

# Scottish Episcopal Church

## HM Revenue and Customs: Fit and proper persons test

The Finance Act 2010 introduced alterations in relation to the eligibility of charities to obtain certain tax reliefs. New provisions in relation to Gift Aid have taken effect and the same provisions are to be extended to other charity tax reliefs in due course. A charity's eligibility to such tax reliefs is now dependent upon satisfying a new "management condition".

The "management condition" is a requirement that "managers" of charities must be "fit and proper persons". The term "manager" for this purpose is defined as the persons having the general control and management of the charity. HM Revenue and Customs (HMRC) interpret this to include charity trustees and also employees who are able to determine how a significant proportion of the funds of the charity are spent. It will also include persons making tax claims and receiving tax payments on behalf of the charity.

People who are not "fit and proper" include those with a history of tax fraud or other fraudulent behaviour, those known to HMRC as involved in attacks against, or abuse of, tax repayment systems, and those barred from acting as charity trustees.

HMRC assumes that all people appointed by charities are fit and proper persons unless they hold information to show otherwise. Provided charities take the appropriate steps on appointing people then they may assume that they meet the management condition unless, exceptionally, they are challenged by HMRC. HMRC suggests that asking managers to read the [Fit and proper persons helpsheet](#) and to sign a declaration based on the Model Declaration referred to in the Helpsheet is one way in which the charity can demonstrate to HMRC that it has taken the necessary steps to reassure itself that its managers are fit and proper.

Further detailed information is also available through the following link:-

[Detailed guidance on the Fit and Proper Persons test](#)

In certain limited cases, the charity must inform HMRC of the appointment of certain categories of new manager. However, where charities already have an existing HMRC charity reference, there will be no need to notify such changes until they need to notify other changes in the charity's details to HMRC - such as their address or changes in individuals who deal with HMRC on a day to day basis.

Applying the new provisions to the activities of congregations in the Scottish Episcopal Church, we recommend that all persons being newly appointed to any of the following positions should be provided with a copy of the Helpsheet and asked to sign the Model Declaration:-

1. Members of the Vestry, as the charity trustees of the charity.
2. The Treasurer and Gift Aid secretary

3. Any other person having authority to sign cheques.
4. Any other person authorised to make Gift Aid or other repayment claims and sign or submit tax returns.

The signed Model Declarations should be retained on behalf of the Vestry so that, if asked for, they can be provided to HMRC. They should be kept for the duration of the individual's engagement with the charity and for a period of four years after such engagement has ended.

The requirement to sign this new Model Declaration is additional to the existing requirement for new Vestry Members to sign a declaration of their eligibility to serve as a charity trustee for the purposes of the Charities and Trustee Investment (Scotland) Act 2005, fuller information about which can be obtained from the [SEC Website](#).

May 2012 (earlier version dated September 2010)

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General Synod of the Scottish Episcopal Church  
Scottish Charity No SC015962