



GUIDANCE ON MAKING CHANGES TO THE NAME OF A CHARITY OR TO ITS GOVERNING INSTRUMENT

Introduction

1. As with many other situations in life, charities may find that they need to adapt in order to meet changing needs for the benefits that they provide. Sometimes, that process of adaptation is merely by altering the way in which particular services are delivered, for example by setting up a meals delivery service for pensioners in financial need instead of, or as well as, providing meals for them at a drop in centre. On other occasions, the process involves widening the charity's objectives, for example to enable a charity providing services to patients suffering from a specific health condition on the Island to be able to provide services to patients suffering from closely related conditions where there are no longer any persons in the former category.
2. If a charity is considering altering its activities, the first step is to consider whether, if it does so, the charity would still be operating within its objectives as set out in its governing instrument. If there is any doubt on this, the charity trustees should contact Charities Administration for guidance or take legal advice. If the charity can undertake the proposed activities within its existing objectives, the charity trustees should still consider whether the methods of achieving the objectives set out in the governing instrument should be amended. This would be necessary if the methods set out in the governing instrument are intended to be an exhaustive list, but it can also be advisable in circumstances where the methods specified are examples (namely through the use of a phrase such as "by, but not limited to,") where the proposed new activity is different to, or does not fall within, the methods currently listed.
3. Depending on the nature of the changes, the charity may need to make changes to its name so that it continues to be reflective of its objectives. Even if a charity is not making any changes to its activities or objectives, changing terminology or use of language may mean that a charity would wish to change its name.
4. If a charity proposes changing its objectives, its governing instrument would have to be amended to reflect this. There are other circumstances in which a charity may need to amend its governing instrument, for example, in order to address practical issues concerning the running of the charity or to ensure that the charity keeps pace with governance requirements.
5. If a charity requires to amend its name and/or its governing instrument, sections 17 and 19 of the [Charities Registration and Regulation Act 2019](#) ("the 2019 Act") provide that the prior written consent of the Attorney General to such amendment must be obtained.
6. This guidance primarily relates to changes made by registered charities which have been established under Manx law. See paragraph 26 regarding foreign charities.

Deciding on making amendments

7. If it is considered necessary to make amendments, the first step is for the charity trustees to review the charity's current governing instrument to ascertain whether provision is made for the charity to make amendments to it and, if so, what process is to be followed, e.g. that the charity trustees pass a resolution or that a stated percentage of the membership vote in favour at the charity's AGM or at an EGM or SGM called for the purpose.

If the charity is a body corporate, it is likely that the process of amendment will be governed by the legislation under which it was incorporated.

8. Irrespective of the process to be followed, the amendment cannot be made, i.e. the resolution cannot be passed or the members vote on the proposal, until after the written consent to the proposed amendments has been obtained from the Attorney General.

9. If the charity does not have a written governing instrument, or if its governing instrument makes no provision for, or reference to, its amendment (and the charity is not a body corporate, as referred to in paragraph 7), the charity may seek written consent from the Attorney General under section 21 of the 2019 Act in order for the charity trustees to pass a resolution to adopt a written governing instrument or to amend the existing governing instrument, as the case may be.

10. As an alternative to obtaining consent from the Attorney General under section 21, the charity may seek an order from the High Court under section 2 of the [Charities Act 1962](#) for the approval of a Scheme by which the governing instrument, or the amendments, would be adopted. The [Rules of the High Court of Justice 2009](#) (Rule 13.35) require that the Attorney General be named as a defendant in the court proceedings. If it is proposed that a charity make application for an order under section 2, the charity trustees, or the charity's advocate, should contact Charities Administration at an early stage so that the Attorney General's comments on the proposals can be provided. Wherever possible, the Attorney General would look to agree matters in advance, including the draft pleadings, Scheme and court order, with a view to the court being asked to deal with the application administratively by consent, with a consequent saving of time and money for the charity.

11. Irrespective of whether the consent is to be given under section 17 or section 21, the Attorney General must be satisfied that, the proposed amendment having been made, the governing instrument will make provision in respect of the matters listed in regulation 8 of the [Charities Regulations 2020](#) or, in the case of a charity without a written governing instrument, that the governing instrument being adopted makes such provision.

12. Accordingly, it is strongly recommended that charity trustees review the governing instrument in detail to identify any other changes which may be required in order that it meet the requirements of regulation 8. When amending an existing governing instrument, or adopting one where there is none, the trustees should have regard to suitable models, such as those available on the [Publications page](#) of the website www.gov.im/charities (see also the *Guidance on using the model governing instruments* also available on the [Publications page](#)), or should take legal advice. If an existing governing instrument requires extensive amendment, the charity trustees should consider adopting a replacement instead.

13. If it is decided to adopt a replacement governing instrument, this must be one which is suitable for a charity of that legal nature. So, for example, an unincorporated charity cannot replace its constitution with a Memorandum and Articles of Association and seek incorporation under the Companies Acts 1931 – 2004. If the charity's legal nature is no longer appropriate for the activities that it undertakes, or would wish to undertake, then the correct process would be for the charity trustees to establish a separate charity with the desired legal nature, which would be registered with a different charity number, and then the original charity would transfer its property to the new charity, following which the original charity would be wound up and removed from the register. If considered appropriate, the transfer could be recorded in the register of charity mergers. For more information, see the [Winding up/dissolving a charity and removing it from the register page](#).

Making an application for the Attorney General's consent

14. An application process is as follows:-

14.1 The charity trustees send a copy of the proposed amendment(s), or proposed governing instrument, to Charities Administration, with a request that the consent of the Attorney General be given to their (or its) adoption. Ideally, the request should be sent by e-mail to charities@gov.im with a copy of the relevant document attached in editable Word format. This enables any comments or required changes to be indicated by way of tracked changes. If more than a small number of amendments is being proposed, rather than providing a list of them, they should be marked up as tracked changes on a Word version of the existing governing instrument. An explanation for the proposed changes should be provided. If it is desired that the proposed amendment(s) be passed on a particular occasion, for example the charity's AGM, the date of this should be given. Please note that the usual anticipated time for determining requests is two weeks after receipt, although this period may be longer depending on the nature and extent of the amendments to be made and/or existing workloads. Accordingly, the first draft should be sent to Charities Administration as the earliest opportunity and, if possible, at least 4 weeks before the date on which notice has to be given of the meeting at which it is proposed the amendment(s) be adopted.

14.2 The request is considered, with any comments or required changes indicated on the Word document(s) and returned by e-mail. Please note that, even if only minor amendments are being proposed, the charity's governing instrument will be reviewed in detail and the opportunity taken to identify such additional amendments as are necessary for compliance with regulation 8. The charity's objects will also be reviewed to ensure that they are described in a manner which enables their clear and consistent interpretation and application, taking account of modern drafting standards. Where the effect of the amendment(s) is such that the charity's name is no longer appropriate as an indicator of its purpose, the charity may be required to make changes to it. Please be aware that the Attorney General does have power, under section 20 of the 2019 Act, to require a registered charity to change its name if he or she is of the opinion that the name gives a misleading indication as to the nature of its activities or is undesirable and is satisfied that it is in the public interest.

14.3 If the Attorney General is content to give the necessary consent, this would be done once the charity has confirmed that any required changes will be adopted or, alternatively, the Attorney General has considered any representations made by the charity and an accord has been reached. Consent may be given by the Attorney General, by the Solicitor General (who has equal authority to that of the Attorney General) or by a person employed as an officer in the Attorney General's Chambers and appointed by the Attorney General under section 45 of the 2019 Act for the purpose of giving the consent in question. The giving of the consent, together with the name of the person giving it, will be notified to the charity in writing, usually by e-mail.

14.4 Once consent is obtained from the Attorney General, the charity should follow the process in its governing instrument for making the amendments or provided by the relevant legislation (if the consent is given under section 17), or the charity trustees should pass the necessary resolution (if the consent is given under section 21). Please note that the amendments can only be made, or the governing instrument adopted, in the form which has been approved by the Attorney General during the consent process. It is not possible, for example, for the members of the charity to decide to make alternative, or additional, changes as a result of the debate during the meeting at which the amendments have been

tabled. If any alternative, or additional, amendments are desired, then these must be the subject of a further application to the Attorney General.

14.5 The making of the amendments, or the adoption of the governing instrument, by the charity must be notified to the Attorney General by completing and sending, or delivering, to Charities Administration, a notification form including Annex E which is available on the [Publications page](#). If the charity is a body corporate established in the Isle of Man, notification of the changes would also have to be given to the Companies Registry in the usual way. If the charity is a company with a licence granted under section 18 of the Companies Act 1931, the formal consent required by the conditions of that licence will be provided on receipt of the notification form.

14.6 If the Attorney General decides not to consent to a proposed amendment to a governing instrument, or to the adoption of a governing instrument where there is none, this decision, together with reasons, will be notified in writing. In such a case, a right of appeal to the Charities Tribunal is provided by section 43 of the Act and the [Charities Tribunal Rules 2020](#). Alternatively, the charity could make an application to the High Court for the approval of a Scheme under section 2 of the [Charities Act 1962](#).

Amending a charity's name

15. The process for amending a charity's name is similar to that of amending, or adopting, a governing instrument.

16. Although section 18 does not stipulate the basis on which the Attorney General gives consent, it is necessary that this be consistent with other relevant provisions in the 2019 Act, namely section 12(a)(ii) (application to register a charity) and section 20 (power to require registered charity to abandon misleading name), both of which require consideration as to whether a name is undesirable or misleading (i.e. gives a misleading indication as to the nature of the charity's activities).

17. If the charity is considering changing its name, it should write to Charities Administration to request consent from the Attorney General, stating the proposed name and the reason(s) why the change is being considered. If the change includes the adoption of any word that is in a language other than English, is a proper noun (including the name of an individual) or does not appear, at first sight, to have any relevance to the charity, an explanation of its choice and/or a translation into English should be included. Please note that, whilst it may be acceptable to include a word which, for example, makes reference to a person being commemorated through the work of the charity, this should not result in unusual spellings of common words which are used only in a particular sense. Thus, for example, where the intention is to commemorate a person named "Ann", "Mannin" would be acceptable but "Mannx" would not.

18. If the charity is a body corporate established under Manx legislation, the charity should also provide confirmation that approval for the proposed name has been sought from the Companies Registry.

19. As part of the decision making process, a check will be made of the charities register and other public registers, such as the register of charities kept by the Charity Commission of England and Wales and the Isle of Man Companies Register. The purpose of this is to avoid confusion with existing registered entities, which would be undesirable. It is recommended that the charity make its own checks as to whether the proposed name is already in use as part of the process of deciding on amendments to its name.

20. If the proposed name reflects that of a charity established in another jurisdiction, e.g. *name of charity* (Isle of Man), the charity making the application will be asked for written confirmation that it has permission to use that name. Similarly, if the proposed amendment is to include the name of a dignitary, celebrity or well-known organisation, evidence will have to be provided of that person's consent to such inclusion.

21. Any matters required to be considered by the charity before the decision making process is concluded will be notified to the charity in writing, usually by e-mail.

22. The decision to give consent under section 17, or section 21, may be made by the Attorney General, by the Solicitor General (who has equal authority to that of the Attorney General) or by a person employed as an officer in the Attorney General's Chambers and appointed by the Attorney General under section 45 of the 2019 Act for the purpose of giving the consent in question. The giving of the consent, together with the name of the person giving it, will be notified to the charity in writing, usually by e-mail.

23. Once consent is obtained to the change of name, the charity should follow the process in its governing instrument for making the amendment, or provided by the relevant legislation. If no process is stipulated, the Attorney General would usually expect the charity to amend its governing instrument (as per the process set out above) to address this.

24. The changing of the charity's name must be notified to the Attorney General by completing and sending, or delivering, to Charities Administration, a notification form including Annex D available on the [Publications page](#). If the charity is a body corporate established in the Isle of Man, notification of the change of name would also have to be given to the Companies Registry in the usual way.

25. If the Attorney General decides not consent to the amendment of the charity's name, this decision, together with reasons, will be notified in writing. In such a case, a right of appeal to the Charities Tribunal is provided by section 43 of the Act and the [Charities Tribunal Rules 2020](#).

Foreign charities

26. The Attorney General's consent is not required to changes to the governing instrument or name of a foreign charity (i.e. one established under the law of a country or territory outside the Island) but it is recommended that the Attorney General's comments be sought to any proposed changes in case their effect results in any conflict with Manx charity law. Once made, any changes should be notified to Charities Administration by completion of a notification form and Annex D or E available on the [Publications page](#) in the usual way.

Contact details

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