

Meet the Scottish Charity Regulator



SFHA Governance conference
8 September 2018

About us

We are the regulator and registrar for Scotland's charities.



Our vision



***Charities you can trust and
that provide public benefit***

What we aim to do



**Help the public to
have more
confidence in
charities**



**Help charity trustees
to understand and
comply with their
legal duties**



**Ensure registration
and reporting is
straightforward and
proportionate**



**Review and improve
the way we operate
and deliver services
to all of our
stakeholders**

Our functions

- Registration
 - Applying to become a charity
 - Giving consent to changes
- Engagement
 - Guidance and support on how to run your charity
- Monitoring & enforcement
 - Making sure **charities** and **charity trustees** comply with the law

Over to you

**‘Charity’ – what does it
mean to you?**

**What makes your
organisation a charity?**

What kind of organisations are charities?

Over 24,000 registered charities in Scotland

- Churches
 - Sports clubs
 - Universities
 - Scout and guide units
 - Community centres
- and 150 Registered Social Landlords!

What is a charity?

An organisation on the Scottish Charity Register

Must meet the charity test:

- Charitable purposes
- Public benefit
- Assets only used for charitable purposes

RSL Purposes

- **2.1 to provide for the relief of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage through the provision, construction, improvement and management of land and accommodation and the provision of care**
- 2.2 any other purpose or object permitted under Section 24 of the Housing (Scotland) Act 2010 which is charitable both for the purposes of Section 7 of the Charities and Trustee Investment (Scotland) Act 2005 and also in relation to the application of the Taxes Acts.

What is a charity trustee?

The law says:

“the persons having the general control and management of the administration of a charity”

In an RSL – members of the Management Committee or Board of Management

Legal duties



There are two overarching duties:

1. Act in the interests of the charity
2. Comply with the 2005 Act
(the specific duties)

Charity trustee duties

You must act in the interests of the charity:

- You must act in a manner consistent with the charity's purpose
- You must act with care and diligence
- You must manage any conflict of interest between the charity and any person or organisation who has appointed you



REMEMBER!

Charity trustees have **collective responsibility** and are **accountable** for all that happens in the charity, even if certain aspects are delegated to staff

1. Purpose



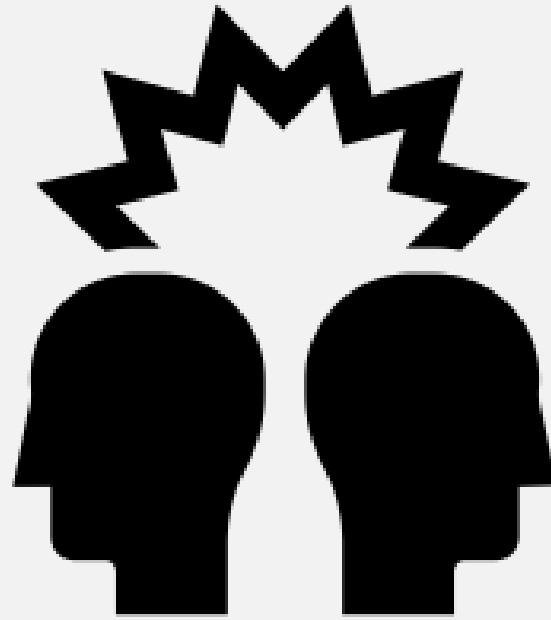
- **A charity's purposes are** what the charity has been set up to achieve and are **the reason the charity exists**
- It is the responsibility of the trustees to act in a manner consistent with the purpose

2. Care and diligence



- Responsible for protecting the charity – reputation, assets, beneficiaries, staff, volunteers
- High standard of care
- Good decision making
- ***SHR Regulatory Standards of Governance and Financial Management***

3. Conflict of interest



Any conflict of interest needs to be managed appropriately

Conflict of interest

Identify

- Be clear what could be a conflict of interest
- Have a conflict of interest policy

Manage

- Have clear procedures to deal with conflicts that arise
- Where there is a conflict make sure the charity can still carry on its business

Record

- Keep a written record of the situation, what the charity did and why

Learn

- Reflect on the experience and make improvements to the policy and procedure where needed

Over to you...

Think of an example of conflict of interest in an RSL

How would you handle it in your board?

Teamwork

- Part of the trustee role is to work together as part of a team with other trustees (the board)
- The board works together to achieve the organisational purpose of the charity
- They are leaders of the charity, all there to achieve the mission of the charity together using the powers they have



ALL

charity trustees have legal duties
and responsibilities under the
Charities and Trustee Investment
(Scotland) Act 2005

Collective responsibility



Charity trustees are not only responsible for their own actions, they are also responsible for the actions and decisions taken by the charity trustees when acting together

Powers



- The governing document is the source of trustee power and establishes the purpose
- It guides charity trustees on how to make legal decisions for their charity
- It provides the power to elect charity trustees

Good decision making

- Have the right information to make decisions
- Make decisions in line with rules set out in your in your governing document
- Record the decisions
- Be able to justify your decisions if necessary

Specific duties

You must comply with the 2005 Act:

- ✓ Charity details on the Scottish Charity Register
- ✓ Reporting to OSCR – making changes
- ✓ Financial records and reporting
- ✓ Fundraising
- ✓ Providing information to the public

OSCR and SHR

Memorandum of Understanding:

- SHR as lead regulator for RSLs
 - housing services delivery
 - financial well-being
 - standards of governance
- Working together to minimise burden on RSLs

OSCR and SHR

When will OSCR get involved?

- Serious or sustained mismanagement or misconduct by governing body members
- Improper or illegal activity by governing body members
- Fraudulent activity/involvement in bribery

Targeted regulation

- Six priorities:

- Deliberate mismanagement of charities
- Criminal activity (including safeguarding issues)
- Charity trustee lack of knowledge
- Attempts to gain charitable status for private benefit
- Lack of clarity of the charity brand – bodies at the margins of charitable status and/or with complex or novel structures
- Charities that don't provide public benefit

SHR Regulatory Standards

Charity Trustee duties

- general principles applicable to all charities

SHR Regulatory standards

- more detailed requirements
- specific, how-to, industry standards

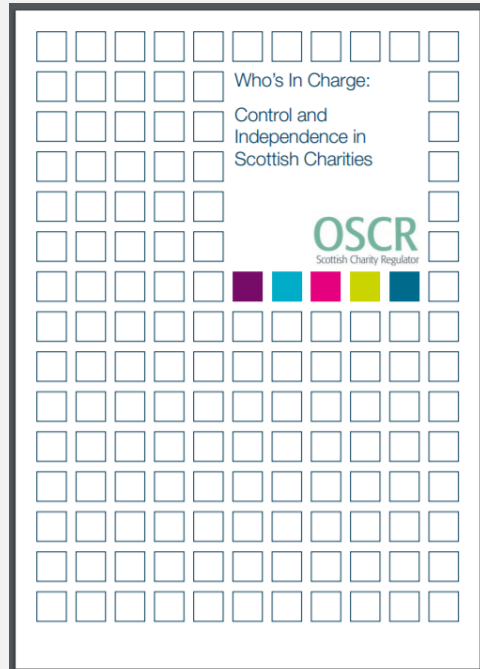
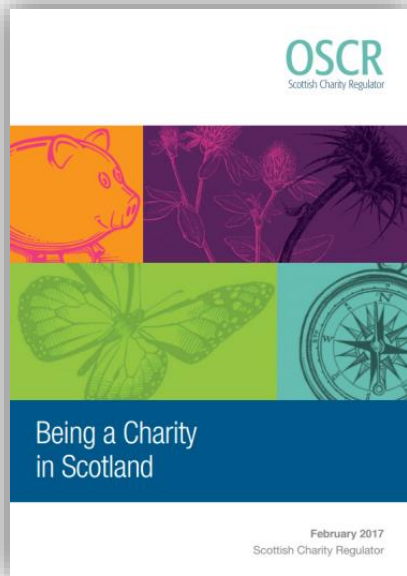
‘take account of charitable status in each decision you make’

Over to you...

What is the impact of being a charity on your organisation?

When did it last come up at a board meeting?

Guidance is available



This and more available at:

www.oscr.org.uk

www.oscr.org.uk

Questions?

OSCR

Scottish Charity Regulator

www.oscr.org.uk

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