

The Governing Document

Background

The 'Governing Document' is effectively the instruction manual for an organisation, so everyone involved should refer to it. For instance when working on the business plan it is important to ensure that it matches the aims of the organisation. Likewise, the Secretary will need to consult it when planning the next AGM. It should be reviewed from time to time to ensure it is relevant to the current and planned activities, in tandem with the business, strategic or sports plan. It should only be amended if there are significant and long-lasting changes in circumstances. Organisations that only consult their governing document in times of stress often find that they could have avoided much of the bother if they had consulted it sooner!

Anatomy of a Governing Document

Although governing documents vary in detail and technical characteristics and the subject in its entirety is vast, there is a basic structure which is largely common to all.

1. Name in which the organisation will be administered

2. The 'objects' or aims of the organisation

May include a description of the people who may benefit, geographical area and so on.

3. Power of the Governing Body (i.e. the Committee, Board of Directors etc)

What they can (and can't do) to fulfil the aims of the organisations.

Either in the same section or in a separate section later in the document, there will be provision for the Governing Body to make secondary rules (bye-laws) and policies that will run in conjunction with the governing document. This is to aid the smooth running of the organisation's activities, otherwise the Governing Body may have to call a General Meeting to consult the membership for small decisions. The Governing Document sets out the level of power the membership delegate to the Governing Body. The Governing Document does not usually detail bye-laws or policies.

4. Criteria for membership, voting rights and subscriptions

Setting out who can be a member, how they become and cease to be members, what voting rights they have and how subscriptions are set.

5. Procedures for electing the Governing Body (Committee), holding meetings

The members hold a General Meeting in order, among other things, to nominate a group of members to run the organisation on their behalf, usually for a year at a time. Rules outlining the structure and powers of this 'Governing Body', the roles that must be filled, rules for appointing or removing Governing Body members, Office time limits, rules for running general and committee meetings, frequency of meetings and so on.

6. Financial matters

Rules for managing finances, numbers of signatories required for financial transactions, reimbursement of expenses, whether governing body members can be remunerated in any way (usually NOT!), types of bank account that can be held, whether money can be borrowed, level of audit and reporting required and so on.

7. Amendment procedures (not always present)

What can be amended and how it can be amended – usually only at a General meeting.

8. Dissolution procedures

Sets out how to wind up the organisation; the discharging of any remaining liabilities and instructions on how any remaining assets are to be distributed (usually listed in order of priority to give a degree of future proofing). Modern organisations rarely distribute these to remaining members. This is to help prevent 'carpet bagging'.

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Variations to the basic anatomy

There are many types of organisation, each with slightly different governing documents, terms and features.

	Organisation Type	Governing Document	Governing Body	Liability	Regulated by	Some defining features (not a complete list)
	Association	Constitution	Management Committee	Personal ^	No-one	Non-commercial, often small& non-complex.
	Trust	Trust Deed	Board of Trustees	Personal ^	No-one	There are donated assets
Incorporated	Industrial & Provident Society	The Rules	Management Committee	Limited, usually to £1	Financial Services Authority and subject to the Industrial and Provident Societies Act 1965.	It has corporate status. Society number ends in R or RS. Cannot be registered under the Charity Commission. If charitable will come under HMRC.
	Company Limited by Guarantee	Memorandum & Articles of Association*	Board of Directors	Limited to guarantee, usually max £10	Companies House	Private limited company with guarantors rather than shareholders. Mem& Arts will state that members' liability is limited. Usually has assets and/or staff.
	Community Interest Company (CIC)	Memorandum & Articles of Association*	Board of Directors	Limited to guarantee, usually max £10	Companies House	New Structure. Not-for-profit, but with significant capital assets which are 'locked-in' (hard to sell). Cannot register as a charity.
Overlay structures	Community Amateur Sports Club (CASC)	Depends on organisation's underlying structure	Depends on organisation's underlying structure	Depends on organisation's underlying structure	As required for organisation's type PLUS HMRC	Specifically for Sports Clubs. Membership must be open to all. Dissolution clause allots any assets to similar organisations. Cannot register as a charity.
	Registered Charity	Depends on organisation's underlying structure	Board of Trustees (and also Directors if a Company reporting to Companies House)	Depends on organisation's underlying structure	As required for organisation's type PLUS The Charity Commission	All activities MUST be for charitable purposes. Dissolution clause allots any assets to similar organisations
	Charitable Incorporated Organisation (CIO)	Depends on organisation's underlying structure	Depends on organisation's underlying structure	Depends on organisation's underlying structure	The Charity Commission ONLY	New for 2011 – some charities will be converting from April. Dissolution clause allots any assets to similar organisations

*NB under the Companies Act 2006, changes since 1st Oct 2009 mean that most of the Memorandum has been brought into the Articles, so they may no longer be distinct from one another

^Insurance can be arranged to protect individual liability