

Eligible for Trusteeship (OSCR): Information and Declaration

Full members of a church's vestry are also the charity trustees for the church. Charity trustees are the people in overall control and management, and are responsible for the charity's governance and strategy, and making sure it is well-run.

What are the duties of a charity trustee?

The Charities and Trustee Investment (Scotland) Act 2005 is the law which applies to charities that are registered in Scotland and regulated by the Office of the Scottish Charity Regulator (OSCR). Section 66 of the Act outlines the general duties of Charity Trustees as follows:

(1) A charity trustee must, in exercising functions in that capacity, act in the interests of the charity and must, in particular—

- (a) seek, in good faith, to ensure that the charity acts in a manner which is consistent with its purposes,
- (b) act with the care and diligence that it is reasonable to expect of a person who is managing the affairs of another person, and
- (c) in circumstances capable of giving rise to a conflict of interest between the charity and any person responsible for the appointment of the charity trustee—
 - (i) put the interests of the charity before those of the other person, or
 - (ii) where any other duty prevents the charity trustee from doing so, disclose the conflicting interest to the charity and refrain from participating in any deliberation or decision of the other charity trustees with respect to the matter in question.

(2) The charity trustees of a charity must ensure that the charity complies with any direction, requirement, notice or duty imposed on it by virtue of this Act.

(3) Subsections (1) and (2) are without prejudice to any other duty imposed by enactment or otherwise on a charity trustee in relation to the exercise of functions in that capacity.

(4) Any breach of the duty under subsection (1) or (2) is to be treated as being misconduct in the administration of the charity.

(5) All charity trustees must take such steps as are reasonably practicable for the purposes of ensuring—

- (a) that any breach of a duty under subsection (1) or (2) is corrected by the trustee concerned and not repeated, and
- (b) that any trustee who has been in serious or persistent breach of either or both of those duties is removed as a trustee.

What is the law around disqualification from being a trustee?

The 2005 Act was amended by the Charities (Regulation and Administration) (Scotland) Act 2023. The changes made to the 2005 Act by the 2023 Act set out specific criteria under which certain people are automatically disqualified from being a charity trustee or undertaking a senior management function within a charity. The disqualification criteria include having unspent convictions for various offences, being subject to notification requirements of the Sexual Offences Act 2003, being an undischarged bankrupt, and having an undischarged Protected Trust Deed.

Every charity trustee and anyone undertaking a senior management function for a charity must ensure that they comply with the law. Anyone who acts as a charity trustee or in a senior management function for a charity while disqualified is guilty of an offence punishable by a fine, imprisonment, or both.

Why complete this form?

This form is part of a vestry's due diligence in ensuring members of vestry are legally eligible to be trustees. The form will be held securely and not shared with third parties, beyond the legal reporting requirements

for OSCR. OSCR must be given the following information about each trustee:

- Full name
- Home address
- Email address
- Telephone number
- Date of birth
- Date of appointment as charity trustee

Only your name and date of appointment will be publicly available on the OSCR website.

What if I think I might be disqualified?

Do not complete this form. Check the OSCR website below and, only if you are sure you are not disqualified, should you return to this form and complete it.

<https://www.oscr.org.uk/managing-a-charity/managing-charity-trustees/guidance-on-disqualification-criteria-for-charity-trustees-and-those-under-taking-a-senior-management-function/>

Declaration of Eligibility by Trustee

Name of Church		Charity Number	SC
Full Name of Person			
Home Address			
Email Address			
Telephone number			
Date of Birth		Date of appointment	SC
Role(s) on Vestry			

I, the undersigned, declare that:

- I am willing to act as a charity trustee of the above named organisation.
- I understand the organisation's purposes and rules set out in its governing document.
- I am aware of my duties and responsibilities as a charity trustee in terms of section 66 of the Charities and Trustee Investment (Scotland) Act 2005 ('the 2005 Act').
- I am not disqualified from being a charity trustee in terms of the 2005 Act.

I, the undersigned, in declaring that I am not disqualified from being a charity trustee in terms of the 2005 Act affirm that:

- I am not an undischarged bankrupt.
- I do not have an undischarged Protected Trust Deed (PTD).
- I do not have an existing individual voluntary arrangement (IVA) to pay off debts with creditors (this only applies to trustees living in England, Wales or Northern Ireland).
- I am not subject to a bankruptcy related measure, that is:
 - i. I am not the subject of a bankruptcy restrictions order, interim order or undertaking under the Bankruptcy (Scotland) Act 2016, the Insolvency Act 1986 or the Insolvency (Northern Ireland) Order 1989,
 - ii. I am not in the moratorium period under a debt relief order under the Insolvency Act 1986 or the Insolvency (Northern Ireland) Order 1989. (This only applies to trustees living in England, Wales or Northern Ireland),
 - iii. I am not the subject of a debt relief restrictions order, interim order or undertaking under either of these enactments. (This only applies to trustees living in England, Wales or Northern Ireland).
- I am not disqualified from being a company director.
- I have not been removed by the Court of Session under the 2005 Act (or earlier legislation) from

being a charity trustee or being concerned in the management or control of any charity or body.

- I have not been removed as a trustee, charity trustee, officer, agent or employee of a charity by the Charity Commission for England and Wales (“CCEW”) or the High Court in England due to misconduct or mismanagement.
- I have not been subject to a disqualification order or disqualification undertaking made by the CCEW under section 181 of the Charities Act 2011 disqualifying me as a charity trustee.
- I have not been found guilty of contempt by a Court in England and Wales in civil proceedings for making a false disclosure statement.
- I have not been removed as a charity trustee or trustee of a charity by the Charity Commission for Northern Ireland (“CCNI”) or the High Court in Northern Ireland due to misconduct or mismanagement.
- I have not been found guilty of disobedience to an order or direction of CCEW or CCNI on an application to the High Court in England or Northern Ireland.
- I do not have an unspent conviction for any of the following:
 - a. an offence under the 2005 Act,
 - b. an offence under section 77 of the Charities Act 2011,
 - c. an offence under section 13 or 19 of the Terrorism Act 2000,
 - d. an offence specified under section 41 or 42 of the Counter-Terrorism Act 2008 as an offence to which Part 4 of that Act applies,
 - e. a money laundering offence within the meaning of section 415 of the Proceeds of Crime Act 2002,
 - f. an offence under any of the following sections 1, 2, 6 or 7 of the Bribery Act 2010,
 - g. an offence of perverting the course of justice including in particular:
 - i. false accusation of a crime,
 - ii. perjury,
 - iii. prevarication on oath,
 - iv. prison breaking,
 - v. subordination of perjury;
 - h. an offence of wilful neglect of duty by a public official,
 - i. an offence, under the law of England and Wales, of misconduct in public office,
 - j. any other offence involving dishonesty,
 - k. an offence committed by aiding, abetting, counselling, procuring or inciting the commission of any of the offences detailed above,

- I. an offence committed by attempting or conspiring to commit any of the offences detailed above.
- I am not a designated person under the following anti-terrorist legislation:
 - i. regulations 8–12 of the ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (EU Exit) Regulations 2019,
 - ii. regulations 11–15 of the Counter-Terrorism (International Sanctions) (EU Exit) Regulations 2019,
 - iii. regulations 11–15 of the Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019.
- I am not subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 (i.e. I am not on the sex offenders register).

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