

# Responsibilities of Trustees

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## Introduction

The Charities Commission (CC) produce:

1. a pamphlet, C.C.3 "Responsibilities of Charity Trustees"; and
2. an information sheet (copy supplied).

In the pamphlet (page 2), CC stresses that **“trusteeship carries legal responsibilities and duties. It is not a position of honour without responsibility it requires time, understanding and effort.”** Yet as you can see from the opening lines of the information sheet CC **“would not wish fear of liability to discourage people from becoming trustees.”**

## What are our responsibilities as Trustees?

1. To apply the income and property of the Charity (i.e. the Trust) for the purposes set out in the Trust's constitution (copies previously supplied). Those assets must be applied with complete fairness between those who are qualified to benefit from the Charity.
2. To act reasonably and carefully in all matters relating to the Charity, always bearing in mind the interests of the Charity. Therefore:
  - a. We should not allow personal views or prejudices affect our conduct as Trustees. We need to exercise the same degree of care in dealing with the running of the Charity as a prudent businessman would exercise in managing his own affairs or the affairs of someone else for whom we are responsible;
  - b. where Trustees are required to make a decision which affects the personal interests of one of the Trustees, that Trustee should not be present at any discussion or vote on the matter.
3. It is the duty of the whole group of Trustees to decide on matters concerning the Charity. The Committee of Management has decided to delegate day to day management and the moving Forward of the new Community Centre to a management sub—committee, which reports to the Committee of Management at meetings such as this. But any decision made is a collective decision i.e. that of all the Trustees.
4. Similarly, while we can employ professionals, such as surveyors, to advise us on technical matters as well as use them to put our decisions into effect, we are still responsible to ensure that we retain overall control so need to set down in writing the limitations of their authority to act. At present we have only one part—time employee once the new Community Centre is built we are also likely to need a caretaker. It would then be wise to have written job descriptions as well as a written contract of employment. As the information sheet states we need to comply with employment law requirements which are increasing all the time, especially from Europe.
5. We have a general duty to protect all the Charity's property (including books, documents and Financial records).
6. We are accountable for the solvency of the Charity and so must exercise overall control over its financial affairs (this includes having adequate control systems).
7. In the case of our land and buildings we are responsible for their condition, maintenance and to ensure appropriate and adequate insurance cover.

## What are our liabilities as Trustees?

8. If we act carefully, lawfully and in line with our constitution then any liabilities we incur as Trustees can be met out of the Charity's assets.
9. If we go beyond that we may be in breach of Trust and so personally liable to meet any claim on the Charity's assets arising from our actions, or to make good any loss that the Charity suffers. As we act collectively/jointly in running the Charity, we are collectively/jointly responsible to meet any liability created by us or on our behalf. The Charity Commission can, however sue us personally for the losses suffered by the Charity.
10. We should avoid making contracts on the Charity's behalf which are well beyond its capacity to afford. Should we incur liabilities or debts greater than the Charity's assets, we may be sued personally for the difference by those owed money by the Charity.

## Protection by Insurance?

11. We can use Community Centre funds to take out insurance against our 'possible personal liability where the acts causing the loss are acts properly undertaken in running the Community Centre. We can do so even where the acts are in breach of trust as long as the breach is a result of an honest mistake. But before doing so we must be authorised by our Constitution and justified as being in the interests of the Charity, not in our interests as Trustees. We should consider in assessing whether it is justified
  - a. the nature of the Charity's activities
  - b. the degree of risk of personal liability to which we are exposed
  - c. the number of trustees
  - d. the value of the indemnity required
  - e. the cost to the Charity of paying the premiums demanded.
12. We can use the Charity's funds to insure the Charity against loss to its own funds as a result of the Trustees breach of trust.