

Charities Regulator – Compliance

The **Charities Regulator** is Ireland's national statutory regulatory agency for charitable organisations. Under the Charities Act 2009, all recognised schools in Ireland, which are not already on the Register of Charities, as part of a broader organisation or in their own right, are required to register with the Charities Regulator.

Under the Charities Act 2009, if the charity is **an unincorporated body or a body corporate** (other than a company) the **charity trustees** include any officers or people acting officially in the management and control of the organisation such as members of the board of management or governing committee. In most circumstances a member of a board of management meets this definition, therefore, reference to 'charity trustee' below means the 'board of management members'.

1. General duties of a charity trustee as per the Act, although not an exhaustive list include:

- Comply with their charity's **governing document e.g. Articles of Management**
- Ensure that their charity is carrying out **its charitable purposes for the public benefit**
- Ensure that their charity is **registered** on the Charities Regulator's Register of Charities
- Ensure that their charity keeps **proper books of account**
- Ensure that their charity **provides an annual report and annual accounts** to the Charities Regulator (The FSSU will submit the finance report on behalf of schools and a representative of the board must then approve the submission.)
- Act in the **best interests** of their charity
- Act with **reasonable care and skill**
- **Manage the assets** of their charity (make appropriate investment decisions)
- Ensure **the Charities Regulator is informed in writing of an offence**, where in your opinion and having reasonable grounds for believing an offence under the Criminal Justice (Theft and Fraud Offence Act 2001 has been or is being committed).
- Ensure you **comply with directions issued by the Regulator**

The Charities Regulator has issued a detailed guideline for charity trustees called '**Guidance for Charity Trustees**' which is available on www.charitiesregulator.ie

2. Updating Board of Management Members details

Schools must ensure their board of management member details are up to date. Schools may have a new board of management commencing their three-year term of office on the 15th of October 20XX or other schools may have had resignations from the board of management. These changes should be reflected in the school's Charities Regulator account.

3. New Board Members

In relation to new board members, each school must confirm to the Charities Regulator the following:

“All members of the board of management must not be disqualified, under Section 55 of the Charities Act 2009 from being a trustee (board of management Member) of a charitable organisation.

Under Section 55 of the Charities Act 2009, a person shall cease to be qualified for, and shall cease to hold, the position of charity trustee of a charitable organisation if that person –

- a) is adjudicated bankrupt

- b) makes a composition or arrangement with creditors
- c) is a company that is in the course of being wound up
- d) is convicted on indictment of an offence
- e) is sentenced to a term of imprisonment by a court of competent jurisdiction
- f) is the subject of an order under section 160 of the Companies Act 1990 or is prohibited, removed or suspended from being a trustee of a scheme under the Pensions Acts 1990 to 2008
- g) has been removed from the position of charity trustee of a charitable organisation by an order of the High Court under section 74.”

4. Trustees Responsibility on Accounting for Funds

The Charities Regulator expects charity trustees to be able to explain and justify their approach to internal financial controls.

Internal financial control activities assist charity trustees to:

1. safeguard the charity's assets;
2. administer the charity's financial affairs in a way that proactively identifies and manages risk;
3. help prevent and detect potential fraudulent activity; and
4. monitor and act upon financial reporting, by ensuring that proper books of account are maintained so that timely and relevant financial information can be obtained.

By their nature, internal financial controls reduce, but do not eliminate, the risk of loss. However, internal controls help trustees prevent and/or detect the risk of any such loss events in a more timely manner. Internal financial controls should also be designed and implemented to help maximise value for money objectives on behalf of the charity.

The Charities Regulator has issued a detailed guideline for charities on '**Internal Financial Control Guidelines For Charities**' which is available on www.charitiesregulator.ie

5. Fundraising

It is critical that schools carry out all fundraising from the parents and public in an open, transparent, honest, respectful and accountable manner.

Funds given to charities can include money but can also include property and assets of any sort.

The funds provided to charities will usually fall into one of the following two categories:

1. Restricted funds
2. Unrestricted funds

The charity must adequately identify, distinguish and report upon unrestricted, restricted & designated income to enable adequate reporting upon both income and reserves.

The Charities Regulator has issued a detailed guideline for charities, '**Guidelines for Charitable Organisations on fundraising from the public**' which is available on www.charitiesregulator.ie

6. Charities Regulator Annual Return

All charitable organisations are obliged to report on their financial activities. To facilitate schools, the FSSU shares the required financial information with the Charities Regulator. This information is pre-populated in the Charities Regulator's annual report form for your school. Schools must review the information to ensure it is correct by **30th June each year**.