



Guidance

Decision-making for charity trustees

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Applies to England and Wales

Publication for Northern Ireland

(<https://www.charitycommissionni.org.uk/>)

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(<http://www.oscr.org.uk/>)

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Making effective decisions is a vital function of being a trustee. It helps you run your charity well and manage risks.

You must comply with your trustee duties when making decisions. Use this guidance to help you do this. You must make sure that:

- you can show you have followed the 7 decision-making principles developed by the courts
- all trustees are properly appointed. If they are not, this could invalidate decisions you have made
- you follow your charity's governing document
- you make your decisions 'collectively' or 'jointly'

You should keep an accurate record of your decisions and how you made them.

If your charity has a membership, there may be certain decisions that your members must make, according to what your governing document, or the law, says.

The Charity Commission cannot run charities or act on the trustees' behalf. We expect you, as trustees, to make decisions in the best interests of your charity. If something goes wrong, we may ask for evidence to show that you made decisions using these decision-making principles.

The 7 decision-making principles

The courts have developed 7 principles for reviewing decisions made by trustees.

You must use these principles when you make your decisions. Some decisions are simple and straightforward; others can be complex or have a big impact. You should consider each principle proportionately according to the nature of the decision and its potential impact.

The principles overlap and are interdependent. For example, the principle 'managing conflicts of interest' is also part of the principle of 'acting in good faith'. You can only be confident that you meet the final principle 'trustees must ensure their decision is within the range of decisions that a reasonable trustee body could make' if you have followed the other principles.

The 7 decision-making principles are:

1. Trustees must act within their powers

You must only make decisions that are within your powers and help achieve your charity's purpose. Your powers come from:

- your charity's governing document, such as a power to borrow money
- the general power to spend your charity's funds to achieve its purposes
- the law, such as the power to buy land

Get professional advice if you are not sure you have the legal power to make a decision.

You must make sure you:

- follow any extra rules that come with the power - so, do check if there are any
- only use powers for their proper or intended purpose

For some decisions you may need to consider extra legal requirements. For example, when selling charity land.

For more on your trustee duties, read [The Essential Trustee](https://www.gov.uk/government/publications/the-essential-trustee-what-you-need-to-know-cc3) (<https://www.gov.uk/government/publications/the-essential-trustee-what-you-need-to-know-cc3>).

2. Trustees must act in good faith

'Good faith' means genuine, honest intentions. It means trying to do the right thing, only in the best interests of your charity. This includes:

- being open, fair and honest, making sure you share all details relevant to the decision
- saying if you do not understand
- asking for more information or advice if you need it
- considering all available options
- choosing the option that is in your charity's best interests

The opposite would be 'bad faith'. This could include:

- acting in a way that you do not honestly believe is in your charity's best interests
- intentionally benefiting someone in a way that is not in your charity's best interests. For example, choosing a supplier who offers a more expensive service, but who is a friend
- deliberately using a power for a purpose for which it was not intended

3. Trustees must be sufficiently informed

You must be able to show that as trustees you based your decisions on enough relevant information. The type and amount of information you will be expected to consider can depend upon:

- the impact and risks of the decision, including on your charity's resources, beneficiaries, property or reputation
- the cost or value involved
- its complexity
- whether the decision may be controversial
- how urgent it is

The Charity Commission does not expect trustees to see into the future. It is about what you could reasonably have known or found out at the time you made your decision. The Commission and the courts understand that most trustees are not legal or technical experts, and if something goes wrong or a decision is challenged, they will take this into account.

To be sufficiently informed you may need to:

- read relevant guidance, for example any relevant Charity Commission guidance
- take relevant professional advice

Getting professional advice

If you decide you need professional advice:

- make sure your adviser has suitable skills, experience or qualifications
- give them all the information they need to give you the advice
- keep a record of how you decide which adviser to use, the advice provided and how you acted on it

When you take advice, you remain responsible for the decision you make, but if you have considered and acted on appropriate advice, this is likely to protect you.

You may decide not to follow professional advice you are given, or not to get advice when it may be expected. If you do, record why this is in your charity's best interests.

Assessing the risk

You should think about any risks of your decision. We do not expect you to avoid all risks. Good decision-making does not avoid or remove risks, but it does help you identify and effectively manage them.

For further information see [Charities and risk management \(CC26\)](https://www.gov.uk/government/publications/charities-and-risk-management-cc26) (<https://www.gov.uk/government/publications/charities-and-risk-management-cc26>).

Speaking to stakeholders

You should usually consult stakeholders about important decisions, especially when the outcome will significantly affect them. This might include, for example, your charity's beneficiaries. Make sure that the people you consult know that the trustees will make the final decision.

Conducted well, consultation can:

- help you understand different views
- help you assess the impact of the proposed decision
- show that you are open and transparent

Sometimes you are required to consult about your decision, for example, for some land disposals.

You will need to consider how to use consultation responses to help you make your decision. You may need to understand the reasons behind them. For example, whether people understood the proposals or the reasons for them. It may also be appropriate to give more weight to some responses over others. For example, you may think feedback from beneficiaries is more important than feedback from the wider public.

The final decision is for you, as trustees, to make in line with your trustee duties. Base your final decision on all the information you have gathered.

4. Trustees must take account of all relevant factors

You must take all relevant factors into account when you make a decision. What are relevant factors will depend on the nature and impact of the decision. They could include:

- why you need to make the decision

- the significance of the decision
- your charity's purposes
- the options available
- the costs, risks, and benefits of all options, including if you decide to not do anything
- the impact on beneficiaries and other stakeholders of all options
- the short- and long-term impact on your charity
- whether the type of decision you are making means you must have regard to the Charity Commission's [public benefit guidance](https://www.gov.uk/guidance/public-benefit-guidance) (<https://www.gov.uk/guidance/public-benefit-guidance>)
- the impact on the charity's reputation of all options
- whether the charity has the funds to carry out the decision and see it through
- what other information or advice you may need, for example professional advice
- any consequences if you change your mind, for example costs or penalties

5. Trustees must identify and disregard irrelevant factors

Whether a factor is irrelevant may vary, depending on:

- the decision you are making
- the impact of the decision
- your charity's purposes

Irrelevant factors include personal feelings or prejudices. They must not influence your decision.

Assessing whether a factor is irrelevant is not always easy or clear-cut. You must decide if a factor is relevant or not.

Example of an irrelevant factor

Trustees are choosing a supplier. They must objectively weigh up the different options and decide which represents the best deal for their charity. They must disregard any impact that their decision might have on a close friend or relative's business.

Example of a factor that appears irrelevant but may be relevant

Trustees plan to sell the charity's land to a developer. Local people complain to the charity on environmental grounds. The charity's purpose is not environment related, so it appears that these complaints are an irrelevant factor. However, the complaints may affect the charity's reputation which could affect the support it receives locally, so could be a relevant factor. The trustees must decide whether the complaints are a relevant or irrelevant factor when they make their decision.

6. Trustees must manage conflicts of interest

You must not allow decisions in your charity to be influenced, or seem to be influenced, by:

- the personal interests of any trustee or
- the interests of people or organisations connected to the trustees

You must identify and manage conflicts of interest properly. If you cannot manage a conflict of interest, you may not be able to go ahead with the decision. In some circumstances you may be able to go ahead with authority from the Charity Commission.

Use [Managing conflicts of interest in a charity](https://www.gov.uk/guidance/managing-conflicts-of-interest-in-a-charity) (<https://www.gov.uk/guidance/managing-conflicts-of-interest-in-a-charity>) to understand the steps to take.

7. Trustees must ensure their decision is within the range of decisions that a reasonable trustee body could make

You must decide which option is in the best interests of your charity. Sometimes more than one option could be in your charity's best interests.

Trustees must exercise [reasonable care and skill](https://www.gov.uk/government/publications/the-essential-trustee-what-you-need-to-know-cc3/the-essential-trustee-what-you-need-to-know-what-you-need-to-do#act-with-reasonable-care-and-skill-1) (<https://www.gov.uk/government/publications/the-essential-trustee-what-you-need-to-know-cc3/the-essential-trustee-what-you-need-to-know-what-you-need-to-do#act-with-reasonable-care-and-skill-1>) when making decisions. This will depend on the nature, impact and circumstances of a decision.

You should identify and weigh up the options. This will help you decide what is in the best interests of your charity. Be sure that you:

- give enough time and consideration to your decision
- have all the information you need
- have not missed anything
- have taken and considered specialist professional advice where needed
- have read any relevant guidance where you should have done so
- can justify any decision not to follow any specialist professional advice or relevant guidance
- have understood and assessed the risks of your decision
- can justify your decision and show you have acted reasonably

Situations change and you may make decisions that are different from ones you have made in the past. For example, due to a change in your charity's funding. Be sure you can explain why a change in approach is in your charity's best interests.

Regularly review decisions with long term effects, for example, a project that takes a few years to complete. Make sure the decision is still the right choice for your charity.

Why you should use the principles

Following these principles of decision-making will help you to:

- act within your powers and charity law
- comply with your trustee duties
- show that you have acted properly
- show that you manage risks to your charity
- be protected if something goes wrong, for example if someone challenges your decisions
- claim back the costs and expenses from your charity's funds of carrying out a decision for your charity, where appropriate

Follow your charity's governing document

Your charity's governing document explains how your charity must make decisions. You must follow this. It usually sets out:

- your options for making a decision, for example by voting at a meeting or by written agreement
- the number or percentage of people entitled to attend the meeting that must be present to make valid decisions - this is called a quorum
- how many votes are needed to agree a decision

Usually, your governing document will say you must make decisions at meetings. However, sometimes it may say you can make decisions in other ways. For example:

1: It may say you can make decisions by written resolution or email. There may be occasions when there are practical benefits of this, but there can be risks. It can be difficult for everyone to:

- fully take part in the discussion
- understand all aspects of the issue and the information they need to consider

2: You may have the power to authorise the Chair to make urgent decisions between meetings. These can be called 'Chair's actions'. Trustees should agree a clear, written policy on what types of decisions your Chair can make. It should set out:

- when the Chair can use this power
- what the Chair should do when using this power
- that the Chair must tell the trustees when they are using this power

Trustees should review and confirm decisions by the Chair at their next meeting.

The role of members

Many charities, including CIOs, charitable companies and unincorporated associations, have members.

Understand when you need to involve your members in decisions and when they can ask to be involved. Check your governing document and any extra statutory powers you are using and make sure you comply with them.

Members cannot bind you to do something which:

- is not permitted by your charity's governing document
- would be a breach of your duties

All trustees are jointly responsible

As a group of trustees, you have a duty to make decisions ‘jointly’ or ‘collectively’.

Sometimes trustees may not be able to attend every meeting or take part in every decision. For example, if you have a conflict of interest you will usually not be able to take part in that decision.

However, you are jointly responsible for decisions that are made even if you do not:

- attend the meeting
- take part in the decision
- vote for the decision

When trustees cannot agree

Not all trustees will agree with all decisions.

Trustees should exercise independent judgement. You should feel able to give your views, raise concerns and challenge.

Constructive debate and challenge are signs of healthy governance. Your charity should draw on all the experience of its trustees. You should disagree if you believe that a decision is not in the best interests of your charity.

Your starting point as a trustee must be your charity’s best interests, it cannot be your personal motives or beliefs. If you don’t start with your charity’s best interests, you are not complying with your trustee duties. Once you make a decision, all trustees should follow it, even if they do not all agree.

Take care to avoid disputes about decisions. These can be really damaging to your charity. If you strongly disagree with a decision, ask for this to be recorded in the minutes of the meeting.

Sometimes you may disagree so strongly with a decision that you have no choice but to resign.

Read our guidance [Disagreements and disputes within charities](https://www.gov.uk/disagreements-and-disputes-within-charities) (<https://www.gov.uk/disagreements-and-disputes-in-charities>).

Clearly record your decisions

Keep an accurate record of your decisions. Usually, this is by keeping written minutes of your meetings. But you should record decisions even if they are not made at a meeting.

The minutes should be detailed enough to allow someone to understand the issues and the reasons for the decision.

Include more detail where a decision is significant. It should be in proportion to the nature, significance and impact of the decision. Attach copies of any reports or other documents that are mentioned in the minutes.

Recording decisions in this way:

- ensures certainty about what the decision is, which can help resolve different recollections
- reduces the likelihood that the decision could be successfully challenged
- shows that you have acted properly and complied with your duties

Read [guidance \(https://www.gov.uk/government/publications/charities-and-meetings-cc48/charities-and-meetings#minutes\)](https://www.gov.uk/government/publications/charities-and-meetings-cc48/charities-and-meetings#minutes) on what minutes should include and what records you must keep.

Delegating decision-making

Many charities have the power to delegate decision-making. This can be to staff, sub-committees, or individual trustees.

If you delegate decision-making, you as the trustee board remain responsible and accountable for all decisions. Make sure you have:

- terms of reference for the group or person who has delegated power. These should set out what types of decisions they can make and when they need to report to the trustees
- clear and robust reporting procedures and lines of accountability in place

You should not usually delegate high risk or novel decisions

For example, you may delegate decisions to a finance sub-committee. They take the lead on financial matters including making decisions in line with the terms of reference provided to them. They do not become solely responsible for these decisions or for the charity's finances. All

trustees retain responsibility for your charity's finances, such as reviewing and approving the annual accounts.

When the Charity Commission will become involved

As trustees, you are responsible for governing your charity and making decisions about how it should be run. The Charity Commission cannot advise you on whether a decision is right or wrong.

Some decisions do not work out as intended. You are only responsible for complying with your trustee duties and acting on what you could reasonably have known when you made the decision, even if the decision goes wrong. Follow the decision-making principles and keep a record of how you made your decision.

You are expected to do your best, taking into account your skills, knowledge and experience. There are [higher standards for professional or paid trustees](https://www.gov.uk/government/publications/the-essential-trustee-what-you-need-to-know-cc3/the-essential-trustee-what-you-need-to-know-what-you-need-to-do/#act-with-reasonable-care-and-skill-1) (<https://www.gov.uk/government/publications/the-essential-trustee-what-you-need-to-know-cc3/the-essential-trustee-what-you-need-to-know-what-you-need-to-do/#act-with-reasonable-care-and-skill-1>).

Where concerns are raised with the Commission, which we take forward, we will look at whether trustees followed the decision-making principles. Sometimes we may look at the end decision but we will always be interested in how trustees made their decision.

Read about [how the Charity Commission will assess any concerns](https://www.gov.uk/government/publications/risk-framework-charity-commission) (<https://www.gov.uk/government/publications/risk-framework-charity-commission>) that come to our attention. The Commission may open a [statutory inquiry](https://www.gov.uk/government/publications/statutory-inquiries-into-charities-guidance-for-charities-cc46) (<https://www.gov.uk/government/publications/statutory-inquiries-into-charities-guidance-for-charities-cc46>) if there are serious concerns about misconduct and/or mismanagement.

If your decision is invalid or overturned, then your charity may lose money. As a result, the trustees may be jointly liable to cover the loss. If your charity is a charitable company, you also risk breaching your legal duties under company law.

If, because of a decision, you personally receive payments or benefits from the charity without authority, the trustees may have to either:

- recover the loss from you or
- make good the loss themselves

Charity Commission involvement for certain decisions

In very limited circumstances, when the matter is complex and/or high risk, you can apply to the Commission for formal advice on whether what you want to do is consistent with your powers and duties. For example, if you're not sure that you have the power to carry out an unusual or large transaction. You can apply for this advice under section 110 of the Charities Act. If you follow the Commission's advice in good faith, you will be considered in law to have acted properly.

You may need Commission authority for certain decisions. Check your governing document and read our relevant guidance to understand if you do need authority.

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