



Automatic Disqualification Rules

Since the 1 August 2018 the 'automatic disqualification rules' for trustees and management committees changed, and for the first time were extended to being employed by a charity as the senior manager, usually the chief executive, and possibly a chief finance officer.

Trustees, management committees, and senior managers, with certain convictions or who are on the sex offenders register, will be disqualified from being involved in a charity unless they apply to the Charity Commission for a waiver to prevent or remove the disqualification.

Not a registered charity

These rules apply to groups that are not registered with the Charity Commission, such as the management committee and a part time worker of a small unincorporated association (with a turnover below £10,000), as well as those registered with the Charity Commission.

Main Changes

- More offences and reasons why someone might be disqualified than currently
- As well as trustees, 'senior manager' employee roles restricted for the first time

Existing staff and trustees could be disqualified, so your charity needs to take action before 1st August. It is usually an offence for someone to continue in a role if they are disqualified, for both the individual and the charity. There is a process to apply to the Charity Commission for a waiver to prevent or remove disqualification if the organisation supports the application, for instance to support someone who is rehabilitated and for user-led charities.

Organisations must:

- Agree which, if any, employee roles are restricted, using the Charity Commission guidance. The guidance has case studies of different size and type of groups.
- Update their trustee eligibility form to include both the new reasons why someone might be disqualified, and to cover the restricted senior manager role, or roles.
- Ask all trustees, management committee members and the senior manager/s to make a declaration that they are eligible, and not disqualified from being a trustee or a senior manager in a charity. It is good practice to do it every year.
- If someone will be disqualified from 1 August (or already is), the charity must decide if it will support a waiver application, also using the guidance.
- Add asking for the declaration to be signed into your recruitment process for trustees, management committee members and senior manager/s, so that your group does not appoint someone who is disqualified.

Your declaration form for the trustee, management committee member or senior manager should say they are not on the sex offenders register, and are not disqualified due to unspent convictions for the specified offences, which are mostly about dishonesty, deception, terrorism, money laundering, or insolvency, disqualification as a company director, or other financial and legal disqualifications. People who are on the sex offenders register are disqualified from being a trustee for any charity, regardless of whether the conviction is spent or unspent.

Find out more

For Charity Commission guidance for trustees, management committees and senior managers, including a useful 4 page table of disqualifying reasons visit

<https://www.gov.uk/guidance/automatic-disqualification-rules-for-charity-trustees-and-charity-senior-positions>

Charity Commission guidance for charities including sample declaration form **<https://www.gov.uk/guidance/automatic-disqualification-rule-changes-guidance-for-charities>**

Leading Charities with Conviction: guidance for charities and for individuals

<http://recruit.unlock.org.uk/charities-criminal-records/>

Flowchart: can I work in a charity with my criminal record?

<http://hub.unlock.org.uk/wp-content/uploads/Flowchart-V6.pdf>

Online tool: Who will be disqualified?

<https://infohub.typeform.com/to/x8pcFn>

Find out more

If you would like to find out more about how we can support your organisation, please visit our website or alternatively email or phone us for more information:

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