



Trustee Role Description

December 2022

Policy Reference Information

Status	APPROVED
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Related Policies

Policy Title
Governing Document Charter Trustee Code of Conduct

Trustee Role Description

Remuneration:	The role of Trustee is not remunerated, although travel expenses may be claimed.
Location:	Trustee meetings are usually held at Waverley Gate
Time commitment:	Usually four Trustee meetings per year
Reporting to:	Board of Trustees
Performance appraisal:	Annually, as part of NHS Board appraisal

Role Description

Trustees are responsible for “the general control and management of the administration of a charity” ¹

1. The general duties of charity trustees:

Act in the interests of the charity:

- Put the interests of the charity before their own or those of any other person or organisation
- Avoid circumstances in which there is a conflict of interest between their personal interests and those of the charity
- Declare any conflict of interest between the charity and any other organisation to which it is affiliated
- Refrain from participating in any discussions or decision making about the subject in question
- Ensure that any remuneration of trustees complies with the Charities Act
- Ensure that no trustees are disqualified from being a charity trustee

¹ Charities and Trustee Investment (Scotland) Act 2005 (the Charities Act)

Operate in a manner consistent with the charity's purpose:

- Carry out their duties in accordance with the specific terms of the charity's Governing Document ² and Charter³
- Ensure that all the charity's activities fall within the charity's objects, as stated in the Governing Document
- Ensure that the charity's assets are used exclusively in pursuance of the charitable purposes set out in its Governing Document

Act with care and diligence:

- Ensure that the charity is run properly, responsibly and lawfully
- Act as guardians of the charity's assets
- Ensure that the charity is solvent
- Ensure the board is "fit for purpose" and that the trustees are working together
- Apply a duty of care to paid staff and volunteers
- Exercise reasonable business sense in concluding any contracts on behalf of the charity, including taking appropriate professional advice
- Agree and regularly review the strategy and policies of the charity
- Agree financial delegation and budgets, and monitor financial performance

Compliance with the Charities Act and other Legislation:

- Ensure that the charity complies with the provisions of the Charities Act and with the requirements imposed by other relevant legislation or regulators

Collective or Corporate Responsibility:

- Act collectively or corporately to realise the values and purposes of the charity and comply with legislative and regulatory requirements
- While able to delegate some functions (ie to committees, paid staff or volunteers) trustees cannot delegate accountability to others

² National Health Service (Scotland) Act 1978

³ NHS Lothian Charity (formerly Edinburgh and Lothians Health Foundation) Charter 2013

2. The specific duties of charitable trustees:

Supply charity details to the Scottish Charity Register including:

- Name, principal office, purposes

Reporting to OSCR:

- Basic information (charity details as above)
- Annual Return and Monitoring Return including accounts
- Notification of any changes to constitution or Governing Document (including where consent is required)

Financial record keeping and reporting:

- Ensure the keeping of accounting records of sufficient detail to:
 - Show income and expenditure
 - Record assets and liabilities
 - Disclose the financial position at any time
- Ensure the preparation of an annual statement of account, independently audited in accordance with SORP
- Ensure the provision of a signed copy of the statement of account, an Annual Return and a Monitoring Return to OSCR
- Ensure that accounting records are kept by the charity for six years from the end of the financial year to which they refer

Fundraising:

- Requires a formal agreement between the charity and professional fundraiser (or body)
- Consider (if necessary) an interdict banning fundraising on their behalf
- The Charities Act permits public benevolent collections
- Good practice to adopt the IoF Code of Practice⁴

⁴ Code of Fundraising Practice (Institute of Fundraising)

Providing information to the public:

- Ensure that the charity's details (on stationery, literature, marketing materials etc) show clearly that they are a legitimate charity and are registered
- Ensure public access to the charity's accounts, and governing document

3. Investment Powers of Trustees:

Trustees are entitled to make any kind of investment of the trust estate including a wider power to acquire stocks and shares. Trustees also have the power to acquire heritable property (ie land or buildings). Trustees' duties before making an investment are:

- Consider (as appropriate) the need for diversification of the charity's investments
- Consider the suitability of the proposed investments (ie ethical restrictions etc)
- Consider obtaining appropriate (ie professional) advice

Trustees also have powers to appoint nominees (ie an investment manager) for the purpose of investment. Trustees' duty of care in this regard is such:

- Appointed nominee is appropriate, skilled and expert
- Nominee appointment is in writing, outlining terms of appointment, direction and termination
- Nominee may not appoint a substitute
- Trustees may not restrict the liability of the nominee
- Nominee must not act in circumstances which give rise to a conflict of interest
- Trustees must keep nomination under review, and revoke the appointment if necessary

Consent from OSCR is not required with regard to investments or investment policy. Accounting regulations do require information to be provided within the annual accounts.

4. Disqualifications

Section 69 of the Charities Act disqualifies anyone who:

- Has an unspent conviction for dishonesty or an offence under the Charities Act
- Is an undischarged bankrupt
- Has been removed under either Scottish or English Law or the courts from being a trustee
- Is a person disqualified from being a Company Director

It is the responsibility of the individual trustees to ensure personally that they are not disqualified from being a trustee; the trustees collectively should ensure that no trustees are disqualified.

5. Breach of Duty

OSCR has a statutory duty to act if there is evidence of misconduct. Their action will be fair overall, and appropriate, but where necessary will apply consequential sanctions.

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In addition to the above statutory duties, each Trustee should use any specific skills, knowledge or experience s/he has to help the Board of Trustees reach sound decisions. These may involve scrutinising Board and Committee papers, leading discussions, focusing on key issues, providing advice and guidance on new initiatives and other issues in which the trustee has special expertise.