

HMRC Disqualification Form

The Fit and Proper Person's Declaration is a requirement by HMRC to ensure that charities that benefit from tax relief (particularly gift aid) are managed in such a way that they can be confident that the tax relief is spent appropriately.

What should happen to the completed declarations?

The Charity should keep them securely until they are required. The most likely reason for needing them is a Gift Aid audit from HMRC. If this were to happen, and the auditors wanted to see the declarations, the Chair would contact you.

Why is there a 'fit and proper person's' test?

The 'fit and proper persons' test is a statutory requirement. The test requires that individuals who are 'managers' of the Society are 'fit and proper persons' to carry out their duties. It exists to ensure that all charities (and any other organisation that is entitled to charity tax reliefs) are not managed or controlled by individuals who might misuse the tax reliefs the organisation receives.

Unfortunately, fraudsters have been known to exploit charity tax reliefs so the fit and proper persons test exists to help prevent that.

What does 'fit and proper' mean?

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.

In signing a declaration like the one below you are confirming that you will ensure that funds are used for charitable purposes and also disclosing certain information about your past that may impact on whether or not you are indeed 'a fit and proper person'. When a charity notifies HMRC of certain new managers, HMRC cross-checks that person's details against any information it has and will raise any concerns it has if there is anything to indicate the person may misuse the charity funds and tax reliefs. Factors that may lead to HMRC deciding that an individual manager is not a fit and proper person include where:

- the individual has been involved in tax fraud or other fraudulent behaviour including misrepresentation and/or identity theft
- HMRC has knowledge of the individual's involvement in attacks against, or abuse of, tax repayment systems
- the individual has been removed from acting as a charity trustee by a charity regulator or been disqualified from acting as a charity trustee or company director
- the individual has used a tax avoidance scheme featuring charitable reliefs or using a charity to facilitate the avoidance
- the individual has been involved in designing and/or promoting tax avoidance schemes
- the individual has been barred from acting as a charity trustee by a charity regulator or Court or has been disqualified from acting as a company director
- the individual has used tax arrangements which have been successfully counteracted under the general anti-abuse rules and such counteraction has become final.

However, just because a person has been, say, barred from acting as a charity trustee or one of the other points above applies, it does not always follow that the charity will not be eligible for tax reliefs. When considering the application of the fit and proper persons test to particular managers,

HMRC will take account of the likely impact on the charity's tax position. For example, any person who has no dealings with HMRC and no control over spending charity funds, even if the person is not a fit and proper person, is unlikely to affect the charity's eligibility to tax reliefs.

What do I need to do?

If you are confident you will do your best to ensure that charity funds and tax reliefs are used only for charitable purposes and do not need to disclose any information listed on the declaration then you should sign a declaration and give it to the charity. If you are confident you will do your best to ensure that charity funds and tax reliefs are used only for charitable purposes but you do need to disclose any information listed on the declaration then you should sign the declaration suitably amended - for example by crossing out the relevant bullet point - and provide details in the final box before you give the declaration to the charity. The charity will then need to decide what to do. If neither of the above applies you should not sign the declaration.

I've signed the declaration so what happens next?

The charity will keep the declaration and in certain cases pass your details to HMRC. If HMRC have any concerns about you, they will contact you to clarify the situation.

Fit and Proper Person's Declaration

Royal Zoological Society of Scotland		Charity Number SC004064
Organisation		
Name		
Role(s) within RZSS		
<p>I, the undersigned declare that</p> <ul style="list-style-type: none"> • I am not disqualified from acting as a charity trustee • I have not been convicted of an offence involving deception or dishonesty (or any such conviction legally regarded as spent) • I have not been involved in tax fraud or other fraudulent behaviour including misrepresentation and/or identity theft • I have not used arrangements notified under the Disclosure of Tax Avoidance Schemes ("DOTAS") rules in Part 7 Finance Act 2004 in respect of which a reference number has been issued under section 311 of Finance Act 2004, where the arrangements featured charitable reliefs or which used a charity, and where my tax position has been adjusted by HMRC to wholly or partly remove the tax advantage generated by the arrangements and such adjustments have become final • I have not used tax arrangements which have been successfully counteracted under the general anti-abuse rules (see Part 5 of Finance Act 2013 or section 10 National Insurance Contributions Act 2014, as enacted or as amended from time to time) where such counteraction has become final 		

- I have not been actively involved in designing and/or promoting tax avoidance schemes featuring charitable reliefs or which used a charity, and I am not:
 - a promoter² named by HMRC under the Promoters of Tax Avoidance Schemes (POTAS) legislation in Part 5 of Finance Act 2014, or
 - a promoter of any tax arrangements designed or intended to obtain for any person a tax advantage and such tax advantage has successfully counteracted by HMRC under the general anti-abuse rule (see Part 5 of Finance Act 2013 and section 10 National Insurance Contributions Act 2014 as enacted or as amended from time to time) and such counteraction has become final, or
 - a promoter of arrangements notified under DOTAS, in respect of which a reference number has been issued under section 311 of Finance Act 2004, and the tax position of all or any of the users of the arrangements has been adjusted by HMRC to wholly or partly remove the tax advantage generated by the arrangements and such adjustments have become final
- I am not an undischarged bankrupt
- I have not made compositions or arrangements with my creditors from which I have not been discharged
- I have not been removed from serving as a charity trustee, or been stopped from acting in a management position within a charity
- I have not been disqualified from serving as a Company Director
- I will at all times seek to ensure the charity's funds, and charity tax reliefs received by this organisation, are used only for charitable purposes

Signed	Date
Home Address	
Previous Address if moved in the past 12 months	
Date of birth	National Insurance number
National Identity Card Number (if you have one)	

If you have signed this declaration but want to make any information known or clarify any points, please add them in the space below; continue overleaf if necessary.

