

Information sheets: How to adopt the new model mem and arts

This document contains four information sheets.

Find the information sheet that refers to your organisation's legal status for step by step guidance on how to adopt the new model mem and arts.

Sheet 1 and 2 refer to a special resolution form. You can download a model special resolution form from www.navca.org.uk/memandarts.

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1) For local support and development organisations that are registered charities and also limited companies that registered before 1 October 2009.

Step 1 – Your organisation reviews the 1985 model, fills in the blanks, decides whether it wants to make any other alterations to the model. Complete the name of your organisation and charity / company numbers on the notice of special resolution form.

Step 2 – Send a draft of the amended mem and arts and a copy of the special resolution form to the Charity Commission, requesting permission to change your mem and arts. (There is more information about this on the Charity Commission website here:

www.charitycommission.gov.uk/Manage_your_charity/Change_Governing_Document_index.aspx#2). The Charity Commission responds within 15 working days, though it might be possible to get them to expedite this so that they reply sooner. This is a formality, but it is required. The Charity Commission should reply with a consent letter which may include a reference number. Enter this reference number on your special resolution form.

Step 3 - Send out your notice of your general meeting (AGM or EGM) and your special resolution to amend your mem and arts to members. Leave 21 clear days notice (check your current mem and arts to make sure you don't need to leave more than this.)

Step 4 - Hold your general meeting. The meeting must be quorate and 75% of those present must vote in favour of the amendments. A trustee and your company secretary must complete and sign two copies of the special resolution form.

Step 5 – Send the completed special resolution form and amended mem and arts to Companies House within 15 days, together with forms CC01, CC03 and CC04, which you can download from the Companies House website. (Failing to meet this deadline is an offence and you could receive a fine of £200). Also send a copy of the completed special resolution form and amended mem and arts to the Charity Commission, quoting the reference number on their consent letter.

2) For local support and development organisations that are limited companies but not yet registered charities.

You must use the 1985 model if you registered as a company before 01.10.2009 or the 2006 model if you registered as company on or after 01.10.2009, but not using a NAVCA model.

Step 1 – Your organisation reviews the model, fills in the blanks, decides whether it wants to make any other alterations to the model. Complete the name of your organisation and charity / company numbers on the notice of special resolution form.

Step 2 - Send out your notice of your general meeting (AGM or EGM) and your resolution to amend your mem and arts to members. Leave 21 clear days notice (check your current mem and arts to make sure you don't need to leave more than this.)

Step 3 - Hold your general meeting. The meeting must be quorate and 75% of those present must vote in favour of the amendments. A trustee and your company secretary must complete and sign two copies of the special resolution form.

Step 4 – Send the completed special resolution form and amended mem and arts to Companies House within 15 days, together with forms CC01, CC03 and CC04, which you can download from the Companies House website. (Failing to meet this deadline is an offence and you could receive a fine of £200). Also send a copy of the completed special resolution form, former mem and arts, and amended mem and arts to the Charity Commission with your application to register as a charity.

3) For local support and development organisations that are unincorporated and also registered charities.

Step 1 - Prepare for the change. Make sure that this change of legal status is possible and desirable.

- There are a considerable number of legal implications to incorporating and you should not proceed without seeking independent legal advice.
- Contact your pension provider at an early stage regarding any potential employer's debt arising from your pension scheme.
- Some funders, like BIG, want to know before you make any changes to your governing documents. Similarly, your local authority and other funders may well want to be notified. You should check the requirements of your current funders before making any changes to your governing documents.
- Check your current governing documents to make sure that you have the power to dissolve and transfer assets to a charity with identical or similar purposes.
- Take a look at the Charity Commission's questions and answers about incorporating an existing charity as a company here:
www.charitycommission.gov.uk/Charity_requirements_guidance/Charity_governance/Good_governance/incqanda.aspx - section D provides useful information on the practical steps (which overlap with these 6 steps) and section F addresses some pitfalls.

Step 2 - Hold a general meeting in line with your constitution, and pass a resolution to incorporate.

Step 3 - Using the 2006 model for local support and development organisations, review the model, fill in the blanks, decides whether it wants to make any other alterations to the model.

Step 4 - Incorporate as a limited company with Companies House. Guidance is available from the Companies House website here:

www.companieshouse.gov.uk/infoAndGuide/companyRegistration.shtml

Step 5 - Re-register with Charity Commission and get a new charity number.

Step 6 - Transfer assets from the unincorporated charity to the new charitable company, and close down the unincorporated charity.

4) For local support and development organisations that are unincorporated and not registered charities.

Step 1 - Prepare for the change. Make sure that this change of legal status is possible and desirable.

- There are a considerable number of legal implications to incorporating and you should not proceed without seeking independent legal advice.
- Contact your pension provider at an early stage regarding any potential employer's debt arising from your pension scheme.
- Some funders, like BIG, want to know before you make any changes to your governing documents. Similarly, your local authority and other funders may well want to be notified. You should check the requirements of your current funders before making any changes to your governing documents.
- Check your current governing documents to make sure that you have the power to dissolve and transfer assets to a charity with identical or similar purposes.

Step 2 - Hold a general meeting in line with your constitution, and pass a resolution to incorporate.

Step 3 - Using the 2006 model for local support and development organisations, review the model, fill in the blanks, decides whether it wants to make any other alterations to the model.

Step 4 - Incorporate as a limited company with Companies House. Guidance is available from the Companies House website here:

www.companieshouse.gov.uk/infoAndGuide/companyRegistration.shtml

Step 5 - Register with Charity Commission and get a charity number.

Step 6 - Transfer assets from the unincorporated association to the new charitable company, and close down the unincorporated association.