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Powers for unincorporated charities

Guide 3: Changing administrative powers or procedures.



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About this guide

Some unincorporated charities may have the power in their governing document to make changes. Others may be able to use provisions set out specifically for unincorporated charities in the Charities Act (Northern Ireland) 2008 (as amended) ('the Charities Act'). This guide is for unincorporated charities that do not have the power in their governing document to change administrative powers or procedures.

Key terms

There are some key terms that will be useful to understand when reading this guide. We have highlighted these in **bold green type**. A list of the key terms is available in Appendix 1 and in the glossary published on the Commission's website.

Changing administrative powers or procedures

Charity trustees may be able to use the power under section 127 of the Charities Act to change powers or procedures within their governing document provided certain conditions are met.

When would we use this?

Sometimes charities may find it necessary to change the way the charity is to be managed, to remain effective, for example, to:

- change the charity's name
- borrow or invest money
- co-operate with other charities
- deal with matters relating to membership
- appoint officers
- manage meetings
- set charity trustee numbers or the **quorum**
- introduce a power to make administrative amendments where one does not exist.

There are limitations to the use of this power, for example, you cannot use this power to:

- amend the charity's purposes
- amend how a charity's assets are distributed on dissolution (when a charity closes)
- introduce a power to amend the purposes (what the charity aims to achieve) or dissolution provisions where one does not exist
- introduce a power to pay charity trustees or introduce new benefits to charity trustees or connected people (for example family members of a charity trustee)
- allow **permanent endowment** to be spent.

Who can use this?

The provisions under section 127 of the Charities Act can be used by any charity as long as it is not a **charitable company** or other **corporate body**.

If your charity is a company or corporate body, please refer to our *Consents for charitable companies* guide.

What is the process?

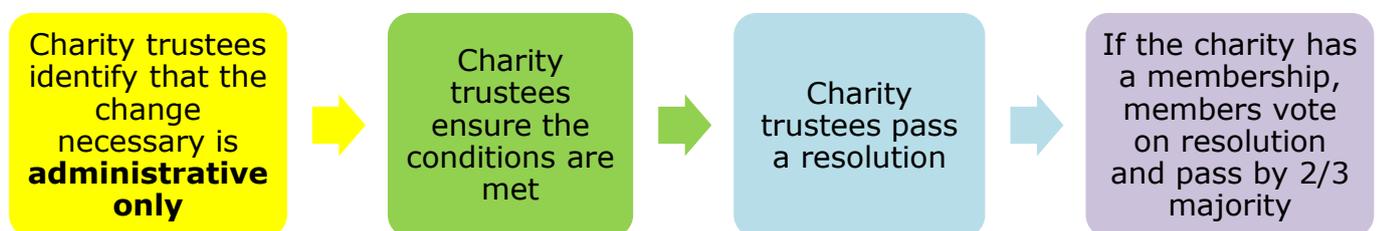
If your charity can use this power, you must be satisfied that the changes being made relate to the **administration** of the charity or relate to procedures used in connection with the administration of the charity.

If you are satisfied that this is the case, you must pass a **resolution** of the charity trustees which details the change to the administrative powers or procedures.

If your charity has a membership that is separate from the charity trustees, a further resolution must also be brought to a general meeting of members (two resolutions in total). The members must approve the resolution by either a two thirds majority of members attending and entitled to vote, or a vote where no objection is raised to the proposal.

The resolutions do not require the Commission's approval. You do not need to notify the Commission of administrative or procedural changes.

The chart below sets out the process:



Some charities may require the Commission's approval for any or all changes because their governing document requires them to. In these cases, we would encourage the charity trustees to use section 127 of the Charities Act to change their administrative powers within their governing document. This will reduce future administrative burden on the charity and the Commission.

When will the resolution take effect?

The resolution will come into effect from the date the charity trustees pass the resolution. However, if the charity has members, the resolution will take effect from the date the members pass the resolution.

You should avoid using these powers to make amendments which affect third party rights. If you choose to do so, you should seek the consent of **affected third parties**. If this is not possible, you should apply to the Commission for a scheme to make the change. Please refer to our *Requesting a scheme* guide.

Appendix 1: Key terms

Administration: These are provisions not related to the charitable purposes of the organisation. Examples include:

- changes to the charity's procedures
- the quorum for charity trustees' meetings
- notice periods required for meetings
- changes to the requirements of membership
- powers to change a charity's name
- powers to borrow or invest money and to co-operate with other charities.

Affected third parties: This refers to individuals or entities that are not directly involved in an agreement or transaction but are impacted by its outcome.

Charitable company: This is a charity that is registered under the Companies Act 2006 (or earlier company law) and is registered with Companies House. It is a type of legal structure for a charity.

Corporate body: A corporate body or body corporate is a collection of persons which, in the eyes of the law, has its own legal existence (and rights and duties) separate from those of the persons who form it from time to time. It has a name or title of its own and may also have a common seal for use on official documents. Also known as corporations, bodies corporate are not necessarily companies, but companies are by definition bodies corporate.

Permanent endowment: The property of the charity, for example land, buildings, investments or cash which the charity trustees may not spend as if it were income. It must be held permanently, sometimes to be used in furthering the charity's purposes, sometimes to produce an income for the charity. Charity trustees can only spend or dispose of permanent endowment if they use the powers in the Charities Act that allow this or if they obtain our authority.

Quorum: This is the number of charity trustees who must be present at a meeting for legally binding decisions to be made.

Resolution: A formal decision made by a group that is responsible for considering and making decision.

Support and resources

Resource	What it is
Helper groups	<p>A number of organisations have agreed to act as Helper groups for the sector to assist them with registration, annual reporting or other aspects of managing their charity. Contact details, along with information on the support each organisation can offer and who they work with, can be found at the link opposite.</p>
Reporting on the public benefit toolkit	<p>The <i>Reporting on the public benefit toolkit</i> will help charity trustees to report how their charity is continuing to meet the public benefit requirement when preparing their Trustees' Annual Report (TAR) as part of the annual reporting process.</p>
Code of Good Governance	<p>A number of organisations within the charity sector have come together to produce a Code of Good Governance: the DIY Committee Guide is a resource for people working to improve the governance of their organisations by implementing the Code of Good Governance.</p>
Code of Fundraising Practice Code advice service Fundraising guide	<p>The Code of Fundraising Practice sets the standards that apply to fundraising carried out by all charitable institutions and third party fundraisers in the UK.</p> <p>The Code Advice Service allows you to contact the Fundraising Regulator with specific questions about the Code of Fundraising Practice and how it applies to your fundraising activity.</p> <p>The Commission's Fundraising at a glance guide and more detailed guidance on fundraising is available at the link.</p>

If you disagree with our decision

If you disagree with one of our decisions, you may wish to request an internal decision review within 42 days of our decision being issued.

Our internal decision review procedure offers a genuine opportunity for our decisions to be looked at afresh. If you ask us to review a decision, where possible the Commission will refer the matter to someone who did not make the original decision.

You may also be able to appeal a decision to the Charity Tribunal. However, you must send a 'notice of appeal' to the Charity Tribunal within 42 calendar days of receiving our original decision. This time limit applies even if you have requested a decision review.

A full list of the decisions which may be appealed or reviewed to the Charity Tribunal can be found at Schedule 3 of the Charities Act.

Any appeals to the Tribunal should be sent to:

Charity Tribunal
Tribunals Hearing Centre
2nd Floor, Royal Courts of Justice
Chichester Street
Belfast
BT1 3JF
Tel: 0300 0200 7812
Email: tribunalsunit@courtsni.gov.uk

If you are dissatisfied with our service

The Commission is committed to delivering a quality service at all times. However, the Commission knows that sometimes things can go wrong. If you are dissatisfied with the service you have received, we would like to hear from you and have a procedure that you can use. You will find further information on these processes in our guidance, *Making a complaint about our services*, which is on our website www.charitycommissionni.org.uk

More information

Website: www.charitycommissionni.org.uk

Email: admin@charitycommissionni.org.uk

Phone: 028 3832 0220

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