

Requesting a scheme – frequently asked questions

1. What is a scheme?

A scheme is a legal document that changes, replaces or extends the trusts of a charity. It may be a fully regulating scheme, covering all aspects of a charity's administration and purposes, and replacing the previous governing document, or it may be a scheme that adds to or alters some part of the governing document. A scheme may be needed to change the objects or purposes of a charity if they have become outdated. An example would be a charity which was set up to help victims of a disaster which happened 50 years ago changing its purposes to cover people affected by other disasters.

2. When is a scheme not required?

In certain circumstances, a charity may not need to apply for a scheme in order to make changes to its governing document. For example:

- where there are powers to make changes within the charity's own governing document
- all charitable companies can amend their articles of association, however, there are certain regulated alterations which require our approval. Further information can be found in our guidance [Consents for charitable companies](#)
- some unincorporated charities may change their governing document even if there is no power to do so in their governing document by using specific provisions in the Charities Act. Further information can be found in our guidance [New powers for unincorporated organisations](#).

You must keep the Commission informed of any changes to a charity's governing document.

3. What is a cy-près scheme?

A cy-près scheme is the legal document which provides for the transfer of an asset intended for one charitable purpose to another charitable purpose which is as close as possible to the original. For example, if someone leaves money in a will to a named organisation and that organisation has closed since the will was made, a scheme may be made to pass the legacy on to an organisation which would apply it for a similar purpose. Cy-près is a term drawn from Norman French and means "as near as possible".

4. Who can apply for a scheme?

There are no rules concerning who can apply for a scheme. Generally the trustees of a charity, legal representatives or any other connected person can apply.

5. I am one of the executors of a will which contains a gift to a local charity which no longer exists. What can I do?

Contact us to provide details of the donation and intended recipient by filling in the relevant application form (which is available on our website). Please ensure you provide us with as much information as possible.

We will then consider whether we can deal with your application using our powers under section 26 of the Charities Act (Northern Ireland) 2008. Should we be able to deal with your application, we will base our decision and/or the eventual scheme on the information provided to us. We may consult with you and your legal advisers with a view to applying the fund for another charitable purpose.

6. What information do I need to provide?

Refer to the guidance on [Requesting a scheme](#) as the information needed varies in each case. It may include a copy of the will, governing documents and details of any previous schemes.

We may also request statements from those who knew the donor and can testify what his or her intentions were, and a declaration from the trustees of the receiving charity that they are happy to receive the gift. The original intention refers to the original objective of the gift or the original purposes of the charity or trust. It may be found in the charity's governing documents, a trust deed or a will.

7. What does the Commission do once the scheme is made?

Copies of the document containing the details of the scheme will be signed by the Chief Executive of the Commission and sealed with the official seal of the Commission. One copy will be sent to the charity, one will be sent to the Public Records Office and the third will be retained by the Commission for our records.

8. Can anyone else make a scheme or reapply a gift?

There may be some cases in which the Commission will be unable to make a scheme and we may need to refer you to another party.

It is also possible to apply to the High Court for a scheme, but applicants should note that there may be substantial legal fees involved in such an application.

9. How long will it take?

We normally aim to complete a scheme within six months of receiving a fully completed application form and all necessary evidence. However complicated schemes can take much longer. We will keep you up to date at all stages of the process.

10. Is there a fee?

We do not charge a fee but we are entitled to reclaim any costs in the drawing up and publication of the scheme. For example, the costs of advertising the draft scheme in the press. These costs are usually taken from the charitable funds.

Legal fees will be incurred if you make an application to the High Court for a scheme. Costs can be recovered from the fund on which the scheme is made and need not be paid by the applicant personally.

11. Is there a chance that others may object to the draft scheme?

Potentially. Normally we will publish draft schemes on our website but, depending on the circumstances, it may be necessary to provide wider public notice. The method of publication will depend on the number of people potentially affected and the size of the geographical area. Relevant objections and comments will be communicated to the trustees who will be given the opportunity to comment.

12. Can a scheme be changed after it is sealed?

A scheme can only be reviewed by the Court of Appeal. Otherwise, a new scheme would have to be made.