Note: Covered by the PCC's Privacy notice under GDPR.

PCC of _____

PCC Member Trustee Eligibility Declaration[1]

As a PCC Member, you are a charity trustee. By signing this form, you confirm that you are not disqualified as a matter of law from acting as a charity trustee and, by signing overleaf, you confirm that you meet HMRC's requirements to be considered a "Fit and Proper Person".

You are disqualified from acting as a charity trustee if you have an **unspent[2] conviction** for:

- a dishonesty or deception offence[3];
- a terrorism offence to which Part 4 Counter-Terrorism Act 2008 applies, or under ss. 13 or 19 Terrorism Act 2000;
- a money laundering offence within the meaning of s. 415 Proceeds of Crime Act 2002;
- a bribery offence under ss. 1, 2, 6 or 7 Bribery Act 2010;
- an offence of contravening a Commission Order or Direction under s. 77 Charities Act 2011;
- an offence of misconduct in public office, perjury or perverting the course of justice;
- In relation to the above offences, an offence of: attempt, conspiracy, or incitement to commit the offence; aiding, or abetting, counselling or procuring the commission of the offence; or, under Part 2 of the Serious Crime Act 2007 (encouraging or assisting) in relation to the offence.

You are also disqualified from acting as a charity trustee if you:

- are subject to notification requirements under sexual offences legislation (commonly referred to as being on the sex offenders register) even if your conviction is spent;
- are currently declared bankrupt or are subject to bankruptcy restrictions or an interim order, including an individual voluntary arrangement (IVA) - limited exceptions apply;
- are subject to a debt relief order under the Insolvency Act 1986, a debt relief restrictions order, an interim order under that Act, or a failure to pay under a County Court Administration Order;
- are disqualified from being a company director - limited exceptions apply;
- are disqualified from being a charity trustee by an Order made by the Charity Commission pursuant to s.181A Charities Act 2011.
- have previously been removed as a trustee, officer, agent or employee of a charity by the Charity Commission, the High Court or the Scottish charity regulator due to misconduct or mismanagement;
- have been found guilty of disobedience to an order or direction of the Charity Commission under s.336(1) Charities Act 2011;
- have been found to be in contempt of court for making, or causing to be made, a false statement, including in a document verified by a statement of truth;
- are a designated person for the purposes of Part 1 of the Terrorist Asset-Freezing etc. Act 2010, or the Al Qaida (Asset Freezing) Regulations 2011.

I declare that I am not disqualified from acting as a trustee[4] and that I will inform the trustees promptly if, after the date of this declaration, any one or more of the disqualification criteria apply to me.

Signed _____ Print Name _____

Date _____ Role in PCC _____

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[1] This form should also be completed by a "senior manager" who is not also a PCC member (e.g. an employee treasurer).
[2] You are not disqualified if your conviction is spent. See guidance from the charity Unlock at hub.unlock.org.uk/information/charities/ to work out when a conviction becomes spent.
[3] Details of which offences are included can be found at https://www.gov.uk/guidance/automatic-disqualification-rules-for-charity-trustees-and-charity-senior-positions#apply-waiver
[4] If you have obtained a waiver from automatic disqualification from the Charity Commission to permit you to act as a trustee of the PCC, you are able to sign this declaration. If you wish to seek a waiver, please read the Charity Commission's guidance at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/673798/Waiver_application_checklist_v1.pdf and discuss this with an appropriate person within your PCC.

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HMRC Fit and Proper Persons Declaration

HMRC also requires that those who are running charities (Trustees and Managers) are "fit and proper persons". Examples of factors that **may**[5] lead to HMRC deciding that a trustee or manager is not a fit and proper person include, but are not limited to, where individuals:

- have been involved in tax fraud and other fraudulent behaviour including misrepresentation and/or identity theft;
- are known by HMRC to have involvement in attacks against, or abuse of, tax repayment systems;
- have been removed from acting as a charity trustee by a charity regulator or been disqualified from acting as a charity trustee or company director;
- have used arrangements notified under the Disclosure of Tax Avoidance Schemes (DOTAS) rules in Part 7 Finance Act 2004 in respect of which a reference number has been issued under section 311 of Finance Act 2004, and the arrangements featured charitable reliefs or which used a charity, and their tax position has been adjusted by HMRC to wholly or partly remove the tax advantage generated by the arrangements and such adjustments have become final;
- have used tax arrangements which have been successfully counteracted under the general anti-abuse rules (see Part 5 of Finance Act 2013 or section 10 National Insurance Contributions Act 2014, as enacted or as amended from time to time) and such counteraction has become final;
- have been actively involved in designing and/or promoting tax avoidance schemes featuring charitable reliefs or which used a charity, and they are:
    - a promoter named by HMRC under the Promoters of Tax Avoidance Schemes (POTAS) legislation in Part 5 of Finance Act 2014;
    - a promoter of any tax arrangements designed or intended to obtain for any person a tax advantage and such tax advantage has successfully counteracted by HMRC under the general anti-abuse rule (see Part 5 of Finance Act 2013 and section 10 National Insurance Contributions Act 2014 as enacted or as amended from time to time) and such counteraction has become final;
    - a promoter of arrangements notified under DOTAS, in respect of which a reference number has been issued under section 311 of Finance Act 2004, and the tax position of all or any of the users of the arrangements has been adjusted by HMRC to wholly or partly remove the tax advantage generated by the arrangements and such adjustments have become final.

I declare that none of the above factors apply to me and that I will seek to ensure that the charity's funds, and any charity tax reliefs received by the charity, are only used for charitable purposes:

Signed _____ Print Name _____

Role in PCC _____ Date_____

[5] If any of these factors apply to you, you are not necessarily barred from serving, but the PCC will need to give careful consideration as to how it can meet the "Fit and Proper Persons" requirement. If you require guidance, please see https://www.gov.uk/government/publications/charities-fit-and-proper-persons-test/guidance-on-the-fit-and-proper-persons-test