



Macc webinar: Equipping trustees to lead their organisation with assurance as we emerge from Covid-19

Date of webinar: 10 September 2020

Webinar was delivered by Robert Nieri, Principal Associate, Shoosmiths LLP

Summary:

This session was designed for charity trustees and senior staff to provide an overview of the responsibilities and powers of charity trustees, outline common governance issues that arise in practice and the state of the charity sector as Covid-19 struck in March 2020.

The webinar provided participants with simple strategies and tools to help trustees run their charities as effectively as possible after Covid-19

Links to resources and reference material

Blog – <https://www.shoosmiths.co.uk/insights/articles/supreme-court-guidance-for-charities>

Charity Governance Code

www.charitygovernancecode.org/en

Disqualified Register

www.gov.uk/search-the-register-of-disqualified-company-directors

www.gov.uk/guidance/automatic-disqualification-rule-changes-guidance-for-charities#checking-official-registers

Q & A

Can your subsidiary company fund the charity?

Yes. A common arrangement is for a subsidiary company to gift aid its taxable profits to its parent charity. See section 4 of this Charity Commission guidance:

<https://www.gov.uk/government/publications/trustees-trading-and-tax-how-charities-may-lawfully-trade-cc35/trustees-trading-and-tax-how-charities-may-lawfully-trade#charities-with-trading-subsidiaries>

What is the difference between trustee and charity members?

The trustees are those with ultimate responsibility for running a charity (legal definition is in section 177 Charities Act 2011). In a charitable company limited by guarantee they are the company directors.

The members – for example of a company limited by guarantee or of a charitable incorporated organisation ("CIO") – have ultimate power to vote to remove trustees (directors) and to change their charity's governing document by passing a special resolution, but usually the members do not get involved in the running of a charity other than at general meetings (including AGMs).



Is there an adapted deadline to hold AGMs?

There is an ability introduced by a recent Act of Parliament - until 30 September 2020 at the time of writing, although this deadline may be extended by the Secretary of State in the coming weeks - for companies, CIOs and other “incorporated” charities to hold AGMs remotely even if there is no provision in their governing document allowing them to do so:

<https://www.gov.uk/government/publications/corporate-insolvency-and-governance-bill-2020-factsheets/annual-general-meetings-and-other-general-meetings>

This Act does not apply to unincorporated charities. However, the Charity Commission recognises that in the current situation it may be difficult for such charities to hold face-to-face meetings. Some have clauses in their governing documents that allow them to meet virtually or to use telephone facilities, so the Commission advises trustees to check their governing document and see if they can make amendments themselves to facilitate changes as to how or when meetings are held.

Generally, if there is no such clause in the governing document and the charity decides to hold meetings over the phone or using digital solutions, the Commission has said it will understand but that charities should record this decision and that they have done this to demonstrate good governance of their charity.

<https://www.gov.uk/guidance/coronavirus-covid-19-guidance-for-the-charity-sector#agms-and-other-meetings-postponing-or-cancelling-meetings>

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