

Guidance on Governing Documents

1. What is a governing document?

A governing document is a legal document that creates the charity and sets out how it is run.

The governing document sets out the charity's:

- Objects – this is the charitable purpose
- Powers – what it can do to carry out its purpose
- Trustees – who runs it
- Members – who can be a member
- How meetings will be held and trustees appointed
- Any rules about paying trustees, investments and holding land
- Amendment provisions – whether the trustees can change the governing document, including its charitable objects
- Dissolution provisions – this is how to close the charity.

All trustees for the charity must have a copy of their charity's governing document and refer to it regularly as it sets out how they must run the charity. For example:

- How many trustees are needed to make decisions, how to recruit them and how to run trustee meetings
- How to look after your charity's money, land, property or investments and keep accounts
- How to resolve internal disputes.

2. Why is governing document needed?

Often an organisation can be operating informally for a number of years without a governing document and there may become a point at which it is recognised the group needs to formalise itself.

Examples of the types of catalyst for such a change could include:

- An identified need for service development
- Needing to work more formally with local authorities
- Needing to secure funding for a particular aspect of the work being done.

The development of a written governing document for the organisation can help to ensure that:

- The group's aims and objectives are clear and agreed
- There is a clear process for decision making within the organisation
- The organisation gains credibility with funding bodies
- The lines of responsibility and accountability are clarified
- The group can register with the Charity Commission
- There is a process for formally appointing the people who run the group.

3. Types of governing documents

The type of governing document you have will depend on the structure of your voluntary or community organisation.

- Charitable Incorporated Organisation (CIO)
- Charitable Company
- Unincorporated Organisation
- Charitable Trust

Charitable Incorporated Organisation (CIO)

The governing document for a CIO is a foundation or association constitution.

Association CIO – this has a wider membership with voting rights

Foundation CIO – without a wider membership where Trustees are the only members.

Charitable Company

The governing document for a charitable company is a Memorandum and Articles of Association.

The charitable company must be set up before registering with the Charity Commission.

Charitable companies are registered with both the Charity Commission and Companies House and will have a charity and a company number.

Unincorporated Association

The governing document for an unincorporated association is a constitution.

Unincorporated associations are suitable for smaller organisations with little or no assets.

Many new groups set up as an unincorporated association and may decide to register as a CIO (or other incorporated body) over time as they grow or evolve. It is easy, cheap and quick to set up an unincorporated association.

Charitable Trust

A Trust will have a Trust Deed as its governing document.

A charitable trust is usually set up if the organisation is to manage money, property or land for a charitable purpose. It is fairly easy to establish a charitable trust.

The Charity Commission (for England and Wales) has model governing documents, which can be used:

- As a template (recommended) – this makes it easier to register your charity
- As a reference – to see what a governing document looks like and what it must contain

It is advisable that if your organisation will need to register with the Charity Commission that you adapt one of the model governing documents approved by them as it makes it easier to register your charity.

If you are setting up a charity associated with a national organisation or umbrella body, it may have its own governing document template you should use. These documents have been approved by the Charity Commission and contain both agreed objects and administrative provisions that are specific to a particular type of organisation.

Copies of these documents are not available from the commission.

The following link is for a list of national charity with approved governing documents:
<https://www.gov.uk/government/publications/list-of-national-charities-with-approved-governing-documents/approved-governing-documents-for-local-charity-branches>

Horsham and Mid Sussex Voluntary Action can provide further guidance and support on how to set up a new organisation and help you with deciding on the structure for your voluntary or community organisation.

For further information please contact your local community co-ordinator:

communitymidsussex@msva.org.uk