



Consultation summary

Power to disqualify from acting as a trustee

The Charity Commission's use of the new statutory power to disqualify individuals from acting as trustees and in senior management positions at charities.

Introduction

The Charities (Protection and Social Investment) Act 2016 gives the Charity Commission a power to disqualify individuals from acting as trustees¹. While a person is disqualified under this power they are also disqualified from holding senior management positions in the charity or charities concerned.

The commission wants to seek views on its proposed approach to using this new power. The commission believes that its proposed approach is an appropriate and proportionate use of this new power which will address concerns raised about it in the lead up to the passing of the Charities (Protection and Social Investment) Act 2016 (the Act).

The responses to this consultation will help the commission to shape the approach it takes. As this is a new power, the commission expects to develop its approach over time and in the light of its experience of using it.

How is the commission proposing to use this power?

The commission has published a [policy paper](#) which sets out the details of its proposed approach to using this power. It sets out:

- the three tests in the Act that have to be met before the commission can make a disqualification order
- the factors that the commission will take into account for each of the tests, together with the relevant principles of good regulation and the human rights and equalities protections that it will apply
- the commission's approach to deciding on the length of the disqualification (up to a maximum of 15 years)

Once this power is implemented in July there may be cases where the commission needs to use the power before this consultation has ended. The commission's proposed approach, as set out in the [policy paper](#), will form the basis for any exercise of this power, pending any reconsideration of its approach after consultation.

¹ The power to disqualify covers both charity trustees and trustees for a charity.

What specific issues is the commission consulting on?

The commission will consider any general comments you have on the proposed approach set out in the [policy paper](#), but in particular it invites comments on:

- **Test 2: How the commission assesses whether the person is unfit to be a trustee**

In the policy paper the commission has set out the categories it intends to use to assess whether or not a person is unfit to be a trustee.

Do you agree that the categories it has set out are the correct ones?

What additional or other categories, if any, should the commission take into account when considering whether or not a person is unfit to be a trustee?

- **Test 3: How the commission assesses whether the disqualification is desirable in the public interest in order to protect public trust and confidence**

In the policy paper the commission has set out the factors it intends to use to help it decide whether the disqualification is desirable in the public interest in order to protect public trust and confidence.

Do you agree with these factors?

What additional or other factors, if any, should the commission take into account when considering whether or not the disqualification is desirable in the public interest in order to protect public trust and confidence?

- **Deciding on the period of disqualification**

In the policy paper the commission has set out examples of aggravating and mitigating factors it will take into account in deciding the length of disqualification.

Do you agree with these factors?

What additional or other factors, if any, should the commission take into account when deciding on the length of disqualification?

Are there any situations which should result as a matter of policy in the maximum disqualification period of 15 years?

- **Scope of the disqualification**

In the policy paper the commission has set out its approach to deciding on whether the disqualification should be in respect of all charities, a group of charities or specified charities.

Do you agree with this approach?

What alternative approach should the commission take to deciding on the scope of the disqualification?

Who do the commission want to hear from?

The commission would welcome comments from charities, professional advisers, members of the public, other regulators or public bodies that exercise similar powers and anyone with an interest in the charity sector.

How, where and when to send comments on this consultation

Please respond to this consultation by completing an online survey, which includes all the questions asked in the consultation document and also gives you the opportunity to provide any additional comments you may have.

The closing date for responses to this consultation is 5pm on Monday 22 August 2016.

What will happen at the end of the consultation period?

The commission will use the responses it receives to help shape its approach to using this new power. It will publish a summary of responses within 3 months of the end of the consultation.