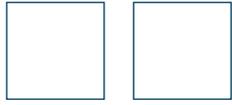


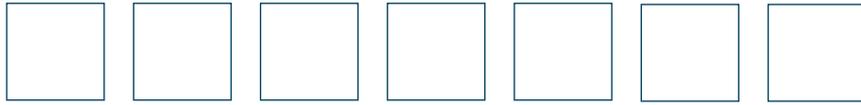
Being a Charity Trustee:



Good Governance Checklist for



Elected Members



Introduction

Congratulations on becoming a Councillor. The governing documents of some charities specify that some Councillors are also trustees of those charities (known as *ex officio* trustees). If you are called up to take on this role, you should be aware that **your duties as a charity trustee are different and separate from your duties as a Councillor and sometimes the two may conflict.**

This briefing note has been prepared by the Scottish Charity Regulator (OSCR) to assist newly-elected members in understanding the role of a charity trustee and the associated duties and responsibilities. Longer-serving councillors may also find it useful as a reminder. **Please keep it for reference in the months ahead.**

OSCR is the independent registrar and regulator for Scotland's 24,000 charities. We took up our full regulatory powers in April 2006 with the commencement of the Charities and Trustee Investment (Scotland) Act 2005.

The duties of charity trustees – things to remember

Charity trustees are those in control of the management and administration of the charity and need to ensure that the charity operates effectively, and is able to account for its activities and outcomes both to the public and to OSCR.

Charity law in Scotland imposes *general duties* on charity trustees. You must:

- » act in the interests of the charity
- » seek, in good faith, to ensure that the charity operates in a manner that is consistent with its objects or purposes
- » act with the care and diligence that it is reasonable to expect of a person who is managing the affairs of another person
- » ensure that the charity complies with the provisions of the 2005 Act, and other relevant legislation

From our experience as a regulator, we have prepared a **good governance checklist for charity trustees – see overleaf.**

Sign up to OSCR Reporter, our regular e-newsletter, to keep up to date with developments.

Further guidance can be found on the OSCR website at www.oscr.org.uk. The following publications may be particularly useful for elected representatives:

- » **Guidance and good practice for Charity Trustees**
- » **Who's in Charge: Control and Independence in Scottish Charities**
- » **Checklist for Charity Trustees – Protecting Charitable Status**

Good governance checklist

From our regulatory experience, we have prepared the following checklist of questions. If you are taking up a charity trustee role you might find it helpful to think about these questions which cover some of the legal requirements, as well as good practice:

Operating in a manner consistent with the charity's purposes

- » Have you and your fellow charity trustees seen and read the charity's governing document?
- » Does the charity's governing document make it clear what charitable purposes it is pursuing?
- » Are the charity's purposes up to date and consistent with its current activities?
- » Are all the charity's purposes charitable according to the 2005 Act?

Acting with care and diligence

- » Is it clear to you from the charity's governing document who's in charge of the charity? Does everyone involved understand who the charity trustees are, and that they are responsible for the charity's decisions?
- » Does the charity's board have the right mix of skills and experience to manage its affairs well and was this considered in any appointments process?

- » Are all new charity trustees issued with an induction pack identifying their role, responsibilities and liabilities? Is there a programme of ongoing training to allow charity trustees to keep their understanding current?
- » Is seeking independent advice considered where charity trustees are taking a decision on a matter that poses significant operational or reputational risk to the charity?

Acting in the interests of the charity

- » How many of the charity trustees owe a duty to any other organisation and will this cause a significant, or ongoing, conflict of interest?
- » Is there a conflict of interest policy in place? Does it expressly provide that conflicts must be disclosed and that any charity trustee with such a conflict must refrain from participating in any decision of the charity on the matter? Is the policy followed and clearly documented so that you can demonstrate your decisions have been taken in the best interests of the charity?
- » Have you and other charity trustees ensured that you not only act independently when making decisions, but also are seen to be acting independently?

If you are unclear about anything here, OSCR or your your Chief Executive's office may be able to offer advice and assistance.

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