

Trustee Vetting Requirements – Explanation of position

Until 2011 the Society had not experienced a change of trustee for some little time. From the AGM of 2011 a new chairman and secretary were in place and since our turnover was by then in a new bracket regarding Charity Act rules, this required BSS to agree a new policy regarding the vetting of trustees. This document describes the background to this.

1. Each year the CC issue Treasurers with an Annual Return Form which may be completed in writing or on-line.

2. Charities like us need only complete Part A but after a charity exceeds an annual income of £25k it has additionally to report "Serious Incidents". The form lists eight such, many of which are what one might expect. (see page 20 of the form)

3. The problem for us arose with the fifth point which now requires us to report as a Serious Incident if:

The Charity has no vetting procedure to ensure that a trustee or member of staff is eligible to act in the position he or she is being appointed to.

4. Up until then we had only required the 'acceptance and willingness to serve' statement required by the Constitution.

5. The guidance relating to completing this form is at:

http://www.charity-commission.gov.uk/Our_regulatory_activity/Reporting_issues/rsinotes.aspx

It says (under Section 2 – "Duty of Trustees" subsection: "Declaration in Annual Return"):

Charity law requires trustees to submit, as part of the Annual Return, information specified by the Charity Commission in its regulations. If your charity has an income over £25,000 you must, as part of the Annual Return, sign a declaration that there are no serious incidents or other matters relating to your charity over the previous financial year that you should have brought to our attention but have not. If an incident has taken place but you have not reported this to us, you should do so when you submit the Annual Return.

If you are unable to make this declaration then the Annual Return will not be complete and you will have defaulted on your statutory requirement under section 48 of the Charities Act 1993. It is an offence under section 11 of the Charities Act 1993 to provide false or misleading information to the Commission. If you sign the declaration on the Annual Return we will take this as your confirmation that there have been no serious incidents you should have told us about.

6. It was clear that we did not *actually* have to set up our *own* vetting procedure; all we needed to do was to adopt a policy whereby all trustees are required to declare themselves eligible by signing a declaration.

7. Under Section 3 "Serious Incidents", subsection "Legal Requirement"), the guidance says:

The law does not require charities to ask prospective new trustees to sign a declaration of their eligibility to act [PP: For example BSS may choose to vet such people any legal way it likes] but we consider that it is good practice to do so. It shows that the trustees are discharging their legal duties and responsibilities as trustees. We have produced a model declaration.

8. It was decided by a majority of trustees to adopt a Society policy of requiring all trustees to complete the CC's Model Declaration, namely that the Society should immediately adopt a policy whereby:

It is a requirement of service as a trustee of the British Sundial Society that all trustees demonstrate their eligibility to serve by signing the Charity Commission's form "CSD1382-Declaration of eligibility for newly appointed trustees";

and further, that each existing trustee also complete the CC Model Declaration.