

## **Making changes to governing documents April 2010**

Since the Charities Act 2006 (the Act) came into effect there have been a number of changes which allow village hall management committees to alter the schedule to their Trust Deeds which contains the “constitution” for the village hall committee.

However, many village halls have trust deeds which are based on one of the ACRE models which, although perhaps old, do not necessarily need changing except perhaps in minor ways. As deeds will have been prepared with legal advice it is important that any changes are carefully thought through. It is only too easy to make a change in haste to deal with a specific problem and inadvertently create another problem through lack of attention to detail in the drafting. Sometimes problems can be dealt with through making additional “rules for the committee” rather than changing the deed. We strongly suggest sending your Governing Documents (ie all legal documents) to AirS for an independent view as to whether change is needed before embarking on this. If the governing document does not provide for a management committee which allows each user group to nominate a member then it may well be advisable for variations to be made which follow the current ACRE Models, which AirS can supply. (There are two, one for leasehold and one for freehold property, so we would need to know what form of tenure the hall has in order to supply the right one).

The Act (s.42) added certain sections to the 1993 Charities Act one of which was 74D which gives unincorporated charities the power to change the sections of its governing document relating to the powers or the administration (everything bar the objects and the dissolution clause) by resolution of the management committee. If the organisation has a membership distinct from the managing trustees i.e. a membership list, any such resolution must be endorsed at a general meeting by a majority of at least two thirds. Most village hall charities do not have a separate membership so the resolution of the committee is sufficient. The resolution should be noted in the Minutes and a form 1342c sent to the Charity Commission.

The problem is how to maintain a cohesive, permanent record of one or more changes which may be made over a period of years. Good practice would be to keep a written record of each change as it is made and store with the original governing document, a bit like having Codicils to a Will.

However, future village hall management committees would not have one document to which they could refer. Imagine a scenario where a village hall management committee is applying for funding. They submit their Trust Deed plus half a dozen pieces of paper detailing subsequent changes to the Deed.

If a village hall management committee needs to substantially update their governing document, in the absence of the Charity Commission encouraging Schemes, any change will have to be made by Deed of Variation or Deed of Amendment. A Deed of Variation or Amendment will provide the village hall management committee with a document that they can work from but it will make reference to the original deed which may contain a conveyance, lease or set up the trust and is still valid.

The Charity Commission have provided Durham Rural Community Council, which has been investigating this issue for the RCAN Network, with a preamble (see below) to a deed of variation which can then be followed by the ACRE Model Deed of Trust or another model if appropriate.

**“DEED OF VARIATION**

**This Deed** is made on ..... 2010.

**Between**

[NAMES AND ADDRESSES OF TRUSTEES]  
Trustees)

(the Managing

and is supplemental to the (Conveyance, Lease, Trust Deed) dated .....  
hereinafter called the principle deed.

The Managing Trustees do hereby declare that the following variations be made to  
the principle deed”

**Points to remember:**

- Do not change the objects
- Do not change the dissolution clause
- Deeds of Variation and Amendment can be used for Schemes, Conveyances and Trust Deeds
- Complete a Charity Commission form 1342c and send with a certified copy of the Deed of Variation or Amendment
- Exceptional circumstances where the Charity Commission would make a Scheme could be to alter the objects or to add a power to allow the trustees to appoint or replace the holding trustees.
- The deed of variation must be signed as a deed by each of the managing trustees (ie usually members of the management committee) and each signature witnessed by someone independent. The same person can witness all of the signatures but he/she must be independent of the managing trustees.
- If the original Deed is for a Reading Room, WI Hall, Miners Welfare Institute or similar then it cannot be changed to a village hall charity using this process.
- Changes to the constitutional structure of church halls should be made using an Albermarle Scheme, and Charity Commission publication CC18 explains this procedure further. ACRE Model lease and Trust Deed B can be used for this purpose.

This is a working document and subject to updating.

**Louise Beaton,  
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**With grateful thanks to Deborah Clarke, ACRE Village Hall Information Officer, and Ian Pillar, Durham Rural Community Council**