A Heart for Duns

SC045056

Constitution

Volunteer Hall, Langtongate, Duns TD11 3AF

Revised and updated 18 November 2024

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GENERAL

Type of organisation

1. The organisation is a Scottish Charitable Incorporated Organisation (SCIO) number SC045056.

Scottish principal office

2. The principal office of the organisation will be in Scotland (and must remain in Scotland).

Name

3. The name of the organisation is "A Heart for Duns".

Vison

4. AHFD will remain at the forefront of Community Led Planning for Duns and District focusing on entertainment, culture, well-being and helping combat social isolation.

Purposes

5. The organisation has been formed to primarily benefit the Community of Duns and District as defined by postcodes TD10 and TD11 **("the Community").** However, it is also intended to provide a service to benefit communities across Berwickshire (see note on Definition of 'Duns and district' in clause 114 below). Our Purposes, listed in the sub-clauses hereto **("the Purposes"),** will be exercised following the principles of sustainable development (where sustainable development means development which meets the needs of the present without compromising the ability of future generations to meet their own needs), namely:

   5.1. To provide a community hall and associated facilities for use by the people of Duns and District to advance citizenship and community development.

   5.2. To utilise the hall fully for the sole purpose of serving the needs of the community, including voluntary organisations, charities, businesses and social organisations.

   5.3. To operate an annual programme of events designed to involve all sections of the community, including adults, children and young people, disabled and older people.

   5.4. To offer the opportunity to hire the hall to a range of organisations and private individuals, for the purpose of supporting the advancement of the arts and community engagement.

   5.5. To underpin the operation of the hall with a robust and sustainable business and financial model designed to secure its long-term future as a community asset.

   5.6. To organise and support activities and events in Duns and District for community benefit.

Powers

6. The organisation has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so.

7. No part of the income or property of the organisation may be paid or transferred (directly or indirectly) to the members — either in the course of the organisation's existence or on dissolution.

Liability of members

8. The members of the organisation have no liability to pay any sums to help to meet the debts (or other liabilities) of the organisation if it is wound up; accordingly, if the organisation is unable to meet its debts, the members will not be held responsible.

9. The members and charity trustees have certain legal duties under the Charities and Trustee Investment (Scotland) Act 2005; and clause 8 does not exclude (or limit) any personal liabilities they might incur if they are in breach of those duties or in breach of other legal obligations or duties that apply to them personally.

General structure

10. The structure of the organisation consists of:

    10.1. the MEMBERS — who have the right to attend members' meetings (including any annual general meeting) and have important powers under the constitution; in particular, the members appoint people to serve on the board and take decisions on changes to the constitution itself;

    10.2. the BOARD — who hold regular meetings, and generally control the activities of the organisation; for example, the board is responsible for monitoring and controlling the financial position of the organisation.

    10.3. in addition, there are STRATEGIC PARTNERS — who may propose CHARITY TRUSTEES to the board for their consideration, subject to election by the members, and subject to anyone newly appointed being or becoming MEMBERS of the organisation.

11. The people serving on the board are referred to in this constitution as CHARITY TRUSTEES.

MEMBERS

Qualifications for membership

12. Membership is open to any individuals, aged 16 or over, who are residents of Duns and district, and who are committed to the aims and values of the organisation, as defined in our Strategic Plan that will be found on our website.

13. Employees of the organisation are not eligible for membership.

Application for membership

14. An individual or body can apply for membership (and in the case of an unincorporated body, can nominate an individual for membership) by accessing the charity's website (or, where applicable, links from the charity's website) and completing and submitting a form electronically, subject to the incorporation of appropriate security measures, or may submit a written application.

15. Applications shall be approved by the board and applicants advised accordingly

16. The board reserves the right to request signed hard copy documentation in any case where the board considers that to be appropriate.

Membership subscription

17. No membership subscription will be payable.

Register of members

18. The board must keep a register of members, setting out

    18.1. for each current member:

        18.1.1. his/her full name and address; and

18.1.2. the date on which he/she was registered as a member of the organisation;

18.2. for each former member — for at least six years from the date on which he/she ceased to be a member:

18.2.1. his/her name; and

18.2.2. the date on which he/she ceased to be a member.

19. The board must ensure that the register of members is updated within 28 days of any change:

19.1. which arises from a resolution of the board, or a resolution passed by the members of the organisation; or

19.2. which is notified to the organisation.

20. If a member or charity trustee of the organisation requests a copy of the register of members, the board must ensure that a copy is supplied to him/her within 28 days, providing the request is reasonable; if the request is made by a member (rather than a charity trustee), the board may provide a copy which has the addresses blanked out.

Withdrawal from membership

21. Any person who wants to withdraw from membership must give a written notice of withdrawal to the organisation, signed by him/her; he/she will cease to be a member as from the time when the notice is received by the organisation.

Transfer of membership

22. Membership of the organisation may not be transferred by a member.

Re-registration of members

23. The board may, at any time, issue notices to the members requiring them to confirm that they wish to remain as members of the organisation and allowing them a period of 28 days (running from the date of issue of the notice) to provide that confirmation to the board.

24. If a member fails to provide confirmation to the board (in writing or by e-mail) that he/she wishes to remain as a member of the organisation before the expiry of the 28-day period referred to in clause 23, the board may expel him/her from membership.

25. A notice under clause 23 will not be valid unless it refers specifically to the consequences (under clause 24) of failing to provide confirmation within the 28-day period.

Expulsion from membership

26. Any person may be expelled from membership by way of a resolution passed by not less than two-thirds of those present and voting at a members' meeting, providing the following procedures have been observed:

26.1. at least 21 days' notice of the intention to propose the resolution must be given to the member concerned, specifying the grounds for the proposed expulsion.

26.2. the member concerned will be entitled to be heard on the resolution at the members' meeting at which the resolution is proposed.

DECISION-MAKING BY THE MEMBERS

Members' meetings

27. The board must arrange a meeting of members (an annual general meeting or "AGM") in each calendar year.

28. The gap between one AGM and the next must not be longer than 15 months.

29. Notwithstanding clause 27, an AGM does not need to be held during the calendar year in which the organisation is formed; but the first AGM must still be held within 15 months of the date on which the organisation is formed.

30. The business of each AGM must include:

    30.1. a report by the Chair on the activities of the organisation;

    30.2. consideration of the annual accounts of the organisation;

    30.3. the election/re-election of charity trustees, as referred to in clauses 59 to 62

31. The board may arrange a special members' meeting at any time.

Power to request the board to arrange a special members' meeting

32. The board must arrange a special members' meeting if they are requested to do so by a notice (which may take the form of two or more documents in the same terms, each signed by one or more members) by members who amount to 5% or more of the total membership of the organisation at the time, providing:

    32.1. the notice states the purposes for which the meeting is to be held; and

    32.2. those purposes are not inconsistent with the terms of this constitution, the Charities and Trustee Investment (Scotland) Act 2005 or any other statutory provision.

33. If the board receive a notice under clause 32, the date for the meeting which they arrange in accordance with the notice must not be later than 28 days from the date on which they received the notice.

Notice of members' meetings

34. At least 14 clear days' notice must be given of any AGM or any special members' meeting.

35. The notice calling a members' meeting must specify in general terms what business is to be dealt with at the meeting; and

    35.1. in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s); or

    35.2. in the case of any other resolution falling within clause 46 (requirement for two-thirds majority) must set out the exact terms of the resolution.

36. The reference to "clear days" in clause 34 shall be taken to mean that, in calculating the period of notice,

    36.1. the day after the notices are posted (or sent by e-mail) should be excluded; and

    36.2. the day of the meeting itself should also be excluded.

37. Notice of every member's meeting must be given to all the members of the organisation, and to all the charity trustees; but the accidental omission to give notice to one or more members will not invalidate the proceedings at the meeting.

38. Any notice which requires to be given to a member under this constitution must be:

    38.1. sent by post to the member, at the address last notified by him/her to the organisation; or

    38.2. sent by e-mail to the member, at the e-mail address last notified by him/her to the organisation.

Procedure at members' meetings

39. No valid decisions can be taken at any members' meeting unless a quorum is either present in person or at an online meeting.

40. The quorum for a members' meeting is 20 members, present in person.

41. If a quorum is not present within 15 minutes after the time at which a members' meeting was due to start — or if a quorum ceases to be present during a members' meeting — the meeting cannot proceed; and fresh notices of meeting will require to be sent out, to deal with the business (or remaining business) which was intended to be conducted.

42. The Chair of the Board of Trustees should act as Chair of each members' meeting.

43. If the Chair of the organisation is not present within 15 minutes after the time at which the meeting was due to start (or is not willing to act as Chair of the meeting), the charity trustees present at the meeting must elect (from among themselves) the person who will act as Chair of that meeting.

Voting at members' meetings

44. Every member has one vote, which must be given personally.

45. All decisions at members' meetings will be made by majority vote — with the exception of the types of resolution listed in clause 46.

46. The following resolutions will be valid only if passed by not less than two-thirds of those voting on the resolution at a members' meeting (or if passed by way of a written resolution under clause 50):

    46.1. a resolution amending the constitution;

    46.2. a resolution expelling a person from membership under clause 26;

    46.3. a resolution directing the board to take any particular step (or directing the board not to take any particular step);

    46.4. a resolution approving the amalgamation of the organisation with another SCIO (or approving the constitution of the new SCIO to be constituted as the successor pursuant to that amalgamation);

    46.5. a resolution to the effect that all of the organisation's property, rights and liabilities should be transferred to another SCIO (or agreeing to the transfer from another SCIO of all of its property, rights and liabilities);

    46.6. a resolution for the winding up or dissolution of the organisation.

47. If there is an equal number of votes for and against any resolution, the Chair of the meeting will be entitled to a second (casting) vote.

48. A resolution put to the vote at a members' meeting will be decided on a show of hands — unless the Chair (or at least two other members present at the meeting) ask for a secret ballot.

49. The Chair will decide how any secret ballot is to be conducted, and he/she will declare the result of the ballot at the meeting.

Written resolutions by members

50. A resolution agreed to in writing (or by e-mail) by all the members will be as valid as if it had been passed at a members' meeting; the date of the resolution will be taken to be the date on which the last member agreed to it.

Minutes

51. The board must ensure that proper minutes are kept in relation to all members' meetings.

52. Minutes of members' meetings must include the names of those present; and (so far as possible) should be signed by the Chair of the meeting.

53. The board shall make available copies of the minutes referred to in clause 51 to any member of the public requesting them; but on the basis that the board may exclude confidential material to the extent permitted under clause 97.

BOARD

Number of charity trustees

54. The maximum number of Charity Trustees is 12. The number of Charity Trustees proposed by Strategic Members shall not exceed one quarter of the total number of Charity Trustees, and no trustee decision will be valid if taken at a trustee meeting where the total number of trustees proposed by Strategic Members is greater than the number of otherwise elected Charity Trustees present and voting.

55. The minimum number of Charity Trustees is 5.

Eligibility

56. A person will not be eligible for election or appointment to the board unless he/she is a member of the organisation.

57. A person will not be eligible for election or appointment to the board if he/she is:

    57.1. disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005; or

    57.2. an employee of the organisation.

Initial charity trustees

58. The individuals who signed the charity trustee declaration forms which accompanied the application for incorporation of the organisation shall be deemed to have been appointed by the members as charity trustees with effect from the date of incorporation of the organisation.

Election, retiral, re-election

59. At each AGM, the members may elect any member (unless he/she is debarred from membership under clause 57) to be a charity trustee.

60. The board may at any time appoint any member (unless he/she is debarred from membership under clause 57) to be a charity trustee.

61. The charity trustees will be subject to re-election after serving three years on the board.

62. Charity trustees may be re-elected for a maximum of three terms and then must stand down for a minimum of one year prior to seeking election for a further term.

Termination of office

63. A charity trustee will automatically cease to hold office if:

63.1. he/she becomes disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005;

63.2. he/she becomes incapable for medical reasons of carrying out his/her duties as a charity trustee — but only if that has continued (or is expected to continue) for a period of more than six months;

63.3. he/she ceases to be a member of the organisation;

63.4. he/she becomes an employee of the organisation;

63.5. he/she gives the organisation a notice of resignation, signed by him/her;

63.6. he/she is absent (without good reason, in the opinion of the board) from more than three consecutive meetings of the board — but only if the board resolves to remove him/her from office;

63.7. he/she is removed from office by resolution of the board on the grounds that he/she is considered to have committed a material breach of the code of conduct for charity trustees (as referred to in clause 81);

63.8. he/she is removed from office by resolution of the board on the grounds that he/she is considered to have been in serious or persistent breach of his/her duties under section 66(1) or (2) of the Charities and Trustee Investment (Scotland) Act 2005; or

63.9. he/she is removed from office by a resolution of the members passed at a

members' meeting.

64. A resolution under clause 62.7, 62.8 or 62.9 shall be valid only if:

64.1. the charity trustee who is the subject of the resolution is given reasonable prior written notice of the grounds upon which the resolution for his/her removal is to be proposed;

64.2. the charity trustee concerned is given the opportunity to address the meeting at which the resolution is proposed, prior to the resolution being put to the vote; and

64.3. (in the case of a resolution under clause 62.7 or 62.8) at least two-thirds (to the nearest round number) of the charity trustees then in office vote in favour of the resolution.

Register of charity trustees

65. The board must keep a register of charity trustees, setting out

65.1. for each current charity trustee:

65.1.1. his/her full name and address;

65.1.2. the date on which he/she was appointed as a charity trustee; and

65.1.3. any office held by him/her in the organisation;

65.2. for each former charity trustee — for at least 6 years from the date on which he/she ceased to be a charity trustee:

65.2.1. the name of the charity trustee;

65.2.2. any office held by him/her in the organisation; and

65.2.3. the date on which he/she ceased to be a charity trustee.

66. The board must ensure that the register of charity trustees is updated within 28 days of any change:

    66.1. which arises from a resolution of the board or a resolution passed by the members of the organisation; or

    66.2. which is notified to the organisation.

67. If any person requests a copy of the register of charity trustees, the board must ensure that a copy is supplied to him/her within 28 days, providing the request is reasonable; if the request is made by a person who is not a charity trustee of the organisation, the board may provide a copy which has the addresses blanked out — if AHFD is satisfied that including that information is likely to jeopardise the safety or security of any person or premises.

Office-bearers

68. The charity trustees must elect (from among themselves) a Chair, a treasurer and a secretary.

69. In addition to the office-bearers required under clause 68, the charity trustees may elect (from among themselves) further office-bearers if they consider that appropriate.

70. All of the office-bearers will cease to hold office at the conclusion of each AGM, but may then be re-elected under clause 68 or 69.

71. A person elected to any office will automatically cease to hold that office:

    71.1. if he/she ceases to be a charity trustee; or

    71.2. if he/she gives to the organisation a notice of resignation from that office, signed by him/her.

Powers of board

72. Except where this constitution states otherwise, the organisation (and its assets and operations) will be managed by the board; and the board may exercise all the powers of the organisation.

73. A meeting of the board at which a quorum is present may exercise all powers exercisable by the board.

74. The members may, by way of a resolution passed in compliance with clause 46 (requirement for two-thirds majority), direct the board to take any particular step or direct the board not to take any particular step; and the board shall give effect to any such direction accordingly.

Charity trustees — general duties

75. Each of the charity trustees has a duty, in exercising functions as a charity trustee, to act in the interests of the organisation; and, in particular, must:

    75.1. seek, in good faith, to ensure that the organisation acts in a manner which is in accordance with its purposes;

    75.2. act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;

    75.3. in circumstances giving rise to the possibility of a conflict of interest between the organisation and any other party:

        75.3.1. put the interests of the organisation before that of the other party;

        75.3.2. where any other duty prevents him/her from doing so, disclose the conflicting interest to the organisation and refrain from participating in any deliberation or decision of the other charity trustees with regard to the matter in question;

75.4. ensure that the organisation complies with any direction, requirement, notice or duty imposed under or by virtue of the Charities and Trustee Investment (Scotland) Act 2005.

76. In addition to the duties outlined in clause 75, all of the charity trustees must take such steps as are reasonably practicable for the purpose of ensuring:

76.1. that any breach of any of those duties by a charity trustee is corrected by the charity trustee concerned and not repeated; and

76.2. that any trustee who has been in serious and persistent breach of those duties is removed as a trustee.

77. Provided he/she has declared his/her interest — and has not voted on the question of whether or not the organisation should enter into the arrangement — a charity trustee will not be debarred from entering into an arrangement with the organisation in which he/she has a personal interest; and (subject to clause 78 and to the provisions relating to remuneration for services contained in the Charities and Trustee Investment (Scotland) Act 2005), he/she may retain any personal benefit which arises from that arrangement.

78. No charity trustee may serve as an employee (full time or part time) of the organisation; and no charity trustee may be given any remuneration by the organisation for carrying out his/her duties as a charity trustee.

79. The charity trustees may be paid all travelling and other expenses reasonably incurred by them in connection with carrying out their duties; this may include expenses relating to their attendance at meetings.

Code of conduct for charity trustees

80. Each of the charity trustees shall comply with a code of conduct (incorporating detailed rules on conflict of interest) prescribed by the board from time to time.

81. The code of conduct referred to in clause 80 shall be supplemental to the provisions relating to the Code of Conduct For Members of the Scottish Charity Regulator (OSCR June 2022) and the duties imposed on charity trustees under the Charities and Trustee Investment (Scotland) Act 2005; and all relevant provisions of this constitution shall be interpreted and applied in accordance with the provisions of the code of conduct in force from time to time

DECISION-MAKING BY THE CHARITY TRUSTEES

Notice of board meetings

82. Any charity trustee may call a meeting of the board *or* ask the secretary to call a meeting of the board.

83. At least 7 days' notice must be given of each board meeting, unless (in the opinion of the person calling the meeting) there is a degree of urgency which makes that inappropriate.

Procedure at board meetings

84. No valid decisions can be taken at a board meeting unless a quorum is present either physically, or virtually in an online conference; the quorum for board meetings is a minimum of 50% of the current number of charity trustees, or 3 if the number of trustees falls to the minimum number of trustees as stated in clause 55, present in person or virtually at an online meeting.

85. If at any time the number of charity trustees in office falls below the number stated as the quorum in clause 84, the remaining charity trustee(s) will have power to fill the vacancies or call a members' meeting — but will not be able to take any other valid decisions.

86. The Chair of the organisation should act as Chair of each board meeting.

87. If the Chair is not present within 15 minutes after the time at which the meeting was due to start (or is not willing to act as Chair of the meeting), the charity trustees present at the meeting must elect (from among themselves) the person who will act as Chair of that meeting.

88. Every charity trustee has one vote, which must be given personally.

89. All decisions at board meetings will be made by majority vote.

90. If there is an equal number of votes for and against any resolution, the Chair of the meeting will be entitled to a second (casting) vote.

91. The board may, at its discretion, allow any person to attend and speak at a board meeting notwithstanding that he/she is not a charity trustee — but on the basis that he/she must not participate in decision-making.

92. A charity trustee must not vote at a board meeting (or at a meeting of a sub- committee) on any resolution which relates to a matter in which he/she has a personal interest or duty which conflicts (or may conflict) with the interests of the organisation; he/she must withdraw from the meeting while an item of that nature is being dealt with.

93. For the purposes of clause 92:

    93.1. an interest held by an individual who is "connected" with the charity trustee under section 68(2) of the Charities and Trustee Investment (Scotland) Act 2005 (husband/wife, partner, child, parent, brother/sister, etc.) shall be deemed to be held by that charity trustee;

    93.2. a charity trustee will be deemed to have a personal interest in relation to a particular matter if a body in relation to which he/she is an employee, director, member of the management committee, officer or elected representative has an interest in that matter.

Minutes

94. The board must ensure that proper minutes are kept in relation to all board meetings and meetings of sub-committees.

95. The minutes to be kept under clause 94 must include the names of those present; and (so far as possible) should be signed by the Chair of the meeting.

96. The board shall (subject to clause 97) make available copies of the minutes referred to in clause 94 to any member of the public requesting them.

97. The board may exclude from any copy minutes made available to a member of the public under clause 96 any material which the board considers ought properly to be kept confidential — on the grounds that allowing access to such material could cause significant prejudice to the interests of the organisation or on the basis that the material contains reference to employee or other matters which it would be inappropriate to divulge.

ADMINISTRATION

Delegation to sub-committees

98. The board may delegate any of their powers to sub-committees; a sub-committee must include at least one charity trustee, but other members of a sub-committee need not be charity trustees.

99. The board may also delegate to the Chair of the organisation (or the holder of any other post) such of their powers as they may consider appropriate.

100. When delegating powers under clause 98 or 99, the board must set out appropriate conditions

(which must include an obligation to report regularly to the board).

101. Any delegation of powers under clause 98 or 99 may be revoked or altered by the board at any time.

102. The rules of procedure for each sub-committee, and the provisions relating to membership of each sub-committee, shall be set by the board.

Operation of accounts

103. Subject to clause 104, the signatures of two out of three signatories appointed by the board will be required in relation to all operations (other than the lodging of funds) on the bank and building society accounts held by the organisation; at least one out of the two signatures must be the signature of a charity trustee.

104. Where the organisation uses electronic facilities for the operation of any bank or building society account, the authorisations required for operations on that account must be consistent with the approach reflected in clause 103.

Accounting records and annual accounts

105. The board must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.

106. The board must prepare annual accounts, complying with all relevant statutory requirements; if an audit is required under any statutory provisions (or if the board consider that an audit would be appropriate for some other reason), the board should ensure that an audit of the accounts is carried out by a qualified auditor.

MISCELLANEOUS

Winding-up

107. If the organisation is to be wound up or dissolved, the winding-up or dissolution process will be carried out in accordance with the procedures set out under the Charities and Trustee Investment (Scotland) Act 2005.

108. Any surplus assets available to the organisation immediately preceding its winding up or dissolution must be used for purposes which are the same as — or which closely resemble — the purposes of the organisation as set out in this constitution.

109. Any portable or heritable property belonging to the organisation at the time of its winding up shall be transferred to a not for profit charity or charities to be used for charitable purposes which are the same as or closely resemble the purposes of the organisation.

Alterations to the constitution

110. This constitution may (subject to clause 111) be altered by resolution of the members passed at a members' meeting (subject to achieving the two-thirds majority referred to in clause 46) or by way of a written resolution of the members.

111. The Charities and Trustee Investment (Scotland) Act 2005 prohibits taking certain steps (such as change of name, an alteration to the purposes, amalgamation, winding-up) without the consent of the Office of the Scottish Charity Regulator (OSCR).

Interpretation

112. References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005

should be taken to include:

112.1. any statutory provision which adds to, modifies or replaces that Act; and

112.2. any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under clause 111.1 above.

113. In this constitution:

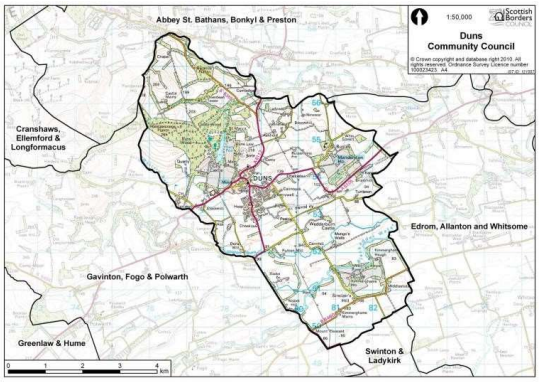
113.1. "charity" means a body which is either a "Scottish charity" within the meaning of section 13 of the Charities and Trustee Investment (Scotland) Act 2005 or a "charity" within the meaning of section 1 of the Charities Act 2006, providing (in either case) that its objects are limited to charitable purposes;

113.2. "charitable purpose" means a charitable purpose under section 7 of the Charities and Trustee Investment (Scotland) Act 2005 which is also regarded as a charitable purpose in relation to the application of the Taxes Acts.

Definition of 'Duns and district'

114. The nature of the Volunteer Hall is such that it often acts as a focus for large areas of Berwickshire. Duns is the historic county town and the Hall is the largest in the county. AHFD advertises widely and its activities are well supported across Berwickshire. Therefore, AHFD's core catchment area could be characterised as being:

114.1. Duns: as defined on the Community Council map



114.2. District: the area of postcodes TD11 and TD10

115. Although the activities carried out by AHFD primarily serve the area of TD11 and TD10, they are intended to supplement, not compete with, other, smaller, community activities and venues within the wider area as defined in the map below.

Adopted at a Meeting of A Heart for Duns, 5 May 2014, and amended at Special General Meetings of A Heart for Duns on 19th July 2017 and 29th March 2021. Further amended at the Annual General Meeting of A Heart for Duns on Monday 18th November 2024.

Amended and approved

Signed Name: Keith Dickinson

Position: Chairman Date: 18th November 2024