

A simple guide to Fit and Proper Persons test

Legislation introduced in 2010 requires charities, including churches, that reclaim Gift Aid to demonstrate that trustees (which for churches means PCC members) and any church staff or volunteers, who “manage” church funds pass a “fit and proper persons” test.

What is the *Fit and Proper Persons* test for?

The test is to help ensure that charity or church funds, including Gift Aid repayments, are only used for the church’s charitable purposes. If you fail to demonstrate this, it means, amongst other things, that Gift Aid may not be repaid to the church.

The good news: Her Majesty's Revenue and Customs (HMRC) assumes that charities do not knowingly appoint people who are not fit and proper, and they will not routinely check that a charity’s *managers* are fit and proper.

The bad news: PCCs must now be able to demonstrate that they have taken reasonable steps to ensure that their trustees and their *managers* are fit and proper persons.

What do these terms mean?

The problem is that the legislation doesn’t actually define a *fit and proper person*! However, in general terms, a *fit and proper person* means someone who:

- has not been involved in tax fraud, identify theft or any other kind of fraud
- is not disqualified from acting as a charity trustee or company director.

The *fit and proper person* requirement applies to all PCC members, who are the legal trustees, and to DCC members, who although they are not trustees are in reality *managers* of the church. This also includes the clergy and anyone co-opted onto the PCC/DCC.

The test also applies to other people who are *managers* in the church – so who might this mean? Again the legislation is not specific but HMRC says *manager* means anyone with general control over the management of the charity or the application of its funds. In church terms, in addition to PCC/DCC members the term *manager* means any paid staff or volunteers who:

- claim Gift Aid relief on behalf of the PCC/DCC – that is usually the Gift Aid secretary
- manage significant amounts of church money – this may mean, for example, a chair of the fabric committee who is authorised to spend sums of money, or a hall secretary who manages the hall income and expenditure – but not, say, someone in charge of a small flower fund or coffee after church etc.



What do we need to do?

First of all, you don't need to panic! HMRC assumes almost every PCC member and *manager* will already be a *fit and proper person*; we just need to demonstrate this when asked. To do this you need to have an appropriate form signed by each *manager*. This is either:

- i. **a PCC nomination form.**
HMRC has agreed that PCC members could comply with the *fit and proper person* requirements by signing a PCC nomination form which confirms that they are not disqualified as charity trustees. You need to check that your completed nomination forms include this required wording. Or
- ii. **a *fit and proper person* declaration.**

1. Immediate action

Start by **ensuring the following have signed an appropriate form** as soon as possible:

- all members of the Standing Committee, including the Treasurer
- the Gift Aid secretary
- any paid staff or volunteers who are responsible for *significant* amounts of spending

2. Future action

- As you elect new members onto the PCC, ensure they use a nomination form with the correct wording
- Ensure that anyone on the PCC without the relevant nomination form (eg co-opted or nominated on the night) signs a separate *fit and proper person* declaration
- Ensure that any new *managers* of significant funds sign a declaration

3. Records - keep all nomination and declaration forms whilst the person is in post and for the following 4 years.

4. Encourage all your *managers* to read the "HMRC Fit and proper help-sheet".

HMRC have produced a help-sheet to explain what the fit and proper persons test is (and that the information is kept by the church). The help-sheet includes the model *fit and proper declaration*.

If any of your *managers* are unable to sign a declaration, then you may need to notify HMRC, but you should take advice first. In this situation, some pastoral issues may need to be considered.

HMRC Charities Variation form (ChV1)

The ChV1 is used to notify HMRC of changes to your authorised official (usually your Gift Aid Secretary), your bank account details and other required changes. When you first use the form, you must use it to notify HMRC of two to four "responsible persons" (who will be *managers*). Two of them will need to sign the ChV1 form confirming that the Gift Aid secretary has read the HMRC *fit and proper persons guidance*. Reading the help-sheet and HMRC guidance is a **requirement** for your authorised officials and should also be read by those *managers* who sign the ChV1.

What happens if we don't do this?

If HMRC finds a *manager* is not fit and proper, they *could* withdraw the church's entitlement to Gift Aid relief. However, they will not automatically do this. See HMRC's detailed guidance for more information.

What forms do we need?

All the forms you will need and sources of further help and advice can be found on the diocesan website at www.liverpool.anglican.org/fitandproper

If you have any queries about this, then please contact the Resources Team at St James' House: 0151 705 2180 resources.team@liverpool.anglican.org

