

Fit and Proper Persons: Information and Declaration

As a vestry member and charity trustee, HMRC considers you to be a “manager” of a charity i.e. you have control and management over the running of the charity (the church) and its assets.

As such, you must read the guidance below and, if appropriate the declaration at Annex I. Your declaration should be securely retained as part of the vestry records and, in line with GDPR requirements. The signed declaration should not be sent to HMRC unless HMRC asks to see it.

Why is there a 'fit and proper persons' test?

The 'fit and proper persons' test is a statutory requirement. The test requires that individuals who are a “manager” of the charity are suitable to do so. It exists to make sure that charities, that are entitled to charity tax reliefs are not managed or controlled by individuals who might misuse the tax reliefs the organisation receives.

What does 'fit and proper' mean?

An individual is 'a fit and proper person' if they ensure, or are likely to ensure, that charity funds and tax reliefs are used only for charitable purposes.

In signing the declaration at Annex I you are confirming that you will ensure that funds are used for charitable purposes and also disclosing certain information about your past that may impact on whether or not you are indeed 'a fit and proper person'.

When a charity notifies HMRC of certain new managers (most likely a change of Treasurer), HMRC cross-checks that person's details against any information it has and will raise any concerns it has if there is anything to indicate the person may misuse the charity funds and tax reliefs. Factors could include:

- the individual has been involved in tax fraud or other fraudulent behaviour including misrepresentation and/or identity theft
- HMRC has knowledge of the individual's involvement in attacks against, or abuse of, tax repayment systems
- the individual has been removed from acting as a charity trustee by a charity regulator (OSCR) or been disqualified from acting as a charity trustee or company director
- the individual has used designed and/or promoted tax arrangements notified under the Disclosure of Tax Avoidance Schemes ("DOTAS") rules in Part 7 Finance Act 2004, and the arrangements used a charity and charitable reliefs to avoid payment of tax
- the individual has used designed and/or promoted tax arrangements which have been successfully counteracted under the general anti-abuse rules (see Part 5 of Finance Act 2013 or section 10 National Insurance Contributions Act 2014, as enacted or as amended from time to time) and such counteraction has become final

However, just because a person has been, say, barred from acting as a charity trustee or one of the other points above applies, it does not always follow that the charity will not be eligible for tax reliefs.

When considering the application of the fit and proper persons test to particular managers, HMRC will take account of the likely impact on the charity's tax position.

For example any person who has no dealings with HMRC and no control over spending charity funds, even if the person is not a fit and proper person, is unlikely to affect the charity's eligibility to tax reliefs.

If you want more detailed information on DOTAS or the Promoters of Tax Avoidance Schemes (POTAS) legislation in Part 5 of Finance Act 2014 please click the link below:

<https://assets.publishing.service.gov.uk/media/5a7f34df40f0b62305b85bc4/Fit-and-proper-persons-helpsheet-and-declaration.pdf>

What do I need to do?

If you are confident that you will do your best to ensure that charity funds and tax reliefs are used only for charitable purposes and you do not need to disclose any information listed on the declaration then you should sign a declaration and give it to the charity.

If you are confident you will do your best to ensure that charity funds and tax reliefs are used only for charitable purposes but, you do **need to disclose any information listed on the declaration**, then you should sign the declaration suitably amended - for example by crossing out the relevant bullet point - and provide details in the final box before you give the declaration to the charity. The charity will then need to decide what to do.

If neither of the above applies you should not sign the declaration.

I've signed the declaration so what happens next?

The charity will keep the declaration and in certain cases such as the Treasurer pass your details to HMRC. If HMRC have any concerns about you they will contact you to clarify the situation.

Declaration for fit and proper persons

Name of Church		Charity Number	SC
Name of Person		Role in the Vestry	

I, the undersigned, declare that:

- I am not disqualified from acting as a charity trustee
- I have not been convicted of an offence involving deception or dishonesty (**or** any such conviction is legally regarded as spent)
- I have not been involved in tax fraud or other fraudulent behaviour including misrepresentation and/or identity theft
- I have not used, designed and/or promoted arrangements notified under the Disclosure of Tax Avoidance Schemes ("DOTAS") rules in Part 7 Finance Act 2004 in respect of which a reference number has been issued under section 311 of Finance Act 2004 and the outcome finalised .
- I have not used, designed and/or promoted tax arrangements which have been successfully counteracted under the general anti-abuse rules (see Part 5 of Finance Act 2013 or section 10 National Insurance Contributions Act 2014, as enacted or as amended from time to time) where such counteraction has become final.
- I am not an undischarged bankrupt.
- I have not made compositions or arrangements with my creditors from which I have not been discharged.
- I have not been removed from serving as a charity trustee, or been stopped from acting in a management position within a charity.
- I have not been disqualified from serving as a Company Director.
- I will, at all times, seek to ensure the charity's funds, and charity tax reliefs received by this organisation, are used only for charitable purposes.

Signed		Date	
Home Address		Previous Address if moved in last 12 month	
Date of Birth		NI No.	
National Identity Card Number if applicable			

If you have signed this declaration but want to make any information known, or clarify any points, please add them overleaf.