

SLSA NONPROFIT REGULATION & TRUSTEE DUTIES

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Basic Framework



- **Charitable incorporated organisation**
 - *No trustee liability*
 - *Membership organisation*
- **Charity Commission for England and Wales**
 - *Limited resources*
 - *Compliance cases, official warnings (Charities Act 2011, s75A), statutory inquiries (Charities Act 2011, s46), removal of trustees (Charities Act 2011, s79A).*

3. The object of the CIO is for the public benefit to *advance education and learning in the field of socio legal studies* and to *promote research*, the useful results of which shall be *published* for the public benefit, teaching and the dissemination of knowledge in the field.

Purpose-based organisation (not-for-profit)

Duties (primarily attaching to the management of organisational resources)

12 Charity trustees

(1) Functions and duties of charity trustees

The charity trustees shall manage the affairs of the CIO and may for that purpose exercise all the powers of the CIO. It is the duty of each charity trustee:

- (a) to exercise his or her powers and to perform his or her functions in his or her capacity as a trustee of the CIO in the way he or she decides in **good faith would be most likely to further the purposes of the CIO**; and
- (b) to **exercise, in the performance of those functions, such care and skill as is reasonable** in the circumstances...

**Duty to act in
furtherance of the
organisation's
purposes**

- Resource expenditure outside of the objects
- Resource expenditure and trustee personal benefit: remuneration, sales of goods and services to the charity board (Charities Act 2011, s 185)
- Objectively determinable duty to act in the best interests of the purposes? (*Lehtimäki v Cooper* [2020] UKSC 33)
- Reputation

**Duty of skill and care
in decision-making**

- Procedural (minute taking, policy documents, seeking advice)
- Reputation

Judicial Leniency

Trustees are treated leniently (*Re Keeping Kids Company* [2021] EWHC 175 (Ch)), [85]

Falk J: “The courts have long taken a benevolent approach towards charity trustees in circumstances where… no dishonesty or wilful misconduct is alleged. There are good reasons of public policy for this approach. It reflects the real risk that any other approach would deter individuals who would otherwise be well suited to becoming charity trustees from doing so. It also reflects the court’s recognition of the public service that charity trustees provide.”



Simon James via Getty Images

Equality and targeted expenditure

- Public benefit (*Independent Schools Council v Charity Commission* [2012] Ch 214)
- Equality Act 2010 (*R (on the application of Z) v Hackney Borough Council* [2020] UKSC 40)

Campaigning to change law and policy

McGovern v Attorney General [1982] Ch 321

Charities can campaign only if:

- i) The campaign is in pursuit of the organisation's purpose
- ii) The campaign is not the main focus of the organisation's work
- iii) The campaign is not party political

(Reputation)

 @RSPBEngland

LIARS!

@RishiSunak @michaelgove @theresecoffey you said you wouldn't weaken environmental protections.

And yet that's just what you are doing.

You lie, and you lie, and you lie again.

And we've had enough. 🇬🇧



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Resources

- Charity Commission '5 minute guides':
<https://www.gov.uk/government/collections/5-minute-guides-for-charity-trustees>
- Law works, duties of trustees: <https://www.lawworks.org.uk/charity-trustee-duties>
- J Blake, F Walker, *The Charities Acts Handbook: A Practical Guide to the Charities Act* (London, Jordan, 2016)