

Application for a waiver of disqualification

Section 69 of the Charities and Trustee Investment (Scotland) Act 2005

This is an application to OSCR for a waiver of automatic disqualification.

This form should be used by individuals who are disqualified from:

- acting as a charity trustee or
- undertaking a senior management function in a charity,

but who want to apply for a waiver of the disqualification in relation to a particular charity, type of charity or to charities in general.

The [Charities and Trustee Investment \(Scotland\) Act 2005](#) provides that 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.

The full list of the disqualification criteria is set out at [Annex 1](#) of our [guidance](#).

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.

Every charity trustee and anyone undertaking a senior management function for a charity must ensure that they comply with the law.

If you are disqualified but want to apply for a waiver to allow you to act as a charity trustee or undertake a senior management function within a charity, you should read our [guidance on automatic disqualification](#) first and must then fully complete this form so that we can assess your application.

Please note you will remain disqualified unless we grant a waiver.

A person who serves as a charity trustee or undertakes a senior management function in a charity while disqualified under section 69 of the 2005 Act is guilty of an offence and liable:

- a) on summary conviction, to imprisonment for a period not exceeding six months or a fine not exceeding £5,000 or both,
- b) on conviction on indictment, to imprisonment for a period not exceeding two years or a fine or both

Your details

Title First name

Last name

Address

Postcode	<input type="text"/>

Tel no.

Mobile no.

Email

Type of waiver

What type of waiver are you applying for? Please select one option

A waiver that is specific to one or more charities	<input type="checkbox"/>
A waiver that applies to a specific group or type of charity	<input type="checkbox"/>
A waiver that would apply to all charities	<input type="checkbox"/>

Charity details

If you are applying for a waiver that is specific to one or more charities, provide the charity name and number of those charities

If you are applying for a waiver that applies to a specific group or type of charity, provide details of the group or type of charity

Please tell us about the role you want to have:

A charity trustee	
A role undertaking a senior management function	
Both	

If you want to have a role that includes undertaking a senior management function, what is the role you want to have?

Chief Executive (or equivalent) with overall responsibility for the management of the charity and accountable only to the charity trustees	
Chief Finance Officer (or equivalent) with overall responsibility for the overall management and control of the charity's finances and accountable only to the chief executive or the charity trustees	

What will your key responsibilities be?

A full job or role description should be sent to us with this form if available.

Date	Time	Location	Description
2023-10-26	08:00	Forest A	Initial survey of Forest A. No significant findings.
2023-10-26	10:30	Forest B	Survey of Forest B. Observed 12 individuals of species X.
2023-10-26	13:00	Forest A	Re-survey of Forest A. Found 5 new individuals.
2023-10-27	07:00	Forest C	Early morning survey of Forest C. No sightings.
2023-10-27	09:30	Forest B	Survey of Forest B. Recorded 8 individuals.
2023-10-27	12:00	Forest A	Midday survey of Forest A. Found 3 individuals.
2023-10-27	14:30	Forest C	Survey of Forest C. Observed 15 individuals.
2023-10-28	08:00	Forest B	Survey of Forest B. No sightings.
2023-10-28	10:30	Forest A	Survey of Forest A. Found 10 individuals.
2023-10-28	13:00	Forest C	Survey of Forest C. Observed 7 individuals.
2023-10-28	15:30	Forest B	Survey of Forest B. Found 9 individuals.
2023-10-29	07:30	Forest A	Early morning survey of Forest A. No sightings.
2023-10-29	09:00	Forest C	Survey of Forest C. Observed 11 individuals.
2023-10-29	11:30	Forest B	Survey of Forest B. Found 6 individuals.
2023-10-29	14:00	Forest A	Survey of Forest A. Observed 14 individuals.
2023-10-29	16:30	Forest C	Survey of Forest C. Found 8 individuals.
2023-10-30	08:30	Forest B	Survey of Forest B. No sightings.
2023-10-30	10:00	Forest A	Survey of Forest A. Observed 9 individuals.
2023-10-30	12:30	Forest C	Survey of Forest C. Found 13 individuals.
2023-10-30	15:00	Forest B	Survey of Forest B. Observed 11 individuals.
2023-10-30	17:30	Forest A	Survey of Forest A. Found 7 individuals.
2023-10-31	07:00	Forest C	Early morning survey of Forest C. No sightings.
2023-10-31	09:30	Forest B	Survey of Forest B. Observed 10 individuals.
2023-10-31	12:00	Forest A	Survey of Forest A. Found 12 individuals.
2023-10-31	14:30	Forest C	Survey of Forest C. Observed 8 individuals.
2023-10-31	17:00	Forest B	Survey of Forest B. Found 9 individuals.
2023-11-01	08:00	Forest A	Survey of Forest A. No sightings.
2023-11-01	10:30	Forest C	Survey of Forest C. Observed 14 individuals.
2023-11-01	13:00	Forest B	Survey of Forest B. Found 11 individuals.
2023-11-01	15:30	Forest A	Survey of Forest A. Observed 13 individuals.
2023-11-01	18:00	Forest C	


Yes	
No	

If yes, it is a criminal offence to continue to act as a charity trustee or undertake a senior management function in a charity whilst disqualified.

Are you a charity trustee or undertaking a senior management function in another charity?

Yes	
No	

Tell us the charity name(s) and number(s) and what position(s) you hold



Reason for disqualification

Why are you disqualified?

I have an unspent conviction, specifically for:

an offence under the 2005 Act	
an offence under section 77 of the Charities Act 2011	
an offence under section 13 or 19 of the Terrorism Act 2000	
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	
a money laundering offence within the meaning of section 415 of the Proceeds of Crime Act 2002	
an offence under any of the following sections 1, 2, 6 or 7 of the Bribery Act 2010	
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. subornation of perjury	
an offence of wilful neglect of duty by a public official	
an offence, under the law of England and Wales, of misconduct in public office	
any other offence involving dishonesty	
an offence committed by aiding, abetting, counselling, procuring or inciting the commission of any of the offences detailed above	
an offence committed by attempting or conspiring to commit any of the offences detailed above	

I have an Individual Voluntary Arrangement, debt order and or a bankruptcy order:

I am an undischarged bankrupt	
I have an undischarged Protected Trust Deed (PTD)	
I 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)	
<p>I am subject to a bankruptcy related measure, that is:</p> <ul style="list-style-type: none"> i. I am 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 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 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) 	

Other reasons for disqualification:

I am disqualified from being a company director	
I have 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 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 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 been found guilty of contempt by a Court in England and Wales in civil proceedings for making a false disclosure statement	
I have 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 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	
<p>I am a designated person under the following anti- terrorist legislation:</p> <ul style="list-style-type: none"> i. regulations 8 to 12 of the ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (EU Exit) Regulations 2019, ii. regulations 11 to 15 of the Counter-Terrorism (International Sanctions) (EU Exit) Regulations 2019, iii. regulations 11 to 15 of the Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019 	
I am subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 (i.e. I am not on the sex offenders register).	

Explain the circumstances that led to your disqualification

Explain the situation or circumstances of your conviction.

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If your disqualification is not as a result of a criminal conviction, explain the factors that led to your disqualification

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Explain any steps taken to address the factors that led to your disqualification

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When did the event happen?

DD	MM	YY
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When will your disqualification come to an end?

For example, when will your conviction become spent, when will you cease to be subject to the notification requirements of Part 2 of the [Sexual Offences Act 2003](#) or when will your bankruptcy be discharged.

If your conviction will never be spent or you will always be subject to the notification requirements of Part 2 of the Sexual Offences Act 2003, please state that.

Support from the charity

You must attach a statement to this application from the current charity trustees that provides the information below. It must be clear the statement is from the charity. For example, it should either be on the charity's letterhead or is an email from their official email address. The statement should also be signed by a charity trustee on behalf of all of the Board.

Confirm that the statement addresses the following:

Whether a quorate majority of the charity trustees support the waiver application	
Why the charity trustees consider that you are the best appointment, for example, what special skills do you have which are not otherwise available?	
Why you cannot act in an advisory capacity rather than as a charity trustee or senior manager?	
How the charity trustees have assessed, and managed any risk to the charity and its assets in making or maintaining your appointment?	
What the charity trustees have considered in relation to the reputation of the charity if your appointment is made or maintained?	
If your disqualification has resulted in legal limitations on your activities, the charity trustees' view on whether these could adversely impact the charity.	

Additional information

Do you give permission for OSCR to contact all the trustees of the charity about any information you have provided in this application?

This may include the reason you have told us why you are disqualified.

Yes	
No	

Provide your reason(s) why you do not give your permission for OSCR to contact all the trustees of the charity or charities about any of the information you have provided in this application.

We will contact you about the information you have provided.

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Is there any additional information that you believe is relevant to your application?

For example, are there extenuating circumstances that we should take into account when considering your application.

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Supporting documents

Supporting documents can be sent by email or post. Please indicate below what supporting documents you are sending.

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Confirmation that you wish to apply for a waiver for automatic disqualification

Please note that it is an offence to knowingly provide incorrect information. You may be committing an offence if you give an answer that you know is untrue or misleading. I certify that the information entered in this form is correct to the best of my knowledge. I confirm that the information entered has been approved by the charity trustees and I am authorised to submit this information.

Print name

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Date

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Please send your completed form by email to info@oscr.org.uk or by post to:

OSCR, Quadrant House, 9 Riverside Drive, Dundee, DD1 4NY.