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| Almshouse Charities |
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| OG65 |
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WARNING

References to amending governing documents, mergers, land disposals, permanent endowment and special trusts in this OG have not been updated to reflect Charities Act 2022 changes.

From 7 March 2024, the Charities Act 2022 made changes to the legal requirements relating to amending governing documents, charity mergers and disposals of charity land.

From 14 June 2023, the Charities Act 2022 made changes to charity land, permanent endowment (both expenditure of and borrowing from) and charity names.

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## A1 Introduction

## 1. Organisations involved with almshouse charities

The Charity Commission is one of three principal bodies to which almshouse charities might turn for advice, and staff need to be able to identify issues that we ought to take up, and those which are better handled by one of the other bodies.

The Almshouse Association (also known as the National Association of Almshouses) - of which a large number of almshouse charities are members, is the main source of expertise on the practicalities of running almshouse charities. Their publication, "Standards of Almshouse Management: a guidance manual for almshouse charities", is recognised by the Commission and the Regulator of Social Housing (RSH). It is available from the Almshouse Association on request.

We should also consider whether the almshouse charity is a Registered Provider of Social Housing (RP) and whether the RSH is better placed to provide the advice requested (this will almost certainly be the case where issues of funding and accounting are involved). We produced joint guidance with the Housing Corporation called [Guidance for Charitable Registered Social Landlords](https://www.gov.uk/government/publications/charitable-registered-social-landlords), although this is now out of date. Although this is primarily aimed at large RSLs taking on local authority housing stock, it contains a number of principles which equally apply to almshouse charities registered with Homes England and The Regulator of Social Housing. The Regulator of Social Housing is now responsible for regulation and Homes England is responsible for funding.

In Wales, providers of social housing (Registered Social Landlords) are regulated by Welsh Government. A Housing Regulation Team undertakes regulation activity on their behalf and their work is overseen by the Regulation Board for Wales with support from the Tenant Advisory Panel.

Funding for registered providers in Wales also comes from Welsh Government via either a housing finance grant or a social housing grant.

Our role with almshouse charities (as with any other type of charity), is to use our Scheme and Order making powers when required (and very occasionally our investigative powers) and generally to provide advice and guidance on trustees' powers and duties.

## 2. Definition of an almshouse charity

In general, an almshouse will usually fit within the following description:

An almshouse is a unit of residential accommodation (usually a house or flat) which belongs to a charity, is provided exclusively to meet the charity’s purposes (for example, the relief of financial need or infirmity) and is occupied or is available for occupation under a licence by a qualified beneficiary.

An almshouse charity is typically a charity which is established for purposes which are to be furthered by the provision of one or more almshouses.

An almshouse charity is usually a charity for the relief of financial hardship by the provision of housing and associated services or benefits which must (or is authorised to) provide its primary benefit by the grant of a licence to occupy the accommodation that it owns to its beneficiaries.

In addition, an almshouse charity is likely to have one or more of the following features:

1. the origin of the charity is a private gift for the relief of poverty;
2. the beneficiaries are required to pay a weekly maintenance contribution that must not be set at a level that would cause hardship;
3. the nature of the accommodation is such that the licence requires that beneficiaries must show particular consideration for the needs of other residents;
4. a significant proportion of the accommodation is permanent endowment;
5. the beneficial class or the geographical area from which it can be drawn is restricted.

Almshouses do not necessarily have the word “almshouse” in their name; they may be referred to by another title, such as 'College', 'Hospital' or 'Homes'. This is due to the historical nature of some almshouses and the contemporary usage of these terms at the time the almshouse was established.

The charitable status of an institution providing accommodation by way of almshouses is subject to the normal considerations (see section 3 below).

An almshouse charity wishing to apply for registration with the Regulator for Social Housing (RSH) must meet the regulator's criteria for registration, established under section 112(3) of the Housing and Regeneration Act 2008.

In addition, the RSH requires that an almshouse charity seeking registration with the RSH must have the provision of social housing as an object within its constitution (which can be worded as social housing in the form of almshouse accommodation). See this guidance:

<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/685417/Guidance_-_Registration_for_new_entrants_Jan_2018.pdf>

There are specific provisions relating to almshouse charities registered with the RSH, including special accounting rules ([see section 7](http://uconnectog/g065a001.aspx#tab3#heading_toc_Xs_17)).

## 3. Charitable status of almshouses

Registration as a charity of an institution providing accommodation by way of almshouses is subject to the normal considerations, that is, the institution must be established for exclusively charitable purposes, and the conditions of s.30 of the Charities Act must be satisfied.

Although the provision of housing is not, in itself, a charitable purpose, the provision of housing for the relief of a charitable class of beneficiaries, such as the poor, is a charitable purpose.

## 4. Definition of poverty

"Poverty" is a relative term and is not confined to those who are destitute, but when poverty is the prime qualification in a charity's trusts, it is most unlikely that a person with the means to purchase suitably modified accommodation with appropriate ancillary services for him or herself would be eligible for appointment to an almshouse charity. See our [website guidance](https://www.gov.uk/government/publications/charitable-purposes)for more information about the relief of poverty in terms of charitable status, and section B1 of this guidance on appointment of residents.

## 5. Status of residents

The status of residents of an almshouse charity was clarified by a reported legal case settled in the Court of Appeal. It confirmed that residents are licensed to occupy their home; they are not tenants, because they have no legal interest in their accommodation. Moreover, their license to reside is not a 'contractual license' because it does not depend on an agreement made between the trustees and the individual resident, but derives from the trusts of the charity and the trustees' duty under those trusts to appoint a beneficiary of the charity. The appointment of a beneficiary may be set aside if he or she no longer qualifies to be such under the terms of the trusts.

We take the view that such a license need not necessarily be in writing.

Specific advice should not be given without consulting a lawyer.

The legal case referred to above is Gray v Taylor [1998] WLR 1. The trustees of an almshouse charity terminated the appointment of a resident on the grounds that her behaviour was vexatious.  She disputed the termination on the grounds that she was an assured tenant within s.1 of the Housing Act 1988.  The judge held on a preliminary issue that she did not occupy the flat as an assured tenant. On appeal, this judgement was upheld. The trustees had appointed her to occupy the almshouse in the exercise of their power and duty to provide accommodation for deserving persons within the terms of the charity. That appointment gave rise to the relationship of trustee and beneficiary, and it was only by reason of that relationship that the trustees had the power to grant occupation of the home. However, that power did not allow the trustees to grant a right (i.e. a tenancy) which would or might infringe the objects of the charity by permitting her to remain in occupation after she had ceased to qualify as a beneficiary. The argument that as she paid a weekly sum towards the cost of maintaining the almshouses, that sum constituted 'rent' making her a tenant was rejected completely, the judge noting that it was "wholly immaterial" whether beneficiaries paid a weekly contribution or not.

This decision was confirmed in a more recent case of the trustees of the Ashtead United Charity v Watts [2016] EWCA CIV1247.

We are occasionally asked by trustees what form the license to occupy should take. The Almshouse Association has produced a model letter of appointment which is available to trustees on the Almshouse Association website. It is also reproduced in section C1 of this guidance. Trustees should be advised to contact the Association for further guidance.

Further information on almshouse residents is given in section B1.

## 6. Legal requirements

### 6.1 Discrimination generally

Subject to the provisions of the charity's governing document, almshouse charities should deliver their services without discrimination on the grounds of a protected characteristic covered by the Equality Act 2010. Trustees should be aware of the provisions of the Equality Act 2010.

### 6.2 The charities exception

S.193 of the Equality Act allows a charity to limit its beneficiary group on the grounds of one or more protected characteristics where:

* the charity's governing document only allows people who share a protected characteristic to benefit; and
* the restriction can be justified because it allows the charity to either:
  + tackle a particular disadvantage faced by people who share a protected characteristic; or
  + achieve a legitimate aim in a proportionate way.

A charity cannot limit the group of people it helps by reference to skin colour. Any provision in an existing or future governing document which confers benefit on people defined by colour will be read as if the reference to colour were omitted. For example, an almshouse charity with objects that read "for the benefit of black women" would be treated as having objects "for the benefit of women". However, if the objects were "for the benefit of women of Nigerian origin", this will stand as race may be used to define a beneficiary class.

Further information on the Equality Act can be found in our public guidance: Equality Act Guidance for charities.

## 7. Accounting requirements

All almshouse charities which are registered with us (or excepted from registration) must comply with Part 8 of the Charities Act 2011.

Almshouse charities which are not Registered Providers of Social Housing are subject to the standard charity accounting regime in Part 8 of the Charities Act and must follow the ordinary charity SORP (Charities SORP FRS 102), if required under the requirements of the Charities (Accounts and Reports) Regulations 2008.

Almshouse charities which are Registered Social Landlords may need to consider whether the Housing SORP 2018, issued by the National Housing Federation, should be used. The Charities SORP FRS 102 states that where a separate SORP exists for a particular class of charity, those charities should adhere to that SORP.

Therefore, charitable social housing providers registered with one of the housing regulatory bodies should adhere to the Housing SORP rather than the Charities SORP. Where the principle activities of registered almshouses are not governed by the Landlord and Tenant Act 1985 and are for charitable purposes, the organisation must adopt the Charities SORP provided this does not conflict with any applicable legal or regulatory requirements that must be adhered to.

Chapter five of "Standards of almshouse management" contains financial advice for trustees. The Almshouse Association may be better placed than the Commission to advise almshouse charities about applicable accounting requirements.

See OG 65 B2 for further information on obligations and supervision for almshouse charities who are registered with the RSH.

## 8. Schemes for almshouse charities

Our approach to making Schemes and Orders for almshouse charities is the same as for any other charity and caseworkers should refer to OG 500 Schemes and OG 501 Orders for further guidance.

Section B10.4 of OG 500 gives guidance about when to consult the RSH and Homes England when making a Scheme for an almshouse charity which is also a RP. It also states that a copy of the draft Scheme must be sent to the Almshouse Association where the objects are to be radically changed, or the almshouses are to be sold, or replaced. Other interested organisations may also need to be notified after the Scheme has been made.

There are some specific circumstances where we might need to make a Scheme (for example, extra-care units, disposals and acquisitions of property, alteration of objects). See OG 65 B1 - Residents of almshouses - and OG 65 B2 - Management of almshouses.

## 9. Levels of authority

OG 702 sets out the principles on which casework decisions are made. Where trustees are not able to take decisions on their own account we may be asked to:

* approve amendments to objects, area of benefit, amendment or dissolution clauses, in small charities cases, where the governing document includes a power of amendment.
* approve amendments to objects, area of benefit, amendment or dissolution clauses, where the governing document includes a power of amendment;
* make Schemes giving the trustees of almshouse charities the power to charge weekly maintenance contributions (see section 6 of OG 65 B2);
* make almshouse Schemes, including model Schemes, as delegated by line management if necessary;
* make Schemes for the provision of extra-care units, as delegated by line management if necessary;
* approve the appointment of residents not qualified under special trusts - special circumstances (see section 1.3 of OG 65 B1).
* make model almshouse Schemes;
* make Schemes providing almshouse extra-care units;
* make all Schemes arising under s.69(1) (a) and (b) of the 2011 Act i.e. for the administration of the charity or appointing and removing trustees;
* make Orders authorising capital expenditure without replacement;
* make Orders setting up Extraordinary Repair Funds (ERFs) and Cyclical Maintenance Funds (CMFs) (see section 7 of OG 65 B2);
* make Orders removing the requirement in some older Schemes (pre the Charities Acts of 1992 and 1993) for the Commission to approve the amount of contributions to ERFs and CMFs (see section 6 of OG 65 B2).

## B1 Residents of Almshouses

## 1. Appointment of residents

It is the trustees who are responsible for deciding who to appoint to an almshouse dwelling (and occasionally, for removing residents who have infringed the terms and conditions of their license). Our intervention should only be necessary when difficulties in finding residents suggests that the trusts have failed and a cy-près Scheme is needed or making a Scheme or Order where there are particular difficulties. See section 2 below for advice about extra-care facilities, OG 65 B2 for Scheme and Order making advice, OG65 B3 for mergers of almshouse charities and OG65 B4 for disposal and replacement of almshouse buildings.

### 1.1 Choice of residents

Provided there is no reason to believe that an applicant would disrupt the good conduct of the almshouses and the peace and quiet of the other residents, almshouse accommodation should always be allotted to those in greatest need.

### 1.2 Method of advertising vacancies

If an almshouse charity is subject to a Commission Scheme made prior to 1999, the Scheme will usually provide that a vacancy should not be filled until it has been publicised in the area of benefit by notice specifying the qualifications required from applicants. A simple form of notice is usually annexed to the Scheme; however, this is not part of the Scheme and is included only by way of example, and trustees can use a different form if they think it will be more effective. Almshouse Schemes made after 1999 do not specify the form of public notice. Trustees should ensure that:

* the qualifications needed by potential beneficiaries are made clear; and
* vacancies receive wide publication: the advertisement must have the potential to be seen by the greatest number of potential beneficiaries.

Often the publication of notices:

* in local newspapers;
* in parish magazines; and/or
* on public notice boards,

will be sufficient to attract suitable applicants. If not, trustees may consult with:

* the local authority;
* the social services department; and/or
* local organisations which cater for the elderly or needy.

Any of these may be in a position to put trustees in contact with potential beneficiaries.

The Almshouse Association (see OG 65 B2) has a 'Model application form for an almshouse', available on its website ([www.almshouses.org](http://www.almshouses.org))

### 1.3 Approval of unqualified applicant

Schemes made from January 1999 onward give trustees discretion to appoint residents who are not fully qualified without reference to us. Previous to January 1999, the "qualifications of residents" clause in our model almshouse Schemes provided for exceptions from some of the normal qualifications laid down in that clause "in special circumstances to be approved by the Commissioners". The purpose of this provision was to deal with the situation where, although there was no general difficulty in finding suitable residents:

* there was no fully qualified applicant for a particular vacancy; but
* there was an applicant the trustees wished to appoint who:
  + satisfied the fundamental qualification(s) specified in the governing document of the charity (such as poverty); but
  + failed one or more of the secondary criteria (such as area of benefit, marital status).

For instance, this may be someone who:

* lives just outside the area of benefit;
* used to live in the area of benefit, has moved away, but wishes to move back;
* has lived in the area of benefit for fewer years than specified in the governing document;
* is not single/widowed as specified in the governing document.

Provided that:

* the trustees have made all reasonable efforts to find a fully qualified applicant; and
* the appointment would not be directly contrary to any specified or implied wish of the founder.

Trustees whose charities are governed by a Scheme made post-1999 may appoint that applicant without further reference to us. Trustees whose Scheme predates 1999, will need to write to us with details of the steps they have taken to find a suitable candidate, and the reason(s) why the candidate they intend to appoint is acceptable. In general we should be prepared to approve any such requests unless it is clear that there is a chronic difficulty in filling vacancies with properly qualified residents. We will indicate our approval by letter.

If the trustees want to remove reference to needing the Commission's consent to appoint an unqualified applicant, then this is a change to the trusts (as it goes to a choice of beneficiary) and would require a cy pres scheme, if the case was made.

If, despite taking all reasonable action to do so, trustees find it impossible to find suitable applicants, we should consider reviewing the circumstances of the charity as explained in sections 1.7 and 1.8 below.

### 1.4 Local authority nominations

When an almshouse charity provides new accommodation with the aid of a grant from a local authority or Homes England, one of the conditions of the grant may be that the local authority shall have the right to nominate not less than 50% of the occupants of the new accommodation. This does not, in itself, prevent the trustees from taking up the grant.

Trustees can enter into contracts which incidentally have the effect of restricting the trustees' freedom to manage their charity, only where it is reasonably necessary in order to carry out the objects of the charity effectively. Subject to this last, charity trustees cannot lawfully undertake to restrict their freedom to manage in the best interests of their charity.

Specifically, there is no reason, in principle, why the trustees of an almshouse charity should not agree to contractual restrictions to select residents as the price for obtaining financial support from a local authority. But whilst we cannot be dogmatic about the limits of what the law permits in this area (i.e. we cannot advise the trustees whether what the local authority is asking for in return for the grant is acceptable or not), in our view, the nomination rights conferred on the authority should be timed to lapse at least no later than the expiry of the expected useful life of the facility which has been funded by the grant.

A right of nomination is not the same as a right to appoint residents, but clearly all nominations made by a local authority should be considered seriously and not lightly dismissed. However, if a local authority were to nominate a person or persons without the qualifications provided for in the charity's governing document, the trustees would be both entitled and bound to refuse to make the appointments. Similarly, if a local authority nominated a person or persons whom the trustees on investigation considered to be wholly unsuitable for appointment, even though technically qualified, the trustees would be entitled to decline to make the appointment.

If the trustees do accept a grant which makes it a condition that the local authority should have a right of nomination, that condition will be written into the grant agreement: it will not be necessary to amend the charity's governing document to reflect the condition.

### 1.5 Elderly home-owners

We are frequently asked if elderly people with their own homes to sell, or with invested funds can be considered to be "poor" (and so be eligible to be considered as applicants for almshouse accommodation).

Many home-owners who do not have the means to maintain themselves or their homes could be regarded as poor. The difficulty arises after they have sold their home: they are undoubtedly in need of housing, but it is questionable whether they are in financial need.

In some cases the appointment of a home-owner or former home-owner is justifiable, although it is often possible to find beneficiaries who are less able to provide for themselves than those who have recourse to the proceeds of the sale of their home.

Trustees of almshouse charities may therefore consider applications for residence from persons owning their own homes, or the proceeds of sale of homes when:

* no other suitable candidates in greater financial need have presented themselves;
* the proceeds of any sale after costs, if invested in an annuity would, provide them with substantially less than the national average income after pensions and other sources of income are taken into account.

Even where it is open to the trustees to appoint any persons who have need of the facilities by reason of their age, infirmity or disablement, if the applicant's resources are substantial and there are other types of accommodation in the locality (which they can afford and which will meet their needs), they should not generally be offered an almshouse place.

### 1.6 Alteration in the circumstances of residents

Given that beneficiaries may occupy their residence for many years, it is likely that changes in their circumstances will occur during their occupancy. Examples of such changes include:

* changes in marital status, either by bereavement, or by a new marriage;
* other changes in status, ie new partner, death of partner; death of sibling, child living with parents leaves;
* in charities with a religious qualification, change of denomination e.g. from Church of England to Roman Catholicism, or change of church attended; or
* change in financial status, e.g. a legacy.

Normally, trustees should ask a resident to leave almshouse accommodation if their change of circumstance would have disqualified him or her as an applicant if it had happened before their appointment. However, it would not be a breach of trust for them not to do so in every case. The treatment of a resident is a matter for the discretion of the trustees, and before making such a decision, they should consider relevant factors such as:

* the wishes of the resident;
* the age of the resident (and the possible unsettling effect of asking him or her to leave);
* the health and physical capacity of the resident;
* the alternatives open to the resident;
* the relative merits of any other applicants for appointment; and
* any other pertinent factors (such as possible adverse publicity).

Our website provides [guidelines for RSLs](https://www.gov.uk/government/publications/charitable-registered-social-landlords) about changes in beneficiaries' circumstances.

### 1.7 Declining beneficiary class

Whilst all almshouse charities, unless they are specifically for the benefit of the elderly, require their residents to be poor, many require additional qualifications. The charity's governing document may require that beneficiaries:

* be members of a particular religious denomination;
* be over a certain age;
* be of a particular sex or marital status; or
* have lived in the area of benefit for a minimum number of years.

Trustees may find it difficult to fill vacancies because fewer people qualify as potential beneficiaries. In some cases, potential beneficiaries might be found if such a secondary qualification could be relaxed, or if the area of benefit could be extended.

If it can be shown that the charity is unable to find enough properly qualified beneficiaries, despite taking reasonable steps to do so, we can make a Scheme relaxing additional requirements and making the charity more effective.

In altering the trusts we must take account of:

* The spirit of the original gift;
* The desirability of securing that the property is applied for charitable purposes similar to the original purposes; and
* The need for the new trusts to be suitable and effective in the light of current social and economic circumstances.

In most cases, these considerations are likely to point towards a widening of the qualifications that potential residents must have. It is possible however, that in some cases current social and economic circumstances will indicate that the provision of residential accommodation in the way stipulated in the governing document is no longer a suitable or effective use of the charity's resources. In such cases we should consider the full range of options, including changes to the beneficiary class, merger, sale and replacement, or application of the charity’s property in some other suitable way that meets beneficiaries’ current needs. The Almshouse Association is well-placed to give free advice on the options open and other help and support available.

For more information about the cy-près doctrine and the making of cy-près Schemes, see OG 2.

For more information about disposal of almshouse property see OG 65 B4.

### 1.8 Alteration of trusts to widen the beneficiary class

There are two main ways in which the trusts of a charity can be altered so that more beneficiaries can be found:

* the area of benefit can be extended to the surrounding locality; and/or
* the trusts can be widened by providing that, if and in so far as it is not possible to appoint a resident in accordance with the original trusts, then applications from a wider class of beneficiaries can be considered.

Which of these two methods is chosen will depend on: the perceived wishes of the founder of the charity, that is, whether their primary intention was:

* to offer assistance to the inhabitants of a particular area; or
* to help a particular section of society.

In considering whether to extend the area of benefit, or widen the trusts, regard should be given to:

* the original governing document of the charity;
* the records available at the time the charity was established; and if these are inconclusive, to:
* the way the charity has been administered and managed over the years; and
* our powers to extend the area of benefit contained in s.62(5)-(6) and Schedule 4 of the 2011 Act.

For example:

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| Beneficiary class provided for in original trusts | Possible appropriate alteration |
| Persons resident in locality for minimum number of years | Reduce or even remove length of residence |
| Widows in need who are resident in a locality | Extend to include women in need generally in that locality with preference to be given to applicants who are widows and who are in need |
| Persons of a named non-conformist denomination | Extend area of benefit |
| Communicant member of the Church of England | Extend area of benefit |
| Persons who attend a local C of E church, with a specific exclusion of any other denomination | Extend area of benefit |
| Persons who attend a local C of E church | Extend to anyone otherwise qualified, with a preference for members of the Church of England |

Where the founder had directed that residents should be people who attend the local Church of England church, the denomination of the potential beneficiary should not always be seen as the primary intention of the founder. If the charity was established in the 19th century, when most people were regular churchgoers, such a provision may well have been no more than a way of saying that the residents must be people of good character.

In any event, the circumstances surrounding the charity at the time that it is experiencing difficulties will need to be taken into account: the extended area of benefit or beneficiary class must be capable of achieving the desired result, that is, applications from suitable qualified potential residents.

If this is not possible, after appropriate widening of the trusts, the trustees may need to consider other options including the sale and replacement of the almshouses, upgrading sub-standard accommodation, or relocation of the almshouses. See OG 65 B3 on mergers and OG 65 B4 on the sale and replacement of almshouse property.

If there is any doubt as to what is the proper extension of the trusts, refer the case to a senior officer within Operations for advice.

## 2. Extra care facilities

### 2.1 Introduction

In the main, almshouse charities have traditionally provided homes for people who, though often suffering from the infirmities of old age, or some other disability, are nevertheless able to live independently. We consider that the provision of residential accommodation with meals, nursing and other personal services for the infirm, sick or disabled who are no longer able to look after themselves may be going beyond what the founders of most almshouses would have regarded as almshouse accommodation and is outside the scope of a normal almshouse Scheme.

However, it is Government policy to encourage providers of housing to adopt the philosophy of 'Homes for Life', so that residents can expect to end their days in familiar surroundings. The provision of sheltered housing with care may well necessitate an upgrade of equipment and accommodation along with an infrastructure to deliver the appropriate level of services. When additional support facilities are available for residents (usually called Very Sheltered Housing, Enhanced Housing or Sheltered Housing with Care), the residents still live independently in their own homes, but support packages are 'bought in' to assist them. Typically, these include the provision of mid-day meals, the provision of a room where a GP, chiropodist, hairdresser etc. can visit the residents, an on-site Warden etc. Because these types of packages still allow the users to live independently, we would regard them as being within the scope of usual almshouse trusts so that a further Scheme is not required from us.

Trustees should be aware that the provision of these services may have an effect on the weekly maintenance contributions paid by residents - see section 6 of OG 65 B2.

We would not, however, regard arrangements where the residents are unable to lead independent lives and require constant attention and care as being within the scope of an almshouse. This would constitute “extra care” which is aimed at meeting the increasing demand for residential care units to be provided by the voluntary sector to fill the gap which lies between the provision of accommodation for the elderly in the usual self-catering almshouses (with or without additional support) and permanent hospitalisation. In their Annual Report for 1981, the Commissioners publicly welcomed the initiative taken by the Foundation of Edward Storey (203653) to provide a residential care (then called extra care) unit. This purpose-built unit accommodated 12 people in bed-sitting rooms and provided full-time supervision and help, meals and a laundry service – in other words, extra care units. Because such facilities went beyond the normal scope of what could be provided by an almshouse, a fully regulating Scheme was made to authorise the provision of the new facilities and to empower the trustees to charge weekly maintenance contributions. The full text of this Decision is reproduced as OG 65 D1.

We should adopt a helpful and constructive attitude to those instances where trustees are able to make a case for the provision of this type of accommodation.

Almshouse charities providing this highest level of extra care may be required to register with the Care Quality Commission (CQC) under Section 10 of the Health and Social Care Act 2008. Trustees should be aware that offering this level of extra care does not alter the status of the residents; they are still beneficiaries of the charity, residing under license.

### 2.2 Cy-près Scheme

Most commonly it is large, well-endowed charities which seek authority to provide residential care units. Where a charity has substantial assets, has demonstrated an ability to build up reserves and can provide residential care facilities without detriment to the existing residents, a cy-près Scheme may be offered on the basis of s.60(1)(b) of the Charities Act (original purpose providing use for only part of the endowment).

Because residential care projects take such a long time to come to fruition, it will usually be best to make such a Scheme when the trustees are firmly committed to the provision of residential care accommodation, but before they have drawn up any detailed plans. The Scheme can then permit the provision of residential care units subject to our further approval. This will enable us to satisfy ourselves about the viability of the trustees' proposals when they are in a position to proceed.

### 2.3 Enabling Scheme

Less well-endowed charities may seek authority to provide residential care facilities with a suggestion that they should charge up to full fair rents for the existing almshouses to enable them to set income aside for the project. There is no objection to this provided that:

* the position of the existing almshouse residents is not prejudiced, that is, so long as "contributions" can be claimed through Housing Benefit so they are no worse off. (There is no objection to new appointees being charged full fair rent from the day of their appointment since they may refuse to take up the offer of accommodation if they dislike the terms offered);
* where it is proposed to permit non-residents to use the residential care facilities, the trustees understand and accept that the Scheme which will be made will require that a preference for former almshouse residents is given when the accommodation is allocated; and
* we are satisfied that the trustees have genuine plans for the provision of residential care units.

It is quite likely that trustees may approach us for our views on the principles behind such a project without any specific proposals in mind. It would be premature to make an enabling Scheme before the trustees' plans are more developed. However, if we are satisfied about the trustees' intention to proceed with the provision of residential care units and the proposals seem practicable, an Order should be made under s.105 of the Act giving authority to accumulate for that purpose and a power to expend such accumulated income on developing their plans. It should be stressed that we will need to be told sufficiently in advance of the anticipated commencement of building works for us to make any necessary Scheme and to consider the financial viability of the trustees' proposals.

### 2.4 Viability

The viability of a project will depend very much upon the circumstances of the charity. In general, as a prudent management body, the trustees will be expected to have commissioned a feasibility study setting out the proposed development and how it is to be funded (including projections of future costs and income). A copy of this may be requested and if no such study has been prepared, it may be appropriate to suggest to the trustees that it would be sensible to commission one. This, or some similar projection, should be considered in the light of the circumstances of the particular charity.

If there is any doubt as to the viability of the project, the papers should be sent to an accountant for advice.

### 2.5 Financing the project

To finance the project, it is permissible for the charity:

* to use surplus income;
* to expend reserves;
* to use capital representing permanent endowment (if appropriate on terms of replacement), subject to our authority; or
* to borrow;

provided that:

* the charity's trusts are already sufficiently wide to encompass the provision of the units; or
* a power to provide residential care facilities has already been conferred.

### 2.6 Form of Scheme

An example of a Scheme for residential care and other purposes may be found in the Drafting Manual.

When making a Scheme in these circumstances, the following points should be particularly noted:

* where the existing governing document of the charity provides for an Extraordinary Repair Fund or a Cyclical Maintenance Fund (see section 7 of OG 65 B2), the wording of this clause should be checked to ensure that it applies to all functional property of the charity, not just "the almshouses". If necessary, the amending Scheme should deal with this point;
* the clause which enables the trustees to charge for the occupation of the residential care units should limit this to the extent that it does not cause hardship;
* the clauses in the Scheme empowering the trustees to provide additional facilities should be precise as to what is being provided, and if possible, vague generalisations such as "additional care" and "extra care" should be avoided.

### 2.7 Need for amending Scheme

In the past, there have been cases where a view has been taken that an "additional benefits" clause could be relied upon as authority for an almshouse charity to provide comprehensive residential care facilities if their use was confined to the almshouse residents, perhaps with occasional vacancies filled by non-residents. This practice is regarded as unsatisfactory. Where we find one of these cases, an amending Scheme should be made at the earliest opportunity.

## 3. Residents as trustees

We accept that trustees might wish to appoint residents to the trustee body - "user trustees" - providing that they understand the need to avoid conflicts of interest. Our publication, [CC24 - Users on board: beneficiaries who become trustees](https://www.gov.uk/government/publications/users-on-board-beneficiaries-who-become-trustees-cc24) explains how such conflicts might arise and how to avoid them. The jointly produced Charity Commission / Housing Corporation guidance available on our website [Guidance for Charitable Registered Social Landlords](https://www.gov.uk/government/publications/charitable-registered-social-landlords) also covers the issue for almshouse charities who are Registered Social Landlords. The Regulator of Social Housing is now responsible for regulation and Homes England is responsible for funding.

**4. Complaints from residents**

Under section 51(2)(d) of the Housing Act 1996, all almshouse charities which are Registered Providers of Social Housing (RP) with the RSH, or almshouse charities formerly registered with the RSH and in receipt of a housing grant have a regulatory obligation to maintain a complaints procedure. The Almshouse Association recommends as good practice that all almshouse charities have a complaints procedure available for residents. Their suggested model complaints procedure is reproduced in OG 65 C2.

Complaints received by us about almshouse charities will be dealt with in the same way as any other charity. There are limits on what we can and cannot consider as a complaint, as set out in [CC47 Complaints about Charities](https://www.gov.uk/government/publications/complaints-about-charities).

If a complaint is an appropriate complaint for us to consider, it should be dealt with by the appropriate team within Operations. If the charity is a RP, a copy of the reply should be sent to the RSH for information. Residents of an almshouse charity which is registered or was formally registered with the RSH may also take their complaint to the Independent Housing Ombudsman when internal procedures have been exhausted. Some almshouse charities may be voluntary registered with Independent Housing Ombudsman

Where the complaint is of a serious nature the operations team will consider the issues in line with the Commission's Risk Framework to see if a regulatory case is appropriate.

## B2 Management of almshouses

## 1. Introduction

Most of the material contained in this OG is for background information purposes.  Trustees should be referred to the appropriate organisation for advice on the day-to-day running of almshouses.  The main issue which requires our active involvement is the merger of almshouse charities, which is covered in OG 65 B3 and the disposal and replacement of almshouse property, which is dealt with in OG 65 B4.

## 2. The Almshouse Association

The Almshouse Association is a registered charity (245668) which was founded in 1951 as an extension of the London Association of Almshouses.  Its aims and objects are:

* to promote the establishment, continuation, efficiency and effectiveness of almshouse foundations
* to promote the provision, improvement, upkeep and maintenance of almshouses and associated services and facilities

Membership of the Association is open to any almshouse charity in Great Britain and Northern Ireland.  Members pay an annual subscription based on the number of units of accommodation they provide, although subscriptions can be reduced for charities with insufficient funds. By joining the Association, members can enjoy the following benefits:

* Model policies and templates
* Training seminars
* Online training
* Insurance policies specifically tailored for almshouses
* Loans, grants and general funding assistance
* Representation to government and other key stakeholders
* Panel of Consultants which includes Legal Practices, Architects, Building Surveyors, and other specialists, all of whom have worked with almshouse charities

The Association publishes on its website [www.almshouses.org](http://www.almshouses.org) "Support and care of almshouse residents" "Standards of almshouse management: a guidance manual for almshouse charities". The latter publication includes sections on:

* Governance
* Administration
* Staff
* Health and Safety
* Financial Management
* Residents
* Land and Buildings
* Funding Projects
* Homes England and the Regulator of Social Housing

The attention of trustees should be drawn to these publications wherever it seems appropriate.

The Commission and the Association work closely together on all matters affecting almshouse charities and it is always advisable to refer trustees who are experiencing difficulty in managing their charity to the Association for help. This is particularly so if a charity's almshouses are falling into disrepair, or the trustees are considering embarking on a major modernisation project, or rebuilding programme.

We have a MoU with the Association, which requires that we send a copy of any draft Scheme to the Almshouse Association, if that Scheme alters the objects of an almshouse or authorises the sale of an almshouse (even if the almshouse is to be replaced). We will do this in all cases unless it is apparent that the almshouse charity is not a member of the Almshouse Association.

The address of the Association is:

Billingbear Lodge   
Maidenhead Road   
Wokingham   
Berkshire   
RG40 5RU

Tel:  01344 452922

e-mail:  admin@almshouses.org

[www.almshouses.org.uk](http://www.almshouses.org.uk/)

The Association administers the Leonard Hackett Memorial Trust (281866) which has power to act directly in the management of almshouse charities.  The Trust provides management where it has been found impossible to secure independent local trustees to undertake major improvements or satisfactory administration.

National Almshouse Association Common Investment Fund (NAACIF). The Common Investment Fund was established in 1962 and is currently managed by M&G Securities Ltd, specifically for member almshouse charities The accumulation shares are a frequent choice of investment for almshouse charities' Extraordinary Repair Funds (see section 7 below).

## 3. Almshouse charities which are registered providers of social housing

### 3.1 Obligations and supervision

The Housing Corporation was the non-departmental public body that funded new affordable housing and regulated housing associations in England. It was abolished in 2008 with its responsibilities being split between the Homes and Communities Agency and the Tenant Services Authority. The Tenant Services Authority was the regulatory agency of registered providers of social housing in England. The TSA was abolished on 1 April 2012 and the Homes and Communities Agency (HCA) took over as regulator of social housing. In January 2018 the HCA was replaced by Homes England and the Regulator of Social Housing

Homes England is the non-departmental body that funds new affordable housing in England.

The Regulator of Social Housing (RSH) regulates registered providers of social housing to promote a viable, efficient and well-governed social housing sector able to deliver homes that meet a range of needs. The objects of the regulator are set out in the Housing and Regeneration Act 2008 (as amended).

The regulatory framework for social housing in England from the 1st April 2015 is made up of;

* Regulatory framework requirements
* Code of practice
* Regulatory guidance

The regulatory standards for social housing in England are at the core of the regulatory framework. The RSH proactively regulate 3 standards which are economic and reactively regulate 4 standards which are classified as consumer.

In Wales providers of social housing (Registered Social Landlords) are regulated by Welsh Government. A Housing Regulation Team undertakes regulation activity on their behalf and their work is overseen by the Regulation Board for Wales with support from the Tenant Advisory Panel.

Funding for registered providers in Wales also comes from Welsh Government via either a housing finance grant or a social housing grant.

### 3.2 Homes England and the Regulator of Social Housing Guidance

Guidance on the approach that the regulator takes to assessing registered providers’ compliance is set out in their document regulating the standards. <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/821125/Regulating_the_Standards_-_March_2019.pdf>

The RSH takes a risk-based approach and registered providers which own fewer than 1000 social housing units, which applies to the vast majority of almshouse charities that are registered providers are subject to a different level of regulatory engagement.

An almshouse charity wishing to receive grant from Homes England may need to register with the RSH as a condition of receiving grant.

An almshouse charity wishing to receive grant are expected to work through Consortia which have achieved Preferred Partner Status with Homes England.

One such organisation is Almshouse Consortium Limited (ACL) which exists purely as a vehicle through which almshouses throughout England and London can gain access to Homes England’s grant funding. It is non-profit making and is owned by those almshouses which have an allocation of grant funding. This is a legal entity in its own right and is comprised of almshouse charities seeking grant acting collectively to receive grant for each participating charity.

Under the Housing Act 1996 an RP almshouse charity can apply to the RSH to de-register.  Formal application to de-register has to be made and the RSH must be satisfied that their current de-registration criteria will be met. The almshouse charity may also need to come to a legal agreement with Homes England over the possible repayment of historic grant. We should advise trustees to carefully consider both the advantages and disadvantages of de-registration, and should draw their attention to the guidance published as chapter 9 of "Standards of almshouse management" and a deregistration toolkit that is available on the Almshouse Association website. Both the RSH and the Almshouse Association will provide more detailed advice.

## 4. Regulations and governance of almshouse charities

### 4.1 Regulations

Our Scheme for an almshouse charity usually includes the following clause:

* Power to make reasonable regulations consistent with this Scheme for the management of the almshouses and the welfare of the residents.

Trustees occasionally ask if we issue a suitable set of regulations which they may adopt. We do not, but the Almshouse Association has produced a Model Letter of Appointment as annex D of "Standards of almshouse management" (reproduced as OG 65 C1) which lists the main regulations common to most almshouse charities. Trustees should be referred to the Association for further guidance.

### 4.2 Clerk to the trustees

Our Scheme will usually also include a clause for providing for the appointment of a clerk; either one of the trustees' own number, without remuneration, or some other fit person on reasonable terms.  If the charity is regulated by a deed, this also may include provision for a clerk.

The Almshouse Association will advise trustees on recruiting a person who would be willing to act as a clerk to an almshouse charity which is experiencing difficulty in its administration, or in finding a suitable person willing or able to act as a full or part time clerk, and in selecting and appointing a suitable organisation to act as a managing agent.  Trustees should therefore be advised to contact the Association.

We cannot make any recommendations, since it is for the trustees, acting in the best interests of their charity, to ensure its effective and efficient administration.

## 5. Management agreements

Whilst trustees must retain overall responsibility for their charity, they can enter into arrangements with suitable third parties for the day to day management of the almshouses, unless such a course of action is specifically prevented by the charity's governing document, in which case the trustees may seek our advice.

The issue of the delegation of trustees' powers and duties has been examined in some detail in court cases and is also covered in the Trustee Act 2000 – see OG 86 B3. Trustees of almshouse charities may rely on the statutory powers in section 11(3) of the Act if they are to delegate any of their functions.   What may be delegated under s.11 is "any function consisting of carrying out a decision that the trustees have taken". It follows that the fundamental decision-making powers of trustees cannot be delegated under s.11. However, the trustees may decide to delegate the day to day running of the almshouses to a manager, clerk, warden, or management company.  The usual principles of delegation and duty of care laid down in the Trustee Act 2000 - see OG 86 B6 - apply.

There have been instances where the trustees have appointed a housing association to manage the almshouses and effectively abdicated their responsibilities for the charity, contrary to s.11, so that the homes were managed as if they were part of the general housing stock of the association.  We take the view that while we do not object to the use of a housing association as a managing agent, before the appointment is made the trustees should take independent advice on the economic aspects of the arrangement and should draw up a management contract specifying the exact duties and responsibilities of the managing agent.

The Almshouse Association has reproduced a 'Model management agreement' which can be found in the “model policies and templates” section of the Almshouse Associations website [www.almshouses.org](file:///C:\Users\rcharstokes\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\U0P49TGC\www.almshouses.org), and we should draw trustees' attention to this guidance.

There may be the odd case where our consent to the management agreement is needed (because, for example, the arrangement goes beyond the statutory power of delegation), but we do not need to routinely authorise them.  We would generally expect the trustees to take advice from the Almshouse Association and a solicitor to ensure that an appropriate agreement is drawn up; we should only need to give advice if the trustees remain unclear about what they can properly delegate.

## 6. Weekly maintenance contributions

Trustees of an almshouse charity can only require residents to pay weekly contributions towards the cost of maintaining the almshouses if there is a power in the charity's governing document to do so. The vast majority of almshouse charities now have that power.

Trustees who wish to charge maintenance contributions, but do not have the necessary power in their governing document can usually amend their governing document to introduce such a power without needing Commission approval. This is because it is regarded as an administrative amendment under section 280 of the Charities Act 2011. For further information see our public guidance [How to make changes to your governing document](https://www.gov.uk/guidance/how-to-make-changes-to-your-charitys-governing-document) and our operational guidance on changing governing documents OG 519.

Again, in some cases, the governing document also provides that the amount of maintenance contributions charged from time to time must be approved by us. However, even if the governing document requires our approval, section 50 of the Charities Act 1992 (which took effect from 1 September 1992) removed the requirement for our approval.

This means that, since 1 September 1992, it has been unnecessary for us, under any circumstances, to approve the amount of almshouse maintenance contributions.  Setting the level of the contributions is a matter entirely for the trustees' discretion, but they should still ensure that the amount charged does not cause hardship to any resident and is not more than is necessary to keep the almshouses in a proper state of repair.  The contributions to the ERF and CMF (see section 7 below), may be taken into account in arriving at an appropriate figure.

A model letter – see OG 65 L1- has been produced, which may be adapted for use in replying to any trustees who enquire as to the proper level of contributions, or as to the criteria they should use in arriving at this.  Trustees may also be referred to "Standards of almshouse management".

Trustees who are providing extra care facilities by means of bought in support packages (see section 2.1 of OG 65 B1) should be aware of recent changes to the scope of housing benefit, which has now been restricted to housing costs alone. Residents in almshouses can no longer recover the cost of additional support services via housing benefit. Such services are now directly funded by the local authority (in the case of those eligible for support) in accordance with a contract between the trustees and the local authority.

This may mean, that in the case of eligible users of the support services, the WMC will have to be set at a lower level (so it only reflects costs which continue to be recoverable as housing benefit) than it is set for residents who are not eligible users of the support services.

## 7. Maintenance funds

### 7.1 ERF and CMF

It is our policy to encourage the trustees of almshouse charities to accumulate income and build up reserves in order to establish and maintain:

* an Extraordinary Repair Fund (ERF) for major "one-off" repairs and improvements (such as re-roofing or providing a new central heating system), or for rebuilding; and
* a Cyclical Maintenance Fund (CMF) for ordinary items of maintenance and repair which recur at infrequent but regular intervals, such as external and internal decoration.

All model Schemes for almshouse charities include provision for an ERF and a CMF.  In the case of an existing charity which has no such provision and for which a Scheme is not being made for any other purpose, the usual practice should be to tell the trustees that they do not need specific authority to accumulate for repairs, but:

* if the trustees have a particular need to have our formal authority to do so; or
* where the charity is also a registered social landlord,

an Order may be made.

Where the trustees formally set up an ERF or CMF, they are, in effect, creating a special trust (see OG 46 especially section 4 of A1 about the registration position); money held within these special trusts can only be applied for the stated purposes. Where, however, the trustees earmark money as a discretionary fund, the money may at any time be used for the general purposes of the charity.

### 7.2 Amount to be set aside

The amount of income to be set aside annually to the ERF or CMF and to be allocated for routine maintenance, is a matter for the trustees.  As a guide, however, the Almshouse Association recommend each year through their “specimen outline budget” what the minimum amounts should be for the following year (based on the location and age of the almshouses). Trustees should be encouraged to make regular payments to the Funds in line with these recommendations if the charity has sufficient income to do so. Such payments are a proper call on the charity's income and the trustees can include them as an item of expenditure when calculating the amount of the Weekly Maintenance Contribution (see section 6 above).

### 7.3 Investment of the funds

A Scheme or Order establishing an ERF or CMF will specifically state that it shall be invested in trust for the charity.

In the case of a CMF, long-term investment in stocks and shares will usually be inappropriate, as withdrawals will need to be made at regular intervals.  Investment in a Common Deposit Fund or, in accordance with the trustees' powers of investment, with a bank or building society where money can be drawn at short notice and without loss of interest is likely to be more suitable. The trustees should normally give instructions for the interest to be reinvested in the account.

In the case of an ERF, where the object is to build up the fund so that it is available to meet the cost of some major work, investment can be more long-term.  A Common Investment Fund, such as accumulation shares in NAACIF (see section 1 above) is often used for this purpose.

### 7.4 Withdrawals from the funds

We are not concerned with withdrawals from ERFs and CMFs, and the trustees have access to the Funds as and when required. In the event of the charity disposing of its almshouses and changing its purposes:

* any money still held to the credit of a designated CMF or ERF can be used as income to be applied for the new purpose of the charity without our prior approval;
* where the setting up of the ERF (or less likely, the CMF) was mandatory, the Scheme establishing the new purpose should make provision for the closure of the fund(s), any permanent endowment held (for example, a capital nucleus in an ERF) being transferred into the permanent endowment fund of the charity.

### 7.5 Routine maintenance

In practice, it is unusual for a separate fund to be built up specifically to meet the cost of day-to-day repairs and maintenance, although trustees should, of course, budget for such contingencies.  Any funds allocated to routine maintenance are not impressed with special trusts, and are in effect, part of the general purpose monies of the charity available for expenditure for any of its purposes.

## 8. Repair and modernisation of buildings

### 8.1 Need for repair and modernisation

Almshouse charities may find it difficult to attract beneficiaries where

* the buildings have not been kept in a good state of repair; or
* long established charities are offering only basic accommodation, lack comfort and facilities which are now taken for granted.

Whilst we cannot get involved in the day-to-day management of the charity, trustees should be encouraged to take steps to have their property repaired and suitably modernised. They have a duty to ensure that their charitable purposes continue for as long as possible and must plan for the future as well as the present.

We should, however, be careful not to press trustees to embark on works without sufficient planning and consideration and it should be borne in mind that the purpose of an almshouse charity should be to benefit the greatest number of beneficiaries and not to provide luxurious homes for a few.

### 8.2 Assistance from the Almshouse Association

Trustees who consult us because they are uncertain how to proceed, or are considering embarking on a major programme of repair or modernisation, should usually be put in touch with the Almshouse Association (see section 2 above). The Association has great experience in these matters and can be of particular assistance to trustees through its panel of architects and building surveyors.

For large and complex projects, the Almshouse Association recommends that a project manager is appointed so that guidance can be given on all aspects associated with the project.

Chapter 7 in the “Standards of Almshouse Management” has further information.

However, it is essential that trustees retain overall control and a proper system of reporting and consultation covering the whole project from initial feasibility study to completion of the works must be put into place.

### 8.3 Capital funds available

Some charities may have capital funds available from which they could borrow part of the money needed for modernisation work.  Any expenditure of permanent endowment will require the authority of an Order under section 105(6) of the Act, but provided their proposals are financially viable, there will generally be no reason why such an Order should not be made (provided the capital borrowed is replaced).  The normal rules governing expenditure of capital should be followed, but in the case of improvements to almshouses, repayment should not usually be a problem, because the trustees can levy a higher weekly maintenance change on the improved property.

### 8.4 Public funds

If a charity does not have funds for the necessary repair or modernisation of its property, public funding in the form of a grant or loan may be available from either central or local government funds. If the grant is obtained from central government funds through Homes England and is for new build properties rather than remodeling, the almshouse charity will have to register as a registered provider of social housing with the Regulator of Social Housing (RSH). Such registration subjects the charity to the supervision of the RSH and brings with it certain obligations (see section B2.3 above).  The availability of finance is another area in which the Almshouse Association has considerable experience.

### 8.5 Funds not raised

There may be a few cases where buildings are so run down, or would be so expensive to modernise, that despite the best efforts of the trustees, it proves impossible to fill vacancies or to raise sufficient money to make the buildings habitable by today's standards.  In these circumstances there may be no option but for the trustees to dispose of the almshouses and provide replacements (see OG 65 B4).

## 9. Additional almshouses

Trustees may wish to provide extra accommodation by building additional almshouses. They will not need our authority for the provision of the accommodation provided:

* there is nothing in the governing document of the charity to prohibit this type of expansion (e.g., some governing documents include in the trusts the number of almshouses to be provided); and
* the beneficiary class and area of benefit, as set out in the governing document of the charity, are to remain the same; and either:
* the additional almshouses are to be built on the existing almshouse site, for instance in the gardens or grounds; or
* there is a specific provision in the governing document of the charity permitting the purchase of land for this purpose (although the Trustee Act 2000 permits trustees to purchase land for the furtherance of the purposes of the charity).

Authority will, however, be required under the normal rules for any expenditure of capital (this will normally be subject to replacement) and authority may be required (subject to s.124 of the 2011 Act) if there is a need to borrow.

## B3 Mergers of almshouse charities

### 1. Introduction

The Commission has published guidance on [Collaborative Working and Mergers CC34](https://www.gov.uk/government/publications/collaborative-working-and-mergers-an-introduction-cc34) and has also produced a regulatory report [Collaborative Working and Mergers RS4](https://www.gov.uk/government/publications/collaborative-working-and-mergers-rs4) which provides a number of good practice recommendations for charities considering working together or merging, and which we might recommend to the trustees of almshouse charities when they are considering this course of action.

The guidance in this OG is intended to provide a brief summary of the approach to take and the practical considerations when trustees of almshouse charities voluntarily propose a merger.

It is important that charities share their plans with us at an early stage. By getting the trustees to spell out precisely what the problems are, what options they have tried, and how a merger will solve the problems is not only useful for us, but also helps the trustees work through the process from a management perspective.

## 2. Types of merger

### 2.1 Options available

The merger of charities (as distinct from collaborative working) involves either bringing together previously separate charitable bodies under a structure which completely unifies their purposes and administration or bringing together charitable bodies under a unified administration whilst retaining their separate objects. How this is done depends largely on the legal structures involved, but it will usually take one of the following forms:

* Two or more charities decide that the best option would be to combine their assets and resources, and either:
  + the original charities dissolve or remain as a "shell" charity to receive legacies and all assets are passed to a new charity; or
  + other legal powers are exercised so they become administered and managed together as one charity with unified objects and are registered with us under a new number.
* One or more charities dissolve and transfer their assets to an existing receiving charity.
* Two or more charities are grouped under a single governing document providing a single body of trustees for all the assets but retaining separate objects and identities.

It is important to establish what type of merger is most appropriate in these circumstances for the charities involved and that they can legally use their chosen form. See the flow chart in OG 65 F1 for further guidance. Typically the first or second of these options may be more attractive since they result in a single charity. Therefore, this guidance concentrates on these types of merger.

If it is clear that a full merger is not possible because we are unable to exercise our powers, or because of insurmountable legal problems, then we can suggest that we make an Order or a Scheme to consolidate the charities concerned (collaborative working). This would usually involve creating a common trustee body to manage the various charities and providing a linking direction to enable the charities to submit a single set of accounts, annual report and annual return.  For further advice on linking directions, see OG 555.

### 2.2 Dealing with permanent endowment

Almshouse charities, by their nature are often governed by old trust deeds, charters or older schemes which do not contain a power of amendment and usually hold permanently endowed designated land.

Therefore, a merger will usually involve a Scheme or Order. These will either:

* provide for two or more almshouse charities to be administered and managed together as one charity under specified almshouse trusts by a given body of charity trustees; or
* provide for the property of one or more almshouse charities to be transferred to, and form part of, the endowment of a recipient almshouse charity, and then to be held by the charity trustees of that charity for use for the purposes of its trusts.

### 2.3 Legacies

Another important consideration for almshouse trustees will be the question of legacies and future gifts.  Charities concerned about this issue should read our Operational Guidance (OG 60) on the Register of Mergers.

### 2.4 Trustees' duties

Where the charities have the same, or common trustees (which is quite frequent), they should consider the interests of each charity separately as, until merger, they are legally separate and distinct entities; what is best for one may not be best for the other.

## 3. Taking an empowering approach

Where the trustees have decided that a merger is going to serve the interests of the charities concerned, our approach should be to enable the proposed merger to take place if at all possible. Either (unusually) the trustees will have available powers they can use themselves, and simply come to us for administrative reasons, or seeking advice; or (in the majority of cases), we will be approached because the proposals require our sanction.  We should be prepared to use our powers as imaginatively and flexibly as the law permits, in order to facilitate mergers where the charity trustees believe and show it is in the best interests of the beneficiaries or users, including, for example:

* economies of scale;
* help in "rescuing" weaker or smaller charities;
* helping the constituent charities to grow and share good practice; and
* the provision of better facilities and services for residents.

Examples of economies of scale might include:

* saving on the cost of employing a warden for each group of almshouses, by having just one warden in charge of all the merged residences;
* saving on the costs of professional services such as accountants and solicitors;
* small almshouse charities which may have been experiencing difficulties in finding and appointing trustees will no longer have this problem as only one group of trustees will be needed after the merger; and
* the larger number of residences will enable trustees to develop financial plans which are less likely to be jeopardised by occasional vacancies in the almshouses.  Vacancies can be a problem for smaller almshouse charities for whom the loss of income from a single unfilled almshouse can affect the financing of repairs and building projects.

It is not always easy to decide whether a merger will be beneficial.  In each case, the respective trustee bodies need to try to reach a common view on the benefits and practicalities of the merger, such as:

* the composition of the new trustee body;
* how to manage any concerns the residents might raise; and
* a management plan for the merged charity.

Almshouse residents are by definition often vulnerable, and the stress of uncertainty over the future of their homes should be avoided wherever possible. Trustees should also ensure that there is a consensus about the contents of the new governing document for the charity, which is likely to be a Commission Scheme.

## 4. Casework issues

### 4.1 Establishing the case for merger

When caseworkers are approached by charities with merger proposals, the following approaches may be helpful:

* Although there are no legal restraints on a merger between almshouse charities which are not registered social landlords and those that are, there are procedural issues which need to be addressed.  Accordingly, we should advise trustees to consult the Regulator of Social Housing and Homes England at an early stage in their discussions, before we take any action.
* If the almshouse charities are members of the [Almshouse Association](#tab3#heading_toc_Ks_44), we should check whether the trustees have approached the Association for advice.  If so, we should ask the trustees and/or the Association what advice was given.  If the trustees have not contacted the Association, we should recommend that they approach the Association for advice relating to a merger if they need advice on how to proceed.
* We need to be sure that the trustees of all the charities are clear about the advantages to be gained from a merger and have tackled any reservations they may have.  If not, it would be useful to refer them to the guidance in our publication [Collaborative working and mergers (RS4](https://www.gov.uk/government/publications/collaborative-working-and-mergers-rs4)) which gives guidance on the variables that can assist a successful merger and what can be problematic, and to encourage the trustees to come to a decision only after they have considered the issues identified there and, if necessary, received advice from the Association.
* It is essential that the trustees should contact us as early as possible after coming to the conclusion that a merger is desirable.  We should encourage them to prepare a clear statement of:
  + the perceived benefits of the merger;
  + their views on key governance issues such as what the objects, beneficiary class and area of benefit of the new merged charity will be;
  + how the new trustee body will be composed;
  + if necessary, what transitional arrangements have been planned;
  + whether any arrangements for preserving permanent endowment have been made; and
  + whether there are any particular trusts that need to be preserved from the governing documents of the existing charities.

### 4.2 Order or Scheme

Assuming that there is a clear case showing that a merger will be in the best interests of the charities concerned, we need to be clear as to how it will be achieved and whether there are available legal powers to achieve it.  Either the trustees will have the necessary authority, or (more usually), they will need to approach us to exercise the proper use of our powers to make Schemes and Orders under the 2011 Act.  The following issues should be addressed:

* If the merger is not going to involve a material change to the objects of any of the charities involved, we could sanction the merger by Order under s.105 of the Act. Where the objects of the merged charity will in effect be the same as those of the existing charities, but worded in a different and up-to-date way, a s.105 Order would certainly be appropriate.
* A s.105 Order would also be appropriate to authorise any of the forms of merger explained in section 2. The Order would be a transfer order to pass the assets of one charity to another and to remove the dissolved charity from the Register. The only exception would be where a change to the composition of the trustee body is likely to be controversial, in which case we should consider making a Scheme in order to give people affected by the changes a chance to object. We can also decide to publicise an Order, if appropriate.
* If the merger is going to result in changes to the objects of one or more of the charities involved in the merger, and (as will almost always be the case), the trustees do not have suitable powers in their existing governing documents, we will have to make a Scheme to include the new object(s). In doing so, we need to be clear that suitable circumstances exist with reference to s.62(1) of the 2011 Act. Typically, the grounds in s.62(1)(c) and 62(1)(e)(iii) will, if present, enable us to change the objects of all or some of the charities involved.
* Usually, s.62(1)(c) will be the power we use to effect a merger.  Using this, we can extend the area of benefit / beneficiary class as far as is necessary to provide the merged charity with fully workable trusts which answer the spirit of the gift in a modern context.  See OG 2 - Application of property cy-pres for further guidance.

If there is any doubt about the grounds under section 62(1) for exercising our powers, we should seek legal advice.

* Changes to objects often involve amending the definition of the beneficiary class and/or the area of benefit for one of the charities in order to bring it into line with the objects of the other charity or charities.  This can be a distinct advantage in many cases where the definition of almshouse beneficiaries may be over-complex. Where there is concern, however, that these changes might unreasonably disadvantage that charity's beneficiaries - because, for example, they will have to "compete" for appointment with a potentially larger pool of beneficiaries - we could provide in the objects that some preference should be given to people who would have qualified under the existing objects.

For example, we could provide that, where the almshouses belonging to the charity with the narrower objects become vacant, priority is given to people who would have qualified under that charity's objects as they were before the merger. Or we could provide that this type of preference relates to a set number of residences from the merged charity, this number being the equivalent of the number of units belonging to the almshouse charity with the narrower objects.

* We must ensure that any permanent endowment is properly preserved. This will usually take the form of the land on which the almshouses stand.  Where some of the land is not permanent endowment, it is important to identify in the Scheme that land which is, and which must not be sold and proceeds used as income.  The Scheme / Order should identify the amounts that should be included in the ERF and CMF for the new merged charity - this will usually be the total sum of the amounts set aside for these purposes by the constituent charities.
* We need to be clear that the new trustee body is viable and that any nominating bodies and the current trustees are content with the proposals for the composition of the new trustee body.

It is often useful to arrange a meeting with the trustees and, if appropriate, their advisors and/or the Almshouse Association at an early stage to talk through the proposals and way forward.

## B4 Disposals of almshouse property

## 1. Mergers of almshouse charities

When almshouse charities are experiencing problems with attracting new beneficiaries, or upgrading or maintaining the almshouses, many trustees firstly think of selling and replacing the almshouses, rather than considering other alternatives, such as mergers.  If trustees approach us for authority to sell the almshouses, we should first ask them if they have been in touch with the Almshouse Association, and if not, encourage them seek further advice before deciding to sell.

Trustees may approach the Charities Aid Foundation (CAF) to ask it to fund a feasibility study into the financial and managerial issues relating to mergers.  They should also be directed to our publication [RS4 - Collaborative working and mergers](https://www.gov.uk/government/publications/collaborative-working-and-mergers-rs4), available on our web site.  It covers the sorts of questions trustees should be considering before deciding a course of action.  See also OG 65 B3 - Mergers of almshouse charities.

## 2. Sale and replacement of almshouses

### 2.1 Reasons for sale and replacement

If it is clear that the trustees have taken every reasonable step to fill almshouse vacancies (e.g. they have asked the Almshouse Association for guidance, or have approached a local authority for assistance), but this has proved impossible because either:

* the buildings are so run down that it would be impossible to raise sufficient money to make them habitable by today's standards; or
* no matter how much the beneficiary class is opened up and the area of benefit extended (see section 1.8 of OG 65 B1), it is impossible to find suitable qualified applicants); or
* the area where the almshouses are located has changed and is no longer suitable for the beneficiaries to live in, or the location is too remote; or
* there are no other suitable almshouse charities for a merger to be possible;

the almshouses may have to be sold and replaced.

### 2.2 Possible options

There may, however, be a number of options which the trustees can consider in connection with the sale or the proceeds of sale.  For example:

* the sale of part of the property and the use of the proceeds in developing the remaining buildings (provided that any capital which is expended is replaced);
* the sale of the existing site and the use of the proceeds to build or convert other property in the vicinity to produce a smaller number of almshouses;
* the appointment of an experienced RSL, or the Leonard Hackett Memorial Trust (see section 2 of OG 65 B2) as a trustee;
* the sale of the premises and the transfer of the proceeds of sale to another permanently endowed almshouse charity in the vicinity which caters for a similar beneficiary class (provided the transferred permanent endowment remains impressed with permanent endowment trusts).  This may be particularly appropriate if the second charity is itself in need of funds. The Almshouse Association is usually aware of which almshouse charities are seeking funds and can offer advice on this point.

### 2.3 Is a Scheme needed?

Almshouses disposing of land need to comply with the usual restrictions on disposal of charity land set out at sections 117 to 123 of the Charities Act 2011. In general, they need our consent unless they are able to self-certify that they have met certain requirements.

Land belonging to almshouse charities is very often designated land (i.e. land held with restrictions that it is to be used for some or all purposes of the charity).  See OG 548 Disposal of Charity Land for more detail: OG 548.

### 2.4 Proceeds of sale

If, following the sale of property, an almshouse charity is no longer providing accommodation in line with its original purposes, our scheme will also need to provide new purposes for the charity. When deciding on the new purposes, we have to consider the following criteria as set out in section 67 of the Charities Act 2011:

* The spirit of the original gift;
* The desirability of providing new purposes that are close to the original; and
* The necessity for the new purposes to be suitable and effective in light of current social and economic circumstances.

If the charity is continuing, our Scheme may provide for the proceeds of sale to be invested and the income used to assist the persons who would otherwise have qualified as residents of the almshouses on the usual relief in need trusts.

In some cases, the proceeds of sale may be quite substantial, so that if setting up a grant-making charity, it is important for the trustees to confirm that they are satisfied that they will have no difficulty in distributing the charity's income each year. If they do anticipate difficulties, then our Scheme should provide that any income which cannot be applied for the primary beneficiary class should be applied either for similar beneficiaries over a wider area of benefit, or alternatively, for other charitable purposes within the original area of benefit. In this respect, the same considerations outlined in section 1.8 of OG 65 B1 would apply.

If the charity is not continuing and the proceeds of sale are to be transferred to another almshouse charity, the governing document of the receiving charity should be checked to ensure that its beneficiary class is sufficiently similar to that of the transferring charity.  If not, a Scheme may be necessary to widen it. It may also be possible to make a Scheme to transfer the proceeds of sale to the Almshouse Association to hold it on a restricted basis for use in the area of benefit.

Whatever the new purposes are proposed to be, it is for the trustees of the almshouse charity to demonstrate how they meet the s.67 criteria outlined above.

## C1 Almshouse Association model letter of appointment

**Letter of Appointment**

**Almshouse Association Template**

Dear

I am pleased to advise you that the trustees of the ……………………………………. have considered your application for accommodation and have decided to appoint you as a beneficiary (resident) of the Charity under a Scheme dated …......................…………. with effect from …............………… 20 ……. *(if offering accommodation on a short term basis add end or review date)………………….*

It must be noted that residents occupy an almshouse under licence in accordance with Charity Law and as a beneficiary of the Charity. Neither the resident(s) nor any relation or guest of his/her/theirs will be a tenant of the Charity or have any legal interest in his/her/their almshouse.

This appointment is personal to the person[s] named above. No other person is allowed to live at the dwelling unless they have formally applied to the Charity and been granted beneficiary status in their own right and you have been jointly allocated the same dwelling.

[*There is no right to an allocated parking space with this property*.]

A weekly maintenance contribution (WMC) of £........................ is payable in advance *[four weekly/monthly*] towards the upkeep of the dwelling and this figure may be increased upon one month’s notice. It is a condition of occupancy that the WMC should be paid by standing order to the Charity. The WMC will be payable from the commencement of the week during which you take occupation. Please set up a standing order payment with your bank. The level of WMC is usually reviewed annually but the Charity reserves the right to review this more frequently if it is in the Charity’s best interests.

It is a condition of occupancy that the full amount of weekly maintenance contribution is paid regardless of the services or support elements used by the resident.

If entitled to Housing Benefit/Local Housing Allowance it is advisable to make an application now to the council in this regard. If any difficulty in claiming is experienced please let the Charity know.

The Resident will be responsible for payment of the utility bills and council tax relating to their dwelling. Meters will be read prior to occupation. *[The Charity will pay the resident’s water rates]*.

The utility suppliers are currently.............................................. Should a resident choose another provider he/she should provide the Charity with details in case of emergency.

The following regulations for residents are to ensure the smooth running of the almshouses:

1. Residents may expect to continue in occupation for as long as they need the accommodation providing they continue to qualify as a beneficiary, are able to look after themselves and their appointment as a beneficiary is not set aside. If health deteriorates they must be willing to accept advice and guidance, either from their own doctor or a medical consultant appointed by the clerk/trustees. The clerk/trustees will also consult with the next of kin, Social Services and other agencies if necessary.
2. Residents should provide the trustees with authority to contact their doctor and next of kin directly in the event of emergency by signing the ‘GP Authorisation Form’ and ‘Next of Kin Information Form’. (download from [Model Policies and Templates](https://www.almshouses.org/model-policies-and-templates/) on our website)
3. The name and address of the next of kin, or a nominated representative, should be supplied to the Charity. It is strongly recommended that residents make a Will and advise the Charity where it is deposited.
4. Residents are required to occupy the property quietly and with thought for other residents and/or neighbours. No radio, TV or music system should be operated in such a manner as to cause a disturbance, nor shall anything be done in, upon or about the premises which shall be a nuisance, annoyance or disturbance to the occupants of other almshouses, [*members of staff*], or to the general public.
5. The trustees undertake to carry out all repairs, including internal and external decoration. Residents are not allowed to make any structural alteration to the dwellings, nor alter the plumbing or electrical installation. No shelves, cupboards, locks or fittings shall be fixed or removed, nor shall any alteration be made to any room or its fittings without the prior consent of the clerk/trustees.
6. The Charity retains the power to set aside a resident’s appointment with good cause, e.g. in the case of serious misconduct, non-payment of WMC, a serious breach of the regulations, in any of the circumstances described in the Charity’s Scheme, or if the resident is no longer a qualified beneficiary or is no longer able to live independently.
7. Whilst at all times the Charity will respect the privacy of the residents, it is a condition of residency that residents allow reasonable and regular access to their almshouses for repairs and decoration to be carried out. Representatives of the Charity will visit from time to time by prior appointment.
8. Residents should keep their almshouse clean and tidy and avoid storage of excess or unnecessary items. Hoarding of excess goods in extreme cases may be grounds for setting aside an appointment. All defects which become apparent in the property should be reported to the [*scheme manager/clerk/trustees*].
9. The use of paraffin oil and portable gas heaters is strictly prohibited. The scheme manager/warden or the trustees should be consulted if additional heating is required.
10. Residents must live in the almshouse as their permanent residence and not be absent from the dwelling for more than [*28 consecutive days in*] any year without the prior consent of the Charity and should inform the [*Clerk/Scheme Manager /Warden*] whenever they plan to be absent overnight in order that all residents may be accounted for in case of emergency.
11. The resident’s attention is drawn to the Complaints and Grievance Procedure [set out in the Residents’ Handbook.]
12. *Occasional overnight visitors are permitted to stay in the almshouse but these must not be regular occurrences and residents must advise the Charity of any overnight visitors for safety and security reasons. [The Charity has a guest room/suite. Visitors may stay in this accommodation at £…………..per night (reviewed periodically) and are subject to the rules contained in this Letter of Appointment and may not occupy it for more than ……..weeks in any calendar year].*

OR

*Visitors are not permitted to stay in an almshouse, except with the consent of the trustees***.**

1. The Charity’s Policy on Pets is

*Certain types of pets can be kept with the prior written consent of the Charity. More information can be found in the Resident’s Handbook*

*OR*

*Due to the size and situation of the almshouses residents are not allowed to keep pets.*

1. Smoking is prohibited in all common areas, including the entrance hall, corridors and common rooms. Residents must comply with the charity’s policy on smoking. [insert details.]
2. The Charity may alter the rules as necessary for the administration of the Trust and for the resident’s welfare. Any alteration to the rules will be notified in writing to each resident.
3. There may be circumstances, for example during extensive refurbishment, when the Charity will need to ask a resident(s) to vacate the dwelling and move, either temporarily or permanently, to another dwelling. The Charity reserves the right to do so, after full consultation with the resident.
4. Should a resident wish to leave his/her dwelling to live elsewhere, not less than one calendar months’ notice in writing must be given to the Charity. Maintenance contributions remain payable until the notice period expires and the dwelling is vacated and cleared of furniture and possessions.
5. When the resident vacates the almshouse for whatever reason, all items belonging to the resident should be removed by him or her forthwith. Weekly maintenance contributions and utility bills must be paid up to the departure date. Should a resident ask to vacate the dwelling forthwith, the weekly maintenance contribution must be paid to the end of the notice period.
6. In the unlikely event that any possessions, chattels or goods are, without the written agreement of the Charity, left abandoned by the resident in the almshouse after the resident has vacated, the Charity will take reasonable care of them for a period of up to 3 months. After this period the resident agrees by signing the Letter of Appointment, that the Charity may sell them and, out of the proceeds, pay any outstanding amounts owing to the Charity, including outstanding weekly maintenance contributions and any other expenses including disposal and removal costs.
7. It is the resident’s responsibility to notify the Charity if their circumstances change. However, unless the income of the resident[s] was to substantially increase to the extent that they no longer qualify as a beneficiary, the likelihood is that they would be allowed to remain in the dwelling. The Charity reserves the right to review residents’ financial circumstances from time to time.
8. *With the permission of the Charity, residents may be allowed to work from their almshouse, however they must guarantee that this will not be disruptive for other residents and that it will not involve delivery or storage of items and/or visitors to the buildings.*
9. Residents may apply to trustees to keep a mobility scooter at the Charity’s premises. All such vehicles are kept by the residents entirely and solely at the resident’s risk and must comply with the Health and Safety information in the Residents’ Handbook. Proof of insurance should be provided to the trustees.
10. It is a condition of occupancy that upon reaching pensionable age, a suitable alarm monitoring system, i.e. Lifeline, is installed.
11. It is a condition of occupancy that a new resident signs a copy of this Letter of Appointment (copy enclosed), signifying their willingness to abide by the above rules, before taking up occupation and that they have read and are happy to comply with the rules as laid down in this letter [and in the Resident’s Handbook.]

*[In the event of an appointment being made to two persons, both should sign the copy Letter. A second copy/second copies is/are enclosed for the resident[s] retention. In the event of the death or departure of one partner, the Charity reserves the right to ask the remaining resident to move to a smaller dwelling.]*

This Letter of Appointment will be reviewed periodically and may be amended by the Charity in full consultation with the resident[s]

Signature................................................................................ Date..................................................

Reviewed March 2019

## C2 Almshouse Association model complaints procedure

**Complaints**

**Almshouse Association Model Policy**

*It is important for all almshouse charities to have available a complaints procedure that provides a mechanism to investigate and resolve complaints raised by residents. Under the Housing Act 1996 all almshouse charities which are, or were, Registered Providers (RPs) with the Regulator of Social Housing, are under a regulatory obligation to provide a complaints procedure.*

*Trustees can only resolve difficulties and improve the service offered if they are aware of difficulties or genuine complaints. It is important, in building upon the trust between trustees and residents, that residents are encouraged to speak up when things go wrong without fear of prejudice or recrimination. It is equally important that the individual acts solely in his/her own interest and does not act as a self-appointed spokesman or spokeswoman allegedly on behalf of some or all of the other residents.*

*The following outlines a model procedure to be followed if any resident wishes to raise a complaint in connection with the occupation of his or her almshouse or about services provided by the charity in relation to the almshouses:*

**Model Policy**

The aim of the policy is to ensure that that the complaints process is flexible and responsive to the needs of individual complaints. The policy seeks to ensure that:

* residents who complain are listened to and treated with courtesy and empathy
* residents will never be disadvantaged as a result of making a complaint
* complaints are investigated promptly, thoroughly, honestly and openly
* apologies are given as appropriate
* complaints handling will comply with confidentiality and data protection policies

Complaints may be made by residents, their carers and families or a representative of a resident.

The (name of charity) will not be able to deal with an issue through the complaints process if:

* a complaint relates to a legal matter that is already being dealt with by a solicitor
* the complainant is anonymous, unless there is sufficient documentary evidence to substantiate the complaint.

Residents should be encouraged to raise minor complaints informally in the first instance, preferably verbally, as this can lead to better understanding and very often to a quick resolution of the issue.

If the complaint cannot be solved quickly or if the complaint is more serious, it should be made in writing. A written complaint should include sufficient detail to enable the charity to investigate.

Complaints should be made to the (clerk) in the first instance, who will acknowledge receipt of a written complaint within (7) working days. This acknowledgement will indicate the next course of action and the anticipated timescale. The charity will seek to resolve the complaint as a matter of urgency.

If the complainant is still not satisfied with the outcome they have (x) working days to submit a written appeal, and the appeal will be dealt with by the (chair of trustees) who will convene a special meeting within (7) working days of the appeal being submitted.

The (chair of trustees) will respond in writing to the complainant within (x) working days advising of the action taken to resolve the complaint.

If the complainant is still not satisfied with the response then the matter could be dealt with through the Housing Ombudsman Service. This is an independent service. (Please see Appendix to this Policy)

Or

The decision of the trustees will be final. (Please see Appendix)

* If a complaint is pursued unreasonably or where a resident’s actions or behaviours are deemed to be unreasonable, the (name of charity) reserves the right to close the complaint. A complainant who displays threatening or abusive behaviour or language (whether verbal or written), that causes staff or trustees to feel threatened, abused and/or continues to contact the charity with unreasonable demands during/following a complaint investigation, may have their appointment set aside.
* In cases where Trustees consider a complaint is being unreasonable and overly persistent and decide to bring the complaint to an end, they will inform the complainant of their reasons.

**This policy has been approved for issue by the board of trustees of (name of charity)**

Signature:.......................................................................................................................................

Name:.............................................................................................................................................

Date:...............................................................................................................................................

**Appendix to Complaints**

If the charity is not currently a Registered Provider, or formerly registered with the Regulator of Social Housing (RSH), the charity is not obliged to progress the complaint further beyond the trustee body.

If the charity is a Registered Provider (or has de-registered from the RSH) and if the resident remains dissatisfied following consideration by, and the decision of the trustees, the resident has the right to take the complaint to The Housing Ombudsman Service.

**Complaints referred to the Housing Ombudsman Service**

Charities that are or have been registered with the RSH (i.e. Registered Providers) are required to join the Housing Ombudsman Service. Where charities are registered with the Ombudsman residents can ask for their complaint to be considered by a ‘designated person’ when the charity’s internal complaints procedure is finished. This is known as the Democratic Filter.

Designated persons were introduced by the Government to improve the chances of complaints about housing being resolved locally. The introduction of designated persons is intended to involve local politicians and local people in resolving local housing issues.

A ‘designated person’ can be an MP, a local Councillor, or a Resident Panel (\*) (see more information below) who can help resolve the complaint in one of two ways. They can try and resolve the complaint themselves or they can refer the complaint straight to the Ombudsman. If they refuse to do either the resident can contact the Ombudsman directly.

If complaints to the Ombudsman are not referred by a designated person, there must be at least eight weeks from the end of the complaint process before the Ombudsman can consider the case. The law says that when the designated person refers a complaint to the Ombudsman, it must be in writing.

In summary, if a complaint is not resolved at the end of the complaints procedure, the resident can either refer the matter to a designated person or wait eight weeks and then refer the matter directly to the Ombudsman.

When the Ombudsman receives a complaint they will ask if it has been referred to a designated person and if not, will ask the reasons for this. They will either then refer the matter to a designated person or if the resident is clear that they do not want to make use of that opportunity for local resolution, (if it is more than eight weeks from the end of the landlords complaint process) the Ombudsman will consider the case.

Further information on the Housing Ombudsman can be found here <https://www.housing-ombudsman.org.uk/>

Resident Panels (\*)

The designated Resident Panel has a specific function in the complaint process. It can help to resolve the complaint in two ways; it can try to resolve the complaint itself or it can refer the complaint direct to the Ombudsman. The Resident Panel can try to put things right in whichever way it thinks will work best. This could be, for example, by acting as an advocate for the complainant, by giving advice, providing a review of the way the complaint has been handled or being more proactive and suggesting a solution. If the complaint is not resolved by the Resident’s Panel, it can refer the complaint to the Housing Ombudsman Service. The law says that this referral has to be in writing.

If they wish, residents of the charity can set up a Residents’ Panel with the support of the charity. Panels have to be registered with the Ombudsman. It is the charity’s responsibility to register a panel with the Ombudsman once it has been recognised and to inform the Ombudsman of any subsequent changes. This will help the Ombudsman identify whether a complaint is referred by a designated Residents’ Panel.

## D1 Extract from the Annual Report of the Charity Commissioners 1981

**The Foundation of Edward Storey, Cambridge**

85.  Most almshouse charities provide self-contained accommodation for people, who, though elderly, can take care of themselves.  But as residents get older it is inevitable that some of them will no longer be able to look after themselves and the accommodation will no longer be suitable for them.  At this stage most almshouse trustees have to insist that the resident moves to accommodation of a more sheltered nature, provided perhaps by the hospital service, or by the local authority.  But some hospitals and social service departments are reluctant to accept almshouse residents, particularly if the disability is temporary, or the charity has a resident warden or matron, and this can throw intolerable pressures on the trustees and the warden or matron.

86.  The Trustees of the Foundation of Edward Storey approached us about this problem and suggested that they should build an "extra care unit" to accommodate 12 people in bed-sitting rooms.  The unit would provide full-time supervision and help, and meals and laundry service.  We could see the great value of such accommodation and endorsed the Trustees' approach.  The building, Edward House, took a little over a year to complete and was formally opened by his Royal Highness the Duke of Edinburgh.

87.  This type of accommodation is extremely expensive both to provide and to maintain.  The building cost £320,000 in all and annual running costs are expected to be about £63,000.  The Trustees could meet this because the founder, Edward Storey, who died in 1692-93, endowed the Charity with land, and as a result of careful estate management over the years the Charity now has substantial endowments.  Nevertheless, it was necessary for us to make a fully regulating scheme which, amongst other things, empowered the Trustees to charge the residents weekly contributions towards the cost of maintaining the properties.  It is pleasing to record that this ancient Charity is making a novel and worthwhile contribution to a very real modern problem.

## E1 Model letter in reply to trustees seeking advice on correct levels of WMCs

Dear

**Weekly Maintenance Contributions (WMCs)**

Thank you for your letter of

We would like to remind you that the WMC may comprise three separate elements:

* housing - this cost may be recovered from Housing Benefit;
* support - this cost may be recovered from the Housing Related Support; and
* service - this cost is met by the resident.

Trustees are advised to review both income and expenditure annually prior to setting a budget for the following financial year.  This will show the level of WMC needed to maintain viability.

The criteria by which trustees should decide what the WMC should be are that:

* it should be sufficient to cover the running costs of the almshouses (including repair and maintenance funds), but no more;
* it should not be so high that it causes residents financial hardship;
* the figure can include an element to help pay for future developments such as new buildings;
* endowment income need not be taken into account as long as the charity's governing document allows it to be spent in another way, eg relief in need;
* water and sewerage charges, heating and lighting (except in communal areas) must be charged separately;
* the Council Tax or other taxes for which residents are personally liable cannot be included.

A WMC should not be increased simply because:

* it has not been raised for some time; or
* it is less than the equivalent fair rent; or
* the Retail Price Index or some indicator of inflation has gone up; or
* rents are higher in similar accommodation nearby; or
* residents will be able to claim housing benefit to pay the increase.

We strongly recommend that trustees make use of the guidance published by the Almshouse Association, particularly the Specimen Outline Budget (published annually by the Association), when calculating their WMC.

The Association is willing to offer help and guidance in cases of special difficulty.

Yours