

Guidance for Charity Trustees

An easy read guide to being a Charity Trustee

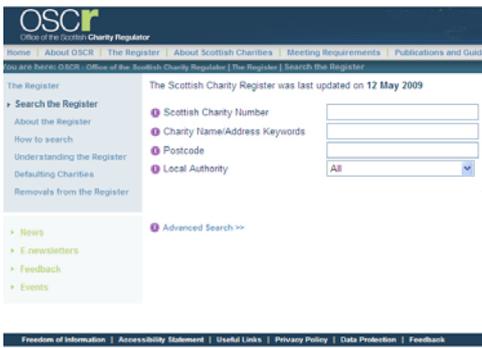




This advice is for anyone who is a trustee of a charity in Scotland. Charity trustees are sometimes called Board Members, Directors or Management Committee Members. A charity trustee is anyone who controls and manages a charity.



We have tried to make this guide easy to read. We have printed hard words in **blue** and you can read what these words mean on page 13. You can phone us on 01382 220 446 if there is anything that you do not understand.



This leaflet is written by the Office of the Scottish Charity Regulator, or **OSCR**. Every Scottish **charity** must register with OSCR. 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 not sure if you can be a charity trustee, you can ask [OSCR](#). Every charity trustee must make sure that he or she is not breaking the law by being a charity trustee.



Charity trustees have 4 general and 5 specific duties. A duty is something that you must do. All of the charity's 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 anything in this leaflet or about being a charity trustee, you can call us on 01382 220 446.

General duty 1

Charity trustees must act in the interests of the charity.

Charity Trustees must do what is best for the charity.



- They must do what is best for the charity, not what is best for themselves or anyone in their family.
- They must put the needs of the charity before the needs of any other organisation or company that they are involved with.

Good practice (the best way to do things)

Charity Trustees do not have to do all these things but it will help them to make sure that they do not break any rules.

- The charity has a list of where charity trustees work and any other organisations they are involved with. This list is kept up to date.
- The charity has a “code of conduct” that says what charity trustees should do if there is a conflict of interest. A conflict of interest is when a charity trustee might not be able to do what is best for the charity because he or she has a duty to another organisation or person.
- The charity has a policy that says what will happen if a charity trustee does something wrong.
- The charity has a rule that says it can stop someone from being a charity trustee if he or she breaks the law.
- There is a policy that makes it clear when it is okay to give money to charity trustees, their family or the organisation they work for.

General duty 2

Charity trustees must operate in a manner consistent with the charity's purpose.

Charity trustees must make sure the charity does what it is meant to do.



Every charity has a “constitution”. These are the rules that say what the charity does and how it is run.

- Charity trustees must make sure that the other charity trustees and the people working at the charity follow the rules in the constitution.
- Charity trustees must 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)

Charity trustees do not have to do all these things but it will help them to make sure that they do not break any rules.



- Every charity trustee has a copy of the charity's constitution.
- Every charity trustee gets an information pack about the charity when they start.
- When charity trustees plan what the charity will do, they make sure the plan fits in with the charity's constitution.

General duty 3

Charity trustees must act with care and diligence.

Charity trustees must run the charity carefully.



- Charity trustees must run the charity properly.
- Charity trustees must make sure that the charity does not break any laws, like health and safety or data protection.
- Charity trustees must make sure that the charity has enough money to pay staff and other costs.
- Charity trustees must all work together for the good of the charity. They must make sure that no-one is breaking the law by being a charity trustee and that the charity trustees are all doing what is best for the charity.
- Charity trustees must make sure that any staff and volunteers are treated properly and fairly.
- 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)

Charity trustees do not have to do all these things but it will help them to make sure that they do not break any rules.



- Charity trustees look at the charity's plans regularly to make sure that they are up to date.
- Charity trustees keep a record of the money the charity spends and the money that comes into the charity.
- Charity trustees decide how to support the charity's staff and volunteers.



- Charity trustees know how to keep up-to-date with any changes to the law.
- Charity trustees decide what will happen if a charity trustee misses too many meetings.
- Once a year, charity trustees look at what the charity has done well and what it needs to be better at.

- The information pack for charity trustees has information about the charity's sub-committees.



- The charity has a training plan for charity trustees.
- Charity trustees decide what will happen if they cannot agree with each other, or if they cannot agree with the charity's staff.
- Every year, charity trustees look at the charity's constitution to see if it needs to be changed.



- Charity trustees each have an area, like training or fundraising, to be in charge of.
- Charity trustees regularly look at how they do things to make sure that there is not a better way.
- Charity trustees can get legal or financial (money) advice from experts if they need to.

General duty 4

Charity trustees must comply with the Act and other legislation.

Charity trustees must make sure the charity does not break the law.



- 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)

Charity trustees do not have to do all these things but it will help them to make sure that they do not break any rules.



- 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.
- Charity trustees follow the [Institute of Fundraising's code](#). The charity joins the self-regulation scheme set up by the Fundraising Standards Board.
- Charity trustees know how to get information about changes in the law.
- 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



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

Specific duty 2

Reporting to OSCR



- 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.
- Charity trustees must tell OSCR if any of the charity's details change.
- 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.
- Charities who get more than £25,000 each year must also fill in a form called a [supplementary monitoring return](#).
- Charity trustees must send OSCR the [charity's accounts](#) each year.
- Charity trustees usually need to ask OSCR before they change the charity's constitution.

Specific duty 3 Financial records and reporting



- Charity trustees must make sure that the charity keeps a record of the money it gets in and the money it spends.
- 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.
- Charities must keep a copy of the accounts for 6 years.

Specific duty 4 – Fundraising



- 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.
- New Fundraising Regulations have been announced in 2009 and charity trustees must make sure that the charity follows these rules.
- 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



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

Trustee remuneration (Paying charity trustees)



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.

Charity trustees **can** get expenses, like train fares to get to a trustee meeting.

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.

Breach of duty (What happens when charity trustees break these rules)



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.

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 14 and 15.

What words 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.

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



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