

Change of member – a checklist for companies limited by guarantee

Checklist

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If you have any feedback on the content of these resources, or additional questions that you'd like to discuss, please contact the SGA:
020 7612 7029 | info@sportsgovernanceacademy.org.uk

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Overall purpose

This guidance note offers the secretary of a company limited by guarantee an outline of the information that should be considered when dealing with a change of member. As such, it is a specimen document for organisations to amend to suit their needs.

Where the member concerned is or is to be a director of the company, this document should be read in conjunction with *Change of director: a specimen checklist for secretaries in companies limited by guarantee*. Also, for a charitable company limited by guarantee it is essential that trustees are aware of their legal duties both as trustees under charity law, and as directors under company law.

This guidance note covers England and Wales. Although principles of good governance should transcend national borders, it may be important to bear in mind the specific differences in charity legislation if an organisation is a charity operating in Scotland, Northern Ireland, and elsewhere. The sections of the Companies Act 2006, however, which apply to changes of members of companies limited by guarantee, apply equally across the UK.

Admission of a new member

- The process of admitting a new member must be consistent with both the Companies Act and the company's articles of association.
- Any requirements of the articles and rules or bye-laws, made from time to time for the admission of members should be complied with. This may require evidence to be provided of qualification for membership, for example participation in a particular activity or residence within the geographic area. The articles may require an applicant be nominated by an existing member or members.
- Applications for membership will usually require approval by the board or, through delegated authority, by a committee of the board.
- Membership may also require the payment of an annual subscription or joining fee. The fee payable and how it will be collected should be made clear to prospective members.
- When admitting a new member to the register of a company limited by guarantee, the prospective member should sign a form of written consent to become a member. Some articles of association may provide for new members to be admitted by signing the register of members. Either way, this provides a written acknowledgement of the guarantee given under the articles of the company.
- The member's name, address and the date of admission to membership should be entered in the register of members.
- A membership certificate, where these are used, should be prepared, executed as prescribed in the articles and issued to the new member.
- Confirmation of acceptance should be sent to the new member. This will include provision of the governing document and other relevant constitutional documents, details of membership fees and a timetable of meetings the member is eligible to attend (such as the annual general meeting).

Removal of a member

- The Model Articles provide that a member may give at least seven days' written notice to withdraw from a company. Membership is not transferable under the Model Articles.
- Before registering the resignation of a member, either notice of resignation should be received in a form acceptable to the board, or evidence provided of some event prescribed in the articles – such as non-payment of membership fees or failing to fulfil stated membership requirements.
- Once a decision to terminate membership is made, care should be taken to ensure the procedure set out in the articles, rules or bye-laws, is followed. The former member should have been given the prescribed opportunity to make representations on their own behalf against any actions of removal.
- Once membership has been terminated (for whatever reason), the termination should be noted in the register of members, including the date on which membership ceased. The date is relevant because the former member remains liable under the guarantee for a year after membership ceases.

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