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Introduction

Please note that the Pre-school Learning Alliance has changed its name to the Early Years Alliance. However, Pre-school Learning Alliance governing documents, for example, the Memorandum and Articles of Association, retain their original name.

This publication is intended to provide a practical guide to incorporation for pre-schools which have adopted a version of the Pre-school Learning Alliance (or Pre-school Playgroups Association) model pre-school or playgroup constitution, and have registered as a charity with the Charity Commission for England and Wales. Although a lot of the information contained in this guide will be relevant to other types of groups, the process of incorporation for other types of groups may not be exactly the same.

This guide has been prepared based on arrangements put in place between the Early Years Alliance and the Charity Commission to facilitate the conversion of pre-schools which are currently established as unincorporated associations into companies limited by guarantee. Pre-schools which have not adopted a model constitution, or which have not yet registered with the Charity Commission will not be able to follow the precise process set out in this guide and should consult their local Charity Commission office or a suitable legal advisor before taking any steps based on the information in this guide.

If you are thinking of setting up an early years setting for the first time and would like to establish your group as a limited company you can use the model set of Memorandum and Articles of Association which are provided with this guide. In this guide the phrases 'pre-school' and 'playgroup' are used interchangeably to describe an early years setting in membership of the Early Years Alliance that has been formed under one of the preschool/playgroup model constitutions and is registered as a charity with the Charity Commission for England and Wales. Where the Pre-school Learning Alliance model pre-school constitution is referred to in this guide, this also applies to the model playgroup constitution issued by the Pre-school Playgroups Association (PPA).

3.2 The Memorandum and Articles of Association

Just like an unincorporated association has a constitution (the set of rules which governs its operation and the relationship between the members and the executive committee) every limited company also has a constitution document which is called its 'Memorandum and Articles of Association'.

The Memorandum of Association of a company incorporated under the Companies Act 2006 is a statement by the subscribers' that they want to form a company and become the first members of the company. "Subscriber" is a company law term for a person that participates in the setting up of a company and becomes one of its first members.

The Articles of Association set out the aims and objectives of the company, and the detailed rules that govern the internal workings of the company. A model set of Memorandum and Articles of Association for the incorporation of your group as a company limited by guarantee are provided with this guide. You can use this electronic version to create a set of Memorandum and Articles of Association for your new company, simply by filling in the name of your new company (more about which later), and the names of the first members (or 'subscribers').

These model Memorandum and Articles of Association have been specially pre-approved by the Charity Commission for pre-schools that are currently registered with the Charity Commission under an Alliance model pre-school constitution. Pre-schools wishing to take advantage of the 'Fast Track' process of incorporation described in this guide must use these model Memorandum and Articles of Association without making any changes.

Any group not currently registered with the Charity Commission under an Alliance model pre-school constitution can still use the model Memorandum and Articles of Association as the basis for incorporating the group, however, you are advised to seek independent legal advice before proceeding.

3.3 Checking the Name

If your pre-school is considering incorporation, you will naturally wish to ensure that when you incorporate you can continue to use the existing name of your group. Before preparing the Memorandum and Articles of Association for your new company you must find out whether the name that you wish to use is available and permitted.