

Memorandum and Articles Resolution 2021

The Office of the Scottish Charity Regulator (OSCR) have sent out correspondence recently advising charities to check their Memorandum and Articles to ensure that meetings can be held online. Please note that OSCR understand that due to the pandemic this is a challenging time for charities, they are not going to penalise any charity who held an online AGM last year however we do need to review and update our current constitution.

Please see OSCR information below:

Throughout the pandemic, one of the ongoing challenges for charity trustees has been how they can govern their charities well despite not being able to get together face-to-face around the board table.

OSCR has been actively encouraging charities to look at the best possible way of having good meetings. What we have seen during the COVID-19 restrictions is that many organisations have embraced new ways of doing things, with many trustees getting more and more comfortable with using the online space to have meetings and make decisions. However, one of the difficulties has been that the governing documents of some charities do not permit an online approach.

SCIO legislation

On 30 September 2020, the **Corporate Insolvency and Governance Act 2020 (Meetings of Scottish Charitable Incorporated Organisations) (Coronavirus) (No. 2) Regulations 2020 (legislation.gov.uk)** made legal provision for SCIOs to be able to hold member's meetings using 'virtual' methods whether or not governing documents permit this. These provisions have now been extended until the 30 March 2021. This is likely to be the last extension to these provisions, and so it is very important to make sure that your charity is 'future proofed' in terms of being able to conduct meetings virtually by allowing them in your governing document.

The Scottish Executive Board request that a number of changes, as listed in the table below, are made to the Memorandum and Articles of Association of the Scottish Childminding Association.

Section	Current wording	Shall now read
Articles of Association		
General meetings pt 9	The Association in each year and not later than nine months after the end of the Association's financial year hold a General Meeting as its Annual General Meeting in addition to any other meetings in that year and shall specify the meeting as such in the notices calling it; and not more than fifteen months shall elapse between the date of one Annual General Meeting of the Association and that of the next. Provided that so long as the Association holds its first Annual General Meeting within eighteen months of its incorporation, it need not hold it in the year of its incorporation or in the following year. The Annual General Meeting shall be held at such time and place as the Scottish Executive Board shall appoint. All General Meetings other than Annual General Meetings shall be called Extraordinary General Meetings.	Add in at the end of this paragraph: Meetings can be held online using appropriate technology.

Proceedings at General Meetings pt 17	<p>At any general meeting</p> <p>(i) a resolution put to the vote of the meeting shall be decided on a poll unless a show of hands is (before or on the declaration of the result of poll demanded:-)</p> <p>(a) by the Convener; or</p> <p>(b) by at least two members present in person; or</p> <p>(c) by any member or members present in person and representing not less than one tenth of the total voting rights of all the members having the right to vote at the meeting.</p>	<p>At any general meeting</p> <p>(i) a resolution put to the vote of the meeting shall be decided on a poll unless a show of hands is (before or on the declaration of the result of poll demanded:-)</p> <p>(a) by the Convener; or</p> <p>(b) by at least two members present; or</p> <p>(c) by any member or members present and representing not less than one tenth of the total voting rights of all the members having the right to vote at the meeting.</p>
Voting pt 34	<p>Members eligible to vote at the Annual General Meeting of the Association may submit a vote using the voting system (postal/online). All votes shall be received by the Association at least five clear days before the Annual General Meeting. Such voters may not vote in person at the meeting concerned and the votes shall not be counted in respect of any amendment to the resolution.</p>	<p>Members eligible to vote at the Annual General Meeting of the Association may submit a vote using the voting system (postal/online). All votes shall be received by the Association at least five clear days before the Annual General Meeting. Such voters may then not vote at the meeting concerned and the votes shall not be counted in respect of any amendment to the resolution.</p>
35	<p>Members eligible to vote at Extraordinary General Meetings may vote using the voting system (postal/online) on a resolution to amend these Articles. Such votes shall be received by the Association at least five clear days before the meeting. Such voters may not vote in person at the meeting concerned and the postal votes shall not be counted in respect of any amendment to the resolution.</p>	<p>Members eligible to vote at Extraordinary General Meetings may vote using the voting system (postal/online) on a resolution to amend these Articles. Such votes shall be received by the Association at least five clear days before the meeting. Such voters may may then not vote at the meeting concerned and the postal votes shall not be counted in respect of any amendment to the resolution.</p>

On reviewing the Memorandum and Articles there was a reference to members signing a written consent when they join. As all of our members join by phone/online this also needs reviewed and updated.

Section	Current wording	Shall now read
Articles of Association		
Members pt 4	<p>The subscribers to the Memorandum of Association and such other persons as the Scottish Executive Board shall admit to membership shall be members of the Association. Every member of the Association shall either sign a written consent to become a member or sign the register of members on becoming a member.</p>	<p>The subscribers to the Memorandum of Association and such other persons as the Scottish Executive Board shall admit to membership shall be members of the Association.</p>

Background

The Memorandum and Articles of SCMA have been in place since 2006 with a few minor changes in 2013 and 2016. The members of the existing Scottish Executive Board reviewed these suggestions at their meeting in March 2021 and are now proposing the changes listed above.

The two main changes are:

- 1 To allow Scottish Childminding Association general meetings to be held online.

The main reason for this change is to ensure that we are able to continue to meet our governance responsibilities to allow meetings to be held online. Currently our Memorandum and Articles only allow for in person meetings which given that so much is done online and in particular due to the current pandemic this seems restrictive.

- 2 To remove the reference to members signing a written consent when they join.

As all of our members join by telephone/online we are proposing to remove the reference to them physically signing a written consent when they join. We will modernise how the member consents to being part of Scottish Childminding Association and update the process to ensure its fit for the future.

Proposer – Donna Dawson

Seconder – Jayne Kirkby

Extraordinary General Meeting

We will hold an Extraordinary General Meeting via Microsoft Teams to discuss the resolution on Saturday 19th June 2021 at 12.00 pm.

If you have any questions, require a copy of the current Memorandum and Articles or a postal vote for the resolution please contact Louise Buchanan on 01786 434956 or louise.buchanan@childminding.org. The final date for requesting a postal vote is 14th May 2021.