



## GUIDE 9: Fit and Proper Persons

### Overview

This note explains what your PCC needs to do to comply with legislation introduced in 2010 that requires churches (and charities) that reclaim Gift Aid to be able to demonstrate that their PCC members and any church staff and volunteers who manage church funds are ‘fit and proper persons.’

### Background

The Finance Act 2010 introduced a new requirement that the ‘managers’ of any charity entitled to UK charity tax reliefs must be fit and proper persons. This is intended to minimise the risk that public money is used fraudulently. However, the Finance Act does not define ‘fit and proper person.’ HMRC has therefore introduced its own way of defining and determining whether people managing charity money, including Gift Aid money, are indeed fit and proper.

### Definitions

Broadly speaking, a ‘fit and proper person’ is someone who has not been involved in tax fraud, identify theft or any other kind of fraud and who is not disqualified from acting as a charity trustee or company director. A fit and proper person will ensure that the church’s funds, including Gift Aid repayments, are used only for the church’s charitable purposes. ‘Managers’ has a broad definition in this context; HMRC says it means anyone with general control over the management of the charity or the application of its funds. In church terms, the ‘managers’ therefore means all members of the PCC, any staff or volunteers who manage significant amounts of church money and those who claim Gift Aid relief on behalf of the PCC.

The good news...is that HMRC assumes that charities do not knowingly appoint people who are not fit and proper, and will not routinely check that a charity’s ‘managers’ are fit and proper. The bad news... is that PCCs must now be able to demonstrate that they have taken reasonable steps to ensure that their ‘managers’ are fit and proper.

### Recommended Action

It is recommended that all members of the PCC sign a nomination form to confirm that they are not disqualified as charity trustees. An example of such a form is given in this pack, or can be downloaded from: [www.parishresources.org.uk/charity/forms.htm](http://www.parishresources.org.uk/charity/forms.htm) .

Those PCC members nominated before the Annual Parochial Church Meeting should already have completed such a form, but in some parishes the form might not be completed for those nominated during the meeting. It is essential that all those elected confirm that they

are not disqualified from serving, and the nomination form acts as written confirmation of this.

In order to comply with the broader requirement, the PCC might ask other staff and volunteers who are responsible for significant amounts of spending to complete and sign the form on the following page. For example, a treasurer who is not a member of the PCC should complete this form (or a similar one). This would not need to include those who are responsible for administering small amounts of money e.g. money received for refreshments after services, small youth group funds, or are simply counting and banking collections. You should keep the PCC nomination forms, and the declaration forms on file for as long as a person is in post and for 4 years afterwards. Then if you are ever asked, you can use the forms to demonstrate that you have taken steps to ensure that, to the best of your knowledge, all of your 'managers' are 'fit and proper.' Make sure you remember to ask new 'managers' (members of the PCC and relevant staff or volunteers) to sign a Declaration when they are first appointed too.

Almost every 'manager' and PCC member in a Church of England parish will be a 'fit and proper person' and this new requirement may feel like more red tape. However, as with all financial controls and particularly where donor money is at stake, it is not wise to rely on trust alone. It only takes one abuse of trust to cause significant reputational and possibly financial damage to your church and to the Church as a whole. Ensuring that your PCC members and relevant staff and volunteers are 'fit and proper' is simply good stewardship.

If any of your PCC members or staff or volunteers who manage church money cannot honestly sign the Declaration, you may need to notify HMRC but we suggest that you seek advice from your diocese first. Of course you will need to handle this situation sensitively.

Note that HMRC will not automatically withdraw Gift Aid from you if one of your 'managers' is found to be not 'fit and proper.' It will only usually withdraw Gift Aid if it has reasonable cause to believe that the tax it repays to your church is, or may be, claimed or spent fraudulently, and that you have not taken steps to make sure that such a situation cannot arise again.

See over for a [model form](#) your PCC might use with managers or those who are not nominated for the PCC.

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Disclaimer: The Parish Resources Gift Aid Guides in the series are intended as guidance only. You should consult HMRC or other professional adviser if you are in doubt as to the Gift Aid regulations. This Fact Sheet was produced in August 2015 and is available to download from the Parish Resources website at <http://www.pariahresources.org.uk/giftaid.htm>

**Declaration that Parish Officers comply with the  
'Fit and Proper Persons' legislation**  
(For use with those who are not elected PCC members)

Name of PCC .....

Name of individual .....

I, the undersigned, declare that:

- I am not disqualified from acting as a charity trustee. (see note below)
- I have not knowingly been involved in tax fraud.
- (Those responsible for spending money:) I will at all times seek to ensure the PCC's funds, and charity tax reliefs received by the PCC, for which I am responsible are used only for charitable purposes.
- (Those responsible for claiming Gift Aid relief on behalf of the PCC:) I will seek to ensure that the PCC claims only the Gift Aid relief to which it is entitled.

Signed.....

Date.....

Home address.....

..... Postcode .....

Previous address if moved in past 12 months.....

..... Postcode .....

Under the Charities Act, you are disqualified from serving as a trustee if:

- you have been convicted of an offence involving deception or dishonesty (unless any such conviction is legally regarded as spent).
- you are an undischarged bankrupt.
- you have made compositions or arrangements with any creditors from which you have not been discharged.
- you have been removed from serving as a charity trustee, or been stopped from acting in a management position within a charity.
- you have been disqualified from serving as a Company Director.