

## **Rules for automatic disqualification of trustees and senior managers**

On 1 August 2018, the rules on automatic disqualification for charity trustees changed to impose tighter restrictions on who can manage, run and lead a charity.

The new automatic disqualification rules widen the reasons for which an individual is disqualified from acting as a trustee to include certain unspent convictions for terrorism or money laundering, as well as being on the sex offenders register. Additionally, larger charities need to be aware that the rules now apply to senior managers.

### **Offences and circumstances leading to automatic disqualification**

#### **Unspent convictions for specific offences**

- Unspent conviction for an offence involving dishonesty or deception
- Unspent conviction for specified terrorism offences
- Unspent conviction for a specified money laundering offence
- Unspent conviction for specified bribery offences
- Unspent conviction for the offence of contravening a Charity Commission Order or Direction
- Unspent conviction for offences of misconduct in public office, perjury, or perverting the course of justice
- Unspent convictions for aiding attempting or abetting the above offences

#### **Other legal disqualifying reasons**

- Being on the sex offenders register
- Unspent sanction for contempt of Court
- Disobeying a Commission Order
- Being a designated person (under specific anti-terrorist legislation)
- Being a person who has been removed from a 'relevant office' (from the office of charity trustee, officer, agent or employee of a charity by an Order of the Commission under s79 of the Charities Act 2011, or earlier relevant legislation, or by a High Court Order, on the grounds of any misconduct or mismanagement in the administration of the charity)
- Director disqualification
- Insolvency

### **Waivers**

Individuals who are disqualified under the new rules must obtain a waiver from the Charity Commission in order to continue or be a trustee. The Charity Commission will make a decision based on whether waiving the disqualification is in the best interests of the charity. Guidance can be found on how waiver decisions are made.

Acting as a trustee whilst disqualified is a criminal offence. Methodist charities must therefore ensure that all trustees are eligible to hold their role and should put in place

procedures for identifying trustees who may fall within the scope of the rules. All new and existing members of Church Councils, Circuit Meetings and District Policy Committees must apply for a waiver immediately if they are automatically disqualified under the new rules.

**Practical steps to take:**

- Pre-appointment checks on trustees and senior managers (if relevant)
- Individuals who find themselves disqualified under the new rules must be asked to cease their role (unless they obtain a waiver)
- Declaration forms to be signed by both prospective and current trustees declaring that they are not disqualified from acting under the new rules. The Charity Commission has produced a sample Trustee declaration.

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