

**Procedural note** Version dated: 1 April 2015

**Governing documents – registered charities registered as a registered provider or seeking registration with the regulator after 1 April 2010.**

**This procedural note applies to:**

(1) Applicants that are charities seeking registration as non-profit registered providers with the regulator under Chapter 3 of the Housing and Regeneration Act 2008; and

(2) Non-profit private registered providers (registered with the Regulator after 1 April 2010) that are charities which are amending their constitutional documents.

**Background**

**Amendments to constitutions**

This procedural note is one referred to in ‘Guidance for Constitutional Consents (sections 212 to 214), Restructuring and Dissolution (sections 160 to 165)’. There is another procedural note for registered providers which were registered social landlords before 1st April 2010.

This section sets out a summary of the statutory requirements; it is only a guide and you should refer to the Act if you need to.

An amendment of a charity’s objects is effective only if the Charity Commission has first consented.

Before giving consent the Charity Commission must consult the regulator.

**The regulators expectations**

Note that this Procedure note does not apply to those registered providers who were in existence as registered social landlords on 31st March 2010. Further information about what is expected of those organisations can be found in another procedural note – “Governing documents – charities registered with the regulator before 1 April 2010”.

In this section, we set out how we will approach decisions. We will of course consider an application which does not fit the expectations below on its merits.

**1** **New registrations – charitable status**

An applicant which is already a charity, or is in the course of constituting as a charity, and which is applying after 1st April 2010 for registration with the regulator as a registered provider of social housing is expected to meet the following requirements:

The objects clause must:

* refer to “social housing” explicitly, even where it refers to other housing-type objects

Elsewhere in the constitution:

* the regulator would prefer to see a reference to not-profit, though this is not required. If applicants decide to have some reference in their rules, those exact words don’t have to be used; they may prefer to refer to “charitable activities” or similar, which suggests NFP status
* must refer to non-distribution of assets to members, though those exact words do not have to be used.
1. **Amendments to constitutions**

The regulator’s job is to respond to the consultation from the Charity Commission. The way this usually happens is that the registered provider charity writes to the regulator asking for the regulator’s view on the proposal (see below under “Process”). The regulator’s view is recorded in a letter and the registered provider then presents the letter to the Charity Commission so that they can consider it when they are deciding whether to give consent to the change. Alternatively, the Charity Commission may contact the regulator directly when considering an application. When the regulator is deciding on whether it has a positive or negative view on the proposed change, it will have the same expectations as those when considering an application for new registration (see REGULATOR’S EXPECTATIONS 1 above). That means that it will expect the changed objects clause to meet the points set out at 1. above.

Applicants will also find useful information in the following publications when amending their governing documents:

* Regulator’s Standards and guidance
* Registration requirements and guidance

Registered Providers are reminded that charities need to ensure that they satisfy [Charity Commission requirements](https://www.gov.uk/running-charity/setting-up) when formulating their objects, and that the final consent is given by the Charity Commission.

**Process**

Applying for “in principle approval” provides an opportunity for applicants to submit to the regulator a draft application and receive feedback, prior to applying for formal consent from Charity Commission. The regulator will consider the proposed changes and will respond either by letter or email.

The applicant should then apply to the Charity Commission for formal consent to the amendments. The Charity Commission’s requirements and guidance can be found on their [website](https://www.gov.uk/government/publications/changing-your-charitys-governing-document-cc36).

**Documentation to be submitted to the regulator for in principle approval.**

A registered provider can find out whether their proposed change is likely to meet the regulator’s expectations. This can be done by applying for “in principle approval”. Please note that you do not have to apply to the regulator for an in principle approval before making your application to the Charity Commission for consent, but doing so is likely to speed up the application.

**Where applications should be sent**

Email: constitutionalconsentsteam@hca.gsi.gov.uk

Address: Constitutional Consents Team

 Homes and Communities Agency – The Social Housing Regulator

Level 1A, City Tower

Piccadilly Plaza

Manchester

M1 4BT

Telephone: 0300 1234 500 (ask for Constitutional Consents Team)

**How long it will take to deal with your application**

In principle applications will be processed within 10 working days.

**Notification**

Once the applicant has received consent from the Charity Commission, a schedule of amendments or a marked up copy of the constitution showing the changes together with a complete unmarked copy of the amended governing document (as approved by the Charity Commission) should be sent either by email or post to:

 Email: Public.Register@hca.gsi.gov.uk

Address: The Registry

Homes and Communities Agency – The Social Housing Regulator

Level 1A, City Tower

Piccadilly Plaza

Manchester

M1 4BT