



The 'Fit and Proper Persons test': a basic guide for charity managers

This guide is for 'managers' of a charity, Community Amateur Sports Club (CASC) or other organisation entitled to UK charity tax reliefs. The term 'managers' applies to the trustees of charities, directors of corporate charities, CASC officials, any other officials having day to day control over the running of the charity and any other persons who are able to exert direction or influence over the running of the charity or the application of its assets. For example:

- In a typical small local charity a manager for the purposes of the fit and proper persons test could include the Chairperson, Treasurer, Secretary and the rest of the management committee who would have control over expenditure.
- In a larger charity a manager for the purposes of the fit and proper persons test would include all trustees or directors of a corporate charity but may also extend to certain employees who are able to determine how a significant proportion of the charity's funds are spent. For example, most large charities have a Board of Trustees and an Executive Board of senior employees. In such a case the trustees and members of the Executive Board would be managers of the charity.

If you are a 'manager' of a charity you should read this guide and, if appropriate, sign the model declaration below. The charity, CASC or other organisation entitled to charity tax reliefs should keep the signed declaration in case HMRC ask to see it. The signed form should not be sent to HMRC unless they ask to see it.

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

The 'fit and proper persons' test exists to ensure that charities, CASCs and other organisations entitled to charity tax reliefs are not managed or controlled by individuals who might misuse the valuable tax reliefs the organisation receives. Unfortunately fraudsters have been known to exploit charity tax reliefs so the fit and proper persons test exists to help prevent that.

What does 'fit and proper' mean?

An individual is 'fit and proper' if they ensure that charity funds and tax reliefs are used only for charitable purposes.

In signing the declaration below 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 'fit and proper'.

When a charity notifies HMRC of certain new managers, 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 that may lead to HMRC deciding that an individual manager is not a fit and proper person include individuals:

- with a history of tax fraud or other fraudulent behavior including misrepresentation and/or identity theft
- for whom HMRC have knowledge of involvement in attacks against, or abuse of, tax repayment systems
- barred from acting as a charity trustee by a charity regulator or Court, or being disqualified from acting as a company director

However, just because an individual has been, say, barred from acting as a charity trustee or one of the other points above applies, it does not 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.

What do I need to do?

- If you are confident you will do your best to ensure that charity funds and tax reliefs are used only for charitable purposes and do not need to disclose any information listed on the declaration then you should sign the 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 pass your details to HMRC. If HMRC have any concerns about you they will contact you to clarify the situation.



Model Declaration for Fit and Proper Persons

Declaration

Name of organisation in full.....

Name of individual.....

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.
- 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 ensure the charity's funds, and charity tax reliefs received by this organisation, are used only for charitable purposes.

Signed.....

Date.....

Home address.....

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Previous address if moved in past 12 months

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Date of birth.....

National Insurance number.....

National Identity Card Number (if appropriate).....

If you have signed this declaration but want to make any information known or clarify any points please add them to the reverse of this sheet