreement of the Trust, can appoint a paid moorings adviser if this is deemed necessary to protect the fairway and maintain its navigability.
11. The Management Committee shall instruct the Fairways sub-committee to maintain a register of fees received. The fees so collected shall be applied to the purposes of the Trust. The Trust agrees to pay the Common Rights Holders 10% of any fees collected
12. The Annual General Meeting shall be held on Good Friday every year. Twenty one day's notice shall be given to members. At the AGM there shall be elected a Chairman, Vice Chairman, Honorary Secretary and Honorary Treasurer for the ensuing year. Members of the Committee shall take office at the end of the Meeting at which they are elected and shall hold office until the end of the next Annual General Meeting. The Chairman for the time being of the Committee shall also be the Chairman of the Annual General Meeting.

Members of the Committee may be re-nominated by their respective bodies for further terms of office.

If the Chairman does not attend a meeting for any reason then the Committee shall elect a Chairman to conduct the business of that meeting from those Committee Members present at the meeting provided that there is a quorum in attendance.

13. The Honorary Treasurer shall keep accounts of all monies received and expended on behalf of the Trust and shall present such accounts at the Annual General Meeting of the Trust. Such accounts must be audited and approved by the Meeting. The Hon Treasurer shall open and maintain a Bank Account on behalf of the Trust and all cheques drawn upon the said account shall require two signatures of nominees of the Management Committee.
14. The Financial Year of the Trust shall end on 31st December in each year and a General Meeting of the Members and Associate Members shall be convened by the Honorary Secretary within six months thereafter for the purpose of receiving the Annual Report and Balance Sheet, for electing the Chairman, Honorary Secretary and Honorary Treasurer, to appoint an Auditor for the coming year and for considering any other business as may be necessary. Twenty one days' notice of such Meeting shall be sent to all Members and Associate Members requesting the information in any format deemed suitable to the committee. Fifteen Members present in person shall constitute a Quorum at the Annual General Meeting. In the event of a Quorum not being present the meeting shall be adjourned at such a place, date and time within the ensuing fourteen days as the Chairman shall decide and the Members present at such an adjourned Meeting shall constitute a Quorum.
15. Unless legally privileged, all meetings of the Management Committee should be considered open and members of the general public should have the ability to attend as observers. Dates of all meetings will be posted on the Parish Notice Boards of parishes within which the register Common of CL65 is situated, in the Parish magazines and on the Trust website, should one exist, or in any other readily available media as deemed suitable by the Trust.
16. An Extraordinary General Meeting may be convened at any time by a Resolution of the Committee or on the requisition of at least ten Members of the Trust such Resolution or Requisition stating the purpose of the Meeting. A Meeting held on such Requisition shall be held within thirty days of the receipt of such Requisition by the Honorary Secretary and who shall give to the other Members of the Trust twenty one days notice of such Meeting stating

the purpose of such Meeting. Only business on the published agenda shall be discussed. A Quorum shall be the same as the Quorum at the Annual General Meeting. Members may vote at an Extraordinary General Meeting by proxy in writing in favour of a Member.

17. Associate Members of the Trust shall have no power to vote in any Trust meeting. Only Committee members may vote in Management Committee meetings.
18. All matters not hereinbefore provided for and not involving an amendment to this Constitution shall be dealt with by the Management Committee.
19. The Trust at the Annual General Meeting by a Resolution proposed by the Management Committee and agreed by not less than three-quarters of Members present and voting, may amend this Constitution save that there shall be no power to amend the aims in Clauses 2 and 3 or the represented bodies in Clause 7 provided that no alteration shall be made which would have the effect of causing the Trust to cease to be a charity at law or be detrimental to any Commoners ability to exercise their Rights of Common. Consideration of the terms of the constitution of the Trust shall be an item for the AGM every fifth year.
20. Save in respect of any Landowner or Commons Rights Holder the Management Committee shall be allowed to charge for registration and licensing of craft for the purposes of mooring (under control of the Fairways sub-committee (see 9 above), parking and launching of boats, where income so derived and any donations shall be applied for the purposes of the Trust.
21. Any Commoner's vessels, working boats supporting the longshore / local economy, or any safety or emergency craft not subject to fees (as defined in para 19 above) must be demonstrated to be in proportion and reasonable for the exercising of Rights or the intended duty or service – such craft are encouraged to be registered and marked to show fee exemption.
22. Subject to delegation by the Trustees and use of their names if so required, the Management Committee shall be empowered to report the owners of boats for failure to comply with the requirements of the Management Committee, subject to the Law relating to Commons and all Commons Acts and all other relevant Acts and By-laws.
23. The Management Committee may co-opt special representatives or appoint sub-committees for delegation of powers and duties for specific matters as and when it so requires provided

that all undertakings, deeds and proceedings of any such sub-committee shall be fully reported back to the Committee as soon as possible. Any co-opted members will hold a non-voting status.

24. The Trust may be dissolved by a Resolution passed by a three-quarters majority of those present and voting at an Extraordinary General Meeting convened for the purposes of which 21 days' notice shall have been given to the Members. Such resolution may give instructions for the disposal of any assets held by or in the name of the Trust provided that if any property remains after the satisfaction of all debts and liabilities such property shall not be paid to or distributed among the members of the Trust but shall be given or transferred to such other institutions having objectives similar to some or all of the objectives of the Trust as the Trust may determine, with the approval of the Charity Commissioners or other authority having charitable jurisdiction, however any transfer must assure the Trust that any monies raised on the Common should not be removed from use on the Common.
25. If the Trust fails or is disbanded at any point in the future, the management of the Common will revert to the Commoners and Landowners.

Appendix I

Common rights over Norfolk County Council Commons Register unit CL65

By virtue of sections 3 and 16 of the Commons Act 2006 the identity of those holding rights of common over the registered unit CL65 is exclusively and conclusively recorded in the Rights Section of the Commons Register.

The nature of the rights held by the various common rights holders is conclusively recorded in the Rights Section of the Register. The rights are variously to take:-

Herbage
Estovers
Samphire
Reeds
Soil
Fish
Shellfish
Bait

Wildfowl

Game

Sand

Shingle

Sea Lavender

Tangle

To graze defined numbers of geese and cattle

The entitlement of the rights holders, in that capacity, is the exercise of such of the above rights as are recorded for their benefit, together with such ancillary rights as are reasonably necessary for the exercise of those rights.

The existence of a right of common does not confer upon the rights holder the entitlement to take an unlimited quantity of the subject produce. The right is subject to the principle that the rights holder is limited to taking "a sufficiency", being what is reasonably necessary for the purposes of the household benefitting from the right.

Appendix II

Terms of reference for the Fairways Committee