



## **COVID-19: MEETING GUIDANCE**

**Issued: 18<sup>th</sup> September 2020**

We are aware that the current Coronavirus pandemic raises potential governance issues for our Clubs and County Associations. We also know that our clubs are diverse with a range of management structures and so no 'one size will fit all'.

This guidance aims to provide some headline considerations for clubs and county associations to think about at this time in order that you may decide on how to convene and hold meetings whilst ensuring compliance with the latest Government guidance.

It considers how Clubs and County Associations (whether a Company Limited by Guarantee (CLG), an Unincorporated Association, or a Charitable Organisation) can continue to convene and hold meetings whilst ensuring compliance with the Act.

Key points for you to consider:

- What does your controlling document (Articles or Club Constitution) say?
- How much flexibility does it provide?
- How many people are required for a Quorum?
- Use remote working tools to avoid in-person meetings wherever possible
  
- If you deem that a physical meeting is essential:
  - Only absolutely necessary participants should physically attend meetings and should maintain social distancing guidelines (2m, or 1m with risk mitigation where 2m is not viable, is acceptable)
  - The maximum number present in person for any meeting should not exceed six persons
  - Additional people could (if required) could join the meeting virtually
  - Avoid transmission during meetings, for example, avoiding sharing pens, documents and other objects
  - Provide hand sanitiser in meeting rooms
  - Hold meetings outdoors or in well-ventilated rooms whenever possible

More detailed guidance follows within this document specifically designed for the various management structures within our sport.

If you have any further queries or questions relating to forthcoming meetings, please e-mail: [enquiries@bowlsengland.com](mailto:enquiries@bowlsengland.com). Please note we are unable to offer specific advice on individual circumstances.

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## 1. Companies Limited by Guarantee

### Board Meetings

Companies Limited by Guarantee may need to convene Board meetings. The governance of a company, through its Articles of Association (“Articles”), determines the way in which a company runs itself, so you should always consult your Articles to determine what is permissible.

The Articles may already contain provisions for video or telephone conferencing. Recently adopted Articles may well include a provision that enables Board meetings to be conducted electronically but older Articles may not. The majority view is that a directors’ meeting can be held by telephone or some other sort of electronic communication, provided that the existing Articles do not *expressly preclude such a method* for the Board meeting.

If your Articles are silent on whether a Board meeting may be held remotely or not, it is generally accepted that remote meetings will be valid, provided certain formalities are complied with, including:

- obtaining prior express consent of each director to hold the meeting in this manner;
- adhering to the notice and quorum provisions set out in the company’s Articles (see section below on quorum);
- ensuring that all participants can be clearly heard and vote in order to establish a clear consensus; and
- taking minutes of the meeting and circulating these for approval.

The Companies Act 2006 generally facilitates e-communications and electronic meetings, provided those persons who are not present together at the same place may, by electronic means, attend, speak and vote. This would include holding meetings by telephone.

Virtual meetings need to be well structured and avoid unnecessary complexity but if these guidelines are followed, it is entirely possible to hold an effective meeting by virtual means. [The Chartered Governance Institute has published some useful guidance on holding virtual Board meetings which can be downloaded here.](#)

The Minutes of the Board meeting should be circulated to each director for approval, thereby providing evidence that each director agrees that it is a correct record of the business which was transacted during the meeting.

In any event, companies will still have the option to make decisions by formal written resolution. You will need to consult your Articles to determine whether certain decisions can be taken by way of written resolution, or perhaps by a smaller Board Committee.

### General Meetings

Whilst private companies (including companies limited by guarantee) are not required by law to hold Annual General Meetings (“AGMs”) or General Meetings, they may be required to do so by their Articles. Private companies that are required to hold AGMs by virtue of their Articles must comply with those provisions.

If it becomes clear that you need to hold an AGM (or other General Meeting) during the current Coronavirus pandemic, it could be seen as irresponsible to hold this as a conventional meeting

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(leaving aside the question of whether this would be an offence under the “restrictions on gatherings” provisions). The next question then becomes, can this be convened as a virtual meeting?

Subject to what is set out in your Articles, virtual meetings are effective and permitted by the Companies Act 2006 ([s.360A](#)). Although there may not be a specific requirement for a company’s Articles to provide for electronic meetings, best practice would be to have an express provision allowing for them, and you may wish to amend your Articles to allow for this.

You should check that your Articles do not contain any *restrictions* on the use of virtual meetings. An outright restriction would be unusual, but some Articles may include provisions that may suggest the need for a physical meeting. However, even if this is the case, it would not be a bar to a physical meeting of members constituting a quorum (for example at one member’s address, in line with social distancing measures and the current guidance on gatherings) with others attending remotely or by proxy. Should your Articles state that meetings need to be face-to-face, you should gain approval from members to run a virtual meeting in advance of the meeting.

Notice of the meeting needs to contain all details necessary to access the meeting including dial in number, internet address, password, access code etc.

If proceeding with holding a virtual only meeting, you should make it clear in the notice of the general meeting that members are not permitted to attend the meeting in person. Members should be encouraged to appoint the “Chair of the meeting” as their proxy to help reduce the number of people required to be present.

If practical to do so at the chosen location of the meeting, you may choose to hold a “hybrid AGM” i.e. some members present in person and others remotely, assuming the Articles do not prohibit this. Additional members who wish to attend, but are not required to satisfy the quorum requirements, may attend remotely. Attendance in this format could also be an alternative to submitting a proxy if members would like to see, hear and be involved in the proceedings.

Of course you should not forget that the AGM may be seen as the only opportunity that members have to meet and address the entire Board. The submission in writing of questions for the Board, with the answers to be published on the company website or by other means, is a useful way of ensuring that members remain engaged in these uncertain times, and you may also wish to offer members the opportunity to engage with the Board face-to-face at a later date in the year.

The Chair of a General Meeting has broad common law powers to preserve order at that meeting; to ensure the safety of attendees; and to allow the business of the meeting to be transacted. These powers may also be backed up by express powers to do the same in the Articles. Furthermore, you should ensure that members are kept regularly updated and are given as much information as possible in good time to enable them to participate in the decision-making process.

### **Quorums for Meetings for Companies Limited by Guarantee**

You will need to ensure that any meeting you convene is “quorate” i.e. that you have the required number of people present to make a quorum so as to conduct valid business at your meeting, as required by your Articles. If there are insufficient people, the meeting is said to be inquorate and resolutions passed at the meeting will be invalid. If the meeting is not quorate it should be adjourned and reconvened when everyone can be present.

There is no statutory requirement concerning a quorum at Board meetings. However, a company’s Articles will normally stipulate a quorum of 2 (unless there is a sole director). The statutory default

position for a quorum at AGMs (assuming there is more than one member) is two persons present in person at the meeting, and this may well be the position for your organisation (see section [318\(2\)](#) of the Companies Act 2006).

Quorum requirements for meetings in the current Coronavirus pandemic circumstances may pose a problem. Some Articles may specify that a certain number (or proportion) of members must be “personally present”, as opposed to a certain number (or proportion) being “present or represented by proxy”. It could be seen as reasonable to proceed on the basis that in the current climate, “personally present” should be interpreted as including those participating via a live video or conference call link in a virtual meeting.

If the AGM will be held “behind closed doors” you should give thought to providing alternative means of engaging with members in advance of, during and following the meeting, e.g. by pre-submission of questions to, and response via, the company’s website, which should be kept up-to-date up to the final deadline for submitting proxy forms. Responses could also be included in the minutes of the AGM. You might consider holding ‘member days’ later in the year, which would offer member access to the Board in a similar way to an AGM.

## 2. Unincorporated Associations

The affairs of an unincorporated association are usually managed by a Committee chosen by the members. The rules of the association ideally will be written into a formal Constitution. By providing clear guidelines as to how your club/county association will work, a Constitution safeguards the interests of members against each other.

Whilst unincorporated associations are governed by common law as opposed to company law, the principles set out above for Companies Limited by Guarantee should be observed. You will need to check your Constitution in order to determine if there are any provisions within it prohibiting the holding of virtual/email meetings. If not, in this time of unprecedented crisis, you may proceed to hold virtual meetings, but giving consideration to the practicalities outlined for holding virtual meetings as set out above.

The principles outlined above with regard to the quorum for meetings should also be considered.

## 3. Charitable Organisations

Your governing document will usually say what meetings your Charity must hold, how and when.

There is no general rule of law which says that the business of Charities has to be conducted at meetings. The governing document of a Charity may authorise the Trustees to conduct the business of the Charity by telephone, fax or internet facilities or by the circulation of papers.

The requirements for Charitable Organisations to have meetings of their members, and to transact certain items of business at meetings of their members, may be dispensed with *in certain circumstances*. However, the governing documents of many Charities do require meetings to be held and will often state the number and types of meetings that must be held. Modern governing documents may permit telephone-only meetings.

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Anyone challenging whether a telephone meeting of a Charity Board was a valid meeting, or whether a decision taken at it was valid, would need the prior consent of the Charity Commission or the Court to bring proceedings in England and Wales. It is hard to imagine that either would give consent, especially given the Commission's public statement about the coronavirus and the relaxing of technicalities for meetings (see below).

Where business is transacted at meetings, it is essential for the good governance of Charities that the meetings should be effective.

As outlined above for Companies Limited by Guarantee, the courts have accepted that a valid meeting normally consists of at least two people who can both see and hear each other. Most Charities can hold electronic and virtual general meetings, provided that their governing document contemplates such a process and there is no restriction, and that members who are not present in the same physical location are able to communicate by being able to speak and vote with each other.

The Charities Act 2011 also supplements a Charity's Constitutional provisions relating to Charity meetings, while the Companies Act 2006 regulates meeting procedures for charitable incorporate with Companies House. The Charity Commission advice on good practice is merely for guidance and cannot take precedence over what is actually stated in the Charity's governing document which must always be followed where possible.

If the governing document contains provisions that are unworkable in the current pandemic climate, it is possible for these to be changed. Trustees may wish to contact the Charity Commission for further guidance (<https://www.gov.uk/government/organisations/Charity-commission#org-contacts>)

With regard to the current Covid-19 pandemic, the Charity Commission recognises that it may be difficult to hold face to face meetings. If there is no clause in the governing document allowing charitable organisations to meet virtually or to use telephone facilities and the charitable organisation decides to hold meetings in this way, the Charity Commission has said it will understand but that the decision should be recorded in the minutes in order to demonstrate good governance.

With regard to Trustees, the Charity Commission has said that Trustees can hold "virtual" meetings, but that they should document their decision to do so if there is no current provision in their governing document.

Some Charities may need to postpone their annual general meeting (AGM) and other key events. In such cases the Charity Commission also advised documenting how decisions were taken.

The Charity Commission has issued specific guidance relating to Charitable Organisations holding meetings during the Covid-19 pandemic (whether an Unincorporated Charity or a Charitable Incorporated Organisation), which can be found [here](#).

### Quorum for Charitable Organisation Meetings

The governing document will nearly always specify how many people need to be present for a meeting to be valid or quorate. If it doesn't, the quorum will be a simple majority of those entitled to participate i.e. more than 50%. The meeting can go ahead and valid decisions can be reached when a quorum is present. You don't have to have everyone there but the quorum must be present throughout the meeting.

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If for any reason you can't make a quorum but you need to make urgent decisions to protect the Charity, make those decisions anyway. Sections 4 and 5 of this Guidance explains the ways in which you can validate your decisions.

### Notice of Meetings for Charitable Organisations

Your governing document will most likely state how much notice has to be given and how. If it does not, 'reasonable' notice must be given. What is reasonable depends on the circumstances, in an emergency it could be a matter of hours. If you can't give the right amount of notice, call the meeting anyway on as short a notice as is needed and document what you did with the reasons.

The notice of a meeting should set out brief details of the matters to be discussed, as well as the date, time and place and/or the means of logging on remotely. Send the notice in the way your governing document requires (if it does) but also consider phoning the attendees to let them know, if you think they might not get the notice in time.

Many governing documents do not require any particular form of notice for a Trustee meeting and notice in those circumstances could be given orally. If everyone attends or agrees to any period or form of notice, proper notice has been given.

Many governing documents do not expressly refer to Trustee 'meetings' and may have a general statement such as '*the Trustees may conduct their business / proceedings as they think fit*'. 'Proceedings' or 'business' need not be 'meetings' requiring everyone to be both seen and heard. If your governing document is drafted in this way, 'proceedings' and 'business' would include telephone calls, and video would not be required.

If all the Trustees agree you can hold a meeting by telephone only, then you can. Also, if all the Trustees agree any lawful course of action, it will be a valid decision, whatever the governing document says. Get everyone to agree in writing (including by email) if you can.

## 4. Written Resolutions

Whether your club/county association is a Company Limited by Guarantee, an Unincorporated Association, or a Charitable Organisation, a further possibility is the use of a written resolution procedure in place of a general meeting.

If face to face meetings are not possible, the technology fails or is not practicable, most governing documents allow Board/Committee/Trustee decisions to be made by written resolution. This might be unanimous or by a particular majority.

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The exact wording of the resolution can be circulated by email and agreement given by email under the e-communications provisions of the Companies Act 2006 (as outlined above). Any written resolution should still be recorded and if consent is by email then a copy of the email agreement from each director should be put in the minute book.

If it is impossible for the Board to have a phone call or a virtual meeting, then the matter could be delegated to a Committee of any two or three directors. This delegation can be effected by the written resolution procedure outlined above. It is better not to specify only named individuals as members of the Committee, in case they are unable to participate. A safer option is to say (for

example) “any two directors” and add in any preferences such as “at least one of whom must be a non-executive director”.

The Companies Act provides specifically for written resolutions as a means of passing virtually all types of members’ resolutions. The written resolution could be circulated by email, with each member signing the member’s own copy and returning a PDF of the signed resolution to the organisation; or the members could simply agree to the resolution by email. It is important to note, however, that you would need a high level of participation. A written resolution to alter your Articles would require 75% of the voting membership to vote in favour (taking account of all members, not just those who vote); whereas in the case of a general meeting, you would only need to satisfy the quorum requirements and ensure that – out of those who actually vote - 75% of the votes are in favour. As a matter of practice, therefore, the written resolution procedure is generally used only where the number of members is relatively small.

As with Board meetings, members of private companies are generally able to pass written resolutions where this is practical, save for those exceptions where it cannot be used e.g. for the removal of directors or auditors.

### Unincorporated Associations

For Unincorporated Associations, the governing document may specify whether decisions can be made by telephone or electronic means, or by the requisite number of members signing a written resolution, so that a meeting does not need to be held.

### Charitable Incorporated Organisations

For Charitable Incorporated Organisations, the governing document may allow you to make decisions by majority approval in writing. Ensure you get the right majority to approve the decision, as required by the governing document. Unless the governing document states otherwise, “written” and “in writing” would include email. Make sure you are receiving emails from the normal email address for each Trustee.

## 5. Ratification

If a decision still cannot be validly reached, take it anyway if it is important and then ratify it at a subsequent Board/Committee/Trustee meeting when you can finally hold one. This is where a decision is taken informally, with the intention that it is ratified at a future meeting. This is not ideal as circumstances may change and some may change their mind about ratifying the original “decision”. It is better to follow up any informal communication by following the written resolution procedure outlined above.

## 6. Minutes

Minute your decisions with great care when taking the most difficult decisions. Set out the matters taken into account, other options considered, and the reasons for taking your decision. Circulate the draft minutes as quickly as possible and keep a record within the Minute book.

## **7. Additional Information for all Clubs**

There is a lot of guidance on-line about how to run a virtual meeting on a practical level, including matters to take into consideration in order for the meeting to run effectively. Sport England has some useful guidance on its Club Matters website and the BBC's 'Remote Working: Seven Tips for Successful Video Meetings' is an excellent resource.

[Click here to view the Sport England Club Matters guide to Virtual Meetings](#)

[Click here to view BBC guidance on virtual meetings](#)

[Click here to view the CIPD guidance to online meetings](#)

If you have any queries, questions or comments on the information contained in this guidance, e-mail: [enquiries@bowlsengland.com](mailto:enquiries@bowlsengland.com)

## **8. Bowls England Responsibility Statement**

We provide generic advice to our Clubs and County Associations. The information contained in this Guidance represents our interpretation of the law as at the date of this edition. We take all reasonable care to ensure that the information contained in this Guidance is accurate and that any opinions, interpretations and guidance expressed have been carefully considered in the context in which they are expressed.