



# Trustees' duties at a glance (November 2015)

This is a summary of trustees' main legal responsibilities, taken from the Charity Commission website, which has more detail at: <https://www.gov.uk/government/publications/the-essential-trustee-what-you-need-to-know-cc3/the-essential-trustee-what-you-need-to-know-what-you-need-to-do>. The Commission says you should read the text below as a minimum and refer to the full guidance as necessary. In the text 'must' means it is a legal or regulatory requirement that trustees **must** follow and 'should' is the good practice the Commission expects trustees to follow, and explain why they don't if challenged. You should fully understand your responsibilities as a trustee and if uncertain seek further guidance from the Charity Commission website or Bournemouth CVS.

## **Make sure you are eligible to be a charity trustee**

You must be at least 16 years old to be a trustee of a charity that is a company or a charitable incorporated organisation (CIO), or at least 18 to be a trustee of any other charity.

You must be properly appointed following the procedures and any restrictions in the charity's governing document (i.e. its constitution or articles).

You must not act as a trustee if you are disqualified under the Charities Act, including if you:

- have an unspent conviction for an offence involving dishonesty or deception (such as fraud)
- are bankrupt or have entered into a formal arrangement (e.g. an individual voluntary arrangement) with a creditor
- have been removed as a company director or charity trustee because of wrongdoing

There are further restrictions for charities that help children or vulnerable people.

## **Ensure your charity is carrying out its purposes for the public benefit**

You and your co-trustees must make sure that the charity is carrying out the purposes for which it is set up, and no other purpose. This means you should:

- ensure you understand the charity's purposes as set out in its governing document
- plan what your charity will do, and what you want it to achieve
- be able to explain how all of the charity's activities are intended to further or support its purposes
- understand how the charity benefits the public by carrying out its purposes

Spending charity funds on the wrong purposes is a very serious matter; in some cases trustees may have to reimburse the charity personally.

## **Comply with your charity's governing document and the law**

You and your co-trustees must:

- make sure that the charity complies with its governing document

- comply with charity law requirements and other laws that apply to your charity

You should take reasonable steps to find out about legal requirements, for example by reading relevant guidance or taking appropriate advice when you need to.

### **Act in your charity's best interests**

You must:

- do what you and your co-trustees (and no one else) decide will best enable the charity to carry out its purposes
- with your co-trustees, make balanced and adequately informed decisions, thinking about the long term as well as the short term
- avoid putting yourself in a position where your duty to your charity conflicts with your personal interests or loyalty to any other person or body
- not receive any benefit from the charity unless it is properly authorised and is clearly in the charity's interests; this also includes anyone who is financially connected to you, such as a partner, dependent child or business partner

### **Manage your charity's resources responsibly**

You must act responsibly, reasonably and honestly. This is sometimes called the duty of prudence. Prudence is about exercising sound judgement. You and your co-trustees must:

- make sure the charity's assets are only used to support or carry out its purposes
- avoid exposing the charity's assets, beneficiaries or reputation to undue risk
- not over-commit the charity
- take special care when investing or borrowing
- comply with any restrictions on spending funds or selling land

You and your co-trustees should put appropriate procedures and safeguards in place and take reasonable steps to ensure that these are followed. Otherwise you risk making the charity vulnerable to fraud or theft, or other kinds of abuse, and being in breach of your duty.

### **Act with reasonable care and skill**

As someone responsible for governing a charity, you:

- must use reasonable care and skill, making use of your skills and experience and taking appropriate advice when necessary
- should give enough time, thought and energy to your role, for example by preparing for, attending and actively participating in all trustees' meetings

### **Ensure your charity is accountable**

You and your co-trustees must comply with statutory accounting and reporting requirements. You should also:

- be able to demonstrate that your charity is complying with the law, well run and effective
- ensure appropriate accountability to members, if your charity has a membership separate from the trustees
- ensure accountability within the charity, particularly where you delegate responsibility for particular tasks or decisions to staff or volunteers

This information sheet was produced by:

**Bournemouth Council for Voluntary Service**

Boscombe Link, 3-5 Palmerston Road, Bournemouth BH1 4HN

01202 466130

[contactus@bournemouthcvs.org.uk](mailto:contactus@bournemouthcvs.org.uk)

[www.bournemouthcvs.org.uk](http://www.bournemouthcvs.org.uk)

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