

Misappropriated Assets Policy



1. Purpose

1.1. The Eldonian Community Trust (“the Charity”) is committed to protecting charitable assets and ensuring they are used solely for the public benefit. This policy sets out the principles and procedures to be followed in identifying, investigating, and recovering any assets that may have been misappropriated, diverted, or disposed of without proper authority.

2. Scope

2.1. This policy applies to any historic or retrospective disposal, redirection, or loss of charitable assets that occurred prior to the appointment of the current Board of Trustees. This includes, but is not limited to:

2.1.1. Improper disposal or withdrawal of charity funds (e.g. bank transactions, cash transfers, unauthorised reimbursements)

2.1.2. Payments made to individuals or entities without lawful authority or proper justification

2.1.3. Financial assets removed or spent without appropriate trustee approval

2.1.4. Property, leaseholds, or community assets diverted away from the Charity’s control

2.1.5. Rights, licences, or control over resources or programmes transferred without lawful authority

2.1.6. Retained control or access to assets, accounts, or records by former trustees or connected individuals

2.1.7. Improper disposal or withdrawal of charity funds (e.g. bank transactions, cash transfers, unauthorised reimbursements)

2.1.8. Financial assets removed or spent without appropriate trustee approval

2.1.9. Property, leaseholds, or community assets diverted away from the Charity’s control

2.1.10. Rights, licences, or control over resources or programmes transferred without lawful authority

2.1.11. Retained control or access to assets, accounts, or records by former trustees or connected individuals. It covers situations where:

2.1.12. Financial assets were removed or spent without proper authority

2.1.13. Property, leaseholds, or physical assets were transferred away from the Charity

2.1.14. Rights, licences, or control over community resources were relinquished without due process

2.1.15. Former trustees or associated individuals retained control over assets or records after their authority had lapsed or ceased

2.1.16. Financial assets removed or redirected from the Charity’s control

2.1.17. Physical assets, property, or equipment no longer in the Charity’s possession

2.1.18. Leaseholds, intellectual property, or other rights improperly transferred

2.1.19. Historic transactions that may have resulted in personal gain contrary to charitable law

3. Principles

- 3.1.** Legal Compliance: Recovery actions will be guided by charity law, the Charity Commission's guidance (e.g. OG86), and professional legal advice.
- 3.2.** Trustee Oversight: All asset recovery decisions must be approved by the Board and minuted.
- 3.3.** Public Accountability: The Charity will report any known misappropriation to the Charity Commission and maintain transparency, as appropriate.
- 3.4.** No Retaliation: Whistleblowers or complainants will be protected from reprisal.

4. Identification and Investigation

- 4.1.** Lead: The Secretary to the Board shall act as the lead for all matters related to the identification, review, and recovery of misappropriated or improperly disposed charitable assets. The Board of Trustees authorises the Secretary to act on the Charity's behalf in initiating reviews, seeking legal advice, liaising with regulatory bodies, and coordinating recovery actions, subject to the terms of this policy.
- 4.2.** The Secretary will provide an update on any ongoing or newly identified asset recovery matters as a standing item at each meeting of the Board of Trustees.

5. Discovery of Concern

- 5.1.** Concerns may arise *via* whistleblowing, audits, legacy records, or regulatory review.
- 5.2.** Concerns must be referred immediately to the Secretary and Chair.

6. Initial Assessment

- 6.1.** The Board will conduct a confidential review to assess:
- 6.2.** What asset(s) are involved
- 6.3.** How the asset was removed or transferred
- 6.4.** Whether there was formal trustee approval
- 6.5.** Who was involved and what records exist

7. Legal Advice

- 7.1.** External legal professionals will be consulted where there is any indication of serious misappropriation or breach of trust.
- 7.2.** All steps will be logged in a confidential Asset Recovery Register.

8. Reporting and Escalation

- 8.1.** Charity Commission Notification
- 8.2.** Where misappropriation is confirmed or suspected, a serious incident report will be filed.
- 8.3.** Further updates will be provided as recovery progresses.

9. External Agencies

- 9.1.** Where fraud, theft, or misuse is suspected, the Charity may report the matter to:

- 9.2.** Action Fraud
- 9.3.** The Police
- 9.4.** The Charity Commission
- 9.5.** Legal recovery services

10. Recovery and Resolution

10.1. Negotiated Return

- 10.1.1.** The Charity may pursue recovery through correspondence or formal demand.
- 10.1.2.** Settlements, compromises, or agreements to accept partial return of assets will not be entered into without Charity Commission direction.

10.2. Formal Legal Proceedings

- 10.2.1.** Where necessary, the Board may approve civil proceedings to recover misappropriated assets.
- 10.2.2.** In accordance with the Charities Act 2011 (sections 115 and 114), where proceedings fall under the category of “charity proceedings,” the Charity will seek the prior written consent of the Charity Commission before initiating any action.
- 10.2.3.** Legal advice will be obtained prior to initiating proceedings to ensure compliance and appropriateness.

11. Write-Offs or Settlements

- 11.1.** The Charity will not agree to write off or settle any claim for the return of misappropriated assets unless legally compelled or directed by the Charity Commission or without the unanimous approval of the board of trustees.

12. Review and Recordkeeping

- 12.1.** All identified cases will be entered into a secure Asset Recovery Register.
- 12.2.** This policy will be reviewed annually or after any recovery action.

- 13.** This Misappropriated Assets Policy was approved by the Board of Trustees on Friday 9th May 2025.