

General meetings checklist

Guidance note

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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:
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Introduction

General meetings are meetings of an organisation's members (not its directors/trustees). Therefore, organisations in a legal form without a membership do not hold general meetings. Organisations should consult their governing document to determine whether they have an obligation to hold general meetings. The individual organisation's governing document must be considered in relation to the conduct of general meetings of the members and voting at those meetings. Additionally, organisations constituted as certain legal forms are subject to some relevant statutory rules – in particular, this is the case for companies limited by guarantee (CLG), charitable incorporated organisations (CIO), Scottish charitable incorporated organisations (SCIO) and registered societies.

Annual general meeting

Some organisations must hold an annual general meeting of their members. This usually arises because of provisions in the individual governing document – a specific obligation to hold an AGM and/or requirements to deal with certain matters at an AGM each year (such as presentation of annual accounts and reports, appointments and retirements of directors/trustees and/or officers, and the appointment of auditors in some organisations).

AGM – companies

- There is no company law obligation to hold an AGM, a private company can choose whether or not it wishes to do so. This is subject to the terms of the individual company's articles – if they require the holding of an AGM, the company must ensure it meets that requirement each year.

AGM – CIOs

- A CIO may be obliged to hold an AGM under the terms of its own constitution.
- A CIO that uses the Charity Commission's 'Association' model constitution is obliged to hold an AGM. (The Commission's 'Foundation' model does not include this provision.)

Members' meeting obligation – SCIOs

- SCIOs have a statutory obligation to hold a meeting of their members at least once in every 15 months. At least 14 days' notice of the meeting must be given to both the members and the trustees.
- This is not technically an AGM, although in practice, the business dealt with at these meetings is usually the normal business of a typical AGM.

AGM checklist

- Check whether there is an obligation to hold an AGM.
- Consider whether there is a need to re-appoint the auditors or independent examiner and/or to authorise their remuneration.
- Check whether the governing document specifies the normal or ordinary business of the meeting.
- Check the governing document with regard to retirement of directors. Retirement may be required in relation to fixed periods of office or because of a retirement by rotation policy.
- Note that retirement and re-appointment of a new director/trustee, appointed since the previous AGM, may be required by the governing document.
- Consider which business to be put to the AGM is normal or ordinary business and which is special business. Full details need to be set out in the notice.
- Check what legal form the organisation takes. Note that:

- CLG or trading subsidiary company – general meetings are governed by the Companies Act 2006 and the individual company's articles.
- CIO – general meetings are governed by the CIO provisions of the Charities Act 2011, the supplementary CIO regulations and the individual CIO's constitution.
- SCIO – general meetings are governed by the SCIO provisions of the Charities and Trustee Investment (Scotland) Act 2005, the supplementary SCIO regulations and the individual SCIO's constitution.
- Unincorporated members' association – general meetings are governed by the individual UMA's constitution.
- Royal Charter body – general meetings are governed by the terms of its rules and any bye-laws (both of which will have been made pursuant to the Charter).
- Registered society – general meetings are governed by the relevant legislation and the individual society's own constitution.

Extraordinary general meeting (EGM)

An EGM is essentially any meeting of the members other than the annual general meeting. It is usually arranged because there is a particular matter that requires a members' decision or the authority of a formal resolution of the members.

General meeting checklist

Pre-meeting preparations

- Ensure any required prior regulatory consents have been obtained.
- Make practical arrangements with the venue (e.g. IT/audio, refreshments, appropriate accessibility arrangements for people with special access needs).
- Check the provisions of the governing document regarding who chairs the meeting and with regard to other key matters, such as the quorum and voting methods and rights.
- Brief the meeting chair as appropriate.
- Ensure all relevant reference documents and other papers are ready and will be available at the meeting.
- Ensure proxy forms and written notifications of the appointment of corporate representatives (by corporate members) have been checked and validated in advance of the meeting.
- Arrange any signing in procedures and any necessary verifications of identity (e.g. of appointed proxies or authorised representatives of corporate members).
- Prepare voting arrangements. If a poll is or may be required, prepare voting papers or other methods of polling and arrange independent scrutineers.

Procedure

Quorum

- The governing document should specify the quorum.
- The quorum is the number of participants with voting rights who must be present before the meeting can validly conduct business.
- If a quorum is not present the meeting cannot validly proceed. Decisions should not be purported to be taken at an inquorate meeting. Ensure a quorum is present before the general meeting proceeds to business.
- *Companies* - if the articles are silent, the Companies Act default rule is that two qualifying persons are a quorum. A 'qualifying person' is:
 - an individual who is a member of the company
 - an authorised representative of a corporation that is a member, or
 - a proxy for a member
- Consider whether proxies count towards the required quorum or not (in a company they *must* be counted).
- Note in the meeting minutes that a quorum was present.

Note - Some governing documents provide that a quorum must be present at the start of the meeting, while others state it must be present throughout the meeting. Consult the governing document carefully.

Chair

- Usually, there is a regular office holder who takes the chair (often the chair of the board). However, it may be necessary to make an appointment of the meeting chair at the beginning of the meeting (e.g. if the relevant regular office holder is not present).

Chair's powers

- The governing document is likely to set out some powers for the chair of a members' general meeting. Otherwise, consider and follow general good practice and underlying legal principles (such as the need to deal fairly with all members, ensuring their rights are respected and can be exercised effectively – for example, their voting rights).

Chair's role

- The essential role of the meeting chair is to ensure the meeting is conducted in an orderly fashion and that the business is properly dealt with.
- For organisations in a legal form to which statutory rules apply to general meetings (see 'Introduction') the chair should ensure those rules are properly observed.

Proxies – companies

- Members of companies have an absolute statutory right to appoint a proxy if they wish to do so. The company's articles may not override this right and any clause that is at odds with them is ineffective.
- The proxy can be anyone chosen by the appointing member.
- The proxy has the right to speak and to vote at the meeting (whatever voting method is being used on a particular matter).
- The appointing member may choose to instruct the proxy how to vote on particular matters or may authorise the proxy to make their own decision.

Proxies – other organisations

- Whether members of CIOs, SCIOs and unincorporated members' associations have proxy rights depends on the individual organisation's governing document.

Proxy voting

- If members have the right to vote by proxy at the meeting they must be allowed to exercise that right.

Voting rights

- Voting rights of the members largely depend on their class of membership and the provisions of the individual organisation's governing document.
- Usually, a member has one vote on any matter, though in some organisations, there may be non-voting membership classes.
- Note that a voting member of a company has an absolute statutory right to vote by proxy if the member wishes to do so.
- Corporate members can exercise their voting rights by proxy or by appointing an authorised representative to attend and vote at the meeting.
- For corporate members of companies limited by guarantee, this is a statutory right.

Voting methods

- Generally, voting is conducted by a show of hands.
- Voting can also be by poll (effectively a written ballot or another method). This is most often used:
 - if the particular governing document requires poll voting on certain matters (e.g. a secret ballot for voting on candidates proposed for appointment to the board); or
 - if the vote is expected to be close or the matter being decided is likely to be contentious.
- Usually, the governing document enables the chair of the meeting to decide that a poll vote should be taken on a particular matter.
- For companies, the Companies Act provides minimum rights for members to demand a poll. In a CLG these rights are:
 - not less than five members having the right to vote on the resolution; or
 - a member or members representing not less than 10% of the total voting rights of all the members having the right to vote on the resolution.
- Note the provisions of the Companies Act with regard to electronic proxy lodgement, written resolutions and electronic communications and the general rules and

requirements regarding electronic communications between companies and their members.

- Any other form of electronic voting at members' general meetings is only permissible if the company's articles provide for it.
- It is good practice to address these areas in an organisation that wishes to provide electronic voting options:
 - for members, ensure they also have a right to submit a postal vote (as well as the option to vote in person at the meeting and any proxy rights they have under the governing document or, for companies, under the provisions of the Companies Act).
 - allocate a unique identifying number to each member, as part of the identification and security process for electronic voting.
 - where a secret ballot is to be conducted, ensure the unique identifying number cannot be used to identify the member casting a particular vote (e.g. do not use their general membership number as the identifier).
 - the unique identifying number should only be usable once (to ensure only one vote is recorded).
 - for a secret ballot, arrange voting via a secure website, with appropriate encryption, to ensure the vote is not traceable to the member casting that vote. Also ensure the software used prevents any record of the vote being kept on the computer terminal used.
 - ensure there are adequate general safeguards against fraud, to protect the integrity of the voting process and to maintain security and privacy.
 - consider using external specialists to advise and assist, which may include independent scrutineers.

Prior written ballots

- A governing document may provide for prior written ballots, enabling members to submit their votes in advance of the meeting on particular matters (e.g. proposed appointments to the board). This is relatively rare.

Types of resolution – companies

- The Companies Act provides for ordinary resolutions and special resolutions of the members of a company. If the articles are silent as to which type must be used and there is no statutory rule applicable to the particular proposed decision, an ordinary resolution can be used.
- The Companies Act (or other legislation) specifies the use of a special resolution for the most important decisions, in particular:
 - changing the company's name
 - altering its articles, and
 - voluntary winding up.

Ordinary resolution (company)

- At a general meeting, an ordinary resolution is passed by a simple majority of votes cast. (Abstentions are not relevant.)

Special resolution (company)

- A special resolution must be proposed as a special resolution (and identified as a special resolution on the meeting notice).
- At a general meeting, a special resolution is passed by a 75% majority of votes cast. (Abstentions are not relevant).

Types of resolution – other organisations

- The types of resolution that can be passed at a general meeting of other types of organisation, and when a particular type may or must be used, will often be specified in the individual organisation's governing document.
- In certain circumstances, there may also be relevant statutory provisions (e.g. registered societies).

Amendment of resolutions

- There is usually very limited scope to amend a resolution at a meeting. Each item of business must normally be dealt with on the basis of the meeting notice.
- No alteration should be considered that materially alters the scope of the resolution or might in any way prejudice the rights of members (including those who, on the basis of the wording set out in the meeting notice, chose not to attend).
- The chair should rule in relation to any proposed alteration (noting any applicable rules in the governing document and also good practice principles).

Filing requirements

- Some members' resolutions may trigger a filing or notification requirement to Companies House and/or charity regulators.
- Copies of any special resolutions passed must be filed at Companies House within 15 days of the date of the meeting. Certain ordinary resolutions also have to be filed.
- Occasionally a statutory fee may also be payable (e.g. a company change of name resolution).

Minutes

- Complete minutes as soon as practicable after the meeting.

Notice periods and short notice

Notice periods for general meetings may be set out in the individual organisation's governing document. In certain legal forms, there are also statutory requirements to consider (in particular for companies).

Notice period – companies

- A private company must give at least 14 clear days' notice of a general meeting.
- Note that if the individual company's articles provide for a longer notice period, that requirement must be observed. This is particularly likely to be the case in the articles of a company incorporated prior to 1 October 2009.

Notice period – other organisations

- Check the provisions of the individual governing document.

Clear days

- Usually, notice periods must be 'clear days' periods. This means the day on which the notice is received (or deemed received if sent by post or by electronic communications) is not counted, nor is the day of the meeting. Check the provisions of the individual governing document and consider any applicable statutory provisions (especially those applicable to companies under the Companies Act).

Deemed delivery

- The governing document usually specifies when a notice sent by post is to be deemed delivered. It may also specify a deemed delivery rule for notices sent by electronic communication.
- In the case of a company, consider relevant Companies Act provisions as well as the articles (especially in relation to electronic delivery of a meeting notice).

Consent to short notice – companies

- Shorter notice may be given if the necessary majority of the members agree – i.e. the majority in number of members who have the right to attend and vote at the meeting who together hold not less than 90% of the total voting rights at the meeting.
- The company's articles can alter that percentage to a higher percentage (but it must not exceed 95%). Any such higher figure required must be observed. Note that the articles of many older companies do impose a higher percentage requirement (particularly companies incorporated before 1 October 2009).
- Note that a resolution to consider the removal of a trustee/director or the removal of an auditor *cannot* be considered at a meeting held on short notice.

Consent to short notice – other organisations

- Check the provisions of the individual governing document.

Consent to short notice

- If the members' consent to short notice is to be sought, the directors/trustees will usually instruct the secretary, or some other suitable person, to circulate a draft written consent to short notice to the members. This is usually sent with the notice of meeting, but it can be circulated in advance of the notice.

Methods of service of notices

- Normally, hard copies may be given in person or sent by post to the members.
- A governing document may also enable members to opt for electronic service of notices.

- For companies, the Companies Act makes detailed provisions regarding possible electronic delivery of notices of general meetings.
- Subject to the detailed provisions in the Companies Act, a CLG may in principle serve notice of a general meeting on its members:
 - in hard copy form
 - in electronic form
 - by means of a website, or
 - by a combination of these methods.

Entitlement to notice

- Usually, all members are entitled to notice of general meetings. However, check the provisions of the individual governing document and the rights of different membership classes as, rarely, there may be a non-voting class of membership that is not entitled to receive notices of general meetings.
- Usually, the directors/trustees are entitled to receive copies of the notice (regardless of whether they are also members).
- Auditors of a company are entitled to receive a copy of any notice of a general meeting. In other types of organisations the auditors may have a similar right arising from provisions of the individual governing document.

Procedure

- Directors'/trustees' meeting approves the calling of a general meeting and the proposed business.
- The meeting may approve the draft notice or authorise the secretary to prepare the notice to be sent to members and others entitled to receive notice of the meeting.
- The issue of the notice formally convenes the meeting.
- Ensure all relevant information is included in the notice, especially practical details (such as date, time and place of the meeting) and any details required to be included under statutory provisions (e.g. the required proxy rights statement on a notice of a general meeting of the members of a company).
- Check service methods permitted by the governing document.
- Check any service method preferences that have been indicated by particular members (e.g. electronic service). Statutory and/or governing document stipulations relating to electronic communications should be checked.
- Ensure that notices are sent out in accordance with the permitted methods and members' notified choices.
- Ensure that the relevant contact address (postal or email) as recorded in the register of members is used.
- Calculate the notice period carefully, taking into account any statutory minimum notice periods, noting that it is likely to be a 'clear days' notice period.
- Keep a copy of the notice as issued to the members and appropriate records of despatch date and particular despatch methods used.
- Enclose with the notice any other relevant or required documents (e.g. proxy forms, instructions on how to return completed proxy forms and relevant time limit, copies of any other documents that need to be circulated prior to the meeting).
- Validate proxy forms received and any documents relating to the appointment and authority of representatives of corporate members.

Filing requirements

- Neither a copy of the meeting notice nor any consent to short notice need to be filed with any regulator. However, they should be retained in the organisation's own records.

Notes

Special notice – companies

- Special notice of the intention to move certain resolutions must be given *to the company* by the person proposing to move that resolution.
- This applies to resolutions proposing the removal from office of a director/trustee or an auditor. (Note also that such resolutions cannot be considered at a meeting held on short notice.)
- The special notice must be served at least 28 clear days before the meeting at which the resolution will be proposed.
- The person affected by the proposal has various statutory rights (including the right to be provided with a copy of the meeting notice and a right to make representations).
- Legal advice should be taken before attempting to follow any forcible removal procedure.