



<b><i>Document Name</i></b>	Board Manual
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# Draft Board Manual

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## **1. Who We Are and What We Do**

### **1.1 Who we are and What we do**

The Dublin Adult Learning Centre (**DALC**) is an adult basic education centre based in Dublin's north inner city. The centre provides individual and group tuition in reading, writing and spelling, IT Skills, numeracy and language learning for adults with reading and writing difficulties or low or no qualifications. The service provided is free. Each year, between 500 and 550 adults attend to improve their literacy and/or language skills.

DALC, formerly the Dublin for Literacy Scheme, was established in 1974 by the Dublin Diocese to provide adult basic education services to residents of Dublin's north inner city and was part of the Dublin Institute of Adult Education. In 1997 the Dublin Institute of Adult Education was wound up and the Dublin Adult Learning Centre was incorporated to take on the work of the literacy scheme.

DALC is a guarantee company (cgl) and a registered charity and is funded by the Department of Education and Science, City of Dublin Education and Training Board, The Department of Social Protection and Pobal.

Appendix A.1 contains a list of DALC's current directors and officers together with an Organisational Chart at Appendix A.2.

### **1.2 Mission Statement**

The Dublin Adult Learning Centre provides basic education services to ensure that everyone in the inner city has the opportunity to avail of their right to develop their literacy and numeracy skills.

### **1.3 DALC's Definition of Adult Basic Education**

Adult basic education is the means by which adults who lack confidence in their literacy levels develop reading, writing, personal and interpersonal skills using methods, which are learner-centred, creative and participative. It aims to enable adults to enhance their lives by exploring new possibilities and initiating constructive change.

### **1.4 Core Values**

- Student centred
- Community-based
- Respectful of the status of the adult learner
- Transformative

### **1.5 Strategic Development Plan**

DALC conducts a strategic planning process involving the charity trustees, management, staff,

and other stakeholders and develops a 3-year strategy and strategic implementation plan. See Appendix A.3 for the current plan.

## **2. DALC, A REGISTERED CHARITY AND A COMPANY LIMITED BY GUARANTEE**

### **2.1 DALC, A REGISTERED CHARITY AND A COMPANY LIMITED BY GUARANTEE**

DALC is a registered charity and a company limited by guarantee, or CLG for short. Charitable organisations that wish to incorporate usually choose to incorporate as a CLG. This is because:

- A. A CLG benefits from the usual advantages of incorporation, principally that the CLG has its own legal status separate from its members and the liability of the members to the CLG is limited.
- B. A CLG has no share capital. A charitable organisation is not permitted to make distributions of profits or capital to its members and, as a result, has no need of a share capital structure to determine relative distributions.
- C. The constitution of a CLG must set out its object or purpose. In this way, DALC will be in a position to evidence, as is required of a charitable organisation, that its purpose is exclusively charitable in nature.

The liability of the members to a CLG is limited to the amount which they agree in the CLG's constitution to contribute if the CLG is wound up and unable to pay its debts. This is typically a nominal amount and, in DALC's case, is the sum of €1 per member.

DALC's legal form (i.e. the CLG) is considered the most suitable for DALC for the reasons outlined above and also because DALC is required by the terms of its Service Level Agreement with its main funder, The City of Dublin ETB, to be incorporated as a company and to be a registered charity. The question of DALC's legal form is kept under review by the DALC Directors.

The constitution of DALC is set out in Appendix B.

### **2.2 DELEGATION OF POWER WITHIN DALC: MEMBERS, BOARD, CEO AND COMMITTEES**

#### **2.2.1 Power originates with Members**

The incorporation of DALC was arranged by its first members. These members subscribed to its constitution and delivered it to the Registrar of Companies and DALC was incorporated when the constitution was registered in the Register of Companies. Under company law, because of the role of the first members in the formation of a company, all power in the company is considered to originate with its members from time to time. These comprise any first member, and any person admitted to membership after incorporation, whose membership is continuing at the relevant time.

#### **2.2.2 Delegation by Members of Management Powers to Board**

As is usual, under the terms of the DALC constitution, the members of DALC have delegated a large element of their power to DALC's board of directors (the Board). DALC's constitution provides that the business and affairs of the company will be managed by the Board which will be DALC's administrative, co-ordinating and supervisory body. The constitution says that the Board may exercise all those powers of DALC that are not required by the Companies Act 2014 (the Companies

Act) or the constitution to be exercised by DALC in general meeting (i.e. by the DALC members). This delegation of powers is expressed to be subject to the Companies Act and the constitution and to any directions consistent with the terms of the delegation that are given by DALC in general meeting.

### **2.2.3 Delegation by Board to CEO of powers regarding day-to-day operations (subject to oversight)**

The Board is permitted by the DALC constitution to delegate any of its powers to executives or employees who are employed or engaged on such terms as the Board considers appropriate. It is important to understand that a delegation of Board powers is not a devolution or transfer of those powers to the delegate in question. The Board always retains a residual duty of supervision and oversight of the discharge of the delegated functions. The Board of DALC has delegated to the Chief Executive Officer (or CEO) powers in regard to the day-to-day operations of DALC, while reserving certain specific matters for decision by the Board. The Board oversees and supervises on an on-going basis the exercise by the CEO of the powers delegated to him or her. The CEO has the power to sub-delegate his or her powers to DALC employees subject to oversight by him or her. All executives and employees of DALC must comply with any policies and procedures issued by the Board from time to time. These include the Board's Policy on Policies which sets out the manner in which DALC policies and procedures must be developed, approved, reviewed and amended.

Those matters delegated by the Board to the CEO are set out below in at Section 2.10 The Role of the Chairperson and CEO), the list of matters that the Board has reserved to itself for decision is set out in Appendix C1, the Policy on Policies in C2 and links to DALC's operational policies are contained in Appendix D.

### **2.2.4 Delegation by Board to Committees (reporting to the Board)**

The Board of DALC has also exercised the facility given to it by DALC's constitution to delegate certain of its powers to committees of the Board (Committees). The creation of a Committee enables the Board to task the Committee members to focus on a particular area of the Board's responsibilities. The Committee members are typically Directors, and, where the Board considers it appropriate, non-Directors, who have expertise relevant to the particular area. The Committee will make reports and recommendations to the Board in order to assist the Board in fulfilling its responsibilities in respect of that area.

When the Board decides to establish a Committee, it typically approves a document called the Committee's Terms of Reference. The Terms of Reference will set out both the role of the Committee (i.e. its overall purpose and the specific duties and powers it will have) and the requirements of the Board as to the manner in which the Committee should carry out its role including requirements to report and/or make recommendations to the Board. These Committees are called standing Committees because they have an ongoing role. Occasionally the Board may form a temporary Committee to undertake a specific or short-term role and, in such a case, the duties, powers and authorities of the Committee, and any Board requirements regarding its operation, may be recorded in the resolution approving its creation. Every Committee must comply with its Terms of Reference or, as the case may be, the terms of the resolution which created the Committee.

The Terms of Reference of the three standing Committees of DALC are set out at Appendix C3-C5.

## 2.3 THE CONSTITUTION OF DALC

As a CLG, DALC's constitution must contain a memorandum of association and articles of association which are described below.

### 2.3.1 Memorandum of Association

**(i) Clauses Required by Company Law:** In accordance with the Companies Act, DALC's memorandum of association states its name; that it is a company limited by guarantee; its main object and its powers, that the liability of its members is limited and the undertaking of each member to contribute an amount (in DALC's case €1) to the assets of DALC if it is wound up and unable to pay its debts. DALC is not required to use the words "Company Limited by Guarantee" or "CLG" in its name. Like many charitable companies, it has sought and obtained an exemption from the requirement to do so.

**(ii) Charitable Purposes and Public Benefit:** As a charitable organisation, DALC must have exclusively charitable purposes which are of benefit to the public or a section of the public and all its activities must further those purposes. When DALC confers a benefit on a person otherwise than as a member of the public or a section of the public, e.g. on an employee of, or a supplier of goods and services to the charity, that private benefit must be both reasonable in all the circumstances and ancillary to, and necessary for, the furtherance of the public benefit. The Charities Regulator has provided helpful explanations of the nature of a charity and of a public benefit in its guides "What is a Charity?" and "What is a Public Benefit". These are available [here](#). All DALC Directors must read these guides.

DALC's main object is to advance education by the provision of literacy and other educational services to adults with reading and writing difficulties. Charitable purposes are considered to include the advancement of education provided that the necessary public benefit can be shown. DALC's memorandum of association also sets out the various powers which DALC may use solely to further its main object. By stating its main object in its memorandum of association and by ensuring that all its activities are in furtherance of that object, DALC is able to demonstrate that it has exclusively charitable purposes. In view of the educational service that DALC provides, it is also considered that DALC's activities directly benefit a section of the public (i.e. its students/learners) and also indirectly benefit at least the wider community in which DALC is located and the catchment area from which its students/learners are drawn.

The DALC Directors must ensure that DALC and its activities continue at all times to meet the requirements to be a charitable company. In particular they should ensure that:

- A. DALC's activities are always within the scope of its powers,
- B. those powers are exercised solely for the purposes of its main object,
- C. such object continues to be of benefit to the public or a sector of the public, and
- D. any private benefit conferred by DALC from time to time is both reasonable in all the circumstances and ancillary to, and necessary for, the furtherance of that public benefit.

**(iii) Specific Provisions Required by the Charities Regulator:** The memorandum of association of DALC also includes the following provisions which are required by the Charities Regulator to be contained in the governing documents of all charities:

- A. The income and property of DALC must be applied solely toward the promotion of its main object and must not be paid or transferred by way of profit to the members and DALC must not pay to its Directors any remuneration or other benefit other than reasonable and proper out-of-pocket expenses incurred by a Director as such. DALC is permitted to pay reasonable and proper remuneration to any of its members, officers or servants (other than a Director) for any services rendered to the Company.
- B. If there is a surplus on a winding-up of DALC, it must not be distributed to the members of DALC and must instead be transferred to some other charitable institution having a similar main object.
- C. No amendments may be made to these provisions required to be included by the Charities Regulator. If any other amendment of the constitution requires the Charities Regulator's prior approval, such approval must be sought and obtained before the amendment is made.

**(iv) Relationship between the Memorandum and the Articles:** The accepted rule is that the memorandum of association is the dominant document and that, in the event of any conflict between its provisions and those of articles of association, the relevant provision of the memorandum of association will prevail.

### **2.3.2 Articles of Association**

**(i) Regulations for the Governance of DALC:** DALC's articles of association set out regulations for the governance of DALC including the following matters:

- A. How a person may become, and cease to be a member, of DALC. Aside from the initial subscribers, a person may become a member of DALC only if admitted to membership by the Board.
- B. The holding of meetings of the members of DALC including provisions for the giving of notice and the manner in which such meetings must be conducted.
- C. The make-up and role of the DALC Board including the delegation to it by the members of the power to manage the business and affairs of the company; the delegation by it of its powers to executives/ employees; the procedures for the appointment, election, re-election and retirement of the Directors; the circumstances in which a Director's office will be vacated automatically; provisions regarding the holding of Board meetings; provisions regarding Directors' conflicts of interest and provisions regarding the establishment by the Board of Committees.
- D. The role of the Secretary of DALC who is appointed by the Directors for such term and on such conditions as they think fit.
- E. The maintenance of accounting records and the preparation of financial statements. More detailed requirements in this regard are contained in the Companies Act.
- F. A statement that the DALC Board will comply with the requirements of the Charities Act 2009 (the Charities Act) with regard to the transmission of DALC's returns to the Charities Regulator.
- G. Directors' and Officers' indemnities and insurance cover.

**(ii) Some key provisions of the Articles of Association relating to Directors:** The Articles require that the Board must consist of not less than 3 Directors or such other number of Directors as the Company may from time to time by resolution determine. The Charities Regulator expects that a



charitable company will have not less than 3 Directors who are not related and who are independent of each other.

The DALC Directors may appoint a person who is willing to act as a Director either to fill a vacancy or as an additional Director. Any such Director will hold office only until the next Annual General meeting (AGM) but will then be eligible for election by the members.

In addition, at each AGM one-third of the Directors, being those longest in office, must retire. A retiring Director will be eligible for re-election unless he or she has served as a Director for periods which in aggregate exceed 9 years.

The circumstances in which the office of a DALC Director will be vacated automatically (Article 13) include if the Director:

- A. is for more than six consecutive months absent without permission of the DALC Board from meetings of the Board or any Committee during that period and the Board passes a resolution that, by reason of such absence, the Director has vacated his or her office;
- B. is directly or indirectly interested in any contract with DALC and fails to disclose the nature of his or her interest in the manner required by the Companies Act;
- C. is required in writing by all his co-Directors to resign;
- D. by continuing in office would have served as a Director for periods which would in aggregate exceed 9 years; or
- E. undertakes an activity or behaves in such a way as, in the opinion of a two thirds majority of the other Directors in their absolute discretion, the interests of DALC would be prejudiced.

## **2.4. DALC GENERAL MEETING AND BOARD MEETINGS**

DALC's constitution provides for two main decision-making forums, namely the members' meeting and the Board meeting.

### **2.4.1 General Meetings**

A members' meeting, called a general meeting, must be held at least once a year. The business of the annual general meeting (AGM) includes consideration of DALC's statutory financial statements and the reports of the Directors and the Statutory Auditors, the review by the members of DALC's affairs, the election and re-election of Directors and the appointment or removal of DALC's Statutory Auditors. Other significant decisions, for example, to make changes to DALC's constitution or its name, are also reserved to the members. Changes of this kind must be approved by a special resolution of the members. A special resolution must either be passed by at least 75% of the members present and voting in person or by proxy at a general meeting or take the form of a special resolution in writing signed by all of the members. The constitution and company law prescribe in some detail the manner in which general meetings of DALC must be convened and held including the way in which, and the persons to whom, notice must be given of such meetings.

### **2.4.2 Board Meetings**

The Board of DALC will also need to meet to oversee and supervise the exercise by the CEO of the powers which the Board has delegated to him or her for managing the day-to-day operations of DALC and to take decisions on the matters which the Board has reserved to itself. The constitution and

company law are less prescriptive as to the manner in which such meetings should be held. The constitution of DALC provides that the Board may meet for the dispatch of its business, adjourn and otherwise regulate its meetings as it thinks fit subject to relatively few specific provisions. These provisions include that:

- A. the Board may elect one of its number to be the Chairperson and determine the period for which that person will hold office as such;
- B. the Chairperson may, and the Secretary, on request by a Director, shall, at any time summon a Board meeting on giving reasonable notice to the Directors (who may waive this requirement for notice);
- C. the number of Directors required to transact business at a Board meeting (i.e. the quorum) is 2;
- D. questions arising at a Board meeting will be decided by a majority of votes;
- E. in the case of an equality of votes, the Chairperson will have a second or casting vote;
- F. minutes must be kept of proceedings at Board meetings; and
- G. certain formalities must be followed where the Board uses the facility to hold an incorporeal meeting (i.e. where one or more Directors participate in the meeting by means of telephone or other means of audio communication).

The Directors may also pass a resolution in writing where each Director signs the resolution.

The constitution allows considerable discretion regarding other matters such as the frequency of, and the manner of giving notice of, Board meetings. Given this discretion, the Board of DALC has set parameters for the holding of Board meetings having regard to the needs of DALC and the standards and norms of corporate governance for charitable companies. There are typically 7 or 8 Board meetings per year, each of a duration of approximately 1 hour and 30 minutes. Regular Board meetings are scheduled in advance and, whenever possible, notice is given 7 days in advance of the scheduled date accompanied by an agenda, which follows a model approved by the Board, and relevant documents.

## **2.5 PRINCIPAL DUTIES OF DIRECTORS UNDER COMPANY LAW**

Each Director of DALC has duties under company law as the director of a company and duties under charities law as the trustee of a charitable organisation. These duties are broadly aligned. This section will briefly summarise the principal duties of a DALC Director under company law and section 2.6 will summarise the principal duties of a DALC Director as the charity trustee of a charitable organisation.

### **2.5.1 Duty to ensure Compliance by DALC with the Companies Act 2014**

It is the duty of each Director of DALC to ensure that the Companies Act is complied with by DALC. This duty may be enforced by the Courts on application by a member, creditor, the Corporate Enforcement Authority or the Registrar of Companies.

Directors should also be aware that many acts or omissions that are offences by a company under the Companies Act are also expressed to be offences “by an officer in default”. An officer in default is any officer of the company in question, including a Director, who authorises, or who, in breach of his or her duty as an officer, permits the default. In circumstances where it is proved that an officer was aware of the basic facts concerning a default of this type by the company, it will be presumed that

the officer permitted the default unless the officer shows that he or she took all reasonable steps to prevent it or that, by reason of circumstances beyond his or her control, was unable to do so.

Among the principal obligations of DALC under the Companies Act are:

- A. The obligation to keep, or cause to be kept, adequate accounting records. Such records must be kept on a continuous and consistent basis and must (among other requirements):
  - 1) correctly record and explain the transactions of DALC;
  - 2) enable at any time the assets, liabilities, financial position and profit or loss (i.e. surplus or deficit) of DALC to be determined with reasonable accuracy; and
  - 3) enable the DALC Directors to ensure that the DALC financial statements are prepared in accordance with applicable requirements and enable those financial statements to be audited.
- B. The obligation to hold an annual general meeting in accordance with the requirements of the Companies Act.
- C. The obligation to make an annual return to the Registrar of Companies annexing a copy of the relevant statutory financial statements, Directors' report and Statutory Auditors' report.
- D. The obligation to maintain in accordance with the requirements of the Companies Act certain registers including registers of members, of Directors and Secretaries, of Directors' interests in contracts, of minutes of general meetings, of minutes of Directors' and committee meetings and of instruments creating charges.

#### **2.5.2 Principal Obligations imposed directly on DALC Directors:**

In addition to their duties to ensure that DALC complies with its obligation under the Companies Act, the Companies Act imposes a number of specific obligations on the DALC Directors themselves. These include:

- A. The obligation to prepare a report each financial year for the members dealing with certain general matters of DALC, a business review and a statement on relevant audit information. The latter is a statement that, so far as the Directors are aware, there is no audit information of which DALC's Statutory Auditors are unaware and that the Directors have taken all necessary steps to ensure that DALC's Statutory Auditors are aware of any relevant audit information.
- B. The obligation to arrange for DALC's financial statements to be audited by a statutory auditor.
- C. The obligation in respect of each financial year to lay before DALC in general meeting copies of the DALC financial statements and the Directors' report for that financial year and the Statutory Auditors' report on those documents.
- D. The obligation to ensure that the person appointed as Secretary of DALC has the skills and resources necessary to discharge his or her statutory and other duties.
- E. The obligation not to be a Director of more than 25 companies subject to limited exceptions.

#### **2.5.3 Principal Fiduciary Duties of DALC Directors**

- (i) **Codified Fiduciary Duties:** The duties which DALC Directors owe to DALC include the following fiduciary duties which are based on common law and equitable principles and which have been codified on a non-exhaustive basis in the Companies Act:

- A. To act in good faith in what the DALC Director considers to be the interests of DALC. The interests of a (solvent) company are considered to equate to the interests of the members of the company as a whole. The members of a charitable company are considered to have a fiduciary duty to act in the interests of the charitable objectives of the company and accordingly their interests comprise the promotion of those charitable objectives.
- B. To act honestly and responsibly in relation to the conduct of the affairs of DALC.\*
- C. To act in accordance with DALC's constitution and exercise his or her powers only for purposes allowed by law.
- D. Not to use DALC's property, information or opportunities for his or her own or anyone else's benefit (the duty regarding use of DALC property) unless this is expressly permitted by DALC's constitution (see below Section 2.5.3 (ii)) or approved by a resolution of DALC in general meeting.
- E. Not to agree to restrict the Director's power to exercise an independent judgement unless this is expressly permitted by DALC's constitution or is within the scope of a limited exception facilitating the entry into a transaction which the Director considers in good faith is in the interests of DALC or is approved by a resolution of DALC in general meeting.
- F. To avoid any conflict between the Director's duties to DALC and the Director's other interests including personal interests (the duty to avoid conflicts) unless the Director is released from his duty to DALC in relation to the matter concerned in accordance with DALC's constitution (see below) or by a resolution of DALC in general meeting.
- G. To exercise the care, skill and diligence which would be exercised in the same circumstances by a reasonable person having both the knowledge and experience that may reasonably be expected of a person in the same position as the DALC Director and the knowledge and experience which the Director has.
- H. To have regard to the interests of DALC's members (see first bullet above).\*
- I. To have regard to the interests of creditors where the Directors become aware of DALC's insolvency (see section 2.5.4 below).
- J. To include in the matters to which they have regard in the performance of their functions, the interests of the employees of DALC in general as well as the interests of the members.\*

***(ii) Provisions of the Articles of Association:***

DALC's articles of association contain provisions which, on their face, relax the strict duties regarding use of DALC's property and to avoid conflicts of interest and which provide that:

1. unless the members of DALC otherwise determine and subject to the Articles, a DALC Director may use for his own benefit any of the Company's property where such use is reasonable and merely incidental to the due and proper performance of his duties as a DALC Director and the other DALC Directors have given their consent whether express or implied;
2. subject to having disclosed any interest as required under the Companies Act, a DALC Director may be a party to or interested in any transaction or arrangement with DALC or in which DALC is otherwise interested or be a director, other officer or employee of, or transact with or be interested in, any body corporate promoted by DALC or in which DALC is interested and will not, by reason of being a DALC Director, be accountable to DALC for any benefit which he or she derives as a result.

These provisions might, on their face, suggest a broad discretion regarding Directors' use of DALC's property and entry into transactions with or connected with DALC. However, Directors should be aware that these provisions have very limited effect. This is because they must be interpreted in a manner which is consistent with both DALC's obligations as a charitable organisation outlined at Section 2.3.1 of this Manual (in regard to public and private benefit) and the specific requirements of DALC's memorandum of association that DALC's income and property must be applied solely towards the promotion of its main object and that no DALC Director may receive any remuneration or other benefit in money or money's worth from DALC (subject to the limited exceptions for specific transactions in Clause 5 of DALC's memorandum of association). A DALC Director should be guided in regard to these matters by the DALC Directors' Code of Conduct and Conflicts of Interest Policy set out in Appendix C6 and by Section 2.8 of this Manual.

**(iii) Remedies for breach of fiduciary duties:** An action for breach of a DALC Director's fiduciary duties may be taken by DALC (instigated by the Board or, in certain circumstances, by the members) or, if DALC went into liquidation, by the liquidator. The action may be to recover damages for breach of duty and/or, in the case of a duty which is not marked with an asterisk above, to account to DALC for any gain which the director in question makes from the breach of duty and/or to indemnify DALC for any loss or damage resulting from the breach. The Court is empowered to relieve a DALC Director from personal liability in cases of negligence, default or breach of duty or trust, if it appears to the Court that the Director has acted honestly and reasonably and that, having regard to all the circumstances of the case, he or she ought fairly to be excused for the wrong concerned.

In addition, if in the course of the liquidation of a company, it appears that a Director or former Director has misapplied or retained any property or money of the company, or is guilty of any misfeasance or other breach of duty or trust in relation to the company, the Court may compel him or her to restore, with interest at such rate as the Court thinks just, any such money or property or to contribute such sum to the assets of the company by way of compensation as the Court thinks just.

**(iv) Restricted Transactions and Disclosure of Conflicts:** Where a company enters into a transaction with a Director or a person connected with a Director<sup>1</sup>, a conflict of interest will arise for the Director and the potential for a breach of the Director's fiduciary duties may be heightened. (See the DALC Directors' Conflicts of Interest Policy for more information about the persons considered to be connected with a director for this purpose.) Accordingly, in addition to its provisions regarding the disclosure of Directors' interests in contracts (see below), the Companies Act contains detailed provisions limiting the circumstances in which, and regulating the procedures in accordance with which, certain transactions may be made between a company and its Directors or persons connected with its Directors.

These transactions include loans, quasi-loans, guarantees, credit transactions, the acquisition of non-cash assets and service contracts. A transaction entered into in breach of the requirements of the Companies Act may be voidable and may give rise to civil and/or criminal penalties for the Director in question.

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<sup>1</sup> See the DALC Directors' Conflicts of Interest Policy at Appendix C7 for more information about the persons considered to be connected with a director for this purpose.

DALC is a charitable company and is prohibited by its memorandum of association from paying any salary, fees, remuneration or other benefit in money or money's worth to the DALC Directors. The circumstances in which DALC is permitted to make a payment in good faith to a DALC Director are very limited (see Clause 5.2-6 of the DALC memorandum of association). Even these limited permitted transactions have not arisen in practice although reimbursement is available, should it be sought, for reasonable and proper out-of-pocket expenses incurred in connection with a Director's attendance to any matter affecting DALC (see the expenses policy at Section 2.8.3 of this Manual). Accordingly, this Manual does not summarise the provisions of the Companies Acts regulating the kind of transactions referred to above between a company and its Directors or any connected persons. DALC's Directors should note, however, that if such a transaction was ever proposed, those provisions would have to be carefully considered and complied with, along with DALC's memorandum of association, the principles of charities law and any other relevant considerations.

The DALC Directors' Conflicts of Interest Policy is appended to the DALC Code of Conduct for Board Members (see Appendix C.6). It includes a summary of the requirements of the Companies Act regarding the disclosure of the interests of a Director (direct or indirect) in an existing, or proposed, contract, transaction or arrangement with DALC.

#### **2.5.4 Financial Difficulties and Insolvency**

**(i) *Matters to which Directors must have regard:*** The fiduciary duty of a DALC Director to have regard to the interests of the creditors of DALC where the Directors become aware of the insolvency of DALC is referred to in section 2.5.3 (i) (I)] above. In addition, there are certain circumstances relating to the financial position of the company, in which a DALC Director has a duty owed to DALC to have regard to the interests of DALC's creditors; the need to take steps to avoid insolvency; and the need to avoid deliberate or grossly negligent conduct that threatens the viability of DALC's business. The relevant circumstances are where the DALC Director believes or has reasonable cause to believe that:

- A. DALC is, or likely to be, unable to pay its debts as they fall due; or
- B. the value of DALC's assets is, or is likely to be, less than its liabilities, taking into account its contingent and prospective liabilities; or
- C. either of the following circumstances arises or is likely to arise:
  - a creditor owed a sum by DALC exceeding €10,000 then due, or 2 or more creditors owed an aggregate sum by DALC exceeding €20,000 then due, serve(s) on DALC a demand in writing to pay the sum and DALC has for 21 days after the date of service failed to pay the sum (or secure or compound for it to the reasonable satisfaction of the creditor(s) <sup>2</sup>or
  - execution or other process issued on a judgment, decree or order of any court in favour of a creditor of DALC is returned unsatisfied in whole or in part.

**(ii) *Early Warning Tools:*** The Companies Act provides that a Director of a company may have regard to early warning tools. These are mechanisms to alert the Directors to circumstances that could give rise to a likelihood that the company will be unable to pay its debts and can identify the

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<sup>2</sup> Note that until 31 December 2023 the applicable amount in each case will be €50,000.

restructuring frameworks available to the company and signal to the Directors the need to act without delay.

The Corporate Enforcement Authority has given some guidance on early warning tools. It has said that two key steps that the Directors of a company can take to ensure that they are aware on an ongoing basis of the company's financial position are to ensure that adequate accounting records are maintained (see section 2.5.1(A) above) and that management accounts are prepared and considered by the Directors on a regular basis which may be supplemented by the regular production of budgets and cash flow forecasts. Such information should assist Directors to track the relative value of the company's assets and liabilities and whether the company is in a position to meet its liabilities as they fall due, is operating within its budget and whether its projected cash flows are likely to be sufficient to meet its obligations. In addition, they point out that it would be responsible for Directors to incorporate consideration of the prevailing economic circumstances into its review and assessment of the company's current and future likely performance, funding and capacity to discharge debts as they fall due etc.

***If any of the financial circumstances described above arise, or if the DALC Directors have any concerns regarding the financial position of DALC, they should consider taking professional advice to ensure that appropriate steps are taken in response.***

#### **2.5.5 Director's Personal Liability for Company Debts**

In normal circumstances, the debts and liabilities of DALC will be the responsibility only of the company itself. In some limited circumstances, a Court may hold a Director or former Director of the company fully or partly liable for such debts and liabilities.

**(i) *Inadequate Accounting Records:*** The statutory ground which is considered most likely to give rise to such personal liability as a matter of practice relates to circumstances where a company is being wound up and is insolvent and has failed to comply with the requirements of the Companies Act regarding adequate accounting records. If the Court considers that such failure has contributed to the company's inability to pay its debts or resulted in substantial uncertainty as to the assets and liabilities of the company or substantially impeded the winding up, it may declare that a Director or former Director who is in default is personally liable for all or a specific part of the debts and liabilities of the company.

The Court will not make such a declaration if it considers that the Director or former Director took all reasonable steps to secure compliance by the company or had reasonable grounds for believing, and did believe, that a competent and reliable person, acting under the supervision and control of a Director of the company who has been formally allocated such responsibility, was charged with the duty of ensuring those requirements were complied with and was in a position to discharge that duty.

**(ii) *Other Circumstances in which Personal Liability may arise:*** Other circumstances in which a Director or former Director may be held personally liable for a company's debts and liabilities include where he or she:

- A. was knowingly a party to the carrying on of the business of the company (now in liquidation or examinership) in a reckless manner or is deemed to have been such a party (reckless

trading) or with an intent to defraud its creditors or creditors of any person or for any fraudulent purpose (fraudulent trading);\*

- B. makes a declaration of solvency of the company without having reasonable grounds;
- C. benefits from a loan or guarantee or credit transaction which contributes to the company's inability to pay its debts;
- D. signs certain instruments including a cheque or order for money or goods in which the company's name is not correctly and legibly mentioned (in this case the liability would be for the amount due on the instrument unless it is paid by the company or the Court considers no injustice will be done by imposing that liability on the company);\*
- E. acts as director in breach of restriction or disqualification order (see Section 2.5.7 below) and the company is wound up being unable to pay its debts;\* or acts under directions of a disqualified person.\*

The acts marked with an asterisk are also criminal offences and the other actions may also comprise or involve a criminal offence depending on the circumstances (e.g. knowingly making a false statutory declaration is an offence).

### 2.5.6 Criminal Offences under the Companies Act

**(i) Summary and Indictable Offences:** The Companies Act provides for two types of criminal offence: summary and indictable. A summary offence is less serious and is tried before a judge in the District Court. Indictable offences are more serious in nature. They can be tried either in the District Court before a judge or in the Circuit Court before a judge and jury. In the case of the latter, the indictable offence is said to be prosecuted on indictment and the penalties are considerably higher. The Court may also order that a convicted person must remedy the breach of the Companies Act in respect of which he or she has been convicted.

**(ii) Categories of Offences:** The Companies Act provides for four categories of offence:

- A. Category 1: *summary conviction* – fine of €5,000 (a “Class A Fine”) and/or imprisonment for up to 12 months; *conviction on indictment* - fine not exceeding €500,000 and/or imprisonment for up to 10 years;
- B. Category 2: *summary conviction* – Class A Fine and/or imprisonment for up to 12 months; *conviction on indictment* - fine not exceeding €50,000 and/or imprisonment for up to five years;
- C. Category 3: *summary conviction only* – Class A Fine and/or imprisonment for up to six months; and
- D. Category 4: *summary conviction only* – Class A Fine.

Some examples of offences falling within each of these categories are set out in Schedule 1.

### 2.5.7 Disqualification or Restriction of a Person as a Director

**(i) Disqualification Order:** The Court may make a disqualification order in respect of a Director on a number of grounds including that he or she:

- A. has been convicted on indictment of any offence under the Companies Act or other offence involving fraud or dishonesty (disqualification on this ground is automatic);
- B. has been guilty of two or more offences in relation to accounting records;
- C. has been guilty of persistent defaults under the Companies Act;



- D. has been guilty of any fraud in relation to the company or breach of duty as a Director; or
- E. has been guilty of fraudulent or reckless trading.

A disqualified Director must not be appointed or act as a Director or other officer or be in any way concerned in the promotion, formation or management of a company for the period of his or her disqualification.

**(ii) Restriction Order:** A Director<sup>3</sup> of an insolvent company which goes into liquidation or receivership will be restricted as a Director for a period of up to five years unless he or she satisfies the Court of three matters. These are that the Director acted honestly and responsibly in relation to the conduct of the affairs of the company; has, when requested, co-operated as far as could reasonably be expected in relation to the conduct of the winding up/receivership and there is no other reason why it would be just and equitable that the Director should be restricted. A restriction prevents a person from being appointed or acting in any way, directly or indirectly, as a Director or Secretary or being involved in the formation or promotion of any company which does not meet certain capital requirements. A restricted person who continues in office as a Director of a company which does not meet those requirements commits an offence and will be automatically disqualified.

**(iii) Disqualification/Restriction Undertaking:** There is also a facility whereby, in certain circumstances, the Corporate Enforcement Authority may accept a voluntary disqualification or restriction undertaking from a Director without the necessity for an application to Court.

#### **2.5.8 Indemnification of Directors and Officers and D&O Insurance**

The Companies Act strictly limits the extent to which DALC may exempt a DALC Director or other officer from, or indemnify a DALC Director or other officer against, any liability which would otherwise attach to him or her for negligence, breach of duty or breach of trust in relation to DALC. The limited exception is for an indemnity against liability incurred by the DALC Director or other officer in defending civil or criminal proceedings in which he or she is exonerated or in connection with any proceedings or application for relief from liability in which the Court grants relief to him or her. DALC's constitution contains an indemnity in Article 25.1 within the scope of this exemption.

A company is permitted to purchase and maintain insurance for any of its officers in respect of any liability which would otherwise attach to the officer for negligence, breach of duty or breach of trust in relation to DALC. DALC's constitution empowers it to arrange insurance cover in respect of any liability, loss, expenditure incurred by a DALC Director or other officer in relation to anything done or alleged to have been done or omitted to be done by him or her. Insurance will not cover loss due to fraud or dishonesty, wilful default or criminal behaviour.

#### **2.6 PRINCIPAL DUTIES OF THE DIRECTORS UNDER CHARITIES LAW**

This section summarises the principal duties of DALC Directors as charity trustees of a charitable company under trust law. It focuses in particular on those duties which are additional to their duties as Directors under company law. The Charities Regulator has published useful guidance for charity trustees which is available [here](#). All DALC Directors must read this guide.

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<sup>3</sup> Includes a director within a 12 month of the winding up/receivership

### **2.6.1 Principal Fiduciary Duties of Charity Trustees**

The principal fiduciary duties of a charity trustee under trust law are similar to those of a company Director. As a charity trustee, each DALC Director must:

- A. act in accordance with the constitution of DALC in furtherance of its charitable purpose;
- B. ensure that DALC is carrying out its charitable purpose for the public benefit;
- C. act with reasonable skill, care and diligence in relation to the affairs of DALC, using the Director's personal experience and skills;
- D. ensure that the assets of DALC are properly accounted for and used solely to carry out DALC's charitable purpose;
- E. act in the best interests of DALC at all times
- F. not fettering his or her discretion unless and to the extent permitted by DALC's
- G. constitution;
- H. not placing himself or herself in a position where his or her duties to DALC might
- I. conflict with personal interests or interests of connected persons or persons to whom
- J. the DALC Director owes responsibilities;
- K. not using the property of DALC for personal gain or the personal gain of others.

The Charities Act provides that, in proceedings against a charity trustee for breach of trust, the Court may relieve the charity trustee in whole or in part from his or her liability on such terms as the Court deems appropriate, if it appears to the Court that the charity trustee is or may be liable for breach of trust but that he or she acted honestly and reasonably and that having regard to all the circumstances of the case he or she ought fairly be excused for the breach of trust.

### **2.6.2 Principal Obligations under the Charities Act**

The principal obligations imposed directly on DALC Directors as charity trustees of a registered charity under the Charities Act include:

- A. The obligation to prepare and submit to the Charities Regulator an annual report in respect of DALC's activities.
- B. The obligation to make a report to the Charities Regulator if he or she forms the opinion that there are reasonable grounds for believing that an offence under Criminal Justice (Theft and Fraud Offences) Act 2001 has been or is being committed, based on information which comes into his or her possession in the course of, and by virtue of carrying out, his or her duties in relation to DALC.
- C. The obligation not to act as a charity trustee when unqualified to hold such office (i.e. if the DALC Director is adjudicated bankrupt, makes a composition or arrangement with creditors, is convicted on indictment of an offence, is sentenced to a term of imprisonment, is disqualified as a director under the Companies Act or suspended as a trustee of a pension scheme or has been removed from the position of charity trustee by order of the High Court under the Charities Act<sup>4</sup>).

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<sup>4</sup> The High Court has the power under section 74 of the Charities Act to make certain orders if it considers it appropriate, where, on application by the Charities Regulator, it is satisfied that there has been misconduct or mismanagement of a type specified in that section in relation to the affairs of a charity. These orders include an order suspending or removing a charity trustee or member of staff of a charity.

- D. The obligation not to comply with a direction from an unqualified person purporting to act as a charity trustee knowing or having reasonable grounds to believe such person was unqualified
- E. The obligation to comply, and to ensure that DALC complies, with any direction of the Charities Regulator to produce books, documents or other specified records or to explain where they are to the best of his or her knowledge, information or belief.

A breach of any of these obligations is a criminal offence. In addition, if DALC was to commit an offence under the Charities Act and such offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a DALC Director, that DALC Director will also be guilty of an offence. A person guilty of an offence under the Charities Act will be liable, on summary conviction, to a fine not exceeding €5,000 and/or to imprisonment for a term not exceeding 12 months or, on conviction on indictment, to a fine not exceeding €300,000 and/or to imprisonment for a term not exceeding 10 years.

In the case of a breach of the obligation of the charity trustees to make an annual report, where the Charities Regulator considers that it would be reasonable and proportionate in the circumstances not to bring criminal proceedings, it may accept an undertaking from the charity trustees to rectify the situation, to accept the imposition of an intermediate sanction and to adopt such course of action as may be agreed with the Charities Regulator to ensure the contravention does not occur again.

A person who is convicted of an offence of acting as a charity trustee when unqualified will be personally liable for the debts of the relevant charity incurred as a result of his or her commission of any act in purported performance by him or her of any functions of charity trustee while unqualified. A person who is convicted of acting on the direction of an unqualified person purporting to be a charity trustee will be personally liable for the debts of the relevant charity incurred as a result of his or her commission of any act in compliance with such direction. In each case such personal liability shall be subject to such relief as the Court thinks it just and equitable to grant having regard to all the circumstances of the case.

### **2.6.3 Charities Regulator: Codes and Guidance and the obligation to report on compliance with the Charities Governance Code**

The Charities Regulator's functions include to encourage and facilitate the better administration and management of charitable organisations by the provision of information or advice, including by way of issuing guidelines, code of conduct and model constitutional documents. The Charities Regulator has issued a considerable body of such information and advice, some of which is specifically referred to in this Manual and all of which is available on its website.

One such code is the Charities Governance Code (CGC) which sets out six principles of governance which all charities should apply, core standards which charities are expected to meet when putting the principles into action and additional standards for more complex charities (which include a charity of the scale of DALC). The CGC can be accessed [here](#) and DALC Directors should familiarise themselves with its provisions.

As part of the annual report which DALC Directors are obliged to make to the Charities Regulator (see section 2.6 2 (A) above), DALC Directors must confirm whether or not DALC complies with the CGC

and, in any instance where it does not, the reason why not. The Charities Regulator requires charity trustees to complete a compliance record form in a format provided by the Charities Regulator and to retain it for inspection if required by the Charities Regulator. The record form must evidence the basis for the confirmation of compliance (or otherwise) contained in the annual report. The DALC Board, on the recommendation of the Governance Committee, approves the making of the required confirmation and the compliance record form in respect of the CGC annually.

## **2.7. POTENTIAL LIABILITY OF DIRECTORS UNDER OTHER LEGISLATION**

DALC Directors should bear in mind that almost every enactment that creates an offence provides for circumstances in which the offence is committed by a body corporate including a company. Such enactments often provide that where the offence is proved to be committed by the body corporate with the consent, or connivance or to be attributable to the neglect of an officer including a Director or manager, that officer will also be guilty of the offence. Examples of such provisions can be found in the Charities Act and in legislation regarding matters such as data protection and health and safety.

## **2.8. CODE OF CONDUCT, GIFTS AND EXPENSES**

### **2.8.1 Code of Conduct**

The Board has developed a Code of Conduct for Board Members which sets out a set of ethical principles whose adoption and implementation by the DALC Directors will:

- A. promote and maintain confidence and trust in the Board;
- B. ensure that DALC is effective, open and accountable;
- C. ensure that the highest standards of integrity and stewardship are achieved in DALC; and
- D. promote compliance with best current management practice in all activities of DALC .

In developing the Code the Board had regard to the fiduciary duties of the DALC Directors under company law and charities law and to the Charities Regulator's Guidance on Code of Conduct for Charity Trustees. The Code of Conduct for DALC Directors is contained in Appendix C6 to this Manual.

The Code states that DALC will provide practical guidance and direction as required on areas such as gifts and entertainment and on other ethical considerations which may arise. The nature and location of DALC's activities and the nature of its funding arrangements are such that the question of gifts, entertainment and expenses has not tended to arise as a matter of practice for DALC Directors. Set out below are some guidance as regards gifts and entertainment and the policy on DALC Directors' Expenses.

DALC Directors are also encouraged to raise any questions which they may have from time to time on specific issues regarding gifts and entertainment or expenses with the Chairperson or the Secretary and to do so in advance of accepting or incurring, as the case may be, the relevant gift, entertainment or expense.

### **2.8.1 Gifts**

The Code provides that, in keeping with the principle of independence which DALC Directors must observe in carrying out their roles, a DALC Director must not give or receive corporate gifts, hospitality, preferential treatment or benefits which might affect or might reasonably appear to

affect the ability of the donor or the recipient to make independent judgement on transactions or decisions of or affecting DALC and must report any such approaches in writing to the Chairperson.

By way of general guidance the acceptance of light refreshments, or small tokens such as book, offered at or in connection with an event attended by a DALC Director in his or her capacity as such are not considered to breach the requirements of the Code.

### **2.8.3 Expenses**

The Code provides that, in keeping with the principle of independence which DALC Directors must observe in carrying out their roles, a DALC Director must not use DALC resources or time for personal gain, or for the benefit of persons or organisations unconnected with DALC and its activities, nor make a claim for expenses otherwise than in accordance with the DALC Director's Expenses policy which is as follows.

A DALC Director may seek reimbursement of reasonable out-of-pocket expenses necessarily incurred by him or her on DALC business subject to the following requirements:

1. reimbursement will be made only for expenses that are evidenced by receipts;
2. any such expenses must be incurred in the most cost-effective way available and must not be of a nature or standard that would constitute a personal benefit to the DALC Director in question (e.g. a taxi where a mode of public transport is available and suitable);
3. where use of a car is necessary, mileage costs should be no more than those allowable under public service mileage rates.

Expenses necessarily incurred in the course of DALC Business could include the cost of travelling to and from Board and Committee meetings (including the cost of providing special transport, equipment and facilities for such purposes for a DALC Director with a disability) and the costs of any training deemed necessary by the Board which are incurred directly by a DALC Director.

All expenses claims should be submitted to the Secretary in writing together with all receipts for costs. Claims must itemise each item of expenditure and the date on which, and purpose for which, it was incurred together with all relevant receipts.

## **2.9 ROLE OF THE SECRETARY<sup>5</sup>**

Each company must have a Secretary and the Secretary can be either an individual or a corporate.

### **2.9.1 Duties under Companies Act**

The Secretary is an officer of the company for the purposes of the Companies Act but, unlike a Director, is not made subject to a general duty to ensure that the company complies with Companies Act. This distinction recognises the fact that the usual functions and duties of the Secretary are essentially administrative and not managerial and the Secretary does not have sufficient control over the company to justify the imposition of such a duty.

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<sup>5</sup> **Drafting Note:** The CRA guidance on the role of the Secretary seems to assume that the Secretary is a charity trustee solely on the basis of his or her role as Secretary. In particular where the charity is a company and the Secretary is not also a Director, this assumption does not seem valid and the heads of proposed new charities legislation published in 2022 clarify that such an assumption should not be made.

The duties imposed by the Companies Act on the Secretary specifically are relatively limited. They include, for example, to co-sign the company's annual return, co-certify the annexed financial statements as true copies and provide information about changes in his or her personal details for the register of directors and secretaries. The functions typically associated with the role of Secretary (see below) are not conferred on the Secretary by statute but are delegated to him or her by the Board.

As an officer, a Secretary could fall within the scope of the concept of an "officer in default" (outlined in section 2.5 11 *Duty to ensure Compliance by DALC with the Companies Act 2014*) but only in circumstances where he or she is in breach of his or her statutory duties or a duty properly delegated to him or her by the Board. The Secretary owes the company a duty of skill, care and diligence. As outlined in section 2.5 2 (D), Principal Obligations imposed directly on DALC Directors). Directors also have a duty to ensure that the Secretary has the skills or resources necessary to discharge his or her statutory and other duties. These are expressed to include the skills necessary to enable the Secretary to maintain, or procure the maintenance of, the records (other than accounting records) required by the Companies Act to be kept by the company. This reference to the maintenance of non-accounting records indicates an expectation on the part of the legislature that the Board would delegate the function of maintaining such records to the Secretary.

### **2.9.1 Functions Typically Delegated to the Secretary**

The functions typically conferred on the Secretary by the Board include:

- A. issuing notice of general meetings of the company, attending such meetings and taking minutes,
- B. issuing notice of Board and Committee meetings, collating the associated packs, attending the meetings and taking minutes,
- C. preparing and filing returns with the Companies Registration Office and other governmental agencies (e.g. in DALC's case, the Charities Regulator),
- D. keeping the statutory registers under the Companies Act, and
- E. receiving official correspondence and legal notices on behalf of the company.

The Secretary will usually also assist the Chairperson of the Board in relation to the planning of Board meetings and the chairs of the Board Committees in relation to planning Committee meetings, ensuring good information flows within the Board and the Committees and between senior management and the Board and facilitating induction and training for directors as required.

In order to fulfil these functions, the Secretary should be familiar with the company's constitution and internal governance rules and the company's legal responsibilities under the Companies Act and the Charities Act.

## **2. 10. THE ROLES OF THE CHAIRPERSON AND CEO**

There is a clear division of responsibility between the role of the Board, which is led by the Chairperson, and the role of CEO who has responsibility, subject to Board oversight and with the exception of those matters reserved to the Board, for the running of DALC's day-to-day business (see section 2.2.3.

### 2.10.1 The Chairperson

**(i) Overview:** The Chairperson is responsible for leadership of the Board. His or her role is important in ensuring that both the Board itself, and the division of responsibility between the Board and the executive, operates effectively and efficiently. He or she also leads the Board in developing an ethical culture in line with the values of DALC.

**(ii) Focus of the Board:** The Chairperson should ensure that the Board avoids straying into the day-to-day operations of DALC and instead focuses on its role of governing the company, taking decisions on the matters it has reserved to itself which include setting DALC's strategy and vision, setting appropriate policies and procedures for the management of DALC and receiving regular and sufficient reports from the CEO on the exercise of the powers it has delegated. The Chairperson should promote a culture of openness and debate by facilitating the effective contribution of all DALC Directors and ensuring that there are constructive relations between the DALC Directors and the executive.

The Chairperson, supported by the Secretary, is responsible for setting the Board's agenda. He or she should ensure that adequate time is available for discussion of all agenda items, in particular strategic issues which the Board has reserved to itself for decision. The Chairperson should also ensure that the decisions proposed to be taken at a Board meeting are set out in the agenda for that meeting, that the decisions which the Board takes are clear and that their implementation is tracked and overseen by the Board. He or she has a second or casting vote in the event of an equality of votes on a matter before the Board. The Chairperson should check the draft Board minutes before they are circulated to the Board.

**(iii) Board Information, Training and Succession:** The Chairperson, supported by the Secretary, must ensure that the DALC Directors receive accurate, timely, and clear information. In addition, in order that the Board operates as effectively as possible, the Chairperson should ensure that each DALC Director receives an induction on joining the Board and that the DALC Directors have such periodic training and development as is necessary for them to understand and carry out their roles as members of the Board and any relevant Committee and as charity trustees. DALC should provide the necessary resources and materials for developing and updating its Directors' knowledge and capabilities. The Chairperson has a leadership role in relation to the recruitment by the Board of new DALC Directors as required for good succession management.

**(iv) Liaison with the CEO:** The Chairperson should regularly discuss and agree work priorities and, as required, act as a sounding board and support for the CEO. He or she also oversees the recruitment process for the CEO position in the event that it becomes vacant.

**(v) Communications and Stakeholder Relations:** [The Chairperson should also participate as and when desirable to ensure effective communication with stakeholders.]<sup>6</sup>

**2.10.2 The Chief Executive Officer** The CEO of DALC reports to the Board on the progress of DALC against agreed goals. .<sup>7</sup>

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<sup>6</sup> Drafting Note: Consider in the context of the DALC Comms Policy

<sup>7</sup> Drafting Note: Reporting to the DALC Board has typically been expressed to be against the goals rather than the KPIs set by the Strategic Development Plan. Reporting against KPIs would be more conventional. To be considered in the context of the next Strategic Development Plan

The CEO has the following responsibilities:

**(i) Financial/Funding**

- A. Direct communication with Funders including City of Dublin ETB
- B. Serving as a representative on relevant Finance/Funding committees
- C. Preparing the annual budget in keeping with funding expectations and subject to approval by the Board
- D. Complying with reporting and other requirements of Funders
- E. Reporting Financial position to the Board of Directors on a quarterly basis

**(ii) Human Resources (excluding the CEO role)**

- A. Staff Recruitment (subject to the approval of the Board in the case of any appointment of non-teaching senior staff)
- B. Job Descriptions
- C. All Staff Employment Contracts
- D. Supervision of Staff including Staff Appraisals
- E. Staff training and development
- F. Informing Staff of DALC policies and procedures
- G. Volunteering training and deployment within the service

**(iii) PR/Communications**

- A. Maintaining good internal communications systems for staff, students and volunteers
- B. Working with outside Agencies to promote the work of the Centre
- C. Managing promotional events and activities
- D. Attending relevant conferences

**(iv) Strategic Development**

- A. Developing DALC's 3-year Strategic Plan at the direction of the Board and subject to Board approval
- B. Ensuring the implementation of the Plan including an annual review of the Plan
- C. Developing, testing and updating continuity plans of DALC

**(v) Governance**

- A. Ensuring compliance with relevant legislation e.g Health and Safety, Companies Act and Finance Acts
- B. Ensuring compliance with the Charity Regulator's Charities Governance Code

**(vi) Insurances**

- A. Ensuring adequate insurance is in place in respect of the business and property of the organisation as approved by the Board
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## Schedule 1

### Examples of Categories of Offences under the Companies Act

The following are some of the offences which are created by the Companies Act. This is not an exhaustive list and does not in all cases outline defences that may be available in the event that a director is in breach of a particular provision.

#### **Category 1 Offence**

##### 1. Section 722 Companies Act - Fraudulent trading of the company

If a person is knowingly a party to the carrying on of the business of a company with intent to defraud creditors of the company or creditors of any other person or for any fraudulent purpose, he or she is guilty of the category 1 offence of fraudulent trading.

#### **Category 2 Offences (subject to elevation to Category 1 Offence or penalty where certain aggravating circumstances arise)**

##### 2. Section 286 Companies Act - Accounting records offences

A director of a company who fails to take all reasonable steps to secure compliance by the company with the requirements of sections 281-285 in relation to the keeping of adequate accounting records or has by his or her own intentional act been the cause of any default by the company, will be guilty of a category 2 offence.

In a case where any of the following additional circumstances arise, such a director will be guilty of a Category 1 offence:

- The company is wound up and is unable to pay its debts and a court considers that such breach has contributed to the company's inability to pay its debts or has resulted in substantial uncertainty as to the assets and liabilities of the company or has substantially impeded the orderly winding up of the company;
- The contravention has persisted during a continuous period of 3 years or more; or
- The contravention involved the failure to correctly record and explain one or more transactions with a value or aggregate value exceeding the greater of €1 million or 10 per cent of the net assets of the company, every officer of the company who is in default will be guilty of a category 1 offence.

It shall be a defence for the director to prove that (a) he or she had reasonable grounds for believing and did believe that a competent and reliable person was (i) charged with the duty of undertaking that the relevant requirements of section 281-285 were complied with, and (ii) in a position to discharge that duty, and (b) that the discharge of that duty by such competent and reliable person was monitored by the director, by means of reasonable methods properly used.

##### 3. Section 876 Companies Act - Offence of providing false information

Any director who, in purported compliance with any provision of the Companies Act, knowingly or recklessly furnishes information is guilty of a category 2 offence. Where a director is convicted on indictment of such an offence and the court is of the opinion that the false information substantially contributed to the company being unable to pay its debts or prevented, or seriously impeded, the orderly winding up of the company, or substantially facilitated the defrauding of the creditors of the

company, or creditors of any other person, the maximum penalty will be that attaching to a Category 1 offence.

### **Category 2 Offences**

#### **4. Section 330 Companies Act - Directors' report: statement on relevant audit information**

The directors' report must contain a statement to the effect that, (i) insofar as each director is aware at the time the report is approved, there is no audit information necessary for the statutory auditors in connection with preparing their report of which the statutory auditors are not aware and (ii) each director has taken all of the steps that he or she ought to make himself or herself aware of such audit information and establish that the company's statutory auditors are aware of it.

A director will be regarded as having taken such steps if he or she has made such enquiries of the other directors and of the statutory auditors for that purpose, and taken such other steps (if any), as are required by his or her duty as a director to exercise reasonable care, skill and diligence.

If a directors' report is approved containing this statement and later transpires that the statement was false, every director who knew the statement was false and was reckless as to whether it was false or not or failed to take reasonable steps to prevent the approval of the report is guilty of a Category 2 offence.

#### **5. Section 291 Companies Act - Companies Act entity financial statements**

Section 291 sets out various requirements regarding the preparation of the financial statements of a company. If a company fails to comply with these requirements, the company and any officer in default is guilty of a Category 2 offence. It is a defence if a director can prove he or she had reasonable grounds for believing and did believe that (a) a competent and reliable person was charged with the duty of ensuring that the provisions of the subsection concerned were complied with; and (b) the latter person was in a position to discharge that duty.

#### **6. Section 855 and 859 Companies Act - Person acting while disqualified or restricted**

A person restricted or disqualified from acting as a director under the Companies Act who subsequently acts as a director of a company<sup>8</sup> will be guilty of a Category 2 offence. He or she may be declared by the Court personally liable without limitation for all or part of the debts of the company incurred while he was acting in such capacity where the company is wound up and is unable to pay its debts within twelve months of his or her so acting.

#### **7. Section 856 and 860 Companies Act - Acting under directions of disqualified person**

If a person, while a director or other officer of a company, acts in accordance with the directions or instructions of another person, knowing that such other person is restricted or disqualified from acting as a director, he or she will be guilty of a Category 2 offence. He or she may be declared by the Court personally liable without limitation for all or part of the debts of the company incurred while he was so acting.

#### **8. Section 389 Companies Act - Offence to make false statements to statutory auditors**

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<sup>8</sup> Other than, in the case of a restricted person, a company that meets certain capital requirements.

An officer of a company who knowingly or recklessly makes a statement to the statutory auditors of the company conveying or purporting to convey any information or explanation to which they are entitled which is misleading or false in a material particular will be guilty of a Category 2 offence.

9. Section 877 Companies Act - Offence of destruction, mutilation or falsification of book or document

A director who destroys, mutilates or falsifies any book or document relating to the property or affairs of the company is guilty of a category 2 offence.

It shall be a defence to prove that, in carrying out the destruction, mutilation or other act concerned, he or she had no intention to defeat the process of the law and enforcement of the Companies Act.

**Category 3 Offences**

10. Section 175(10) Companies Act - Annual general meeting

If a company fails to hold an annual general meeting in each year as required by section 175(1), the company and any officer of it who is in default will be guilty of a Category 3

11. Section 325 Companies Act – Obligation to prepare directors’ report for every financial year

If a director fails to comply with his or her duty to prepare the directors’ report dealing with the required matters for each financial year, he or she is guilty of a Category 3 offence.

**Category 4 Offences**

12. Section 142 Companies Act - Limitation on number of directorships

A person shall not be a director of more than 25 companies. Each appointment in excess of that limit shall constitute a separate contravention and such an appointment is void upon the contravention occurring. A person in contravention is guilty of a Category 4 offence.

13. Section 151 Companies Act – Particulars on all business letters

A company’s business letters must state the name and nationality of each director of the company along with the name and legal form of the company, its place of registration and registered number, the address of its registered office and (where relevant) the fact that it has an exemption from the obligation to use CLG in its name. If a company defaults in complying with this requirement, the company and every officer in default will be guilty of a Category 4 offence.

Appendix A.1  
Current List of Directors and Officers of DALC

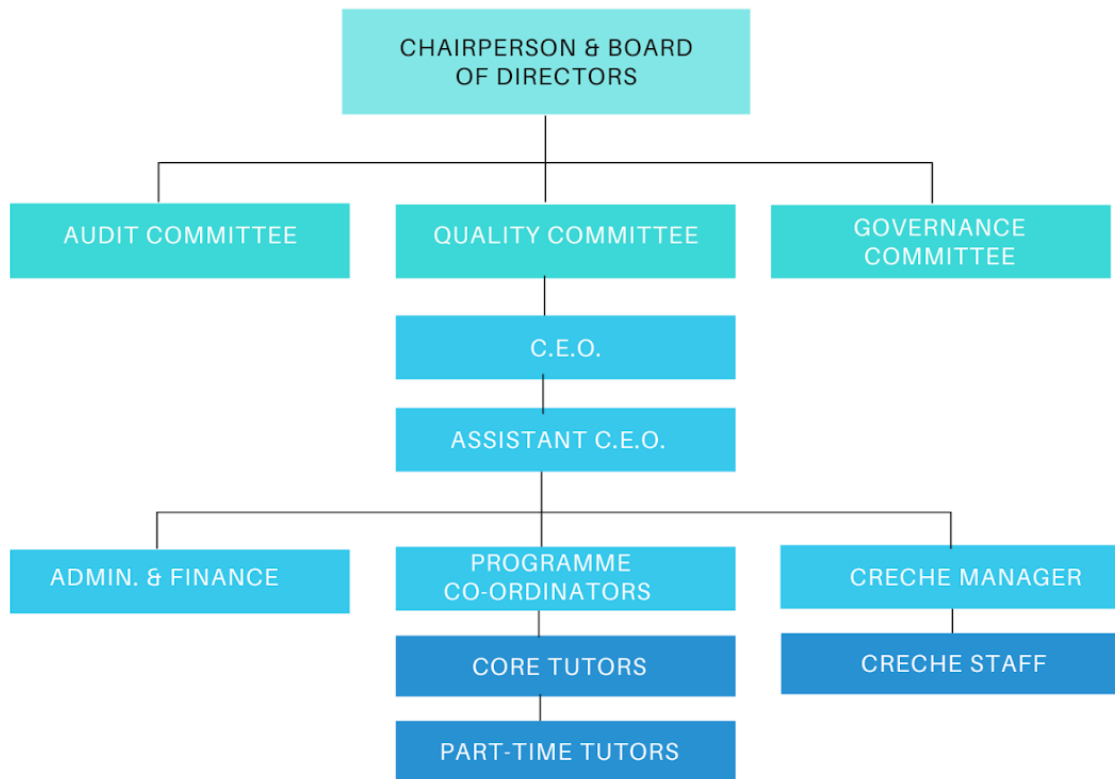
Chief Executive Officer of DALC: Mary Maher

Secretary to the Board: Columba O'Connor

Name of Director	Subcommittee	Date of Appointment
Brid O'Brien (Chair)	FARC	16.09.2013
John Collins (Chair of FARC)	FARC	07.03.2016
Patricia Lawless (Chair of Governance Committee)	Governance Committee	9.11.2021
Dr. Yvonne Emmet (Chair Quality Committee)	Quality Committee	9.11.2021
Mark Kelly	FARC	25.01.2022
(Christopher) John Farrelly	Governance Committee	29.11.2022
Nicola Kelly	Quality Committee	29.11.22

Appendix A.2  
Organisational Chart

## DUBLIN ADULT LEARNING CENTRE



## **Appendix A.3**

### **Strategic Development Plan 2020-2023**

#### **STRATEGIC DEVELOPMENT PLAN 2020-2023**

##### **Our Mission Statement**

The Dublin Adult Learning Centre provides targeted adult education services to ensure that everyone in the inner city has the opportunity to avail of their right to develop their literacy and numeracy skills.

##### **Our Vision Statement**

To ensure DALC continues to be a centre of excellence in the provision of adult basic education.

##### **Definition of Literacy**

Literacy for our students means a wide range of skills. They see it as being able to do things independently and having the confidence to read, write and understand numbers. It is having the confidence to read your own personal letters and emails and know what is going on in your community.

With this in mind and the views of staff and tutors, the Dublin Adult Learning Centre defines literacy as follows:

*Being literate means being able to read, write and use numeracy and information technology competently to deal with situations and opportunities in your own environment. It means being able to fulfil your own goals as a family and community member, citizen and worker. Being literate depends on what you need or want at a specific time. Becoming literate is part of a lifelong learning continuum.*

##### **Dublin Adult Learning Centre's definition of Adult Basic Education**

Basic education is the means by which adults, lacking confidence in their literacy levels, develop reading, writing, personal and interpersonal skills using methods which are learner-centred, creative and participative. It aims to enable adults to enhance their lives by exploring new possibilities and initiating constructive change.

##### **Core Values**

- Student centredness
- Equality
- Transformative
- Community-based

## **Who we are**

The Dublin Adult Learning Centre (DALC) is a community of learners based at 3, Mountjoy Square, in Dublin's North Inner City. We are proud of our long history of adult education in this beautiful and historic building. Over the course of this strategic plan, DALC will continue to serve the people of this rapidly changing community by providing a wide range of learning opportunities for adults who missed out on education in a welcoming, inclusive learning environment.

We welcome the new and the old residents to our centre and aspire to being a space where all can learn both basic skills and the understanding to live together to create an integrated, vibrant new community that celebrates the past and embraces the future.

Not only are the demographics of the area changing, but the importance of technology both as a means of communication and a basic skill is also bringing changes to the classroom. The demands of an automated world require both learners and tutors to develop new skills to develop competencies in order to benefit fully from the opportunities provided by an understanding of technology.

Nationally and internationally, there is a greater awareness of the precarious state of the planet. As Ireland becomes more diverse and the recession recedes, there has been a greater focus on the environment. DALC also has a role to play in actively monitoring our consumption and being at the centre of information and enquiry as to how we tutors and learners, individually and communally can contribute to making a better future for the generations to come by actively living more sustainably.

While this is our latest strategic plan with different emphases from previous plans, we will, as ever, be guided by principles of transformative learning and community development. The methodologies for teaching and interacting among staff will be based on a dialogical model to meet students' relevant needs and to bring a critical analysis to how we think and learn. We believe this to be both effective and respectful of the adult status of our learners.

### ***Social Context***

#### **Context of SDP 2020 -23**

The recent recession left its mark in terms of reduction of services, the stagnation of development within the Community sector and an over-emphasis on labour activation and accreditation as the metric for progress. Our last strategic plan put great emphasis on working collaboratively with local community groups and the CDETB to maximise the benefits and value of what is currently available

and develop positive learning outcomes for our students and their communities. We made great strides in this regard through making strong connections with organisations local and national with similar values to our own. We also strove to re-assert the central tenet of adult education as the right of individual citizens to develop their potential as active participants in society as opposed to simply participants in the labour market. This new plan builds on these themes.

The last decade has been a rollercoaster for Ireland and Dublin 1 and the environs have had a turbulent journey. Having come through a severe recession, the tide is turning and the aftershock of the recession together with the improvement in the economy has changed the landscape again. The demographics have changed with almost 40% of the population declaring their ethnicity in the North Inner City identifying as being from new communities. This change is reflected in the centre and our ESOL programme continues to thrive with the demographics in the centre mirroring that in the community. Over the past number of years, as our ESOL students progress, our classes have become more integrated. Great friendships have developed between students from the old and new communities and we hope that the bond and sense of community becomes stronger over time.

The recent economic recovery has resulted in a more stable funding environment resulting in a greater flexibility in planning. We were fortunate in our ability to withstand the funding cuts and to retain our core values of meeting individual needs. While the Voluntary and the Community Sector as a whole suffered disproportionately during the recession, its value as a lynchpin of community, we feel, is being recognised again.

The lack of investment has also acted as a barrier for younger people coming into the service with low wages and little job security. The sector is ageing, and we are hopeful that new blood will come into the service as funding becomes more reliable and career paths develop.

The recent growth in employment locally has presented challenges in tailoring courses to meet the needs of students with less time and perhaps a requirement for literacy skills at Level 4 and 5 to cope in the workplace.

Alongside this positive, there still remains persistent blackspots of unemployment, social deprivation, anti-social behaviour and hard to reach adults with low literacy levels. There still exists a large number of people (ESOL students included) who have a wide skills gaps between what the labour market needs and where they are at and we therefore need to be in a position to continue to meet their needs and help them on their journey to access the labour market.

National issues such as housing, the health service, and Brexit together with the wider global issues of climate change, sustainability and the rise of political extremism have created a sense of insecurity



and uncertainty for all of us. As a learning centre it is vital that we not only inform ourselves and our students of how to live more sustainably, but that as an organisation, we model it. Similarly, the political uncertainty requires that we engage with our students in mindful dialogue regarding ideology and encourage participation in civil society through voter and political education.

With the unstoppable march of technological progress, we have striven to keep informed of new educational technologies and software to ensure our students are able to communicate online as well as offline. As social media becomes an increasingly popular means of communication, we will continue to develop our strategy around using it as a means to both promote our work and to enable our students to use it effectively.

The rapid societal change of the past decade in particular and uncertainty it has created has also seen a significant increase in mental health issues and anxiety. It is more important than ever that we play our part in helping students deal with these issues by providing a welcoming environment with a range of learning opportunities to face life in the 21<sup>st</sup> Century.

The next three years will no doubt bring change, but we are confident that we will adapt to it and be instrumental in directing it in a way for positive change.

## **Goal 1**

**Provide high quality adult basic education primarily to the diverse residents of the North Inner City**

### **Actions**

1. Recruit and retain participants to the centre.
2. Continue to provide a range of tuition options to meet the varied needs of students.
3. Promote the wide range of programmes through publicity including social media platforms and direct contact with service providers, such as Intreo and the CDET.B.
4. Communicate effectively with appropriate referral agencies and service providers e.g. the Education Training Boards, Local Employment Service and Intreo.
5. Provide a service in an inclusive learning environment that respects the adult status of the learner.

### **Key Performance Indicators for Goal 1**

1. Evidence retention of student numbers at previous levels through use of FARR and PLS.
2. Continue to develop support services, as the need arises, for students to enable them to attend and engage in classes, e.g. crèche, canteen

3. Run promotional campaigns throughout the year to recruit for the various courses on offer.
4. Analyse the effect of promotional campaigns through review of social media analytics, referrals and the database.

## **Goal 2**

### **To ensure the quality and appropriateness of education programmes provided by the centre**

#### **Actions**

1. Design quality programmes that develop basic and life skills through the use of materials relevant to students' lives.
2. Continue to develop student assessment procedures to ensure that the students are placed and progressed in the right setting within DALC or elsewhere.
3. Continue to engage with QQI to provide accredited programmes for students.
4. Continue to provide non-accredited appropriate and relevant course to all DALC students.
5. Evaluate student experience annually.

#### **Key Performance Indicators for Goal 2**

1. Programme Review and Design template completed
2. Students' progress will have been recorded and assessed each term and tutor/learner feedback given on progress.
3. All students put forward for QQI accreditation were successful
4. The Farr and PLSS completed and returned to the CDETb for furnishing to SOLAS.
5. Annual Student evaluations have been carried out.
6. Commission independent pieces of research over the lifespan of the plan, if the need or opportunity arises.

## **Goal 3**

### **Continue to develop DALC as a Centre of Innovation and Excellence**

1. Anticipate and address emerging educational needs of the local community.
2. Engage all staff in relevant current training and implementation of new practices and technologies to address emerging educational needs.
3. Develop new materials for students and tutors in relation to the above.
4. Liaise with other literacy and community education providers nationally and internationally to compare and build on best practice in ABE.
5. Explore different methods of evaluation and adopt appropriately.

### **Key Performance Indicators for Goal 3**

1. Evaluated the programmes with tutors and students.
2. Recorded recommendations implemented for improvement of current programmes.
3. Developed new programmes to meet emerging needs if needs identified.
4. Maintained records of staff training to ensure all staff availed of training.
5. Disseminated information from conferences, seminars and other adult education centres (nationally and internationally) attended by staff.
6. Published and digitised student writing, readers and tutor resource materials.
7. Maintained an inventory of technology and apps/software available
8. Disseminated review of technology usage in the classroom to all staff

### **Goal 4**

#### **Influence policy and practice in Adult Basic Education**

##### **Actions**

1. Ensure that the Learner's voice is central to practice and policy.
2. Share our experience of effective work practices in Adult literacies with relevant agencies locally and nationally.
3. Respond to relevant government policy documents, as appropriate.
4. Seek representation on relevant forums locally and nationally.
5. Attend and contribute to seminars and conferences locally, nationally and internationally when the opportunity arises.
6. Collaborate with Third Level Institutions to provide training and work experience for student educators in order to build capacity in the sector.

### **Key Performance Indicators for Goal 4**

1. Maintained records of meetings and contact with relevant Departments and agencies.
2. Maintained reports of meetings where DALC is represented.
3. Maintained record of students' voices facilitated at key social and political events.
4. Uploaded submissions to the website.
5. Maintained record of workshops and talks given by staff.

### **Goal 5 Ensure that DALC as an organisation is a model of best practice**

#### **Governance**

1. Ensure that DALC is in compliance with the Charity Regulator's Governance Code.
2. Ensure that DALC is compliant with all legislation relevant to the community and voluntary sector.
3. Ensure that DALC complies with all financial requirements e.g. SORP.

4. Ensure that DALC has robust health and safety procedures in place especially for health emergencies such as Covid-19.

#### Students

1. Ensure the student's voice is central to our work.
2. Ensure that programmes are relevant to individual and community needs.

#### Staff

1. Comply with all relevant employment legislation.
2. Ensure staff are up to date with current best practice in ABE.

#### Board

1. Ensure representation from the statutory, corporate, community and voluntary sectors.
2. Continue to provide induction for all new board members.

#### Volunteers

1. Continue to provide initial and on-going training for volunteer tutors.

#### Social Media

1. Ensure DALC has a presence on relevant social media platforms.

#### **Key Performance indicators**

1. Adopted the Governance Code for Charities.
2. Filed audit accounts annually.
3. Conducted an annual board review.
4. Implement Health and Safety procedures in light of the Covid-19 risk.
5. Displayed students' charter prominently.
6. Evaluated the programmes annually capturing quantitative and qualitative outcomes.
7. Up-dated staff handbook.
8. Maintained a staff training file.
9. Monitored and reviewed traction on our on-line platforms.

Appendix B  
Constitution of Dublin Adult Learning Centre

COMPANIES ACT 2014

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COMPANY LIMITED BY  
GUARANTEE

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CONSTITUTION

of

DUBLIN ADULT  
LEARNING CENTRE

INCORPORATED ON  
26 NOVEMBER 1997

A&L GOODBODY

**COMPANIES ACT 2014**

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**COMPANY LIMITED BY  
GUARANTEE**

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**CONSTITUTION  
of  
DUBLIN ADULT  
LEARNING CENTRE (THE  
COMPANY)**

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**MEMORANDUM OF  
ASSOCIATION**

1. The name of the Company is Dublin Adult Learning Centre.
2. The Company is a company limited by guarantee registered under Part 18 of the Companies Act 2014.
3. The main objects for which the Company is established are to advance education by the provision of literacy and other educational services to adults with reading and writing difficulties.
4. The following are the powers of the Company which may only be carried out in furtherance of the main objects:
  - (a) To develop and give effect to programmes and strategies to improve basic skills among the unemployed and potentially unemployed with the aim of enhancing their employment opportunities.
  - (b) To provide further educational courses and generally to encourage adult learners who wish to continue with third level education.
  - (c) To research developments in the areas of adult and basic education.
  - (d) To promote participation in literacy and basic education and to promote an

awareness of difficulties experienced by adults with literacy problems.

- (e) To raise money by any means as the Company may decide and to accept gifts and donations in any form.
- (f) To network with community groups with a view to supporting and developing literary and basic education at local level.
- (g) To train tutors and trainers.
- (h) To raise funds generally and manage same for the benefit of the attainment of the main objects.
- (i) To promote and further the objects of the Company by conferences, public or private meetings, discussions, publications or by such other means as may be deemed desirable or necessary.
- (u) To promote, establish, co-operate with, become a member of, or assist by advice or by the grant of loans, donations or gifts or otherwise, any association, institution or body whatsoever and whether established or incorporated in Ireland or elsewhere having objects or purposes wholly or partially similar to those of the Company;
- (k) To advertise and make known the Company and its objects, purposes and aims by such means as may be deemed expedient, and to solicit, receive and hold donations, subscriptions, gifts, and bequests of all kinds;
- (l) To act as trustees of any property real or personal for any of the objects of the Company, or for any other purpose that may seem conducive to the objects of the Company;
- (m) To purchase, take on lease, exchange, hire or otherwise acquire any real or personal property that may be legally held, and any rights or privileges which the Company may think necessary or convenient for the purposes of its undertaking;
- (n) To invest and deal with the monies and property of the Company not immediately required in such manner as may from time to time be determined. Prior permission must be obtained from the Revenue where it is intended to accumulate funds for a period in excess of two (2) years.
- (o) To borrow and raise money and to secure or discharge any debt or obligation of or binding on the Company in such manner as may be thought fit and in particular (without limitation) by the creation of charges or mortgages (whether legal or equitable) or floating charges upon the undertaking and all or any of the property and rights of the Company both present and future including its goodwill and uncalled capital, or by the

creation and issue on such terms and conditions as may be thought expedient of debentures, debenture stock or other securities of any description.

- (p) To guarantee the payment of any debts or the performance of any contract or obligation of any company or association or undertaking or of any person and to give indemnities of all kinds either with or without the Company receiving any consideration or benefit and to secure any such guarantee and any such indemnity in any manner and in particular (without limitation) by the creation of charges or mortgages {whether legal or equitable) or floating charges or the issue of debentures charged upon all or any of the property and rights of the Company both present and future, including its goodwill and uncalled capital.
- (q) To draw, make, accept, endorse or issue promissory notes and other negotiable instruments;
- (r) To sell or dispose of the undertaking or property of the Company or any part thereof for such consideration as the Company may think fit;
- (s) To sell, improve, manage, develop, exchange, lease, mortgage, charge, dispose of, turn to account or otherwise deal with all or any of the property and rights of the Company;
- (t) To acquire and become registered proprietors of copyrights and trademarks and any other form of intellectual property;
- (u) To do all such other lawful things as are incidental or conducive to the attainment of the above objects or any of them.

## 5. Income and Property

The income and property of the Company shall be applied solely towards the promotion of its main object(s) as set forth in this Memorandum of Association. No portion of the Company's income and property shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise howsoever by way of profit to members of the Company. No Director shall be appointed to any office of the Company paid by salary or fees, or receive any remuneration or other benefit in money or money's worth from the Company. However, nothing shall prevent any payment in good faith by the Company of:

- 5.1. reasonable and proper remuneration to any member, officer or servant of the Company (not being a Director) for any services rendered to the Company;
- 5.2. interest at a rate not exceeding 1% above the Euro Interbank Offered Rate (Euribor) per annum on money lent by Directors or other members of the Company to the Company;
- 5.3. reasonable and proper rent for premises demised and let by any member of



the Company (including any Director) to the Company;

- 5.4. reasonable and proper out-of-pocket expenses incurred by any Director in connection with their attendance to any matter affecting the Company;
- 5.5. fees, remuneration or other benefit in money or money's worth to any company of which a Director may be a member holding not more than one hundredth part of the issued capital of such company; and
- 5.6. nothing shall prevent any payment by the Company to a person pursuant to an agreement entered into in compliance with section 89 of the Charities Act, 2009 (as for the time being amended, extended or replaced).

6. Winding-Up

If upon the winding up or dissolution of the Company there remains, after satisfaction of all debts and liabilities, any property whatsoever, it shall not be paid to or distributed among the members of the Company. Instead, such property shall be given or transferred to some other charitable institution or institutions having main objects similar to the main objects of the Company. The institution or institutions to which the property is to be given or transferred shall prohibit the distribution of their income and property among their members to an extent at least as great as is imposed on the Company under or by virtue of Clause 6 hereof. Members of the Company shall select the relevant institution or institutions at or before the time of dissolution, and if and so far as effect cannot be given to such provisions, then the property shall be given or transferred to some charitable object with the agreement of the Charities Regulatory Authority . Final accounts will be prepared and submitted that will include a section that identifies and values any assets transferred along with the details of the recipients and the terms of the transfer.

7. Additions, alterations or amendments

- 7.1. No addition, alteration or amendment shall be made to or in the provisions of this Memorandum and Articles of Association for the time being in force unless the same shall have been previously approved in writing by the Revenue Commissioners.
- 7.2. The Company must ensure that the Charities Regulator has a copy of its most recent Constitution. If it is proposed to make an amendment to the Constitution of the Company which requires the prior approval of the Charities Regulator, advance notice in writing of the proposed changes must be given to the Charities Regulator for approval, and the amendment shall not take effect until such approval is received.
- 7.3. No amendments of any kind shall be made to the provisions of Clauses 5 and 6 of the Memorandum of Association and no amendments shall be made to the Constitution. to the extent that any such amendments would alter the

effect of Clause 5 and 6 of the Memorandum of Association resulting in the Constitution ceasing to completion with the provisions of Section 1180 of the Companies Act 20.14.

8. Keeping of Accounts

Annual audited accounts shall be kept and made available to the Revenue Commissioners on request.

9. Liability of Members

9.1 The liability of the members is limited.

9.2 Every member of the Company undertakes to contribute to the assets of the Company in the event of the same being wound up during the time that he is a member, or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and of the costs, charges and expenses of winding up the same, and for the adjustment of the rights of the contributories amongst themselves such amount as may be required, not exceeding €1.

**ARTICLES OF  
ASSOCIATION**

The following regulations shall apply to the Company.

1. **INTERPRETATION**

1.1. The provisions of the 2014 Act which are stated therein to apply to a company limited by guarantee (or a CLG as that term is defined in the 2014 Act), save to the extent that its constitution is permitted to provide or state otherwise, will apply to the Company subject to the alterations contained in these Articles, and will, so far as not inconsistent with these Articles, bind the Company and its Members.

1.2. Without prejudice to Section 1177(4) of the 2014 Act and save as otherwise expressly provided in these Articles, where a provision of these Articles covers substantially the same subject matter as any optional provision of the 2014 Act, any such optional provision of the 2014 Act shall be deemed not to apply to the Company and for the avoidance of doubt, these Articles shall be deemed to have effect and prevail over the terms of such optional provisions of the 2014 Act (and the expression "optional provision" shall take its meaning from Section 1177(2) of the 2014 Act).

1.3. Sections 144(3), 148(2), 155, 158, 159, 160, 161(1) to (6), 163, 164, 180(5), 187, 188,197,218, 229, 1196, 1197, 1199(8), 1199(9) of the 2014 Act shall not apply to the

Company.

- 1.4. Unless the contrary is clearly stated, references to the Acts or to any other enactment (including any subordinate legislation) or any section or provision thereof shall mean the Acts or such enactment, subordinate legislation, section or provision (as the case may be), as the same may be consolidated, amended, extended, modified, supplemented or re-enacted (whether before or after the date hereof) from time to time and may be for the time being in force.
- 1.5. Unless specifically defined in these Articles or the context otherwise requires, words or expressions contained in these Articles and not specifically defined herein shall bear the same meanings as in the Acts, but excluding any statutory modification thereof not in force when these Articles became binding on the Company and the Members.
- 1.6. Reference to any document includes that document as amended or supplemented from time to time.
- 1.7. Unless the context otherwise requires, expressions in these Articles referring to writing shall be construed, unless the contrary intention appears, as including references to printing, lithography, photography and to writing in electronic form and any other modes of representing or reproducing words in a visible form, and expressions in these Articles referring to execution of any document shall include any mode of execution whether under seal or under hand.
- 1.8. Unless the context otherwise requires, words importing the singular include the plural and vice versa, words importing the masculine include the feminine, and words importing persons include corporations.
- 1.9. Headings are inserted for convenience only and do not affect the construction or interpretation of these Articles.
- 1.10. Unless the context otherwise requires, reference to Articles and to paragraphs are to these Articles and the paragraphs of these Articles.
- 1.11. Unless the context otherwise requires, reference to a "person" include natural persons, legal persons, firms and bodies corporate. In addition, references to the masculine gender shall include the feminine and neuter genders and vice versa.
- 1.12. Definitions

In these Articles, unless the context otherwise requires:

the **Acts** means the 2014 Act and every statutory modification, replacement and re-enactment thereof for the time being in force;

the **2014 Act** means the Companies Act 2014;

these **Articles** means these articles of association, as originally framed, or as from time to time altered by special resolution, and reference to an **Article** shall be construed accordingly;

the **Auditors** means the statutory auditors or auditor for the time being of the Company; the **Board** means the Directors;

**body corporate** includes any association or body of persons, whether or not incorporated, and wherever formed, incorporated, registered or situate;

the **Chairman** means the person (if any) for the time being holding such office having been appointed thereto under the terms of these Articles;

the **Charities Act** means the Charities Act 2009;

the **Charities Regulatory Authority** means the charities regulatory authority for the time being in force established under the Charities Act;

**Committee** means a committee to which the Directors shall have delegated powers pursuant to the provisions of these Articles;

**company** means any body corporate wherever formed, incorporated, registered or situate;

**Company** means the company whose name appears in the heading to this Constitution;

**Constitution** means the constitution of the Company comprising the Memorandum of Association and the Articles;

the **Directors** mean the directors for the time being of the Company or the Directors present at a meeting of the Board, and includes any person occupying the position of Director by whatever named called;

**financial statements** shall have the meaning in Article [21.3];

the **Member** means a person for the time being entered into the Register; and

the **Memorandum of Association** means the memorandum of association for the time being of the Company;

**Month** means calendar month;

the **Office** means the registered\_ office for the time being of \_the Company;

the **Register** means the register of members of the Company to be kept as required by Section 169 of the 2014 Act;

**resolution** means, unless expressly otherwise stated or the context otherwise requires, an ordinary resolution;

the **Seal** means the common seal of the Company;

the **Secretary** means any person appointed to perform any of the duties of secretary of the Company and includes any deputy or assistant secretary;

the **State** means the Republic of Ireland; and

1.13. **Year** means calendar year.

## **2. MEMBERS**

2.1 The initial number of Members with which the Company proposes to be registered is two but the Directors may from time to time register an increase or decrease in the number of Members. The subscribers to the Constitution and such other persons as the Board shall admit to membership from time to time shall, subject to Article 2.5 (termination of membership), be the Members of the Company for the time being.

2.2 The maximum number of Members is 100 but the Board may from time to time approve an increase in Members by resolution.

2.3 Except in respect of the subscribers to the Constitution, every application for membership will be in writing signed by the applicant in such form as the Board may from time to time determine.

2.4 The Board may admit to membership such natural and/or legal persons as the Board may deem fit based on procedures and criteria which the Board may from time to time in its discretion determine. The Board will not be obliged to give reasons for refusing to accept any individual as a member of the Company.

2.5. Membership of the Company shall terminate forthwith:

2.5.1 in the case of a natural person, upon death; and in the case of a legal person upon a necessary resolution being passed or a court order being made for its winding up or dissolution; or

2.5.2 by resignation of the Member delivered in writing to the Secretary at the Office; or

2.5.3 if a Member, who is also a Director of the Company ceases to be a Director in accordance with these Articles; or

2.5.4 if a Member becomes bankrupt or insolvent or compounds with his creditors or being a company or corporation enters into liquidation either voluntary or compulsory or if a receiver is appointed over its assets; or

2.5.2 if a Member is adjudged by any competent court or tribunal, or determined in accordance with these Articles, not to possess an adequate decision making capacity; or

- 2.5.6. if a Member is convicted of an indictable offence or is sentenced to a term of imprisonment by a court of competent jurisdiction; or
  - 2.5.7. if a Member shall be in default for a period of three months in the payment of any subscription or other contribution payable by him to the Company; or
  - 2.5.8. if the Directors require the Member to resign his or her membership by serving notice upon the Member terminating his or her membership to expire no earlier than the date of service of the notice of termination.
- 2.6. The Board, subject to the provisions of Article 2.7 below shall have power by resolution approved by not less than two-thirds of the members present and voting at a meeting specially convened for the purposes to expel from membership of the Company any person whose continued membership it does not consider to be in the best interests of the Company.
- 2.7. A member whose expulsion is to be taken into consideration by the Board under the provisions of Article 2.6 hereof shall receive not less than 14 days' notice in writing of such proposed expulsion and short particulars of the grounds thereof and upon his giving notice in writing to the Secretary of his intention to appear shall be heard by the Board either in person or through his duly authorised agent but shall not be present at the voting or take further part in the proceedings otherwise than as the Board shall permit. Alternatively or in addition he may submit a written statement which shall be taken into consideration by the Board.
- 2.8. A former member of the Company shall remain liable for all subscriptions (if any) and contributions due or imposed on him up to the date on which he shall cease to be a member and for any sums due by him under this Constitution and shall forfeit all claim to a return of any money paid to him to the Company on his admission as a member or by way of subscription or otherwise.
- 2.9. Every Member shall be bound to further to the best of his ability the objects and interest of the Company and shall observe all bye-laws of the Company that may be made pursuant to Article 10.3.
- 2.10. Membership of the Company shall not be transferable.
- 2.11. The rights attaching to any Member may be varied from time to time by a special resolution of the Company.

### **3. GENERAL MEETINGS**

#### **3.1 Annual General Meetings**

- 3.1.1 The Company shall in each year hold a general meeting as its annual general meeting in addition to any other meeting in that year, and shall specify the meeting as such in

the notices calling it; and not more than 15 months shall elapse between the date of one annual general meeting of the Company and that of the next.

3.1.2 The Company must hold its first annual general meeting within 18 months of its incorporation. Subject to this Article, the annual general meeting shall be held at such time and place as the Board shall determine.

3.1.3 Annual general meetings of the Company shall be held in the State.

### 3.2 Extraordinary General Meetings

3.2.1 All general meetings other than annual general meetings shall be called an extraordinary general meeting.

3.2.2 The Board may, whenever it thinks fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or in default may be convened by such requisitionists, and in such manner as may be provided by the Acts. If at any time there are not sufficient Directors capable of acting to form a quorum, any Director or any two Members may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the Board.

### 3.3. Directors' right to attend general meetings

A Director who is not a Member will nevertheless be entitled to receive notice of, attend and speak at any general meeting at the Company.

## 4. NOTICE OF GENERAL MEETINGS

4.1 Subject to the provisions of the Acts allowing for a general meeting to be called by shorter notice, an annual general meeting and an extraordinary general meeting called for the passing of a special resolution shall be called by at least twenty one clear days' notice (21 days) in writing and a meeting of the Company (other than an annual general meeting or a meeting for the passing of a special resolution) shall be called by at least fourteen days' notice (14 days) in writing.

4.2 Notices of general meetings shall comply with all of the provisions of the Acts relating thereto. Without prejudice to this requirement, any notice convening a general meeting shall specify the day, the place and the hour of the meeting and the general nature of that business and the notice shall be given in manner authorised by these Articles to such persons as are entitled to receive such notices from the Company pursuant to this Articles and the Acts.

4.3 The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice, or the failure to furnish required agendas or associated documents, shall not invalidate the proceedings at the meeting.

## **5. PROCEEDINGS AT GENERAL MEETINGS**

### **5.1 The Chairman**

The Chairman (if any), shall preside as chairman at every general meeting of the Company, except where there is no Chairman or the Chairman is not present and willing to act, the Directors present shall elect one of their number to be chairman of the meeting; but if no Director is willing to act as chairman or if no Director is present within 15 minutes after the time appointed for holding the meeting, the Members present shall choose one of their number to be chairman of the meeting.

### **5.2 Business of the Annual General Meeting**

Without prejudice to the powers of the Directors to include on the agenda of any annual general meeting of the Company such other matters as they may, in their absolute discretion, think fit, the business of the annual general meeting of the Company shall include the following matters:

5.2.1 the consideration of the Company's statutory financial statements and the reports of the Directors and Auditors thereon: and

5.2.2 the review by the Members of the Company's affairs.

### **5.3 Quorum**

5.3.1 No business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business. Subject as hereinafter provided, two Members present in person or by proxy and entitled to vote on the business to be transacted shall be a quorum; provided that if the Company is a single member company, one member of the Company present in person or by proxy at a general meeting of it shall be a quorum.

5.3.2 If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of the Members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at such other time and place as the Board may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the Member or Members present shall be a quorum.

### **5.4 Adjournment**

The chairman of the meeting may, in his discretion, with the consent of any meeting at which a quorum is present, and if so directed by the meeting shall, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which



the adjournment took place. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

5.5 Poll

5.6 At any general meeting a resolution of any kind put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:-

5.6.1 by the chairman of the meeting; or

5.6.2 by at least three Members present in person or by proxy; or

5.6.3 by any Member or Members present in person or by proxy at the meeting and representing not less than one-tenth of the total voting rights of all members having the right to vote at the meeting.

5.7 Save as provided in these Articles and subject to compliance with the requirements of the Acts, a poll shall be taken in such manner as the chairman in his discretion may direct and he may (but shall not be required to) appoint scrutineers (who need not be Members) and fix a time and place for declaring the result of the poll. The result of the poll shall be deemed to be the determination, in relation to the matter concerned, of the meeting at which the poll was demanded.

5.8 The demand for a poll may be withdrawn.

5.9 Unless a poll is demanded as aforesaid, a declaration by the chairman of the meeting that a resolution of any kind has, on a show of hands, been carried or carried unanimously or by a particular majority or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

5.10 A poll demanded on the election of a chairman of a meeting or on any question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either immediately or at such subsequent time (not being more than thirty days from the date of the meeting) and place as the chairman of the meeting may direct. No notice need be given of a poll not taken immediately. The demand for a poll shall not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.

5.11 Where there is an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.

## 6. RESOLUTIONS IN WRITING

Subject to provisions of the Acts, a resolution of any kind in writing signed by all Members for the time being entitled to attend and vote on such resolution at a general meeting (or being bodies corporate by their duly authorised representatives) shall be as valid and effective for all purposes as if the resolution had been passed at a general meeting of the Company duly convened and held and, if described as a special resolution, shall be deemed to be a special resolution within the meaning of the Acts, and such resolution may consist of one document or two or more documents to the same effect each signed by one or more Members.

## 7. VOTES OF MEMBERS

### 7.1 Right to Vote

7.1.1 Every Member who is entitled to attend and vote at general meetings shall have one vote.

7.1.2 In the case of an equality of votes, the chairman of the meeting will be entitled to a casting vote in addition to any other vote he might have.

### 7.2 Qualification of Voters

7.2.1 No Member shall be entitled to vote at any general meeting unless all sums immediately payable by him to the Company has been paid.

7.2.2 No Member shall be entitled to vote on any matter in which he is personally interested unless the nature of such interest has been declared in advance of such vote.

7.2.3. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairman of the meeting, whose decision shall be final and conclusive.

### 7.3 Proxies

7.3.1 Every Member entitled to attend and vote at a general meeting may appoint a proxy and each such proxy shall be entitled to attend, speak, ask questions relating to the items on the agenda (subject to the provisions of the Acts) and vote on his behalf. The instrument appointing a proxy shall be in the form prescribed by the Acts, or as near to it as circumstances permit or in any other form which the Board may approve. The instrument of proxy and the power of attorney or other authority, if any, under which it

is signed, or a notarially certified copy of that power or authority, shall be deposited at the Office or at such other place within the State as is specified for that purpose in the notice convening the meeting of the Company, and shall be so deposited not later than 48 hours before the commencement of the meeting or adjourned meeting at which the person named in the instrument proposes to vote or, in the case of a poll, before the commencement of the taking of the poll.

7.3.2 The deposit of an instrument of proxy includes communicating the instrument to the Company by means of an electronic or internet communication or facility or by facsimile transmission, and any supplements, amendments or revocations of any such appointments may be made by similar means. Any such appointments, supplements, amendments or revocations of proxy will be deemed deposited at the place specified for such purpose, once received by the Company or by the recipient nominated by the Company to receive such proxies. The Directors may treat any such communication, facility or transmission which purports to be or is expressed to be sent on behalf of a Member as sufficient evidence of the authority of the person sending it to send it on behalf of that Member.

7.3.3 A vote given in accordance with terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, if no intimidation in writing of such death, insanity or revocation as aforesaid is received by the Company at the Office before the commencement of the meeting or adjourned meeting at which the proxy is used.

## **8 SINGLE-MEMBER COMPANY**

8.1. If and so long as the Company is a single-member company within the meaning of the Acts, the sole Member may appoint a person to be a Director of the Company by serving a notice in writing on the Company which states that the named person is appointed director, and this applies notwithstanding anything in subsection (3) of Section 144 of the 2014 Act (save for the requirement of it that any limit for the time being on the number of directors provided for in these Articles (if any) is to be observed) or in subsection (4) of Section 144 of the 2014 Act.

8.2 Where the Company is a single-member company and the sole Member takes any decision which has effect, pursuant to Section 196 of the 2014 Act, as if agreed by the Company in general meeting, the Member shall provide the Company with a written record of that decision, unless the decision is taken by way of written resolution which the Member has already forwarded to the Company, and where the Company is notified by the sole Member of a decision taken by way of a written resolution of any kind, or of a written record of a decision taken by that sole Member, the

Company shall record and retain the notification in a book or other suitable means maintained for the purpose.

8.3 Where the Company is a single-member company and the sole Member exercises or discharges any power, right or obligation pursuant to Section 196 of the 2014 Act, involving or consisting of the passing of a resolution, or the sole Member agreeing to a thing, and the provisions of Section 198 of the 2014 Act shall apply to that resolution or thing, the Company shall notify such exercise or discharge in writing within 15 days of the occurrence thereof to the Registrar of Companies.

8.4 Where the Company is a single-member company and enters into a contract with the sole Member which is not in the ordinary course of business and which is not in writing, and the sole Member also represents the Company in the transaction (whether as a director or otherwise), the Company shall ensure that the terms of the contract are forthwith set out in a written memorandum or are recorded in the minutes of the next directors' meeting.

## **9. THE BOARD**

9.1 The Board will manage the affairs of the Company and shall consist of not less than three Directors, or such other number of Directors as the Company may from time to time by resolution determine.

9.2 The first Board of the Company shall be determined in writing by the Members whom subscribe to the Constitution or a majority of them.

9.3 If at any time the number of Directors holding office falls below the required number (or any greater number fixed by these Articles as the minimum number of Directors), the Directors or Directors holding office may act for the purpose of appointing one or more additional Directors so as to increase the number to three Directors (or such greater minimum number as aforesaid) or summoning a general meeting of the Company for such purpose, but may not act for any other purpose.

### **9.4 CONFLICT OF INTERESTS**

#### **Interests in contracts**

A Director or shadow Director of the Company who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Company shall comply with the provisions of Section 231 of the 2014 Act and this Article (in the case of a shadow Director, as applied by Section 221 of the 2014 Act and this Article) with regard to the disclosure of such interest by declaration.

9.5 Directors' contracts:

No contract will be entered into by the Company for the employment of, or the provision of services by, a Director or a Director of a holding Company of the Company containing a term to which Section 249 of the 2014 Act, applies without obtaining the approval provided for in that section.

9.6 Directors' interests and voting

9.6.1 Disclosure:

A Director notwithstanding his office but subject to him having disclosed any interest which he is required to disclose in accordance with these Articles or the Acts (including, without limitation, Section 231 of the 2014 Act) as the case may be:-

- (1) may be a party to, or otherwise interested in, any transaction or arrangement with the Company or any subsidiary or associated company thereof or in which the Company or any subsidiary or associated company thereof is otherwise interested;
- (2) may be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company or any subsidiary or associated company thereof is otherwise interested; and

9.6.2 A copy of every declaration made and notice given under this Article shall be entered within three days after the making or giving thereof in a book kept for this purpose. Such book shall be open for inspection without charge by any Director, Secretary, Auditor or Member of the Company at the Registered Office and shall be produced at every general meeting of the Company and at any meeting of the Directors if any Director so requests in sufficient time to enable the book to be available at the meeting.

9.6.3 A Director may not vote in respect of any contract, appointment or arrangement in which he is interested, and he shall not be counted in the quorum present at the meeting.

9.6.4 For the purposes of this Article:-

1. a general notice given to the Directors by a Director to the effect that he is a Member of a specified company or firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with the company or firm or he is to be regarded as interested in any contract which may, after the date of the notice, be

made with a specified person who is connected with him shall be deemed to be a sufficient declaration of interest in relation to any such contract provided that such notice is given at a meeting of the Directors or the Director takes reasonable steps to secure that it is brought up and read at the next meeting of the Directors after it is given;

2. an interest of a person who is the spouse or a minor child of a Director shall be treated as an interest of the Director;

9.6.5 Any reference to a contract:

- (1) shall be read as excluding a reference to a contract the decision as to whether to enter into it is taken, or falls to be taken, other than by the board of directors or a committee of which the Director is a member; and
- (2) shall be read as including a reference to any transaction or arrangement, whether or not constituting a contract, but, in a case where the transaction or arrangement does not constitute a contract, a like limitation to that which applies under this Article applies to the construction of reference provided by this Article.

## **10. BORROWING POWERS**

The Board may without any limitation exercise all powers of the Company to borrow money and to mortgage or charge its undertaking and property or any part thereof and, subject to the Acts, to issue debentures, debenture stock and other securities whether outright or as security for any debt, liability or obligation of the Company or of any third party.

## **11. POWERS AND DUTIES OF THE BOARD**

### **11.1 General powers**

11.2 The business and affairs of the Company shall be managed by the Board who shall also be the administrative, co-ordinating and supervisory body of the Company. The Board may pay all expenses incurred in promoting and registering the Company, and may exercise all such powers of the Company as are not by the Acts or by these Articles required to be exercised by the Company in general meeting; subject nevertheless to the provisions of the Acts and of these Articles and to such directions, being not inconsistent with the aforesaid provisions, as may be given by the Company in general meeting. No direction given by the Company in general meeting shall invalidate any prior act of the Board which would have been valid if that direction had not been given.

11.1.3 Without prejudice to the general powers and authorities conferred by these Articles or any statute on the Board, the Board is hereby empowered to make, vary and repeal all such bye-laws as it may deem necessary or expedient or convenient for the proper conduct and management of the affairs of the Company. The Board shall adopt such means as it deems sufficient to bring to the notice of the members all such bye-laws and variations and repeals thereof and all such bye-laws so long as they are in force shall be binding upon all the members of the Company provided always that no bye-law shall be inconsistent with or shall affect or repeal anything contained in the Memorandum or Articles of Association of the Company or constitute such an amendment of or addition to these Articles as could lawfully be made only by special resolution.

11.1.4 The Board shall not be bound in any case to act personally but may delegate any of its powers to executives or employees of the Company and shall be at full liberty to employ and engage consultants, agents and to employ such executive, administrative, clerical and other staff (by means of employment, engagement, secondment or other wise), in each case on such terms as the Board may from time to time consider appropriate. Any such executives, employees, consultants and advisors shall comply with any policies and regulations from time to time issued by the Board.

11.1.5 Power to appoint attorneys

The Directors may from time to time and at any time by power of attorney appoint any company, firm or body corporate whether nominated directly or indirectly by the Board to be the attorney or attorneys of the Company for such purposes and with such powers authorities and discretions (not exceeding those vested in or exercisable by the Board under these Articles) and for such period and subject to such conditions as they may think fit and any such powers of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Board may think fit and may also authorise any such attorney as the Board may think fit and may also authorise any such attorney to delegate all or any of the powers, authority and discretions vested in him.

11.6 Cheques etc.

All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for monies paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by such person or persons and in such manner as the Board shall from time to time by resolution determine.

Shares in other companies

The Directors may exercise the voting powers conferred by the shares or securities of

any kind or other membership interests in any other person, firm or body corporate held, owned or engaged by the Company in such manner in all respects as they think fit, and in particular they may exercise the voting powers in favour of any resolution of any kind appointing the directors or any of them as directors or officer of such other person, firm or body corporate or providing for the payment of remuneration or pensions to the directors or officers thereof. Any Director may vote in favour of the exercise of such voting rights, notwithstanding that he may be or may be about to become a Director or officer of such other person, firm or body corporate, and as such or in any other manner is or may be interested in the exercise of such voting rights in manner aforesaid.

#### Incidental use of Company's property

Unless the Members in general meeting shall otherwise determine, and subject always to the other provisions of these Articles, any Director may use, for his own benefit, any of the Company's property, where any such use is reasonable and is merely incidental to the due and proper performance of his duties as a Director of the Company, and the other Directors or the Members of the Company have given their consent (whether express or implied to that use).

#### Minutes

The Board shall cause minutes to be made in books provided for the purpose:-

- 11.6.1 of all appointments of officers made by the Board;
- 11.6.2 of all names of the Directors present at each meeting of the Board, and of any committee or sub-committees of the Board;  
and
- 11.6.3 of all resolutions of any kind and proceedings at all meetings of the Company, and of the Board and of the committees or sub-committees of the Board.

## **12. APPOINTMENT, REMOVAL AND RESIGNATION OF BOARD MEMBERS**

### **12.1 Appointment of Directors**

- 12.1.1 The Members may by ordinary resolution from time to time appoint any persons to be Directors and, notwithstanding the terms of these Articles, remove from office any Directors so appointed, in each case by serving notice in writing to the Company.
- 12.1.2 Subject as provided in these Articles, the Directors may appoint a person who is willing to act to be a Director, either to fill a vacancy or as an additional Director, provided that the appointment does not cause the number of Directors to exceed any number as fixed by or in accordance with these



Articles as the maximum number of Directors.

## 12.2 Rotation of Directors

- 12.2.1 At each annual general meeting of the Company, one third of the members of the Board for the time being or if their number is not three or a multiple of three then the number nearest to one-third, shall retire.
- 12.2.2 The members of the Board to retire in every year shall be those who have been longest in office since the last election but as between persons who become members on the same day, those to retire shall (unless they otherwise agree amongst themselves) be determined by lot.
- 12.2.3 Retiring members of the Board shall be eligible for re-election.
- 12.2.4 The Company, at the meeting at which a member of the Board retires in manner aforesaid, may fill the vacated office by electing a person thereto and in default of the retiring member shall if offering himself for re-election, be deemed to have been re-elected unless at such meeting it is expressly resolved not to fill such vacated office or unless a resolution of the re-election of such member has been put to the meeting and lost.
- 12.2.5 No person other than a member of the Board retiring at the meeting shall, unless recommended by the Board, be eligible for election to the office of member of the Board at any general meeting unless not less than 3 nor more than 21 days before the date appointed for the meeting there has been left at the Office note in writing, signed by a member duly qualified to attend and vote at the meeting for which short notice is given, of his intention to propose such a person for election, and also notice in writing signed by that proposed person of his willingness to be elected.
- 12.2.6 The Company may from time to time by ordinary resolution increase or reduce the number of members of the Board and may also determine in what rotation the increased or reduced number is to go out of office.
- 12.2.7 The Board shall have the power at any time, and from time to time, to appoint any person to be a member of the Board either to fill a casual vacancy or as an addition to the existing members, but so that the total number of members shall not at any time exceed the number fixed accordance with these Articles. Any member so appointed shall hold office only until the next annual general meeting, and shall then be eligible for re-election, but shall not be taken into account in determining members who are to retire by rotation at such meeting.

## 12.3 Statutory Removal and Replacement

- 12.3.1 Subject to the provisions of the Acts and without prejudice to these Articles, the Company may, by resolution of which at least 28 days' notice has been given of the intent to move such a resolution, remove any Director before the expiration of his period of office notwithstanding anything in these Articles or in any agreement between the Company and such Director. Such removal shall be without prejudice to any claim such member may have for damages for breach of any contract of service between him and the Company.
- 12.3.2 The Company may, by resolution, appoint another person in place of a Director removed from office under the last preceding Article and, without prejudice to the powers of the Directors to appoint any person to be a Director, may appoint any person to be a Director either to fill a casual vacancy or as an additional Director.

### **13. DISQUALIFICATION OF DIRECTORS**

- 13.1 The office of Director will be *ipso facto* vacated if the Director:
- 13.1.2 dies in office;
  - 13.1.3 is adjudged bankrupt or being bankrupt has not obtained a certificate of discharge in the relevant jurisdiction; or
  - 13.1.4 becomes prohibited or disqualified from being a director by reason of any law or order made under the Acts or ceases to be qualified to be a director under the Charities Act; or
  - 13.1.5 resigns his office by notice in writing to the Company; or
  - 13.1.6 is convicted of an indictable offence or is sentenced to a term of imprisonment by a court of competent jurisdiction; or
  - 13.1.7 is for more than six consecutive months absent without permission of the Board from meetings of the Board (or any committee thereof) held during that period and the Board pass a resolution that by reason of such absence he has vacated his office; or
  - 13.1.8 is directly or indirectly interested in any contract with the Company and fails to declare the nature of his interest in manner required by the Acts;
  - 13.1.9 is removed from office of Director pursuant to Section 146 of the 2014 Act; or
  - 13.1.10 is no longer regarded as possessing an adequate decision-making capacity for reasons of health, and his co-Directors have accordingly resolved that his office be vacated on this ground, or he becomes the subject of an order made in Ireland or elsewhere by a court claiming jurisdiction in that regard

for his detention or for the appointment of a guardian or other person to exercise powers with respect to his property or affairs, on the ground, in any such case, of mental disorder or incapacity; or

- 13.1.11 is required in writing by all his co-Directors to resign; or
- 13.1.12 if a Director undertakes an activity or so conducts himself or herself in such a way as in the opinion of a two thirds majority of the other Directors in their absolute discretion the interests of the Company would be prejudiced; or
- 13.1.13 holds any other office or place of profit under the Company beyond the extent permitted by Clause 5 of the Memorandum of Association.

#### **14. REMUNERATION OF DIRECTORS**

Save as permitted pursuant to Clause 5 of the Memorandum of Association, no Director shall be entitled to receive any salary, remuneration or fees for serving as a Director of the Company.

#### **15. ALTERNATE DIRECTORS**

- 15.1 Any Director (the **appointer**) may at any time and from time to time appoint by notice in writing to the Company any person approved by resolution of the Board to be his alternate.
- 15.2 A person may act as an alternate for more than one Director and while he is so acting will be entitled to a separate vote for each Director he is representing and, if he is himself a Director, his vote or votes as an alternate will be in addition to his own vote.
- 15.3 An alternate will be counted for the purpose of reckoning whether a quorum is present at any meeting attended by him at which he is entitled to vote, but where he is himself a Director or is the alternate of more than one Director he will only be counted once for such purpose.
- 15.4 An alternate will be entitled, subject to his giving to the Company an address to receive notice of all meetings of the Directors and of all meetings of Committees of which his appointer is a member, to receive notice of and attend and vote at any meeting of the Directors (or of a Committee of which his appointer is a member) at which the appointer is not personally present. An alternate shall not be entitled to be remunerated or paid fees otherwise than out of the remuneration or fees as the case may be paid to the appointer.
- 15.5 The alternate will be entitled, in the absence of the appointer, to exercise all the powers, rights, duties and authorities of the appointer as a Director

(other than the right to appoint an alternate hereunder).

- 15.6 An alternate's appointment will automatically come to an end if for any reason the appointer ceases to be a Director, but if a Director retires but is re-appointed or deemed to have been re-appointed at the meeting at which he retires, any appointment of an alternate made by him which was in force immediately prior to his retirement will continue after his re-appointment. Section 165(5) and (6) of the 2014 Act in relation to revocation of appointment shall apply.

## **16. PROCEEDINGS OF THE BOARD**

- 16.1 The Board may elect one of its number to be Chairman and one of its number to be Deputy Chairman of its meetings and determine the period for which each such person is to hold office but if no such Chairman or Deputy Chairman is elected, or if at any meeting neither the Chairman nor the Deputy Chairman is present within five minutes after the time appointed for holding the same, the members of the Board present shall choose one of their number to be Chairman of the meeting.
- 16.2 The Board may meet for the despatch of business, adjourn, and otherwise regulate their meetings, as they think fit and otherwise in accordance with these Articles. Questions arising at any meeting shall be decided by a majority of votes. In the case of an equality of votes, the Chairman shall have a second or casting vote.
- 16.3 The Chairman may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Board on giving reasonable notice to the Directors. Any Director may waive notice of any meeting, and any such waiver may be retrospective. If the Board so resolve, it shall not be necessary to give notice of a meeting of the Board to a Director or alternate Director who, being a resident of the State, is for the time being absent from the State.
- 16.4 The quorum necessary for the transaction of the business of the Board will be two Directors.
- 16.5 The Board may act notwithstanding any vacancy in their body but, if and so long as their number is reduced below the number fixed pursuant to the Articles of the Company as the necessary quorum of the Board, the continuing Directors may act for the purpose of increasing their number to that number, or of summoning a general meeting of the Company, but for no other purpose.
- 16.6 Notwithstanding the provisions of Section 161(1) of the 2014 Act, a resolution in writing, signed by each Director or his alternate shall be as

valid as if it had been passed at a meeting of the Board duly convened and held.

- 16.7 All acts done by any meeting of the Board or of a Committee, or by any person acting as a Director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Director or member of any Committee or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director or a member of such Committee as the case may be.

## **17. TELEPHONE MEETINGS**

- 17.1 For the purpose of these Articles, the contemporaneous linking together by telephone or other means of audio communication of a number of Directors not less than the quorum shall be deemed to constitute a meeting of the Board, and all the provisions in these Articles as to meetings of the Board shall apply to such meetings.
- 17.2 Each Director taking part in the meeting must be able to hear each of the other Directors taking part.
- 17.3 At the commencement of the meeting each Director must acknowledge his presence and that he accepts that the conversation shall be deemed to be a meeting of the Board.
- 17.4 A Director may not cease to take part in the meeting by disconnecting his telephone or other means of communication unless he has previously obtained the express consent of the Chairman of the meeting, and a Director shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting unless he has previously obtained the express consent of the Chairman of the meeting to leave the meeting as aforesaid.
- 17.5 A minute of the proceedings at such meeting by telephone or other means of communication shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if certified as a correct minute by the Chairman of the meeting.

## **18. COMMITTEES**

- 18.1 The Board may delegate any of its powers to Committees consisting of such persons (a majority of whom shall be Directors) as it thinks fit and such delegation may be revoked by the Board at any time; any Committee so formed shall in the exercise of the powers so delegated conform to any regulations and policies that may be imposed on it by the Board.

- 18.2 The Board may elect a chairman of Committee meetings; if no such chairman is elected, or if at any meeting the chairman is not present within fifteen minutes after the time appointed for holding the same, the members of the Committee present may choose one of their number to be chairman of the meeting.
- 18.3 A Committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members of the Committee present and in case of an equality of votes the chairman shall have a second or casting vote.
- 18.4 A Committee must report to the Board regularly on any resolutions passed and decisions taken by them and for that purpose each Committee shall appoint a secretary.
- 18.5 A resolution in writing signed by each member of a Committee or, in the case of a Director, his alternate Director, shall be as valid as if it had been passed at a meeting of that Committee duly convened and held.

**19. SECRETARY**

- 19.1 The Secretary shall be appointed by the Directors for such terms, and upon such conditions as they may think fit, and any Secretary so appointed may be removed by them.
- 19.2 A provision of the Acts or these Articles requiring or authorising a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as a Director and as, or in place of, the Secretary.

**20. SEAL**

The Seal shall be used only by the authority of the Board or a Committee authorised by the Board in that behalf, and every instrument to which the Seal shall be affixed shall be signed by a Director and shall be countersigned by the Secretary or by a second Director or by some other person appointed by the Board for the purpose.

**21. ACCOUNTS**

- 21.1 The accounting records shall be kept at the Office or subject to the Acts at such other place or places as the Board thinks fit.
- 21.2 The Board shall from time to time determine whether and if so to what extent and at what times and places and under what conditions or regulations the accounting records of the Company or any of them shall be open to the inspection of Members not being members of the Board, and no Member (not being a Director) shall have any right of inspecting

any accounting records or document of the Company except as conferred by statute or authorised by the Board or by the Company in general meeting.

21.3 The Board shall from time to time cause to be prepared and laid before the annual general meeting of the Company such profit and loss (or income and expenditure) accounts, balance sheets and reports as are required by the Acts to be prepared and laid before the annual general meeting of the Company (**financial statements**).

21.4 A copy of all financial statements shall, not less than twenty-one days before the date of the annual general meeting, be sent to every person entitled under the provisions of the Acts to receive them.

## **22. AUDIT**

22.1 Auditors shall be appointed and their duties regulated in accordance with the Acts.

22.2 Annual audited accounts of the Company shall be made available to the Revenue Commissioners on request.

## **23. ANNUAL REPORT AND RETURN UNDER THE CHARITIES ACT 2009**

The Board shall comply with the requirements of the Charities Act with regard to:-

23.1 the transmission of the financial statements of the Company to the Charities Regulatory Authority;

23.2 the preparation of an Annual Report and its transmission to the Charities Regulatory Authority; and

23.3 the preparation of an Annual Return and its transmission to the Charities Regulatory Authority.

## **24. NOTICES**

24.1 A notice to be given by the Company to any person entitled to receive it (the **addressee**) shall be in writing and may be given to the addressee personally, delivered or posted (properly addressed and prepaid) to his registered address or served or delivered in electronic form whether as an electronic communication or otherwise. A notice given in a manner referred to in this Article will be deemed to be given as follows:

24.1.1 if given to the addressee personally or delivered, when so given or delivered;

24.1.2 if posted, in the case of the notice of a meeting, 24 hours after posting or, in any other case, at the time at which the letter would be delivered in

the ordinary course of post; or

24.1.3 if given, served or delivered by electronic mail at the time it was sent.

24.2 Notice of every general meeting shall be given in any manner hereinbefore authorised to:

24.2.1 every Member;

24.2.2 every person upon whom the Board has been duly notified the ownership of a membership interest devolves by reason of his being a personal representative or the official assignee in bankruptcy of a Member, where the Member but for his death or bankruptcy would be entitled to receive notice of the meeting;

24.2.3 every Director and Secretary; and

24.2.4 the Auditors.

24.3 A member present at a general meeting (or a meeting of any class of Members) in person or by proxy will be deemed to have received notice of the meeting, and where requisite, of the purposes for which it was called.

## 25. **INDEMNITY**

25.1 Subject to the Acts, every Director, Secretary and other officer for the time being of the Company shall be indemnified out of the assets of the Company against any liability by him in defending any proceedings, whether civil or criminal, in relation to his acts while acting in such office, in which judgement is given in his favour or in which he is acquitted, or in connection with any proceedings or any application under the Acts or under any statute for the relief from liability in respect of any such act or omission in which relief is granted to him by the Court.

25.2 To the extent permitted by law, the Directors may arrange insurance cover at the cost of the Company in respect of any liability, loss or expenditure incurred by any Director, Secretary and/or other officer in relation to anything done or alleged to have been done or omitted to be done by him or them as a Director, Secretary and/or officer.

## **Appendix C.1 Matters Reserved by the Board to itself**



## MATTERS RESERVED FOR DECISION BY THE BOARD

### DUBLIN ADULT LEARNING CENTRE

## MATTERS RESERVED FOR DECISION BY THE BOARD

There are clear distinctions between the roles of the Board of Directors and the Chief Executive Officer (CEO) of Dublin Adult Learning Centre (**DALC**). The Board is responsible for providing leadership, setting overall strategy, budgets and monitoring outcomes of the organisation. The Board is also responsible for the oversight identifying the risks affecting DALC and ensuring procedures are in place to reduce and manage the major risks identified.

The day-to-day management of DALC is delegated to the CEO. The CEO arranges for the preparation and presentation of key policies, work plans, annual financial budgets and cash flows for consideration and approval to the Board. The CEO is responsible for all operational matters. There is a schedule of matters reserved to the Board for decision.

Board approval (minuted or in writing) is required for the following matters:

#### **Business purpose and strategic focus**

- Changes to the DALC mission
- Changes to the Constitution to be proposed to members of DALC
- DALC strategy statements

#### **Finance**

- Annual income and expenditure budget
- DALC reserves policy
- Annual audited financial statements
- Delegated Authorities and Levels

#### **Risk**

- The Risk Policy and risk mitigation measures including the Risk Register
- Approval of appropriate levels of insurance for DALC's activities and property

#### **Governance**

- Corporate Governance policy
- Directors' Manual

- Code of Conduct for Board members
- Compliance with the Charities Governance Code

#### **Employment**

- Appointment of the CEO and the remuneration of the CEO
- The appointment of non-teaching senior staff
- DALC's pension arrangements

#### **Board membership and structures**

- Appointment of the Board Chairperson
- Appointment of the Company Secretary. The Company Secretary can only be removed by the Board. The Company Secretary does not have to be a member of the Board of Directors
- The co-option of new board members to fill vacancies that may occur (in line with Constitution). The appointment of any such new board members is subject to ratification at the next AGM
- The establishment of sub-committees of the Board and setting and reviewing of the terms of reference of the committees
- Biennial Performance evaluation and review led by the Chairperson

#### **Other**

- Proposed expenditure in excess of €7,500 which in the opinion of the FARC is unusually large whether in terms of amount or likely impact.

## **Appendix C.2 Policy of Policies**



<b>Document Name</b>	Policy on Policies
<b>Lead</b>	Company Secretary
<b>Version Reference</b>	V1 (2023)
<b>Approved by</b>	DALC Board on recommendation of the Governance Committee
<b>Effective Date</b>	7.3.2023

**Dublin Adult Learning Centre  
Policy on Policies**

***POLICY ON POLICIES***

Policy on the Formulation, Approval and Review of Policies

**1. Purpose of Policy**

The purpose of this policy, also known as the 'Policy on Policies', is to define the process by which all Dublin Adult Learning ("DALC") policies are to be developed, approved and maintained.

By using a consistent policy development process and format, DALC will assemble policies that are:

- a) Appropriately developed and regularly updated;
- b) Easy to find, read and understand;
- c) Consistent with DALC's mission;
- d) Compliant with applicable QQI QA criteria core & specific guidelines;
- e) Compliant with Charity Regulator's Governance Code;
- f) Compliant with any applicable legislation or regulatory regime and any applicable funder requirements;
- g) Referenced within our online Risk Management System; and
- h) Designed to promote best practice in all areas in the Centre.

This policy development framework establishes a standard and principles for policy development, approval, implementation and review. The framework ensures consistency and compliance and sets down a transparent process with stakeholder consultation and appropriate approval pathways.

## **2. Policy Lead**

The Policy Lead<sup>[1]</sup> for this policy shall be responsible for keeping the policy up to date and for ensuring that only approved versions of the policy are accessible via the online Risk Management System. The Policy Lead shall periodically review this policy. The policy shall be subject to approval by the DALC Board following a recommendation of the Governance Committee and shall state the date on which it was so approved.

## **3. Policy Statement**

Dublin Adult Learning Centre policies shall be:

- a) Developed according to the process set out in this policy;
- b) Presented in a format which follows the general parameters of this policy;
- c) Approved by the appropriate authority following the recommendation of any person or body as are in each case specified in respect of that policy in the Appendix to this Policy (the "Appropriate Authority");
- d) Accessible to all parties with an interest in the policy's subject matter;
- e) Kept up-to-date and current within a framework of an organized system of change control; and
- f) Clearly described as policies and kept separate from related documentation such as procedures, guides and other types of related documentation.

All individuals who are responsible for the drafting, updating, recommending, approval and distribution of DALC policies shall comply with this policy. Operational policies shall not be in conflict with this policy but they may be more restrictive. The Appendix to this Policy may, with the approval of the DALC Board, be updated from time to time to specify the Appropriate Authority in respect of new policies.

## **4. Policy development**

The Policy Lead shall be responsible, in respect of the area to which his or her policy relates, for the drafting of new or revised DALC policies, for ensuring policies are up to date, for consulting with interested parties and for steering the policy through any appropriate committee or group required for recommendation and for subsequent approval by the Appropriate Authority. The Policy Lead shall also arrange for the policy's publication, when approved, on the DALC website and a link to the appropriate risk on the Risk Management System.

#### **5. Policy format**

Each DALC policy shall be presented in a format which follows the general parameters of this policy and at a minimum adopts the version control panel and numbering system.

#### **6. Policy approval**

The process for reviewing, recommending and approving draft policies may vary depending upon the nature of the policy and shall be as specified in the Appendix. In general, the responsibility for promoting compliance with a policy will rest with the Policy Lead unless as specified otherwise within the policy.

#### **7. Accessibility**

All policies will be held in a shared office folder, linked to on the online Risk Management System and published on the DALC website.

#### **8. Review**

The Policy Lead for each policy shall be responsible for keeping the policy up to date and for ensuring that only approved versions of the policy are accessible via the DALC website and online Risk Management System. The Policy Lead shall periodically review policies which fall under their remit. Each policy shall state the date on which it was approved by the Appropriate Authority as applicable. Except where a separate process or authority for making changes to a policy are included within the policy, the amendments to existing policies and the development of new policies shall follow the development and approval process as outlined in sections 4 and 6 above. The Management team shall assist Policy Leads in implementing a process of regular review and shall provide guidance to Policy Leads in relation to complying with the requirements of this policy.

#### **9. Operational procedures for policy development and review**

Any policy development initiative, regardless of its origin, should follow a pre-defined cycle of:

- initiation
- drafting
- consultation
- (if applicable) recommendation
- approval
- communication
- implementation
- ongoing monitoring and review.

##### **(a) *Initiation***

A policy development can be triggered, for example, by legislative or regulatory changes, funder requirements, strategic objectives or restructuring of DALC or identified institutional risk or gap. A policy proposal should be submitted to the relevant committee or group to assess the need for a policy development or review. The approval of the policy proposal should involve an initial discussion and stated preferences on the policy principles. Once it has been decided to develop a new policy that is not already within the scope of the Appendix to this Policy, DALC Board approval should be sought to amend the Appendix to set out Appropriate Authority required to approve the new policy and any recommendation which the Appropriate Authority should receive and consider before giving such approval.

***(b) Drafting and Development/Review***

The Policy Lead should consider the policy issue, conduct an initial discussion on policy principles with stakeholders, carry out any relevant research including review of international good practice, formulate a draft policy document, undertake consultation with appropriate stakeholders, address any gaps highlighted by the policy impact assessment, and submit a final draft of policy for approval. Policy should:

- i. Contain language that is plain English and appropriate for the audience
- ii. Comply with the requirements of paragraph 5 above.

***(c) Consultation***

Informal consultation with interested parties is strongly recommended throughout the development of a new policy or a major policy review. The Policy Lead should seek to engage decision making groups on the character of policy problems to be addressed as a prior step to developing policy solutions. Once a policy has been drafted, it needs to be made available for formal consultation with the relevant governance/approval body.

***(d) Recommendation***

Where the Appendix specifies that the Appropriate Authority in respect of a policy must receive and consider the recommendation of a person or body before approving a policy, the Policy Lead shall liaise with that person or body (or with the Committee Secretary where the recommendation is to be given by the Governance Committee) and ensure that such recommendation is sought and provided to the Appropriate Authority.

***(e) Approval***

Approval of policies shall follow an agreed approval pathway as set out in the Appendix to this Policy and will be effective from the date of approval, if not otherwise specified.

***(f) Communication***

All policies are published on the DALC website and linked to the online Risk Management System in line with an approved Document Management Protocol. A policy published is considered the only authorised version. The Policy Lead is responsible for communications about a new or revised policy. A communication plan should be an essential part of successful implementation and application of a new policy.

***(g) Implementation***

Implementation should be planned from the very start of a policy development process. It is important to ensure the oversight of policy implementation, in particular where the implementation spreads across different areas of DALC. The Policy Lead should discuss policy implementation with relevant stakeholders to agree a timeline for all required implementation activities and to assign responsibilities for each activities and discuss with the relevant leadership and management structures the assigning of responsibilities for each activity.

***(h) Monitoring and Review***

It is essential that, once approved, policies remain relevant, fit for purpose and consistent with DALC's mission and objectives. Policy compliance can be monitored by recording issues arising from implementation, gathering feedback and by monitoring decisions taken under the policy. Information collected through monitoring activities is used during the formal review of the policy. All approved policies are subject to periodic review. Reviews normally take place after 1-5 years of operation. Where necessary, policies may be reviewed outside the review cycle. Editorial or other minor amendments to policy may be made outside a formal review. Minor amendments to policy require the approval of the relevant committee or group. Major amendments to policy can be approved and implemented only as a result of a formal policy review with appropriate stakeholder consultation. A review should consider related documents and references and if the policy:

- (i) Remains consistent with good practice and the strategic direction of DALC;
- (ii) Continues to meet stakeholder needs;
- (iii) Complies with any existing related policies;
- (iv) Works well on an operational level; and
- (v) Could be enhanced.

Policy	Policy Lead	Appropriate Authority (AA)	Date of Approval of/update	Review Schedule
Policy on Policies	Company secretary	Board on the recommendation of the Governance Committee	7.3.2023	Annually
Code of Conduct	Company Secretary	Board on the recommendation of the Governance Committee		Annually
List of Matters reserved to the Board	Company Secretary	Board on the recommendation of the Governance Committee		Annually
Accounting Policies	CEO	Board on the recommendation of the FARC		Annually
Academic Policies as per QQI Quality Assurance Manual	Review and Design Group	Quality committee	28.02.2023	Annually
Risk Management Policy	Chief Risk Officer	Board on the recommendation of the FARC	7.3.2023	Annually
Employment Policies as per Staff Handbook	Senior Management	CEO/Board on recommendation of a HR committee		Annually
Data Protection Policy	DP Administrator & Company Secretary	CEO	20.2.2023	Annually
Health and Safety Policy	DALC H & S contractors at the direction of the CEO	CEO	1.12.21	Every 5 years
Complaints Policy	Company Secretary	CEO		Annually
Information and Data	DP Administrator	CEO	20.02.23	Annually



Management Policy	and Company Secretary			
Public Information and Communication Policy	CEO	Board from 26/04/23 Previously CEO	20.03.23	Annually

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<sup>[1]</sup> The **Policy Lead** for the initiating, drafting, developing, recommending and reviewing of any DALC policy shall be any person or body designated to undertake such work

# **Terms of Reference of the Finance Audit and Risk Committee (FARC)**

## **DUBLIN ADULT LEARNING CENTRE (“DALC”)**

### **THE FINANCE, AUDIT AND RISK COMMITTEE TERMS OF REFERENCE**

#### **1. Establishment and Role**

The Finance, Audit and Risk Committee is established by the Board of DALC pursuant to Article 18 of the Articles of Association of DALC. The role of the Finance, Audit and Risk Committee is to assist the Board in fulfilling its oversight responsibilities in relation to:

- a. the robustness of DALC’s budgetary processes, the adequacy and effectiveness of DALC’s internal audit function and financial controls, the quality and integrity of DALC’s financial statements, the effectiveness of the external audit process and the independence of the external auditors; and
- b. the adequacy and effectiveness of DALC’s risk management framework.

This role includes the specific duties listed below.

#### **2. Means of Performing Role**

In the performance of its role the Finance, Audit and Risk Committee shall have the assistance and expertise of DALC management (**Management**), the internal audit function of DALC (**Internal Audit**) and the auditors that are from time to time appointed by the members of DALC (**External Auditors**). While the Finance, Audit and Risk Committee has the functions and powers as here set out, it is not the function of the Finance, Audit and Risk Committee to conduct audits or (subject as provided below) investigations. Whilst the Finance, Audit and Risk Committee is responsible for reporting to the Board on compliance and recommending the adoption by the Board of the Annual Report and financial statements, it operates by reviewing reports, statements and information presented by the Management, Internal Audit and the External Auditor. The Committee has the authority to investigate any matters within its terms of reference subject to obtaining the prior consent of the Board.

#### **3. Membership**

- a. The Finance, Audit and Risk Committee will consist of at least three and not more than five non-executive members of Board.
- b. A quorum will consist of two members of the Finance, Audit and Risk Committee.

- c. The Chairperson of DALC's board can be a Finance, Audit and Risk Committee member but cannot chair the Finance, Audit and Risk Committee.
- d. Where the Finance, Audit and Risk Committee members do not have sufficient knowledge or experience in a particular area, the Finance, Audit and Risk Committee may invite persons with relevant expertise to attend meetings.
- e. The Chairperson and members of the Finance, Audit and Risk Committee will be provided with initial induction and continuing training in such matters as corporate governance, the role of Internal Audit and External Auditors and risk management.

#### **4. Duties**

##### Finance

- a. To monitor and report to the Board on DALC's budgetary processes.
- b. To review, prior to its submission to the Board, DALC's proposed annual financial budget and to review periodically DALC's financial position and most recent management accounts and consider any proposed budget adjustments.
- c. To review and consider all proposed items of material expenditure in excess of €7,500 and make recommendations to the Board accordingly.

##### Audit

- d. To review, and provide assurance to the Board as to, the adequacy, application, effectiveness and efficiency of internal financial controls.
- e. To review the adequacy of policies and practices to ensure compliance with relevant legislation and policies and to report thereon to the Board.
- f. To review the reliability of financial information presented to the Board and any significant financial reporting judgements contained in such information and to report thereon to the Board.
- g. To review the findings of any relevant examinations by regulatory agencies and any observations made by Internal Audit or the External Auditors and to report thereon to Board.
- h. To review the activities and effectiveness of Internal Audit, including its annual work programme.
- i. To ensure Internal Audit is adequately resourced and has appropriate standing within the organisation.
- j. To have a meeting with the External Auditors normally once a year.
- k. To make recommendations to the Board, for the Board in turn to put to the members for their approval at the general meeting, in relation to the appointment,

re-appointment and removal of the External Auditor and to approve the remuneration and terms of engagement of the External Auditor.

- l.** To review and monitor the external auditor's independence and objectivity and the effectiveness of the audit process, taking into consideration relevant Irish professional and regulatory requirements.

#### Risk

- m.** To review the adequacy and effectiveness of DALC's risk management framework and monitor its operation.
- n.** To ensure that DALC's risk management function is adequately resourced.
- o.** To review and recommend for the approval of the Board suitable risk strategies, controls, policies and procedures.
- p.** To review DALC's risk register on at least an annual basis, receive reports on risk management from Management and consider on an ongoing basis new and emerging risks.
- q.** To review DALC's business continuity and crisis management planning on at least an annual basis.
- r.** To make recommendations to the Board regarding the description to be contained in the Directors' Annual Report of principal risks and uncertainties facing DALC together with a summary of plans and strategies for managing those risks.

#### General

- s.** To monitor the conduct of Management in carrying out its relevant functions.
- t.** To review such matters as may be referred to it by the Board.
- u.** To report to the Board, identifying any matters in respect of which it considers that action or improvement is needed and making recommendations as to the steps to be taken.

### **5. Authority**

The Finance, Audit and Risk Committee as a body is empowered in the discharge of its functions to

- a.** have full access to all information and be entitled to obtain any information it requires from staff or external parties;
- b.** retain professional advice or assistance in the performance of its functions;

- c. invite persons with relevant expertise who are not members of the Board of DALC to attend Finance, Audit and Risk Committee meetings;
- d. approve all proposed items of expenditure being in excess of €7,500, subject to prior Board approval in any case where, in the opinion of the Finance, Audit and Risk Committee, an item of expenditure is unusually large whether in terms of amount or likely impact; and
- e. meet with the Internal Audit and External Auditors.

## **6. Meetings**

- a. The Finance, Audit and Risk Committee will meet normally between two and four times a year. It is a matter for the Finance, Audit and Risk Committee, in consultation with the Centre Director, to decide the frequency and timing of the meetings.
- b. All Finance, Audit and Risk Committee members are expected to attend each meeting.
- c. The Finance, Audit and Risk Committee will meet with the External Auditors at least once a year and shall have a discussion with each of the External Auditors and the Internal Audit at least once a year without Management present.
- d. Only the Finance, Audit and Risk Committee members are entitled to be present at a meeting of the Finance, Audit and Risk Committee. The Finance, Audit and Risk Committee may invite members of Management, the Internal Audit, External Auditors or others to attend as necessary.
- e. The Centre Director will make the necessary arrangements for the administrative requirements of the Finance, Audit and Risk Committee, inclusive of the preparation of an annual indicative calendar to designate planned key agenda topics, meeting agenda, briefing documents and minutes to be issued in a timely manner to Finance, Audit and Risk Committee members.
- f. The Centre Director will ensure that matters of material concern that are relevant to the Finance, Audit and Risk Committee's responsibilities are brought to the attention of the Committee promptly.
- g. The minutes of Finance, Audit and Risk Committee meetings will be furnished to Board of DALC for noting at DALC Board Meetings.

## **Appendix C.4**

# Terms of Reference of the Governance Committee

## DUBLIN ADULT LEARNING CENTRE (“DALC”)

### THE GOVERNANCE COMMITTEE TERMS OF REFERENCE

#### 1. Establishment and Role

The Governance Committee is established by the Board of DALC pursuant to Article 18 of the Articles of Association of DALC. The role of the Governance Committee is to assist and advise the Board in relation to the effectiveness of DALC’s corporate governance arrangements including the Board’s compliance with the Charities Governance Code issued by the Charities Regulator (the **Charities Governance Code or CGC**). This role includes the specific duties listed at Section 4 below.

#### 2. Means of Performing Role

In the performance of its role the Governance Committee shall have the assistance and expertise of DALC management (**Management**). The Committee has the authority to investigate any matters within its terms of reference subject to obtaining the prior consent of the Board.

#### 3. Membership

- a. The Governance Committee will consist of at least two and not more than five non-executive members of the Board.
- b. A quorum will consist of two members of the Governance Committee.
- c. The Chairperson of DALC’s board can be a Governance Committee member but cannot chair the Governance Committee.
- d. Where the Governance Committee members do not have sufficient knowledge or experience in a particular area, the Governance Committee may invite persons with relevant expertise to attend meetings.

#### 4. Duties

##### Charities Governance Code

- a. To monitor the Board’s compliance with the Charities Governance Code and report to the Board on such compliance.
- b. To review the annual CGC Compliance Record and make a recommendation to the Board regarding its adoption.

- c. To keep under review and advise the Board regarding any developments of the Charities Governance Code and any other relevant guidelines issued by the Charities Regulator.

#### DALC Corporate Governance Policies and Materials

- d. To review the DALC Director's induction and information pack (the **Board Manual**) at least annually, or more frequently should circumstances require, and make recommendations for the approval of the Board regarding amendments or updates having regard to the needs of DALC, any developments referred to at paragraphs c and f and such other matters as the Committee consider relevant.
- e. To review and recommend for the approval of the Board appropriate controls in regard to delegations of power by the Board, including the scope of matters reserved for decision by the Board and the terms of reference of any Committee established by the Board, and appropriate policies and procedures in regard to other corporate governance matters such as the Code of Conduct for Board Members, together with related policies regarding conflicts of interest, gifts and expenses, and the Policy of Policies.
- f. To keep under review and advise the Board regarding developments in the area of corporate governance relevant to charitable companies including relevant changes to companies or charities legislation.

#### Board Induction, Training and Review

- g. To monitor and make recommendations to the Board regarding the Board induction process and appropriate on-going training for Board and Committee members.
- h. To advise the Board in relation to the form and focus of Board reviews.
- i. To review and make recommendations to the Board regarding the implementation of the outputs of any Board review process which relate to matters within the scope of the Committee's role.

#### Board Recruitment

- j. To document for approval by the Board the skills matrix and process which has been applied in practice for the purposes of succession planning and recruitment of new Directors of DALC and thereafter to monitor and make recommendations to the Board regarding any amendments or updates to that matrix and process.

#### General

- k. To review such matters as may be referred to it by the Board.
- l. To report to the Board, identifying any matters in respect of which it considers that action or improvement is needed and making recommendations as to the steps to be taken.

### **5. Authority**

The Governance Committee as a body is empowered in the discharge of its functions to

- a. have full access to all information and be entitled to obtain any information it requires from staff or external parties;
- b. retain professional advice or assistance in the performance of its functions; and
- c. invite persons with relevant expertise who are not members of the Board of DALC to attend Governance Committee meetings.

### **6. Meetings**

- a. The Governance Committee will meet normally between two and four times a year. It is a matter for the Governance Committee, in consultation with the [Secretary], to decide the frequency and timing of the meetings.
- b. All Governance Committee members are expected to attend each meeting.
- c. Only the Governance Committee members are entitled to be present at a meeting of the Governance Committee. The Governance Committee may invite members of Management or others to attend as necessary.
- d. The Secretary will make the necessary arrangements for the administrative requirements of the Governance Committee, inclusive of the preparation of an annual indicative calendar to designate planned key agenda topics, meeting agenda, briefing documents and minutes to be issued in a timely manner to Governance Committee members.



- e. The CEO will ensure that matters of material concern that are relevant to the Governance Committee's responsibilities are brought to the attention of the Committee promptly.
- f. The minutes of Governance Committee meetings will be furnished to Board of DALC for noting at DALC Board Meetings.

**Appendix C.5**  
**Terms of Reference of the Quality Committee**

## Terms of Reference of the Dublin Adult Learning Centre Quality Committee

### 1. Nature of Committee

The Dublin Adult Learning Centre Quality Committee is a Committee of the Board. Its authority to protect, maintain and develop the academic standards of the programmes and the academic activities of DALC is delegated from the Board and it is subject to Board oversight in the manner outlined below.

### 2. Role

It is the role of the Quality Committee to monitor the quality of DALC's academic standards, the integrity of its academic processes and the adherence to DALC's own academic Quality Assurance (the QA).

In the performance of its role the Quality Committee shall have the assistance and expertise of senior management, the DALC Design and Review Group (the D&R Group) and the QQI Coordinator. The D&R Group, the QQI Coordinator<sup>9</sup> and senior management will prepare and/or present reports, statements and information on academic matters (including any recommendation regarding a new programme) to the Quality Committee for review by it from the perspective of academic standards, integrity of academic processes and adherence to the QA.<sup>[1]</sup>

The Quality Committee is responsible for reporting to the Board on compliance with academic standards and integrity and recommending the approval of delivery of programmes for validation or otherwise.

### 3. Membership

- The Quality Committee will consist of:
- two and not more than three non-executive members of the Board.
- two and not more than three tutor representatives of the D&R Group
- the QQI Coordinator
- the Assistant Director (non-commercial capacity)
- a student or former student of the Centre

A quorum will consist of five members of the Quality Committee, at least two of whom are board members and at least two of whom are tutors.

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<sup>9</sup> The QQI Coordinator is responsible for the Internal Verification of all folders, the secure maintenance of all folders, the engaging of an External Authenticator for the assessment Process, for the preparation of all folders and associated materials for the External Authenticator to authenticate, for the convening of the Results Assessment Panel, for the contacting of all students with their results and right to appeal and the application to QQI of certificates in respect of successful candidates.

The Chairperson of the Quality Committee shall be appointed by the Board and shall be a member of the Board, or an external independent appointee, with experience in Community Education or Further Education.

Where the Quality Committee members do not have sufficient knowledge or experience in a particular area, the Quality Committee may invite persons with relevant expertise to attend meetings.

The Chairperson and other members of the Quality Committee will be provided with initial induction and continuing training.

#### **4. Duties of the Quality Committee**

The duties of the Quality Committee are as follows:

- To propose to the Board of Directors for approval, policies and procedures for the assurance of quality, that are in accord with the standards and guidelines of QQI;
- To recommend the approval of the design, development and implementation of learning programmes of study, consistent with DALC's mission, strategic development plan and DALC's Service Level Agreement with Funders and within the budgetary constraints of funders and DALC;
- To consider draft strategic development plans and their possible implications for resourcing and impact on academic standards and existing programmes and make recommendations on same to the Board;
- To oversee of the assessment of learners and ratification of decisions the procedures in respect relating to progression;
- To support and embed a culture of academic integrity at all levels of the provider;
- Be responsible, subject to the approval of the Board for making the academic regulations of the provider;
- To make recommendations to the Board on the conducting of research and development work in relation to programme development, if deemed necessary and
- To undertake such other tasks relating to academic matters as may be delegated to it by the Board from time to time.

#### **5. Authority**

- The Quality Committee as a body is empowered in the discharge of its functions to:
- have full access to all information, and be entitled to obtain any information it requires from staff or external parties, pertaining to academic governance;
- retain professional advice or assistance in the performance of its functions ; and
- invite persons with relevant expertise who are not members of the Board of DALC to attend Quality Committee meetings.

## **Meetings**

- The Quality Committee will meet normally between two and three times a year. It is a matter for the Quality Committee, in consultation with the Centre Director, to decide the frequency and timing of the meetings
- All Quality Committee members are expected to attend each meeting.
- Only the Quality Committee members are entitled to be present at a meeting of the Quality Committee provided that the Quality Committee may invite members of management or others to attend as necessary.
- Questions arising at any meeting of the Quality Committee shall be determined by a majority of votes of the members present and, in the case of an equality of votes, the Chairman shall have a second or casting vote.
- The CEO will make the necessary arrangements for the administrative requirements of the Academic Committee, inclusive of the preparation of meeting agenda, briefing documents and minutes to be issued in a timely manner to Quality Committee members.
- A report of the proceedings of the Quality Committee meetings will be furnished to the Board of DALC for noting at DALC Board Meetings in addition to any recommendations of the Quality Committee to be considered by the Board.

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<sup>[1]</sup> Any recommendations may be subject also to review by the Board from the perspective of its oversight role in respect of strategic and financial matters including DALC's commitments to its funders



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**Dublin Adult Learning Centre**

**Code of Conduct for Board Members**

**DUBLIN ADULT LEARNING CENTRE**

**CODE OF CONDUCT FOR BOARD MEMBERS**

## 1. Purpose

The purpose of this Code of Conduct is to guide you as a Board member of the Dublin Adult Learning Centre Limited (**DALC**) in performing your duties.

## 2. DALC, its Mission and Context

DALC is a dedicated basic adult education centre in the heart of Dublin's North-East Inner City. We provide a wide range of tuition to adults who have literacy difficulties or no qualifications. We also have a large English to Speakers of Other Languages programme for those learning English with little or no education in their own language. Our mission is to provide targeted adult education services to ensure that everyone in the inner city has the opportunity to avail of their right to literacy and numeracy skills.

DALC is a company limited by guarantee under the Companies Act 2014 and a charitable organisation registered under the Charities Act 2009. As a Board member of DALC, you are also a charity trustee for the purposes of the Charities Act 2009. DALC is subject to oversight by Quality Qualifications Ireland (**QQI**) which is the state agency responsible for promoting the quality, integrity and reputation of Ireland's further and higher education system. DALC's principal funder is the City of Dublin Education & Training Board and DALC participates as a sponsoring body in the Community Employment Scheme operated by the Department of Social Protection.

Further information about DALC is set out in the Board Manual.

## 3. Objective

The objective of the Code of Conduct is to set out a set of ethical principles whose adoption and implementation by the Board of DALC will:

- a. promote and maintain confidence and trust in the Board;
- b. ensure that DALC is effective, open and accountable;
- c. ensure that the highest standards of integrity and stewardship are achieved in DALC; and
- d. promote compliance with best current management practice in all activities of DALC.

## 4. General Principles

It is the policy of DALC to maintain its high reputation for ethical behaviour and for effectiveness, openness and accountability in the conduct of its activities. In many cases, decisions as to what is in keeping with this reputation are clear cut and will be obvious to any reasonable person. In some situations, however, there may be circumstances where an element of doubt or ambiguity arises. To help in those circumstances, and to protect and guide you in performing your duties as a Board member, it is appropriate to have a written Code of Conduct.

While it is recognized that it is not possible to provide for every situation in the Code of Conduct, you are required to observe these fundamental principles:

- **Integrity**
- **Independence**
- **Commitment**
- **Compliance**
- **Leadership**

Each of these principles is explored in more detail below.

## 5. **Integrity**

You are expected to observe the highest standards of honesty and integrity in all of your dealings as a member of the Board and to promote these standards in the activities of DALC.

Therefore, you must:

- a. act at all times in the best interests of DALC and exercise good judgement which may include seeking professional advice on matters outside of the expertise of the Board members;
- b. behave in a manner which does not damage or undermine the reputation of DALC or its stakeholders and avoid actual impropriety and any appearance of improper behaviour;
- c. ensure that, in order to achieve its mission, DALC communicates and collaborates effectively, openly and in accordance with its Public Information and Communications Policy with relevant regulators, agencies, funders and other stakeholders in the education and charities sectors;
- d. ensure that the annual report and financial statements of DALC accurately reflect its activities, meet all legislative and regulatory requirements and any requirements of funders of DALC and are not misleading or designed to be misleading;
- e. ensure that DALC has controls in place to safeguard funds and other assets from misuse, misappropriation and fraud and to ensure compliance with requirements regarding the level of authority for approving expenditure; and
- f. ensure that DALC is conducting its purchasing activities of goods/services in a fair and transparent manner and that DALC's purchasing regulations reflect this.

## 6. **Independence**

The principle of independence is closely related to the principle of integrity. You must:

- a. act independently and not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your duties;
- b. not in the performance of your duties act in order to gain financial or other benefits for yourself, or for any person connected to you, such as family members, friends or any organisation of which you are an owner, officer, employee or service provider;

- c. not give or receive corporate gifts, hospitality, preferential treatment or benefits which might affect or might reasonably appear to affect the ability of the donor or the recipient to make independent judgement on transactions or decisions of or affecting DALC and report any such approaches in writing to the Chairperson;
- d. not use DALC resources or time for personal gain, or for the benefit of persons or organisations unconnected with DALC or its activities, nor make a claim for expenses otherwise than in accordance with the DALC Directors' Expenses policy; and
- e. comply with the DALC Directors' Conflicts of Interests policy which is set out in the Appendix to this Code.

## **7. Commitment**

You acknowledge your responsibility to be loyal to DALC and to be fully committed to all its activities while being mindful that DALC must at all times take account of the interests of its stakeholders including its students and funders. You must:

- a. understand and perform your role and responsibilities to the best of your abilities;
- b. be prepared to give adequate time and commitment to fulfil your role, adequately preparing for meetings and participating in Committees and special events as required;
- c. make every reasonable effort to attend all meetings of the Board and of any Committee of which you are a member; and
- d. at Board and Committee meetings contribute appropriately while respecting the contributions of others and the authority of the Chairperson and bring a fair, open-minded and independent view to enhance decision-making in the best interests of DALC.

## **8. Compliance**

You must comply with your legal duties, DALC's constitution and this Code and must exercise control to ensure that DALC is compliant with the obligations imposed on it by or pursuant to law and its commitments to its funders. You must:

- a. ensure that, both during and after your membership of the Board, you maintain the confidentiality of sensitive Board matters and DALC information (noting that the requirement for confidentiality may not apply in the event that it becomes necessary for you to inform the Charities Regulator or any other authority about a matter concerning DALC);
- b. ensure the provision of access to general information relating to DALC and its activities in a way that is open and enhances its accountability to the general public;



- c. ensure that DALC has in place robust policy and risk management frameworks within which suitable policies to promote DALC's compliance with its legal and regulatory obligations and commitments can be put in place and the implementation of such policies overseen effectively; and
- d. comply with any DALC policy applicable to the performance of your duties.

## 9. Leadership

You are responsible for providing leadership to DALC staff and volunteers while promoting a culture of respect. You must:

- a. aim to support DALC staff and volunteers and conduct yourself in order to reflect the values of DALC;
- b. work considerately and fairly with everyone in a way that respects diversity, different roles and boundaries,
- c. respect the difference between the roles of the Board and DALC staff and volunteers, and ensure that all work together effectively and cohesively for the benefit of DALC by supporting management arrangements and not interfering inappropriately in the performance by DALC staff and volunteers with the duties delegated to them while ensuring that they are held to account through the CEO as appropriate;
- d. respect the allocation of responsibility for communications by DALC set out in the DALC Public Information and Communications Policy and not purport to communicate on behalf of DALC or as Board member otherwise than in accordance with that Policy;
- e. in the event of a dispute or conflict between you and another Board member or a member of staff or volunteer seek in good faith to resolve the dispute amicably in accordance with the DALC Directors' Complaints policy;
- e. ensure that DALC is committed to complying with employment equality and equal status legislation and to fairness in its activities and that it values its students, staff, suppliers, and customers and treats all its students, staff, suppliers and customers with respect;
- f. ensure that DALC places the highest priority on promoting the health and safety of its students and staff; and
- g. ensure that community concerns are fully considered in DALC's activities and that DALC will minimise any detrimental impact of its operations on the environment.

## 10. Responsibility

DALC will ensure that all members of the Board receive a copy of this Code of Conduct and understand its content. DALC will provide practical guidance and direction as required on such areas as gifts and entertainment and on other ethical considerations, which arise routinely.

## 11. Review

The Board of DALC will review this Code of Conduct as appropriate and any proposed revisions to this Code of Conduct must be considered and approved at a meeting of the Board.

By signing this Code, you confirm to DALC and the other members of the Board that:

- a. you have read and understood the provisions of this Code of Conduct (including its Appendix) and also the note on directors' duties contained in DALC's board manual and have been afforded the opportunity to raise any queries which you may have in relation to same;
- b. you will use your best endeavours to comply with the duties explained in both of these documents; and
- c. you understand that, if found to be in breach of such duties, you will be asked to meet with the Chairperson to assess your suitability for the role of Board member and that a persistent and/or material breach of such duties will result in your removal from the role.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Witness: \_\_\_\_\_

## Appendix

### Directors' Conflicts of Interests Policy

#### A. Purpose of Policy

A failure to effectively manage Directors' conflicts of interest can negatively impact DALC in terms of governance and associated reputational risk. The purpose of this Policy is to assist the Directors of

DALC to effectively identify, record and manage any Directors' conflicts of interest in order to protect the integrity of DALC and to ensure that Directors comply with their obligation to act independently and in the best interest of DALC. It aims to ensure that the Directors are aware of their obligations to disclose any conflicts of interest that they may have and to comply with this Policy to ensure that any such conflicts of interest are effectively managed.

## **B. What is a Conflict of Interest**

A conflict of interest is any situation in which a Director's personal interests or loyalties could, or could be seen to, prevent the Director making a decision independently and in the best interests of DALC. A personal interest may be direct or indirect and can include the interests of a person connected to the Director. Where such a situation arises, there is a risk that the Director in question will make a decision based on, or affected by, these influences, instead of the best interests of DALC and therefore such a situation must be carefully managed.

A Director will have a personal interest in a matter to be decided by the Board, if, for example, the decision will or may have a beneficial or an adverse impact on the Director or a person connected to the Director. A Director will also be considered to have a conflict of interest where a matter to be decided by the Board is relevant to a person to which the Director owes a duty of loyalty other than DALC, for example another organisation of which the Director is an employee or officer, or if the Director is otherwise influenced by considerations other than the duty to act in the best interests of DALC in respect of the matter.

## **C. General Policy**

- The policy regarding Directors' conflicts of interest is to
- Avoid conflict of interest where possible
- Identify and record any conflicts of interest that arise
- Carefully manage any such conflicts of interest
- Follow this Policy and respond to any breaches.

## **D. Requirements of the Companies Act 2014**

DALC is a company limited by guarantee and its Directors are obliged to comply with the provisions of the Companies Act 2014 and its constitution in regard to conflicts of interest. Section 231 of the Companies Act 2014 requires a Director to declare at a meeting of the Board of DALC the nature of the Director's interest (direct or indirect) in an existing, or proposed, contract, transaction or arrangement (each referred to below as a "**contract**") with DALC. A Director must also disclose interests of "connected persons". There is no de minimis or threshold amount below which, in value terms, interests do not need to be notified. The declaration should be made at the meeting at which the contract is first considered by the Board or, if later, as soon as the Director becomes interested in the contract.

A Director may give a general notice that the Director is to be regarded as interested in any contract which may, after the notice, be made by DALC with a company or firm of which the Director is a

member or with a person with whom the Director is connected. Any such general notice must be given at a meeting of the Directors or read at the next meeting after it is given.

A person connected with a Director for the purposes of section 231 includes the Director's spouse, civil partner, parent, brother, sister and child (including an adult child and the child of a civil partner); a trustee of a trust the principal beneficiaries of which are the Director, the Director's spouse, civil partner, child or a body corporate which the Director controls; a person in partnership with the Director and a body corporate controlled by the Director alone or together with any other Director or any person connected as described above with the Director or any other Director.

All declarations and notices of interest by Directors shall be recorded in the minutes of the relevant Board meeting and in a register of interests kept for this purpose. The register of interests shall be open for inspection by any Director, company secretary, auditor or member of the DALC, and shall be produced at every general meeting of DALC and at any meeting of the Directors if requested by any Director.

#### **E. Managing Conflicts of Interest**

A Director should take a cautious approach favouring disclosure when considering whether a conflict of interest arises or may arise. If a Director has any doubts or concerns, the Director should raise them with the Chairperson or the Company Secretary for clarification. A Director should not regard the provisions of section 231 of the Companies Act as limiting the circumstances in which a conflict of interest might arise. For example, the Charities Regulator has regard to the definition of a connected person in the 2(2) Charities Act 2009 when considering the question of conflicts of interest. In addition to those persons prescribed as connected persons by the Companies Act 2014, the Charities Act refers to a charity trustee's grandparent, grandchild and employer.

Where a Director believes that an actual or potential conflict of interest may arise in respect of a matter, the Director should disclose such conflict to the Board promptly on becoming aware of it and before the matter is considered by the Board. Every effort should be made at Board meetings to discuss, agree and record in the minutes of that meeting any decision taken that involves a matter where an actual or potential conflict of interest has arisen.

Under Article 9.6.3 of DALC's Articles of Association, a Director is not entitled to vote on a matter in which that Director has an interest or to be counted in the quorum present at the meeting for the purposes of that vote. At the discretion of the Chairperson, the relevant Director may be asked to leave the meeting while the Board is discussing and deciding on the matter and the Director must comply with any such request. In such an event, the Director will be told what decision was reached. Any decision by the Board on a matter in respect of which a Director has a conflict of interest must be in compliance with Clause 5 of the Memorandum of Association of DALC. The Board should also consider whether, in addition to these measures, it will be necessary to take any future measures to address the conflict, for example whether the Director should be excluded from any future decisions on the matter or its consequences. In exceptional circumstances, for example where a conflict is likely to prevent a Director from participating in a very significant element of the Board's future decision-making, it may be necessary to consider whether it is appropriate for the Director to resign from the Board.

**F. Compliance with the Policy**

On an annual basis, each Director should confirm to the Company Secretary that Director's compliance with this Policy.

If the Board has reason to believe that a Director has failed to comply with this Policy, it will investigate the circumstances. If it is found that the Director has failed to disclose a conflict of interest, the Board may take action against the Director including, in the case of a clear material conflict of interest, potentially seeking the Director's resignation from the Board.





## Dublin Adult Learning Centre

### EMPLOYEES HANDBOOK

V3 2023

[Employee Handbook](#)

**Appendix D.3**

**[Health and Safety Statement](#)**





