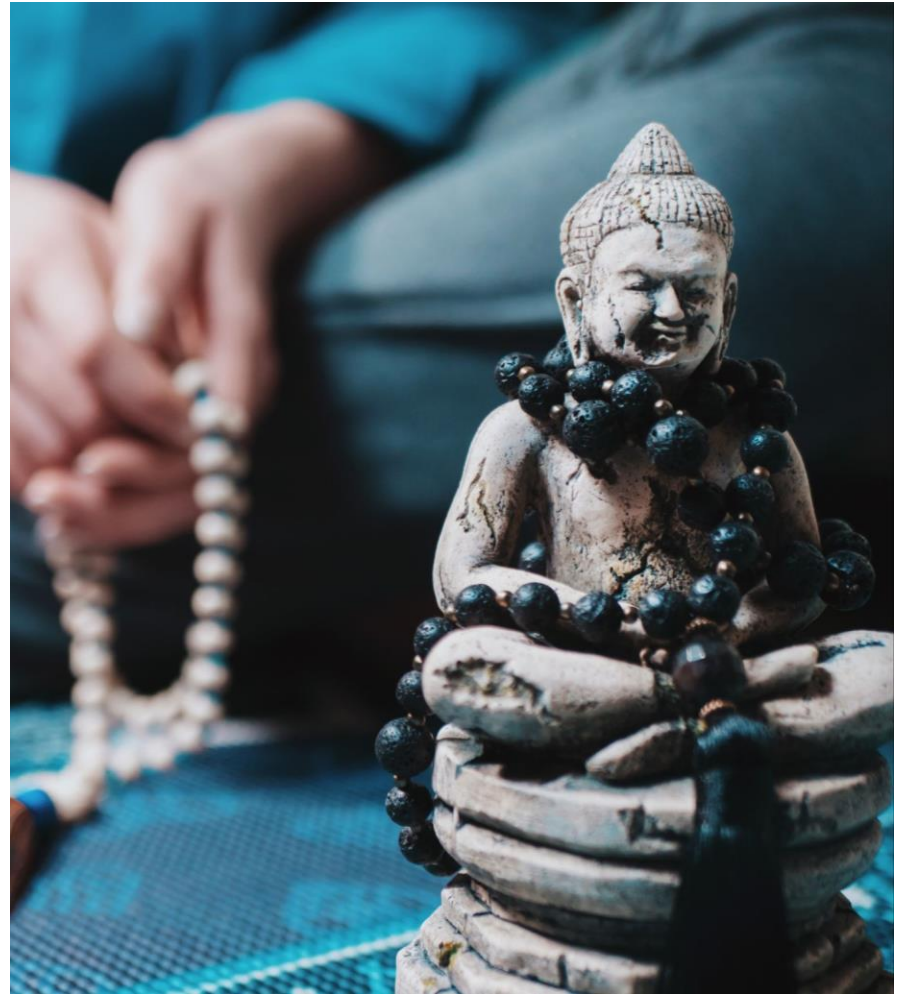


# The charitable status of Scottish Higher Education Institutions

Yvonne Evans



# Legal disclaimer!

An overview of legal status and regulation of Scottish universities as charities.

Nothing on these slides or said during the presentation should be taken as legal advice.

All views and comments are entirely my own and should not be taken as reflecting the position, policies or opinions of my employer or any organisation I am involved with.

# Legal status and regulation of universities as charities

Establishment as charities

Charity test: public benefit

Consequences of charitable status

Charity trustees

Trustees' duties: acting in the best interest of the charity

Potential breaches

Fundraising and universities

Holding the charity to account

# Charities in Scotland

What is a Scottish charity?

- A charity registered by the Office of the Scottish Charity Regulator (OSCR).
- There are 23,411 Scottish charities registered, and 1,285 cross-border.
- There are 267 Scottish charities and 234 cross-border charities with income over £10million.

The screenshot shows the OSCR (Office of the Scottish Charity Regulator) website's search interface. The header is pink with the OSCR logo and navigation links: About Us, Contact Us, FAQs, Search, and Sign in. Below the header is a secondary navigation bar with links: About Charities, Becoming a Charity, Managing a Charity, Forms, and Raise a Concern. The main content area is white with a pink sidebar on the left containing a 'Print This Page' button and a section titled 'In this Section:' with links for 'FAQs', 'Charity Register Search', and 'A-Z'. The search interface itself is on the right, featuring a pink 'Site Search' button and a search form with the following fields and options:

- Keywords or Charity Number:** A text input field containing the word 'university'.
- Postcode:** A text input field containing the word 'Postcode'.
- Local Authority Area:** A dropdown menu with 'Please select' and a downward arrow.
- Search by Charity Number only
- Charity name only:** A text input field containing the words 'Charity name only'.
- Vowel Accents
- Income >=:** A text input field containing the words 'Income more than'.
- Income <=:** A text input field containing the words 'Income less than'.
- Charitable Purposes:** A dropdown menu with a downward arrow.
- Additional Filters:** A dropdown menu with a downward arrow.

# HEIs as charities



There are 18 Scottish universities/HEIs registered as charities. These account for 31.2% of the total income of charities regulated by OSCR.



24 of Scotland's further education colleges are registered charities and these account for 5.9% of the total income.



The size, large amounts of income, number of employees and legal constitution of HEIs and colleges are markedly different from most charities in Scotland.

# Constitution of Scottish universities (based on earliest legal form)

- **Papal bull:** St Andrews (1413), Glasgow (1451), Aberdeen (1495)
- **Royal Charter:** Edinburgh (1582), Strathclyde (1796), Heriot-Watt (1821), Dundee (1881), Stirling (1967)
- **Post-92:** Edinburgh Napier (1964), Robert Gordon (1750), Glasgow Caledonian (1875), Abertay (1888), Queen Margaret (1875), University of the West of Scotland (1836), University of the Highlands and Islands (2001)

# Charity test

- The charity test is the legal set of requirements that an organisation must pass to become a charity and be entered in the Scottish Charity Register. The charity test is in two main parts:
- an organisation has to show that it has **only** charitable purposes and
- that it provides public benefit in achieving those purposes



# Charitable purposes – Charities and Trustee Investment (Scotland) Act 2005

(a) the prevention or relief of poverty,  
(b) the advancement of education,  
(c) the advancement of religion,  
(d) the advancement of health,  
(e) the saving of lives,  
(f) the advancement of citizenship or community development,  
(g) the advancement of the arts, heritage, culture or science,  
(h) the advancement of public participation in sport,  
(i) the provision of recreational facilities, or the organisation of recreational activities, with the object of improving the conditions of life for the persons for whom the facilities or activities are primarily intended,

(j) the advancement of human rights, conflict resolution or reconciliation,  
(k) the promotion of religious or racial harmony,  
(l) the promotion of equality and diversity,  
(m) the advancement of environmental protection or improvement,  
(n) the relief of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage,  
(o) the advancement of animal welfare,  
(p) any other purpose that may reasonably be regarded as analogous to any of the preceding purposes.

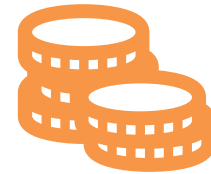
# Public benefit



Education



Research



Economic

# Advantages of charitable status

Tax status for charity: exemptions from various taxes, including reduced business rates and special VAT treatment.

Tax status for donors: Gift Aid, exemptions from inheritance tax and capital gains tax.

Ability to engage with public funding and grant-making trusts.

Public assurance re monitoring.

# Charity trustees

Charity law requires charity trustees to be appointed. From 9 March 2026, OSCR required by law to publish the names of a charity's trustees as part of its Scottish Charity Register entry.

However, charity law and particular duties may also extend to those “undertaking a senior management function”

# Charity trustees

| University / Governing Body                     | Scottish Charity Number | Number of trustees |
|---|-------------------------|--------------------|
| University of Glasgow Court                     | SC004401                | 24                 |
| University of St Andrews                        | SC013532                | 26                 |
| Court of the University of the West of Scotland | SC002520                | 23                 |
| Queen Margaret University                       | SC002750                | 21                 |
| Heriot-Watt University                          | SC000278                | 25                 |
| Abertay University                              | SC016040                | 22                 |
| University of Aberdeen                          | SC013683                | 23                 |
| Glasgow Caledonian University                   | SC021474                | 11                 |
| University of Edinburgh                         | SC005336                | 24                 |
| University of the Highlands and Islands         | SC022228                | 19                 |

# Trustee duties: General duties

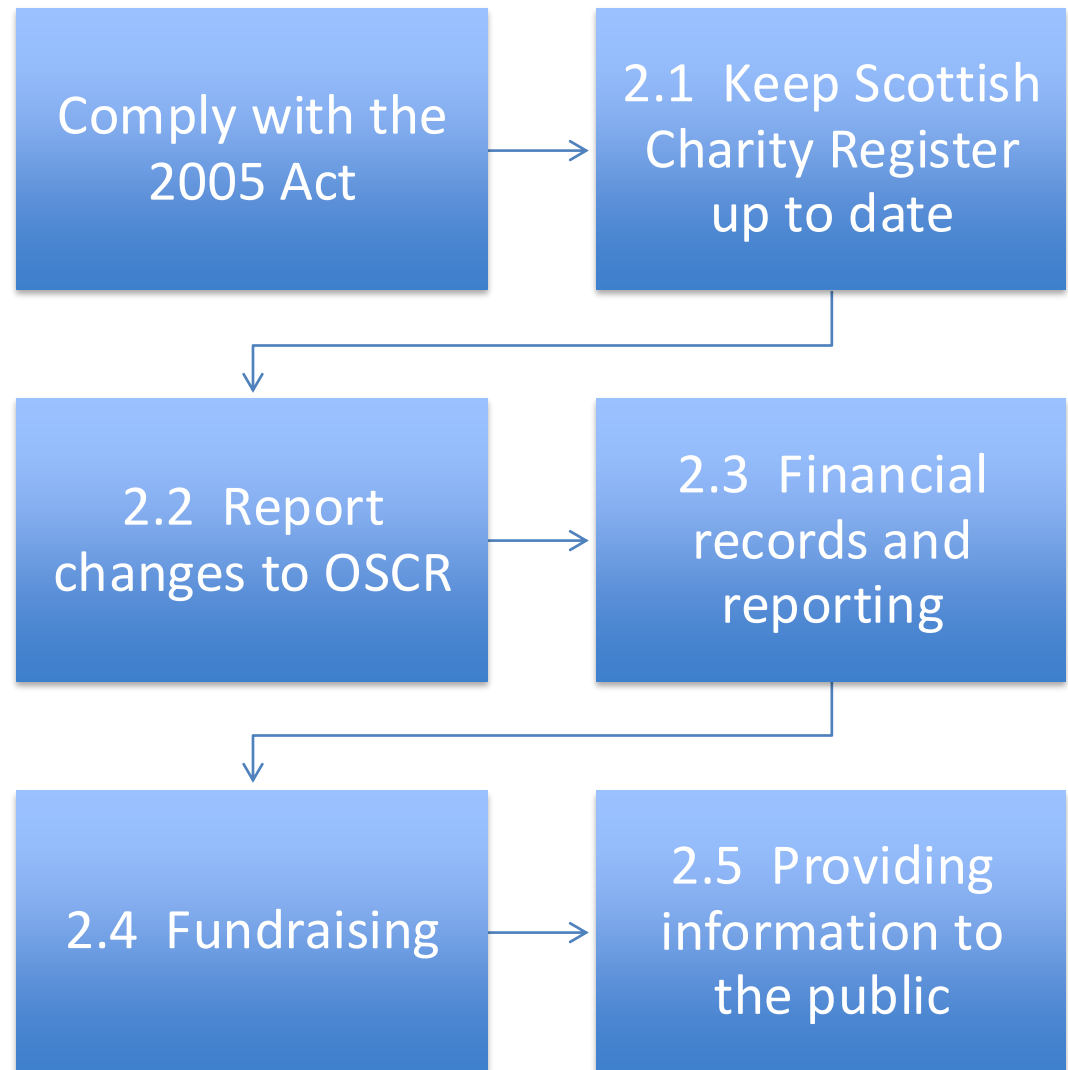
1. Act in the interests of the charity.

1.1 Ensure charity operates in a manner consistent with its purposes.

1.2 Act with care and diligence.

1.3 Manage any conflict of interest between the charity and any person or organisation who appoints charity trustees.

# Specific duties under the Charities and Trustee Investment (Scotland) Act 2005



# Potential problem areas

Domineering  
trustees

Accounting  
breaches

Excessive  
executive  
remuneration

Gillies Report

Charity  
mergers

# Fundraising

---

Code of Fundraising Practice: Scottish Fundraising Adjudication Panel regulates.

---

Much depends on whether a gift or donation is to the charity generally, or for a specific purpose.

---

Increasingly, HEIs are introducing Gift Acceptance Policies e.g. see RGU. Some also set up separate Development Trusts.

---

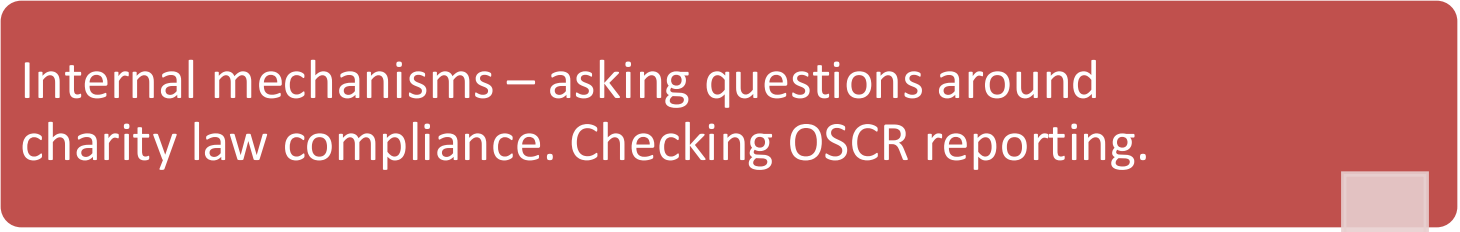
Stronger tax rules coming in April 2026 re use of legacy income, tainted charity donations, approved charitable investments.

---


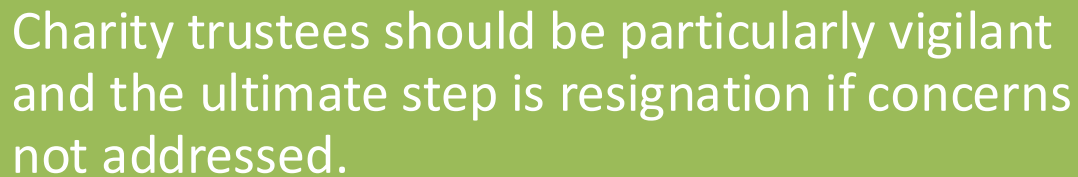
Universities looking at past 'tainted' legacies and potential repatriations from museum collections.

# Holding the charity to account

Internal mechanisms – asking questions around charity law compliance. Checking OSCR reporting.



Charity trustees should be particularly vigilant and the ultimate step is resignation if concerns not addressed.



Office of the Scottish Charity Regulator – currently investigating University of Dundee.



**Thank you!**

y.a.evans@dundee.ac.uk