



Dissolution, Winding up and Removal from the Register for Medium-sized Charities

CSD-1077A

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1. Who this guidance is for

- 1.1 This guidance is for trustees of certain kinds of registered charity who are planning to dissolve or wind up their charity and have it removed from the Register, namely:
 - companies whose income in their last full accounting period was less than £5 million and whose assets are worth less than £100 million;
 - unincorporated charities whose income in their last full accounting period was more than £20,000 and less than £10 million, and whose assets are worth less than £100 million.
- 1.2 A registered charity is one that is on the Register of Charities ('the Register').
- 1.3 The following table should help you identify:
 - the action you need to take to enable us to remove your charity from the Register; and
 - the section of this guidance that gives more detailed information.

The charity is registered voluntarily (see section 4)	We will remove the charity from the Register on request after checking that the registration is still voluntary.
The charity is also a company (see section 5)	Following the procedure in the governing document and then send us either:
The charity is unincorporated and there is a procedure for dissolving it in the charity's governing document (see section 6.1)	(a) a declaration using form CSD 1077; or (b) the charity's final accounts showing a nil balance and either: - a certified copy of the minutes of the meeting at which the decision to dissolve the charity was taken; or - the relevant resolutions.
There is no procedure for dissolving the charity in its governing document and the charity has no permanent endowment (see section 6.2)	In most cases, you can use all the charity's property for its purposes. After that, you can send us either: (a) a declaration using form CSD 1077; or (b) the charity's final accounts showing a nil balance.
The charity owns property that is permanent endowment (see section 6.4)	The charity cannot be dissolved or wound up and cannot be removed from the Register, but we may be able to alter its purposes.

- 1.4 Some parts of this guidance will also help the trustees of unregistered charities who are planning to dissolve or wind up their charity.
- 1.5 Unincorporated charities whose annual income is not more than £20,000 should use our guidance on dissolving small charities (CSD-1344).
- 1.6 Charities whose annual income is more than £5 million or that have assets worth more than £100 million should contact our Large Charities Unit (see section 8).

2. Some terms used in this guidance

In this guidance:

Must or need to refer to actions that the law says trustees, or their agents or employees, have to take.

Where we say the trustees **should** or **we recommend**, we mean actions that you, your agents or employees could take and we consider to be good practice. But they are not legal requirements.

Trustees means charity trustees. You are a charity trustee if you are:

- the trustee of a charitable trust (charitable trusts can be created by a declaration of trust or by someone's will);
- the director of a charitable company (a charity that is a company with a memorandum and articles of association which set out how the charity is to be run); or
- a member of the committee that is responsible for running a charitable group such as a community association or a parent teacher association.

As a charity trustee you are responsible for the charity's general control and management. Because of this you may be known as a "managing trustee". A charity may have one of two other types of trustee: "holding" or "custodian" trustees. These types of trustee hold property for a charity, such as land or investments; they are not charity trustees, and must always act on the lawful instructions of the charity trustees.

Governing document means any document that sets out the charity's purposes and, usually, how it is to be run. It may be a trust deed, constitution, memorandum and articles of association, Scheme of the Commissioners, conveyance or will.

A **dissolution clause** is the part of a charity's governing document that enables the trustees or, if the charity has a membership, the members to decide to bring the charity to an end. The clause will often be found towards the end of the governing document. It will set out what is to happen to any remaining assets and who is responsible for ensuring that the requirements of the governing document are followed. In some cases our approval will be needed before the remaining assets can be used.

Charitable company means a charity formed as a company and registered at Companies House.

An **unincorporated charity** means a charity that is established as a trust or an unincorporated association. This means it will usually have a constitution, rules, or a formal legal document such as a trust deed or a will as its governing document.

Permanent endowment means property (eg land, buildings, investments, or cash) which the trustees may not spend as if it were income.

Where we ask for a **certified copy** of a resolution or minutes of a meeting, this can be made by one of the trustees or their secretary or clerk. The chosen person should:

- write on the document "*I certify that this is a true copy of [and then a brief description such as *the resolution passed by the members of the charity at their meeting on 1 January 2007* or *the minutes of the trustees' meeting held on 1 January 2007*]*"; and
- date and sign the declaration, indicating the office they hold for the charity.

The resolution or minutes should indicate how the assets of the charity have been used after settling any liabilities.

3. The law on dissolving or winding up charities

3.1 Most of all charities on the Register are required to be there, and the only circumstances in which they can be removed are if they have dissolved or wound up. The Charities Act 1993:

- requires the trustees of registered charities to inform us if their charity ceases to exist; and
- requires us to remove from the Register any charity that has ceased to exist or does not operate.

3.2 Failure to inform us that a charity has dissolved or wound up may lead to us making enquiries about what has happened to it and its assets. We may then take action against the former trustees if the assets have been wrongly applied.

3.3 After a charity has been dissolved or wound up, the trustees must arrange for its accounting books and records to be kept for:

- at least three years after the year they were made if it is a charitable company; or

- at least six years after the year they were made if it is an unincorporated charity.

The accounting records that must be kept include cash books, invoices, receipts and any similar record of the charity's financial activities.

- 3.4 If the charity's property has been transferred to another charity we recommend that you ask the recipient charity to hold the records. Otherwise, you may be able to arrange for the records to be held by a former trustee, a solicitor or accountant, another local charity or an umbrella body. This does not remove your responsibility and accountability for ensuring that the records are both kept and accurate.
- 3.5 Former trustees remain responsible for decisions taken while they were in office. We can make enquiries about any actions they have taken even after their charity has wound up or dissolved.
- 3.6 Within ten months of the end of the charity's financial year, the trustees of all registered charities with an annual income or expenditure of over £10,000 must send us:
- an annual report (or, in the case of a charitable company, a suitably modified directors' report);
 - the accounts; and
 - the annual return.

Smaller charities should send us an Annual Information Update form, even if the only changes to their registered details are their annual income and expenditure. You must ensure that you have met this requirement when informing us that your charity has dissolved or wound up. You can get more on this from our publication **Charity Accounts: The framework (CC61)**.

4. Voluntary registration

- 4.1 A charity is registered voluntarily if it has been registered even though legislation or a Commission order has said that it need not be.
- 4.2 These charities are still subject to the rest of the Charities Act 1993, (as amended by the Charities Act 2006) and our supervision. If you are not sure if your charity registered voluntarily, please contact us.
- 4.3 If a charity that registered voluntarily asks to be removed from the Register, we will remove it, after checking that the registration is actually voluntary. So a voluntarily registered charity that is planning to dissolve or wind up can ask to be removed from the Register. It then need not give the information referred to elsewhere in this guidance. The charity does not lose its charitable status on removal. On dissolution or winding up, you must still arrange the keeping of the charity's accounting books and records as stated in section 3.

5. How can a charitable company be dissolved and removed from the Register?

- 5.1 Charitable companies are regulated by company law as well as charity law. All live companies must be entered on the Companies House Register.
- 5.2 A charitable company that is being dissolved should be removed from the Companies House Register before being removed from our Register. You can get guidance on voluntary striking-off and dissolution in **Strike-off, Dissolution and Restoration (GBW 2)**, a document available on the Companies House website, www.companieshouse.gov.uk along with the relevant forms. You can also get guidance from the Companies House Contact Centre, 0870 33 33 636.
- 5.3 The trustees are responsible for notifying us of the dissolution and removal of a charitable company from the Companies House Register. You must notify us by sending us either:
- a declaration using form CSD-1077 (if you choose this option you must ensure you have complied, or are able to comply, with all the statements in part 2 of the form); or,
 - a copy of the charity's final accounts showing where the assets have gone and a nil balance, along with either:
 - a certified copy of the minutes of the meeting at which the decision to dissolve the charity was taken; or
 - certified copies of the relevant resolutions.
- 5.4 Providing this information will:
- ensure that you have met the requirement to keep the charity's entry in the Register up to date; and

- enable us to remove the charity from the Register, after we have checked that it has been removed from the Companies House Register and we have all the directors' reports, annual accounts and annual returns that should have been sent to us in previous years.

6. How can an unincorporated charity be dissolved and removed from the Register?

If you have decided to dissolve your charity, there are three situations you may find yourself in. You should check the charity's governing document and its financial records to see which situation will apply in your case. **If you are in any doubt about this, you should consult the charity's legal advisers or us.** The three situations and the sections of this guidance that are relevant to each of them are as follows:

- (a) There is a dissolution clause in the charity's governing document that enables it to be dissolved (see section 6.1).
- (b) There is no specific power to dissolve but all the charity's assets can be spent (see section 6.2).
- (c) There is no power to dissolve and the charity has permanent endowment that cannot be spent (see section 6.4).

There is more detail on these situations below.

6.1 There is a dissolution clause in the charity's governing document.

6.1.1 You must follow the procedure set out in the dissolution clause of the charity's governing document. You must ensure that, after meeting any liabilities, all the assets have been used either for the purposes of the charity or in accordance with the dissolution clause.

6.1.2 When you have completed the dissolution procedure, you must inform us you have done this by sending us the documents referred to in section 6.3.

6.2 There is no specific power to dissolve but all the charity's assets can be spent.

6.2.1 If the governing document does not contain a specific power for the charity to be dissolved, but all its assets can be spent, you may be able to bring the charity to an end by:

- spending all the assets to further its purposes; or
- donating them to another charity with similar purposes.

If you choose the second option, you can specify how the receiving charity may use the assets.

6.2.2 When you have spent or donated all the charity's assets, you must inform us you have done this by sending us the documents referred to in section 6.3.

6.3 What you must send us when you have completed the dissolution procedure or spent all the charity's assets

6.3.1 Having completed the dissolution procedure or spent or donated the assets, you must tell us you have done so by sending us either:

- a declaration using form CSD-1077 (if you choose this option you must ensure that you have completed, or are able to comply, with all the statements in part 2 of the form); or
- a copy of the charity's final accounts showing the destination of the assets and a nil balance, along with either:
 - a certified copy of the minutes of the meeting at which the decision to dissolve the charity or spend all its assets was taken; or
 - certified copies of the relevant resolutions.

6.3.2 Providing this information will:

- ensure that you have met the requirement to keep the charity's entry in the Register up to date; and
- enable us to remove the charity from the Register, after checking that we have received all the trustees' reports, annual accounts and annual returns that should have been sent to us in previous years.

6.4 There is no power to dissolve and the charity has permanent endowment assets that cannot be spent.

6.4.1 If the charity has assets that represent permanent endowment, it cannot legally be dissolved.

6.4.2 However, if you are satisfied that the charity is not serving a useful purpose its objects may need to be changed to allow greater scope for the use of its assets. Alternatively, a new trustee body may be needed to take the charity in a different direction within its existing objects.

6.4.3 In either case you have two options:

- If the charity's governing document contains a suitable provision to allow you to alter the charity's objects or to appoint a new body of trustees, you can use this power to make the necessary amendments. Changes to the charity's objects are likely to need our prior approval.
- If you have no other option, please contact us as we may be able to use our powers under the Charities Act 1993 to make changes to the charity's objects or trusteeship to enable it to operate more effectively. In some cases we may allow the charity to amalgamate with another. You can get details of the procedure in our publication **Amending Charities Governing Documents: Orders and Schemes (CC36)**.

7. Is there anything else the trustees may need to do?

7.1 You should ensure that all the charity's debts and other liabilities have been paid before you spend its remaining assets for its purposes. The debts and liabilities may include:

- the payment of expenses properly incurred by trustees and employees in carrying out their duties;
- the final salaries or wages of employees and any other statutory payments to which they may be entitled; and
- other contractual obligations.

7.2 If you want to make payments to any employees of the charity on top of those you must make under their employment contract or by employment law, you should write to us for advice. No other payments may be made to trustees, members or employees, as this would be wrongful use of charitable funds.

7.3 You must also ensure that any grants or donations the charity has received for use for a specific purpose are:

- used for that purpose;
- with the agreement of the grantor or donor, used for a different purpose of the charity; or
- returned to the grantor or donor.

7.4 Any bank or building society accounts should be closed and the final statements should be held with the charity's other accounting records.

7.5 If the charity being dissolved or wound up is going to be replaced by another charity (perhaps an incorporated one), you should consider whether the original charity is likely to receive income in the future (for example from legacies). We recommend that trustees take legal advice on this point.

7.6 Guidance on how to 'incorporate' an unincorporated charity and apply for its registration with us is available in our Charity Incorporation pack (RTN-1302).

8. Contacting us

If you need to write to us about dissolving or winding up a charity or send us completed declaration forms, please send your correspondence to:

Charity Commission Direct
PO Box 1227
Liverpool
L69 3UG

If you have a query about dissolving or winding up a charity you can also –

- visit our website at **www.charitycommission.gov.uk** (which allows you to ask questions online);
- telephone us on either **0845 3000 218** or, if you want to use minicom, **0845 3000 219** (staff are available to take your calls between 8 am and 8 pm from Monday to Friday and 9 am to 1 pm on Saturdays (except national holidays));
- e-mail us at **enquiries@charitycommission.gsi.gov.uk**.

All our publications are available on our website at www.charitycommission.gov.uk or you can get them by telephoning our Contact Centre. You can also use our website or Contact Centre to check that we have copies of all the annual reports and accounts that need to be sent to us.

