

Case Study – Maintain your charity’s governing document

We received concerns that a trustee Board had been elected at an inquorate meeting, and that several founding documents were in circulation.

What happened?

The charity’s former Board were withholding the charity’s books and records, claiming that the AGM electing the new Board had been inquorate. The new Board therefore had no access to the charity’s paperwork or its bank account.

It emerged that several versions of the charity’s constitution were in circulation, each specifying different numbers of members for a quorum at general meetings. This had led to the allegation that the AGM was inquorate.

The former Board members had called the AGM, and all but one had left the meeting when a dispute arose. No election had taken place at the AGM, but the remaining trustee and members decided to hold an EGM at a later date. All members were invited and the EGM was called in compliance with the charity’s governing document as it then stood. The stated quorum was not contested. At the EGM, the members adopted a new constitution which superseded previous versions, and new charity trustees were elected.

Outcome

All the charity’s books and records belong to the charity and not to any individual committee members. On the election of a new Committee, the charity’s documents must be handed over to the new board. It can be considered theft if they are not. However, in this case, confusion had arisen because earlier versions remained in circulation and the previous board believed that they were still in management and control of the charity. The agreement by the members to adopt one constitution has since helped the charity to move forward.

What can you do to protect your charity?

Charities must follow the terms of their governing document. This may have differing titles, for example ‘Constitution’, ‘Trust Deed’, ‘Articles of Association’, etc, but the document sets out what the charity was set up to do, and how it should be run. If there is any confusion or question about the governing document, you should act quickly to resolve this so that your members and beneficiaries have clarity and also the reassurance that your charity is properly run.

- You should also be aware that your charity’s books and records belong to the charity, and these must be passed on to the new charity trustees.

- You can [consult our guidance](#) and make sure that your trustees have read and comply with it.
- You can seek legal advice tailored to the requirements of your charity.
- You can seek the support of your local Third Sector Interface.
- Resolving this issue quickly not only prevents you falling foul of charity law – early action can also prevent internal dispute and damage to the charity's efficient operation.

Guidance and support

- You can read our guidance for charity trustees at <http://www.oscr.org.uk>
- You can [find help and support from your local Third Sector Interface here](#).