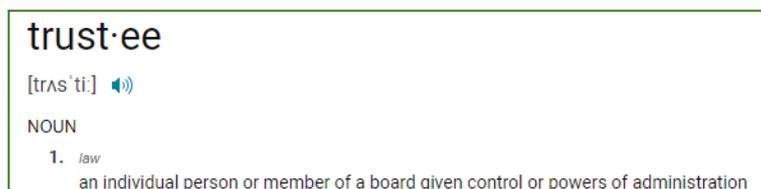


A Trustee should have the general knowledge, skill and experience that may reasonably be expected of a person carrying out the functions carried out by the director in relation to the company (CA174)

A Trustee must “avoid conflicts of interest” whether actual or potential. “This applies in particular to the exploitation of any property, information or opportunity.” (CA175).

## 1 What is a Trustee?



Being a Trustee of Barrhill Development Trust means that you are part of a Board of people who act collectively to administer the charitable aims of the charity. It is a duty, not a reward nor access to power or money. It's not a job - you will not be paid and you can not personally benefit from the role. You will be expected to volunteer your time preparing for meetings, during meetings and carrying out duties and actions agreed in those meetings - there is no requirement to (and you must **not**) act on your own solo decision making.

## 2 What is a Charity?

To continue to operate as a Register Charity, the Barrhill development Trust must have a set of objects that meet the charitable test as published by OSCR and also show how it adheres to them at all times. If you are unsure of this principle, consider reading “Meeting the charitable test” on the OSCR website.

## 3 Get to know the Barrhill Development Trust

### 3.1 Understand the charity's purposes

This purpose has been agreed by the membership and accepted by the Office of the Scottish Charities Register (OSCR).



### 3.2 Read the BDT governing document and read further information on the law that limits and empowers the role of Trustee

Sometimes called the constitution or rules, historically referred to as The Memorandum and Articles of Association - whatever we call it, it is one of the most important documents as it sets the framework for BDT's governance. It is second only to charity law and other applicable laws in determining how things are done. The constitution is different from that of other bodies in Barrhill although some of the objectives of those bodies are overlapping. The laws and limitations governing the activities and reach of those bodies are also different, as shown in the diagram below.

	Barrhill Development Trust	Barrhill Community Interest Company	Barrhill Community Council
<i>Legal Structure</i>	Charity	Community Interest Co	Statutory Body
<i>Run by</i>	Unpaid Trustees	Unpaid Directors	Unpaid Councillors
<i>Regulated by</i>	Office Scottish Charity Regulator (OSCR)	Company law and C.I. framework	Unregulated but the local tier of elected democracy in Scotland
<i>Grants &amp; awards</i>	Individual bursaries for education and driving licenses & funds larger community initiatives (pub, park, car park) and can make larger awards	Makes winter fuel payments	Can make small grants £50-£500
<i>Purpose</i>	<b>Must</b> only work to it's charitable objectives	<b>Must</b> only work to C.I.C objectives and funders stipulations	<b>Must</b> inform local authority on community opinions & local authority <b>must</b> consult BCC on planning and similar

To hold the office at the BDT (or BCIC) a person must not be 'unfit'

- Must not be currently bankrupt
- Must not be dishonest including in verbal and written business dealings
- Must not be in breach of any contractual, statutory, tortuous (legal) or equitable (confidentiality) duty

### Review the constitution to find details on:

- the **asset lock** - what happens to assets if we close
- **legal purpose** (the objects)
- the **powers**, which are generic and mostly standard practice (employ staff, rent premises etc.)
- the rules on **public and private benefit**
- **limited liability**, which limits members' legal liability for any commercial debts (typically to £1 or £10 per member)
- **Directors'** powers, responsibilities and decision-making, including quorum, rules on **conflicts of interest**, appointment and retirement
- the **Membership** rules
- the **General Meeting** rules, covering notice, resolutions, quorum, voting etc
- some standard clauses covering communication, keeping of accounts and serving notice

### Some key points in the Companies Act which also apply to BDT

- Directors are required to **Act in Good Faith** (CA172)
- Director should have the general knowledge, skill and experience that may reasonably be expected of a person carrying out the functions carried out by the director in relation to the company (CA174)
- Directors must "avoid conflicts of interest" whether actual or potential. "This applies in particular to the exploitation of any property, information or opportunity." (CA175).

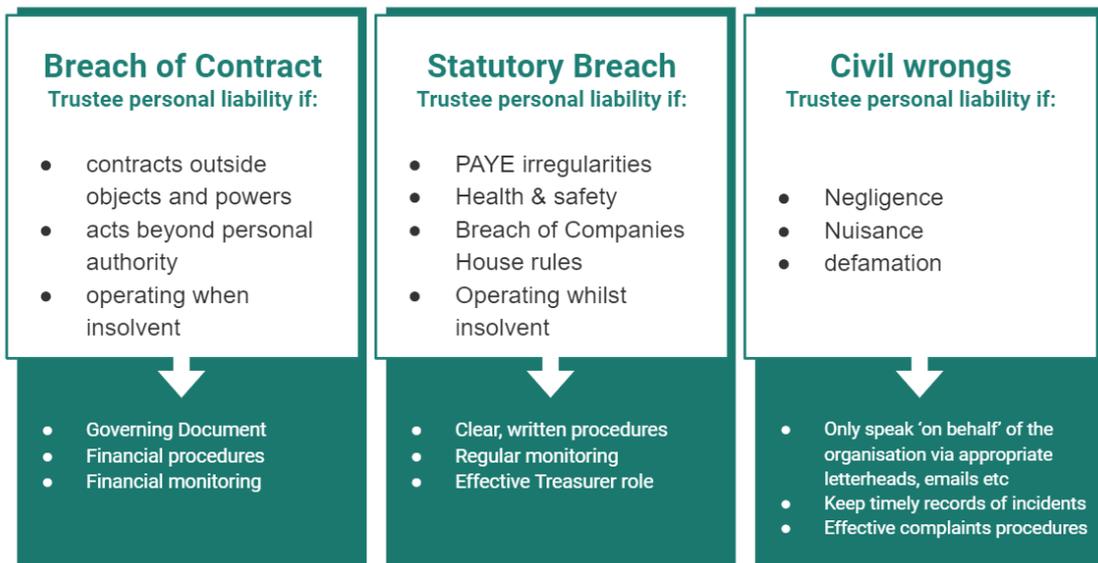
### 3.4 Money matters

- How much money do we have? Review the Treasurer's report presented at the monthly Board meetings and make sure you look at the full accounts from the last AGM that were filed with the regulator to get a longer term view
- What is the budget for the next quarter? Year? Five years?
- Where does the funding come from? And what limits are placed on those funds - each of our funders are different, please ensure you are given a copy of the funding agreements when you start

After reviewing these documents you should be very comfortable answering the question ***How do you know what the BDT can spend money on and how do you know that all projects meet these requirements?***

Make sure you are well informed about any key policies on areas such as risk, safeguarding and fundraising. Safeguarding is a priority for all charities, not just those working with groups traditionally considered at risk. As a new trustee you should take the time to read your [safeguarding duties](#).

The role of a Trustee carries legal responsibilities and duties, here's some examples:



#### 4 What to expect immediately on starting the role as a Trustee

At present the BDT meets once per calendar month. It's important to prepare for them and use them to contribute your views and ideas. Use these occasions to make sure that the charity is on track, and expect to be able to monitor its performance against plans and any key risks.

Be prepared to ask questions, particularly on things you are unclear about to increase your knowledge.

As a Trustee, you are expected to carry out due diligence on all activities you undertake in the role.

**due diligence**

[due diligence] 🔊

NOUN *law*

reasonable steps taken by a person to avoid committing a tort or offence.

To reduce risk of malpractice, and negative repercussions for the individuals as well as ensuring the best possible outcomes for the organisation, the individuals on the board should ensure due diligence in decision making including grant awards, financial transactions and all other business of the board.

## 5 Get to know your six main trustee duties



In almost any trustee activity or decision at least one of the 6 main duties will be relevant.

1. Be clear
2. Check decisions
3. Do what's best for the BDT
4. Due Diligence
5. Be prepared
6. Be Accountable.

Understanding the 6 duties is essential to your role, they set out the main responsibilities that you have. The [Charity Governance Code](#) can help you put these

into practice - it will help you understand what you can do to meet your main duties on a daily basis and what good governance looks like.

### 5.1 Be Clear

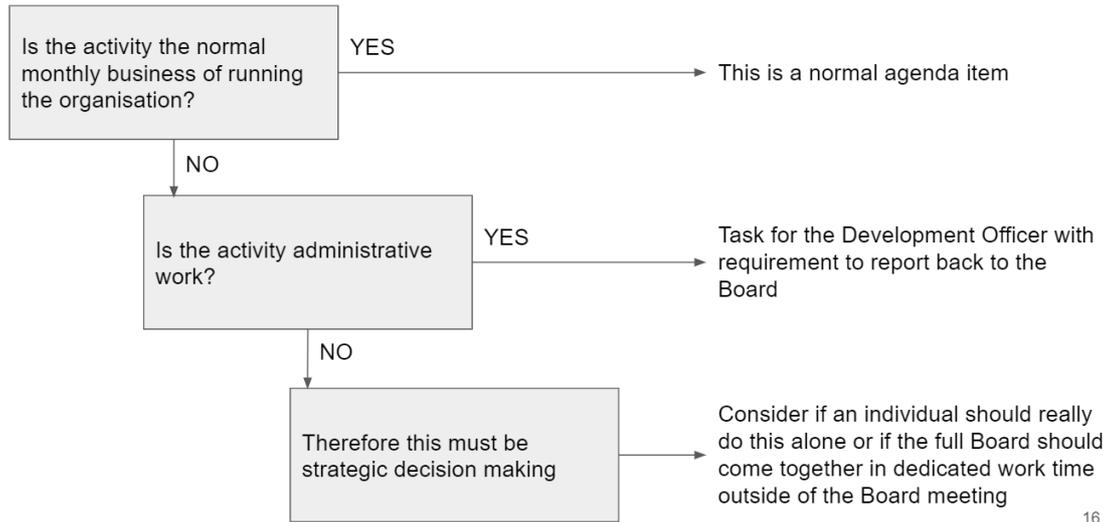
**Ensure the BDT is carrying out the purposes for which it is set up, and no other purpose. This means:**

- ensure you **understand** the BDT's purposes as set out in its governing document
- **planning** what the BDT will do, and what you want it to achieve
- be able to **explain** how all of the charity's activities are intended to further or support its purposes
- understand how the charity **benefits** the Community council area of Barrhill by carrying out its purposes

Spending charity funds on the wrong purposes is a very serious matter; this is one of the cases when trustees may have to reimburse the charity personally and is considered a very serious offence.

## 5.2 Decision making

This is such an important part of your role. Some decisions will be straightforward, others more complex. Make sure you make decisions, such as those affecting the charity's beneficiaries, assets or future direction.



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You should ensure that you have the information you need and that decisions are considered as a group. While some trustees may have specialist knowledge that you will want to rely on, be careful not to let any one individual dominate the actual decision making process.

## 5.3 Do what's best

Put BDT interests first, in line with the constitution agreed by the members. At meetings and when making decisions – and in everything else you do for the charity – you must always put the charity's interests first if present with a conflict between an outside business or personal interest. Be alert to those matters affecting the charity in which you personally may also have an interest – this could be a direct financial interest but also be more broadly a loyalty or commitment to another organisation or person.

Where such conflicts of interest exist, they can be relatively straightforward to manage. Good awareness and having a system in place to handle them are crucial.

You will need to:

- identify conflicts of interest when they arise

- prevent them from affecting any decision
- record how they are handled

Find out more about [conflicts of interests](#).

**Getting this right is not just a matter of meeting legal requirements, it also shows integrity, honesty and openness about what the BDT does and how it does it.**

Doing what's best does not just refer to conflicts of interest, but also to all aspects of the law and acting with integrity as well as our own policies and procedures which must be followed in all of the charity's activities.

#### **5.4 Ensure charity's funds, people and reputation are used sensibly**

Using all the tools and information to hand, and following the OSCR guidelines.

Another instrument we have to support this principle is the Code of Conduct for Trustees, it's attached at the end of the document and you will be asked to commit to it and sign the document to show your commitment.

#### **5.5 Be prepared**

Board meetings are advertised *at least* one month in advance and where possible are set for a calendar year. Board papers are usually sent out one week in advance of the advertised meeting date and you should set time aside to read all the papers before the meeting. Not all papers will be sent out in advance, especially those which are very sensitive. These will be presented at the meeting.

#### **5.6 Be Accountable**

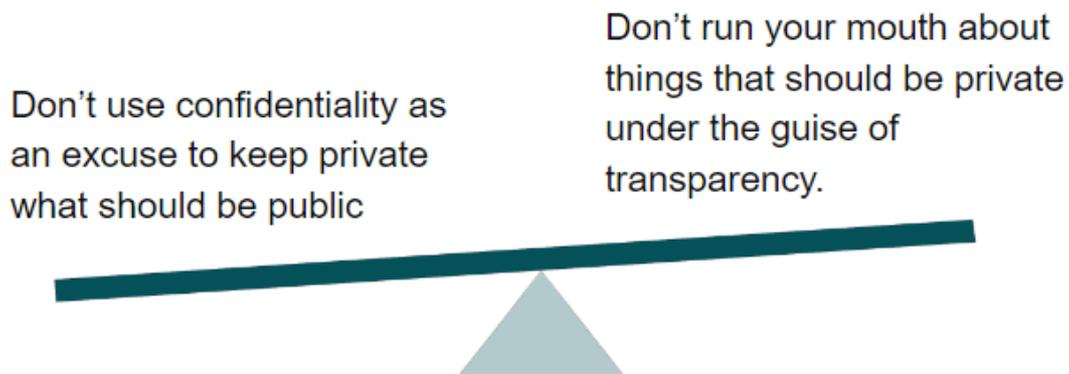
You and your co-trustees must comply with statutory accounting and reporting requirements. You should also:

- be able to demonstrate that your charity is complying with the law, well run and effective
- ensure appropriate accountability to members, if your charity has a membership separate from the trustees

All registered charities must by law keep their register entry up-to-date. Many charities also have to send us financial information each year. You and the other trustees are all responsible for getting this right, so you'll need to know what your charity has to send OSCR, when and how it needs to be sent, and that its records are accurate.

### **6. Confidentiality**

As well as being a charity, meeting the charity test, BDT also has the usual responsibilities of any business that employs staff, benefits from volunteers and manages funds on behalf of a stakeholder group. For this reason Trustees must understand the obligations of transparency and confidentiality - the Confidentiality Policy detail the obligations and responsibilities.



#### **Consequences of breaching confidentiality**

- **Collateral Damage** – Breaching confidentiality can cause great harm to people and organizations. Reputations can be harmed, sometimes irreparably. Trust can be lost, both between board members individually and loss of trust by the public.
- **Personal Accountability** – This is what happens to the individual found to have breached confidentiality. Some breaches are unintentional and/or relatively harmless and may carry a lesser consequence, as decided by the board in line with the policy. Other breaches are willfully careless or intentional and maybe even malicious. The Confidentiality Policy details the consequences of failing to adhere to the rules, in serious cases resulting in a Trustee being removed from the Board and prevented from joining at any point in the future. It is possible to have situations egregious enough to warrant legal action.

## IF IN DOUBT, FOLLOW THESE PRINCIPLES



Matters discussed at a board meeting are confidential



Once the minutes are published, matters can be discussed with full transparency matching the tone and content of the **published** report

Agreeing to serve as a member of a nonprofit board is not something to be taken lightly. You are being placed into a trusted position, which includes the fiduciary responsibility to hold private information confidential. It's one of the primary expectations of a leader in this capacity.

### 7. If things go wrong

As a trustee you are not expected to be perfect; we know things can go wrong. While it is rare for trustees to be held personally liable, understanding your potential liabilities will help you protect yourself. If something goes wrong make sure that you and the other trustees:

- act quickly to prevent further loss or damage
- communicate and plan what you want to say
- review the situation and learn how to stop it happening again
- let the right people know, for example contact the police if there's been a crime

The BDT must inform OSCR when there has been a serious incident, this is called a Notifiable Event and Trustees have certain legal duties around such incidents to ensure that public money is managed correctly.

Where to go for further information

- Development Manager, especially on current operational matters
- The Board of Trustees
- Office Scottish Charity Regulator (OSCR)

- “Being a Charity in Scotland” Booklet produced by OSCR and available online

Name of Policy	Conduct Policy
Adopted	February 2022
Next Review	As part of Governance review of the charity in 2022

We are a small charity and the size and complexity of this policy document reflects this. Barrhill Development Trust relies on the integrity of its Trustees as a charitable company and hence Trustees are subject to statutory duties under the Charities and Trustee Investment Act (Scotland) 2005 to:

- Avoid conflicts of interest
- Not accept benefits from third parties
- Declare interest in proposed transactions or arrangements with the organisation
- Only act within their powers
- Promote the success of the organisation to achieve its purposes
- Exercise independent judgment
- Exercise reasonable care, skill and diligence

The Trust accepts that it is a charity and requires its Trustees to act in accordance with Nolan's 7 principles in public life.

1. **Selflessness** - Trustees should act solely in terms of public benefit. They should not act in order to gain financial or other benefits for themselves, their family or their friends.
2. **Integrity** - Trustees should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their role as a trustee.
3. **Objectivity** - In carrying out the business of the organisation, trustees should make choices based on merit.
4. **Accountability** - Trustees are accountable for their decisions and actions to their stakeholders and the public and must submit themselves to whatever scrutiny is appropriate to their role.
5. **Openness** - Trustees should be as open as possible about all the decisions and actions they take.
6. **Honesty** - Trustees should declare any private interests relating to their trusteeship and take steps to resolve any conflicts arising in a way that protects the public benefit.
7. **Leadership** - Trustees should promote and support these principles by leadership and example

Examples of behavior which are considered outside of this Conduct standard include (but are not limited to)

- Applying pressure to gain grants for third parties where the trustee has a personal interest

- Lying or misleading the Board, OSCR or funders in writing or verbally
- Harassing Board members, staff, volunteers, suppliers or funders
- Using aggression, bullying including online bullying, rudeness or arrogance towards other Trustees, staff, volunteers or beneficiaries of the charity
- Acting alone, without remit from the board include negotiating any financial matters, awarding contracts or changing contracts previously agreed by the Board
- Sharing confidential documents with friends and community members but withholding them from the Board
- Personally selecting beneficiaries and showing favoritism or selections based on personal conflicts of interest
- Failure to engage in meetings, using apathy or passive aggressive behaviour to force issues in a desired direction
- Acting or trying to convince other trustees, staff or volunteers to act, outside of the governing document
- Acting outside the law for companies and charities
- Bringing the organisation into disrepute including in dealings with suppliers, beneficiaries and the Barrhill community in person or through publications or online media posts
- Failure to have up-to-date knowledge of the organisation and its environment – including the community area, funders requirements, financial and other obligations
- Failure to attend meetings without valid reason
- Withholding information, especially financial or sensitive, information from the Board
- Using offensive language or implying jobs can only be performed in line with narrow stereotypes and excluding individuals on these grounds

Conduct Policy to be signed by all Trustees and presented for acceptance to potential Trustees prior to them choosing to stand for election or co-option to the Board

I accept it is my duty to act within the content and spirit of this code and that I will:

- Act within the governing document and the law – being aware of the contents of the organisation’s governing document and the law as it applies to BDT.
- Act with due care and attention, taking care to understand Barrhill Development Trust’s governing document and to act within it at all times
- Act in the best interest of BDT as a whole – considering what is best for the organisation and its beneficiaries and avoiding bringing BDT into disrepute.
- Manage conflicts of interest effectively – registering, declaring and resolving conflicts of interest. Not gaining materially or financially unless specifically authorised to do so.
- Respect confidentiality – understanding what confidentiality means in practice for BDT, its board and the individuals involved with it.
- Have a sound and up-to-date knowledge of BDT and its environment – understanding how BDT works and the environment within which it operates.
- Attend meetings and other appointments or give apologies – considering other ways of engaging with the organisation if regularly unable to attend trustee meetings.
- Prepare fully for meetings and all work for BDT – reading papers, querying anything you don’t understand and thinking through issues in good time before meetings.
- Actively engage in discussion, debate and voting in meetings – contributing positively, listening carefully, challenging sensitively and avoiding conflict.
- Act jointly and accept a majority decision – making decisions collectively, standing by them and not acting individually unless specifically authorised to do so.
- Not seek to gain financial benefit including payment in kind for my role as a Trustee
- Work considerately and respectfully with all – respecting diversity, different roles and boundaries, and avoiding giving offence.

Signed .....

Name .....

Date .....