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Powers for unincorporated charities

Guide 1: Overview



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About this guide

Charity trustees are responsible for the running of their charity. Sometimes they may have to change the governing document to ensure the charity continues to be run efficiently.

If you are an unincorporated charity and have the appropriate powers within your governing document, you can make some changes yourself. Your governing document may require you to seek consent from the Commission or another regulatory body before making these changes.

Even if your governing document states that you cannot make certain amendments, you may still be able to make changes using powers set out in the Charities Act (Northern Ireland) 2008 ('the Charities Act').

These guides explain how to use those powers.

How to use the guide

This guide is divided into six parts.

- Guide 1 – Overview
- Guide 2 – Replacing the purposes of a charity.
- Guide 3 – Changing administrative powers or procedures.
- Guide 4 – Transfer of all property to another charity.
- Guide 5 – Transfer of permanent endowment and unrestricted property.
- Guide 6a - Spending permanent endowment funds given for a particular purpose.
- Guide 6b - Large charities spending permanent endowment funds given for a particular purpose.
- Guide 6c - Spending permanent endowment funds of special trusts.

You can download all six parts of this guide from our website. Each one contains links to more resources that can support you in your role as a charity trustee.

Key terms

Key terms used in the guides are highlighted in **bold green type**. You will find the definition of these key terms at the end of each guide and also in the glossary published on the Commission's website.

Below is an overview of what is in each of the guides.

Guide 2: Replacing the purposes of a charity

This guide is for unincorporated charities that do not have the power in their governing document to make changes to their purposes. Charity trustees may be able to use the power under section 126 of the Charities Act to decide to replace or change all or any of its purposes provided certain conditions are met. The guide sets out when you would use this, who can use it and the process you must follow.

Guide 3: Changing administrative powers or procedures.

This guide is for unincorporated charities that do not have the power in their governing document to change administrative powers or procedures (for example, to change the charity's name or the number of charity trustees). Charity trustees may be able to use the power under section 127 of the Charities Act to decide to change powers or procedures within their governing document provided certain conditions are met. The guide sets out when you would use this, who can use it and the process you must follow.

Guide 4: Transfer of all property to another charity

This guide is for unincorporated charities that do not have the power in their governing document to transfer all of the charity's property to another charity. Charity trustees may be able to use the power under section 123 of the Charities Act to decide that all its property should be transferred to one or more charities provided certain conditions are met. The guide sets out when you would use this, who can use it and the process you must follow.

Guide 5: Transfer of permanent endowment and unrestricted property

This guide is for unincorporated charities that do not have the power in their governing document to transfer permanent endowment and unrestricted property. Unincorporated charities may be able to use the power under section 125 of the Charities Act to transfer property to another charity if their property includes permanent endowment. The guide sets out when you would use this, who can use it and the process you must follow.

Guide 6a: Spending permanent endowment funds given for a particular purpose.

This guide is for unincorporated charities and explains the process of how charity trustees can decide to spend capital which is subject to permanent endowment. Charity trustees may be able to use the power under section 128 of the Charities Act to decide to spend capital which is subject to permanent endowment provided certain conditions are met. The guide sets out when you would use this, who can use it and the process you must follow.

Guide 6b: Large charities spending permanent endowment funds given for a particular purpose.

This guide is for large unincorporated charities that do not have the power in their governing document to spend capital which is subject to permanent endowment. Charity trustees may be able to use the power under section 129 of the Charities Act to decide to spend capital which is subject to permanent endowment provided certain conditions are met. The guide sets out when you would use this, who can use it and the process you must follow.

Guide 6c: Spending permanent endowment funds of special trusts.

This guide is for unincorporated charities that do not have the power in their governing document to spend any available endowment fund of a special trust. Charity trustees may be able to use the power under section 130 of the Charities Act to decide to spend any available endowment fund of a special trusts provided certain conditions are met. The guide sets out when you would use this, who can use it and the process you must follow.

What you need to attach to the *Notification form*.

The table below is a checklist of the relevant documents you need to ensure are submitted to the Commission along with the completed *Notification form for unincorporated charities*. If you do not submit all the required documents, your application will be treated as incomplete. The Commission cannot begin the assessment of applications until it has received all the necessary documentation.

What should be attached?	What does your charity want to do?				
	Transfer all property (guide 4)	Transfer permanent endowment (guide 5)	Replace some or all of the purposes of the charity (guide 2)	Spend permanent endowment funds given for particular purpose (guide 6a & 6b)	Spend permanent endowment of special trusts (if consent needed guide 6c)
Section of the Charities Act	123	125	126	129	130
Copy of resolution	✓	✓	✓	✓	✓
Written statement from charity trustees giving reasons for passing resolution	✓	✓	✓	✓	✓
Confirmation in written statement that resolution was passed by majority of no less than two thirds of charity trustees who voted	✓	✓	✓		
Copy of governing document of applicant	✓	✓	✓	✓	✓
Copy of governing document of charity to receive property transfer	✓	✓			
Annual Accounts	✓	✓	✓	✓	✓

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>
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 organisation by implementing the Code of Good Governance.</p>
Code of fundraising practice and 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>
Cyber security – How to protect your charity.	<p>Cyber security is aimed at protecting the devices we all use, such as tablets, smartphones and laptops, as well as preventing unauthorised access to the personal data we store on these devices, and online.</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 always delivering a quality service. 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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