

Guidance for Being A Charity Trustee - An Easy Read Guide to Being a Charity Trustee

This advice is for anyone who is a trustee of a charity in Scotland. A charity trustee is anyone who controls and manages a charity.

Charity trustees are sometimes called Board Members, Directors or Management Committee Members.

Unfamiliar words and phrases are highlighted in blue and meanings can be found at the end of this document. Alternatively we are glad to help so do phone us on 01382220446 during office hours if there is anything you do not understand

This leaflet is written by the Office of the Scottish Charity Regulator (OSCR).

Every Scottish charity must register with OSCR.

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Anyone who wants to give money to a charity or volunteer with a charity can check OSCR's Scottish Charity Register to make sure that the charity is real.

This advice tells charity trustees what the law says they must do or must not do. The main law for charities is The Charities and Trustee Investment (Scotland) Act 2005.

OSCR is in charge of making sure that charity trustees do not break this law.

Some people are not allowed to be a charity trustee. If you are uncertain please do phone OSCR

Every charity trustee must make sure that he or she is not breaking the law by being a charity trustee.

Declared bankrupts usually have a payment agreement over a space of time – the payment agreement should have been adhered to and the time should be spent before applying to be a Trustee

Unspent Criminal Offences may hinder chances of becoming a Trustee especially if relevant to the position / Charitable Aims

Disqualified Trustees of Directors may not generally apply to become a Trustee until a specified condition of time is spent

The application form is fairly clear on who may and who may not be a Trustee and can be downloaded from the OSCR site.

See the Application Form

Charity trustees have 4 general and 5 specific duties or responsibility. ie certain things that they need to promise to do. All charity trustees should work together to make sure that these duties are done.

This easy-read guide tells you the main things you need to know about being a charity trustee.

If you need any more information about being a charity trustee, you can call us on 01382 220 446.

Do we meet the charity test?

No more than 50% of the committee can expect to be paid at any one time

Do we benefit the community? Yes

Do we have any other than charitable purpose ? No

Does our Constitution fit the bill? Yes well hopefully soon

- Ⓣ Does it allow the charity to be used for any other than charitable purpose? No
- Ⓣ Does the Constitution expressly allow Ministers to control activities? No
- Ⓣ Does the Constitution intend to advance any political party ? No

Do meet charitable purposes? Yes

a. The prevention or relief of poverty.

- ② We try to help relieve poverty by :
 - ② growing free food for the community
 - ② stimulating an interest in nature and healthy foods
 - ② providing working space for the unemployed and depressed allowing them to contribute to society and also work for references and learn new skills
- ② We intend to further relieve poverty by offering work experience to local community members and small traders to upgrade a derelict B Listed historic building offering training in valuable skills in partnership with the Job Centre, which we are currently unable to do due to lack of toilet facilities.

b. The advancement of education.

- ② We encourage our visitors to understand what we are doing in the garden and why, and try to stimulate an interest in how nature flora and fauna communicate and work together, how other culture survive with less water, and to find out if there is anything that we can learn here which will support farmers globally

c. The advancement of religion.

- ② We encourage our young members to be unashamed to love God, whatever his or her name, understand the differences and the common ground most religions and culture have, to be tolerant and accept the universal rule of love
- ② We intend to encourage various religious groups to partake in our events and use our facilities to join with each other in supporting harmony and tolerance

d. The advancement of health (including the prevention or relief of sickness, disease or human suffering).

- ② We encourage an interest in healthy foods and Community Members and visitors often take home fresh vegetables to cook at home

f. The advancement of citizenship or community development

I) Civic Values :

- ② We encourage equality; mutual respect and leadership in tasks, but not in power,
- ② We encourage members to find respite and worth in voluntary work, and to be aware of the variety of skills we each have to share

II) Regeneration of social infrastructure

- ② In a time of serious unemployment and depreciation of self worth, we aim to provide a safe, relaxing, space where parents, neighbours, friends and family can meet, communicate, relax, and / or work, share problems and joys, generally enjoy the facility and share a sense of belonging in the community. This will greatly be helped with toilets, theatre space, and community kitchen / café areas

g. The advancement of the arts, heritage, culture or science.

② further advance arts and crafts by :

- ② we have many art workshops, providing materials and an inspirational space

In upgrading the building, we intend to provide

- ② a small amateur theatre / film studio / fine arts space with outdoor stage
- ② an active workshop with tools and workbenches, which will also benefit the theatre group in providing scenery and costumes/ film studio and fine arts work space
- ② **further advance local heritage by :**
 - ② restoring an historic b listed building in sympathy with sustainable values and Scottish traditions
- ② **further advance local cultures by :**
 - ② engaging in culture shares between the various cultural groups in Govan today through art and cuisine
- ② **further advance local understanding of science in the community** with projects to explore recycling, means of transport, energy and natural sciences

h. The advancement of public participation in sport by :

- ② encouraging exercise and cycling,
- ② providing toilets / showers and locker rooms for local football teams who meet regularly in the park and who currently don't have access to these conveniences
- ② provide these facilities for Elder Park users, to encourage them to stay longer and enjoy the outdoors with their families

i. The provision of recreational facilities, or the organisation of recreational activities, with the object of improving the conditions of life by :

- ② We provide a special educational recreational space, where families – especially those with no gardens, can relax attend events and hold a family / community bar-b-q whenever they choose, as long as they respect the space they are using
- ② On completion of the building project we hope to provide toilets and recreational facilities ie café, arts and crafts workshop, theatre / entertainment centre

j. The advancement of human rights / l. The promotion of equality and diversity. / l. The promotion of equality and diversity.

- ② We promote equality in a diversity of users to help eliminate discrimination through age, race, religious and other social divides, which are not generally natural in a people unless one group is preventing another group from functioning and disturbing the balance.
- ② Conflict resolution is a gradual learning process, we think we have got it and new circumstances arise
- ② We hope that the Community finds Elder Farm to be a neutral zone where groups sometimes formerly divided, learn to enjoy their differences and diversities

m. The advancement of environmental protection or improvement.

- ② We promote interest and protection of the natural environment which is beneficial to wildlife on which our very survival depends – we are currently working on nectar rich flora to assist the bees in the Garden in the community (Shearer Bee Garden & are growing plants for a small community bed in Napier Drive

General duty 1 - Charity trustees must act in the interests of the charity.

- ② Each charity should have a list of where each trustee works and any other organisations that trustee is involved with.

- ② This list must be kept up to date.
- ② Each charity should have a “code of conduct” that says what charity trustees should do if there is a conflict of interest. For example, a conflict of interest might occur, when a trustee is unable to do what is best for the charity, because they have a duty to another organisation or person.
- ② Each charity should have a policy that says what will happen if a charity trustee does something wrong.
- ② Each charity should have a rule that says that trustees will be asked to leave if they endanger the group by breaking the law.
- ② Each charity should have a policy that makes it clear when it is okay to give money to trustees, and trustee families or the organisations they work for.

General duty 2 Charity trustees should operate in a manner consistent with the charity's purpose.

- ② Charity trustees should make sure the charity does what it is meant to do.
- ② Every charity has a “constitution”. These are the rules that say what the charity does and how it is run.
- ② Charity trustees should make sure that all trustees and workers follow the rules as laid down in the constitution.
- ② Charity trustees should make sure that the charity's money is only used to do the things that are in the constitution.

Good practice (the best way to do things) will help make sure trustees do not break the rules

- ② Every charity trustee should have read the charity's constitution.
- ② Every trustee should own a copy of the charity's constitution
- ② Every charity trustee should get an information pack about the charity when they start.
- ② When trustees plan charity actions and events, they make sure the plan fits in with the constitution.

General duty 3 Charity trustees must act with care and diligence, ie take care when running the charity.

- ② Charity trustees should run the charity properly.
- ② Charity trustees should make sure that the charity does not break any laws, like health and safety or data protection.
- ② Charity trustees should make sure that the charity has enough money to pay staff and other costs.
- ② Charity trustees should all work together for the good of the charity.
- ② In the registration of a charity, all initial trustees will be assessed by OSCR
- ② It is up to the fellow trustees to monitor additional members to ensure they do not break any of the codes of practice to ensure that all trustees are within the required remit so that all trustees give best performance to the charity or they will uniformly be held accountable
- ② Charity trustees must make sure that any staff and volunteers are treated properly and fairly.
- ② Charity trustees must make sure that people who are not connected to the charity do not use the charity's name and logo.

Good practice (the best way to do things) will help make sure trustees do not break the rules

- ② Charity trustees should all check charity documentation regularly to make sure that they are up to date.
- ② Charity trustees must keep a record of the money the charity spends and the money that comes into the charity.
- ② Charity trustees decide how to support the charity's staff and volunteers.

- ② Charity trustees know how to keep up-to-date with any changes to the law.
- ② Charity trustees decide what will happen if a charity trustee misses too many meetings.
- ② Once a year, charity trustees look at what the charity has done well and what it needs to be better at.
- ② The information pack for charity trustees should have information about all charity sub-committees.
- ② The charity should have a suitable training plan for charity trustees.
- ② Charity trustees decide what will happen if they cannot agree with each other, or if they cannot agree with the charity's staff.
- ② Every year, charity trustees look at the charity's constitution to see if it needs to be changed.
- ② Charity trustees each have an area, like training or fund-raising, to be in charge of.
- ② Charity trustees regularly look at how they do things to make sure that there is not a better way.
- ② Charity trustees can get legal or financial (money) advice from experts (ie money matters) if they need to.

General duty 4 Charity trustees must comply with the Act and other legislation.

- ② Charity trustees must make sure the charity does not break the law.
- ② Charity trustees must make sure that the charity follows the rules in the Charities and Trustee Investment (Scotland) Act 2005 and any other laws.

Good practice (the best way to do things) will help make sure trustees do not break the rules

- ② Charity trustees plan board meetings so they can meet at the right time to look at the charity's accounts and write the report for OSCR.
- ② Charity trustees follow the Institute of Fund-raiser's code. The charity joins the self- regulation scheme set up by the Fund-raising Standards Board.
- ② Charity trustees know how to get information about changes in the law.
- ② Charity trustees check that they have a good system to make sure they do all the things that the law says they must do.

Specific duties These are things that charities must do. The charity trustees must make sure that these things are done.

Specific duty 1 Charity details on the Scottish Charity Register

- ② Charity trustees must give OSCR the information it needs for the Scottish Charity Register.

Specific duty 2 Reporting to OSCR

- ② If they are applying to be a charity, charity trustees will have to sign a paper to say that they understand what their duties are.
- ② Charity trustees must tell OSCR if any of the charity's details change.
- ② Charity trustees must fill in a form about the charity each year. This form is called an annual return. OSCR will send this to the charity.
- ② Charities who get more than £25,000 each year must also fill in a form called a supplementary monitoring return.
- ② Charity trustees must send OSCR the charity's accounts each year.
- ② Charity trustees usually need to ask OSCR before they change the charity's constitution.

Specific duty 3 Financial records and reporting

- ② Charity trustees must make sure that the charity keeps a record of the money it gets in and the money it spends.
- ② Each year the charity must prepare their accounts and get them audited or examined. This means that someone who knows a lot about money, like an accountant, makes sure that the accounts are okay. A copy of the accounts must be sent to OSCR.
- ② Charities must keep a copy of the accounts for 6 years.

Specific duty 4 – Fundraising

- ② Charity trustees must make sure that anyone who raises funds for the charity has an agreement that says how much they will get paid to do it.
- ② New Fundraising Regulations have been announced in 2009 and charity trustees must make sure that the charity follows these rules.
- ② OSCR says that some charities are “designated national collectors”. Charity trustees from these charities must give OSCR a fundraising report each year.

Specific duty 5 - Providing information to the public

- ② Charity trustees must make sure that the charity’s details are on all the charity’s paperwork, like letters and invoices.
- ② Charities must give a copy of their constitution or latest accounts to anyone that asks for them.

Trustee remuneration (Paying charity trustees)

- ② Charity trustees must always put the needs of the charity first. This means that charity trustees, people in their family or companies that they are involved with must not get paid any money from the charity.
- ② Charity trustees can get expenses, like train fares to get to a trustee meeting.
- ② There are times when it is okay for charity trustees to be paid by the charity. If you need information on this you can call OSCR on 01382 220446.
- ② Breach of duty (What happens when charity trustees break these rules)
- ② If a charity trustee does something wrong, OSCR will look at this and may have to do something about it. What it does will depend on what has happened.
- ② There are lots of organisations that will support charity trustees who need help to carry out their duties or to understand what their duties are. You can get a list of these organisations on page

What Unfamiliar Words and Phrases Mean

Charity A charity is an organisation on the Scottish Charity Register. Charities are set up to help other people or make things better for them.

Constitution The constitution needs to give an exact reflection of the purpose of the charity,

Adequate guidance to present and future trustees, beneficiaries, donors etc as to the range and limits of the body’s activity should be stated, while allowing sufficient flexibility to support the development of activities in line with overall aims.

Good practise should prevent too many charitable purposes being cited to allow concentration on main purposes

Office of the Scottish Charity Regulator (OSCR) OSCR keeps a list of every charity in Scotland. If an organisation is not on the Scottish Charity Register, it is not a charity. OSCR makes sure that charity trustees do not break the law.

Charities and Trustee Investment (Scotland) Act 2005 This is the law that says what charity trustees must do or must not do.

Institute of Fundraising Codes These are papers that tell charities the best way to raise money and what the law says.

Scottish Charity Register This is a list of all the charities in Scotland. Anyone can look at this list on OSCR's website and get details of a charity and how much money it gets each year.

Annual return This is a form that OSCR sends to every charity each year for the trustees to fill in.

Monitoring return This is a form that OSCR sends to bigger charities each year for the charity trustees to fill in. Bigger charities will get an annual return and a monitoring return. The monitoring return needs more information than the annual return.

Charity's accounts This is a set of figures that say how much money the charity got in the year and how much money it spent. Every charity must send a copy of its accounts to OSCR each year.

Trustee remuneration This is money that is paid from the charity to a charity trustee or a member of his or her family or an organisation they control. These organisations and resources can give charity trustees more information.

Charities and Trustee Investment (Scotland) Act 2005

www.opsi.gov.uk/legislation/scotland/acts2005/asp_20050010_en_1

SCVO Governance - good practice for the voluntary sector www.scvo.org.uk/governance

Charity Commission for England and Wales www.charity-commission.gov.uk

The Law Society of Scotland www.lawscot.org.uk

Management Development Network, a network of independent specialists in management in voluntary organisations

www.mdn.org.uk

Companies House www.companieshouse.gov.uk

Information Commissioner's Office (data protection and access to information) www.ico.gov.uk

Directory of Social Change www.dsc.org.uk

Institute of Fundraising www.institute-of-fundraising.org.uk

Fundraising Standards Board www.frsb.org.uk

Institute of Chartered Secretaries and Administrators www.icsa.org.uk

Health & Safety Executive - information about health and safety at work www.hse.gov.uk

Equality and Human Rights Commission www.equalityhumanrights.com

Acas - employment issues www.acas.org.uk

Business Link - employment issues

<http://www.businesslink.gov.uk/bdotg/action/layer?topicId=1073858787&r.lc=en&r.s=tl>

Volunteer Development Scotland www.vds.org.uk

Volunteering England www.volunteering.org.uk

Association of Chief Executives of Voluntary Organisations www.acevo.org.uk

Association of Chief Officers of Scottish Voluntary Organisations www.acosvo.org.uk