

## Trustee Guidance

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### Introduction

The trustees of Derby Diocesan Board of Education (DBE) have the ultimate responsibility for ensuring that the charity operates for the public benefit in accordance with its Memorandum & Articles of Association and in compliance with charity law. This guidance outlines the responsibilities of trustees to ensure Derby DBE can be managed effectively and within legal regulations.

Derby DBE's trustees set the vision of the board in the context of the wider diocese and the Church of England nationally. At its heart, Derby DBE is established to support and enable school communities to operate in a distinctively Christ-like way. This aim should guide the work of all trustees as they seek to oversee and steer Derby DBE.

Flowing from its vision, Derby DBE trustees will set and monitor the strategic direction of the board's work. To monitor effectively, trustees will need to form positive and trusting relationships with one another and with the executive team. Such relationships provide a platform on which good and often courageous questions can be asked. It should be remembered too that support and encouragement should be offered alongside questions and challenges. Getting the balance right is key.

Infusing the board's work will be an eye for ethos and culture or 'the way we do things round here'. Trustees will aspire to model and see that culture at work.

Trustees will want to understand the key risks that the board faces and to work together to mitigate those risks. Trustees will aim to understand the available capacity and so steer the work that is both ambitious and yet realistic.

Trustees must ensure that Derby DBE's employees are enabled to lead on matters which are delegated to them. Day-to-day management matters are not the remit of trustee responsibilities.

### Scope

This policy applies to all trustees of Derby DBE.

## Relevant Legislation and Publications

- [Derby DBE Memorandum and Articles of Association](#)
- [DBE Measure 2021](#)
- [Charities Act 2011](#)
- [Companies Act 2006](#)
- [The Essential Trustee: What you need to know, what you need to do](#)
- [Fit and proper persons help sheet and declaration](#)
- [Why some individuals cannot act as charity trustees](#)

## Who cannot be a Trustee

A trustee cannot be under 16 years of age or fall under any [automatic disqualification rules](#).

A trustee may also face [discretionary disqualification](#) from the Charity Commission in accordance with the Charities Act (2011)

Automatic disqualification rules include:

### A. *Unspent convictions for specific offences:*

- Involving fraud or dishonesty
- Specified terrorism offences
- Specified money laundering
- Specified bribery
- Contravening a Charity Commission Order/Direction
- Misconduct in public office, perjury or preventing the course of justice
- Or for aiding, attempting or abetting the above offences.

### B. *Other legal disqualifying reasons – non-financial:*

- Being on the Sex Offenders Register
- Unspent sanction for contempt of court
- Disobeying a Commission Order
- Being a 'designated persons' under specific anti-terror legislation
- Director disqualification
- A person who has been removed from a relevant office

### C. *Other legal disqualifying reasons - financial*

- Insolvency

## Responsibilities and Duties of Trustees

It is the responsibility of trustees to:

- Read & adhere to this guidance as well as Derby DBE Trustee Code of Conduct
- Read & adhere to Derby DBE Conflicts of Interest & complete annual 'Declaration of Interests' form
- Provide consent for Derby DBE to collect and hold personal details as is required by the Charity Commission, to be managed within GDPR guidelines
- Act within the governing policies and the law – being aware of the contents of the memorandum and articles of association and the law as it applies to Derby DBE, including the DBE Measure 2021
- Act in the best interests of Derby DBE – considering what is best for Derby DBE and the church schools we serve
- Ensure Derby DBE is carrying out its purposes for the public benefit
- Ensure Derby DBE is held to account by Diocesan Synod and via statutory reporting

- Ensure Derby DBE's officers are both held to account and supported
- Ensure Derby DBE's resources are managed responsibly
- Strive to attend meetings - engaging in discussions and voting, having read and understood all provided papers beforehand

### **Participation in Trustee Meetings**

A trustee has equal responsibility, with all other trustees, for all decisions properly taken at a trustee meeting; whether they were at the meeting where the decision was taken or not.

It is the role of the chair of the trustees' meeting to ensure that the business is conducted in an orderly fashion and to ensure that the views and proposals of all trustees are heard and considered fairly and respectfully.

Where a trustee feels that the meeting is not being conducted in an orderly and respectful way it is their duty to call it to attention and to have it corrected.

A trustee must commit to attend all trustee meetings, whenever possible, and prepare properly for the meeting by reviewing all the papers and documents which are on the agenda; to ensure they are able to participate with full understanding. Trustees are encouraged to review all matters strategically, i.e. with a 'helicopter view'.

### **Financial Responsibilities**

The Charity Commission, and the law, recognise that the level of financial responsibility of individual trustees is limited by their professional knowledge.

A trustee would be expected to demonstrate that they had made reasonable efforts, commensurate with their level of financial expertise, to satisfy themselves that a particular item of income or expenditure was appropriate.

It is the responsibility of trustees to:

- Manage conflicts of interest effectively – registering, declaring and resolving.
- Have an awareness of the financial position of Derby DBE including investments, assets, reserves and general and restricted funds.
- Ensure all expenditure is consistent with Derby DBE's charitable objectives.
- Ensure that all expenditure is necessary, incidental and reasonable
- Scrutinise Derby DBE's financial records – querying reports, checking expenditure against budget

### **Responsibilities and Roles of the Chair**

The role of chair sits with the Bishop. If the Bishop chooses not to take the role, the board appoint a chair from its members in consultation with the Bishop, in accordance with the DBE Measure.

It is the responsibility of the Chair to:

- Preside at trustee meetings
- Use a casting vote in the event of a decision of the trustees being split
- Ensure meetings are conducted in a timely and orderly manner
- Ensure views and proposals of trustees are heard and considered fairly and respectfully

## **Remuneration**

A trustee should not be remunerated/paid for their services under the 2011 Charities Act. However, expenses can be reimbursed if they meet the 3 criteria of necessary, reasonable & incidental and are for expenses which are actually incurred. Derby DBE has a separate policy for payment of trustee expenses.

Trustees can be paid for certain services that they provide if they do not form part of their duties as a Trustee and they fall within the remit of the Derby DBE Memorandum and Articles of Association

## **Definitions**

### *Trustee*

Trustees have the overall legal responsibility for a charity. The law describes charity trustees as 'the persons having the general control and management of the administration of a charity'

### *Fit and Proper Person*

An individual is 'a fit and proper person' if they ensure, or are likely to ensure, that charity funds and tax reliefs are used only for charitable purposes.

### *Declaration of Eligibility and Responsibility*

A form which confirms if trustees are willing and eligible to act as trustees, understand their charity's purposes and have passed required checks if the charity works with children or vulnerable people.

### *Public Benefit*

It must be beneficial, and any detrimental side-effects must not nullify those benefits, and it must be for the public and not for specific or selected individuals.

### *Conflict of interest*

Any situation in which a trustee's personal interests, or interests that they owe to another body, may (or may appear to) influence or affect the trustee's decision making. This includes:

- Direct financial gain or benefit to the trustee, such as:
  - payment to a trustee for services provided to the charity
  - the award of a contract to another organisation in which a trustee has an interest and from which a trustee will receive a financial benefit
  - the employment of a trustee in a separate post within the charity, even when the trustee has resigned to take up the employment
- Indirect financial gain, such as employment by the charity of a spouse or partner of a trustee, where their finances are interdependent
- Non-financial gain, such as when a user of the charity's services is also a trustee
- Conflict of loyalties, such as where a trustee is a member of the clergy or diocesan employee with loyalties to the Bishop of Derby, outside of his/her role as the President of the charity.

### *General and restricted funds*

General funds are monies which are given to a charity to support any of its activities, in accordance with the governing document.

Restricted funds are monies which are given to a charity to support one aspect of its charitable activities. The activity for which the restricted funds are given may be specified by the donor(s) in giving the money or might have been specified by the charity itself when requesting the money.

### *Necessary, incidental, reasonable:*

Necessary: the charity would not be able to provide its charitable services to the public without making that payment/benefit to the individual(s) concerned.

Incidental: the payment/benefit must have arisen naturally and inevitably while providing the Public Benefit – a charity must not take on a particular activity, even if of charitable benefit to others, to create the opportunity to provide private benefit to individuals.

Reasonable: the level of the payment/benefit must be commensurate with the “normal going rate” for the service provided by individual.