

St Marychurch Pre-school

Trustees Expenses Policy

Statement of intent

The law entitles charity trustees to claim legitimate expenses while engaged on trustee business. No separate authority is needed in the charity's governing document or from the Commission.

Aim

The Pre-school aims to provide assurance that the finances are actively managed, and its activities are sustainable, and for St Marychurch, as a charity, to avoid future difficulties. The trustees refer to the Charity Commission and the settings Charities Financial controls form when Trustees wish to claim expenses. Expenses can be claimed to ensure the charity and its membership is open to all members of the community including those on low-incomes or having disabilities.

Methods

All trustees can claim expenses. Expenses are refunds by the charity for legitimate payments which a trustee has to meet personally, in order to carry out their trustees' duties. Any reasonable costs that allow trustees to carry out their duties can be classed as legitimate expenses and so long as the charity only pays the trustee for the actual cost of expense, the payment is not taxable. The following are examples of expenses:

- The reasonable cost of travel to and from trustee meetings, and on trustee business and events.
- Reasonable refunds for the cost of meals taken while on charity business
- Postage and telephone calls for charity work (the cost of trustee's telephone rental and broadband subscription, so long as these are split to reflect the percentage of time relating to usage on behalf of the charity).
- The reasonable cost of childcare or care of other dependants while attending meetings.
- Agreed purchases of items for fundraising activities.
- The costs of buying training materials and publications relevant to trusteeship.
- Providing special transport, equipment or facilities for a trustee with a disability, including communication needs.

Expenses must be claimed by the trustee within one week of purchase. Expense claims can be made in cash and normally supported by bills or receipts, except where it is impractical to expect this, for example where very small amounts are claimed, these will need to be counter signed. All expenses will be documented and numbered in the online accounts and verified by the Accountant. Where trustees consider it useful, they can make arrangements for advance payment of reasonable out-of-pocket expenses, especially where costs can be predicted such as for childcare costs whilst attending a board meeting, or direct debit for a broadband connection. If the actual cost of expenses exceeds the amount advanced, then adjustments can be made. But trustee boards must be clear that any pre-payment scheme they put in place has appropriate safeguards and does not constitute a private benefit. They should ensure that any sums not spent are returned to the charity. Where payment exceeds actual cost: any payment kept by a trustee over and above the actual cost of the expense will be unauthorised private gain, and liable for repayment to the charity.

Trustees must ensure they are following the rules for claiming expenses prior to any purchases being made. Any financial problems must be dealt with quickly by the committee and Treasurer.

If the trustee boards are in doubt about whether something qualifies as an expense, they should take professional advice.

What payments would not be legitimate trustee expenses.

St Marychurch Pre-school will be wary of the risk of excessive, or false trustee expense claims, as any misuse of charity assets for private benefit can damage public confidence in the charity and can affect the charity's ability to operate for the public benefit and is therefore likely to amount to mismanagement or misconduct. The trustees may also be liable to repay the charity for an excessive or false trustee expenses claims.

The goods or services a charity can pay its trustees for.

The charity can pay a trustee for the supply of any goods or services over and above normal trustee duties. The decision to do this must be made by those trustees who will not benefit. They must decide that the service is required by the charity and agree it is in the charity's best interests to make the payment and must comply with certain other conditions.

The conditions to be met before paying a trustee for goods or services.

There must be a written agreement between the charity and the trustee or connected person who is to be paid.

The agreement sets out the exact or maximum amount to be paid.

The trustee concerned may not take part in decisions made by the trustee board about the making of the agreement, or about the acceptability of the goods or services provided.

The payment is reasonable in relation to the goods or services to be provided.

The trustees are satisfied that the payment is in the best interest of the charity.

The trustee board follows the 'duty of care' set out in the 2000 Act.

The total number of trustees who are either receiving payment or who are connected to someone receiving payment are in a minority.

There is no prohibition against payment of a trustee.

It is also a condition that, before entering into this type of agreement, trustees must 'have regard to' the Commission's guidance on the subject. Trustees must also be able to show that:

- They are aware of this guidance.
- In making a decision where the guidance is relevant, they have taken it into account.
- If they have decided to depart from the guidance, they have a good reason for doing so

Recording of payment for goods or services.

Recording of the proposed arrangement for payment of goods or services cannot be recorded in the charity's minutes alone. There must be a separate written agreement which must cover the issues set out below. Legal advice should be sought if an arrangement is likely to continue for some time, or if it is particularly complex.

The agreement must contain:

- An accurate description of the goods or services to be provided.
- The name of the trustee or connected person (including a business) who will receive the payment.
- Details of the amount, if it is a 'one-off' or fixed term payment, or the maximum amount for goods or services to be provided over the duration of the agreement. Where the benefit is a 'payment in kind' details of the benefit and its approximate value must be given.
- A statement that the trustee concerned or connected person will withdraw from a discussion of the trustees which has any bearing on the terms of the agreement or acceptability of the standard of goods or services provided, although this should not prevent a trustee or connected person from providing information which the trustee board may need in order to reach a decision.
- A statement that the trustee board concerned will not vote on any of these matters and must not be included when deciding whether a quorum exists at a meeting to discuss them.

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Agreement.

The agreement must be signed by someone authorised by the trustees to do so and the trustee or connected person who is to be paid. The record of the agreement must be retained for at least 6 years.

Reasonable payment.

The trustee board should take into account, affordability, price and quality. The trustee board should test the market and use comparisons for similar work to ensure they are paying no more than the 'going rate'. The trustee board should obtain quotations from other suppliers and be kept on record. The trustee board should ensure a proper record is kept of the basis for their decision, including why the level of payment is considered reasonable.

Best interest of the charity.

The trustee board must be satisfied that the arrangement is in the best interests of the charity, and they should be satisfied that the goods or services are required by the charity. They should be able to show there is a clear advantage to the charity in using one of its trustees instead of someone else.

The factors to consider when applying to the Commission to approve a payment.

The trustee board should show why the charity will not be as effective without payment. If it is proving difficult to recruit new trustees without payment, the board should normally provide evidence that it has made a serious attempt to recruit trustees on an unpaid basis and use the trustee payments application form.

Receiving state benefits.

The trustees need to take care where a trustee is receiving state benefits and ensure that payment of a trustee does not result in a reduction in their entitlement to benefits.

Authority needed for small payments or gifts. (legal requirement).

The commission does not usually require charities to seek its authority where the total value of all trustee payments (excluding expenses) is less than £1000 in any financial year. The trustees still need to be satisfied that these payments are in the best interest of the charity. However, the Commission would expect trustees to apply for authority for payments of less than £1000 in a financial year in cases where the Commission is addressing issues of mismanagement with the charity.

It is for the trustee board to judge whether a person's length of service and quality of contribution to the charity should be acknowledged with a leaving gift directly out of charity funds, taking account of any possible effect on the charity's reputation.

Employing a trustee or connected person.

A charity trustee may become employees of their charity although employment may need to be approved by the Commission. A trustee may be able to provide the necessary skills and experience, but the trustee board must be open and transparent about the processes and decision-making which lead to the employment and made without improper influence and favouritism and that the post is genuinely required for the effectiveness of the charity. An open recruitment process will help show that the post has not been created simply to benefit the trustee.

If a trustee's spouse or partner or other 'connected persons' become paid employees of the charity.

The Commission's approval must be obtained if there is financial interdependence between the parties and there is no other authority for the transaction, otherwise no approval is needed. Any potential conflict of interest needs to be managed.

Compensating trustees for loss of earnings.

Reasonable paid financial compensation may be paid to secure or retain the services of a trustee who might otherwise struggle to play a full trustee role. Payment is made if there is suitable authority and if there is a clear and positive advantage to the charity in doing so and the expense is treated as a trustee payment. The trustee board needs to show the basis on which the compensation is calculated and explain why this is value for money. The trustee being compensated should not be part of the decision to make the payment, or in setting the terms and conditions of the payment. The trustee board sets the figure for compensation taking into account the trustee's contribution to the charity and whether the charity can readily afford the payment. It would be advisable to have a written agreement to be put in the charity's accounting records, to cover the expected tasks of the trustee, performance review, assessment of continuing need and the circumstance in which the arrangement will come to an end.

Withdrawing from meetings and not voting.

Trustees withdraw from the meeting so they cannot influence the trustee's decisions relating to the benefit.

Duty of care.

The statutory power requires trustees to follow the duty of care set out in the 2000 Act. This means that the trustee board must act honestly and in good faith and must exercise all reasonable care and skill in reaching their decision to ensure that conflicts of interest are properly and openly managed. Retain the agreement as part of the charity records as required by law and disclose the payments in the charity's accounts.

The number of trustees receiving payment for providing goods and services. (Legal requirement).

The total number of trustees receiving payment from the charity's funds must be a minority of the trustee board. Trustees must assess the number of trustees receiving directly or indirectly (through a connected person) trustee payments such as:

- any trustees connected to persons or businesses receiving payment
- any trustees who are receiving payment for serving as trustees
- trustees who are also paid employees of the charity
- trustees receiving any other form of trustee benefit

if insufficient authority then the Commission's approval will be needed.

What to do if the Governing document prohibits payment for goods and services.

If the governing document prohibits payment then this prohibition has to be removed by the Commission or in some cases by the charity. The effect of removing the prohibition will be to enable a charity to use the statutory power to pay trustees for goods or services. It would not allow any other form of trustee payment.

Amendments to the agreement of paying trustees for goods or services.

Trustees with a majority decision who do not stand to gain from payment can make amendments to the agreement and this must be discussed and agreed in the absence of the trustee who is providing the goods or services or connected person. The trustee being paid should agree to the change or for the contract to provide for such a change. The changes must be in the best interests of the charity. The trustee board's decision to vary the terms of the agreement should be recorded in the minutes of the meeting at which that decision is taken. An agreement can usually only be varied with the agreement of all the parties and an amended written agreement should be made.

Charity accounts legal requirement.

Payments must be detailed in the accounts.

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If the charity cannot comply with all the conditions of the statutory power.

The trustee board can contact the Commission with the details before making any payment, to request its approval. The Commission will not approve any proposal involving excessive costs or which will result in an unacceptable person benefit, or anything else clearly against the interests of the charity, but if the trustees put a reasonable proposal in terms of cost, how conflicts of interest are managed and represents a clear advantage to the charity, rather than the individual concerned, the Commission will usually authorise it.

Payment to trustees for trusteeship.

There is no general power in charity law for trustee boards to pay trustees for being a trustee carrying out trustee duties. Authority is needed from the charity’s governing document or provided by the Commission, or court. Without such authority any such trustee payment is a breach of trust and trustees who have been paid are liable to repay all or part of the payment. Unauthorised payments may be evidence or misconduct of mismanagement.

To be read in conjunction with the rules and regulations of the Charity Commission

‘Charity’ within this document refers to St Marychurch Pre-school.

Signed _____

Position Chairperson _____

Dated _____

We aim to provide a safe, stimulating, caring, happy Pre-school where all children and their families are welcome. We provide a curriculum based on the Early Years Foundation Stage using individual children’s interest and needs.