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**CHARITY COMMISSION  
FOR ENGLAND AND WALES**

(<https://www.gov.uk/government/organisations/charity-commission>)

Guidance

# Managing faith charities as trustees

Updated 28 July 2021

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This publication is available at <https://www.gov.uk/government/publications/faith-based-charities/managing-faith-charities-as-trustees>

## Check if you should register your faith organisation with the Charity Commission

Places of worship such as churches, gurdwaras, mandirs, mosques, synagogues, temples and viharas are normally charities.

This is because they normally have 'exclusively charitable purposes'. This means that everything they do is for the public benefit and fits within the legal descriptions of charitable purposes in England and Wales. These include:

- advancement of religion
- prevention or relief of poverty
- advancement of education

Other religious organisations will also be charities if their purposes are 'exclusively charitable'. These include organisations like religious supplementary schools, religious choirs and missionary organisations.

You must register your organisation as a charity if it has charitable purposes for the public benefit and (both of the following):

- it's based in England or Wales
- it has income over £5,000 (from all sources)

This does not currently apply to some churches: find out about churches that are excepted from registration (<https://www.gov.uk/government/publications/excepted-charities/excepted-charities--2#church-charities>).

If you want to set up a charitable incorporated organisation (CIO), you will need to apply to register whatever its income. Skip to 'Legal structures of charities'.

How to register a charity (<https://www.gov.uk/guidance/how-to-register-your-charity-cc21b>)

## Benefits of registering

There can be financial and other benefits of registering your charity including:

- Gift Aid and other tax advantages, like on income tax and stamp duty
- business rates relief
- better access to grant funding
- improved public trust and confidence in your organisation, including from having a registered charity number and information being shown on the public register

## Gift Aid and Gift Aid small donations scheme

Gift Aid is run by HMRC. It means that you can claim back up to 25p every time an individual donates £1 to your charity. You'll need to meet certain conditions, including getting a Gift Aid declaration from the donor.

Rules for claiming Gift Aid as a charity (<https://www.gov.uk/claim-gift-aid>)

Gift Aid small donations scheme (<https://www.gov.uk/claim-gift-aid/small-donations-scheme>) may mean you can claim a top up payment on cash or contactless donations of £30 or less without a Gift Aid declaration, providing the rules of the scheme are met.

If you hold a Gift Aid declaration for the donor, you must claim Gift Aid and not use the Gift Aid Small Donations Scheme.

## Legal structures of charities

It is important that trustees know both:

- their charity's legal structure
- if the charity is 'incorporated' or 'unincorporated'

You may have specific legal duties that go with your structure. For example, charitable incorporated organisations (CIOs) are required to comply with CIO regulations and charitable companies are required to comply with company law.

If you are not sure which legal structure you have, look at your governing document. The type of governing document you have will depend on your legal structure.

There are 4 main types of structure.

**Trust:** has a Trust Deed as a governing document and is unincorporated.

**Unincorporated association:** has a Constitution as a governing document and is unincorporated.

**Charitable incorporated organisation (CIO):** has a CIO Constitution as a governing document and is incorporated.

**Charitable company:** has a Memorandum and Articles of Association as a governing document and is incorporated.

**Important guidance** Read our 5-minute guide 'Charity purposes and rules' (<https://www.gov.uk/guidance/charity-purposes-and-rules>). It tells you about governing documents and how to use and update them.

## Unincorporated charities

Many faith charities are unincorporated.

If your charity is unincorporated, it means:

- you have less protection from personal liability than trustees of incorporated charities
- the charity cannot enter into contracts or employ people - the trustees need to do this personally
- the charity cannot hold the legal title to land

## Converting to an incorporated charity

Find out how to change your charity structure (<https://www.gov.uk/guidance/change-your-charity-structure>), if you want to convert an unincorporated charity to incorporated.

## Holding trustees for land

Unincorporated charities cannot hold property in their own name. It must be held for the charity by trustees.

If the charity trustees do not want to hold legal title for any land or other property themselves, they can appoint either:

- holding trustees (other individuals)
- a custodian trustee (a company or other corporate body that has power to hold property for the charity)
- a nominee

The governing document may explain how to do this.

Sometimes holding trustees are called 'property trustees' in the charity's governing document.

The name of the holding trustees will be shown at HM Land Registry or on title deeds as the persons holding the legal title to land on trust for the charity.

If the charity has holding trustees, you must update the Land Registry whenever the holding trustees change, for example, due to retirement or death.

### **The role of a holding trustee**

Holding trustees are not charity trustees. They cannot make decisions about the management of the charity or its property. They must follow the lawful directions of the charity trustees.

It's very important that holding trustees understand their role and its limits. Failure to do so can prevent the charity trustees from being able to run their charity properly. This can cause or prolong disputes.

### **Vesting property in the Official Custodian for Charities**

Trustees of unincorporated charities may wish to consider 'vesting' the property in the Official Custodian for Charities' 'land holding' service (<https://www.gov.uk/government/publications/the-official-custodian-for-charities-land-holding-service-cc13>).

The benefits of this include:

- no need to update the Land Registry whenever the charity trustees or holding trustees change
- no possibility that holding trustees could attempt to act independently of the charity trustees

### **Trustees of faith charities**

All charities are managed and controlled by trustees.

### **Who the trustees are**

Your charity's governing document says who the trustees are. You should be clear about who is and is not a trustee.

In some cases, the trustees may be called something different. For example:

- committee members

- directors

Some governing documents will say that some posts in the charity - like the minister of religion - are automatically trustees.

If there is a dispute over who the validly appointed trustees are, it is your responsibility as trustees to try to resolve it. The Commission can only get involved in exceptional circumstances.

Disagreements and disputes in charities (<https://www.gov.uk/guidance/disagreements-and-disputes-in-charities>)

## Legal duties of trustees

All trustees have legal duties. For example, your trustees must:

- comply with your charity's governing document and the law
- manage your resources responsibly

Where risks are higher, trustees need to take greater steps to comply with these duties.

**Important guidance** Read 'Charity trustee: what's involved (<https://www.gov.uk/guidance/charity-trustee-whats-involved>)'. It tells you the main legal duties for charity trustees.

## Appointing faith charity trustees

A faith charity's governing document may have requirements around who the trustees can be.

For example, that they:

- agree with a statement of faith
- are members of the faith organisation itself

Charities should appoint trustees who have the skills and experience to run the charity well and who will represent the charity's beneficiaries.

As long as you follow your governing document, you are free to recruit trustees from as wide a pool as necessary to get the right people.

Always consider advertising the position. This is particularly important where you need to recruit a trustee with specific skills, like digital, fundraising, legal or accountancy.

Always check that any prospective trustees are not disqualified (<https://www.gov.uk/guidance/automatic-disqualification-rules-for-charity-trustees-and-charity-senior-positions>).

How to recruit and appoint trustees (<https://www.gov.uk/government/publications/finding-new-trustees-cc30/finding-new-trustees>)

## What to do when new trustees join the charity

All new trustees who have registered their email address will receive a welcome pack from the Commission (<https://www.gov.uk/government/publications/charity-trustee-welcome-pack/charity-trustee-welcome-pack>) which focuses on the main duties of the role.

It is important that new trustees receive all the necessary information and have a proper induction process from the charity itself. This will usually include setting out the behaviours and standards that are expected of them as trustees.

The Charity Governance Code (<https://www.charitygovernancecode.org/en>), which we support, recommends that trustees of all charities adopt and follow a suitable code of conduct.

## Religious or spiritual leaders as trustees

A religious leader (such as a Granthi, Imam, Priest or Rabbi) can be a trustee of a charity, unless this is not allowed by the charity's governing document.

In some cases, the governing document will require that a religious leader is also a trustee.

Religious leader trustees should have the same level of involvement, participation and responsibility in decision making as all other trustees. This is unless the charity's governing document says something different.

Religious leader trustees can provide guidance on spiritual matters. But decisions about the charity must be made by all trustees acting together.

## Conflicts of interest

Trustees must make decisions based on what's best for their charity. They must not allow their personal interests, or the interests of people or organisations connected to them, to influence decisions.

**Important guidance** Read our 5-minute guide 'Managing conflicts of interest in a charity' (<https://www.gov.uk/guidance/managing-conflicts-of-interest-in-a-charity>). It tells you how to identify and deal with conflicts of interest.

## Paying trustees who are also charity employees

Trustees are normally unpaid volunteers. However, trustees can receive payments from the charity in some circumstances (<https://www.gov.uk/government/publications/trustee-expenses-and-payments-cc11/trustee-expenses-and-payments#key-points-about-expenses-and-trustee-payments>), like travel and other costs when attending meetings.

In some cases, trustees are also employees of the charity. This may be as a spiritual leader or another role, like providing administrative support.

If this trustee receives a payment for their role as an employee, this must be explicitly allowed by either the charity's governing document or the Charity Commission.

This also applies to someone connected to a trustee, like their spouse or a relative.

Employing a trustee or connected person (<https://www.gov.uk/government/publications/trustee-expenses-and-payments-cc11/trustee-expenses-and-payments#employing-a-trustee-or-connected-person>)

## Paying trustees for services

If a trustee or connected person who is not an employee wants to provide services to the charity, you may be able to do this.

There may be a specific power in your governing document or you could use the 'statutory power' in section 185 of the Charities Act 2011.

Find out about when and how trustees can be paid for services

(<https://www.gov.uk/government/publications/trustee-expenses-and-payments-cc11/trustee-expenses-and-payments#paying-trustees-for-services>). You must take the guidance linked to here into account before using the 'statutory power'.

## **Example: paying a trustee or a person connected to a trustee to do building or renovation work in a place of worship**

Places of worship and other faith charities which have premises often wish to enlarge or renovate those premises. Some faith charities build new premises (including places of worship) from the ground up.

In some cases, faith charities wish to use a business owned or partially owned by a trustee (or someone who is connected to the trustee like a spouse or other family member) to do the work.

This is normally because that business offers a lower price than the market rate for the same building work they could get elsewhere.

The other trustees should consider their governing document to find out if it explicitly authorises such a payment. Most governing documents would not.

As long as the governing document does not prohibit the payment, the trustees can use the power in the Charities Act 2011 ('the statutory power'), provided they take account of our guidance, and meet the necessary conditions at section 4.3 of our guidance

(<https://www.gov.uk/government/publications/trustee-expenses-and-payments-cc11/trustee-expenses-and-payments#s4-3>). These include making sure that both the:

- level for the payment is reasonable
- trustee concerned is not involved in any decision making about the payment

## **Reporting serious incidents**

Trustees must report serious incidents (<https://www.gov.uk/guidance/how-to-report-a-serious-incident-in-your-charity#what-to-report>) which have taken place in their charity to the Charity Commission.

Serious incidents include loss and theft of your charity's property, and harm to people who come into contact with your charity.

## **Safeguarding**

Safeguarding should be a governance priority. This means that trustees should:

- assess the risks associated with your activities
- ensure your policies and procedures properly respond to those risks to protect your staff, volunteers, beneficiaries and other people who come into contact with your charity
- take expert or professional advice where you need it - you may be able to get this from a larger faith group or umbrella body if you are part of one

If your charity works with children or adults at risk (<https://www.gov.uk/guidance/safeguarding-duties-for-charity-trustees#children-adults-at-risk>), there are more things trustees should do. These include:



- appointing a safeguarding lead
- making sure your staff and volunteers receive regular training

**Important guidance** All trustees should read our guidance on safeguarding and protecting people for charity trustees (<https://www.gov.uk/guidance/safeguarding-duties-for-charity-trustees>).

## Safeguarding risks for faith charities

Some factors common to faith charities may increase safeguarding risks.

For example, places of worship:

- are often 'open door' and anybody can participate in their services
- often work with children or adults at risk
- may have people in positions of 'religious authority', which others may find more difficult to challenge
- may generate relationships which continue outside of the place of worship
- may view trusting people or helping people to rehabilitate as a part of religious expression

## Organisations that can give safeguarding advice

A number of external bodies provide safeguarding advice to faith organisations, including:

- The National Society for the Prevention of Cruelty to Children (NSPCC) (<https://learning.nspcc.org.uk/safeguarding-child-protection/for-faith-communities>)
- Thirtyone:eight (<https://thirtyoneeight.org/>) is a Christian charity which provides safeguarding support to all faith groups

## Handling and reporting incidents and concerns of abuse

Trustees must act quickly, ensuring you stop or minimise further harm or damage.

What to do if you have an incident or allegation of abuse (<https://www.gov.uk/guidance/safeguarding-duties-for-charity-trustees#handle-and-report-incidents-and-concerns>) in your charity.

The Office for Civil Society's safeguarding tool (<https://safeguarding.culture.gov.uk/>) sets out the steps you should take in response to a safeguarding allegation or concern about a person in the charity. This includes employees, volunteers or any other person working with the charity.

This includes guidance on:

- which official bodies you should report allegations of abuse to
- when to report
- further things you need to do

## Get checks on trustees, staff and volunteers

You must make sure that trustees, staff and volunteers are suitable and legally able to act in their positions.

## Checks you may need to make on trustees, staff and volunteers

(<https://www.gov.uk/guidance/safeguarding-duties-for-charity-trustees#get-checks-on-trustees-staff-and-volunteers>)

### Disclosure and Barring Service (DBS) – criminal records checks

The level of DBS check you can get for staff, volunteers and trustee roles depends on the activities those roles undertake with children or vulnerable adults.

All roles are entitled to get at least a basic check.

Roles in faith centres will often be eligible for a higher level of check, like an enhanced check, or an enhanced with barred list check.

If a role is eligible to get a higher level of check, make sure the person in that role gets that check.

DBS checks for faith centres (<https://www.sfitogether.org/db-checks-faith-centres/>). This includes checks you should do when recruiting staff and volunteers from overseas.

## Managing charity finances

Trustees need to put in place proper internal financial controls. This is to ensure that the charity's money and property are handled properly and only used for approved purposes.

All organisations are susceptible to fraud, theft or other loss if they do not have proper controls in place.

### Important features of internal financial controls

The trustees and senior management should lead by example in setting out and following clear internal financial controls.

Trustees should regularly review (at least once a year) the effectiveness of the charity's internal financial controls.

No one person should be responsible for any single transaction, from authorisation to completion and review. Where this is not possible, trustees should put in place additional steps to mitigate the risk.

**Important guidance** Read our 5-minute guide 'Managing charity finances' (<https://www.gov.uk/guidance/managing-charity-finances>). It tells you how to make sure that your charity's money is safe, properly used and accounted for.

## Cash collections

Places of worship often collect large sums in cash.

Cash collected in this way should be handled carefully, including:

- counted together by at least 2 unrelated people, who record the amount received
- paid fully into a bank account as soon as possible
- held securely, for example in a safe or locked box, until the cash can be paid into a bank

If you need to hold cash on your premises overnight, make sure your buildings insurance includes cover for theft.

You must follow any requirements in your insurance policy.

If your charity collects cash for another organisation as part of an appeal they are running, do not 'hand over' the cash.

Pay the cash into the bank first and then pay the money across. This will give you a clearer audit trail.

Sending money internationally: skip to more information

## Checking bank statements ('reconciling')

Make sure that bank statements are checked at least once a month to ensure that you recognise all spending and all income is recorded.

Get more than 1 person to do this. This will help make sure you are alerted to any fraudulent payment.

## Electronic bank payments

If your faith charity uses electronic banking to make payments, you need to make the same level of checks as if you were using non-electronic banking.

We strongly recommend you use a system which needs at least 2 authorised persons to approve an electronic transfer of funds. This is known as 'a dual authorisation system'. A number of banks provide this service.

Our guidance on electronic banking (<https://www.gov.uk/government/publications/internal-financial-controls-for-charities-cc8/internal-financial-controls-for-charities#s5-4>)

If your banking system only requires 1 person to authorise payments, you should be able to explain why this is in the best interests of your charity. You should also be able to explain additional controls you have put in place to protect your funds.

All computers which are used for online banking service should be kept up to date with the current version of their operating system, anti-virus, spyware and firewall software installed.

## Protecting against fraud

All charities need to be aware of - and act on - the risk of fraud.

This includes both:

- internal fraud by trustees, staff and volunteers
- external fraud, including via fake emails set up by hoaxers (known as 'phishing' scams), and other online fraud

Protecting your charity from fraud (<https://www.gov.uk/guidance/protect-your-charity-from-fraud>)

This includes links to videos on preventing fraud, and templates you can use to protect your charity from fraud.

## Sending money internationally

Many faith charities, including places of worship, send money internationally. For example, to help build places of worship or help a local community with things like classrooms or water systems.

## Checks to make when sending money to projects or organisations

Make sure that the project you are funding is in furtherance of your charitable purposes (as set out in your governing document). This includes checking there are no restrictions on where you can spend money or where you can operate or carry out activities.

Carry out proper checks on the organisation that you are sending money to. This helps to ensure that they are trustworthy and are able to do the work. This is known as 'due diligence'.

The steps trustees must take will depend on the specific circumstances and level of risk involved in the international work.

### Sending money in a safe and secure way

Always send money in a safe and secure way, including:

- using the formal banking system wherever possible
- not sending large sums using untested methods
- checking quickly that the money you have sent has been received

### Check the funds have been properly spent

Get evidence that the partner has spent the money on the purpose for which it was intended. It is good practice to display evidence of the work that you have funded so that your beneficiaries can see it. For example, on a noticeboard for places of worship.

How to manage risks when working internationally (<https://www.gov.uk/guidance/charities-how-to-manage-risks-when-working-internationally>)

Holding, moving and receiving funds safely

([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/691191/Chapter4new.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691191/Chapter4new.pdf)) (PDF, 903KB, 30 pages)

## Annual returns and accounts

### Sending financial information to the Charity Commission

Every year registered charities need to provide financial information to the Charity Commission. This is known as an 'annual return'.

What you need to provide depends on the level of income and what type of charity you are.

Annual return: find out what you need to provide (<https://www.gov.uk/guidance/prepare-a-charity-annual-return>)

You must submit the required information within 10 months of the end of your charity's financial year.

### Keeping and preparing accounts

Charity accounts: what you need to know (<https://www.gov.uk/government/publications/charity-reporting-and-accounting-the-essentials-november-2016-cc15d>)

### Accounts and report templates

We have also produced templates to help prepare accounts. These include templates for trustee annual reports and independent examiner reports:

- receipts and payments accounts (<https://www.gov.uk/government/collections/receipts-and-payments-accounts-pack-cc16>)
- accruals accounts (<https://www.gov.uk/government/publications/charity-accounting-templates-accruals-accounts-cc17-sorp-frs-102>)

## Inviting external speakers

Many faith-based charities invite external speakers to speak on both religious and non-religious topics, either on the charity's premises, or at an event the charity is running or participating in.

This can be a very effective way to further the charity's purposes and, in most cases, will be low risk.

## Controversial speakers

Sometimes, faith charities wish to invite speakers who have controversial views or to speak on a controversial topic.

This increases some risks, including:

- harm to those coming into contact with the charity, for example as a result of the speech itself or from public order offences, like as part of a protest
- bad publicity about the charity and reputational damage
- the charity being used as a platform for unlawful or extremist speech

This does not mean that trustees cannot invite people with controversial views to speak. What matters is that the trustees can discharge their legal duties under charity law.

This can be a sensitive area. Trustees should consider it carefully.

### **Important guidance** Guidance on charity events and speakers

(<https://www.gov.uk/government/publications/protecting-charities-from-abuse-for-extremist-purposes/chapter-5-protecting-charities-from-abuse-for-extremist-purposes#charity-events-and-speakers>). Faith charity trustees who invite speakers into their charity or run speaker events should read this guidance.

## Some other legal requirements common to faith charities

### Employing people

If you employ people, you must be aware of and comply with employment law, including:

- paying people the right amount, such as maternity pay and sick pay
- providing a workplace pension if you are required to by law
- not unlawfully discriminating against people

Employing people: more information (<https://www.gov.uk/browse/employing-people>)

### Health and safety

If your faith charity is an employer, you also have obligations under health and safety law, including to assess risks and put in place and review effective protective and preventive measures.

Health and safety: more information (<https://www.hse.gov.uk/leadership/index.htm>)

## Visas for workers from outside the UK

If you employ somebody to work for you from outside of the UK, you'll usually need to apply for a sponsor licence. You get the licence from UK Visas and Immigration (part of the Home Office).

The type of sponsor licence you need depends on whether you want to employ migrant workers on a long-term basis (including Ministers of Religion (<https://www.gov.uk/minister-of-religion-visa/eligibility>)) or a short-term basis (including religious workers (<https://www.gov.uk/religious-worker-visa>)).

Once you have been granted a sponsor licence, the Home Office will determine the number of migrants you can sponsor. If you do get a licence you will need to continue to meet sponsor duties for the duration of your licence.

To sponsor someone, you need certificates of sponsorship that the Home Office issue to you. A certificate of sponsorship is required before a migrant can apply for a visa.

UK visa sponsorship for employers: more information (<https://www.gov.uk/uk-visa-sponsorship-employers>)

## Data protection and UK General Data Protection Regulation (UK GDPR)

Faith charities need to be aware of their obligations under UK GDPR.

The Information Commissioner's Office (ICO) provides guidance on complying with UK GDPR, including:

- data protection advice for small organisations (<https://ico.org.uk/for-organisations/data-protection-advice-for-small-organisations/>)
- FAQs for charities (<https://ico.org.uk/for-organisations/in-your-sector/charity/charities-faqs/>)

The ICO also currently provides a dedicated telephone advice service for small organisations, including charities (<https://ico.org.uk/global/contact-us/advice-service-for-small-organisations/>).

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