

# CHARITIES OFFICER RESOURCE KIT

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Guide for congregations, trusts and  
charities officers

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Presbyterian Church  
of Aotearoa New Zealand

# About Being a Charities Officer

This guide has been prepared to provide Presbyterian and Uniting congregations and their related trusts with guidance about the appointment of charities officers under the Charities Services Act (2005). The guide also provides information to help officers understand the role and responsibilities of a charities officer.

This guide was comprised with advice from the Presbyterian Church’s Book of Order Advisory Committee, and draws heavily on the Charities Officer Kit prepared by Charities Services.

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## For Church Councils

Good practice dictates that church councils take intentional steps to acquaint charities officers (elders, managers, deacons and other office-holders) with their legal responsibilities in relation to fulfilling their roles and responsibilities under the Charities Act.

This would include as a minimum:

- advising currently serving office-holders of their status as charities officers (if you haven't already done so);
- advising any new office-holders before election, appointment, ordination or induction of their anticipated status as charities officers including details of their obligations and responsibilities as officers;
- providing reference material and training to assist current and new office-holders in fulfilling their duties as charities officers.

Please note that office-bearers in the Presbyterian Church of Aotearoa New Zealand also need to comply with the Book of Order, the Conditions of Service Manual, the Child Protection Policy and the Code of Ethics and other relevant Church policies.

### WHAT IS AN OFFICER?

Any congregation or independent trust that is a registered charity, is required, by law, to nominate officers.

All office-holders with governance responsibilities in a congregation are deemed to be charities officers.

### WHO ARE THE OFFICERS?

Officers are those in governance positions who exercise significant influence over the management or administration of the congregation. By default, every person serving a current term on the church council, board of managers or deacons' court is appointed as a charities officer.

Specifically, the following roles should be officers (see Book of Order 7.6ff):

- a. The moderator or interim moderator;
- b. Any other ministers inducted to ministry in the congregation;
- c. All church council members who are members of:
  - i. Session or Board of Managers, or;
  - ii. Session or Deacons' Court, or;
  - iii. Parish Council, or;
  - iv. Any other formation approved by the Presbytery for the governing of the congregation.

If a treasurer is not a member of the above bodies, but has governance responsibilities, then that role would also be an officer. Whether or not a treasurer is an officer depends on the way in which the church council operates.

It is worth noting:

- Any elder *servicing a current term* on a church council is an officer, however persons who were ordained and are not on church council *are not* deemed officers;
- Members (non-ordained) serving a current term on a church council must also be registered as officers (Book of Order 7.11);
- Elders in congregations that have open terms whereby an elder stays on church council even when they no longer participate in meetings, *remain* officers in terms of the Charities Act as they remain accountable and responsible for the functioning of the congregation;
- There are congregations where there is a body called a church council or a session and a separate or related body of “elders” who have responsibility for pastoral care. If those people serve on a church council, they *are* officers in terms of the Charities Act. If they do not serve on a church council, they are not formally serving as elders in the congregation, and therefore *are not considered* officers for the purposes of the Charities Act.

For clarity, unless the fixed term of an elder has concluded, an elder has resigned or retired as a member of the church council, or the congregation has made a decision that removes them in some way from their governing role (eg. a restructuring of the church council) or they have been removed as a result of a process of discipline, **elders in a congregation remain responsible and accountable for the governance of the congregation and are regarded as officers.**

### **WHAT IS OFFICER CERTIFICATION?**

Officer certification confirms that officers are qualified to be an officer under section 16 of the Charities Act 2005.

The church council is responsible for certifying that each of its officers are qualified in terms of the Act. This is done through an online application form: <https://www.charities.govt.nz/im-a-registered-charity/officer-information/officer-certification/>

### **HOW ARE OFFICERS CERTIFIED?**

It is the congregation's responsibility to ensure that each of its officers is qualified to be an officer under the Charities Act 2005. Learn more about officer certification: <https://www.charities.govt.nz/im-a-registered-charity/officer-information/officer-certification/>

### **WHO CAN'T BE AN OFFICER?**

In certain circumstances, those serving on church council may be ineligible to be officers. For example, people under the age of 16 may not be officers, nor may those with dishonesty convictions. Read the full list of exclusions: <https://www.charities.govt.nz/im-a-registered-charity/officer-information/disqualified-officers/>

Please note that being ineligible to be a charities officer does not affect the person's status as an ordained person. However, the church council will need to decide whether it is appropriate for the person to continue serving on the church council or whether they need to address the matter in some other way. This

would need to be attended to with great sensitivity in conversation with the person concerned.

If an officer's circumstances change and they are no longer eligible to hold the charities officer position, the congregation must remove the person from the register within three months.

### **HOW MANY OFFICERS SHOULD BE APPOINTED?**

There is no maximum limit on the number of persons who would be officers in terms of the Charities Act.

The minimum number of officers is three, and must include the moderator and a minister if the moderator is not a minister.

### **CAN AN ELDER RESIGN OR OPT-OUT OF BEING A CHARITIES OFFICER?**

Officers may resign as an office-holder if they become ineligible to be an officer.

In keeping with each member of the church council's responsibility for the proper functioning of the council and congregation and compliance with legislation and regulations (including the Charities Act), **it is not proper for a person to be a member of the church council but opt-out of being a charities officer.**

The Book of Order Advisory Committee advises that if a person who is being approached or proposed to be ordained or inducted as an elder or deacon, or to be elected as a manager, indicates that they do not wish to be an officer under the Charities Act, the most appropriate solution is for the individual not to be ordained or elected to the role. This is because an inherent part of being an elder or deacon is to ensure compliance with relevant legislation. Again, this would need to be attended to with great sensitivity in conversation with the person involved.

### **UPDATING CHARITIES OFFICERS**

It is important to update officers with Charities Services as they change. It is recommended that a minimum of once each year, the register is checked to ensure it accurately reflects current officers, as it is easy for changes to be overlooked.

You have three months from the date the change occurred to update the details with Charities Services. Make changes here:

<https://www.register.charities.govt.nz/Account/LogOn>

### **CHECKING WHO OUR REGISTERED OFFICERS ARE**

Find out who the registered officers of your congregation or trust and make changes here: <https://www.charities.govt.nz/im-a-registered-charity/officer-information/disqualified-officers/>

# For Officers

## OFFICER RESPONSIBILITIES

Officers are responsible for ensuring that the congregation or trust is run in accordance with its rules and the requirements of the Charities Act 2005.

In particular, an officer needs to ensure that the congregation or trust's funds and assets are used exclusively to advance the charitable purposes stated in the Book of Order or the relevant constitution. More about officer responsibilities: <https://www.charities.govt.nz/im-a-registered-charity/officer-information/officer-kit/who-are-your-officers-and-what-do-they-do/>

## AS AN OFFICER, WHAT AM I LIABLE FOR?

Church councils are unincorporated. The corporate body for the Church north of the Waitaki River is the Church Property Trustees and south of the River, it is the Otago Foundation Trust Board. South of the River, some deacons' courts are incorporated under the Otago Foundation Trust Board Act.

Members of church council need to be thoughtful about any personal liability they may have for any obligations the church council takes on and for any judgments made against the church council by the courts.

If your deacons' court or trust is an incorporated body, in general there is limited personal liability, provided decision makers act honestly and prudently within the group's charitable purposes and not for personal gain. More about personal liability: <https://www.charities.govt.nz/im-a-registered-charity/officer-information/officer-kit/personal-liability/>

## DO I NEED TO GIVE PERMISSION TO BE APPOINTED AS AN OFFICER?

By default, every person serving a current term on the church council, board of managers or deacon's court, is appointed as an officer.

## I DON'T WANT TO BE AN OFFICER, WHAT DO I DO?

By default, if you are on the church council, you will be appointed as an officer, unless you are ineligible for some reason (Learn more about reasons that



disqualify you from being a charities officer: <https://www.charities.govt.nz/im-a-registered-charity/officer-information/disqualified-officers/>)

In keeping with each member of the church council's responsibility for the proper functioning of the council and congregation and compliance with legislation and regulations (including the Charities Act and many others), **it is not proper for an individual to be a member of the church council but opt-out of being a charities officer.**

If you do not wish to be an officer under the Charities Act, it is suggested that you not be elected, ordained or inducted as an elder or deacon or be elected as a manager, as these roles (and other senior roles within the church) are charities officers by default.

If you were considering not being appointed in this way, please note that even if you were not a charities officer, by virtue of your governance responsibilities, you would still be responsible for ensuring compliance with relevant legislation including the Charities Act and the policies of the Presbyterian Church.

### **WHAT INFO WILL I HAVE TO PROVIDE?**

You need to provide some person information to facilitate your certification as an officer. You should note that your name and date of your appointment will be available on the public register. Your church council secretary (or other nominated person) will provide you with an application form to gather the necessary information to facilitate your certification as a charities officer.

### **OFFICER CERTIFICATION**

To be registered with Charities Services, each of its officers needs to be eligible to be an officer under the Charities Act 2005.

As part of accepting the role as an officer, you will be asked to make a declaration that you meet the eligibility criteria to be an officer. More about officer certification: <https://www.charities.govt.nz/im-a-registered-charity/officer-information/officer-certification/>

# For Trusts

## WHAT IS AN OFFICER?

Any independent trust that is a registered charity is required, by law, to nominate officers.

Charities officers are not elected, they are appointed.

## WHO ARE THE OFFICERS?

Those in governance positions who exercise significant influence over the management or administration of the trust are its officers.

For trusts, your officers are all your current trustees (including any custodian trustee) and no one else.

It is worth noting that ministers of congregations should not automatically be registered as officers of the trust unless the minister is a trustee of the entity.

Further, where a congregation has a structure that enables particular aspects of the mission of the congregation to be undertaken with distinct management - for example, if the church council has established a trust or an incorporated body and has retained overall responsibility for the functioning of those bodies - there would need to be some decision made about whether members of any subsidiary committee should also be recognised as officers. This would need to be assessed on a case-by-case basis.

## WHO CAN'T BE AN OFFICER?

In certain circumstances, trustees may be ineligible to be officers. For example, people under the age of 16 may not be officers, nor may those with dishonesty convictions. Read the full list of exclusions: <https://www.charities.govt.nz/im-a-registered-charity/officer-information/disqualified-officers/>

If an officer's circumstances change and they are no longer eligible to hold the officer position, the trust must remove the person from the register within three months.

## OFFICER CERTIFICATION

It is the trust's responsibility to ensure that each of its officers is qualified to be an officer under the Charities Act 2005. Learn more about officer certification: <https://www.charities.govt.nz/im-a-registered-charity/officer-information/officer-certification/>

## NUMBER OF OFFICERS

There is no maximum limit on the number of persons who would be officers in terms of the Charities Act.

The minimum number of officers is three.

## OFFICER RESIGNATIONS

Officers may resign if they become ineligible to be an officer.

In keeping with each trustee's responsibility for the proper functioning of the trust including compliance with the Charities Act, **it is recommended that for church-related trusts, all trustees are charities officers.**

If a person seeks to be elected as trustee but indicates that they do not wish to be an officer under the Charities Act, the most appropriate solution is for the individual not to be appointed as a trustee.

## OFFICER UPDATES

It is important to update officers with Charities Services as they change. It is recommended that a minimum of once each year, the register is checked to ensure it accurately reflects current officers, as it is easy for changes to be overlooked.

You have three months from the date the change occurred to update the details with Charities Services. Make changes here:

<https://www.register.charities.govt.nz/Account/LogOn>

## CHECKING WHO THE TRUST'S REGISTERED OFFICERS ARE

Find out who the registered officers of your trust and make changes here:

<https://www.register.charities.govt.nz/Account/LogOn>

# Resources

## **OFFICER KIT - A RESOURCE FOR CHARITIES OFFICERS**

This resource, produced by Charities Services, aims to provide general information to officers to help them understand the responsibilities of being a certified officer of a registered charity. It also provides information about Charities Services and the benefits and obligations of being a registered charity, answers some common questions, and recommends useful resources.

[Download the Charities Service Officer Kit](#)

## **CHARITIES SERVICES WEBSITE**

The Charities Services website contains useful materials and resources for officers and charities.

[Visit the Charities Services website](#)