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# Constitutions

Step by Step Guide to writing a constitution

## What is a constitution?

Most small voluntary organisations take the form of 'Unincorporated Associations'. This means that they are not incorporated companies, but rather small groups of people who work together towards mutually agreed aims. To govern the way it is run, this type of group draws up a document called a constitution. The constitution also governs how the organisation's members will work together, and what they are working towards.

It is not obligatory for an organisation to adopt a constitution, and some groups prefer to remain informal. However, a constitution is a useful tool for running an organisation, as it is often easier to make decisions when you have a set of agreed 'rules' to guide you. If a group wishes to register as a charity, or apply for funding, then it must have a constitution, as a constitution helps ensure the Office of the Scottish Charity Regulator (OSCR) and potential funders that a group is being run properly and its money is being managed well.

## A Constitution will set out:

- \* What the group is planning to do (aims/objectives)
- \* What powers the group will have in working towards its aims
- \* Who can join the group and how people join
- \* How the group will be run (the committee)
- \* Procedures for selecting the committee and for meetings
- \* How the group will manage its money (finances)

Preparing a constitution gives those people who have been interested enough to get involved in your organisation or group the chance to talk through all of these issues before you get started.



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## Why bother with a constitution?

There are several reasons why it is worthwhile spending time working on a constitution. If it is done properly it can:

- \* Strengthen your organisation, by setting out clear aims
- \* Help you to get funding, by showing that your group is organised
- \* Avoid any disagreements about how the organisation is run, by putting your procedures down on paper
- \* Help to prepare your group to apply for Charitable Status

For new organisations and groups, writing a constitution can be a useful way of getting members to work together and agree on how things will go forward.

## What's in a constitution?

A constitution must contain the following headings/clauses:

- \* **Name**
- \* **Objects**
- \* **Powers**
- \* **Membership**
- \* **Management Committee**
- \* **Committee Meetings**
- \* **Annual General Meetings**
- \* **Finances**
- \* **Constitution Amendments**
- \* **Dissolution**



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## Checklist

Each heading/clause should contain information relevant to your group:

### **Name**

You can choose your own name. This often reflects what you do or where you do it. If you apply for charitable status, OSCR will not accept any names that are already in use, or that they regard as misleading. They will inform you if this is the case and ask you to choose another name.

### **Objects**

This clause sets out the group's aims. If you wish to gain charitable status, these will have to fit in with OSCR's definition of charitable purposes (see our information sheet on Charitable Status or the OSCR website for a list of these purposes).

It is important not to be too restrictive when setting out your objects as you can only do what is set out in your constitution. It is better to leave some flexibility for the future, although you can call a meeting to amend your constitution further down the line if necessary. (If you have charitable status, then you have to inform OSCR of any potential changes to your constitution).

### **Powers**

Powers are what a group can do in order to achieve its aims. These include activities such as fundraising, hiring equipment, employing staff or providing services.

It is important to differentiate between objects and powers. Objects are what you want to achieve (e.g. to improve the wellbeing of the elderly or to promote local heritage) and powers are how you will achieve your objects (e.g. to organise a lunch club or compile a guide).



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## **Membership**

This sets out who can join a group. Generally, a group's membership is made up of people who are interested in working together to achieve its aims.

To become a member, a person has to sign a membership agreement. If the group wishes, a membership fee can be charged. If the organisation wants to be registered as a charity, membership cannot be granted to anyone who is under 18, is declared bankrupt, has an unspent conviction or is unable to look after their own affairs.

## **Management Committee**

This management committee (called the Board of Trustees in the case of charities) is responsible for governing the group. The group can decide how many members it has.

The usual minimum is 3 (this is the case under Charity Law) and there is no maximum, but it is not advisable for the committee to be too large as this hinders efficiency and decision-making. Committee members are elected by and from the membership and, in the interests of the group, they should not benefit personally from their position in the organisation.

In addition to its ordinary members, a committee has office bearers who carry out its main jobs. There are usually at least three office bearers:

- \* A **Chair**, who ensures that meetings run smoothly and decisions are made.
- \* A **Secretary**, who informs everyone about meetings and makes sure minutes are taken.
- \* A **Treasurer**, who oversees the groups finances and makes regular reports to the committee on income and expenditure.



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## **Committee Meetings**

A group should hold regular committee meetings in order to share information and make decisions. The constitution should set out the minimum number of meetings to be held in a year, and the minimum number of committee members that must be present for a decision to be made (quorum).

The constitution can also state what happens if the chair is not present (e.g. the vice-chair takes the chair's place; the members elect someone from among themselves to take the chair; the meeting is adjourned).

The constitution can also state what happens in the case of an equal vote on a decision (e.g. the chair may have the casting vote).

## **Annual General Meetings**

Groups need to have an Annual General Meeting (AGM) each year. The first one must be held within fifteen months of the group forming.

The AGM is the chance for the group to tell its members what it has been doing over the past year and plans to do in the coming year, and gives members the opportunity to hold the committee accountable.

The AGM is also when the annual accounts are presented and when committee members are elected for the coming year. The constitution should also allow for other general meetings, called special or extraordinary general meetings, to be called when necessary.

These meetings might be held if a change was to be made in the group's aims, a committee member wishes to stand down, or the group is to be dissolved, for example.



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## **Finances**

It is good practice to have a bank account which requires two people to sign each cheque or withdrawal. These are usually the treasurer and the chair, and should never be relatives or partners, but it is a good idea to have a pool of people authorised to sign cheques, so that the group can always have a cheque signed in the event that someone is unavailable.

## **Constitution Amendments**

Since a group is likely to grow and change over time, it is a good idea to make provision in the constitution for amendments, so that the constitution can develop along with the group. The amendment clause usually allows changes to be made by a two-third majority vote of members at a general meeting. If you have charitable status, then you are obliged to inform OSCR of any potential changes to your constitution.

## **Dissolution**

There must be a dissolution clause in the constitution to provide for closing down the group. If the group is to close down, then a meeting of its members should be called, and a majority vote (e.g. two-thirds, or as set out in the constitution) must be cast in favour.

The group must pay all outstanding bills, and any money that is left should be given to a group with similar aims.

**If you can answer the above questions then you are ready to write a constitution. A point to remember, you don't need to include clauses for every possible problem or use legal jargon. You are writing it for people like yourself, so it can be understood by everyone.**

## **Further Help**

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# Sample Clauses

Below are some sample clauses, only include clauses that you think appropriate.

## 1. Name

The name of the group/ organisation is .....

If your group would like to apply for charitable status in the future, then you should check the Office of the Scottish Charity Regulator's (OSCR) website ([www.oscr.org.uk](http://www.oscr.org.uk)) to make sure that the name you plan to use has not already been taken by another charity.

## 2. Objects

The objects clause should lay out the main aims of the group, what it does and who it works with.

### **Examples**

- \* *To promote community activity in the area of Stirlingshire by providing equipment, advice, information and training to voluntary and community groups.*
- \* *To arrange social and support activities for single parents and their children, resident in the Bridge of Allan, Wallace and Raploch electoral wards for example.*
- \* *The organisation will not discriminate on the basis of race, sex, disability, sexuality, age, or on the basis of political, religious or other opinions.*

Charitable Status will also require you to read OCSR's booklet, '**Meeting the Charity Test**' which includes a full list of Charitable Purposes under the Charities and Trustees Investment (Scotland) Act 2005. Under this law, all of the aims and objectives listed in your constitution must be charitable if your organisation is to be granted Charitable Status.

### **Notes**

Your objects will also include what area you want to cover. It could be Stirling, Clackmannanshire, a single ward, a parish, an estate, anywhere that people can recognise and identify. You would normally add '...and surrounding area' to allow a bit of flexibility. And, remember you may want to grow in the future.

## 3. Powers

In more formal constitutions there will be a clause which spells out more specifically what the group can do in order to achieve its aims. These powers are usually broad:

### **Example**

In furtherance of the above objects, the association may.

- *Raise funds*
- *Employ staff*
- *Take out insurance*
- *Liaise with other organisations*

**Note**

Your group (as an unincorporated association) cannot own property. It may be able to set up a trust to legally hold ownership of property and assets for the community they are intended to benefit. The status of any ownership should be accounted for in its own clause.

The details of insurance cover to protect committee members against outstanding debts if the group is disbanded should also be clearly stated in a clause.

**4. Eligibility for Membership**

Your constitution should state who can become a member, how they join, if there is a membership fee and the procedure for resigning or for membership being terminated.

**Examples of a simple membership clause**

- *Everyone who lives in the community where the group set up to help.*
- *All who participates in the work the group is engaged in are entitled to become members.*
- *Those people who show support for the groups aims and objectives.*

**Example of an associate membership clause**

- *Individuals who can benefit the group's aims can be asked to become an associate member but because they do not fit the criteria for full membership, they don't have voting rights. (For example an accountant employed by the group who lives outside the area)*

**Example of group membership clause**

- *Other groups whose work is beneficial to aims of your group can be invited by the committee to become a group member.*

**Who is a Member?**

You must have an agreed procedure for deciding how people become members.

**Examples**

- *Membership will begin when a valid application form is presented before the management committee by the membership secretary for consideration and an agreement is reached to accept the prospective member.*
- *Membership of a housing association will be free and all tenants will automatically become members unless they declare in writing to the association secretary that they decline the membership.*

**Note**

If your community group has an informal structure and a very open membership, it is good practice to keep a record of all members, so you will be able to inform all members of the next meeting and future events.

## **Membership Fee**

Charging a membership fee will make it clear who is a member and it will help finance the group's expenses. The disadvantage of a fee is it may discourage some people from becoming members and you might have problems collecting it.

### **Examples**

- *Membership fees are usually agreed at the Annual General Meeting (AGM) and are payable within a month of the AGM.*

## **Terminated Membership**

People can end their membership by resigning, letting their membership lapse or (in extreme cases) expulsion.

### **Examples**

- *Resignation can be declared in writing to the membership secretary at anytime or verbally at a meeting.*
- *Any person no longer living in the area where the community group operates will lose their entitlement to be a member.*
- *Non payment of membership fee within one month of the due date will be considered to have resigned.*

*The management committee may unanimously terminate the membership of any individual. The individual concerned, with the support of a friend, has the right to challenge that judgment, before a final decision is made.*

## **5. Officers and Committee**

The community group will need to decide which officers they will have and how they will be elected. You will also want to say whether there will be a committee and if so how large it will be.

### **Examples**

- \* *The officers of the association shall be: A Chair, who shall chair both general and committee meeting; A Secretary, who shall be responsible for the taking of minutes and the distribution of all papers; A Treasurer who shall be responsible for maintaining accounts.*
- \* *All Honorary Officers will be members of the management committee. In addition the AGM will elect seven other committee members.*
- \* *The officers of the association will be elected annually at the Annual General Meeting.*
- \* *The officers of the association will be elected by the management committee from among their number at the first meeting following the AGM.*
- \* *In the event of an officer standing down during the year a replacement will be elected by the management committee.*
- \* *Any member not attending a meeting without apology for six months will be deemed to have resigned.*

### **Note**

You may wish to elect more officers than the above. Larger organisations often have, for example, a vice chair and membership secretary.