



Making changes to your charity

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Making changes to your charity

There are some changes that need our consent (permission) before you can make them, some which you just need notify us of (tell us about), and others that you as a charity can make without contacting OSCR.

If you want to make any changes to your charity, first check what (if any) rules are set out:

- a) in your **governing document** and/or
- b) by your **charity's legal form**.

If there are rules in your governing document for making the change then you must follow them.

What do you want to change?

Changes that need OSCR's consent:

- Changing your charity's name
- Amending your charity's purposes
- Winding up or dissolving your charity
- **Amalgamating your charity with another body**
- **Applying to court to amend your charity's charitable purposes, or to amalgamate, or to wind up**

Other processes you need to contact OSCR about before making changes:

- **Changing your charity's legal form**
- **Reorganisation**
- **Transfer of a SCIO's undertaking**

You must ask for our consent 42 days before you plan to make changes.

Changes you need to notify us about

1. Notifying OSCR about changes you have been given consent for

You must notify us once you have made the changes that need our consent (listed on page 3). At the time we give consent we will set out the evidence you need to send us and the timescales for doing so.

2. Notifying OSCR about changes that don't need consent

You need to notify OSCR **within three months** of making any of these changes:

- changes to your charity's principal office or the name, or address of the charity trustee specified in the Scottish Charity Register if there is no office – you can notify us by updating **OSCR Online**
- changes to other details set out in your charity's Register entry – you can notify us by updating some of these details in **OSCR Online**
- changes to your charity's governing document (other than changes to your charity's name or purposes):
 - Non-SCIOs: you can use the **Notification of Changes Made Form** to inform us of these changes or email us at info@oscr.org.uk.
 - SCIOs: for changes to a SCIO constitution you should send us -
 - A. the **Notification of Changes Made Form**
 - B. a copy of the resolution of the SCIO's members agreeing to the change. You can use our **resolution template** for this.
 - C. a copy of the updated constitution.
- any action taken to amalgamate, or wind up, or dissolve your charity, or if there is an application to court to do so (once you have had OSCR's consent).

You can use the **Notification of Changes Made Form** to inform us of these changes or email us at info@oscr.org.uk.

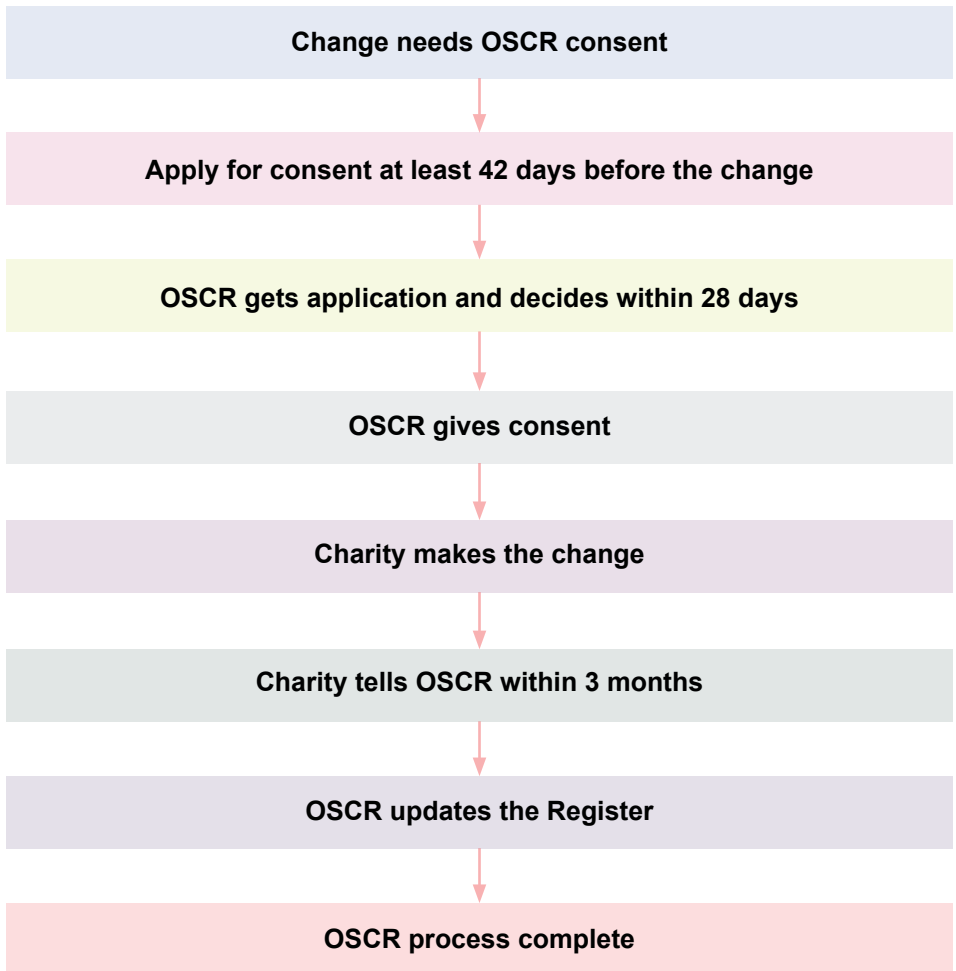
Notify us within one month (changes that don't require our consent)

Charities must advise us of the following changes within one month of the change taking place:

- any administration order or an order for winding up made by the court in respect of a charity
- the appointment of a receiver.

Basic process if OSCR gives consent

Depending on what the change is the process for consent can be slightly different. The pages on changing name, purposes and winding up contain more detail.



Do you need consent from anyone else?

If your charity is part of a group structure or has a parent charity it may need their permission before it can make certain changes.

Your charity may also need to follow the requirements of other regulators, such as:

- Companies House
- Charity Commission for England and Wales
- Scottish Housing Regulator
- Care Inspectorate.

What happens if you don't follow these rules?

For example, you fail to:

- ask for our consent
- notify us of any changes
- ask for our consent 42 days before the change is planned

If you fail to comply with these rules, this is a breach of charity trustee duties and we do have powers to take action against charity trustees, where appropriate. Any action taken will be in line with our **Inquiry Policy**.

Change your charity's purpose(s)

If you want to change your charity's purposes you need OSCR's consent. You cannot make any changes unless and until you get our consent. This is because we need to check that a) you have the power to change your purposes, and b) the new purposes are charitable. To meet the **charity test** and be a charity in Scotland you must have only charitable purposes.

Your charity's purposes are set out in your governing document, they may be called 'purposes' 'objects', 'aims' or 'objectives'.

The purposes in your governing document don't need to be exactly the same as the charitable purposes in **the 2005 Act**, but it should be easy to see how they relate to them. Detailed guidance about each purpose and how to write them can be found in our **Meeting the Charity Test: Guidance**.

Writing charitable purposes

Each purpose you have must fit within at least one of the **charitable purposes** set out in **the 2005 Act**. We recommend you get advice on writing your charitable purposes. You could use the following wording to structure your purposes:

'To advance... **[charitable purpose]** by... [very brief outline of activities]'

'To promote... **[charitable purpose]** by... [very brief outline of activities]'

'To provide... **[charitable purpose]** by... [very brief outline of activities]'

'To relieve... **[charitable purpose]** by... [very brief outline of activities]'

The application form for changing your charity's purpose(s) can be found on our website at <https://www.oscr.org.uk/guidance-and-forms/forms-and-templates/consent-application-change-purpose-s>

FAQs about change of purpose(s)

We only want to make a small change to the wording, do we still need consent?

Yes. Changing the wording of the purposes in the governing document, no matter how minor, is a change to the purposes. Even a small change could mean that the charity no longer has charitable purposes. This would cause it to fail the charity test.

What happens when OSCR gets your application?

When we get your application to change your purpose(s) we check if:

- you have given us all the information we need to make a decision
- you have made the application at least 42 days before the change is planned
- your governing document and/or **legal form** gives you the power to make the change
- the new purpose(s) are charitable and meet that requirement of the **charity test**.

You can't make the change until we give you our consent. We aim to give you a decision within 28 days. There are two possible outcomes:

- 1. We give our consent to change your purpose(s):** this means you can now make the change following the rules in your governing document and the law governing your legal form.
- 2. We refuse our consent to change your purpose(s):** this means you cannot change the purpose(s).

What happens after OSCR gives consent?

You can now make the change following the rules in your governing document and law governing your legal form. Once you've made the change you must notify us within **3 months** by sending the information we

We will only update your purposes on the **Scottish Charity Register** once we receive this information.



Why would OSCR refuse consent to a change of purpose(s)?

There are two reasons:

1. we do not believe you have the power to make the change and/or
2. the new purpose(s) are not entirely charitable and do not meet that requirement of the charity test.

If we refuse consent, we will explain the reasons why and how you can ask us to review our decision, if you disagree. Our **review procedures** set out in more detail what to expect if you request a review.

Change your charity's name

If you want to change your charity's name the law says you must get OSCR's consent first. This is because we need to check that the new name is not an objectionable name.

An objectionable name is:

- the same as, or too like, the name of another charity.
- likely to be misleading to the public about your purposes or activities
- likely to give the impression that you're connected with an individual or organisation, such as Government, when you're not
- offensive.

There is guidance on charity names contained on our website that provides more detail on how we decide if a name is objectionable.

For charitable companies and SCIOs

From 1 January 2018 SCIOs and Charitable Incorporated Organisations (CIOs) appear in the Registrar's Index of Company Names, maintained by Companies House.

This means that SCIO names come under the **Company, Limited Liability Partnership and Business Names (Sensitive Words and Expressions) Regulations 2014**. The rules about 'sensitive words or expressions' and objectionable names are different, although sometimes they can overlap. OSCR doesn't make decisions on objectionable names based on these Regulations.

The Regulations set out 'sensitive words or expressions' that Companies House must check and approve before they can be used in a company or SCIO name.

For example:

- Foundation
- Association
- Trust
- Society
- Fund.

For full details of 'sensitive words or expressions', please see the Companies House [website guidance](#) (Annex A).

While 'charity' and 'charitable' are sensitive words, you do not need to seek approval from Companies House before applying to OSCR for incorporation of a SCIO with one of these words in its name. If we decide to incorporate the SCIO, this will allow Companies House to include it on the Index of Company Names.

See our FAQs: SCIOs on the Index of Company Names on our website for more information.

The consent application form for changing a charity's name can be found at <https://www.oscr.org.uk/guidance-and-forms/forms-and-templates/consent-application-change-name>

FAQs about change of name

We want to change our trading or 'known as name'; do we need consent for this?

No, you only need consent to change the legal name of the charity as shown in your governing document. But you must tell us by emailing info@oscr.org.uk so we can update your known as name on the Scottish Charity Register.

Our name is not in English, is this a problem?

No, but you will need to provide us with an English translation of the name if possible, so we can decide if it is objectionable.

We are a company; do we need to contact Companies House as well?

Yes. You need to:

- a) check if the name is 'sensitive' and, if it is, get approval from Companies House to use it
- b) get consent from OSCR to change the name
- c) register the name change with Companies House.

Because you are a company the name will not actually change until it is updated in the **Register of Companies at Companies House**.

What happens when OSCR gets your application?

When we get your application to change your name we check if:

- you have given us all the information we need to make a decision
- you have made the application at least 42 days before the change is planned
- your governing document and/or legal form gives you the power to make the change and you're acting within your **charity trustee duties**
- the new name is objectionable.

You can't make the change until we give you our consent. We must give you a decision within 28 days. There are two possible outcomes:

1. **We give our consent to change your name:** this means it is now for you to make the change following the rules in your governing document.
2. **We direct you not to change the name:** this means you cannot change the name.

What happens after OSCR gives consent?

You can now make the change following the rules in your governing document. Once you've changed the charity's name you must notify us within 3 months by sending the information we asked for when we gave consent to make the change.

We will only update your name on the Scottish Charity Register once we

we receive this information.



Why would OSCR direct you not to change your charity’s name?

If the name is objectionable. Where we don’t consent we will direct the charity not to change its name. If we direct you not to change the name, we will explain the reasons why and how you can ask us to review our decision, if you disagree. Our **review procedures** set out in more detail what to expect if you request a review.

Wind up or dissolve the charity

When it comes to winding up or dissolving a charity you can only do this with OSCR's consent. This is to make sure that any remaining assets of the charity will be only be used for charitable purposes, as required by charity law, and that you have followed the rules in your **governing document**.

If you are a SCIO you need to read the dissolution section in our SCIO guidance as well.

If you're thinking about winding up or dissolving your charity you should:

1. assess what assets and liabilities your charity has at the time of making the application.
2. look at what your governing document says you need to do to wind up or dissolve. Does your governing document give you the power to take this action? Does the law governing your charity's legal form allow you to take this action?
3. decide what should be done with the charity's assets remaining at the time of dissolution. Does your governing document say how any remaining charitable assets should be distributed?
4. ask for consent to wind up or dissolve your charity before distributing the remaining assets and before taking action to wind up or dissolve.



1. Assess your assets and liabilities

Assets means everything a charity owns; property, money, equipment, including heritable property (such as land and buildings and rights attached to it). For example, cash in the bank account, office equipment, shares or investments.

Liabilities are generally anything a charity owes. For example, bank loans, hire purchase or leases, other debts.

2. Governing document requirements

In most cases a charity's governing document will say what needs to happen when the charity winds up or dissolves, including how any remaining assets must be distributed.

Often these requirements are set out in a 'dissolution clause', the section in your governing document that says how the charity should be wound up or dissolved.

One of the requirements of being a charity in Scotland is that your governing document does not allow any of the charity's assets to be used for a purpose that is not a charitable purpose under **the 2005 Act**. This applies during the lifetime of the charity and when the charity is wound up or dissolved.

Many governing documents will say you must distribute any remaining assets to or for one of the following:

- a charity
- charities
- a charitable body
- charitable purposes
- purposes or objects the same as or objects similar to your charity.

Similar purposes means purposes that are entirely charitable, that are similar but may not be exactly the same as your charity's purpose(s).

A charity, charities or charitable body means an organisation(s) in the Scottish Charity Register. Charitable purposes means **the charitable purposes as set out in the 2005 Act**.

If you have an older governing document (created before 2005) then the meaning of 'charity', 'charities' or 'charitable' is not limited to the 2005 Act definition and includes organisations recognised before 2005 by HMRC and/or the Charity Commission for England and Wales, which could be a problem.

We will check your application to make sure that it complies with the requirements of your governing document and charity law.

3. Decide what to do with remaining assets

Once you have established what your governing document requires you to do, the charity needs to decide which organisation(s) any remaining assets should go to.

If you plan on giving assets to an organisation that is not a charity you will need to make sure that:

- it is allowed by your governing document – if your governing document says you must give assets to another charity, then this is what you have to do.
- the recipient organisation has agreed it will only use the assets for charitable purposes and in the way that your governing document allows. We may ask for evidence of this, for example, a written agreement from the recipient organisation that it will only use the assets for charitable purposes.

4. Apply to OSCR for consent to wind up or dissolve

Depending on your organisation, you would apply for consent using one of the following forms available on our website:

- **Application form for charities wishing to wind-up or dissolve under section 16 (2)(c) of the Charities and Trustee Investment (Scotland) Act 2005**
- **Application to dissolve a solvent SCIO**
- **Application to dissolve an insolvent SCIO**

FAQs about wind ups / dissolutions

When does the charity dissolve?

The charity dissolves once you have OSCR's consent and you have done what it says you need to do in your governing document and/or law governing your legal form. Having OSCR's consent is not what makes the dissolution happen.

What is the date of dissolution?

The date on which dissolution finally and formally takes place often depends on the legal form of the charity. Different legal forms dissolve in different way. The most common ways are:

- **Unincorporated Associations:** the date that you, as charity trustees, formally agree to dissolve the body.
- **SCIOs:** the date that OSCR removes the charity from the Scottish Charity Register.
- **Companies:** the date the charity is dissolved by Companies House.
- **Trusts:** the date that the charity's capital is expended.

What happens when OSCR gets your application?

When we get your application to wind up or dissolve we check whether:

- you have given us all the information we need to make a decision
- you have made the application at least 42 days before the change is planned
- your governing document and/or legal form gives you the power to do what you're proposing
- the remaining assets will be distributed as the constitution requires and will continue to be used for charitable purposes

You can't make the change until we give you our consent. We must give you a decision within 28 days of having all the information we need. There are three possible outcomes:

1. **We give our consent to the wind up or dissolution:** this means you can now proceed following the rules in your governing document and/or legal form and any conditions we have set out in our decision.
2. **We refuse our consent to the wind up or dissolution:** this means you cannot go ahead.
3. **We direct you not to take any action:** this is to give us more time to gather further information in order to make our decision.

What happens after OSCR gives consent?

You can now proceed with the wind up or dissolution following the rules in your governing document and law governing your legal form. You must notify us **within 3 months of the wind up or dissolution** by sending the information we asked for when we gave consent to wind up or dissolve the charity. We will only remove you from the Scottish Charity Register once we



Why would OSCR refuse consent to wind up or dissolve?

There are three reasons:

1. we do not believe you have the power to wind up or dissolve and/or
2. what you propose to do is not allowed by your governing document and/or
3. any remaining assets will not be used for only charitable purposes.

If we refuse consent, we will explain the reasons why and how you can ask us to review our decision, if you disagree. Our review procedures set out in more detail what to expect if you request a review.

What are assets and liabilities?

The table on the next few pages lists common types of assets and liabilities and the type of information we need for a wind up application. You can use this to identify your remaining assets and liabilities.

Type of asset	Statement required	Assets held by charity
Cash at bank and in hand	All cash held in pounds sterling	
Land and buildings	List of all land and buildings held with most recent valuation if available	
Motor vehicles	List of all motor vehicles held with approximate market valuation	
Furniture, fixtures and fittings	List of all furniture, fixtures and fittings (including computer equipment) with approximate market valuation	
Shares	Name of each company in which shares are held, with number and type of shares held and most recent valuation if available	
Investments	List of other investments held (excluding shares) with cash value or most recent valuation	
Recoverable grants and loans due to the charity	List of all grants and loans due with their cash value	

Type of asset	Statement required	Assets held by charity
Tax reclaims due to the charity	Cash value of tax reclaims due (including Gift Aid)	
Other debts due to the charity	List of any other amounts due to the charity with their cash value	
Type of liability	Statement required	Liabilities of charity
Loans owed by the charity (including bank loans and loans to other organisations or individuals)	Most recent statement of balance in pounds sterling	
Recoverable grants owed by the charity	List of all grants held by the charity which are to be returned to the funder with their cash value	
Pension scheme	Most recent statement of pension liability for the charity in pounds sterling. This should be as per the last valuation of the pension scheme	
Hire purchase or leases	Most recent statement of balance in pounds sterling	

Table continues on next page.

Type of liability	Statement required	Liabilities of charity
Tax owed by the charity	Cash value of tax owed (including PAYE, National Insurance contributions and VAT)	
Other debts owed by the charity	List of any other debts owed with their cash value	

Notes



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