

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

**Governing documents – registered charities registered with the regulator before 1 April 2010**

**This procedural note applies to:**

Non-profit private registered providers registered with the regulator before 1st April 2010 that are registered charities but not registered companies.

**Background**

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 or sought registration as registered providers after 1st April 2010.

This section sets out a summary of the statutory requirements; it is only a guide and you should refer to the Housing and Regeneration Act 2008 if you need to.

An amendment of the 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**

The regulator does not expect those registered providers who were in existence as registered social landlords on 31st March 2010 to change their constitutional documents because of the change of regulatory regime. Our expectations for new providers are set out in the Regulatory Framework, and further information about what is expected of organisations registering after 1st April 2010 as registered providers can be found in another procedural note – “Governing documents – charities registered as a registered provider of seeking registration with the regulator after 1 April 2010”.

This is because the regulator considers that the governing document which became a registered social landlord before 1st April 2010 continue in effect for the purpose of the new Housing and Regeneration Act 2008. That means that there is no need for amendment ([Schedule 1 paragraph 4 of the Housing and Regeneration Act 2008 (Commencement No. 7 and Transitional and Saving Provisions) Order 2010 No. 862](http://www.uk-legislation.hmso.gov.uk/si/si2010/uksi_20100862_en_2)).

**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.

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.

**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 to the Charity Commission.

**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 us 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