

Roles and responsibilities of charity trustees

A charity is regarded by law as an organisation set up for the benefit of the community. A charity is managed by trustees who have ultimate responsibility for all decisions relating to the charity. Some decisions may be delegated to employees through a written authorisation and clear lines of accountability. Trustees may also be known as directors (if incorporated), board members, governors or committee members. Usually, the charity's governing document sets out how trustees are to be appointed and the term of their appointment, which may be unrestricted, although a set term is favoured.

Who can be a trustee?

Anyone of a required age can be a trustee who has not been disqualified from doing so. People between 16 and 18 years old can be trustees of an incorporated charity but you need to be 18 to be a trustee of an unincorporated charity. Candidates should confirm that they have not been disqualified and that they do not have any existing or potential conflicts of interest. If the charity works with young or vulnerable people then checks on any potential trustee must be undertaken with the Criminal Records Bureau. All trustees must act in the charity's interests and must not represent the interests of any outside organisation or their own personal interests.

In general trustees are not paid and may not benefit in other ways from the work of the charity as this may present a conflict of interest. A charity can, however, apply to pay a trustee if they can demonstrate that it is in the interests of the charity and does not present conflicts of interest. For further clarification see the guidance, 'Trustee expenses and payments' (CC11) from the Charity Commission.

Types of Trustees

The additional types of trustee are as follows:

- **Custodian trustee** - a custodian is a corporate body that may have legal custody of the charity's property and/or land
- **Holding trustee** - an individual who may legally hold the property of the charity but who may only manage it under the lawful instruction of the trustees
- **Alternate trustee** - an alternate trustee acts in place of an absent trustee where the power to appoint such is written into the governing documents. The appointment should be notified to the Charities Commission (and Companies House if appropriate).

Trustees and their responsibilities

Trustees have ultimate responsibility for directing the affairs of a charity and ensuring that it is solvent, well-run and delivering its charitable outcomes. In particular they have responsibilities to:

Compliance

- ensure that the charity complies with charity law and the requirements of the Charity Commission as regulator including submitting annual returns and accounts in the form specified for charities (or Statement of Recommended Practice (SORP))
- ensure that the charity does not breach any of the requirements in its governing document and remains true to its charitable objects
- comply with requirements of relevant other legislation, such as employment law if applicable, and other regulators including Companies House for companies
- act with integrity, and avoid any personal conflicts of interest or misuse of charity funds or assets

Prudence

- ensure that the charity is and will remain solvent

- use charitable funds and assets reasonably and only in relation to the charity's objects. For example, if the charity owns land or buildings, trustees need to know what condition it is in, that it is being properly used and that adequate insurance is in place
- avoid undertaking activities that might place the charity's endowment, funds, assets or reputation at undue risk
- take care when investing the charity's funds or borrowing

Duty of care

- use their skills and experience to ensure that the charity is well-run and efficient
- consider getting external professional advice on areas where there is potential risk to the charity or where the trustees may be in breach of their duties

Further help

For further information on trustees and their roles and responsibilities see the Charity Commission website or publications, in particular the guidance, 'The Essential Trustee' (CC3).

W www.charitycommission.gov.uk

*All information was correct at the time of going to print and consequently Enterprise Solutions Northamptonshire cannot be held accountable for any losses sustained from the use of this pack.
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