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## **Who are the Members of your Company Limited by Guarantee (CLG)? Make sure you know who your members are**

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If your charity is a Company Limited by Guarantee (CLG), a lack of clarity about who precisely are your members can lead to unintentional breaches of company law and/or your Constitution. It also can create confusion as to who are entitled to vote at general meetings and who should receive company information.

Members of the company are those persons or entities which hold an interest in the company (in companies with share capital, e.g. limited or PLC companies; they would be shareholders). It is possible that your members are the same as your directors. When a director is replaced their membership interest should be passed to the new director.

### **Company members and organisation members**

It is important to note the difference between members of the legal company and members of your organisation. Each company must determine whether members of your organisation should also be members of the company, noting that members of the company have voting rights in relation to general meetings and director elections, etc. It is also possible to have different categories of membership. For example, full member and associate and affiliate members. However, the rules and eligibility criteria for each class of member should be clearly defined and documented.

You can choose, where members are to also hold a membership interest in the company, to have membership terms set out in a separate document such as a governance handbook or a membership eligibility criteria and rules booklet. This is to easily facilitate changes to that document, as changes to a Constitution (memorandum and articles of association) requires a 75% member approval as well as filing with the Revenue Commissioners, the Companies Registration Office and with the Charities Regulatory Authority for organisations that are also a registered charity.

### **Minimum number of members**

The minimum number of members is 3 for companies with or seeking charitable status from the Charities Regulatory Authority. A minimum of 3 members is also a requirement of the Revenue Commissioners for companies with or seeking charitable tax exempt status.

### **Member eligibility**

Detailed requirements and provisions relating to membership can be specified in the Company's Governance Handbook. If desired, it can cover the criteria to be used to determine member eligibility and the categories of membership for your company. Whether in the Governance Handbook or in the Constitution, these matters should cover, for example; if you have full members and associate/affiliate member membership categories. If so, what are the differences between the categories of members in terms of their powers, rights etc.? For example, membership of a community organisation might be restricted to those living/working in a specific geographic area.

Also you may need to specify if there is a membership fee payable. The membership provisions need to be tailored to the specific circumstances and requirements of the Company. In some companies, the same persons act as members and directors. If that is the case, provisions should be added to accommodate this. Equally, companies often have particular qualifications for membership which should be specified either in the company's Constitution or in the company's Governance Handbook.

Company members are bound by the provisions of the Constitution and any amendment thereof. There are required to observe all (if any) rules or regulations made from time to time by the Company in general meeting or by the Board.

Membership of the Company shall cease:

- a) On the Member's death or bankruptcy;
- b) If the Member resigns by notice in writing, to the Secretary at the Company's Office; or
- c) If the Directors determine that such member has failed to observe the membership terms as set down in the Company Governance Handbook.

### **Quorum and voting rights**

The quorum for a general meeting shall be at least 2 members present in person or by proxy. Your Constitution should specify the required quorum of members for your Company which can be more than two.

An extraordinary general meeting (EGM) may be called at any time by the Directors of the Company or by the Secretary on request from at least 10% of members entitled to vote at a general meeting.

Every Member shall have one vote.

### **Role of the Company Secretary**

It is important that the Company Secretary is aware of who the company members are, and understands there is a legal obligation to maintain an accurate and up-to-date register of members.

Their administrative duties include:

- keeping, and making available for inspection the company's registers, such as register of members;
- communicating with the company's members, for example - notifying the members of meetings.

### **Register of Members**

Every company is required by under Section 169 of the Companies Act 2014 to keep a register of the company's members containing details of

- the names and addresses of each member;
- the date at which each member was entered in the register as a member and
- the date at which any person ceased to be a member.

Every company's register of members, including that of a CLG, is a public document. It may be inspected free of charge by any member of the company, and by any other person on payment of a nominal fee (Sections 215 and 216 of the Companies Act 2014).

## **Author**

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