

## What Is a Governing Document?

A governing document is a formal document which instructs a charity on how it should be run. It should be a working document and so should be kept relevant and up to date. All organisations, no matter how small, should have a governing document as it enables them to state clearly how they will operate and therefore avoids confusion.

Governing documents should describe:

- The work the charity does
- How the charity will do this work
- Who will run the charity and how they should run it
- Procedure for meetings and decision making and the like
- Procedure for the handling of assets (especially money)
- How the charity would wind up the work it does if it wanted to stop operations.

Governing documents are legally binding.

## Types of Governing Documents

- Trust Deeds - A Trust deed creates a Trust. A Trust cannot own land or sign documents in its own name. Trustees may act as custodian trustees to enable land to be bought or leased on the charity's behalf. Trustees are liable for the debts of the charity. Administration is comparatively simple for Trusts.
- Constitution or Rules - These are the same document but they can be known as either Constitution or Rules. Both create an Unincorporated Association (i.e. Not a company) This means those responsible for the charity (i.e. the trustees) do not have limited liability and are responsible for the charity's debts. Debts can be paid from a charity's own funds unless trustees are judged to have not acted prudently, lawfully, and in accordance with the charity's governing document. In these cases, trustees might be personally liable. If the charity has insufficient funds to cover debts, trustees are personally liable for the rest. Insurance can be obtained for trustees to reduce this risk.
- Memorandum and Articles of Association - Often abbreviated to Mem. and Arts. This creates a Company and is therefore Incorporated. As a company the organisation can own land itself and can have contracts in the name of the organisation. As an incorporated body, trustees tend to be known as directors. Directors are agents of the company and are therefore not usually personally liable unless they have acted in breach of trust or duty, or are responsible for fraudulent or wrongful trading. As a company, an organisation is subject to both charity law AND company law and should be aware of the duties they must adhere to. The constitution of a charitable company always precludes the distribution of profits to members.

## Further Information

- Charitable Status Information Sheet (CVS Website)
- Charity Commission Website: [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk)

## Contact CVS Hounslow

If you would like help with this or any other issue, get in touch with Clare Sewell, the Development Officer at CVS Hounslow who would be happy to help.

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