

NOTES TO ACCOMPANY THE CONSTITUTION

1. ASSOCIATION DETAILS

1.1 Type of association

The type of association depends on its membership. Please see the guidance under clause 4 for further information.

1.2 Name

We suggest X School PTA or The PTA of X School.

If the suggested name of your association is too similar to another charity already listed on the Charity Commission Register of Charities and might cause confusion, the Charity Commission may ask for it to be changed. Check the Register of Charities before choosing a name, available at Charity Commission.

1.3 School

Please complete the full name and address of the school.

1.4 The committee

While this constitution states the minimum number of committee members/trustees can be 2 (see clause 6.7.5) PTA UK would always recommend that best practice is to have 3 named committee members/trustees – Chair, Treasurer and Secretary. This ensures that no one person (given a Chair has a casting vote) has overall control of decision making. If you set up your association with only 2 members we would strongly recommend you look to recruit at least one other member as a priority. It is normal for the size of the committee to vary. There is no restriction on the maximum number of committee members/trustees. But be careful that this does not become too large. Once the committee has been elected you can then calculate the maximum number of co-opted members; up to 50% of the total number of elected committee members/trustees (clause 6.5). For example, a committee with eight committee members/trustees would be able to co-opt four further committee members/trustees (6.5)

2. CHARITABLE PURPOSE ('OBJECTS')

The objects (i.e., the main purposes) of the association must be exclusively charitable under English and Welsh law or it will not be a charity and registration will be refused by the Charity Commission. The objects included in this model constitution have been verified as exclusively charitable. However, your association should make sure that they reflect the true purposes of the association. The objects are deliberately designed to be broad and to give an association the flexibility to operate over a number of years.

3. POWERS

The powers are the legal means to achieve the charitable purpose/objects (clause 2). These are designed to be flexible and give your association the scope to operate. Your association can use all of these powers but equally doesn't have to use any it considers not appropriate at any given time.

3.4 The committee should understand any legal restrictions on the fundraising activities the charity wants to undertake. Substantial permanent trading for the purpose of raising funds is not allowed. HM Revenue and Customs (HMRC) can advise on the limits for small scale trading. Where an association will be relying on trading to raise funds it is recommended that a separate, non-charitable trading company should be used for the purpose and specialist legal or accountancy advice sought.

3.7 This clause enables the committee to allocate funds for particular purposes, or as reserves. It is good practice for an association to maintain reserves to cover planned expenditure and to meet the kind of expenditure which may be required at short notice. But reserves shouldn't be built up without an agreed committee decision, or be excessive in relation to the amount known or reasonably estimated to be required. Funds raised must be spent achieving the association's objects (purpose) in a timely way.

3.9 The association should ensure that it has adequate insurance in place for all of its activities. Full membership of PTA UK automatically provides public liability and personal accident insurance to cover association meetings, activities, and the committee members/trustees.

3.10 This clause covers employees, independent contractors and volunteers. Care should always be taken by a charity wishing to employ someone, even part-time but special care is required if it is proposed to employ a committee member/trustee. (See clause 9.2 and 9.3. Further guidance is also available from the Charity Commission.)

3.11 An example of being contracted to provide a service to or on behalf of other bodies is where a PTA runs an after-school club on behalf of the school.

3.14 When consulting parents on their views, committee members/trustees should do so at their discretion and make final decisions according to their own judgement.

3.16 This 'blanket provision' is intended to cover any other power not specifically mentioned. The association is still restricted to undertaking activities to achieve the objects (charitable purpose).

4. MEMBERSHIP

4.1 The membership will vary according to the type of association as set out in this clause.

4.2.3 It is unusual for a member of a charity to be removed from membership, but if this happens it must only be done for good reason, e.g., because the member's presence represents a danger to the school or its pupils. Under the rules of Natural Justice, the member concerned must be given an opportunity to state his or her case before a final decision is taken and any decision to remove a member must be justifiable. Like any other committee decision this will be made by a simple majority of the votes cast at the meeting (see clause 7.4). It is recommended that any such decision be recorded in the minutes of the committee meeting. If you remove a member who is also a committee member/trustee, they are automatically removed from the committee under clause 6.7.4. However, removal as a committee member/trustee does not automatically mean that the individual is also removed as a member. If you want to remove someone who is no longer a committee member/ trustee from membership of the charity as well, you will have to use the provision in 4.2.

5. GENERAL MEETINGS

A General Meeting is a formal gathering of the members. These can either be Annual or Extraordinary (AGM or EGM).

5.2 How notice of a General Meeting should be given to members is dealt with in clause 11, and 'written' is defined in clause 14.1. When giving notice each 'day' starts at midnight, and the day on which notice is given does not count.

5.3 A quorum is the minimum number of members of an association that must attend the meeting for it to be valid and for decisions to be legitimate. An AGM is quorate if the number of members present is at least twice the number of committee members/trustees in office at the start of the meeting. So if there are eight committee members on the PTA, there would need to be 16 people present at the meeting.

5.5 It should be noted that the required majority is not a majority of the members present at the meeting but of the votes cast.

5.6 The casting vote given to the person who is in charge of the meeting is intended to enable the meeting to proceed with its business. It is usual for the casting vote to be made in favour of allowing further debate on the matter on a future occasion.

5.7/5.8 An AGM is essential to the running of the association. AGMs give a regular opportunity for members to review the association's activities.

5.8.4 It is unlikely that a requirement exists for the association's accounts to be independently examined or audited. However, PTA UK does recommend this as best practice to ensure there is complete transparency on how funds are raised and spent. For further information on auditing arrangements required by the Charity Commission, please refer to Clause 10.

5.8.5 A Patron, President or Vice-President has no constitutional responsibilities meaning they cannot vote at committee meetings. However, they may be invited to address members or to represent the association on formal occasions or when seeking public support.

5.9 If an urgent or important matter (such as the amendment of the constitution) which must be decided at a General Meeting cannot conveniently be dealt with at an AGM, then an additional meeting needs to take place. This meeting is called an Extraordinary General Meeting.

6. THE COMMITTEE

The committee is the charity's governing body. At start up and prior to the first AGM, when formal elections can be held, a steering group can be formed by the people that are listed in clause 4.1. An AGM and formal elections should be held as soon as possible after start up. If an AGM is held to adopt this constitution this would also provide an opportunity to hold elections.

Those who start as committee members/trustees and any people who are subsequently appointed at an AGM must be members (under clause 4.1). Co-opted members, who are not appointed at the AGM, are not required to be members, but if they wish to be elected to the committee at the next AGM, they must be a member. Every committee member/trustee, however appointed, is legally a charity trustee and owes a duty towards the charity (in this case, the association) rather than to whoever has made the appointment. Under section 334 of the Charities Act 2011 or any substantial re-enactment a written memorandum should be executed whenever a committee member/trustee is elected or appointed. This can be done by recording the outcome in the minutes of the AGM at which the election of committee members/trustees takes place.

6.2 This provides for the committee members/trustees to be elected each year at the AGM.

6.3 It is usually helpful to allow the committee to co-opt a number of its members, for example to fill a vacancy that arises during the year or enlist members with particular skills. The total number of co-opted committee members/trustees must not be more than 50% of the total number of all other committee members/trustees. So, if your committee has eight committee members/trustees, it is possible to have up to four co-opted committee members/trustees.

6.7.1 The Charities Act 2011 or any substantial re-enactment details various reasons why a committee

member/trustee would be disqualified, including any conviction involving deception or dishonesty, unless legally spent; undischarged bankruptcy; removal from being a trustee for misconduct; disqualification from being a company director or being subject to orders under the Insolvency Act.

6.7.2 The committee may wish to make a rule under clause 8.2 to require a committee member/trustee who appears incapable to undergo a medical examination. It is anticipated that such a request would in most cases lead to a voluntary resignation.

6.7.5 Committee members/trustees should not be able to walk away from their responsibilities without leaving at least two remaining committee members/ trustees (see clause 1.4). Any association without at least two committee members/trustees in place will therefore be forced to dissolve (see clause 13).

6.7.6 This is a wise precaution. Keep in mind though, that if someone is removed as a member under clause 4.2, they are automatically removed as a committee member/trustee under clause 6.7.4. If someone is unsuitable to be a committee member/trustee but you are happy for them to remain as a member then remove them under this clause, and they can still continue to be a member. Co-opted committee members/trustees who are not members, can only be removed under this clause.

6.8 All committee members/trustees are entitled to recover from the association whatever funds they may have had to pay out as a consequence of running the association, e.g., paying for goods or services ordered by them and supplied to the charity.

6.10 Occasionally a mistake occurs in appointment procedures. If a mistake of this kind is discovered it does not retrospectively invalidate previous decisions but should be put right before further decisions are taken.

7. COMMITTEE MEETINGS

7.1 The committee can decide the number of times it needs to meet to carry out its work but the minimum number is three during an academic year.

7.2 The quorum here is the minimum number of committee members/trustees who must be present for the committee meeting to be valid. For example, for a committee with 10 committee members/trustees, a quorum would be reached with five committee members/trustees. The provision that requires both members to be present when there are only two elected committee members is in place to protect the interests of the charity and prevent one person from making decisions on behalf of the association

7.4 It may be necessary for the association to make a decision outside of the committee meetings. This can be done by written resolution but has to be signed by all committee members/trustees. This needs to be passed unanimously because decisions taken by written resolution do not allow an opportunity to debate an issue as would happen at a meeting.

7.5 The casting vote is given to the person who is in charge of the meeting and is intended to enable the meeting to proceed with its business. It is usual for the casting vote to be given in favour of allowing further debate on the matter on a future occasion.

8. POWERS OF COMMITTEE

8.1 The committee is legally responsible for the actions of any sub-committee and it is sensible for each sub-committee to include at least one committee member/trustee. The committee should define the responsibilities of each sub-committee with care. It is essential in all cases for sub-committees to report back to the main committee. While the power to delegate is not limited to any particular function, it is usually appropriate for the final decision on major matters of policy or resources to be taken by the main committee.

8.2 The committee is allowed to make rules to govern different aspects of the running of the association that are not already governed by this document.

9. PROPERTY & FUNDS

9.1 Any property of the association is held in trust to achieve the Objects and does not belong to the members.

9.2 The Charities Act 2011 or any substantial re-enactment allows trustees to receive personal benefit from the charity. However, it is recommended that this be carefully managed. This clause sets out the precautionary measures that are required.

9.3 The committee member/trustee should not take part in making any decision from which they might personally benefit.

10. RECORDS & ACCOUNTS

10.1 The keeping of adequate records is essential if the association is to be properly run. The need for a charity to have its accounts either independently examined or professionally audited is a requirement of charity law and is determined by the level of annual income. To check the current threshold for this, refer to the Charity Commission's website: <https://www.gov.uk/send-charity-annual-return>. The independent examination does not have to be conducted by an auditor and can be done by a person the committee reasonably believes to have the required ability and practical experience, e.g., a school bursar or teacher. The person chosen must not be involved with the committee nor be a member of their family.

11. NOTICES

Reference is made to 'notice' in various places in the constitution (see clauses 4, 5.2, 6.7.5 and 12.1).

This clause makes clear how members should be notified. What is meant by 'written' is defined in Clause 14.

12. AMENDMENTS

Amendments to the PTA UK model constitution may be required as your association develops.

12.1 The members must be given advance notice of proposed amendments to the constitution. When giving notice each 'day' starts at midnight, and the day on which notice is given does not count.

12.2 It is vital that the constitution is not amended in a way that makes it impossible for the association to continue to operate. Under this clause, certain amendments are not valid, i.e., if adopted they will not count as amendments and will not be registered by the Charity Commission. The two cases are:

- where there is a fundamental change in the objects, i.e., where the new purposes are of a kind which a previous supporter could not reasonably be expected to have foreseen when contributing to the association's funds
- where the change in the constitution would cause the charity to become a non-charitable body. Both issues need to be considered for all proposed amendments. It will normally be appropriate to seek legal advice or consult the Charity Commission before the proposed amendments are drawn up.

12.3 The Charity Commission should be notified promptly of all amendments that are made. Any amendment made to the PTA UK model constitution prior to charity registration needs to be agreed directly with the Charity Commission and therefore would disqualify the application for registration through the PTA UK fast track registration scheme.

13. DISSOLUTION

It is not unusual for unincorporated charitable associations to reach the end of their useful life and decide to dissolve.

13.2 This clause allows for any remaining assets to be passed to the school or, if the school is or will soon be closed, to another school.

13.4 The committee will not be relieved of their responsibilities until they have completed this task and have sent a final report and statement of accounts to the Charity Commission and take the necessary steps to remove the association from the register of charities via the Charity Commission's website: [www.gov.uk/remove-charityregister# before-you-start](https://www.gov.uk/remove-charityregister#before-you-start)