

# Faith and hope don't run charities (trustees do)



A practical guide for voluntary members of management committees

Third Edition 2012 • Compiled by Mel Witherden

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A practical guide for voluntary members of management committees

May 2012

ISBN 1 903416 90 6

Published by Wales Council for Voluntary Action

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## Foreword

**The successful development of voluntary organisations depends on the skills, experience and time given by voluntary members of management boards and committees (trustees).**

Wales Council for Voluntary Action (WCVA) recognises this, and has produced this handbook to assist management committee members. The handbook aims to help trustees deal with their management responsibilities including strategic planning, being accountable for the development of the organisation, managing people and finances, and making decisions in the interest of the voluntary organisation.

This handbook has been designed to enable trustees to dip into it for support on particular issues e.g. when you're doing your strategic plan dip into section 1.2-1.6, or to get a general feel for the role and responsibilities of trustees check out Parts 5 and 7.

The good practice commended by this handbook applies to all trustees of voluntary organisations, whether they have charity status or not. This is not a guide to the law, and sections that cite charity law are included for guidance only.

If you are in any doubt about the legal position you should seek advice from the Charity Commission or another specialist.

### Introduction to the Third Edition

There seems to be no relief from the breakneck pace of change affecting the management and governance of voluntary organisations. The Second edition in 2002 noted the surprising need to produce an updated version only three years after the original publication to cope with new legislation. Ten years later and some aspects of the life of charities and community organisations are almost unrecognisable.

Social and employment legislation has rained down endlessly. Changing regulations on the protection of children and vulnerable people, health and safety, maternity and paternity leave, equality and disability – to name a few key issues – mean that just 'doing good' is no good at all. It all has to be best practice now.

At the same time the structure and internal regulation of voluntary organisations themselves has been dropped into the melting pot. The Companies Act 2006 saw the arrival of the Community Interest Company structure, a curious hybrid animal which raised expectations but still leaves people confused and divided over its usefulness.

A bigger upheaval came with the Charities Act 2006 – a mass of legislation whose provisions included an important new way of recognising charities (according to the community benefits they provide) and a plethora of administrative requirements which have led some charities to tear up their constitutions and start again from scratch. One key aspect of the 2006 Act, the introduction of the new Charitable Incorporated Organisation (CIO), seems to characterise another feature of all this change – our constant state of anticipation. CIOs were greeted enthusiastically when they were first mooted more than a decade ago; but the regulations to introduce them were still awaited late into 2011, and expected to be introduced in stages over time.

The environment charities and community organisations are working in is in a permanent state of flux. It is pressured and uncertain. There is never a time when we can relax and take stock of what has been changing – because it's all still changing right now. So the need for strong groups of reliable, well-informed trustees has never been higher.

Yet the responsibilities and standards required by the new legislation are making it harder than ever to attract them. While we might once have slipped into telling prospective committee members, "We need you to make up the numbers – you really won't have to do anything," we know today that this untrue, impractical and quite possibly unsafe.

Survival is an issue which has moved centre stage. Government spending cuts, falling public donations, impoverished funding charities and rock-bottom interest rates for charities lucky enough to have accumulated safety reserves are all undermining the security of organisations and the services they deliver.

The challenge is now dressed up in many different ways. Social enterprise trading and the contract culture were once advanced as optional extras to create freedom from grant dependency. They are now, often with good cause, touted as essential for 'sustainability'. The bold ideas of the Big Society have been embraced enthusiastically by some large charities, while many smaller organisations dismiss them as cynical and patronising ways to dress up what they have been doing for years and to exploit volunteers to shore up the state.

But despite the understandable gloom in some quarters, charities and community organisations continue to do a fantastic job against the odds. And arguably, the ones which are best equipped to withstand the pressure (apart from a few mavericks who will always seem to achieve the impossible) are those which have 'professionalised' the roles of their trustees and staff, shaped themselves up to deliver best practice, and taken advice on sound planning and sustainability.

We cannot claim that this guide has answers or detailed information on all these issues, but it is based on experience of how voluntary organisations work, on the challenges you may be facing now, and the steps you probably need to take to overcome them. If you are gearing up to cope with uncertainty and change, this is a good place to start.

*Mel Witherden, March 2012*

## Other sources of information

Most sections of this guide end with a short list of sources of 'Further information'. There has never been so much readily available information as there is today. The challenge is not where to find it, but how to locate information which is relevant, reliable, and in the detail you need. The references to book publications in earlier editions have been thinned down to a few classics, and these have been augmented by:

- lists of downloadable information leaflets and brochures
- website addresses for key organisations where further information and links can be found.

If it seems that possessing a computer is now essential for effectively running charities and voluntary organisations, this is almost certainly the case.

The Charity Commission and WCVA websites are particularly important, and all material from these two sources mentioned in the text under 'Further information' is accessible from the corresponding addresses below.

### **The Charity Commission – [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk):**

As the government's regulator for charities in Wales and England, the Charity Commission is an invaluable source of formal guidance material on charity law and recommended good practice which is equally applicable to voluntary organisations which are not registered charities. Selecting 'Get information and advice' on the home page takes you to a full list of these excellent materials, which are referred to throughout this guide.

### **Wales Council for Voluntary Action – [www.wcva.org.uk](http://www.wcva.org.uk):**

WCVA is the national umbrella body for the voluntary sector in Wales. It represents and campaigns for voluntary organisations, volunteers and communities, and provides information services including an extensive library of downloadable information leaflets, printed and electronic publications, and a telephone helpline. The 'Information' link on the home page takes you to these and other services. The guidance leaflets and publications are referred to throughout this guide.

It is also worth pointing out that while you should expect different sources of factual information to be authoritative, accurate and consistent with one another, guidance can be a matter of opinion,

and the opinions you come across may differ. How voluntary organisations manage their affairs depends more on their individual circumstances than on following a set of inflexible rules. In the end you may need to decide what is best for you.

## Conventions used in the text

The term 'voluntary organisation' or simply 'organisation' is used in the text to indicate any voluntary and community sector organisation, whether or not it is a registered charity.

The word 'charity' is substituted for 'voluntary organisation' when referring to specific requirements of charity law. (In some cases – for instance, where charity law is obviously a basis of good practice for all voluntary organisations – the term 'voluntary organisations' is retained and there is no attempt to make any legal distinction between charities and non charities).

The term 'chief executive officer', abbreviated to 'CEO', refers to the senior member of staff in a voluntary organisation, who may actually be known as the 'manager', 'director' or some other title.

## Mel Witherden

Mel Witherden has been involved in voluntary projects in Wales for over 35 years, 20 of these in various capacities as an advisor to community organisations and charities. His experience includes work as a journalist, a business development manager, a funding officer for a national development agency, a consultant, trainer and researcher, and, throughout his career, a charity volunteer. His long association with the Welsh community development charity Community Projects Centre (CPC) started in the 1970s when he helped in the launch of Wales' first community business, a publishing and printing venture in Cwmbran. Other pioneering activities include work on social accounting, tenant participation, and action research on leadership succession challenges for charities and regeneration organisations. He now works as an independent consultant, trainer and researcher. Mel is the author of WCVA's sister guidebook for social enterprise, titled *It's an idea but is it business? A guide to third sector trading.*

## Part 1: Strategies, planning and monitoring

### 1.1 First words on trustees, 'management' and 'governance'

Enormous confusion runs through large numbers of voluntary organisations about how to manage. This usually surfaces in arguments over **who** should manage. But the real debate is, or should be, about **what 'management' actually means**, because this is where the confusion starts.

One major battleground is the question of whether the trustees or the paid CEO are responsible for managing a voluntary organisation. This is left to Part 2, which deals with the practicalities of routine management.

But it is worth saying from the outset that the day to day management of the organisation, the supervision of the staff and delivery of services, emphatically are not the immediate business of the trustees, unless there are no paid staff to do the work.

Organisations that choose to run things in some other way have every right to do so if they can achieve both good governance and sound management. But if they fail there will be plenty of people with long and painful experience lining up to say "We told you so!"

Part 1 of this guide concentrates on the fundamental issues of establishing the direction, objectives and strategy of the organisation, setting targets for achieving the objectives and then monitoring progress towards those targets. But we need to start by recognising the importance and complexity of management in a voluntary organisation.

## Definitions: 'trustee', 'management', 'governance'

Parts 1 and 2 of this guide describe the responsibilities of the people running voluntary organisations, and Part 5 examines issues such as the roles of 'boards of trustees' (or 'management committees') and how to select their members. But before discussing the managerial and governing responsibilities of 'trustees', it is important to establish the meaning of several key terms.

**'Trustee'** A trustee is someone entrusted to look after money or other resources given to them by others for the benefit of a third party. Clearly this applies to the people responsible for running the vast majority of voluntary organisations, whether they receive their money directly from the public or as grants from other bodies. This guide uses the term 'trustee' to apply to:

- members of management committees (of registered charities and non-charities)
- directors of 'community-owned' companies
- the trustees of charitable trusts.

It also embraces all the other titles which trustees commonly use – 'council members', 'executive committee members', 'governors', 'board members' etc. See section 5.1.

**'Board'** The term 'board' or 'board of trustees' refers to the trustees acting together.

**'Governance'** Until recently this was not a widely used term. But it is valuable for distinguishing day-to-day management from the role of governing a voluntary organisation, which includes ensuring the organisation has clear objectives and priorities, an agreed programme of work, leadership, safeguards for its money and other assets, supervision for the CEO (if one is employed), and the capacity to manage its work within the law.

**'Management'**, therefore, is the business of running the organisation – organising the delivery of its work programme, looking after its assets, supervising and directing the staff and volunteers etc.

**'Charity'** For the purpose of this guide, a charity is an organisation recognised as charitable by the Charity Commission in England and Wales. See Part 6 for a full description of what constitutes a charity.



## The role of management and governance

**Management is all** The success of a voluntary organisation – the extent to which it meets the needs of its beneficiaries, its standing in the community, its vitality and its ability to respond to opportunities and problems – will depend to an overwhelming extent on its management capacity and how well the trustees govern. There is, for instance, little value in being showered with grant funding to deliver your services if your organisation does not have a clear sense of what it is trying to achieve or if there are no effective arrangements for supervising the staff that provide your services. At the other end of the scale, having too little money to do your job is only a disaster if you do not have the skills to economise wisely, target resources and prepare successful funding or contract bids, or if you lack the vision to redefine your priorities without losing your long term objectives.

**...and voluntary organisations have a strange way of managing** For very good reasons charity and company law and the voluntary sector itself impose an interesting (and some might argue arbitrary and inefficient) management structure on voluntary organisations.

Compared with the small private business, where one or perhaps two people take all the decisions, voluntary sector organisations with collective decision making arrangements have an impressively cumbersome arrangement for getting things done. On top of that, trustees do not get paid for their contribution, so one of the main factors providing motivation and control in successful private sector management is missing from voluntary organisations. This is not an argument for paying trustees. But it is part of the explanation for management in voluntary organisations being such hard work. It also helps to explain why local business people, whose skills could be a great asset to many small groups, often feel so uncomfortable as trustees, even when they are properly motivated by altruism.

**Responsibilities for management** In this context 'responsibilities' are not the same as 'duties'. The trustees' obligation to provide good governance brings them a number of important managerial responsibilities. You may be directly involved in carrying out some tasks, while others can be delegated to the staff you employ. As a trustee, you will remain responsible for the staff's actions and you must monitor the way they carry out their duties.



Trustees' responsibilities include:

- strategic planning
- accountability to funders and other stakeholders (beneficiaries, volunteers, staff, etc)
- monitoring the work of the organisation
- evaluating the work of the organisation
- managing the organisation's property and land
- managing the organisation's public relations
- representing the views of the organisation
- staff and volunteer management
- overseeing fundraising activities.

## Deciding how to govern

Good governance involves ensuring the overall health and effectiveness of your organisation. This includes the need for sound judgement on how to exercise your role. A guidebook can only provide guidance. It remains for the trustees to agree collectively on how things will be done. In particular, they should reach agreement and decide as a matter of policy:

- what governance actually is (see section 5.3)
- what they are responsible for (see above)
- what they need to plan (see Section 1.2)
- when to plan (see Section 1.2)
- what to monitor (see Section 1.5)
- how to monitor (see Section 1.5)
- who manages (see Section 2.1)
- when to manage (see Section 2.1-2.8)
- what to manage (see Section 2.2-2.8)
- when not to manage (see Section 2.1)
- when to review all these policies (see Section 1.2 and 1.6).

**Dangerous assumptions** It may seem obvious to say that you will not know that all the trustees are in agreement on these issues until you have discussed them together. If you shortcut the discussion about the way you will govern, sooner or later you are likely to find you disagree about it among yourselves. It is remarkably common for trustees to assume that, because they are all working for the same cause, they will automatically agree on the way to go about it. If you are unlucky, this will lead to rifts within the board, disagreements with senior staff and, possibly, serious management mistakes.

## Standards and codes of conduct

**Making trustees aware** It is important that all trustees receive a simple statement of their role in running the organisation when they are appointed. This particularly applies to people with little or no previous board experience. The Charity Commission and other bodies publish valuable downloadable codes of practice. But it is wise to go through them with trustees to ensure they understand the implications and the terminology.

**The Hallmarks of an Effective Charity** As part of its role in promoting high standards and building public confidence, the Charity Commission has identified the 'Hallmarks of a Well-Run Charity'. It expects that every registered charity will work to achieve the fundamental standards on its checklist of hallmarks,

and these clearly have equal relevance to voluntary organisations in general.

**The hallmarks** An effective voluntary organisation is:

- clear about its purposes, mission and values and uses them to direct all aspects of its work.
- run by a clearly identifiable board or trustee body that has the right balance of skills and experience, acts in the best interests of the charity and its beneficiaries, understands its responsibilities and has systems in place to exercise them properly.
- fit for purpose – its structure, policies and procedures enable it to achieve its purposes and mission and deliver its services efficiently.
- always seeking to improve its performance and efficiency, and to learn new and better ways of delivering its purposes. An organisation's assessment of its performance, and of the impact and outcomes of its work, will feed into its planning processes and will influence its future direction.
- financially sound and prudent – it has the financial and other resources needed to deliver its purposes and mission, and controls and uses them so as to achieve its potential.
- accountable to the public and others who have an interest in its work (stakeholders) in a way that is transparent and understandable.

**Good governance code** *Good governance: a code for the third sector in Wales* describes a set of basic principles, published by the National Council of Voluntary Organisations (NCVO) and then adopted by WCVA for the sector in Wales. This summarises an effective board's role in providing good governance and leadership as:

- understanding their role
- ensuring delivery of the organisation's purpose
- working effectively both as individuals and as a team
- exercising effective control
- behaving with integrity
- being open and accountable.

## Checklist

- Do the trustees understand the difference between 'governance' and 'management'?
- Does the board need to discuss whether it should be concentrating more on issues of governance and involve itself less in operational management?

## Further information

- Charity Commission, *The Essential Trustee: what you need to know*, CC3
- Charity Commission, *The Hallmarks of a Well-Run Charity*, CC10
- WCVA, *Good governance: a code for the third sector in Wales*

## 1.2 Strategic planning

The enormous commitment which voluntary organisations show in delivering their services has a major disadvantage – it prevents trustees from taking the longer view to see where they are going. Even dynamic and innovative organisations can find themselves endlessly responding opportunistically to funding or contract offers, but with no real sense of direction. And less adventurous organisations may go nowhere at all, until the main funder decides to pull the plug. 'Strategic planning' is the jargon for a vital job for trustees, which can reinvigorate the organisations they work for, their personal interest in their work and their relationships with colleagues. It also can be a lot of fun. So just do it!

### The trustees' role in planning?

**What is 'strategic planning'?** Strategic planning is a lofty term which may well deter smaller groups. In fact it means little more than planning for the long term. It is nothing to be frightened of. And, yes, it is almost certainly relevant to your organisation. If you don't like the jargon, abandon the word 'strategic' and call it your 'Three Year Plan' or 'Five Year Plan'. Don't abandon the planning, though.

**What is the point?** Planning the development of your organisation and its future is a key role of the trustees. It helps to:

- set a clear sense of purpose
- set, or confirm, the direction and the key objectives of your work
- establish priorities
- establish what resources you will need and how in general you will secure them
- establish how resources should be used
- provide a way to evaluate new proposals and opportunities
- produce more detailed operational or work plans.

A strategic plan is a working tool, which you should live with and upgrade as you progress. It has no use if you leave it on a shelf gathering dust.

## What does the strategic plan cover?

The plan should contain:

- your overall aims
- your specific objectives and targets
- outline plans (strategies) for achieving those targets and objectives
- the financial implications of the plan
- risk areas, i.e. the possible problems and obstacles which your plan might run into
- how you will monitor your achievements and progress
- an annual timetable for reviewing your strategy.

**When to plan** There are a number of points in the life of your organisation when you should consider going through a comprehensive strategic planning process. These include:

- when you start out
- when you are considering making major changes, e.g. expansion of your service, acquiring premises or staff for the first time
- when you are forced to respond to changing external circumstances, e.g. funding cutbacks, changes in legislation which affects your service
- automatically within three years of your last strategy planning exercise.

**Well, we do that anyway** Many voluntary organisations carry out strategic planning automatically as the need arises, hardly aware of the process. But making a special point of producing the strategic plan may enable you to incorporate some issues that usually get left out (perhaps involving the trustees more or consulting other stakeholders) – and find ways of making it more fun.

## How to go about strategic planning

There is no single way to carry out strategic planning. But a number of elements can provide useful tools:

- decide from the start what is the main reason you need a new plan – e.g. for fundraising, to examine expansion opportunities, to overhaul current operations (but don't be constrained by this in the course of the exercise)
- get away from the organisation's normal working environment
- work together as a team
- decide what you want to achieve before you start: discuss the items on the 'what is the point?' and 'what does the strategic plan cover?' checklists above
- look at your mission statement, or write it if you feel you need one
- carry out a SWOT analysis (strengths – weaknesses – opportunities – threats) of your organisation (see page 26)
- carry out brainstorming to establish a set of clear objectives and practical targets for your organisation
- examine how you will find the money to meet those targets and revise them as necessary
- get someone to write a draft of what you have agreed so far
- examine the draft in detail, and then get everyone to agree to the final document
- agree on the status of the final document – confidential, limited circulation or for publication
- build in a timetable for action and review.

**Getting away** Only larger and reasonably well-heeled organisations may think instinctively about taking participants away on a 'residential' to carry out their strategic planning over two or three days. But it is difficult to over-estimate the benefits of a well-organised residential planning session. If you are looking at developing an operation costing tens of thousands of pounds a year or a major one-off investment, spending a few hundred pounds on a block booking for hotel accommodation should not perhaps be unthinkable. But whatever the environment you choose, here are a few tips:

- go somewhere physically different to your normal meeting place if you possibly can – borrowing someone else's meeting room for a day perhaps
- get away from phones, especially mobiles
- choose a time when you are not used to having meetings – daytime if you usually meet in the evenings, and vice versa a Saturday meeting can be a marvellously refreshing change

- plan for your comfort – have regular coffee breaks, lay on something to eat for lunch, and if you are organising a residential don't overlook the amount of informal creative thinking that can be done in the bar (at least for the first hour or so).

**Planning for planning** Plan your agenda carefully in advance. Work out what you want to achieve, what ground you need to cover, how much time you need and can afford to spend on each issue, and the total length of time. Assume that you cannot possibly do the job in less than a hard working half day. The most disastrous planning sessions are those where the trustees squander their time arguing about what is on – and how to get through – the agenda. Start the session by confirming the agenda with your colleagues.

**Who takes part?** One of the most difficult challenges in setting up a strategic planning session is ensuring the best possible attendance by the trustees. This may well restrict your options for times and locations. You will need to be both diplomatic and firm:

- don't expect to achieve 100 per cent attendance by the trustees – you may never get the job done if you wait for this – but try to involve as many as possible
- do make a fuss about the exercise – make it clear that everyone is expected to be present
- definitely include the CEO if you employ one – your senior worker probably knows more about the organisation than anyone else
- other senior managers are also usually essential participants
- you may welcome any opportunity to exclude a troublesome trustee who distracts the business of meetings – but you probably solve nothing if they are not party to important decisions about the future, and managing conflict can actually engender creativity.

**Working together** One of the greatest benefits offered by special strategic planning meetings is the opportunity to take a completely fresh look at your whole organisation, and that can include:

- thinking about aspects of your work which you normally take for granted
- building a common vision with colleagues
- developing your working relationship with fellow trustees.

**Brainstorming** One key element of planning together is to involve everyone fully in the process, including the most reticent. The 'brainstorming' approach using a flip chart to record the group's thoughts in a random order before you pause to analyse or organise them is great for this job.

Brainstorming needs to be:

- focused on ideas, any ideas, no matter how off the wall they sound
- well led (but not stage-managed) and geared to giving everyone a fair say
- lively and stimulating – so don't slow it down with detailed debate
- followed through – try to make the exercise lead naturally into the next discussion so that people can see the point
- wrapped up properly – make sure there is a chance to write up or come back to the suggestions later.

**Group work** Another way to engage quieter members of your team and restrain the more vocal is to break up into smaller groups for some of the planning work. This can be hugely effective for encouraging a diversity of views particularly if you are trying to challenge a tired status quo. And it can equally well help to confirm a consensus if the groups all come to the same conclusion. But the approach can be over-used or applied thoughtlessly with possibly damaging results:

- breaking up into small groups can sometimes frustratingly interrupt the flow of a productive team debate
- not everyone enjoys the small group experience – and imposing this way of working can sometimes alienate your team
- it can be extremely time-consuming and even tedious if you have meticulous feedback sessions for your everyone to regurgitate the discussions they've just finished in groups
- if you work in groups too much it can defeat the object of developing a collective view.



## The mission statement

**Time to check your mission** If you do not have a 'mission statement' you may need to write one when you start the planning process. If you have one, you should revisit it to remind yourselves of what it says, and discuss whether it satisfactorily describes your current aims and objectives.

**What is a mission statement?** A mission statement is a short clear statement that summarises:

- what the organisation aims to do
- who it aims to benefit
- how and where you intend to achieve it
- and how you will judge the quality of your work

Clearly in the case of registered charities it must be based on your formal charitable objectives (see Section 7.2).

**An example of a fictional mission statement** Aberanywhere Development Trust is a partnership organisation to promote community initiatives in Aberanywhere. Its aim is to improve facilities and opportunities for the residents of Aberanywhere by encouraging and supporting local people to undertake projects which address the needs of their community.

**Using the mission statement** The mission statement can have a variety of uses:

- as an aid initially to defining the purpose of your organisation
- as a reference which can be returned to periodically to remind trustees and staff why the organisation exists, and to focus attention on how they can develop it in the course of the strategic planning process
- as a banner to let supporters, users and the public know what you want to achieve
- for inclusion in your annual report.

**Drawbacks** Despite its value in most cases, there can be drawbacks to writing mission statements:

- drafting them can become a serious and lengthy distraction
- they are associated in many minds with vacuous and meaningless statements of some business enterprises
- by pruning an organisation's aims down to its bare bones, it is indeed all too easy to end up with empty platitudes and meaningless jargon.

For these reasons, you may prefer to ignore the fashion and produce a longer, more comprehensive statement of your objectives, aims, strategies and targets – or at least to avoid trying to write your mission statement in a large group while there are more pressing issues to deal with.

## Planning

**The SWOT analysis** To carry out a SWOT analysis you can use your flip chart or work individually to list factors affecting your organisation:

### Internal factors

- your organisation's *strengths* – i.e. the positive features of your organisation which will help it in the future (its staff, premises, service, volunteers etc)
- your organisation's *weaknesses* – i.e. the negative features which could obstruct your development (these might be funding problems, poor publicity, lack of staff training or too few volunteers).

### External factors

- The *opportunities* – i.e. the main opportunities for your organisation to develop its work (e.g. new demand, funding sources, partnership arrangements, National Assembly policies, new legislation)
- and *threats* – i.e. the main threats from outside which could hold back your development (e.g. competition for resources, changes in local government priorities, new legislation).

**A basis for planning** The main benefit of the SWOT analysis is that it provides a realistic basis for subsequent planning.

Make sure that the plan you develop:

- compensates for every weakness
- neutralises every threat
- takes maximum advantage of your strengths and opportunities.

Don't forget that the same issue can be a strength and a weakness, a threat and an opportunity. The SWOT analysis has some less obviously psychological benefits as a starting point for a planning session by focusing everyone's attention on the organisation, bringing out the positives which you may usually take for granted, and allowing the difficult issues people don't like to talk about to be teased out.

**Types of strategy** The strategies which evolve will inevitably be one of three types, though trustees might choose different types of strategy for separate aspects of their work:

- stability: not to change
- growth: to expand to meet more needs, to meet needs differently or to meet new needs which are emerging

- cutback: to survive financially and focus on activities which the organisation is best at (though cutting back simply to save money is a poor strategy if an organisation is providing an effective service to known beneficiaries, so it might well be better to design a strategy which accommodates economies but continues to work at raising the money needed to provide the service).

**Getting there** The biggest challenge of the planning process is to establish the way objectives can be achieved in practice. This probably needs to take into consideration a wide range of issues including the organisation's financial and human resources (for instance, what can you realistically expect of your staff or volunteers?), premises, equipment, relationships with other bodies, contracting arrangements, etc.

The trustees at the strategic planning meeting should explore all these issues together. Even if they feel ill-equipped initially, they will have a far better grip on the organisation by the time they have finished sharing ideas with one another. But you can get a long way with some concentrated brainstorming and a discussion to reach general agreements. The outcomes will vary greatly from one organisation to another, but they might include issues as varied as:

- identifying the groups of people who will benefit, and a rough estimate of the numbers you will reach
- agreement on the scope and location of the services you want to provide
- the type of facilities or equipment you will need to provide, including updating existing equipment
- the balance of activities and their respective priorities, e.g. the proportion of income and effort which should be devoted to different groups of beneficiaries, to research, or to publicity etc
- major changes in statutory provision of funding or services
- a new fundraising strategy
- likely competition from other organisations
- programmes to recruit and train volunteers
- provisional target dates for key steps in your strategies
- how you will assess your progress.

Bear in mind that the detailed planning to implement your strategy comes later and is another job entirely. But you should apply practical judgement to your strategy planning to make sure your targets remain realistic and achievable, even though you will not yet be in a position to evaluate them fully.

**A draft strategy paper** Having got this far you will need to write down what you have decided and fill in any obvious gaps. The draft strategy should give a clear outline of how you aim to move from your organisation's present position to the one it aspires to have reached by the end of the plan period. It will need to establish priorities and also, importantly, set out what work the organisation will not be attempting to do. It should incorporate:

- overall aims and specific objectives
- how other proposals for your organisation fit into the strategic plan
- financial implications
- management implications
- challenges and risks.

**Plans within the plan** It is important to recognise that the strategic plan sets a framework for more detailed planning to follow. For example:

- a commitment to a new fundraising strategy with two or three key targets will involve specific approaches for each, clear priorities and expected outcomes, timetables and monitoring arrangements
- a new project development may require a fundraising campaign, the preparation of a business plan, recruitment of staff and a new monitoring system.

**Operational plans** Once the draft strategic plan has been agreed by the trustees, and final adjustments made, you will need yet another plan – an operational plan to begin implementing your strategic plan (see Section 1.3). An operational plan should cover a manageable period of time such as a year (or possibly six months), not the full span of your strategy. The task of preparing it is not part of the trustees' strategic planning role and will normally be passed on to the person responsible for managing the organisation, though the trustees should have the opportunity to discuss and comment on it.

## Reviewing your progress

Reviewing the strategic plan Strategic planning must be an on-going process (as should other types of planning in your organisation, for that matter). Even if a five-year plan has been agreed, you and your fellow trustees should review the plan each year to monitor progress against targets, to check that any assumptions made are still valid, or to see if changes in external circumstances justify modifying the plan. Ensure that any necessary updating is carried out, or it will become increasingly redundant.

Getting away, again If you managed to hold a special meeting away from the workplace to help develop your initial strategic plan, you will probably already be sold on the idea of repeating the exercise at yearly intervals to check how it is working in practice. The special review meeting can be such an enormously useful experience.

Depending on how you use the time and who is invited, the review meeting can have a range of other ancillary benefits similar to those of the strategy planning session, including:

- induction for new board members
- team building for the trustees
- an opportunity for staff, volunteers, trainees and board members to work alongside one another and get to know each other better
- a rare opportunity to take a revitalising longer view of what you are doing
- a chance for new ideas to be taken on board and old problems tackled.

**Work and play** One approach is to commit your organisation to a regular annual away-day or residential and design the content to fit current needs; looking back, looking forward, building the team, or perhaps just letting off steam that has been building. It needs to be planned to be enjoyable too – though its rarity value is usually enough to ensure that.

## Checklist

- Does your organisation have a mission statement?
- Does your organisation have a strategic plan?
- Is the strategic plan reviewed each year?
- Are new trustees given a copy of the mission statement and any planning documents you may have?
- Does your board need to review the way it carries out its planning?

## Further information

- Hudson, Mike, *Managing Without Profit*, Third edition, Directory of Social Change Penguin Books, 2009
- Lawrie, Alan, *The Complete Guide to Business and Strategic Planning for Voluntary Organisations*, Third edition, Directory of Social Change, 2007
- WCVA free download [2.1 Developing a strategic plan](#)
- WCVA free download, [1.1 First steps – from idea to action](#)

## 1.3 Business and development planning

The original idea that encouraging voluntary organisations to produce business plans would make them more 'business-like' in the management of their activities is sound enough. And no one could be unhappy if that helped good projects to get funding. But it took about ten seconds for some deluded organisations to convince themselves that they need only produce something impressive which looked like a business plan in order to persuade certain grant makers to part with their money. So what if the plan is hopelessly unrealistic and fails to show how the proposed project needs to operate in order to succeed – so long as it serves the greater good of filling the coffers?

So business planning for some has become a mechanism for conning the funders and planning to fail. In fact, it takes as long to produce a dishonest business plan as to produce a realistic and truthful one, and an honest plan stands a better chance of convincing a responsible funder. Trustees should perhaps pay more attention to the project plans their organisations are producing.

### From strategy to practice

**Next steps** When the strategic plan is in place (see Section 1.2) it will be necessary to plan how your ideas will be put into practice. How you go about this depends on what you are trying to achieve, your funding objectives and on a variety of other issues such as the cost, scale, scope, complexity and difficulty of what you are aiming for. The document you use to turn the vision and objectives of the strategic plan into reality is loosely called a 'business plan'. But beware – the terminology is rather inexact and a variety of different planning approaches commonly get bracketed together under the name 'business plan'.

**A plan for every occasion** The plan you write will depend on what you need. You should consider which of the following will best help your organisation at present:

- an 'operational plan' spells out in detail, primarily for internal use, how you will run your services (and it might cover a period of only six or 12 months – see Section 1.2)
- a 'development plan' gives a broad view of the overall development of a new or existing organisation, showing how each of your objectives will be achieved
- a 'management plan' addresses structural and management issues and can be valuable for an organisation which is expanding rapidly and needs systems, staffing arrangements, and decision making procedures to be updated
- a 'business plan': strictly speaking a business plan shows in detail how a single activity (or a single activity organisation) will operate, including evidence of the demand for it and its viability (but the term is now used loosely to cover any of the approaches listed here); business plans are also commonly used to support funding applications
- issue-based plans: you may split the planning job into more manageable parts over a period of time and produce a 'staff/management development plan' a 'fundraising plan', a 'promotional plan', etc.

**The planning approach** Don't be put off by the terminology. What matters is what you want the plan to do for the organisation, not what it's called. This guide uses the general term 'business plan' – which rightly implies that you are planning in a businesslike way – to cover all the possibilities.

The precise contents of your plan are up to you (and your funders) and the model business plan later in this section can be amended as radically as you like to fit your organisation's needs. But the discipline which the framework gives you easily justifies the effort of getting to grips with preparing a properly documented plan.

A business plan is a document which:

- demonstrates and justifies opportunities and/or needs for a service
- shows what can be done about them
- shows how the organisation will respond
- shows that this response will be 'viable' – i.e., that it can be achieved practically and within the resources which will be available (commercial activities, including community businesses, also need to show that they can make a financial surplus because just breaking even is ultimately a recipe for failure).



These demands provide a valuable framework for planning by voluntary organisations, because they challenge those preparing the document to answer fundamental questions about what they are doing – “what?”, “why?”, “how?”, “how much?” and “what if?” (Compare this with the largely routine job of describing how a strategy will be put into practice, and you will see that a business plan is a tool for thinking as well as doing.)

## What is the point of business planning?

**Finding out what is expected** If another body, such as a funder, asks for a business plan you must find out what they expect it to include. In some cases the funders themselves are not clear what they want, until, that is, you produce something they can find fault with.

**The purpose of business planning?** The idea of ‘business planning’ is an import into the voluntary sector from the work of commercial enterprise. There are still some trustees who balk at the suggestion that what they are doing has any connection with business, but the onslaught of business planning and the demands it puts on organisations of all sizes are by now unavoidable. If the term ‘business’ is offensive, call them ‘development plans’ instead.

Good quality business plans are multipurpose tools that can:

- help organisations to define their objectives in detail
- encourage them to gather fresh knowledge about their service users and clients
- provide a detailed blueprint for developing projects and activities, and the means to monitor progress
- support grant applications
- provide valuable information about your work and objectives for new trustees and employees, and for outside advisors
- help to promote your activities with certain groups in the community – e.g. individual local authority members and officers and business people.

The final version of your business plan will have its uses. But many of the benefits lie in the process of planning which producing it forces on you.



**Planning to improve your internal operation** Whatever other reasons you may have for producing a business plan, you should always try to see it as a tool with the power to:

- encourage trustees to review their organisation's long and short term objectives and share aspirations with one another
- encourage teamwork among members of your group
- force you to test the prospects for viability of your plans with hard financial details
- alert you to future dangers and show up flaws in your strategy planning
- help you to understand your proposed developments and new activity in detail
- help you to identify new possibilities and build flexibility into your activities
- clarify the way you will manage and staff your activities
- provide the means to monitor actual progress
- highlight your weaknesses and the reasons why you may not be successful.

If this list sounds too good to be true, bear in mind that you would have to work hard to achieve all of these benefits. But none of it is unrealistic.

**Planning to raise money** There is one fundamental flaw to the view that business planning is a powerful tool for enhancing an organisation's activity and performance.

They are usually written with a completely different purpose – to raise money. The consequences of this alternative perspective are, to say the least, unhelpful (and the result is often just poor quality plans):

- in many cases the business plan is written under duress, or as a chore, because someone else has asked for it or expects it. It becomes someone else's – 'the funder's plan'
- staff and trustees who believe that raising money is the answer to every problem can and do completely subvert the process by writing the type of plans which they think funders want to see
- some funders (but fewer these days than in the past) may be satisfied with plans that 'say the right things', even if the evidence is missing
- they foster project failure and poor performance, and damage to the potential beneficiaries
- they create bad experiences for funders, which may make them reluctant to take risks with innovative projects in future
- organisations become further chained to the dependency culture – a common weakness which business planning is intended to reduce
- other worthwhile initiatives become starved of resources.

## The business plan format

The basic shape of the plan will be much the same, whatever its purpose and audience. The plan should include:

- a summary
- an introduction addressed to your particular audience
- the context and background to your plan
- your objectives
- the practical proposals and the need for them
- how they will be managed and monitored (including timetables and review methods)
- how much it will all cost, and where the money will come from.

**Models to avoid** Beware of other models, which may not do the job you need:

- model plans designed for conventional businesses often contain distracting elements which are irrelevant to voluntary organisations (financial forecasting related to their profitability, for instance)
- models for conventional businesses exclude some elements which are important or vital for voluntary and community groups (e.g. details of the beneficiaries and membership, the provision for social auditing, etc)

- simplified, 'fool-proof' business plan forms produced by some financial institutions will simplify the process so much that they may be worse than useless – don't go near them

**Recommended format** There is no single definitive model for a business plan. The model plan at the end of this section can be adapted to meet the needs of individual voluntary organisations by amalgamating or eliminating any of the sections as required. It assumes that the plan is the central part of a grant request – because plans are almost always used this way sooner or later.

## Preparing the business plan – the general approach

**When?** Any new voluntary venture needs a plan, whether it is produced by a newly established organisation or an existing one that is undertaking a fresh development. To be brutally realistic, in most cases you are unlikely to write a plan until someone else tells you to do so. But you should definitely start thinking about and discussing the contents of the plan at a much earlier stage – while you are exploring ideas for developing your activities and writing your strategic plan.

**Who is it for?** Don't forget that this is your plan. A business plan that does not incorporate the ideas of all the trustees is a lost opportunity. One that ignores their ideas may well lack their support or understanding when you implement it. This is probably the last chance you will get, for at least a year, to involve trustees together in the planning process.

**Who does it?** The usual approach is to delegate one person to write your business plan, normally the CEO if one is employed. If there are no paid staff to do the job, the organisation may be lucky enough to have a trustee with business planning experience. But you should ensure that everyone else is regularly consulted on the ideas that are going into it, and that that trustees discuss early drafts jointly.

Another much more demanding approach is to delegate members of the group to write or produce information for different sections of the plan. You will need a co-ordinator to ensure that all the jobs are done on time or reallocated to other volunteers, and to polish the document and harmonise the writing styles. This approach is certainly hard work, but it is extremely valuable for creating a shared understanding through collaboration.

**How long should it take?** Resist the temptation to spend months over it. Try to write it fast (say, within a month) and have two or three intensive planning sessions with the group to share and refine ideas. Otherwise you will get bogged down and lost in the process.

**Is 'market research' really necessary?** It may be essential to provide hard evidence for your proposal, which can only be collected by research. In most situations 'market research' (like 'marketing') is mostly a matter of common sense, with a small amount of technical nous, which you can pick up from a friendly professional researcher. Researching the 'market' for a kids café, for instance, involves asking the right people (children living or going to school in the area of the proposed cafe) the right questions (e.g. about their leisure time activities, their eating habits and their pocket money). In this example you might get schools to co-operate with a questionnaire. As a group exercise for trustees and other volunteers, the research does not have to be a chore, and the information you gather can be enormously enlightening, and all the more dependable because you collected it yourselves.

**Do you need help?** Most of the process is entirely logical and does not require special skills. If you are not familiar with producing financial projections it might well be advisable to consult someone with financial experience to make sure you are on the right track – this could be a worker in another group or an advisor from your local county voluntary council. The main areas where less experienced organisations might need outside help are:

- the cash flow forecast (see also page 37 and in Sections 4.10 and 4.11 on financial monitoring)
- designing effective (objective) questionnaires for market research, and evaluating the results
- fixing charges for your services
- monitoring and evaluation processes.

## Writing the plan and the forecast

Trustees certainly need to be involved in the process of business planning, but they will only need to write it if there is no one else to do it. This sub-section is designed for trustees who have little or no previous experience of business planning, and who need to undertake the work themselves.

## A few basic tips

- it is vital to use a word processor. It's extremely handy to be able to change things around as you go along, and you are almost certain to need to alter it later when the document is revised for other potential funders, when you adapt extracts for internal reference or information leaflets, or when it is updated in 12 months time
- start by producing a rough picture of the income and expenditure (which you will refine later). The order in which you write the rest of the plan is much less important
- one possible approach is to build it up layer by layer – starting with an outline plan and then filling in more detailed information in several stages. This encourages you to think in ever more detail about the project, and to check that your earlier assumptions still apply as more information is accumulated
- revise it – your understanding of the way your project or organisation will work will improve the more you think about it
- share it with fellow trustees – six heads can be much better than one.

**The cash flow forecast** Even if every penny of your income comes from a single grant source, you will need to make sure that there is money in the bank at the right time to pay your bills. The cash flow forecast at its simplest will tell you when you need to receive any grant instalments to avoid being overdrawn at the bank. As soon as you are reliant on earned income of any kind (such as charges for your services) the rate at which you receive money can be expected to become variable and less predictable, and it can easily fail to keep pace with the rate at which you spend it. A cash flow forecast is simply a budget forecast which:

- includes your opening bank balance
- shows income and expenditure in the month when you actually receive or spend the money, and
- shows you the expected size of your balance at the end of each month.

## Producing a cash flow forecast

Here are a few tips:

- the whole planning process should start with a cash flow forecast - you must be able to see realistic ways of securing enough income to cover all your expenditure before you know that your project is a practical proposition

- use a computer spreadsheet for the forecast if you possibly can (even if you have never used a computer for anything except word processing, the enormous flexibility you get for testing and revising your figures can justify the time spent learning to use a spreadsheet programme)
- don't concentrate only on optimistic expectations – anyone can make a project look good with wishful thinking. Devise a realistic scenario in which your outgoings are rather higher, and the income takes longer to build up, than you would like, and then work out how you would survive in that situation
- don't expect the first version of the forecast – or even the third or fourth – to be best or last; as your planning progresses you will think of items you have missed, correct mistakes and make refinements
- don't be frustrated by the need to keep going back to it; the improvements you make are well worth the extra time
- don't be afraid to ask for help if you need it.

**Dealing with the forecast sceptics** Planning, especially financial planning, can be threatening to some people because it exposes weaknesses and sometimes leads to conclusions you'd prefer not to deal with.

So be prepared to persuade the doubters who tell you:

- “Financial forecasts are always wrong” – yes, and so are railway timetables, but there would be no service at all without them
- “If we can't reliably predict three months ahead, why produce a three-year cash flow forecast?” – year one of a project is distorted by the special demands of getting it started, and even if the project is running at full speed throughout the whole of year two (which cannot be guaranteed), the financial situation in the second year can still be affected by the anomalies in the first (e.g. grant surpluses carried forward because of a slow start). It is not until year three that you get a completely clear view of how the project will run and whether it is likely to be sustainable.

**What about the truth?** Good business planning can sometimes be subverted by funders. It is not unknown for public sector bodies to ask for plans to be rewritten, not because they are inaccurate but because they are too honest!

It's easy to get the message that the best practice is to mislead potential funders – exaggerating its financial viability, minimising the defects of the scheme and the weaknesses of your organisation. The disastrous consequence of this approach is that you may end up with the funding you asked for, but without a realistic, workable project to deliver.

**Pressure to change your plan** Whatever the circumstances, you must stay in control of your own plan, and not allow others to dictate contents which you cannot put into practice:

- emphasise, even embellish if you must, the positive aspects of your proposal, but don't make commitments you cannot deliver on
- always ask why changes are needed:
  - is there a real defect in your proposal?
  - does your project fail to match the criteria?
  - if it's to distort the truth so that the funder can give you a grant, you'll need to talk this situation through informally because it is fraught with risks for your organisation if things go wrong later.

## Plans and studies by outside consultants

**Ownership** There is one important alternative to the business planning process described above – getting an outside specialist to do it for you. Whatever the scope of the consultancy, it is crucial that the work is understood and 'owned' by the group. Ownership means simply that the proposals or plans have the same commitment from members of the group that they would have had if the group had carried out all the work themselves.

**Funding for plans** The idea of an outside consultant can be particularly attractive if funding is readily available for business planning. Nowadays, many funders, including public bodies, are prepared to provide grants, particularly if jobs and training are a likely outcome. The cost of a very basic plan for a small to medium voluntary organisation will probably start around £3,000 or £4,000. If you need and can afford something more complex that includes community consultations or follow-on help with implementing a business plan, you might expect a total fee starting at £5,000 or £6,000 and possibly very much more.

**Alternatives** If you cannot attract outside grant funding and it's vital to bring in an outsider to tackle the planning (because the project is beyond your skills or because you need a completely fresh outside view) you may still be able to get the job done by:

- Investing some of your reserves in employing a consultant, or
- finding an agency which will provide help free (ask your local county voluntary council to advise you).

**'Feasibility studies' and 'business plans'** Funding schemes sometimes refer to 'feasibility studies' rather than business plans. In everyday language there is not a great deal of difference, because a business plan needs to demonstrate the 'feasibility' of the project idea, and is likely to include an element of research to

do so. But in practice it is essential to make it clear when writing the brief for the work that you want a full business plan produced at the end of the process. A dull or unscrupulous consultant who is simply asked to produce a feasibility study could leave you with a market research report and a cash flow forecast, but no rounded plan for implementing the project.

## Using outside consultants

Money can be wasted if the consultancy is not set up and managed properly:

- it is vital to prepare a detailed written brief for the consultancy (or get your prospective consultant to prepare one which meets your specifications) – this should cover the work to be carried out, the time it will take, the completion date and the all the costs (fees, expenses and VAT); discuss it again with the consultant before the work starts to avoid misunderstandings
- funders may require you to get use a formal tendering process, but it is always a good idea to ask at least two consultants to quote unless you are employing someone you know and trust
- use WCVA's Database of Trainers and Consultants to find specialists who work in your field and download their guidance on making appointments



- always follow up references, and talk to other groups or agencies about the appropriateness and competence of a consultant before employing them for the first time
- there is no substitute for a consultant who works closely with you throughout the process – insist on this
- indicate the level of consultation which is expected the very minimum arrangement should be detailed discussions between your consultant and the trustees when the consultancy starts, half way through and at the point when a draft plan is produced
- put the terms which have agreed in writing - including the price, any additional expenses, VAT, whether it's a fixed fee, time-span for completion, reporting arrangements and the form you want final document to appear in; you don't need a formal contract because a letter is just as binding
- co-operate with the consultant as much as possible by providing information when you are asked for it, and help in any way you can.

## Further information

- WCVA free download, [\*2.2 The Business Plan\*](#)
- WCVA free download, [\*2.x14 Using freelance trainers and consultants\*](#)

## A model business plan

This model provides an extensive list of items to include in your business plan. Individual organisations will need to decide which topics to include.

- 1. A cover:** Include your name and logo, the name of the funder it is addressed to, and don't forget to include the date (many people do). Indicate whether this is a draft, and number different drafts sequentially. It's easy to get confused with different versions of your plan.
- 2. Introduction:** The Introduction should include:
  - A brief outline of the project or development.
  - An outline of the total funding required, and the prospective sources if it's part of a bid.
  - An explicit statement of the amount of grant being applied for from the funder.
- 3. Background:**
  - Describe what you do.
  - Explain your objectives (and charitable objects).
  - Briefly describe the origins and development of your organisation.
  - Outline your existing and proposed constitutional arrangements.



## 4. Personnel:

- List the trustees with their roles and a little background information about each, such as employment and outside interests.
- Include details of the CEO and other key staff (whether already in post or proposed) – you can include job descriptions in an appendix.

## 5. The need or 'market':

- Who are the current and proposed beneficiaries or users/clients of your service?
- Quantify the need for the service.
- How did you go about identifying and evaluating this need, i.e. any market research you have carried out and a summary of the results? (present the full results in an appendix); you should include evidence of the general background need (e.g. drawn from census and other statistics – readily available from your local council – and anecdotes drawn from your experience).
- Are there any special characteristics which you have identified?
- Who else is providing this type of service, and how is yours unique or better?

## 6. The development proposal:

- Describe the services which you want to provide or develop.

- Explain how they will operate and why you chose to run them in this specific way; describe any specialist equipment, processes or approaches which are unlikely to be familiar to people outside your organisation.
- What are the targets for this year of operation?
- Describe any special legal and licensing requirements you will be required to meet.
- What are the potential problems with this service and how will you overcome them?

## 7. Promotion and service delivery

- How will you let your potential users and clients know about your service?
- Who will actually provide the service? Where? When?
- What are the targets for the first year of the new operation?

## 8. Charges:

- How have you fixed your proposed charges, if any?
- How do they compare with similar services available in your area or elsewhere?
- Include any detailed calculations in an appendix, and refer to them here.

## 9. Staffing and volunteering:

- What paid posts will you create to provide the service? What skills are required?
- Are there any significant recruitment issues such as salary levels or availability of skills?
- What facilities and training will be provided for staff and volunteers?
- How and by whom will volunteers be recruited, inducted and supervised?
- Is there a code of practice for volunteering?

## 10. Management:

- Who will make overall policy; who will take day to day decisions; who will be consulted?
- How will decisions be recorded and communicated and their implementation monitored, and who is ultimately responsible?
- How will the paid manager and staff work effectively with the trustees?
- How will the financial arrangements be managed, supervised and monitored?
- Where appropriate, include a chart to show how the management structure fits together.

## 11. Premises, equipment and other issues:

Describe any other important factors in the launch or running of the service, including:

- The ownership and/or tenancy terms, lease or purchase cost, and suitability of premises.
- Necessary adaptations and conversion costs.
- Transport facilities you will provide or use.

## 12. Training and support:

- What help have you had to develop the capacity of your group, your project ideas and your management skills?
- What training will be necessary for staff and directors in future, and what plans and resources are there for delivering this training?

## 13. The beneficiaries:

- Define all the groups of people who receive benefit from your activities, directly or indirectly (e.g. service users and clients, volunteers).
- In what specific ways will these groups benefit?
- How will you record and measure whether you are achieving these benefits?

## 14. Accountability:

- How will the public know about your work?
- How will you involve the community in the project or organisation?
- How will clients and users be involved in the planning, delivery or monitoring of the service?

## 15. Cash flow forecast:

Include a cash flow forecast for the forthcoming three years (see Section 4.10).

## 16. Analysis of the financial arrangements:

Describe the financial implications of your proposals in detail by referring separately to the items under the income and expenditure headings in your cash flow forecast.

- Explain, perhaps in an appendix, how your figures were arrived at.
- Describe the sources of funding which you hope to secure.
- Assess the overall cash flow situation for the period of the forecast.
- Explain what action would be taken if you miss your income targets or overspend.
- Indicate how the project or service will be sustained in the longer term.

## 17. Project timetable:

- Provide a timetable to show the key stages in achieving each of your main objectives, both while the project is being developed and when it is running.
- Explain the method you will use to monitor your progress against the timetable.

## 18. Strengths and weaknesses:

- Identify the strengths and weaknesses of your organisation to show that you have properly evaluated your capacity to develop the project.
- Show how you will take steps to remove the weaknesses you have identified or what steps you will take to minimise their impact.

## 19. Summary of grant request:

- How much grant aid is needed and for what purpose? What other sources of finance have you explored and secured, particularly matching funding?
- What funding will be needed in future years, and where will it come from?

## 1.4 Target setting

It is not unknown for CEOs in voluntary organisations to predict the end of civilisation as we know it when trustees suggest that they should be involved in setting targets for their work. This resistance, which is much less common than it once was, is based on blind fear – of the unknown, or of being found to be wanting. A common response by a manager is to point out that there is not enough time because the staff are already overloaded. The argument that target setting is a useful tool for establishing clearer work priorities and relieving stress cuts no ice with the truly paranoid employee. Trustees might well conclude that the more resistance they receive to the introduction of target setting (and associated monitoring arrangements), the more these valuable management techniques are likely to be needed.

## The purpose of setting targets

**Why targets are necessary** Monitoring an organisation's activity without targets to refer to is like monitoring finance on the strength of monthly income and expenditure figures without an annual budget. You may feel you are in control, but you run the risk of discovering you're not when it is too late to do anything about it. As a trustee, you need more than subjective written or verbal reports from the CEO to be assured that you are on the right course. A few well-chosen target dates, and numerical landmarks which you are working towards (such as increases in numbers of users, funding raised, or projects started) can make the difference between success and failure. Having targets to monitor doesn't have to be a burden on anyone.

### The benefits of target setting:

- setting targets is a vital part of the job of setting priorities, allowing trustees and staff to be more in control of the organisation's work
- trustees can carry out their monitoring role more effectively, and – sometimes crucially - feel more relaxed about leaving the CEO to get on with managing
- management staff are required to think through their work more thoroughly as they identify the targets, so they may get a better grip on their jobs and on planning their workloads

- staff know what is expected of them: they know what to aim for and can measure their own progress, so they are more likely to feel their work is worthwhile and want to take a personal interest
- the trustees will recognise a CEO or another senior officer who is performing poorly at an earlier stage; this means that support or training can be provided and crises averted.

## From plans to targets

You will set and review different types of target at different intervals. All are relevant to the task of monitoring progress (see Section 1.5). Don't get hung up on subtle distinctions between them. What is most important is to set objectives which are:

- measurable in the short, medium and long term
- understandable to the people responsible for achieving them and the people responsible for monitoring them.

**Strategic targets** The strategic plan will set long term objectives, and should define the most important steps along the way, even though it may not fill in much of the detail. Where appropriate, these targets should have approximate dates attached to them. Your strategic targets might include:

- reaching an important fundraising objective

- starting and completing individual projects
- the number of new initiatives started in a three-year period.

**Operational targets** A business plan or operational plan which sets out your work for the coming year should include timetables with events and landmarks for your activities and a more detailed breakdown of how you will achieve the longer term targets, e.g.:

- the dates when new staff are employed and when premises are taken over for a major project development
- setting up and running a major event
- maintaining the number of users or clients at a particular level
- recruiting a specified number of new volunteers.

**Target tasks** Some of the landmarks above can be broken down further into individual tasks, and in some cases the order and timing of these tasks can be critical to your completing the main job successfully.

One of the clearest examples of this is recruitment: once you know the date when you want a new worker to start, you need to work backwards to plot the dates for the interviews, the short listing, the closing date for applications, placing a newspaper advert and writing a job description. If you don't stick to the timetable of tasks you could have problems.

**Making targets relevant** When you set targets for your work you should try to make them as practical as possible so that staff and volunteers know what they are realistically expected to achieve. For instance, if the business plan for your furniture recycling project forecasts that you will provide 1,200 families with items of furniture in the year, your quarterly target is likely to be around 300. But it would be better to set monthly targets which vary from month to month to reflect factors such as a pre-Christmas boom and your customers' lack of ready cash in January and February.

## Who sets the targets?

The following recommended arrangements depend on organisations establishing a clear separation of roles between the trustees and the CEO. See Section 2.1 for the details of this critical relationship.

**The trustees' role** If the voluntary organisation employs a CEO, it is not the job of the trustees to work out what the detailed targets should be. But the trustees' role is critical for good governance:

- it is essential that trustees should establish the basic policies for target setting
- trustees will set or confirm the overall strategic targets themselves
- trustees must be aware of the way that target setting works in practice so that they know what to look for in their monitoring role
- the trustees should also undertake the job of confirming or amending targets which have been recommended by the CEO or another officer; this is not the only possible approach, but it is central to the monitoring arrangements recommended by this guide.

**A procedure** A procedure for setting targets should be as simple as possible to avoid unnecessary bureaucracy. If there are hitches, the arrangements can be adjusted in the light of experience. One model involves the CEO in:

- producing a timetable for a period of three, six or 12 months with key tasks, events and objectives identified for each month
- agreeing a list of the main tasks to be completed for two or three months ahead, with indications of the priority of each item
- indicating simple priorities ('primary', 'high', 'medium' and 'low' is easily specific enough)
- submitting the proposed targets to the trustees to confirm or amend – in this way the trustees are exercising their responsibility for governance, retaining control, and leaving their management staff free to manage.

## 1.5 Monitoring – and accountability

Monitoring can give trustees considerable power and authority in their organisation – far more power than is sometimes achieved by trustees who misguidedly try to interfere in day-to-day management over the head of the CEO. But the point is frequently lost on trustees at both ends of the management spectrum, from those who abandon the staff to do absolutely everything, to those who want to steer the manager's hand while s/he is writing cheques or ordering paper clips. Some trustees actually look disheartened when told by advisors that their job is to monitor and not to manage. It is as if the single most important job in providing good governance is not quite good enough for them.

Yet the alternative to operating an effective monitoring system is probably to wrestle permanently with management crises – which wouldn't have occurred if problems had been picked up at an early stage as part of their supervision role.

### Monitoring monitoring

**What is monitoring?** Monitoring is the process of gathering and recording information on a regular basis. It keeps account of progress and work undertaken against agreed objectives, sometimes called 'performance targets' and 'performance indicators'.

**What needs to be monitored?** The trustees have a responsibility for monitoring all aspects of the organisation's activities. This will encompass:

- services provided to the beneficiaries
- the management and development of the organisation (as defined by the strategic and business plans and by the targets agreed by the trustees – see Section 1.2-1.4)
- staffing and administration issues
- finance (financial monitoring is a crucial function for trustees and is dealt with separately in Sections 4.9 and 4.10).



**How much monitoring?** In a small organisation providing just one type of service it is possible for trustees to receive reports about most of what the organisation has done during the previous month – who has been helped and in what ways, how much income has been received, how many hours of voluntary work has been done etc, down to how much has been spent on breakages or volunteers' travel expenses. In a larger voluntary organisation there are serious dangers with monitoring this level of detail, which could:

- overwhelm the trustees' meetings and act as a barrier to their effective monitoring of major issues
- tempt trustees to interfere with the management role of the staff
- overburden or distract the staff with gathering information which trustees do not read or read.

**Information for what?** Clearly trustees need to establish policies which specify rational and useful levels of monitoring information. You should be guided in this by asking yourselves:

- Why you want the information and what use do you make of it – do you read it? Does it affect your decisions? Would you still be able to exercise your responsibility for the organisation if you did not receive all of it?

- How much do you trust the staff that are providing the information? A new CEO might be expected to provide rather more information in the first few months so that you can be assured they are on top of their job (if you really don't trust an existing manager, monitoring alone will not solve the problem and you will need to take action to provide support, training or more supervision; but monitoring can be the means by which you test whether this action is being effective).
- Are the trustees straying from their monitoring role into telling the CEO how to manage? If you are it's time to back off.

## Monitoring arrangements

Simple formats for monitoring information The trustees must decide what information they will monitor, in consultation with the CEO. Then you need straightforward mechanisms for the staff to provide it and for the trustees to examine it. Here are a few suggestions:

- **use a consistent format** i.e. the same information in the same form every time – if you vary the format you will not be able to make comparisons



- **produce monthly reports** basic information can be presented on a simple form. For example a multi-purpose community centre might have a standard report form for staff to complete each month which includes:
  - the number of users for each type of activity
  - the number of trainees/training sessions provided
  - the number trainees/users gaining qualifications
  - the number of voluntary groups making bookings
  - the number of community groups advised/supported
  - special community events organised
  - the number of volunteers and/or the total number of volunteer hours.
- **report your progress against targets** where you have previously set targets in your strategic or business plan, trustees will need periodic reports (every two or three months perhaps) with separate columns to compare actual performance against the targets; the same community centre might need to report on any of the items listed above plus:
  - funding for project 'X' secured to date
  - number of new community activities established

- progress against the timetable for building work or grant expenditure
- new users/trainees in the period
- number of new volunteers recruited and trained.

- **explain variations from targets** the standard monitoring report format will need other columns to explain the extent of and reasons for any under or over-achievement of the targets and proposed/ recommended future action
- **you can't measure everything** not all the information needs to be, or should be, quantitative.

All this may sound complicated, but forms like these can be completed by a manager in a few minutes, provided the relevant information has been recorded routinely during the period. The real challenge is getting discipline into the original record keeping, so don't waste your staff's time and patience by asking them to collect information you won't use. The proposed targets for the next period can use exactly the same format.

**Monitoring for outside bodies.** Trustees cannot afford to forget that funders may also ask for regular monitoring reports as a condition of funding. It is wise to ensure that their requirements are integrated into your monitoring system so that you do not have to produce two sets of records.

**More complex monitoring:** Some adventurous charities are nowadays experimenting with more qualitative record keeping and monitoring to track not just how much they do but also the amount of change they create. In one example, volunteers are tracked by interviews and simple questionnaires from the point when they arrive till the time they leave. Hey presto! Evidence of changing levels of confidence, lists of real skills acquired, even records of their evolving financial circumstances, states of health, and their sense of wellbeing. It is difficult to overstate the power of producing evidence that community organisations and charities are not just managing social problems but actually changing lives. This is more valuable than ever in a funding climate where some parts of the voluntary sector are being moved inexorably towards payments by results.

## The audit committee

**The job of an audit committee** Larger organisations sometimes take monitoring to another level by establishing an audit committee – a small committee appointed by and reporting to the board of trustees – whose role is to safeguard the organisation's integrity. The job is advisory and involves reviewing, monitoring and ensuring adherence to the law, to standards, and policies. Generally the committee will examine issues such as:

- accounting and financial policies and controls

- the quality of information provided for planning and decision making
- the reliability of monitoring procedures.

**The future of audit committees** Smaller organisations are much less likely to need or to be able to afford the time to set up an audit committee, but public pressures for voluntary organisations to be more accountable to the community means that audit committees could have a larger role in future.

## Accountability

**What is 'accountability'?** Monitoring and evaluation (see Section 1.6) are means of ensuring that your organisation is accountable for its work.

'Accountability' tends to be a slightly vague term, because:

- only part of it will be a practical requirement (accountability to funders, the Charity Commission, etc) – the rest is 'moral' accountability
- the people you are accountable to make up an ill-defined and diffuse group which might stretch from your clients and users to 'the community' or 'society' as a whole (if you appeal to the general public for their support and their money)

- the accountability of one voluntary organisation will differ from the next because their services, funding arrangements, management procedures, public profile etc vary so widely.

This lack of clarity does not mean that accountability is unimportant, though. Trustees, particularly in registered charities, are legally and morally accountable for the way they supervise and control the running of their organisation, and for the resources they have been given. The public expects this control to be exercised responsibly and in the best interest of the community, rather in the way that it expects high standards from politicians (and most people will be aware of the collective sense of betrayal when that trust breaks down).

**Accountable to whom?** Depending on the organisation's legal status, trustees will be accountable to a variety of organisations and people, which are likely to include:

- private donors
- central and local government funders
- company donors
- the Registrar of Companies
- the Charity Commission
- the organisation's own members
- the beneficiaries
- staff and volunteers
- the general public (because of the tax benefits charities receive)
- HM Revenue and Customs.

## Being accountable

- Charity law requires trustees of all registered charities to send a return to the Charity Commission each year (see Section 7.7).
- Depending on the size of their gross income or total expenditure, trusts and associations will also have to submit an annual report and accounts (or financial statements), with an independent examination or audit report.
- Companies limited by guarantee must submit an annual trustees' report, including accounts, and an annual return to the Registrar of Companies, as well as to the Charity Commission.
- Annual reports, or amended versions of them, can be used to communicate the organisation's activities, and income and expenditure to donors, the public, staff and volunteers.
- Many funders specify the way in which voluntary organisations must report the use of their grants.

- Voluntary organisations are morally, if not legally, accountable to their beneficiaries; it is certainly good practice wherever possible to consult clients and users about current and proposed services, and to involve them in planning activities – in many cases not consulting users can lead to a breakdown in relationships or the collapse of the organisation's service.

## Checklist

- Do you regularly monitor the way in which your voluntary organisation operates and its achievement of objectives?
- Do you need to review the targets/indicators you monitor?
- Do you need to review the way in which information is presented to the board?
- Does your board comply with the regulations to account to the Charity Commission and/or the Registrar of Companies?
- Does your board need to review how you account to donors, funders, staff and volunteers?
- Does your board need to review how staff and volunteers are held accountable?

## Further information

- **Charities Evaluation Services** is the UK's leading provider of support and advice on quality and evaluation systems for the voluntary sector. *First Steps in Monitoring and Evaluation* is one of a number of information leaflets from the CES Free Downloads page at [www.ces-vol.org.uk](http://www.ces-vol.org.uk)
- WCVA free download, [\*2.6 Monitoring and evaluation\*](#)

## 1.6 Evaluating your voluntary organisation's work

A big problem with evaluation is that it can be already too late to do it when you decide you need it. You may wish you had carried out an evaluation exercise to demonstrate what a marvellous impact you have had as a result of your latest project. But, even if you have recorded all the information to show that your initiative has been working well for the past 12 months, the chances are that you will have no way of demonstrating what things were like before you started.

A second big problem with evaluation is that it sounds impossible the moment someone describes what is involved. How can you find the time to do all that planning and record keeping? In fact, you may already be recording most of the relevant information. What you really need, though, is a commitment to evaluation at the point when you prepare your grant applications.

If you fully document the need for your project and set your targets clearly and accurately at this stage (which is only good fund raising practice after all), recording your progress should fall into place naturally when you start spending the grant. And if the job still seems onerous, cut it down to match your capacity – you'll get better results doing half the work than doing all the work half-heartedly.

### What's the value of it?

**What is evaluation?** Evaluation is the process of looking at the information collected in the course of monitoring and making judgements on the quality of the organisation's work, the progress made and achievements. The evaluation process requires some experience and knowledge of the field in which the work is being undertaken. Evaluation is carried out against stated aims.

**The value of evaluation** Evaluation is a way of assessing the impact, cost-effectiveness and quality of the work of your organisation. It is part of a cycle of planning, monitoring and evaluating your work which should feed back into your operation to guide changes in the future.

Evaluation is important since it:

- demonstrates whether you have used your time and money effectively
- identifies your strengths and weaknesses
- checks your progress and enables you to reassess where you are going
- allows you to check whether what you are doing is still what local people want and need
- allows you to check whether your work actually benefits the people who most need it
- enables you to involve users and clients more closely in your work
- provides a basis for future planning
- makes you question whether you are carrying out your aims and objectives and working within the organisation's policy framework.

**The evaluation cycle** There is more than one way to evaluate the work of your organisation, but there are several basic steps which should form part of any system:

- decide who will carry out the evaluation
- agree on your aims for the evaluation
- decide what evidence you need
- decide what methods and measures you will use
- establish a baseline, or starting point, against which you can compare your results (this part is critical)
- gather baseline information
- establish systems to routinely collect information and to regularly review it
- plan specific evaluation activities
- analyse the information
- tell the relevant people what you have found out
- ensure that the findings are acted upon, and necessary changes are implemented in the organisation
- plan the next phase of the evaluation (which will include the changes you have put in place).

## Who should do the evaluation

Who carries out the evaluation depends partly on your resources.

- The options:
  - self evaluation
  - bringing in an outsider
  - forming an evaluation circle – a group of associated projects or organisations who develop common approaches and support each other, perhaps with an outside facilitator
  - involving local residents and service users in carrying out the evaluation
  - a combination of these approaches.
- An outsider can:
  - give the evaluation credibility
  - encourage feedback from people who may not be completely honest with you directly
  - have a more objective approach
  - bring in outside knowledge and skills.

- Self-evaluation can:
  - ensure that the organisation's values are reflected in the evaluation
  - ensure that inside knowledge (eg of local attitudes) is taken into consideration
  - encourage ownership and commitment among those involved
  - help to ensure that recommendations are taken on board.

## Planning for evaluation

### Preparation

When planning and designing the evaluation it is important to:

- allow adequate time – e.g. for getting reporting forms and questionnaires right for the job
- be clear about aims and objectives – particularly if there are a variety of interests involved in the evaluation who may have different views on its purpose
- involve all the key stakeholders – and ensure that differences of view are recognised even if they cannot be reconciled.

**Defining types of activity – ‘inputs’** You will need different information to measure each area of your work. So the first step is to decide what activity areas you will evaluate separately. A multipurpose community centre, for example, might need to record information about its sports hall, its computer training project and its community development work. With apologies to those who despair at the jargon, ‘inputs’ are what you put into the process: your activities, facilities and resources, including staff and volunteer time.

**Defining objectives – ‘outputs’** Next you need to decide what ‘outputs’ to expect from each of your inputs (outputs are activities generated by the inputs, such as numbers of people using the facilities, new activities, qualifications gained).

**Defining aims – ‘outcomes’** Outcomes are the results of the activities, which sometimes take a while to become evident. In the example of the community centre below, these more fundamental objectives might include increased personal confidence for users, reductions in local crime, improvements in the health of individuals, and greater wealth both for individuals and community organisations.

**Deciding what measures to use** Having decided what ‘outputs’ and ‘outcomes’ you expect to see, you now need ways of measuring them. But do not try to measure everything – some features may simply be too difficult for you to measure (e.g. improvements in the wealth of local residents) and some information may be too time-consuming to collect, record or analyse.

**An example:** Objectives for Evaluation of Aberanywhere Estate Community Centre shows the type of measures which you can reasonably expect to use:

- numerical records of your work which you should keep routinely – numbers of users or clients for each activity, enquiries from the public, volunteers and trainees, etc
- observations: anecdotal information is little use on its own, but you should keep a log or diary of all the positive results of your work as they happen (e.g. the unemployed person who got a job on the strength of their voluntary work)
- user satisfaction records: you need to give your users the opportunity to record their views about the services you provide on a routine basis (the fact that you need this information for your evaluation should persuade you to make the feedback system work)



- questionnaires: for things which you do not currently measure you may need to carry out simple surveys to establish the views of the public, members, new users etc; try to collect information which can be quantified (e.g. "give a score between 1 and 5 ..." rather than "was it good for you?")
- representative interviews: interviewing a sample group of people can be as informative as a large survey
- other local information: public and voluntary bodies keep a wealth of statistical information which may reflect the work which you are doing (monthly police antisocial behaviour figures for your area, enquiries about debt problems to the Citizens Advice Bureau, unemployment and benefit claimant rates, numbers of people claiming housing benefit and so on); using these figures where they are relevant can be particularly helpful because independent sources have extra credibility.

**Establishing the baseline** No amount of information about your work will tell you about improvements unless you can say what the situation was like before you started measuring.

Sometimes these 'baseline' statistics are already available, but sometimes it can be invaluable if you carry out your own survey (a community consultation in the case of the community centre, for instance) at the outset.

Useful sources of information for the baseline include:

- original grant applications
- past research reports and statistics on the area, e.g. from the local authority or training agency
- previous records of your work
- statements of your own aims and objectives
- press coverage of issues relevant to your organisation.

Try to match your measures (and the way you gather and record information for them) to this baseline information.

## Measurement and interpretation

**Record keeping** The greatest challenge is ensuring that all your staff and volunteers understand the purpose of the record keeping and that they maintain the process throughout the whole of the evaluation cycle (perhaps a period of 12 months).

**Interim reporting** Use the information as you progress – feed it into routine reports to the board of trustees every few months, and be prepared to act on the information to improve your services or record keeping if you need to.

**Make sense of your failures** You need to understand what went wrong if you fail to reach your targets so that you can put things right. Don't be afraid to be self-critical. You will need to decide whether:

- you have departed from your original objectives
- the environment has changed (and you may need a different approach)
- you did not allow enough time or resources
- there were unforeseen obstacles
- your evaluation measures were inappropriate
- your performance or administration was poor (find out why)
- you have not done what you said you would.

**Feedback** The evaluation exercise may have little effect and you will receive no credit for it if no one knows about it. Consider the following:

- producing detailed recommendations for action which are discussed fully and acted on by the board (essential)
- publishing the results in your annual report (probably essential)
- running a feedback event for interested parties, including users
- getting press publicity for the positive results.

## Basic principles of evaluation

Evaluation is not an exact science, so don't be disappointed by the compromises and shortcuts which it inevitably involves. Successfully completing an exercise over a period of, say, 12 months is a huge achievement in itself. But you can make life easier for your organisation if the evaluation is:

- systematic and planned – i.e. deliberate and not 'ad hoc'
- checkable – i.e. the information you produce sounds reasonable and credible to people who see it
- efficient – only do work you need; don't waste people's time
- able to involve people who have an interest in the results – so you need a process which is real to your members, users and all the trustees rather than something flashily professional
- relevant – use measures which tell you what you want to know
- productive – make sure it has results, and is not an end in itself
- stimulating – if it is not fun, involving and stimulating you may interest no one.

## Social audits and social accounting

**What is a social audit?** Social auditing (or 'social accounting', which is an alternative term for the same thing) is basically a method of evaluating the performance of organisations. In practice it has many features common with the approach described above – both in what is measured and how the measurement is carried out. But its primary purpose is probably more to provide evidence of success to the outside world than to enlighten those conducting the evaluation. (The term is also used to mean a survey which aims to identify a community's physical and human resources. Those should be called 'community audits' instead to avoid confusion.)

**Do social audits work?** The idea of social auditing has been around for a number of years. It is originally an import from the private sector among large companies such as The Body Shop and Shell who wanted to emphasise their benign social impact to gain a competitive advantage. In the voluntary sector, it has often been used as a mechanism to show to funders and politicians that profits and jobs are irrelevant measures of the beneficial impact made by social enterprise organisations.

There is now interest in evaluating the so-called 'triple bottom line' – financial, social and environmental performance, for very similar reasons.

But in reality, social auditing has failed to make much of an impact. This is partly because of the complexity of many toolkits which have been developed to measure the work of voluntary sector organisations, and the high cost (in either staff time or the employment of expensive outside consultants) of implementing systems for recording and evaluating information.

Yet social auditing continues to hold the potential for a wide range of benefits, and in particular to enable organisations to provide:

- firm evidence to sceptical outsiders that regeneration initiatives, social enterprise organisations, and pioneering environmental and social projects of all kinds are having a positive effect
- objective measures of how far organisations are achieving their stated charitable objectives
- raw material which can enable service providers to improve their quality control.

**If you decide to carry out an audit** Organisations should not ignore the possibilities of social auditing. The most important message for anyone who takes the plunge is to keep the process simple and manageable. You will instinctively and automatically take on more work than you can easily achieve – everyone does. So:

- set modest targets
- take a look at existing models for the social audit process and chop them down by half unless you are absolutely sure you have the resources
- track down social audit training programmes at least to get you started, and check whether you can attract funding to cover some of the staff time involved
- evaluate just a few specific aspects of your organisation, not the whole thing
- don't even attempt it unless you have someone with the time and energy to carry it through – half an audit is at best just a learning experience.

We have been waiting for many years for simpler, more accessible models to be developed – which organisations can use with confidence at relatively little cost – and for grant makers to show a greater willingness to fund this type of evaluation. We may need to continue to be patient.

## Checklist

- Do you regularly evaluate the work of your organisation?
- Do you have an effective evaluation system?
- Do you need to seek advice on evaluation?

## Further information

- The Communities First programme in Wales has recently started to adopt a form of evaluation called 'Results Based Assessment™' (RBA). Communities First workers should be able to advise community organisations on this in the areas where the programme operates.
- Charities Evaluation Services, various free downloads from [www.ces-vol.org.uk](http://www.ces-vol.org.uk)
- WCVA free download, [\*2.6 Monitoring and evaluation\*](#)

## Example Objectives for Evaluation of Aberanywhere Estate Community Centre

| Area of activity              | Facility/resource ('inputs') | Activities created ('outputs')                                                                                      | Intended result ('outcomes')                                                                                             | How measured                                                                                                                        | Target month |
|-------------------------------|------------------------------|---------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|--------------|
| Sports hall                   | New sports equipment         | New junior basketball team<br>five-a-side football competition<br>increased number of users                         | Increased confidence for estate children<br>reduction in vandalism/crime<br>improved fitness                             | observation<br>record of numbers<br>user comments<br>feedback forms<br>police reports                                               | 12           |
| Computer training             | Set up computer room         | Beginners' course for single parents<br>word processing course<br>informal training for volunteers                  | Increased confidence<br>progression to other training<br>employment opportunities                                        | records of nos. of trainees/vols./ qualifications etc<br>observations<br>trainee's questionnaire                                    | 12           |
| Community development support | Community development worker | Advice for 10 local groups<br>set up new two new community enterprise projects;<br>service community groups network | Improved skills<br>community involvement in regeneration<br>sustainable community projects<br>environmental improvements | observations<br>records of extra income, nos. of groups, projects<br>networking conference<br>feedback<br>reduction in unemployment | 12           |

## Part 2: Managing the work of the organisation

### 2.1. Who manages?

In small and medium-sized voluntary organisations there is a good chance that the single biggest financial investment each year is in employing the CEO. One would imagine that trustees would want to take care of their most valuable possession. In practice some frequently act as if the CEO is a company car which can be treated pretty much as they like and swapped for another model if it does not perform to their expectations. It is only after they have driven it into a brick wall that they discover they are stuck with a model that doesn't take them anywhere, or that they will need to spend a fortune upgrading it. The reason that groups so often end up in this expensive cul-de-sac may be their wish to be in control, their fear of change or simply lack of foresight.

### Management disasters waiting to happen

**Lack of experience** The smallest organisations often cannot afford or do not need to employ a paid CEO or manager. They do not have a choice about who manages – they have to do it themselves, collectively, and irrespective of whether they have previous management experience or the time or capacity to do the job well.

**Staff who manage trustees** The largest voluntary organisations pay a full time CEO, departmental managers and specialists in crucial areas such as finance and personnel. In their case there may be a danger that the staff will manage the trustees, who will lose the capacity to provide proper governance – i.e. setting policies, giving direction and leadership, and monitoring performance. Normally this is not a major problem, provided the trustees have employed people of the right calibre for the job, and internal control systems operate effectively.

**The (usually) benign autocracy** The same governance gap can be more serious in small and medium-size voluntary groups. Weak boards which surrender their authority to strong or pushy CEOs can easily create the situation where a single individual exercises virtually complete control over the work of the organisation, with the board acting as a rubber stamp.

**How to get the worst out of a manager** Sometimes the fear and suspicion of such dangers contributes to the fourth source of mismanagement in charitable organisations (and commonest and most costly) – the board which won't let its CEO manage. In fact, it is normally a simple misunderstanding of the trustees' role and possibly over-enthusiasm that causes the problems. A predictable scenario unfolds:

- an enthusiastic and talented CEO is recruited on the basis of a job description which clearly defines a management role
- the working relationship between the board and the CEO, including reporting and monitoring arrangements, is left vague
- the trustees are uneasy about giving up their control over the organisation – rather than setting targets, they issue direct instructions to the CEO
- the CEO either asserts her/his authority or backs off to give the trustees more space

- a few of the trustees react to this by beginning to think they have appointed the wrong person, and, in the worst cases, believe the way to get things done is to start giving direct instructions to the other staff
- the CEO feels undermined and undervalued and in the end gives way to the board to avoid conflict
- the doubting trustees are now convinced they have an uncommitted manager
- the disillusioned CEO either settles into an unrewarding and unproductive routine as an overpaid administrator responding to the trustees' whims, or resigns.

Either way, the voluntary organisation has lost a good manager without even realising they had one.

## Clarifying the management roles

**Trustees' responsibilities** It is the misguided trustees in the scenario above and not the miserable CEO who are guilty of bad management, because it is their responsibility and duty to govern the voluntary organisation properly, not necessarily to manage it. Their role is to set up and oversee systems, which enable the organisation to be managed effectively.

**A balanced management system** The following balanced arrangements are very strongly recommended for all voluntary organisations which employ a senior member of staff in a management position. The reporting and monitoring arrangements are central to the system, though the type of information and the level of detail will vary from one organisation to another. The main elements are to:

- draft a clear and specific job description, and ensure that this and the relative roles of the board and the CEO are discussed in detail at a meeting when all the directors are present
- set up clear line management arrangements
- set up a reporting system which keep roles clear
- define when the Chair and CEO can take decisions on their own
- agree how policy decisions are made
- agree how targets are set
- decide the content and regularity of management reports
- agree that the monitoring role of trustees is to supervise, support and provide feedback to the CEO
- aim for a relationship based on mutual trust and partnership.

**Start by agreeing on roles** The whole board of trustees must discuss the role of the CEO, and the relationship between the board and the CEO, in detail before the appointment process starts; share differences of opinion and aim for a consensus on the approach.

**Get the job description right** The CEO's job description must be clear, achievable, and must encompass what you actually intend to happen. It must be realistic – otherwise you will be setting up your CEO to fail.

**Establish line management arrangements** Make the CEO answerable to the Chair (or another trustee) and no one else. Insist that no one else issues directions to the CEO and threaten eternal damnation for any trustee who attempts to give instructions to other members of staff.

**Give the Chair authority to act** Allow the Chair to have delegated powers from the board to take action (and authorise the CEO to take action) between meetings; but build in safeguards, e.g.:

- the Chair's actions must be reported back at the earliest opportunity
- limit the scope of policy and spending decisions the Chair can take.



**Confirm the board's policy-making role** Nothing can be allowed to challenge the responsibility and authority of the trustees to set policy, although they may be advised by others on the content of policies.

**Clarify policy development** Spell out that the CEO is expected to contribute to policy making, where appropriate, by presenting worked out policy proposals in writing for the board to consider.

**Specify how targets are set** Establish a routine reporting and monitoring system (see Sections 1.4-1.5) which shows how management targets are set:

- the system should allow the CEO to use her/his knowledge of the organisation and its management needs to recommend targets
- it should underline the trustees' responsibility to examine, confirm or amend these targets.

**Give the CEO authority to act** Once the CEO knows what policies are to be implemented, and what targets have to be achieved, s/he must be free to deliver them; this means the trustees do not interfere with the day to day management of the organisation.

**Agree the content of monthly reports** The CEO will produce monthly management reports to keep the trustees informed about:

- actions taken and developments since the last report
- whether previous targets were achieved or missed (with reasons)
- any other information which the trustees can reasonably be expected to need to know in their role of ensuring the well-being of the organisation – this means that the CEO should report problems and how they are being dealt with, even when no action is expected from the board
- issues where the trustees need to make policy decisions (possibly with suggestions or indications of options).

**Help the trustees to do their job** It is essential that all reports are in writing and circulated in advance of meetings; it can also be helpful to agree a distinction between parts of reports which are 'for information' (i.e., not for debate) and parts which trustees are expected to scrutinise as part of their monitoring job.

**Get the monitoring job right** Trustees need be extremely careful about the way they respond to management reports:

- you must make decisions when asked to do so by the CEO (or refer issues to subcommittees or other parts of the organisation to be dealt with)

- you cannot discuss everything, so take the 'for information' sections as read, and only question them for clarification
- concentrate on the information provided for monitoring purposes – reports on progress, and comparisons of actual performance against targets
- if there are problems you may need to provide guidance and constructive advice, but be extremely cautious about sudden policy decisions to deal with difficulties – ill-judged knee-jerk reactions can easily make matters worse and damage relations with your manager
- you must be very sure of your ground before insisting that your suggestions are followed against strong advice from your CEO; if in doubt, find some better way of assessing the issue, such as a referring it to a subcommittee (otherwise you risk humiliating the CEO for no good reason).

Trustees may also want to suggest ways in which the reports could be more useful – the structure and contents, and the level of detail provided. But you should never ask for more information than you can reasonably handle or the staff can reasonably provide.

**Don't interfere** Never intervene in your organisation's management unless there is evidence both of serious problems and of your manager's inability to tackle them.

**Provide supervision** Regular and properly organised supervision sessions are essential. It is important that the CEO has feedback on their performance and an opportunity to talk about their job training needs and other matters.

**Support the CEO** Supporting your CEO does not mean that you have to agree to everything s/he says; trustees can also:

- make sure that the Chair (or another designated trustee) is readily available to talk through problems and general management issues
- if you see danger signs in the relationship between the CEO and the board, bring their differences out into the open in an objective non aggressive way so that they can be dealt with
- if you think the CEO has misunderstood the objectives of the organisation or the policies of the trustees, then revisit the induction process or work through the issues in a small group
- if the CEO lacks important skills, don't write her or him off; protect your investment by arranging training or additional support or by adjusting responsibilities
- when the CEO is successful, don't forget to say "thank you" as a matter of course, and always give praise when it is due – it can make all the difference in the world.

**Aim for trust** Finally, it should be made clear to everyone that the CEO and the trustees are required to work co-operatively and to do everything possible to build mutual trust. It is about establishing an effective partnership. If you fail to achieve this the relationship may not work, and even if the CEO and trustees do co-operate, why would you opt to do things the hard way?

## Taking control from controllers

Problems are less frequently caused by managers who want to govern their boards than by boards who want to manage their managers. But all-powerful managers are still common enough to warrant some special guidance for the trustees who work with them.

**The case for doing nothing:** Tackling a controlling manager can be a painful experience for trustees. Competent and incompetent managers alike can exploit weak and compliant chairs or groups of trustees, to maintain their independence and their control over the organisation. Usually their intentions are entirely honourable. They may believe, often correctly, that they can make wiser decisions than the trustees. Very occasionally the controlling manager is actually disguising their incompetence or, worse, their dishonesty.

Whatever the motivation, trustees can be faced by some apparently irresolvable dilemmas:

- if the board really is weak and ineffective, the manager is not serving the organisation well by keeping it that way, yet the trustees can hardly admit this without losing face and further undermining their own authority
- the board has an absolute right to exercise control over an excessively independent-minded manager, though they may be very nervous about challenging an employee who is currently rather good at controlling them.

**Taking action, but gently** When trustees challenge a manager who has too much independence, what they usually want most is to avoid a personal confrontation. What you need is to start a process which will gradually change the relationship between board and manager, not a fight that leads to a disgruntled resignation and the loss of the worker you depend on most.

A useful first step is for an outside authority to tell you in the presence of your manager that trustees generally, not just the ones in your organisation, need to be better informed. You can cite recommended good practice – this book might do for a start – and the unequivocal word of the Charity Commission, whether or not your organisation is a registered charity.

**Train yourselves to be better trustees:** Hardly anyone today would argue against trustees receiving training so that they can exercise their responsibilities, keep their organisations within the law and avoid personal liability if things go wrong. You can learn a great deal in a single half-day session, and then work with your manager afterwards to put the new ideas into practice. If you apply the lessons in an unemotional way, because that is objectively the right way to operate and not because you want to undermine your manager, you should certainly begin to feel more in control.

Another approach, using the same justification, is to give the manager the responsibility of providing training in-house on the roles and responsibilities of trustees. The results may not be entirely what you would like to achieve. But it is difficult for a manager, even one who is a determined control freak, to advise his or her employers, “you are ultimately responsible for everything, including monitoring my work,” without giving away at least some authority.

**Reasserting the board's control** In the last resort the trustees should remember that they, not their manager, are responsible for the organisation. If they have failed to exercise proper control they could be personally liable for financial losses and the organisation's mistakes. So, if you are seriously worried that things may be going wrong, that you are being kept in the dark, or that you don't get to make the important decisions, you must assert the board's legal and moral authority. Insist on more and

better information, on opportunities to monitor the organisation's activities and finances, or on reviewing its policies and the way they work in practice – or on all these things.

## Why trustees should not manage

It can be difficult for inexperienced board members to appreciate the difference between governance and management in an organisation which has paid staff, and why they should not try to manage – especially if you call yourselves a management committee. The point deserves further explanation.

**Why do trustees manage?** Trustees become involved in management for very basic reasons – because:

- they have to – when there are no staff to do the work
- they believe it is their job, or
- they are afraid to let go, and feel most comfortable when they are managing.

Trustees may feel particularly vulnerable at the point when their organisation makes the crucial transition from being an entirely volunteer organisation to being an employing organisation with a paid CEO (or when there is some other similarly momentous expansion). There is no way to minimise the trauma which this type of upheaval can create, since the trustees are in a real sense losing something dear to them to an unknown outsider.

**The need to separate the roles** The separation of management activity by paid employees from the trustee's role in setting policies and monitoring performance is justified in a variety of ways:

- avoiding the risk of overlapping or contradictory responsibilities
- effective management often depends on the flexibility, opportunism or entrepreneurial skills of the CEO; these may be lost if authority for day to day decision making remains with a group of trustees who meet only occasionally
- skilled managers are an excellent investment because they have a flair for working to a vision, for making things happen, for setting priorities, for seeing round corners, for juggling a number of tasks at once, for organising and planning etc; so you waste resources and time if you obstruct them from using their talents to your advantage
- good managers become bad managers when they are not allowed to use their creativity and their skills.

## When trustees *have* to manage

If there is no one else to do the management job – because you do not employ management staff or you do not have volunteers prepared to take on those duties – then trustees will, of course,

also have to be the managers. See Section 3.4 for tips on management by all-volunteer groups.

**A half-way-house** Very often, smaller or medium-sized organisations employ a 'Co-ordinator', someone whose job title suggests some management duties but not overall responsibility. That is a good half-way house, particularly when the Co-ordinator may be spearheading the delivery of your services with few if any other workers, paid or voluntary, to help. In this case the trustees may well need or want to undertake a significant proportion of day-to-day management tasks, such as book keeping, making all or most spending decisions, deciding how your service will be provided, and, possibly, deciding who will receive it. (They may also of course be involved in helping to deliver the service as volunteers.)

**Dangers** The main problem with this type of arrangement is that it provides maximum opportunity for confusion over roles if there is not absolute clarity in the job description and at the induction stage. It only takes one over-zealous trustee (or a newcomer with inadequate induction) to invade and undermine the Co-ordinator's position, causing serious resentment. Equally, the Co-ordinator may cause friction among the board members by assuming management tasks which were not intended for the post. What starts as a simple misunderstanding can lead to an entirely needless and costly resignation.

## Checklist

- Is your CEO's job description clear about his or her responsibility for day-to-day management?
- Do you need to review or clarify the respective roles in management of the CEO and the trustees?
- Do you need to be clearer about the information you need from your CEO for your board meetings, and how and when you receive it?
- If any uncertainty arose about the respective responsibilities of the board and management staff, would you have mechanisms for resolving problems without causing resentment?

## Further information

- WCVA free download, [\*5.6 Working with the Chief Officer\*](#)

## The Nine Deadly Sins of Board Management

Boards and individual directors who commit any of the following sins are very likely to undermine their staff and their colleagues. At best you will have poor management; at worst you will drive good CEOs and workers to look for new jobs, and poor and mediocre ones to stay with you doing as little as they can, watching you make mistakes.

What you should not do is:

1. **Take decisions about routine management** over the head of the CEO or senior manager (You must leave the CEO to do the job of managing, which is what you employed her/him for.)
2. **Bypass the CEO** to issue direct instructions to any member of staff – you will seriously undermine the CEO's authority and undermine your own credibility with the staff (polite requests to staff may sometimes be acceptable, but you should check with the CEO on the general principle of doing this).
3. **Duplicate line management** by allowing more than one person to give instructions to the CEO (there must only be one line manager at Board level).

**4. Allow an overlap of roles and responsibilities** between the Board, or individual Board members, and the CEO, the Board and subcommittees, subcommittees and the CEO, the CEO and the staff etc – people will not know what they should be doing, and will cause conflict and confusion with duplication, or will scupper your plans by doing nothing.

**5. Try to trip up the CEO**, or question her/his competence, ability integrity etc during board meetings – this will undermine confidence, create resentment and guarantee either weak management or damaging conflict (you must aim to operate on the basis of mutual trust, but if you have concerns, raise them through the proper channels: first the line manager and, if problems are not resolved, through the appropriate committee responsible for personnel matters).

**6. Try to know everything** by insisting on having information about everything that is going on in the organisation, whether or not you really need to know in the interests of effective policy-making and monitoring – you will clog up meetings and the copier, and make it impossible for the CEO to deal with the issues which really matter.

**7. Take a view on everything**, and to discuss it all in meetings – it's not your job to make decisions on matters of small detail, so it's only worthwhile if the CEO asks for advice.

**8. Make policy decisions on the hoof** without proper information, particularly in the absence of the CEO or the person who will implement them (except in emergencies, proposals should always be presented clearly, in writing, in advance and with a brief explanation).

**9. Fail to thank your staff** for their efforts and congratulate them on their successes – if they think good work is not noticed they may also think it is unimportant to you.

**Getting it right** is about balancing the complementary roles of the Board and CEO:

- **The CEO proposes policy and action** – based on knowledge of what is needed and possible.
- **The Board turns the proposals into policy** – to achieve the organisation's aims and priorities.
- **The CEO proposes targets for implementing policy** – and the Board grants the CEO full authority from the Board to work to those targets.
- **The Board monitors the implementation of policy** – and advises the CEO; the CEO proposes necessary adjustments.

*Source: Community Projects Centre*

*You might want to include this list of deadly sins as part of your trustees' induction pack.*



## 2.2 Responsibilities as an employer

We all have the capacity on occasions to be quite appalling employers and there is no consistent pattern to the way we get things wrong. It is entirely possible for the same board of trustees to overlook their workers' rights, provide poor and even dangerous working conditions, and yet be incapable of sacking an employee who has become a liability to the voluntary organisation. It is arguable though that organisations should provide positive models of good employment practice, and this especially applies to organisations whose objectives include confidence building and community regeneration in disadvantaged areas. Trustees have more than a mere legal obligation to know the law.

**NOTE:** This section gives an overview of employment responsibilities – a complex area where legislation changes quickly and where mistakes can be extremely costly. It is very strongly recommended that you seek advice on specific matters from appropriate sources, and, in particular, check information available from your local county voluntary council or the Arbitration, Conciliation and Advisory Service (ACAS).

### Employees' legal rights

Trustees have important responsibilities for all their paid staff, including temporary workers. Like all employers, you must ensure that you understand and abide by all employment legislation.

**Contracts of employment** The legal position is that:

- a legal contract exists once an offer of employment is made to a prospective employee and accepted – irrespective of whether or not it is in writing
- a written statement of the main terms and conditions (the written contract) must be given to all employees within two months of their beginning work, or within four weeks if they are already an employee.



The contract must include:

- names of employer and employee
- date employment began
- date continuous service began
- job title
- rate of pay and pay period
- hours of work and any arrangements for overtime
- holiday entitlement and pay
- a place of work.

The statement must contain or refer to documents which detail:

- rules on sickness, absence and sick pay arrangements
- pension arrangements
- maternity entitlements
- amount of notice required of employee and employer
- job title

- any collective agreements which directly affect terms and conditions of employment
- grievance, appeals and disciplinary rules
- the date when the contract will end (if the contract is for a fixed term).

Although not a legal requirement, many organisations also include statements on other issues in their contracts of employment:

- maternity and paternity leave
- dependency and compassionate leave
- time off for public duties
- allowable expenses
- redundancy notice and pay.

## Other statutory rights

Employees have many other statutory rights, including:

- minimum length of notice on dismissal after one month's continuous employment (unless dismissed for gross misconduct)

- protection under the Equality Act 2010 and other regulations against being discriminated against on the grounds of race, disability, sex, sexual orientation, marriage or civil partnership, pregnancy and maternity, or gender reassignment, age
- not to be retired before the age of 65
- access to their medical reports
- equal pay for equal work by males and females
- an itemised pay statement
- maternity leave of up to 52 weeks regardless of length of service or hours of work, with a minimum two week period immediately after the baby is born; the 52 week period is made up of 26 weeks Ordinary Maternity Leave and 26 weeks of Additional Maternity Leave
- the right to return to the same job after 26 weeks of Ordinary Maternity leave note that if a mother wishes to return to work after Additional Maternity Leave, she should be offered her old job back unless that is not reasonably practical. If it is not reasonably practical to offer her the old job back, she must be offered a job that is suitable for her and appropriate in the circumstances, on the same terms and conditions as her old job
- statutory maternity pay

- two weeks paid paternity leave (and a new entitlement to 26 weeks additional paternity leave if the mother returns to work) subject to some qualifications
- statutory sick pay
- safety at work
- a maximum working week for most occupations under the Working Time Regulations 1999
- protection against unfair dismissal (in some cases depending on years of service)
- time off for public duties, subject to some qualifications.

**Knowing the law** The law in some cases is complicated, particularly on maternity leave entitlement and unfair dismissal. Trustees should ensure that:

- a member of staff or a trustee is made responsible for collecting relevant information on employment legislation and their responsibilities
- specific information and advice is sought on more complex issues before the organisation takes action.

## The Equality Act 2010

**Purpose of the legislation** The Equality Act 2010 makes some important changes to the law against discrimination. But it is also significant for bringing together a wide range of discrimination issues (e.g. on race, disability, sex) with the aim of getting a consistent approach under the guidance of the Equalities and Human Rights Commission. As part of this it identifies a range of 'protected characteristics' which are subject to protection. The extensions include new protection in the workplace against discrimination by association, discrimination by perception, and harassment victimisation.

**The personal characteristics covered** The following summarises the coverage of the Equality Act. It is not a statement of the law, and you will certainly need to study regulations further to be sure your employment practices are neither unlawful nor unnecessarily cautious (which is perhaps the main negative consequence of discrimination legislation).

- **Age** Age is the only protected characteristic that allows employers to justify direct discrimination, but not all age discrimination is justifiable
- **Retirement** The disappearance of the default retirement age of 65 means that employers may choose to have a standard retirement age if they can justify it, or retire people when they choose. This means there is a need for careful planning consultation with older staff to avoid the risk of age discrimination and unfair dismissal claims by employees who have been compulsorily retired.
- **Disability** A person is disabled if they have a physical or mental impairment which has a substantial and long term adverse effect on their ability to carry out normal day-to-day activities – such as using a telephone, reading a book or using public transport. The Act puts a duty on the employer:
  - to make reasonable adjustments for your staff to help them overcome disadvantage resulting from an impairment (eg software to enable visually impaired staff to use computers effectively)
  - not to treat a disabled person unfavourably because of something connected with their disability
  - to avoid indirect discrimination and not to ask certain questions about an applicants health at job interviews

- **Gender reassignment** The Act provides protections for transsexual people, even if they are not undergoing medical treatment.
- **Marriage and civil partnership** People who are married or in a civil partnership are protected against discrimination. But single people are not protected.
- **Pregnancy and maternity** A woman is protected against discrimination on the grounds of pregnancy, maternity or her period of maternity leave (and this cannot be treated as sex discrimination).
- **Race** Discrimination on grounds of colour, nationality and ethnic or national origins.
- **Religion or belief** Protection covers any religion, or lack of religion. Discrimination against an employee or job applicant is illegal. (To justify protection, a religion must have a clear structure and belief system and satisfy various criteria. Denominations or sects within a religion can be protected. Discrimination can occur even when the person discriminating is of the same religion as the recipient.)
- **Sex** Both men and women are protected under the Act.
- **Sexual orientation** The Act protects bisexual, gay, heterosexual and lesbian people.

**Types of discrimination** It is important for trustees who are unfamiliar with the detail of anti-discrimination legislation to be aware that unlawful discrimination may take a variety of forms. Prohibitions on different types of discrimination vary from one 'protected characteristic' to another, so only generalisations are not helpful in understanding the law.

- **Direct discrimination** Direct discrimination occurs when someone is treated less favourably than someone else because of a protected characteristic they have or are thought to have, or because they associate with someone who has a protected characteristic.
- **Discrimination by association** is direct discrimination against someone because they associate with another person who possesses a protected characteristic, and is recognised by law for most protected groups.
- **Perception discrimination** is direct discrimination against an individual because others think they possess a particular protected characteristic even if they don't (most groups are protected).
- **Indirect discrimination** can occur when you have a condition, rule, policy or even a practice in your company that applies to everyone but particularly disadvantages people who share a protected characteristic. It can be justified if you can show that you acted fairly and reasonably to achieve a

legitimate aim, and looked at alternatives – but not solely to cut costs.

- **Harassment** is 'unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual'. There is a controversial provision that allows employees to complain of behaviour that they find offensive even if it is not directed at them, and they do not have relevant characteristic themselves - though this does not necessarily mean that frivolous complaints will be successful.
- **Third party harassment** Employers are potentially liable for harassment of employees by people who are not themselves employees, such as clients or customers. You will only be liable when harassment has occurred on at least two previous occasions, you are aware that it has taken place, and have not taken reasonable steps to prevent it from happening again.
- **Victimisation** occurs when an employee is treated badly because they have made or supported a complaint under the Equality Act or are suspected of doing so. An employee is not protected if the complaint is malicious.

## Trustees' other responsibilities as an employer

**Following good practice** Trustees have a variety of other moral and legal responsibilities as employers. All voluntary organisations are strongly advised to ensure that employment arrangements conform to guidance on good practice which is provided by organisations such as WCVA, the Commission for Equality and Human Rights, and ACAS.

**Written policies** The following written policies are now widely regarded as essential:

- equal opportunities policy
- health and safety statement or policy – this is a legal requirement for employers with more than five employees
- staff appraisal and review policy
- a staff development and training policy
- disciplinary policy – a legal requirement for companies with more than 20 employees
- grievance procedure
- harassment policy.

**Recruitment** Recruiting staff is an extremely demanding activity because it simultaneously requires:

- all employment policies to be in place (this is particularly important if you are recruiting for the first time)
- budgets and approval for the wage or salary
- a complete understanding of what the post involves – new senior positions in particular
- agreement on your recruitment procedures
- a high level of co-ordination to ensure all the elements (advertising, job information, setting up the interview panel, short listing, interviews, etc) come together within the time span you set for the appointment (see the Recruitment Checklist at the end of this section).

**Making appointments** Trustees are responsible for everyone employed by the organisation. But your personal involvement in appointments will probably depend on the organisation's size. There is no one model, and you will need to decide what level of control the trustees need:

- in smaller voluntary organisations the trustees are likely to set up ad hoc appointments panels or a permanent committee for making all appointments
- if all the trustees carry out the interviews there is a risk of intimidating interviewees and of consensus decisions to appoint the candidate who is disliked least
- in larger organisations the trustees may appoint only the most senior staff, and delegate responsibility for appointing other employees to the CEO and other senior staff.

## Interviewing

- if you intend to carry out all interviews in a single day the interviewers' energy and interest may start to flag around the fifth or sixth candidate; there is a strong case for limiting the number to four or five, or for taking a break after the first three interviews
- you should always consider the possibility that none of the candidates you interview is suitable, and that you need to re-advertise the post, or review the person specification, advert, job description or salary.

**Induction** It is essential to establish a procedure which properly introduces new employees to your organisation. This must cover issues including:

- health and safety – layout of the building, fire exit, accident procedures, etc
- the duties of the job
- line management arrangements
- background to the organisation – its objectives, history, future plans
- staff supervision and appraisals
- grievance and disciplinary procedures
- expected behaviour.

**Staff appraisals and supervision** Trustees have a responsibility to ensure that the performance of staff is monitored and that they receive the support they need to do their jobs effectively. They will certainly have direct involvement in providing supervision and support to the CEO.

Trustees will therefore need to establish policies for:

- staff appraisal and supervision – see below
- probationary periods – organisations which fail to require probationary periods for new employees often come to regret the oversight; three to six months is the normal period, during which progress is reviewed and the appointment confirmed (or the probation period is extended to achieve an improvement in performance or the employee is dismissed).

## What is supervision?

There are four main parts to the supervision process:

- setting standards for performance
  - setting objectives and targets
  - agreeing standards for work
  - agreeing schedules and deadlines
- monitoring and evaluating performance
  - assessing progress towards plans
  - assessing the standard of performance
  - reviewing work done
- support
  - listening
  - providing information and advice
  - assisting staff to solve problems
- development
  - identifying training and development needs for doing the job really well

**Managing supervision arrangements** This is a complex area, with a wide variety of practice. One key issue is that supervision consists of two potentially contradictory elements – the assessment of performance and development and support for the member of staff. In some cases voluntary organisations make a clear distinction by having separate procedures.

**Supervising the CEO** The supervision of the senior employee is an extremely important issue. If properly carried out it might pre-empt the dire consequences of misjudged interventions by trustees and poorly defined management roles (see Section 2.1). Trustees will need to decide who actually provides the supervision:

- the whole board
- the Chair
- a personnel subcommittee
- a trustee with supervision skills
- an outside consultant
- a colleague in another organisation
- a combination of these.

Trustees will need to decide which approach is, objectively, most appropriate for their organisation. The factors to consider are the CEO's ability to confide problems, the skills and available time of those undertaking the supervision, confidentiality and reporting back the outcomes.



## Maintaining standards

The board should have procedures to make sure standards of work by staff are maintained. These will vary from one organisation to another, but key elements include:

- clear and realistic job descriptions
  - review them regularly
  - don't overload staff
- clear and realistic work objectives
  - share the aims, objectives and values of the organisation with the staff
  - ensure that targets are shared and understood
- standards of work
  - have agreed means of measuring standards
  - discuss and confirm these as part of staff supervision
- standards of behaviour
  - provide a code of conduct for everyone who works for the organisation
  - make sure everyone reads and understands the requirements
- the means to do the job
  - make sure staff have adequate resources for the work they have to do
  - make resources available for training
- staff supervision
  - make special arrangements for the supervision of the CEO by the trustees
  - ensure staff know the purpose of supervision
  - check regularly that the system works for the staff you supervise, and is applied at the right time
- procedures for discipline and grievance
  - identify and react to problems early
  - agree targets and timescales for dealing with problems
  - shift major or persistent problems to the disciplinary procedure without delay
  - make sure procedures are clear and understood.

## Other arrangements

**Pay reviews** An organisation's need for a pay policy is likely to creep up on the trustees, so act before it is too late to prevent divides between staff caused by differences in employees' rates of pay. There are two main options:

- some voluntary organisations model their pay structure on local authority rates, this is straightforward and difficult to argue with, but it can become costly as the organisation has to budget for annual increments on top of cost of living increases
- organisations may find it fairer to pay wages and salaries which relate to comparable jobs elsewhere in the area.

**Provision for redundancy** Trustees sometimes overlook the implications of making staff redundant – if funding is cut, for instance. They will need to make redundancy payments to staff who have been employed for more than two years. If unincorporated voluntary organisations do not have sufficient reserves to meet the payments, the trustees will be personally liable for payments. If in doubt, check for guidance material from ACAS or the Charity Commission.

## Checklist

- Does your board have satisfactory procedures for recruiting new staff?
- Does your board need to check it is acting within employment law?
- Does your board need to review its employment policies and practices?
- Does your board regularly review the salaries and terms and conditions of service of the staff?
- Does your board ensure adequate supervision for staff and volunteers?
- Does a group of trustees agree an annual work-plan for the CEO and appraise his or her performance?
- Do any of the trustees involved in appointing or appraising staff need support and training?

## Further information

**Organisations** to check for more detailed guidance:

- ACAS, [www.acas.org.uk](http://www.acas.org.uk) – a huge range of downloadable publications which can be accessed by subject matter or from the 'useful downloads' link on the home page – in particular *The Equality Act: What's new for employers*
- Health and Safety Executive, [www.hse.gov.uk](http://www.hse.gov.uk)
- Equality and Human Rights Commission, [www.equalityhumanrights.com](http://www.equalityhumanrights.com)
- Government Equalities Office, [www.equalities.gov.uk](http://www.equalities.gov.uk)

**WCVA free downloads:**

- [\*2.9 Equal Opportunities\*](#)
- [\*6.1 Working in the voluntary sector\*](#)
- [\*6.2 Employing staff for the first time\*](#)
- [\*6.3 Drawing up a Job Specification\*](#)
- [\*6.4 Advertising your vacancy\*](#)

- [\*6.5 Selecting your candidate\*](#)
- [\*6.6 Producing a written statement\*](#)
- [\*6.7 Induction, training and development\*](#)
- [\*6.8 Supervision and appraisal\*](#)
- [\*6.9 Grievance\*](#)
- [\*6.10 Harassment\*](#)

**Other publications:**

- Sandy Adirondack, *Just About Managing*, 4th edition, 2006 from [www.sandy-a.co.uk](http://www.sandy-a.co.uk)
- Jacki Reason and Ruth Hayes, *Voluntary but not Amateur*, 8th Edition, 2009 from Directory of Social Change; [www.dsc.org.uk/publications](http://www.dsc.org.uk/publications)

## A recruitment checklist and example timetable

| Action                                                                                                                                                                                                                                               | Example target dates |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| <b>Decisions to be made by the Board or Committee</b>                                                                                                                                                                                                | week 1               |
| • ensure equal opportunities policy is in place                                                                                                                                                                                                      |                      |
| • ensure there are appropriate standard terms and conditions of employment for all staff (or a policy to follow if there are variations)                                                                                                             |                      |
| • discuss job descriptions and person specification in detail for appointments manager and senior staff                                                                                                                                              | week 2               |
| • set wage/salary for new post                                                                                                                                                                                                                       |                      |
| • decide how the appointment will be made (e.g. an appointments panel or personnel subcommittee who can see through the whole process) and what powers this group will have in making the appointment e.g. – does the full Committee need to ratify? |                      |
| • appoint a panel to carry out the recruitment.                                                                                                                                                                                                      |                      |

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| Action                                                                                                                                                                                                                                                                                                                                                                   | Example target dates |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| <b>First meeting of appointments panel</b>                                                                                                                                                                                                                                                                                                                               | week 3               |
| • finalise written job description and person specification                                                                                                                                                                                                                                                                                                              |                      |
| • set application deadlines and interview dates                                                                                                                                                                                                                                                                                                                          |                      |
| • decide where to advertise                                                                                                                                                                                                                                                                                                                                              |                      |
| • arrange placing the job adverts – what to say, who will place them                                                                                                                                                                                                                                                                                                     |                      |
| • agree contents of job application form, if any                                                                                                                                                                                                                                                                                                                         |                      |
| • agree contents of job application form, if any                                                                                                                                                                                                                                                                                                                         |                      |
| • decide what other information applicants must provide – CV, statement of interest in the post etc                                                                                                                                                                                                                                                                      |                      |
| • decide contents of Job Information Packs to be sent to people enquiring about job, e.g.: <ul style="list-style-type: none"> <li>– application form</li> <li>– covering letter with return date and address, interview date</li> <li>– job description and person specification</li> <li>– background information (say, 1 side of A4) about the organisation</li> </ul> |                      |
| • decide how enquiries will be processed (preparation and mailing of job information packs, receiving enquiries by mail/direct phone line/ dedicated answer phone, answering queries, receiving applications)                                                                                                                                                            |                      |
| • decide how and when shortlisted candidates will be notified                                                                                                                                                                                                                                                                                                            |                      |

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| Action                                                                                                              | Example target dates |
|---------------------------------------------------------------------------------------------------------------------|----------------------|
| <b>Advertising the job</b>                                                                                          | week 4               |
| • job adverts placed                                                                                                |                      |
| • job information packs completed, ready for distribution                                                           |                      |
| <b>Second meeting of appointments panel</b>                                                                         | week 5/6             |
| • refer to equal opportunities policy to ensure proper procedures                                                   |                      |
| • decide venue for interviews                                                                                       |                      |
| • establish short listing process, including any initial sifting of applications                                    |                      |
| • establish marking arrangements for interview candidates                                                           |                      |
| • confirm membership of short listing and interview panels                                                          |                      |
| • make arrangements for copying and circulating applications and materials for short listing panel                  |                      |
| <b>Application deadline and meeting of the panel for short listing</b>                                              | week 7               |
| • complete short listing of candidates                                                                              |                      |
| • set interview day, timetable for candidates and domestic arrangements (reception, waiting area, refreshments etc) |                      |
| • arrange for shortlisted applicants to be notified                                                                 |                      |
| • agree interview content (standard questions for each candidate)                                                   |                      |
| • arrange for the panel to receive necessary stationery (candidates score sheets)                                   |                      |

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| Action                                                                                               | Example target dates |
|------------------------------------------------------------------------------------------------------|----------------------|
| <b>Interview day tasks</b>                                                                           | week 8               |
| • start-of-day briefing for the panel – who does what                                                |                      |
| • interviews                                                                                         |                      |
| • selection                                                                                          |                      |
| • arrangements for notifying all candidates                                                          |                      |
| <b>Post-interview tasks</b>                                                                          |                      |
| • notify successful candidate of the appointment, subject to references                              | week 8               |
| • follow up references                                                                               | week 8               |
| • send offer letter and terms and conditions of employment; notify other trustees of the appointment | week 9               |
| • agree a programme of induction – identify who will be involved and set a timetable                 | week 9/10            |
| • provide worker with relevant papers about the job                                                  | week 9/10            |
| • worker takes up post                                                                               | week 12              |
| • deliver induction programme, monitor, and identify other training or support needs                 | week 12 onwards      |

## 2.3 Health and Safety

The most vulnerable people in your organisation will be those people who know least about it and its working environment – trainees, volunteers, new and temporary employees and, in some cases, users and clients. They will be less familiar with the premises, and possibly less tuned in to health and safety issues than permanent staff. So you need to be especially careful that you do not overlook communicating safety information to everyone who works with you. Of course, you will never get rules to stick if the trustees themselves are seen by employees to be breaking them.

... And if that sounds demanding, now you need to make sure that you know what the law says, and how to apply good practice in your organisation. Be prepared for some serious hard work – there are no shortcuts.

## Responsibilities

**General responsibilities** As a basic rule, trustees are responsible for the health and safety of all employees and volunteers. In general, employers must:

- make the workplace safe and eliminate or control risks to health
- ensure plant and machinery are safe and that safe systems of work are set and followed
- ensure articles and substances are moved, stored and used safely
- provide adequate welfare facilities
- give workers the information, instruction, training and supervision necessary for their health and safety
- consult workers on health and safety matters.

**Advice:** There is a huge volume of legislation and regulations on health and safety which can be daunting to voluntary organisations – assuming they are actually aware of them.

- It is strongly recommended that you get further information and guidance to meet the needs of your organisation. This can be a task for a designated employee, trustee or volunteer in the role of Health and Safety Officer.



- The Health and Safety Executive (HSE) at [www.hse.gov.uk](http://www.hse.gov.uk) which is responsible for guidance and enforcement provides extensive information and guidance materials – although their website may seem a little overwhelming at first since it is aimed at employers and employees in all places of work from the largest to the smallest.

**Board responsibilities – a code of practice** Recognition of their overarching responsibility for health and safety should start with a code of practice which trustees or board members are aware of and agree to uphold.

- the board needs to accept formally and publicly its collective role in providing health and safety leadership in its organisation
- each member of the board needs to accept their individual role in providing that leadership
- the board needs to ensure that all its decisions reflect its health and safety intentions, as expressed in its health and safety policy statement
- the board needs to recognise its role in engaging the active participation of workers in improving health and safety
- the board needs to ensure that it is kept informed of relevant health and safety risk management issues – preferably by appointing a member to be the 'health and safety director'.

(This point is particularly relevant to many small voluntary organisations where there may be no suitable paid member of staff to undertake this role, and where health and safety may easily be sidelined by a host of other more immediate issues.)

## Legislation and directives

**An overview** The law requires employers to:

- provide a written policy on health and safety
- carry out a detailed risk assessment of the workplace (guidance is available from HSE) so that action to remove dangers and protect workers can be identified (and carry out a risk assessment for new and expectant mothers, and take appropriate action)
- appoint a competent person within the organisation (or an outsider, if no one is suitable) to provide assistance on complying with health and safety law – though it is not a legal defence to say that an infringement was caused by this officer's shortcomings
- provide a safe and healthy workplace for employees; the Workplace Regulations give employers specific responsibilities for:
  - the environment – temperature, ventilation, lighting, room dimensions, seating

- safety – safe passage of pedestrians and vehicles, windows, doors, floors etc
- facilities – toilets, washing, eating and changing facilities, clothing storage, drinking water, rest areas and facilities for pregnant and nursing mothers
- housekeeping – maintenance of workplace, equipment and facilities, cleanliness etc
- ensure the safety of VDU users – with safe workstations for computer users, training, breaks and possible help with eye tests etc
- provide appropriate health surveillance for staff
- set up emergency procedures, such as fire drills and evacuation procedures, and make contacts with external services for first aid and emergency medical care as appropriate
- provide information to employees and volunteers on health and safety
- provide training opportunities for staff
- report serious incidents, accidents and diseases
- display the Health and Safety Law poster.

## Policies and assessments

**Health and safety policy** This is essential for organisations with five employees or more. WCVA have a template for a policy for a voluntary organisation. The health and safety policy should include:

- a statement of the responsibilities of individuals and groups of workers (including the personal responsibilities of all individual employees and volunteers)
- a commitment to carrying out the risk assessment
- the names of post holders and other individuals in the organisation with direct responsibilities connected to health and safety
- a statement of health and safety procedures for a range of issues and situations
- an 'action plan' which lays out how your organisation will put these procedures into practice
- a commitment to reviewing the procedures and the action plan.

**Risk assessments** The Health and Safety Executive provide useful guidance downloads, such as 'Five Steps to Risk Assessment'. Risk Assessments can be extremely enlightening, and is a good way of raising awareness of safety issues among your staff and volunteers.

Encourage everyone to spend some time looking at the place where they work to identify any potential dangers, such as:

- features of the building, e.g. – stairs, blind corners, blocked accesses, obstructions in walkways
- the condition and operation of equipment, e.g. hand guillotines, trailing electrical leads, intermittent electrical faults
- fire risks, e.g. from smoking, paper and flammable materials, etc
- dangerous working practices, e.g. water and waste material on floors
- moving and handling heavy bulky objects.

**Education and awareness** Policies are useless if people do not know about them. Make sure you:

- provide health and safety induction training for every employee (including trainees) and volunteers
- post the result of the risk assessment and the action plan on notice boards
- provide copies of the risk assessment report in induction packs
- remind people routinely about the health and safety implications of their work and behaviour if you see infringements

- ensure everyone knows where fire exits, fire extinguishers, the first aid box, the accident book, etc, are located
- ensure that everyone knows who is responsible for health and safety and first aid in the organisation.

**Advice** If there is any doubt at all about your organisation's policy and practices, you are strongly advised to seek specific guidance on health and safety matters.

## Checklist

- **Has your board appointed a member or an employee to act as a health and safety officer to help the organisation comply with the law?**
- **Has your organisation carried out a detailed risk assessment of the workplace?**
- **Does your organisation have a written health and safety policy? Do you use this to monitor and oversee health and safety practices?**
- **Do trustees ever carry out spot checks in the organisation's premises, for example checking that fire exits are not blocked or locked?**

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## Further information

- The Health and Safety Executive provide a wide range of downloadable guidance from [www.hse.gov.uk](http://www.hse.gov.uk), including *Health and safety made simple – The basics for your business* and *Five Steps to Risk Assessment*
- Chartered Institute of Personnel and Development, *Health and Wellbeing at Work* factsheet, [www.cipd.co.uk](http://www.cipd.co.uk)
- WCVA free download, *2.8 Health & safety*
- WCVA free download, *4.8 Keeping volunteers safe*
- WCVA free download, *6.12 Health and Safety policy*
- Al Hinde and Charlie Kavanagh, *The Health and Safety Handbook: for Voluntary and Community Organisations*, 2nd edition, 2001.

## 2.4 Staff and the board

**On her first day at work (even before the CEO can provide induction training) an employee is taken aside by an overzealous trustee and told how he wants her to run her new project. The trustee's directions bear no relationship to the job she was interviewed for. She is already considering resignation.**

**It is unnecessary to invent stories of the deliberate misuse of trustees' authority and the damage it causes. Incidents are depressingly common, and are undoubtedly the quickest way to wreck carefully worked out management arrangements and to provoke staff to leave.**

## Getting relationships right

As trustees you are collectively responsible for fostering and maintaining good relations between yourselves and any staff you employ. The relationship between the trustees and staff has several dimensions depending on the circumstances in which they come together and who exactly is involved.

This section attempts to draw some important distinctions among these different relationships:

- the board of trustees and the CEO
- the Chair and the CEO
- other board officers and the CEO
- individual trustees and the CEO
- trustees and other members of staff
- trustees and volunteers.

**The board and the CEO** This needs to be primarily a co-operative relationship based on mutual trust and respect for their separate roles, aiming to ensure that:

- the trustees are equipped to govern the organisation effectively
- the CEO is free to manage it.

Section 2.1 'Who manages' gives serious warnings about the distinct roles of the trustees and their senior employee. To be most effective, the relationship needs to be collaborative and trusting. Similarly, the CEO should be invited to advise on policy and be able to challenge the trustees if they attempt to take over day-to-day management responsibilities or break agreed guidelines on how policy is implemented.

Above all, there needs to be a clear understanding of what each legitimately does.

**The Chair and the CEO** (assuming the Chair provides line management). This is a more personal relationship, but it involves the formal role of providing both support and direction to the CEO.

The two parties should ideally:

- respect one another
- be able to share ideas and work together to thrash out policy proposals
- reach mutual agreement on day to day management activity and putting policies into practice
- give and take advice
- share confidences about the challenges of running the organisation.

In practical terms, the two officers work together in partnership:

- so that the Chair is available for the CEO to consult about any issues connected with her or his job (though the Chair should never take over the CEO's role)
- to set the board's agendas
- to decide what information the board requires
- to agree what policy issues arising need to be brought to the trustees' attention
- to share public engagements.

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**Other board officers and the CEO** The CEO will need to work closely and co-operatively with the Treasurer, and sometimes with other officers such as the Vice Chair and Secretary. It should be clearly defined in what circumstances, if any, these officers are able to instruct the CEO. They will almost always have to speak to the Chair (as line manager) to confirm any directions issued.

**Individual trustees and the CEO** It is impractical and unrealistic to suggest that the CEO should not discuss the organisation's affairs with other trustees. However, it is fundamental to the effective management of the organisation that trustees do not attempt to direct or coerce the CEO in any way.

If they want to influence the management operation they should deal with the Chair or work through some other consultative mechanism. More positively, trustees may have a wealth of knowledge and experience to share with their senior employee, and they may feel frustrated if they cannot do so. The CEO should try to find time to find out what trustees can offer and then take advantage of it.

**Trustees and other members of staff** There is more reason to be cautious about individual relationships between trustees and other members of staff. It is easy enough to say that trustees may not do or say anything to come between an employee and her/his boss (the CEO). But rules such as this are frequently broken, with serious consequences.

The exchange of information is obviously welcome, and sometimes it is necessary for trustees, staff and volunteers to work together. But employees may be vulnerable to pressure from trustees which is presented as 'advice', or they may feel that the trustee provides a more receptive ear than their own boss. Then there is a risk of undermining the relationship between the employee and the CEO, and destroying the CEO's capacity to manage his or her staff. At worst, disaffected staff and trustees can do untold damage to the organisation's management structure.

Conversely, trustees should be alert to attempts by employees to influence or manipulate them, particularly if they are friends with one another outside the work situation. It should be made clear to trustees that, if they are approached, it is essential that they resist being compromised and retain their objectivity when they are acting as trustees.

A few protocols can be useful:

- a trustee should give the CEO advance warning if they want to speak privately to an individual employee (or establish a standard agreement for regular contacts), and should say what the meeting will be about
- both sides must resist any temptation to discuss issues which affect personnel management
- employees should be required to report to the CEO any conversation with a trustee which they feel uncomfortable about
- trustees should not discuss any confidential matters or criticise another member of staff or trustee when they are working with staff
- where personal friendships exist between individual trustees and members of staff there is more need than ever to respect confidentiality and to keep friendships and professional relationships separate.

## Trustees and volunteers, and trustees as volunteers

- The same basic rules which apply to contact between trustees and paid staff should apply to trustees and volunteers.
- At times when the trustee is doing routine volunteering work for the organisation (i.e. not part of their governance role as trustees) they will be accountable to other volunteers or staff or the line manager; they should respect the authority of those who manage them and not expect any special treatment because they are trustees.

**Maintaining staff discipline** While there are often problems with boards who try to take too much control, there is the opposite (and, in some surprising cases, simultaneous) problem of ill-disciplined staff who the trustees cannot control. There are a variety of related causes for this, and if you see any of these signs in your organisation it is probably time to insist on some personnel management training for the trustees and/or management staff.



- **Sanction aversion** The voluntary sector depends so much on co-operation and good will that many smaller organisations are unprepared or reluctant to use sanctions when staff misbehave. This is not an acceptable position if the work of the organisation is being harmed, and trustees have a responsibility to nip it in the bud.
- **Uncooperative co-ops** Some organisations develop a 'quasi-cooperative' management structure which gives staff rights and autonomy but no clear idea of their responsibilities. Once this has happened it can be extremely difficult for the trustees to recover control over the policies and direction of their organisation. The staff rule.
- **Grievance paralyses** It is not unknown for grievance and disciplinary procedures to be written so generously in favour of the staff that a few complainants are able to bring the board of trustees to their knees just handling their endless official grievances. This has nothing to do with the validity or otherwise of the complaints. The procedure has to be proportionate to the capacity and needs of the organisation, and if it is not it should be adjusted double quick.

- **Fear and inaction** Fear of the potential consequences of actions for unfair dismissal can paralyse a board of trustees while the whole organisation suffers. If proper personnel procedures and record keeping are in place trustees should be able to protect the organisation against potential legal action, as far as is practicably possible.

## Checklist

- Is there a clear division of responsibilities between trustees and staff in your organisation?
- Are staff, trustees and volunteers properly informed about these responsibilities and the relationships that they can expect with others in the organisation?
- Do you review these responsibilities and arrangements for communicating them internally when assessing the effectiveness of your board?
- Do you have mechanisms in place which are capable of dealing with disputes involving trustees as well as staff?

## Further information

- see references in Section 2.2

## 2.5 Your responsibility to others

Charities and other voluntary organisations exist primarily to serve people, and the vast majority have done their job superbly for many years. But high principles and dedication are not enough to guarantee the protection and proper care of the public, particularly the most vulnerable members of the community. Poorly resourced voluntary organisations, which have so often led the way on issues of good practice, now find that they must conform to new standards which are backed by legislation – and sometimes endure the bureaucracy that accompanies the law. These are not matters of choice. The only practical approach is to keep up with the legislation.

## Services to disabled people

**The law** Under the 2010 Equality Act disabled people have important rights of access to everyday services that others take for granted:

- it is illegal to treat a disabled person less favourably because they are disabled
- service providers have to consider making reasonable adjustments to the way they deliver their services so that disabled people can use them
- service providers have had to consider making permanent physical adjustments to their premises to overcome physical barriers to access
- the Act provides rights for people not to be directly discriminated against or harassed because they have an association with a disabled person (e.g. a carer or parent) and people must not be directly discriminated against or harassed because they are wrongly perceived to be disabled.

Information is available from the Directgov website [www.direct.gov.uk](http://www.direct.gov.uk). The employment rights of disabled people are discussed in Section 2.2.

## Protecting Children

**The employer's responsibility** Under the Protection of Children Act 1999 and the Criminal Justice and Court Services Act 2000, it is an offence for any organisation to offer employment (paid or voluntary) that involves regular contact with young people under the age of 18 to anyone who has been convicted of certain specified offences, or included on lists of people considered unsuitable for such work held by the Department for Education and Employment and the Department of Health. It is also an offence for people convicted of such offences to apply for work with young people. Specified offences include murder or manslaughter, rape, grievous bodily harm and a number of sexual offences involving children. Further details are available the Home Office, [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk).

### Action required

If you work closely with children and young people:

- you must check the criminal records of prospective employees and volunteers who will be in contact with children (see CRB checks below)
- you should have a written Child Protection policy which all workers are aware of and follow.

## Disclosure of criminal records

**The use of CRB checks** The use of a criminal records information as a tool for safer recruitment for those working with vulnerable groups has developed significantly since the setting up of the Criminal Records Bureau (CRB) in 2002. Many voluntary organisations have accessed CRB Disclosures (CRB checks) to help assess the suitability of both paid staff and volunteers employed by them. Similarly, trustee boards have checked individual trustees where eligibility criteria apply and in accordance with Charity Commission policy.

**Changing requirements** Since 2002, various legislation has changed the eligibility of an employer to get access to an individual's criminal record, either as a mandatory requirement or as best practice. Similar amendments concern those who are barred and prevented from either volunteering or working with vulnerable groups. The most recent developments concern the Independent Safeguarding Authority (ISA) Vetting and Barring remodelling and a review of the whole of the criminal records regime in England and Wales.

Currently, eligibility for CRB checks and the right to see someone's full criminal record is made according to the definition of regulated activity as set out in the Safeguarding Vulnerable Groups Act 2006. This sets out the type of work undertaken with children or vulnerable adults for it to be eligible for a CRB check.

**Trustee responsibilities** Charity trustees must be aware if their charity's activities fall under this definition or where a position is exempt under the Rehabilitation of Offenders (Exceptions order) 1975. A person who is barred by ISA from working with vulnerable groups cannot undertake regulated activity, either as a volunteer or employee, and only the Enhanced Disclosure will show this barring information.

Additionally, organisations are under a duty to refer to ISA any volunteer or employee working in regulated activity and where there is concern about their behaviour in specific circumstances.

The trustees of voluntary organisations working with vulnerable groups should seek criminal record information when it is a legislative requirement or when best practice policy dictates.

## In order to access CRB checks a charity

- may become a Registered Body with the CRB, or in the many cases where this is not possible
- may use a CRB Umbrella Registered Body which can act on behalf of the charity.

**The WCVA Criminal Records Unit:** The Welsh Assembly government provides funding for WCVA Criminal Records Unit (CRU) as a CRB Umbrella Registered Body to offer a free access service for all third sector organisations within Wales to obtain CRB checks. The Unit also provides comprehensive advice and guidance on all aspects of safeguarding information.

**Protection of Freedoms legislation** At the time of writing legislation was passing through parliament (the Protection of Freedoms Bill) which will impact upon the CRB system and ISA vetting and barring. The government intention is that any new arrangements will be in place in 2012/13.

## Data Protection Act 1998

**The legislation** The Data Protection Act 1998 aims to give protection to individuals, and impose responsibilities on those who store and use data. Organisations which manage data automatically must notify the Information Commissioner's Office at [www.ico.gov.uk](http://www.ico.gov.uk) of the purposes they will use the data for. There is an annual notification fee. The legislation is less about preventing information being stored than about regulating the way it is stored and used.

**The scope of the Act** The legislation covers personal data about identifiable living individuals on manual and computer systems in various formats, including images and audio recordings. It lays down the way data should be handled in the eight principles of data protection.

**The eight Data Protection Principles** Anyone processing personal data must comply with these enforceable principles of good practice which say (among other things) that the data must be fair, legal, relevant, accurate, secure and kept only for as long as necessary

**Sensitive data** There is a special category of 'sensitive data' which can only be processed subject to a range of restrictions. Sensitive data covers:

- racial or ethnic origin
- political opinions
- religious or other similar beliefs
- membership of a Trade Union
- physical or mental health condition
- sexual life
- offences and court proceedings.

The person the data is about has to have given consent, or the user of the data must have a legitimate purpose for processing sensitive data. If your organisation wants to keep this kind of information you should check the regulations.

**Exemption for clubs and societies** There are exemptions for small clubs, voluntary organisations, church administration and some charities from the annual notification requirement if their data processing is limited to one of the following purposes:

- establishing or maintaining membership or support for a body or association not established or conducted for profit
- providing or administering activities for individuals who are either members of the body or association or have regular contact with it.

The exemption only covers information on people who are past, existing or prospective members, or those who have regular contact with the organisation.

## Checklist

- Has your organisation taken all reasonable steps to ensure it can serve people with disabilities?
- Does your organisation need a policy on the way it ensures the safety of children or vulnerable adults?
- Do you need draw up a disclosure policy on the way you will use information from the Criminal Records Bureau?
- Do you need to register under the Data Protection Act?
- Do you have systems for checking how personal data which you collect is used?

## Further information

### Organisations:

- Criminal Records Bureau: [www.direct.gov.uk](http://www.direct.gov.uk)
- WCVA Criminal Records Unit, tel. 0800 0197 391, [www.wcva-cru.org.uk](http://www.wcva-cru.org.uk)
- Information Commissioners Office (data protection), [www.ico.gov.uk](http://www.ico.gov.uk)

### Downloadable guidance:

- Directgov links, *Disability and the Equality Act 2010*
- The Government Equalities Office, *Equality Act 2010: what do I need to know? A quick start guide for voluntary and community sector associations*, [www.equalities.gov.uk](http://www.equalities.gov.uk)
- WCVA, *The Safer Volunteering Guidebook*, 2002
- WCVA free download, *2.12 Data protection*
- WCVA free download, *4.9 Volunteering to work with vulnerable adults and children*
- WCVA free download, *4.10 Criminal records checks*

## Model Data Protection Statement

**Data protection statements** are necessary to enable you to meet your requirements under the legislation to inform people about the way you will use the personal information which they give you. The following template for a Data Protection Statement can be modified as required. It should be attached to all documents which involve the use of personal data.

The information given will be entered and processed by [name of organisation] on computer/in a manual file.

The information will be used by [name of organisation] for [state what the information will be used for – e.g. “monitoring and promoting the work of the organisation” or “managing fundraising”].

Personal data includes names, addresses, contact data and [list what other personal you will keep]; it may be considered as sensitive personal data where it applies to matters relating to race, ethnic origins, politics, religious or similar beliefs, physical, mental health or sexual life.

The personal data may be sent to [state where you may send the data, including the internet as appropriate]. [OR] Personal data will not be disclosed to any third parties other than [state any restricted use of the data – e.g. “in press releases to selected news media for bona fide promotional activities for the organisation”].

The data is protected by [name of organisation]’s Information Security Policy. [Include only if there is use of sensitive personal data.]

Please sign to show that you agree to [name of organisation] using your data in this way. [Include only if you need explicit consent to use personal data, i.e. when you cannot meet any other conditions laid down in the eight Data Protection Principles in relation to personal data or sensitive personal data.]

Signed: ..... [by the contact person]

Date: .....

Print name: .....

## 2.6 Managing property and land

Owning property can bring enormous benefits to voluntary organisations in terms of long term financial security and opportunities to pursue their objectives. The emergence of the development trust movement to undertake local regeneration work, for instance, has fostered a culture where property assets are considered not simply desirable but essential for long term sustainability. This has even led to changes in government policy on the disposal of assets by public bodies. But ownership and even conventional lease-holdings create responsibilities alongside the opportunities, and registered charities have additional obligations, particularly if they want to exploit their assets by selling or leasing their premises. Voluntary organisations should approach property issues with some caution.

Holding and disposing of land and buildings can be a complex issue with significant legal obligations. And it is an even more involved matter for registered charities. This section can only provide a superficial overview of some of the issues. If they affect your charity you should start by reading the Charity Commission's information leaflets (see further information), and in many cases it will be essential to secure the advice of suitably qualified professionals such as solicitors, surveyors and the Charity Commission itself.

### What type of organisation?

**Companies limited by guarantee** (see Section 6.3), as incorporated organisations, have a legal personality. It is therefore possible for them to own property legally.

### Challenges facing unincorporated associations generally

Unincorporated voluntary organisations have no independent legal existence, so they cannot legally own property. Property must be held on behalf of the organisation by named individuals. This has a number of disadvantages:

- as trustees change, a formal deed transferring trust property to the new trustees or the remaining trustees is essential
- Land Registry details will need to be amended



- procedures for changing the registered ownership can be time consuming and costly
- trustees can be personally liable, e.g. if fundraising falls and there is not enough money to pay a mortgage.

**The position for unincorporated charities** The Trustee Act 2000 and other legislation gives all unincorporated charities the power to acquire land for any purposes, provided this is permitted by the governing document. But the disadvantages listed above still apply.

**The role of holding trustees** Holding, or custodian, trustees are appointed by an unincorporated charity to hold property on that organisation's behalf. These are often individual trustees, but they may be other people or bodies such as a firm of solicitors or a charitable company. In the case of charities, the role may be taken by the Official Custodian - a Charity Commission officer whose function is to hold land on behalf of trustees in certain circumstances (e.g. when previous holding trustees have died). The holding or custodian trustees take no active part in management; they merely carry out the instructions of the trustees.

## Charity trustees' legal responsibilities

**Staying within the law:** There are very strict legal requirements for charities, particularly on the disposal of land and buildings. You should proceed with great care, and get legal advice if necessary. One point on terminology used by the Charity Commission and others: the term 'land' is used to mean either land or buildings on it.

**The powers of charities:** With very few exceptions charities can own land. But it is important to check with the governing document whether there are special regulations affecting the way it must be used and the conditions if any under which it can be leased or sold.

**Acquiring land** Trustees may need to get permission from the Charity Commission in certain circumstances – e.g. if they are buying from a trustee or someone closely related to a trustee. They are also strongly advised to obtain a comprehensive surveyor's report which includes a positive recommendation that it is in the charity's interest to buy the land.

**Care and use of property and land** Ownership of land or property brings a range of responsibilities which must be taken seriously, particularly if you are considering selling them:

- Charity trustees must make sure that any buildings owned by the organisation, or held on its behalf, are kept in a good state of repair and are adequately insured – this will mean setting aside funds for routine maintenance, redecoration, and longer-term structural repairs.
- Trustees must regularly monitor the condition of any property owned by or held on behalf of the organisation, including checks on boundaries, and public liability insurance.
- A permanent endowment to a charity (i.e. property which has been given to the charity in perpetuity) brings extra responsibility to use it for the charity's own charitable purposes or to ensure that the charity earns a good income without reducing its capital value.

**Selling and leasing property** If a charity wants to sell or lease land or buildings it owns, Charity law imposes a range of obligations.

- **Types of restriction:** These vary depending on issues, such as:
  - the terms of leases or sale
  - the status of the purchaser (eg, whether it is a charity with similar objects, and whether it is someone associated with the charity)
  - whether the property is 'designated land' which can only be used for the charity's purposes.
- **Obligations:** Depending on the details of the transaction, it is likely that you will have to:
  - obtain and take into consideration a report by an independent qualified surveyor
  - advertise the sale, as advised by the surveyor
  - obtain the possible terms of the sale or lease agreement
  - secure the surveyor's report must be in writing
  - provide an opportunity for the public to object to your proposal by advertising your intentions
  - get the Charity Commission's agreement if you are unable to meet any of these requirements or you want to make the sale to a person connected with the charity or its trustees.

## Mortgages

If charity trustees want to raise a mortgage on their property:

- they must obtain written advice from someone experienced in financial matters who has no personal interest in the proposed loan
- the advice must include whether the loan is necessary, whether the terms are reasonable, and whether the charity can repay the loan.

**Managing risk:** See Section 4.5 for Policies on reserves and risk.

## Taking over buildings from the public sector

**Social enterprise opportunities** Government encouragement for voluntary organisations to take over building assets to generate income creates a huge opportunities for some initiatives to become more financial independent. But there are risks involved which need to be weighed carefully before organisations go ahead with purchases.

One problem is that if property is really valuable it is likely that the public body which owns it will not want to give it up completely, so the best you can hope for is to obtain a lease rather than the freehold. If the building is a liability to its financial hard-pressed council owners, they may be extremely keen to hand it on to any voluntary group which will take it. This is not cynicism. It's a fact of life.

**The Asset Transfer Unit (ATU)**, which is based with the Development Trusts Association, provides a comprehensive CD-based pack of information and guidance materials for development trusts, social enterprises and other voluntary organisations interested in acquiring and using property assets. The unit offers information, advice and support on local asset transfer initiatives, [www.atu.org.uk](http://www.atu.org.uk).

## Checklist

- If your board is planning to buy land, does it have the power to do so?
- Do you need to appoint holding or custodian trustees?
- If your board is buying, selling or leasing land or property, are you following the correct procedure?
- Have you properly evaluated the risks of acquiring a property from the local authority?
- Have you prepared a business plan which shows how you will generate income to cover the costs of running the building you are thinking of buying? How will you meet any refurbishment costs?

[Foreword](#)[1: Strategies,  
planning and  
monitoring](#)[2: Managing  
the work of the  
organisation](#)[3: Better ways  
of working](#)[4: Managing  
money](#)[5: The role of  
the trustee](#)[6: What type  
of organisation](#)[7: Know  
what the law  
expects](#)[Index](#)

## Further information

### Charity Commission Guidance leaflets:

- [Acquiring Land, CC33](#)
- [Sales, Leases, transfers or mortgages. What Trustees need to know about disposing of charity land, CC28](#)
- [Changing your Charity's Governing Document, CC36](#)
- [Charities and Risk Management: a guide for trustees, CC26](#)
- [The Official Custodian for Charities' Land Holding Service, CC13](#)

### WCVA publications:

- Mel Witherden, [It's an idea but is it business? A guide to third sector trading, WCVA](#)
- WCVA free download, [9.1 Buildings](#)
- WCVA free download, [9.2 Running buildings](#)
- WCVA free download, [9.3 Land](#)

## 2.7 Local groups and branches

A certain level of tension between a national voluntary organisation and its local branch is inevitable and not necessarily unhealthy. It can demonstrate the local groups' commitment and enthusiasm to make an impact, and the wish to be as unconstrained as possible in order to deliver the best deal for the organisation or its clients. But that is not always the case. Friction between the local and parent bodies can reflect confusion over their respective roles, or a group out of control which is acting beyond its authority. The consequences can be seriously damaging for staff and trustee morale, distracting and expensive for the work of the organisation, and devastating for its public image.

To avoid falling into this destructive trap, organisations need a sometimes saintly commitment to co-operative working (even when relations are strained) and a determination to be absolutely clear about the true status of the local group or branch.

### Types of relationships

Many organisations have local groups or branches. The types of work they do and the relationships with the parent organisation vary enormously.

The function of a branch may be:

- fundraising and nothing more
- fundraising and spending money
- the delivery of local services
- providing support to members of a local self help group
- advice and campaign work
- operating social clubs for the benefit of a national organisation/charity (these clubs may be separate organisations and not necessarily charities in their own right).

**The autonomy of local groups** The degree of control exercised by the parent organisation depends on the legal status of the branches or local groups, although practice varies widely even between branches with the same status. The key distinction is between branches and local groups which are:

- part of the parent or national charity – in this case the parent organisation is wholly responsible for all the activities and actions of its local groups or branches (Oxfam is an example of this arrangement, where local fundraising and campaigning groups and shops are part of the national charity organisation), or
- separate autonomous groups – in this case each local group will have:
  - its own group of trustees
  - its own governing document (constitution or memorandum and articles)
  - its own charity registration number (if the organisation is charitable and registered with the Charity Commission).

The legal status of these local groups may also vary. Even within branches of the same national umbrella organisation:

- smaller groups may be unincorporated associations
- larger groups may be charitable companies
- if the income of the local group is below £5,000 it will not be a registered charity.

## Trustees' responsibilities

**Clarifying your status** Your local group may have a management committee which operates like a board of trustees and you may even have your own constitution, but this does not necessarily mean that you are an autonomous organisation.

Trustees and members who are unsure whether their local group is legally an autonomous group or part of the parent organisation must clarify their position by:

- checking with the governing document, or checking with the parent organisation
- asking for advice from the Charity Commission if still uncertain.

**In groups which are part of a national charity** the trustees of the national body are responsible for ensuring the proper management of local groups and branches. This will involve ensuring:

- there is a suitable system for overseeing and monitoring the work of local groups, including regular reports and, if appropriate, regular statements of accounts
- that local groups are fully accountable to the national organisation
- that the local groups state that they are a registered charity on all their documents, including stationery, appeal documents, cheques, invoices and receipts (failure to do this could result in legal penalties)
- local groups provide accounting returns to be consolidated into the national accounts
- the parent charity makes provision for reserves which take into account the anticipated needs of local groups (particularly for possible redundancies)
- due sensitivity is shown towards the feelings of the local organisations to minimise resentment of interference and bureaucracy.

**In autonomous local groups trustees must:**

- have their own board of trustees
- produce their own accounts
- register with the Charity Commission if they want to benefit from charitable status (if they have income of over £5,000 per annum)
- comply with all financial and employment legislation etc which applies to voluntary organisations.

It is important to remember that the trustees of autonomous local groups who mismanage their affairs could damage the reputation of their parent organisation as well as risking personal liability. This is one reason why the national parent body may still take a close interest in independent groups. Some national organisations have a code of practice or guidance which local autonomous groups are asked to follow.

**Blurred charitable edges** The registration, disclosure and accounting requirements of charity law are partly designed to clarify the extent to which local charitable groups and branches really are autonomous. The situation for local groups and branches is often not as clear cut as it should be. It is advisable that local groups should investigate their position if they are uncertain about or unhappy with the relationship.

You will need to ask:

- Are your branches independent charities, or parts of a charity, or are they non-charitable clubs whose main purpose is to benefit their members?
- Are your branches financially dependent on the national charity?
- Does the national body have the right to control the use of the branches' resources?
- Does the national body have legal control over important aspects of your group's administration, e.g. the right to decide on the form of your constitution or to be involved in altering it?
- Is the group of trustees responsible for administering both the national charity and its branches?
- Does the branch carry out its activities using the name and/or charity number of the parent body?
- Who owns funds held at local branch level – your local branch or the parent body?
- If your branch closed, would the funds be passed to the national body?
- Does the branch receive tax benefits because it is part of the national charity?
- Do you need to be registered for VAT?



## 2.8 Contracting

Very many voluntary organisations are today involved in contracting arrangements with public sector bodies such as local authorities and NHS trusts. In order to survive in a difficult funding environment it can be tempting to offer to provide a new service if grant aid becomes available. It is one of the great strengths of the voluntary sector that organisations can leap with amazing agility to catch funding which falls in their direction. The qualities of flexibility and ingenuity, and frequently entrepreneurial skills too, enable large numbers of voluntary organisations to notch up consistently impressive results, and to achieve a level of sustainability which the private sector might envy.

But there is a price to pay. The seduction of contract income can lead organisations into work that distorts their objectives, projects that are beyond their capacity, and financial arrangements that unscrupulously exploit their altruistic spirit. It can be wise to be discerning, to learn to negotiate and sometimes just to say “no”.

### Voluntary organisations and contracts

**The contracting revolution** The contracting revolution in local government of the 1980s and 1990s quickly found its way to the voluntary sector. Many annual and one-off grants were converted to contracting opportunities for voluntary groups – often but not always to continue what they were doing previously. But a new contracting revolution is now under way, fired by government rhetoric about the role of the voluntary sector in society. This time there is an expectation that voluntary organisations will contract to deliver services which were previously the exclusive domain of public bodies. The shift in policy has brought voluntary organisations squarely into the world of business, sometimes perhaps even in direct competition with commercial organisations.

**The power to contract** Voluntary organisations may only undertake contracts for other bodies if their governing document (constitution or memorandum of association) gives them the power to do so. These powers might be expressed in the governing document as a general power to undertake activities to pursue the organisation's objectives.

Contractual agreements allow local authorities to exercise greater control over how their money is spent, and to set out and monitor quality standards in service provision.

**What is a contract?** A contract is a legally enforceable agreement between two or more parties.

For a contract to exist:

- the parties to the contract have to offer something unconditionally, and accept unconditionally what the other, or others, offer
- there has to be an 'exchange of consideration'; 'consideration' means anything of material value, such as goods, services or money, e.g. a funder may provide money to an organisation in exchange for the organisation providing a service
- there must be an intention to create a legally binding relationship.

When these three characteristics exist together, there is a legally binding agreement or contract. It does not have to be called a contract. 'Service level agreements' between local authorities and voluntary organisations, for instance, may sometimes be legally binding contracts. Significantly, the contract does not in law have to be in writing – though it is a great deal better if it is.

## The implications of contracting

**Trustees' general responsibilities** Before an organisation enters into contracts with other parties the trustees need to explore the wider implications of the work they are considering:

- Does the service fall within the organisation's objects? If it does not a charity's trustees would be in breach of trust.
- How will the work affect the organisation's delivery of its existing services?
- How far will the new work contribute to the organisation's overall objectives?
- Does the organisation have the skills and resources which will be needed to carry out the contract?
- What will the role of volunteers be, and are the associated costs of volunteers (their recruitment, supervision, expenses and training) covered by the contract fee?

- Can the level of service promised under the contract be varied without damage to the organisation if there are problems with recruiting sufficient volunteers, or identifying sufficient clients to meet the terms of the contract?
- Will the fee include administration and management, contract start-up costs, and training? Will the organisation be able to charge an appropriate and realistic fee for senior management time which is devoted to running the contract?

**Legal liabilities** All the terms and conditions in the contract must be examined closely (and questioned if necessary) to ensure that you will be able to fulfil the agreement before you go ahead.

- **In unincorporated voluntary organisations:**
  - the contract will be a legal agreement between the trustees and the other contracting party or parties; where individuals sign contracts they should always state that they are doing so on behalf of the organisation, or they could be personally liable
  - the trustees can be personally sued if the terms of the contract are not complied with; to protect yourself, you should include a clause in the contract that limits your financial liability to the assets of the organisation.

- **Limited liability companies** have legal status in their own right, so contracts are undertaken by the company rather than the trustees. This benefit may persuade the trustees of trusts and associations to change their legal status to that of a company limited by guarantee before embarking on substantial contracts – so that they can limit potential personal financial liability.
- **Charities** may need to operate the contract through a separate trading company. If the service which will be provided under the contract will be part of your work in pursuing your charity's stated objectives, it can be legitimately carried out by the organisation. But if it is, for instance, a separate activity undertaken to generate income, it may be necessary for the contract to be with a subsidiary or parallel company and not the charity itself (Section 4.6 explains the need for and benefits of separate trading companies).
- **VAT registration** You may need to be registered for VAT if your turnover is above the current VAT threshold (services provided under contract will usually be liable for VAT) – you are strongly advised to ask for advice from HM Revenue and Customs if you are in doubt about liability for VAT (see also Section 4.7).

- **VAT prices** It can be critical that bids and contracts give a clear indication of whether the fee is inclusive or exclusive of VAT. When the customer is a public body or a substantial trading organisation, they will be able to reclaim in full any VAT charged. But customers who are not VAT registered will have to bear the cost of the contracted inflated by the VAT.
- **Conflicts of interest** You should avoid the situation where a trustee is also an employee of the organisation which you have the contract with (e.g. when an officer of the local authority you are doing business with has been appointed to your board); the safest course is for the trustee to resign and act as an advisor instead, unless the trustee works in a completely different part of the contracting organisation.

**Advantages and disadvantages** of contracting It is hard to generalise about the balance of advantages and disadvantages which voluntary organisations receive when they undertake contracts. It may well depend on the aims and attitudes of the organisation providing the contract and making the payments:

- **Advantages** Contracting arrangements can be catalysts which encourage voluntary organisations to focus more rigorously on their key tasks, examine costing and management arrangements, and clarify their relationships with their funders.

They can also force funders to be more specific about what they want for their money and to be more systematic, more businesslike and fairer in the way they evaluate the services they receive. In short they may have to treat voluntary organisations like the grown up bodies offering professional services, which they usually are.

- **Disadvantages** Contracts can chain voluntary organisations to an inappropriate commercial culture, and can produce unreal comparisons with private sector organisations. They can exploit the goodwill of voluntary groups, and give opportunities to funders to reduce expenditure while services levels remain the same.

The message here is that voluntary organisations cannot afford to be passive or coerced when they enter contracts. For groups that are prepared to be businesslike and negotiate as equals with the contracting bodies, there are opportunities to improve their financial security, to expand their operations and to enhance management capacity. But if contracting sounds too challenging, or you neither expect to be treated on equal terms by the contractor nor want to insist on your equality, you may be better off sticking to grant funding.

## Contract terms

**The need for negotiation** It is important that voluntary organisations are able to be involved in a negotiation process for the contracts which they carry out. If there is no scope for negotiation you may be forced to accept terms that are not in your organisation's interest, and be locked into inflexible and inappropriate obligations. Negotiation can give the client a better deal too, if you can work things to your mutual advantage. Sometimes you could be asked to draft the contract yourself. But this may not be the positive opportunity that it appears to be if you are inexperienced and leave gaps that disadvantage your organisation. If in doubt, get advice. You should always be extremely careful to cover all the points below.

### What is covered by the contract

Contracts should include the following clauses:

- names of the parties to the contract
- legal powers under which they are contracting
- starting date and duration of the contract
- liabilities and obligations of the parties to the contract
- premises and equipment to be used
- equal opportunities policies of the contracting parties
- service specification, i.e. what service will be provided, to whom, where and when
- quality, i.e. what standards must be achieved, how they will be measured and by whom
- monitoring, i.e. how the work will be monitored and perhaps evaluated by the funder
- finance, i.e. the amount to be paid, and the method and timing of payment
- costs, indicating whether inclusive or exclusive of VAT
- staffing arrangements
- arrangements for reviewing, renewing, varying, and terminating the contract
- arrangements for liaison between the funder and the providing voluntary organisation
- arrangements for settling disputes, with provision for an independent, mutually acceptable mediator to be brought in if necessary
- provisions regarding intellectual property rights.

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## What not to accept

- Contracts designed for ordinary commercial organisations are sometimes thoughtlessly knocked into shape and offered to charities. These may be completely inappropriate to the way you work and could easily bind your organisation into accepting unreasonable requirements.
- Resist to the hilt anything which contradicts your obligations as a charity trustee.
- Don't allow the contract to treat you as a 'non profit making organisation'. It's a nonsense concept which tends to exploit voluntary organisations. In fact, if you can't make a surplus and build up reserves you will eventually go bust. 'Profit' is not a dirty word – and certainly not now you are working in the same field as all the commercial contracting organisations your local authority regularly does business with.
- Beware of nailed-down, controlling and inflexible grant funding offers dressed up as contracts. Commercial contracts don't lay down the conditions under which the contractor is allowed to sneeze, and neither should yours.

## How to negotiate

- Don't be fazed. Be firm but polite. Be absolutely clear about lines in the sand you can't cross.
- Be prepared to compromise, but expect the client to do the same. If you've got to the negotiating stage you can usually assume that both sides want a deal, and the best deal is one where both sides feel they have won something.
- Go through the terms meticulously and challenge anything which could make you unnecessarily vulnerable.
- Don't be timid about suggesting clearer alternative wording if the client's terms are unacceptable. For example, there could be a world of difference between asking workers on a community recycling venture to use 'protective clothing which identifies the Council's involvement in the project' and an open-ended obligation for them to wear 'any clothing specified by the local authority' – which in theory at least gives the contractor the right to dress them as Disney characters.

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## Checklist

- Does your governing document give you powers to enter into contracts?
- Do the contracts you have fall within your charitable objects?
- How do any contracts you are considering entering into fit with your organisation's plans and priorities?
- Do you have the skills and resources to carry out any work to be done under contract?
- Do your cost estimates include the full cost, such as management, recruitment and training?
- Do you need to be registered for VAT?
- Do you need to review the role on your board of any representatives of organisations with whom you have contractual agreements?
- Do you need to consider incorporation as a limited company to protect your trustees?

## Further information

- WCVA free download, [3.8 Contracts](#)
- WCVA free download, [3.x10 Public law remedies-challenging decisions made by public bodies](#)

## 2.9 Other management policies and statements

For effective governance and management, voluntary organisations may need a variety of policy and strategy statements in addition to those described elsewhere in this guide. The organisation's objectives and scale of operation will help to determine what these are, what they say and their relative significance in the management of the organisation. Recommended good practice and new legislation is constantly urging additional policy statements and codes of practice on groups, but preparing them all can be daunting and time consuming. It might even risk overwhelming the day-to-day work of the organisation with meaningless bureaucracy.

On the other hand, burying your head in the sand poses serious risks. The lack of a key policy or procedure could mean that the organisation fails to carry out its responsibilities properly, and lands you in an employment tribunal. The only sensible course is to prioritise the documents you need and work through producing them systematically to an orderly timetable. And don't be surprised if, by the time you have finished them all, you need to start again reviewing the oldest policies and bringing them up-to-date!

### Policy statements for clarity and communication

**Do you need them all?** Some written policies are more critical than others, and many organisations would be hard-pressed to put them all into operation.

In the list below:

- \* indicates that the policy may be an essential requirement – e.g. related to legislation affecting your work, or something your funders will insist on
- § indicates other policies which are strongly recommended for most organisations on grounds of good practice.



But bear in mind that small groups with few, if any, staff may be able to combine several policy statements into single documents – for instance, a personnel policy which encompasses recruitment, grievance procedures, equal opportunities, disclosure and training.

**Types of policy** The policy statements which you need may include most of those of the following list – and in some special cases you may need others which are not listed:

- child protection policy\* (see Section 2.5)
- code of conducts for staff, volunteers and trustees
- conflicts of interest policy\* (essential for charities – see Section 3.6)
- data protection policy\* and data security policy§ (see Section 2.5)
- disclosure policy\* (where you use information on the criminal records of employees or volunteers – see Section 2.5)
- equal opportunities (see section 2.2)
- employees and volunteers code of conduct§
- employment/recruitment policies\*§ (see also Section 2.2)
- environmental policy\*
- equal opportunities policy\* (see Section 2.2)
- ethical policy
- fundraising strategy§ (see Section 4.8)
- health and safety policy\* (see Section 2.3)
- investment policy (see Section 4.3)
- membership policy
- partnership agreement or statement of partnership objectives
- public relations policy or strategy
- purchasing policy
- reserves policy\* (essential for charities – see section 4.4)
- quality assurance policy and public complaints procedure
- standing orders for board business§
- training policy
- volunteering policy or code of practice§
- Welsh language scheme\* (essential for national bodies).

**Benefits** The value of such written documents is that, they:

- improve the voluntary organisation's appreciation of the issues, by requiring trustees and staff to work through policy implications at the drafting stage
- generate clear objectives and targets for the organisation to pursue

- provide an easy mechanism for communicating your approach to complex issues to trustees, staff, volunteers, funders and other stakeholders
- meet the requirements of funding bodies and partners.

**Can you do without policies?** Here's a salutary real life example. A successful local regeneration organisation had omitted, among other things, to clarify its board election arrangements, grievance resolution procedures, and staffing policies to specify what should happen in the absence of their CEO. When the CEO fell out with the trustees over the elections at the AGM and refused to work with the new board, the trustees were thrown into confusion and then into paralysis. With no mechanism to resolve the crisis, relationships grew progressively worse until the CEO eventually resigned.

They avoided a tribunal case for constructive dismissal, but at the cost of a substantial severance deal, the loss of a previously respected CEO, and a six-month gap in a crucial development and fundraising programme. You can never tell when the operation of a particular policy may be a life and death matter. That's why a well-run organisation will have all of them.

## An approach to developing policies

- Some policies have to be in place from the start – those covering health and safety, equal opportunities, staff recruitment, and perhaps child protection and conflicts of interest etc. Get them drafted and approved by the board without delay.
- Draw up a schedule of other policies, with priorities, and work through them systematically.
- In the early days of your organisation before major responsibilities build up, you may be able to draft composite documents which cover several topics – such as a general purpose code of conduct for everyone in the organisation, and cover-all employment statements.
- Write some less pressing policies as you need to – e.g. to meet the requirements of individual funders.
- Watch out for policies which relate to one another and should be checked carefully to ensure that they are consistent.

**Monitoring the operation of policies** Policy statements should also indicate how you propose to monitor the impact which the policy has. You should commit the organisation to reviewing the operation of its policies as part of your general monitoring and assessment procedures.

The following sections deal specifically with some policy documents not referred to elsewhere in this guide:

## A code of conduct

A practical code of conduct for employees and volunteers may be essential for a busy organisation with more than a handful of workers. It is often good practice to require volunteers to follow the same rules of behaviour as paid staff because it elevates the status of volunteering and can help to build a team environment.

## Environmental or sustainability policy

This policy is not a legal requirement, but it should be regarded as essential, and is often requested by funders. It will probably relate to many aspects of the organisation's environment impact, including:

- the organisation's objectives – e.g. enhancing or protecting the natural or built environment, or cultural heritage or simply 'improving the quality of life of local people'
- wider issues of sustainable development
- the service you provide – e.g. its impact on the natural and the built environment, and on resources such as air and water, its contribution to educating people about the environment
- the means of providing your service and the resources this involves
- the management of premises (e.g. energy efficiency, use of water)
- administrative activities (e.g. purchasing policies and recycling of materials; the way travel expenses are paid)
- social objectives of creating more sustainable communities.

## Membership policy

In addition to statements in your governing document about the membership of your board or the organisation as a whole, you may want to establish policies which:

- clarify your target membership groups
- identify how certain groups of members, particularly excluded or minority groups, will be attracted and involved
- identify membership fees, periods of membership and payment arrangements
- specify the benefits of membership
- make commitments on communications with members (e.g. with a periodic newsletter)
- define and encourage the consultation of members about the organisation's work.

## The partnership agreement

### The need for written partnership agreements

Many voluntary organisations become involved in working in partnerships with others, which can greatly extend their influence and capacity to deliver services and meet their objectives. But partnerships can also become acrimonious and distracting if clear objectives are not agreed at the outset and if voluntary and community groups are not given recognition for their contribution and an equal opportunity to contribute. A good way to get it right is to draw up a partnership agreement which sets the issues bare and requires everyone to recognise the differences as well as the common ground.

The Charity Commission provides specific guidance for charities which work together, and this in general terms is good practice to apply to other types of voluntary organisation.

**Content of partnership agreements** In practice it may be advisable to use the term 'memorandum of agreement' in preference to the term 'partnership agreement' in any formal documents (which might imply a type of legal arrangement which is not actually intended).

The agreement might cover all of these issues:

- the parties to the agreement
- start and term of agreement
- general objectives
- location
- target groups
- general duties and obligations
- meeting arrangements
- management structure, and arrangements
- consultation and publicity
- monitoring and evaluation
- confidentiality
- indemnities, arbitration and termination.

## Public relations policy or strategy

**The need for a policy** Trustees have an important and unavoidable responsibility for developing a realistic public relations strategy, whatever the size of their organisation. Having a positive public image is essential to attracting the necessary funds and volunteers for an organisation to pursue its objectives and deliver its services.

**Contents** Your approach will depend on your resources and needs, but you should consider including the following elements in your policy:

- a clear message based on your agreed mission, aims and targets
- policies on who can speak for the organisation and on what issues
- a review of your organisation's logo, stationery and house style;
- a review of the image which you intend to present to members, funders and the public
- the way you will use the Welsh language
- media training for trustees and staff
- procedures for damage limitation in the event of public criticism
- readiness to respond to media enquiries with the organisation's 'official view' on specific issues
- targets for the production of publicity materials (e.g. a monthly press release)
- inviting celebrities and influential people to acknowledge publicly their support for the organisation, particularly as patrons.

Once the policy is in place you should make sure that it is carried out by all relevant staff and trustees, and that its operation is monitored periodically.

## Purchasing policy

You may wish to make a special statement on your policies on purchasing goods and services (e.g. in order to support your local economy or support practices which encourage environmental sustainability). There can be no objection to your preferring local goods to those produced elsewhere in the country or overseas, provided they do not significantly increase the cost to the organisation. However, charity law prevents registered charities from using the charity's resources to promote causes if they are not specified by the organisation's objectives – so you cannot discriminate in favour of local goods and services if they increase your costs.

## Quality assurance or quality control policy

The quality and reliability of services delivered by voluntary organisations can be enormously important, particularly for those providing personal social services to vulnerable people. But it is also critical to the success of community groups and community enterprise organisations which depend on income from the commercial or semi-commercial services or goods they provide.

It can therefore be essential that you establish a policy and procedure which:

- build on routine monitoring and evaluation arrangements
- set specific standards for your service or quality improvement targets to be achieved
- define how the standards are to be met, including working practices
- establish reporting arrangements for monitoring quality
- lay down procedures for handling complaints about quality.

## Recruitment and employment policy

Equalities and employment protection legislation means you should be careful to get your recruitment and employment procedures right. Written policies which can easily be communicated to members of the interview panels and senior staff are strongly recommended to ensure consistency and compliance.

Smaller organisations may want to bring all the policies related to recruitment and employment of staff into a comprehensive employment policy that establishes issues such as:

- the jobs you intend or hope to create
- the groups of people you want to target when jobs and training opportunities are created
- pay structures
- how and where you will advertise
- recruitment and interview procedures
- training arrangements etc.

## Volunteering policy or code of practice

**The need for a policy** Volunteers are easily abused by staff and trustees who do not fully understand the needs and motivation of people who give their time to voluntary organisations. Bodies such as WCVA place considerable emphasis on the need for voluntary groups to have formal policies on volunteering in their organisations.

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**Contents** The policy or code of practice should state the need and right of volunteers:

- to have their roles and the limits of their activities clearly defined
- to receive information on the organisation's aims and objectives
- to receive information about standards and procedures, including health and safety, equal opportunities policy, confidentiality policy, and grievance procedures
- to have clearly defined tasks
- to have a designated accessible person responsible for their supervision and support
- to receive induction and training
- to be recruited under equal opportunities procedures
- to be adequately insured, and equipped with protective clothing
- to be reimbursed for all out of pocket expenses
- to carry out tasks which supplement and do not replace the work of paid staff
- to have the time and opportunity to choose whether they do work offered to them
- to be referred to a local volunteer bureau if they are unsuited to the tasks available.

Further information is available from WCVA and your local volunteer bureau and local CVC.

## Welsh language scheme

**The need for a scheme** Despite the fact that voluntary organisations are not required to produce Welsh language schemes under the 1993 Welsh Language Act, the sector as a whole has recognised that providing a quality service in Wales in Welsh and English is seen as good practice that respects the language preference of the service user. This is particularly true of community groups and bodies working with children, young people or vulnerable groups.

The Welsh Language Board will come to an end on 31 March 2012, following the approval of the Welsh Language Measure (Wales) 2011. This means that the Board's current work will be transferred to the Welsh Language Commissioner and the Welsh Government. The duties transferred to the Welsh Language Commissioner includes work with public and voluntary bodies and language schemes, dealing with complaints by members of the public on the failure of organisations to provide a Welsh language service, and advise and promote good practice in the voluntary sector.

One of the changes following the new Measure is that the current procedure of Welsh language schemes will, in time, come to an end and will be replaced by standards. These standards will be set by the Commissioner following a period of consultation.

## Welsh language schemes and longer term policies

A Welsh language scheme is a far stronger base for delivering the use of Welsh in an organisation than a policy itself. A scheme allows each individual organisation to build in clear targets, credible policy objectives and a realistic timetable. It is a flexible tool that can be adapted to the needs and requirements of small local groups and national voluntary organisations alike. Although Standards will eventually replace Welsh Language Schemes, organisation should continue to deliver their Welsh Language Schemes as this will create the foundations required in order to progress towards complying with Welsh language standards once they come into force.

A scheme covers practical issues such as:

- direct contact with the public – by letter, by phone and in private and public meetings
- projecting the organisation's public face – on signs and in publications

- when implementing a service – ensuring that staff and volunteers have the right skills, and that appropriate administrative arrangements are in place.

The level of service provided bilingually by voluntary organisations varies greatly. Influential factors may include the nature of the services they provide, where they work, whether they have a service delivery contract with a statutory body (and therefore have to comply with their Welsh language scheme) and not least the historic attitude of the organisation.

Changes cannot take place overnight, organisations need to assess their current position and set themselves achievable targets. It can take between three to five years for an organisation to develop and action a scheme in full if they are starting from scratch. Contact the Welsh Language Board for guidance materials and example Welsh language schemes.

## Further information

**Welsh Language Board:** a range of free downloads from the website [www.byig-wlb.org.uk](http://www.byig-wlb.org.uk):

- Welsh Language Board, *A Guide to Bilingual Design*, [www.byig-wlb.org.uk](http://www.byig-wlb.org.uk)



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- The Welsh Language Board's website, and all its content, will be archived to the website archive of the National Library of Wales and the British Library and will be available for viewing. No updates will be made to the website after 31 March 2012. With regards to the Board's guidance documents, the Commissioner will be producing her own documents over time, which will reflect the legislation changes that have come into effect since the approval of the Welsh Language Measure (Wales) 2011. The Commissioner's guidance documents will replace the Board's documents in the relevant areas.
- From 2 April 2012, please visit the Welsh Language Commissioner's website for more information: [www.welshlanguagecommissioner.org](http://www.welshlanguagecommissioner.org).

## WCVA free policy downloads:

- [2.x15 Green Policy](#)
- [6.x11 Redundancy policy](#)
- [6.x12 Health and safety policy](#)
- [6.x13 Sickness policy](#)
- [6.x14.1 Maternity policy](#)
- [6.x14.2 Paternity policy](#)
- [6.x14.3 Adoption policy](#)
- [6.x14.4 Right to request flexible working](#)
- [6.x15 Equal opportunities policy](#)
- [6.x16 Whistle blowing policy](#)
- [6.x17 Retirement policy](#)
- [6.x18 Disciplinary policy](#)

## WCVA free downloads on communications policies:

- [2.x10 Welsh language – legal context](#)
- [10.1 Communications and marketing plan](#)
- [10.2 Creating effective marketing and publicity materials](#)
- [10.3 Preparing newsletters](#)
- [10.4 Working with the media](#)
- [10.5 Effective press releases](#)
- [10.6 The annual report](#)
- [10.7 Website development and maintenance](#)

## Other publications:

- WCVA: [As good as our words](#)
- Charity Commission, [Going Green: Charities and Environmental responsibility, RS17](#)
- Charity Commission, [Collaborative Working and Mergers: An introduction, CC34s](#)

## 2.10 Volunteers

The voluntary sector is to a huge extent about what volunteers do, and trustees are almost always volunteers themselves. But the subject is too large to be dealt with in depth in this guide.

Readers should look at the extensive resources on volunteering available from Wales Council for Voluntary Action and other voluntary sector agencies. What follows is a very brief overview of the way trustees should regard and handle volunteering in their organisation. It's just a start.

### Trustee responsibilities

**The basics** There are still a few dinosaurs around in the voluntary sector who regard volunteers as a resource to be exploited rather than cultivated, supported and celebrated. Most voluntary organisations don't need to be reminded of these issues, but let's get them straight.

**Duty of care** Organisations have exactly the same duty of care to their volunteers as they do to their paid staff, most obviously on issues such as health and safety, insurance and out of pocket expenses.

**A volunteering policy** It is now firmly established practice for organisations which have volunteer workers to have their own policy on managing and supporting volunteers; an example policy is available from WCVA. See also section 2.9.

**Induction for newcomers** You will not be able to exercise your duty of care if you do not provide proper induction for new volunteers. They need to know where things are in the building, who is in charge, what your work involves, where your priorities lie and so on.

**A code of conduct for volunteers** There is nothing oppressive about having a code of conduct and some basic rules for your volunteers – such as the requirement for a regular (or at least predictable) time commitment and an obligation to turn up when they are expected. In fact a code of conduct is essential. People feel more comfortable when they know what the rules are, and there is a framework to work with. Without this everyone suffers. (Note that a code of conduct for volunteers which focuses on specific behaviour and procedures is not the same as the code of practice for organisations which support volunteering outlined in Section 2.9.)

## What do you need to think about?

Even the best intentioned and enlightened trustees and paid staff sometimes overlook quite important aspects of the volunteer experience. So here are a few key reminders.

**Management** Managing volunteers is arguably a more demanding job than managing paid staff (for whom possible sanctions are likely to be a lot more serious). Yet the job is often tagged on to the existing workload of busy paid staff with little volunteer experience by trustees who subsequently complain that they can't recruit and retain volunteers. Big surprise!

**Developing a volunteering ethos** Those organisations which set out to establish or substantially expand volunteering sometimes misunderstand the guidance available and plunge into writing abstract policies and standards too soon. Bypassing the much harder job of identifying what volunteers might do in practice and the capacity to provide support and management can mean that the policy ends up inappropriate and slightly unreal. But, much worse, those driving the process may now start to lose heart because the challenge of creating a volunteer team and delivering this unrealistic policy now appears daunting and unachievable. It's an effective way of stifling progress.

**Creating two-way benefits** Volunteering is a fantastically rewarding experience because, unlike many other aspects of life, it creates the opportunity for everyone to benefit. It's unreasonable to expect people to work for you for no pay and to receive no benefit whatever in return. So trustees should recognise that individual volunteers may be hoping for new skills, confidence building, social contacts, a refuge, rehabilitation, a line on their CV, a sense of self worth, status or, occasionally, just a nice warm feeling. (And yes, their needs are all different.) The challenge is then to create the environment where all these reciprocal volunteer benefits become possible and volunteering thrives.

**Providing things to do** One of the biggest risks is that volunteers will get bored and leave. The most successful volunteering organisations usually offer a wide variety of different activities for prospective workers to choose from (and switch to as they grow in confidence and skill). The more the better.

**Providing a welcome** The toughest part of becoming a volunteer is walking through your door in the first place. So make them feel welcome, worthwhile and needed. If you want them to come back treat them to a cup of coffee, a face-to-face chat and a tour of your organisation.

**Providing training** Volunteers will be more effective, happier and safer in their work and more likely to stay if they are properly trained.

**Encouraging responsibility** Volunteers may or may not relish responsibility and tough challenges. But it's pretty unlikely that all potential volunteers need automatically to be treated with kid gloves, as often happens. You will get the best from them if you give them opportunities to get stuck in, show flair, tackle tough jobs and develop as leaders or even prospective trustees.

## What's the point?

**Not a zero sum game** Trustees and staff sometimes come to the conclusion that managing and supporting volunteers is just a zero sum game, which produces no more useful work than the effort they have to put in to keep it going. It's easy to see how they might reach this pessimistic conclusion. But it's not hard to refute it either:

- In organisations which aim for community regeneration, rehabilitation, education, etc, the work output of volunteers really is less important than the positive impacts on their own lives.

- The manager who claims they could have done all the work themselves in the time it took to support the volunteers is often overlooking the energy, diversity, new knowledge and fresh ideas which these inexperienced workers are bringing in.
- Voluntary organisations usually need a pool of people from which trustees can be recruited when others leave. The volunteer team is probably the most reliable source. Without them the board could even become unsustainable.
- Volunteers can keep you in touch with the needs of your community and your clients, the work of your local authority, contacts, local news and gossip. And that's before you start appreciating them for the skills and practical knowledge they can contribute.
- It only takes the recruitment of one dedicated long-standing volunteer hungry for responsibility to pay back all the time you spent training and supporting the ones who seemed to be a burden. So don't give up looking.

**A conclusion:** Volunteering can be very good for you. But don't assume it's simple or easy. Just make sure your organisation does it right. There is a great deal of information, knowledge and experience to tap into if you leave preconceptions behind and take steps to find it.

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## Checklist

- Do you have a realistic volunteering policy?
- Do you need to review the way you advertise for, recruit, induct, train, manage and support volunteers?
- Do you make volunteers feel rewarded? Could you find a wider range of useful work for them to do?

## Further information

### WCVA free downloads:

- [4.1 Thinking about volunteering](#)
- [4.2 Developing a volunteer strategy](#)
- [4.3 Model volunteering policy](#)
- [4.4 Recruiting, selecting and inducting volunteers](#)
- [4.5 Recruiting Welsh speaking volunteers](#)
- [4.6 Diversity in volunteering](#)
- [4.7 How to retain volunteers](#)
- [4.8 Keeping volunteers safe](#)

- [4.8.1 Risk assessment – volunteers based at home](#)
- [4.9 Volunteering to work with vulnerable adults and children](#)
- [4.x10 Criminal records checks](#)
- [4.x11 Volunteers and the law](#)
- [4.x12 Volunteers and welfare benefits](#)
- [4.x13 Volunteer expenses](#)
- [4.x14 Investing in Volunteers](#)
- [4.x15 How to work with hard to place volunteers](#)
- [4.x16 Involving young people as volunteers](#)
- [4.x17 The Independent Safeguarding Authority](#)
- [4.x18 Volunteer Drivers](#)

### WCVA publications:

- [The Complete Volunteer Manager](#)
- [National Occupational Standards for Managing Volunteers](#)
- [The Safer Volunteering Guidebook](#)
- [Recruiting volunteers: a manual of good practice](#)
- [Volunteers and the law](#)
- [Making everyone count – a guide to working with volunteers, trustees](#)

## Part 3: Better ways of working

### 3.1 Making Meetings Work

If they added up the wasted and unproductive time in meetings of the board of trustees (including the time spent waiting for others to arrive), many voluntary organisations would find that they are squandering the equivalent of a permanent part time worker. There is no need to insist on great formality or bureaucracy, like some political organisations, to achieve effective, well-controlled meetings - but a little structure and common sense can go a long way. What meetings really need for the most part is a clear indication of the issues they need to decide on. Without that they will probably take decisions anyway, and there is no telling what these might be about or where they will lead.

Even if you can handle the challenge of meetings within your own organisation, there is another tougher challenge waiting for you in the outside world. This section also looks at groups working together in the far more demanding contexts of network organisations and cross-sector partnerships – which some people tend to write off as simply impossible.

#### Running good meetings

**Their purpose** Meetings provide the formal means for trustees to come together to exercise their responsibilities to the organisation. The way meetings are run contributes greatly to the effectiveness, or otherwise, of the board. The function of a meeting is to:

- receive information
- consult trustees on their opinions and feelings
- discuss important policy issues
- make decisions
- review or ratify previous decisions.

**A requirement for good meetings** Good meetings are planned in advance. Everyone taking part should know what they are there for, and there should be terms of reference to guide both the conduct and the outcomes of the meeting. Employing a few organisational devices can help to ensure that meetings run smoothly and effectively and make the best use of trustees' time.

**Agendas** You need a detailed agenda, sent out in advance – a week or more before the meeting if people may not know the date of the meeting, or at least three or four days beforehand if they do. The agenda should give:

- agenda items listed in a logical order, with the most important coming early in the meeting
- an indication of expected action for each item – 'a discussion', 'to confirm', 'to decide' etc
- clear, concise written reports also circulated in advance, with clear indication of which items are for information, discussion or decision making
- an agreed finishing time, and perhaps an indication of the time allowed for each agenda item.

**Minutes** should be distributed to members as soon as possible after the meeting, and should:

- very briefly summarise discussions
- accurately and clearly set out any decisions taken
- highlight action to be taken, and
- identify clearly who is responsible for taking action, particularly for implementing decisions, and completion dates.

This gives those unable to attend the meeting an early opportunity to learn what was agreed, and provides a checklist for those who have agreed to take action. Minutes should not be a record of everything which was said at the meeting. That level of detail obscures decisions.

**Trustees' responsibilities** It is irresponsible, when trustees are desperate to recruit new members, to persuade newcomers to join by suggesting that they do not need to do anything.



You can so easily end up with a moribund group, which always has to be led by the nose by the CEO because the board has been told not to bother about contributing:

- **Attendance**

- do go: trustees must make an effort to attend all board meetings; if you are unable to attend you should let the Chair have your views and comments before the meeting
- most organisations have a quorum (the minimum number of people who must be present for the meeting to take place) laid down in their governing document; so if you don't turn up your absence may contribute to the meeting being abandoned
- the governing document (constitution or articles of the association) may include clauses which allow trustees to be sacked if they have been absent without giving a reasonable excuse for three (or some other number of) successive meetings; you should use this sanction to remove trustees if they persistently let you down
- you are liable for decisions taken even if you did not attend the meeting

- **preparation** – trustees should prepare for meetings by reading the papers, thinking about the issues to be discussed and making notes of points they wish to raise;
- **contributions** – during a meeting, trustees should try to contribute by joining in the discussion, putting forward constructive ideas while listening to others and looking for areas of common agreement; so don't be shy, and don't dominate the discussion at other people's expense.

## Ensuring meetings work for you

**Regular times and places** It is invariably better to have a regular time and place for meetings, rather than to fix the next date haphazardly as the last item of business each time you meet. Regularity overcomes a variety of problems:

- members are more likely to attend if they can get into a routine and the excuses "I didn't know when it was", "I didn't have enough notice", etc become invalid
- irregularity creates inconsistent attendance by individuals, even though the same total number of people may turn up to each meeting – and that can cause a damaging lack of continuity in your decision making with the need to repeat past business.



The quality of your decisions will depend on planning, preparation, and efficient running and chairing of board meetings and the time you devote to team building.

**Good chairing** Section 5.5 provides a role description for the Chairs of voluntary organisations. People who take on the job of chair have a special responsibility to make their meetings work well. Do not attempt to have a rotating chair simply because no one is keen to do the job; you are likely to get the worst of all worlds.

Chairs should:

- stimulate discussion – for instance, by highlighting issues or alternative courses of action
- deliberately involve quieter members by asking them to contribute
- try to recognise a potential decision when one arises in the discussion
- try to achieve decisions by consensus, wherever possible, rather than by frequently taking votes
- pace the business of meetings to ensure that all items on the agenda can be covered in the allotted time
- be prepared to limit the discussion, particularly if it has gone on for some time without approaching a conclusion

- be prepared to keep order if discussion becomes heated or if people are drifting off the subject: trustees will probably be looking to the Chair to take control
- offer leadership by:
  - setting standards of behaviour
  - suggesting the objectives for meetings or individual discussions
  - imposing authority if this becomes necessary for getting through the business effectively, but also
- be very careful to avoid becoming authoritarian.

If meetings become difficult to handle the Chair should get agreement on protocols or rules of behaviour which members must stick to. The Chair should keep meetings as free as possible of petty rules, but not be afraid to apply guidance firmly if it becomes necessary.

**Handling conflict** Disagreements and conflict are bound to arise but trustees have a responsibility for managing disagreement and ensuring that it does not damage the organisation:

- once a decision has been properly made, it is your duty as a trustee to accept it and be prepared to support the majority decision of the board if it is questioned, regardless of your personal opinion

- be patient and do not blame others if things are going badly – the reason may be more about the way your group functions than the fault of individuals.

**Co-operation** Meetings work best when members act as a team – and boards which meet only once every two or three months may suffer because members don't get the chance to get to know one another. Many boards can benefit from investing time in 'team building' activities. This can be anything which encourages members to turn the focus away from the routine of business meetings, and, ideally, to think collectively about the interests of the organisation. You might consider:

- social activities or refreshments breaks which encourage members to get to know each other
- relaxed workshop discussions
- planning meetings out of the normal working environment, or even residential strategy sessions (see Section 1.2)
- any other activities to help trustees to appreciate each other's experience and develop trust and mutual respect and skills.

## When is a meeting not a meeting?

The advent of the internet, as well as video and telephone conferencing, poses some interesting questions about what actually constitutes a 'meeting'.

**Lawful meetings** Common law only recognises meetings where those attending can see and hear one another. That means that:

- a video conference can constitute a lawful meeting
- but communicating via a telephone conference can only be a meeting if the governing document specifically allows it (this means that an organisation might need to change its constitutional rules to enable it to carry out formal business at telephone conferences).

**Video conferences** The Charity Commission in its leaflet CC48 'Charities and Meetings' advises that a charity should still hold at least one traditional meeting each year where trustees come together, but accept that electronic meetings are suitable if:

- there is a need for an emergency decision, or;
- trustees live a long way from a central point, or;
- this makes it easier for people with disabilities to take part.

WCVA can provide advice and help to organisations wanting to use videoconferencing facilities in Wales. It may be simpler than you think.

## Meeting with others: working in networks and partnerships

**The challenges** Current government policies towards voluntary organisations can appear to be dominated by the need for groups to work 'in partnership'. There is a variety of possibilities

- networks with similar organisations to your own – for instance to establish common ground and ensure that your interests can be reflected to the establishment more firmly or coherently
- work directly with public or private sector bodies to advance your cause
- more formally, in cross-sector partnerships to pursue the elusive ideals of joined-up thinking and collective action
- the most formal versions of this are partnerships based on the three thirds principle (requiring roughly equal representation from the public, voluntary and business sectors, or some similar combination); this is a lovely ideal, but the difficulty of achieving the right balance of members is daunting enough, even without efforts to find common ways of working and common objectives.

**Learning to co-operate** Despite this outbreak of collaboration and joint working, relatively little serious thought is given to how organisations can make a success of such an unfamiliar assembly of divergent interests. It's not surprising that many people suffer from 'partnership fatigue', trailing endlessly between different groups, never entirely sure what they are expected to achieve, and bemused that their partnerships are so unequal and so uncooperative. And networking meanwhile has become sadly synonymous with 'time-wasting talking shop'. The reason is simple: we take partnerships for granted, and yet our society is much more accustomed to competition than collaboration. If this approach is to be successful, we have to learn to co-operate with one another.

**What to watch out for** It is beyond the scope of this guide to deal fully with the intricacies of developing and running successful networks and partnerships. But here are a few basic tips:

- **being there is not enough**  
Networks and partnerships frequently come unstuck from the very start because people assume that it is enough just to have them; in fact you have to build them. So begin from the assumption that the network or partnership won't work and set about trying to find ways that it can

- **find your common ground**

It is vital to agree what your aims are, and how your work together can possibly achieve those aims; work really hard on this and take nothing for granted – after all, where else in human experience would you put people together in a room and expect that they would somehow automatically find a common purpose?

- **recognise your different agendas**

If you think you have agreed on your aims you are probably missing something – different organisations are bound to want something different out of any partnership. So make sure everyone is honest enough to tell you what their own agenda really is. You can't build anything solid on dishonesty.

- **realism about your contribution**

Partners need to know what they are expected to contribute in terms of money, influence, time, skills and other resources. That's vital if there is a challenging job to do. And if no one is going to contribute very much (as is frequently the case with networks) it's worth asking whether anyone is going to get much out of it.

- **value everyone's contributions**

Networks and partnerships are rarely meetings of equals. Some members always have more money, clout, contacts, knowledge

or experience than the rest. But if you are an impoverished voluntary group working with the local authority, for instance, you must make sure that you are valued for your volunteers' work time, commitment, vision, energy, street credibility, etc. The concept of 'resource equity' should be a core principle in all partnerships.

- **honesty about power**

Even so, in the example above no one is going to kid you that the group is more powerful than the local authority. Don't try to blur the power differences, because they do count, no matter how equal you are trying to be. You should negotiate your relative positions and agree explicitly where you stand. Openness and a willingness to grapple with power differences are indispensable.

- **have a champion**

If you are working in a partnership involving a number of relatively weak voluntary organisations and a few powerful public bodies (as has been the case with many Communities First partnerships, for instance) the voluntary sector may need a champion – a kind of referee to ensure fair play in the cut and thrust between the two sectors. This needs to be someone accepted by everyone, and not so biased that they can be ignored when they blow the whistle.

- **success**

Always aim for early successes. This will create confidence in you working together and may persuade some people that you are already achieving the impossible.

- **talk their language**

Business people and civil servants will be as baffled by community development speak as you will by the language of local government reports or accountancy. And don't forget that the assumptions behind your language may be even more incomprehensible to outsiders. Make an effort to bridge the gap wherever you need to, and encourage your partners to do likewise.

- **workable meetings**

The availability of partners to attend meetings may vary greatly, so sensitivity about fixing times and venues is essential to avoid excluding key players. Meetings in the mid afternoon may be out of the question, for instance, since many parents collect their children from school around 3pm. The format and management of meetings may also need to be worked on. A community group's board meetings and council committee meetings are usually very different occasions.

## Checklist

- Do your agendas indicate whether items are 'for information', 'for discussion' or 'for decision' and give an indication of how much time is to be devoted to each item?
- Do you circulate minutes quickly enough for those present to remember whether or not they present an accurate account of the meeting and the decisions taken?
- Do your minutes include an action column or action sheet? Are they clear and readable?
- Does your Chair need support or training to become more effective?
- Are board members aware of what they should be contributing to ensure meetings are effective? Do you need to rethink the way you do things?
- Does your governing document give you the power to get involved in networks and partnerships?
- If you are planning to work with an outside network or partnership, have you considered the time and effort which may be needed to make them effective?
- Should you suggest that the members of partnerships or networks you belong to need training or support to make partnership working more effective?

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## Further information

### WCVA free downloads:

- Charity Commission, *Charities and Meetings, CC48*
- Lee Comer and Paul Ticher, *Key guides: Minute Taking*, 2012, Directory of Social Change
- WCVA free download, *2.3 Effective meetings*
- WCVA free download, *3.3 Partnership*
- WCVA free download, *3.4 Compacts*
- WCVA free download, *3.6 Networks*

## 3.2 Good decision making

Boards and committees are easy targets for pithy put-downs about lowest-common-denominator decision making, and the cruel definition as a group of people who together decide to do something that no one individually thinks they should do. This is because good decision making really is difficult – so difficult, sometimes, that groups go to the most extraordinary lengths to avoid it. A good one is to make decisions that exclude all reference to the way it can be implemented or who is responsible for making it happen. Another approach is to turn even the simplest issues into marathon events that can be carried over indefinitely from one meeting to the next. One voluntary organisation in a less healthy age actually managed to go bust by turning its back on its financial problems to engage in a protracted and irresolvable debate about a proposed smoking ban which had achieved an exact 50-50 division among members.

**Factors to consider** Good decision making is dependent on a number of crucial factors:

- Does the board have the power to make the decision?
- Do the board members understand the proposal?
- Does the board have sufficient information to make it? e.g.
  - what other factors will be affected by it?
  - what is it intended to achieve?
  - what are the views of people affected by it – members, users, staff, volunteers and funders?
  - what practicalities will be involved in implementing it, and have they been evaluated, eg time, money, people, skills?
- Has this information and have the opinions of the board members been explored sufficiently?
- What are the alternative options, solutions or strategies, and have they been examined?

But this complexity is not an excuse for not taking decisions. It is an argument for working at it till you get it right.

## The approach

- providing information – wherever possible decisions should be based on written proposals, which might be in the form of a two line suggestion in a routine progress report or a special report prepared in advance by the CEO
- ask the CEO to make firm proposals or to suggest two or three options with pros and cons, wherever possible, and not just to report that 'a decision is required'
- on important matters, trustees and senior staff must have time to reflect on the implications of what is being suggested – it is unrealistic to expect that this can take place thoroughly and safely during the course of a single discussion
- you should not be afraid to argue for a decision to be deferred if you think it is being made too quickly
- on the other hand, many decisions need to be made quickly, and you can do damage by delay – so develop strategies which allow proper consideration after your initial discussion, without the need to wait a month, for example, until your next board meeting:
  - give approval in principle, subject to more information being gathered or certain conditions being met

- give the Chair plenary powers to resolve the issue in discussion with the CEO
- defer it to a committee or to a special working group with powers to make a decision
- never make knee-jerk decisions without supporting information
- establish clear rules to stop disgruntled individuals sabotaging decisions which they don't like (e.g. a bar on revisiting new decisions without specific new information), and never give up repeating the legal requirement for all trustees to abide by majority decisions, even if they voted against them.

**Implementation** Once a decision has been reached it is vital that it is recorded properly to ensure that trustees have actually all agreed to the same thing. If there are doubts about the clarity of the decision you need to know immediately. You should also agree the following:

- who is responsible for implementing it
- when will it all be implemented
- who needs to be told about the decision
- will the board need to review the decision in future, and if so, how and when.



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## Checklist

- Does your board receive adequate information on which to base its decisions?
- Are all decisions accurately recorded?
- Are the board's decisions reported to those affected by them?
  - Is the board able to take urgent decisions when it needs to without resorting to knee-jerk reactions, and does it need to make different arrangements?
- Does your board review the way it implements its decisions?

## 3.3 Board and committee structures

Groups of people working together are not famous for finding the simplest way of solving problems. So don't be surprised if your organisation starts sprouting a host of subcommittees and working groups, and ends up with burned out, frustrated trustees who have lost the capacity to communicate what they are doing. Subcommittees are an invaluable tool for handling business which is growing in complexity. But they only work if everyone knows the purpose of each committee and how they all relate to one another. That takes more planning and more consensus building than you'll see in suddenly deciding to hive off a problem to yet another new group.

### The need for a subcommittee structure

#### Meeting arrangements

Many voluntary organisations find they can manage all their trustee's business with monthly or bimonthly meetings. Some boards of trustees only meet quarterly, but this is not recommended for busy organisations (even small ones) with work going on continuously or with large numbers of financial transactions.

Monthly meetings may quickly become inadequate as organisations expand their staff and their range of activity. Groups which develop complex multifunctional activities (such as local regeneration projects) find that they need a more responsive structure for their work even at an early planning stage. The answer in these cases is normally to set up subcommittees.

## Types of subcommittees

The most common types of committee are:

- **executive subcommittee** – many voluntary organisations find the need to streamline the decision process by establishing a small executive committee which has delegated powers (i.e. authority given to it by the full board for as long as they think fit) to:

- oversee the routine management of the organisation
- help in the development of new projects
- perhaps to develop and recommend relevant policies to the board

(You should be careful with executive committees because they have a tendency to take over organisations, and can be difficult to dislodge.)

- **personnel subcommittee** – this would oversee some or all of the work in:
  - establishing recommended employment policies
  - working on the fine detail of important job descriptions (particularly the CEO's)
  - proposing terms and conditions, staff appraisal arrangements etc
  - setting up staff appointment panels and recruitment arrangements as required

- monitoring the operation of policies on equal opportunities, recruitment, pay reviews etc

- **finance subcommittee** – a small well organised finance committee (say three or four people) can take a large burden from the full board on financial monitoring and control issues (see Section 4.10); this is strongly recommended where the workload justifies it
- **fundraising subcommittee** – fundraising groups tend to be less successful than other subcommittees, perhaps because they are often dumped with the onerous task of attracting grants (which is not well-suited anyway to committee work)
- **policy and resources subcommittee** – this can provide some combination of the functions of the executive, finance and fundraising subcommittees described above: it is therefore one way of limiting the rise in the number of subgroups
- **project or activity groups** – individual activities of the organisation may need to set up subcommittees to oversee or support the management of individual aspects of the service they are delivering (a community centre, for instance, might want a playgroup subgroup and a sports hall subgroup); this can be effective, provided such subcommittees do not acquire executive powers to supervise staff which would conflict with the job of the CEO.

**Working parties and advisory groups** The possible dangers of permanent subcommittees interfering with the management of the organisation can be dealt with by the alternative strategy of setting up ad hoc working groups. Working groups:

- have a specific task to carry out (e.g. evaluating, planning and raising money for a new initiative)
- have a time-limited job, and disappear when this is done
- report directly to the board of trustees for them to take decisions
- have a role which tends to be more advisory than supervisory.

The benefits of subcommittees Sub committees can:

- enable a voluntary organisation to plan and undertake much more activity
- share out the workload of trustees, and involve outsiders with special expertise
- be an efficient way of using the expertise of board members
- help to foster good working relations with the staff
- provide an entrance point for potential board members
- provide an opportunity for people to contribute as advisors.

## Disadvantages of sub-committees

Sub committees can also:

- lead to the board losing its overview of the organisation
- result in trustees losing a sense of their responsibility for the organisation
- create a passive main board which is unwilling to challenge expert subcommittees
- overburden board members if they have double or treble the number of meetings to attend
- make the decision making process longer
- create additional management complexity
- absorb a great deal of staff time.

It is worth making the point that, though these are common defects of committee arrangements, they do not usually justify you turning your back on this approach. Trustees should plan any new committees with the specific aim of making them work, and minimising the potential disadvantages. Rigorous reporting arrangements will allow the board to retain control and involvement, and clear terms of reference can give committees the elbow room to be effective without having the freedom to do whatever they like.

## Managing committee structures

**Terms of reference** All committees, working parties, advisory groups and boards should have written terms of reference to give a structure to their work. These will give a clear indication of what is expected and to whom the group is accountable. Terms of reference should include the following:

- name of the group
- membership (e.g. the Treasurer and three other trustees)
- purpose – brief statement of why the committee exists
- delegated authority – whether it has decision-making powers and has the capacity to act and spend money, or is purely advisory
- frequency of meetings
- duration – maximum length of meetings
- Chair – the name or office of person acting as the Chair
- serviced by – person acting as Secretary or minute taker

- reporting procedure – the committee or board to whom it must report and format of reports (minutes, written reports or verbal reports)
- quorum – the minimum number of people who must be present at a meeting including any specified member (e.g. five members of the subcommittee, including at least three trustee members and either the Chair or the Vice-Chair).

**Powers to set up committees** Constitutions and articles of association often specify how committees must be set up and what they have power to do. In some cases, for instance, membership must be at least 50 per cent of trustees. People who are not members of the organisation may or may not be permitted to sit on committees. Don't be restricted by these arrangements: if they don't work change the constitution not the committee.

**Chairing** Experience shows that great care is needed in deciding how committees should be chaired. While the Chair of the board of trustees may well not have time to chair all subcommittees and working groups, it can be dangerous for influential groups to operate without at least the presence of the chair. Communication problems and divisions over authority are possible difficulties.

**Staff presence and membership** Your voluntary organisation may be able and willing for paid staff to sit on subcommittees and working groups. In any case, you are strongly advised to invite the CEO or a deputy to attend committee meetings, at least in an advisory capacity. The sub-groups will benefit from the information and knowledge they bring, and you are much more likely to avoid communication problems, conflicts between committees and unrealistic policy recommendations. In fact, if the chair of the board is not a member, it is probably essential that the CEO is present at meetings to ensure continuity with the rest of the organisation's work.

**The size of the structure** There is likely to be a limit to the number of sub committees and working groups which can run efficiently at any time: three committees will keep everyone busy: four may be manageable, but don't bank on it. After that the extent of any benefits may be undercut by the demands of managing and servicing the structure.

**Who do they report to?** It may at first appear that the logical arrangement is for all committees to report to the full board. But their reporting obligations should be related to the size and importance of their job. If the finance subcommittee, for instance, sets up a working party to count and value the toilet rolls in the organisation, they, rather than the full board of trustees, should be informed of the findings.

**Delegated authority** Some trustees are wary about 'giving away' their authority to subcommittees. But the main board may be more likely to get co-operation and efficient results from subcommittees if some delegated authority is allowed to them. The reciprocal requirement, of course, is that committees must report their actions to the earliest appropriate meeting of the board of trustees.

**Reporting arrangements** You should not get too hung up on reporting protocols, provided subcommittees report the following promptly:

- when they met and who attended
- what, in general they discussed
- what they agreed or decided to do in their own right
- what action or decisions they recommend to the trustees.

It is not usually unreasonable to expect this information to be circulated before the full board meeting. But if you ask for full written minutes you may have to wait longer, and you may end up with more written matter than you can reasonably handle. Whatever arrangements you adopt, don't forget that the committees are there to benefit the board, and not the other way round.

## Standing orders

**Using standing orders** It is particularly important for the smooth co-ordination of your committees that the terms of reference of each committee are written down clearly, and made available for all trustees and senior staff to see. The place to record details of your committee structure is as part of the standing orders of the organisation. Standing orders are 'secondary rules' attached to the main constitution or articles of association. It's while documenting the rules for their committee that many trustees realise they need standing orders. But the rules may cover any number of administrative issues such as how new members are signed up, how board elections are conducted, and your arrangements for receiving and processing proxy votes at the AGM (now that you obliged to provide for them).

**Benefits** Standing orders are becoming increasingly popular for providing a single formal accessible source of information on the precise administrative arrangements for running a voluntary organisation. Standing orders are a way to avoid bogging down the constitution or articles, with excessive detail, and can be added or amended much more easily.

**Introducing standing orders** You don't need to be a solicitor to draft standing orders, but you should keep the language and descriptions clear, and make sure that you don't accidentally draft clauses which contradict one another or your governing document

(which would not be legal). Unless the governing document gives different instructions, the trustees can draft and introduce standing orders themselves, but they may need to have them ratified by the full membership at a general meeting (and it is always good practice to do this anyway, so that everyone knows what your rules and procedures are).

### Checklist

- Do you need to review your current board and committee structure to assess if it is currently serving the governance needs of your Organisation?
- Could you get more work done if you devolved some responsibilities to a new committee?
- Do all board members have a clear understanding of your voluntary organisation's committee structure and their involvement in it?
- Do all your committees and working parties have written terms of reference?

## Further information

### WCVA free downloads:

- Sandy Adirondack, *Just About Managing*, 4th edition, 2006 from [www.sandy-a.co.uk](http://www.sandy-a.co.uk)

## 3.4 Building the Board

Some new voluntary groups start to panic when they see their board members disappear at crucial stages in their development (when they begin to get serious about fundraising, and when they start to deliver their service to clients or users, for instance). This could be a result of mishandling trustees. But it is just as likely to be part of the process of renewal – so that different members can be recruited to take on different roles in the evolving organisation. These issues are difficult to judge. So be philosophical about changes in your board membership, but always try to find out why people are leaving. And never relax on the task of recruiting fresh blood into the organisation.

## Weaknesses in trustee recruitment, selection and induction

**The symptoms** The Charity Commission has identified that a significant source of problems for charities stems from failings in the processes of selecting, recruiting and inducing new trustees. The symptoms they identify are sadly familiar to voluntary organisations generally. They are trustees who:

- treat their positions as purely honorary
- do not look at the constitution and are unclear what their organisation does
- fail to recognise when they need specialist advice
- leave an individual board member, employee or a small group to run everything without proper control
- allow their personal affairs to become entangled with those of the charity
- manage the charity in their own interests or those of a narrow group.



**Recruitment and selection:** Recruitment is never easy, but here are a few tips. Trustees should:

- control trustee recruitment (rather than leaving the job to the staff)
- carry out a 'skills audit' of the existing Board to identify gaps to be filled by recruitment
- rely less heavily on personal recommendation and word-of-mouth when searching for new trustees (which works against a diversity in board membership)
- be prepared to use open recruitment methods including advertising and networking with other organisations. One option could be to use Recruit3, the third sector recruitment service run by Big Issue Cymru and WCVA which will publish advertisements for trustees for free, space permitting (See [www.recruit3.org.uk](http://www.recruit3.org.uk))
- use trustee 'role descriptions' (See Section 5.4)
- check the legal eligibility of all new recruits (see Who can become a trustee? Section 5.2 and the Declaration of commitment and qualification for trusteeship in Section 5.3)

- check possible conflicts of interest at the recruitment stage
- foster diversity on their boards by attracting people from a much wider range of age-groups and social, economic and ethnic backgrounds (see *Diversity and balance*).

**Induction:** Charities should always provide new trustees with induction material which will enable them to understand:

- the purpose of the charity
- the financial position – i.e. the accounts with any necessary explanatory material
- current issues affecting the organisation
- the structure – including the governing document
- guidance on what constitutes and how to handle conflicts of interest (see Section 5.3).

For more information, see Section 5.4.

## Getting started

**You have to start somewhere** Charitable projects and community initiatives which provide services to the community originate when someone, or a group of people, recognise a need. There are a huge number of ways this can happen, but the crucial point is that in most cases the idea of need will make no progress unless and until other people are involved: This is because:

- potential funders will want to see evidence of support and accountability as well as need
- the amount of work involved in starting a new initiative on a voluntary basis usually demands the time and skill of a number of individuals
- your charitable or altruistic intentions may not be widely believed if your efforts look like a private initiative, and if you are suspected of self interest it may be extremely difficult to make progress
- advice and support organisations are unlikely to give help until there is evidence that a bone fide voluntary or community organisation is being formed.

**Size** Your board will probably consist ideally of eight to twelve people. The maximum and minimum number of trustees may be specified by your governing document. But experience shows that there are good practical reasons for this particular size – including:

- the need to achieve viable attendance levels at meetings (the minimum number of eight is suggested because you must assume some absences at most meetings and, in a meeting of fewer than five people, those attending can easily feel personally exposed and unable to properly represent wider interests)
- the need to achieve a level of activity which is large enough to attract new people as individuals leave
- the desirability of building a well balanced group incorporating a variety of interests and skills.

**The steering group** The new group you form to get started may not be the team which later runs the organisation. The responsibility of the original steering group is to develop and not necessarily to manage the initiative. This information comes as a relief to people who have been led to this point with arms twisted behind their backs or to those you are still trying to recruit. It means that the job of the first group members is in practice either to set up and run the organisation or to find other people who will. What you hope, of course, is that those you bring in now will stay with the venture. But you should not be looking for a static group.

**The changing face of the group** It is important to recognise that new voluntary and community organisations of all kinds go through a rapid process of evolution. The steering groups, committees and boards of directors which you assemble to propel this organic process may need to change just as much as the organisation itself. See the table 'How a voluntary organisation grows' below.

## Diversity and balance

**The unbalanced board** Boards of trustees should consist of a balance of individuals with varied but compatible skills, personal qualities, approaches and interests. You should certainly avoid creating boards composed entirely of similar types of people – who may tend to take a narrow view of issues, focus on minor and irrelevant differences between them and miss the bigger picture. The public view and accountability of your organisation may also be harmed if you can easily be dismissed – for example, as a group of white middle class, middle-aged professionals who are inevitably remote from people from other backgrounds who you aim to help.

Of course there is also the contrary risk, if there are very wide differences between everyone on your board, that you will encounter difficulties in achieving consensus decisions.

In the worst cases the trustees may not know people with different backgrounds and interests, so they might never be able to recruit new members with a fresh outlook unless they actively try to use more open recruitment methods.

**Achieving balance** If you can bring the right group together you can combine imagination and creativity with a concern for practical realities, combine a challenge to established policies with an understanding of the past, and combine a commitment to the users of your service with knowledge of the political and social environment you are working in. The better the balance, the more likely it is to produce a healthy, dynamic, well-managed voluntary organisation.

Getting there is not necessarily easy. You should seriously consider the following, and take any steps appropriate for your organisations:

- applying your equal opportunities policy to your board of trustees – for example, bringing in people from ethnic minorities or disabled people, getting the gender balance right for your organisation
- involving service users
- contacting agencies and voluntary organisations whose members include the people you are looking for – perhaps the local chamber of trade or business forum if you want to attract someone with business experience

- advertising in the recruitment sections of newspapers (but you should be specific about the skills and experience you are looking for and arrange to interview applicants formally)
- recruiting trustees to fill key gaps if your staff do not have all the skills you need – say fundraising experience or financial expertise
- using the power to co-opt new members to the board, if your governing document allows it
- making appeals for particular skills prior to the AGM (board election time if you have elections) and circulating potted biographies of candidates.

## Positive steps to an effective board

Clarify your objectives:

- get your act together as a group quickly so that you know what you are trying to do and why; that starts with having a common vision and a core of shared objectives;
- if there are differences of opinion about your objectives, discuss them and resolve them openly – don't push them under the carpet, because you'll only trip over them in six months' time when you can't afford the time to be distracted.

**Balance power with democracy** Many community groups have to grapple with questions of democratic control and minor power games among members. But this fact of life should not distract the management group from taking steps to preserve the democratic and co-operative spirit which drives charitable and community projects:

- **participation:** the board may involve people with little previous experience of decision-making and responsibility – so it is essential that their capacity to participate in meetings is not merely tolerated but openly fostered; this means that the chair and other members will need to build their confidence by:
  - providing adequate induction training for newcomers and those with less experience
  - keeping them informed
  - seeking their opinions actively, and listening to their responses
- **dissent:** accommodate differences of opinion as far as you can, but stop before they end up making you accept ill-judged decisions and compromises

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- **collective and consensus decision making:** try to establish a regime where the trustees are working together for the same end, where you normally make decisions by consensus, and where colleagues who lose arguments fairly are discouraged from feeling aggrieved in defeat – take votes as seldom as possible – voting on every issue is a way of polarising opinion and emphasising differences.

**Ride the crises** The growth and development of voluntary organisations is fraught with problems. The pressures of work, the uncertainties of change, the sudden adjustments caused by employing staff for the first time and setting up or changing premises, can all produce painful upheavals for the trustees. You need to try to accept that it is probably change itself (and not any major weakness) which is making your colleagues more edgy and prone to conflict. So bite your tongue and go for conciliation rather than confrontation. You must stay together, and keep up your efforts. You will get there in the end.

**Support the CEO** Give your CEO all the support, guidance and training they need.

**Get help** Knowing what you need to do and knowing how to do it are not at all the same thing. This is when outside advisors and voluntary sector support organisation can be invaluable.

They can provide you with guidance, 'hand-holding' assistance and impartial facilitation to get you through the bad times, and help you to feel that you are still in control of your organisation.

## How to manage, if you really must

**When you are all volunteers together** In the case of new groups which have no paid staff, it is inevitable that members of the board will have to share the job of day-to-day management and providing the service. You can make it easier for yourselves by being serious about the work and about your job as managers, and following a basic common sense approach. Here are some tips.

**Understand your service** It is vital that your volunteer management team includes at least one person who has a thorough knowledge of the service you are offering or, at least, your field of work. You also need volunteers who have experience of voluntary organisations and can help you to make sense of the advice in this guide.

**Share the work – and organise it** It is dangerous to pile too much work and responsibility on any one person. Sooner or later you will burn them out. So share out the key tasks among those who realistically have time to make a contribution. But it is absolutely essentially to appoint one person with organisational ability (just having spare time is not enough) to co-ordinate these tasks.

**Co-operate** Learn how to work together on a day-to-day basis – not like a democratic institution where everyone can have their say, but like a piece of well-maintained machinery where every part has its proper place and which, as you are all aware, will grind to a halt if someone throws a spanner in the works.

**Clarify responsibilities** Offers of help by committee members or other volunteers can seem valuable. But what you also need are people who will take responsibility - which means giving you guarantees that essential work will be carried out. Ideally they will be good at delegating or at organising volunteers to help, but still prepared to do the job themselves if there is no one else to fill the gap. It is also vital to define the limits of individual responsibilities to ensure that there is no clash where responsibilities overlap or areas where important jobs are not covered. Work on the assumption that allocating responsibilities is much more complicated and risk-ridden than it first appears, because it is.

**Be confident, be decisive** Forget about trying to take group decisions on routine activities. Give full powers and clear instructions to individuals who have day-to-day responsibility, and tell them to get on with the job. Showing confidence in individual members can be the way to get the best out of them.

All the same, it is essential that your workers regularly report back to the board on what they are doing. That way the board is properly informed and retains the capacity to monitor progress. It is not uncommon for groups to meet every two weeks or even sometimes every week in busy organisations, particularly if they have only recently started operating.

## Checklist

- Is your board membership sufficiently diverse, or do you need to start recruiting a wider range of people?
- Do you try to find out why trustees are leaving the board?
- Do you need to pause to take stock of the pace of your organisation's growth, and try some team building to reduce conflict in the board?
- If trustees are also managing the work of the organisation have you clarified roles and the boundaries of their responsibilities clearly enough?

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## Further information

- Charity Commission, *Finding New Trustees – What charities need to know*, CC30
- Charity Commission, *Users on Board: Beneficiaries who become trustees*, CC24
- Charity Commission, *A Breath of Fresh Air: young people as charity trustees*, RS23
- WCVA free download, *5.4 Recruitment, selection and induction*
- WCVA free download, *5.5 Training and development for trustees*
- Tesse Akpeki, *The Board Answer Book*, NCVO Publications, 2005
- NCVO, *Tending your Board*, NCVO Publications, 2006
- Dorothy Dalton, *Good Governance: a practical guide for boards, chairs and CEOs*, NCVO Publications, 2011

## How a voluntary organisation grows

### Stages in the early life of a voluntary organisation

| Stage of growth                   | Group membership                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The something-must-be-done phase: | <ul style="list-style-type: none"><li>• initially you need a team of people committed to making something happen</li><li>• optimism, vision, community contacts and political clout will be valuable qualities</li><li>• raise your profile by getting a local councillor on board</li><li>• if it is a locally-based initiative involve those who are criticising the status quo, and people who have their fingers on the pulse of community</li></ul>                                             |
| Planning phase:                   | <ul style="list-style-type: none"><li>• the planning phase involves people who know about the service you are aiming to provide, probably from the provider's point of view as well as the user's</li><li>• if there is market research or feasibility study planning to do you'll need enthusiastic helpers to do the leg work and someone to advise you how to go about it</li><li>• other useful expertise will be fundraising skills, especially if you need substantial sums of money</li></ul> |



| Stage of growth  | Group membership                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Start up phase:  | <ul style="list-style-type: none"> <li>• these are heady and somewhat crazy days, particularly for a grass roots venture starting from scratch</li> <li>• you need people with the time to help, and practical skills – someone who knows your activity inside out, a technical wizard to sort out the new equipment (particularly any computers), perhaps decorators, someone to set up the accounts system, and above all you must have a well organised leader who can help you juggle a dozen tasks at once, and keep the team together despite the pressures</li> <li>• don't worry that the councillor has taken a back seat by now - s/he will probably have done their best work if you've got this far</li> </ul>                                          |
| Operating phase: | <ul style="list-style-type: none"> <li>• try not to lose the team who got the project started - it will be in their veins, and they will be keen to see it succeed</li> <li>• but exploit the publicity of the launch and any other successes to attract the special skills you will need in the longer term – perhaps someone with business skills and an accountant. If they had arrived earlier they may not have stood the pace</li> <li>• whoever you have on board, you will need to keep up the recruitment effort permanently to top up the board of directors as people leave</li> <li>• there will never be a time to relax – and you may start the cycle over again every time you embark on a major expansion of your activities or premises</li> </ul> |

## 3.5 How well are we doing?

You may think it's tough evaluating your service delivery and other activities. But have you even thought about evaluating your own performance as trustees?

### Evaluating how your board is performing

**Aims of evaluating board performance** One of the roles of the board of trustees is to evaluate its own performance. The trustees need to ask themselves questions such as:

- Is the board concentrating on governance, setting strategic policy and direction, or getting sucked into the small details of day-to-day management decisions?
- How is it ensuring that the organisation complies with all the relevant regulations?
- Does it get the information it requires from its staff in the most useful format?

The purpose of this type of exercise is not to criticise individual board members or to allocate blame, but to identify areas of weakness so the board can improve its performance. This exercise can be a starting point for evaluating the effectiveness of your board.

**Board evaluation exercise** Using the table, each trustee, working individually, reads each responsibility carefully and writes down how they think the board as a whole performs using the following scores:

- 3 satisfied
- 2 somewhat dissatisfied
- 1 very dissatisfied
- 0 unsure/do not know

Total the scores produced by each member of the board, then develop an action plan to improve the board's performance, concentrating on the areas with the lowest scores or where some are very different.

## Supporting the development of individual trustees

An associated and rather bolder process adopted by a few organisations is to treat trustees to 'supervision' sessions similar to those for paid staff. These might be conducted by the Chair (perhaps with the support of the CEO provided everyone feels this is appropriate), or by a trustee or CEO from another similar organisation. The aim is to discuss in confidence the performance of trustees in individual interviews, and focus on how their work is progressing and ways in which they can become more effective, better engaged, more familiar with the service provision or administration of the organisation, more supporting to staff etc. It can be important to be even-handed about this, involving all the trustees including the Chair, or perhaps initially providing supervision interviews with all the trustees who have joined the board within the past 12 months. Another possibility is to provide sessions for just the Chair and Vice Chair.

## Checklist

- Does your board need to conduct an assessment exercise as part of your annual review and planning process?
- What format will you use for the assessment?

## Further information

- **Charities Evaluation Services** is the UK's leading provider of support and advice on quality and evaluation systems for the voluntary sector: [www.ces-vol.org.uk](http://www.ces-vol.org.uk)

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| Evaluating how your board is performing                                                                                            | Your score |
|------------------------------------------------------------------------------------------------------------------------------------|------------|
| How satisfied are you that:<br>All the board members are familiar with the current mission statement?                              |            |
| • The respective roles of the board and staff are clearly defined and understood?                                                  |            |
| • The board currently contains a sufficient range of expertise to make it an effective governing body?                             |            |
| • The board focuses much of its attention on long-term significant policy issues rather than on short-term administrative matters? |            |
| • The board is knowledgeable about the organisation's current activities and services?                                             |            |
| • The board discusses thoroughly the annual budget before approving it?                                                            |            |
| • The board understands the fundraising strategy for the organisation?                                                             |            |
| • The board has approved an effective marketing and public relations strategy for the organisation?                                |            |
| • The board conducts its meetings efficiently, with all board members making an active and positive contribution?                  |            |
| • The CEO has an agreed job description clearly spelling out his or her responsibilities in writing?                               |            |

## 3.6 Conflicts of interest

A good reputation can be a fragile and vulnerable attribute. Community organisations and charities can hardly expect to thrive without it. And there are few more damaging circumstances than the suspicion – invariably supported by gossip – that trustees are benefitting from their position. Even if there is no justification for the slur, an organisation's good name can be wrecked overnight. It is not surprising, then, that both company law and charity law gives trustees important responsibilities for managing and avoiding conflicts of interest. The requirements have been tightened by recent legislation.

## Avoiding conflicts of interest

**What is a conflict of interest?** A conflict of interest is any situation where a trustee's personal interests (or interests in another body) and those of the organisation arise at the same time or appear to clash. Note that these interests don't actually need to clash. Their potential to clash or the perception of others that they may is enough to create the conflict.

**Why this is important** The mere suspicion of conflicts of interest by outsiders can have an adverse affect on a voluntary organisation, even if they are unfounded. Failure to be open can simply enflame the suspicions. And a revelation that an organisation has been covering up (perhaps only accidentally) the private gain of a trustee can be devastating for its reputation and future prospects. It's not worth taking risks with possible conflicts of interest.

**The law and good practice** Concern about conflicts of interest in voluntary organisations is related to efforts to achieve high standards in public life generally. It is supported by company and charity law:

- company directors are required to declare any interest in contracts or proposed contracts
- there are restrictions on the sales of property and on loans by companies to their directors
- charity law states that trustees cannot receive a benefit (anything of monetary value) from their charity in return for any service they provide unless they have express legal authority; in practice this means that the possibility of personal interest must always be transparent – i.e. both openly managed and explicitly approved.

## Identifying conflicts of interest

Conflicts in charities include:

- direct financial gain, e.g.
  - payment for services
  - a contract awarded to an organisation in which a trustee has an interest and stands to benefit financially
  - the employment of a trustee in a paid post – even when the trustee resigns to take up the job
- indirect financial gain – such as the employment of a spouse or partners where their finances are interdependent
- non-financial gain – e.g. where the trustee is a user of the charity's service
- conflict of loyalties, e.g. the trustee is
  - appointed by the local authority or a funder
  - a friend of an employee.

## Authorised conflicts

Authority for a trustee to benefit come from several sources:

- the governing document might specify explicitly - e.g. that a trustee who is a solicitor may be paid for services to the charity, or that a close relation of an employee may be appointed as a trustee, perhaps subject to case-by-case Charity Commission approval
- the Charity Commission may grant approval if the conflict will be properly managed and is in the interest of the charity
- there are special procedures for charities with an annual income of under £10,000 to make payments to trustees of up to £1,000 a year.

## Managing conflicts of interest

Good practice for managing conflicts of interest includes:

- **a conflict of interest policy**, which might cover:
  - recording details of discussions and decisions
  - rules on excluding trustees from decision making
  - action if an abuse has been identified
- **a register of interests** – organisations where there is a risk of conflicts or suspicion of conflicts should consider maintaining a regularly updated register of interests where trustees openly record any actual or potential conflicts of interest
- **automatic declarations** – the first item of business at meetings might be to give all trustees the opportunity to declare an interest in any issue to be discussed
- **a Code of Governance** (see the example in Section 5.3) is a good way to specify a trustee's responsibilities
- **pre-recruitment preparation** – prospective new trustees can be asked to consider the issue before they are elected or appointed, and voting members can also be made aware before electing new trustees
- **openness** – advertising the conflict of interest policy and procedures, and the register of interests, so that the public, including possible critics, are aware how conflicts are handled
- **reporting** – disclosing benefits received by trustees in the annual report (there is a legal disclosure obligation on companies and all charities with a turnover of more than £100,000)
- **just declare it** – the simplest advice to trustees is that if there is any possibility of a conflict of interest they just say so, and let their colleagues decide whether action (such as seeking legal authority or withdrawal from making particular decisions) is needed.

**A sense of proportion** Having emphasised the risks of not being open, it's also fair to point out that organisations may sometimes take the precautionary principle too far. It may not be appropriate to automatically eject a trustee from the meeting room because they have a potential interest in a matter under discussion.

- This might mean denying other members information from the very person who knows most about the matter, so that a decision is made on the basis of prejudice or inadequate knowledge. Here it may be better to invite the person who has declared an interest to make a statement or answer questions, but to play no part in any formal resolution.
- Requiring a trustee to physically leave the room may be symbolic. But do you want to risk making a colleague feel like a pariah simply because they have honestly reported an innocent issue which might possibly be perceived as a conflict by outsiders?

## Checklist

- Do you have a conflicts of interest policy?
- Are trustees aware of their legal obligations to declare potential conflicts of interest?
- If you have identified a conflict of interest have you checked whether the trustee is receiving a material benefit and if so whether this is authorised?
- Do you disclose trustees' authorised benefits in the annual report or accounts?

## Further information

- The Committee on Standards in Public, *Seven Principles of Public Life*, [www.public-standards.org.uk](http://www.public-standards.org.uk)
- Charity Commission, *The Essential Trustee: what you need to know*, CC3
- Charity Commission, *A guide to conflicts of interest for charity trustees*
- Charity Commission, *Trustee expenses and payments*, CC11



## 3.7 Confidentiality and whistle blowing

Groups of trustees can have remarkably ambiguous and uncertain attitudes towards confidentiality. It is possible to discuss the issue for hours without ever coming to a clear conclusion – and then later to pay the price in unwanted public disclosures or relationships damaged by resentment over secrecy and lack of communication.

There is no mystery. It may be quite simple to decide that some information should be confidential and other information can safely be shared. But drawing a clear line between the two which trustees are all agreed on and interpret in real life situations is often much harder. Add to that the fact that some people are gossips who have enormous difficulty respecting confidences, and you have a problem which drives some groups to World War II levels of secrecy paranoia.

As if this is not complicated enough, another important facet of the confidentiality issue has come under the spotlight as a result of 'whistle blowing' legislation – which might (mistakenly) appear to some people to be an open invitation to abandon confidentiality rules altogether.

### Confidentiality

**The need for confidentiality** Confidentiality is not always justified, and trustees should never use it as a smokescreen to avoid developing an open relationship with members, beneficiaries and the general public. But it has a significant place in good governance and management. This is because it is so easy to do damage by releasing information which:

- is personal to staff or volunteers
- could harm relationships between members of staff or between employees and the board
- may be used by others to discredit your organisation, whether by informal rumours or adverse publicity
- is misleading or alarming (e.g. to your service users) because it is premature or incomplete
- could be valuable commercially to a competitor.

**Confidentiality under threat** Confidentiality has always been hard to enforce. Arguably in recent years, respect for it and understanding of its proper place in voluntary organisations has been eroded inadvertently by the recent landmark legislation giving protection to whistle blowers who reveal serious abuses (see page 171). Yet when soundly based rules on confidentiality are too easily disregarded – for example the necessary restrictions on releasing information on personnel issues - it is possible in extreme cases for staff relations to break down, organisations to become paralysed, and public reputations to be wrecked. So clear distinctions need to be drawn, and the places where confidentiality remains sacrosanct have to be double-underlined.

**Breaking the rules** Unfortunately, trustees may feel justified in breaching their obligation to treat the business of the board as private because they see confidentiality as an obstacle to:

- the organisation's public accountability
- aspirations to openness and honesty about your affairs
- tackling perceived wrongdoings by the board or individual trustees which are otherwise ignored.

Their concern and frustration may be understandable, and in some cases is justified. But breaking confidentiality is rarely the best answer.

**Reducing the risks** Breaches of confidentiality are most likely and most difficult to deal with if you do not have procedures in place which make them less likely to happen. Here are a few tips:

- encourage trustees to have a frank debate about what confidentiality means for your organisation, where their fixed positions about secrecy and disclosure can be challenged; try to arrive at a consensus on the range of issues where confidentiality really has to be maintained, and those where openness is desirable and necessary
- agree on a clear policy and make sure everyone, including new trustees, knows where they stand – 'all board discussions are private unless we agreed otherwise, issue by issue', or possibly 'all discussions are public, unless we specifically decide a matter is private'
- make it clear from the start that trustees are bound by collective responsibility to accept decisions which they do not like
- have a clear policy about who can speak to the press – usually only the Chair and/or a designated Press Officer
- ensure there is a grievance procedure which involves trustees and volunteers as well as staff, and operate it fairly – this means that you should consider giving trustees who are at odds with the rest of the board, and who believe that their colleagues are acting improperly, a full and objective hearing (using an independent arbitrator if necessary)

- ensure that you have systems for providing information to the public openly and honestly, so that rumours, misinformation and mischief will be less effective – newsletters, an active publicity policy, good contacts with funders and support organisations
- deal with problems promptly in the most appropriate way – whether openly in full board meetings, or discretely in a subcommittee or through the intervention of the Chair – so that they can't be exploited by people with grievances.

## Whistle blowing

**The Public Interest Disclosure Act** This 1998 legislation also popularly known as the 'whistle blowing' act protects workers from detrimental treatment or victimisation from their employer if, in the public interest, they report wrong-doing.

Workers who are protected include most workers in the public, private and voluntary sectors, but not:

- voluntary workers, including charity trustees and charity volunteers
- self-employed professionals (other than in the NHS), and some other specified workers.

## The protection

The Act protects workers in a number of ways, for example:

- if an employee is dismissed because he or she has made a 'protected disclosure' (see below), it will be treated as unfair dismissal
- workers are able to present a complaint to an employment tribunal if they suffer detriment as a result of making a protected disclosure.

## Qualifying disclosures

To qualify for this protection the employee will have:

- disclosed information relating to
  - a criminal offence
  - the breach of a legal obligation
  - a miscarriage of justice
  - a danger to the health and safety of any individual
  - damage to the environment; or
  - deliberate concealment of information about the above

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- reported the information to a specified body (the Charity Commission is one of them) or their employer
- made a 'protected disclosure' - i.e. in good faith where they reasonably believe that allegations are true.

## Reporting:

- charity employees who want to make a formal Public Information Disclosure Act report to the Charity Commission can email: [whistleblowing@charitycommission.gsi.gov.uk](mailto:whistleblowing@charitycommission.gsi.gov.uk).
- Public Concern at Work provides free confidential advice to workers who have concerns about wrong-doing in the workplace: [www.pcaw.co.uk](http://www.pcaw.co.uk)

## Related issues

### Other related guidance includes:

- the sample Code of Governance for Trustees in Section 5.3 includes suggestions for rules which you might expect trustees to follow.

- the way you handle confidential information should be linked to your management of publicity. In particular, you will probably want to limit the number of people who can speak for the organisation. See also Section 2.8 Public relations policy or strategy.

## Checklist

- Do you have clear policies on confidentiality and whistle blowing?
- Do you have procedures to accommodate trustees who are tempted to break the rules on confidentiality?

## Further information

- Charity Commission, *Complaints about Charities, CC47*
- The Directgov website provides information on whistle blowing in the workplace.

## 3.8 The leadership succession

Charities and community groups have an admirable record as sharing and collaborative organisations run co-operatively by boards of volunteers. But this cannot disguise the fact that they are often founded and driven by exceptional individuals without whose commitment, skills and knowledge very little would get done. The quality of leadership is a crucial factor in the success – and the failure – of voluntary organisations. So what needs to be done to support their leaders and ensure that there are always talented people to take over from them if they leave?

### Losing 'irreplaceable' leaders

**The succession taboo** One of the most obvious risks faced by voluntary organisations and charities is that they can come to depend to an unreasonable extent on the commitment, energy and experience of longstanding and 'irreplaceable' CEOs and chairs. These are unrelenting often charismatic people who may have founded the organisation or carried it to success through years of challenge and hardship, and whose knowledge and experience colleagues routinely defer to. Their independence and idiosyncratic leadership style may be the source of their success, and they are often poor delegators who believe that the way to get a job done is to do it themselves. Meanwhile:

- Everyone secretly worries about what would happen if their much-loved leader left. But no one wants to challenge their undoubted authority by suggesting they ever could be or might need to be replaced.
- For their part, the leader is shrewd enough to know that broaching the subject of the leadership succession could have an adverse effect on the confidence of staff and trustees.

So no one says or does anything – until it's too late to plan ahead.

**The need for succession planning** But charismatic leaders do leave for new jobs, and may suffer 'burn out'. And if their organisations are not properly prepared, progress can be set back years. In some cases they struggle on for a while but eventually run out of steam and close. The damage is probably most severe in complex regeneration charities and development trusts which operate on several different fronts. But no-one is immune. The only responsible course is to overcome the taboo against discussing the issue and work together on a realistic succession strategy.

## **Towards a succession plan**

- **Open debate** is a crucial first step to breaking the taboo if you think your organisation is too dependent on a single individual. Someone has to get the ball rolling. If no one internally will do this, you might invite an outside community development worker or independent facilitator to spark a discussion.
- **Evaluating vulnerabilities** You will need to carry out a review to identify any potential weaknesses in governance and management caused by succession issues.
- **Take action now, not later** Once the issue is out in the open it may be fairly straightforward to devise a plan to cover these vulnerabilities, particularly by taking steps to start appointing and training of deputies. Don't delay. The sooner you start the more resilient you will make your organisation.

**The 'Successful Succession' work pack** with guidance materials is available from the community development charity Community Projects Centre – see below.

## **Leaders who stay too long**

**When leadership goes stale** Some voluntary organisations find themselves with all-powerful leaders (usually Chairs) who have become an obstacle to progress. Commitment, experience and tenacity can be huge assets in a chair or CEO. But leaders who stay in the same position of authority for too long can start to stifle the initiative of others, prevent newcomers from sharing responsibility, and block change. Whether they are unapproachable autocrats or benign father or mother figures who no one wants to offend, they tend to go unchallenged by colleagues. Some trustees are likely to resign in frustration, leaving behind an increasingly ineffective board.

**Refreshing the leadership** There is rarely an easy way to budge a leader who has exceeded his or her sell-by date. It can feel like disloyalty or even ageism to ask an elderly Chair to stand aside if they have become resistant to change. An obstructive and autocratic Chair may be even less likely to step aside unless challenged directly. But the trustees have a collective duty to ensure that the organisation is able to do its job, even if this occasionally involves doing unpalatable things.

Here are some of the approaches you can try:

- avoid confrontations which look like a coup if you possibly can - these will probably just heighten resistance
- introduce the subject of leadership as part general board training or suggest a review of the performance or direction of the organisation, ideally facilitated by an outsider
- open a discussion about the benefits of creating a deputy to share the Chair's duties
- refer to good practice elsewhere, and to this guidance
- depersonalise any challenges as much as you can; try to relate them to tasks which need to be done and emphasise the need for the organisation rather than the Chair to change
- if all else fails just vote someone else into the post; you might have to be prepared for some disgruntled resignations as a result, but it might also be easier to recruit new trustees afterwards if you set the organisation on a fresh course.

**Safeguards:** It is obvious that it is very much better to prevent your leadership going stale in the first place than try recover when things start to go wrong.

- The first step is to create the post of Deputy Chair, or perhaps two deputies in larger organisations.
- Give the deputy a real role in supporting the work of the Chair.
- Establish that the deputy is expected to receive the same training as the Chair (this develop a reserve of chairing skills, and also takes away any individual personal stigma when it is suggested that the Chair should receive training).
- It is quite common for organisations to fix a maximum term of office for the Chair of four, five or six years. You can set an absolute limit for occupying the post or require the Chair to stand down for at least 12 months before they would be eligible for another term. This will give added impetus to recruiting and training for potential successors.

**Tackling the autocratic CEO:** Employees who become barriers to change or seem to take too much power require a very different response, as part of routine line management, supervision and progress review arrangements. You will need to be extremely careful how you handle them (see Section 2.2).

## Further information

- Community Projects Centre, *The 'Successful Succession' work pack*, [www.communityprojectscentre.org.uk](http://www.communityprojectscentre.org.uk)

## Checklist

- Do you discuss how you would fill the gap if your chair or CEO left the organisation?
- Do you discuss leadership succession issues as a regular part of organisational reviews?
- Do you evaluate the risk?
- Do you have a vice chair with clear duties?
- Is there a maximum term of office for the Chair?
- Do you provide training to equip future post holders for the job?
- Do you have arrangements for training up staff to deputise for more senior employees?



## 3.9 What if things go wrong?

There are many achievements and talents which voluntary organisations can be proud of, but handling conflict is not on the whole one of them. This is understandable in a field of work which is so dependent on co-operation and trust that it's difficult to know where to turn if these qualities suddenly disappear.

Following the advice in this guide should reduce the likelihood of internal relationships breaking down. But what happens if you still run into conflict within your organisation?

### The bitter truth about disputes

**The damage** Internal conflict in voluntary organisations is not uncommon, and frequently the result of management relationships which have gone wrong.

Disputes can:

- be massively time-consuming and costly
- distract the trustees and staff or volunteers from getting on with the organisation's work
- damage the organisation's image immeasurably – to the extent that it could miss out on future funding possibilities
- attract litigation – when things go wrong, individuals may become viciously litigious.

**The brutal realities** Forget for a moment the arguments about who's right and who's wrong. The simple facts are:

- the trustees are responsible for putting things right
- the trustees' first obligation is to safeguard the assets and beneficiaries of the charity, not to have the satisfaction of winning arguments with colleagues they disagree with
- charities can't expect the Charity Commission to come charging in with a solution – the most you can usually expect is some guidance by phone
- legal action is a very poor last resort in settling dispute. It is highly distracting, and could involve using the charity's resources to pay legal professionals.

**The responsible parties** Be very careful who you blame when an internal dispute erupts. It is often unfairly said that when something goes wrong the trustees are always to blame – because they didn't do enough to prevent it happening. When you are trying to put things right it's useful to start with an effort to understand objectively what went wrong.

Was it the result of:

- something originally quite trivial - an innocent oversight, sloppy practices, minor infringements of the rules
- not having workable procedures for people to follow (this is one of the commonest causes of breakdowns; Section 2.9 discusses the full range of policies and procedures needed for safe and effective management)
- lack of clarity in the governing document or the code of conduct
- relationships with a member of staff
- managing an external contract (see Section 2.8)
- failure to manage financial risks effectively (see Section 4.5)
- an undeclared or unresolved conflict of interest
- wilful animosity between two parties
- someone's dishonestly or illegal act
- something else?

## How not to respond:

It won't help if trustees panic when things start to go wrong.

- Your own resignation won't solve the problem unless you contributed to it in the first place – it's more likely to make life harder for the trustees who stay.
- Don't go public, however aggrieved you feel. The media may be interested that your organisation is divided internally. But your need is to find a solution, and theirs is probably to make it appear as dramatic and irresolvable as possible.
- Don't gossip. This hardens everyone's position and damages everyone's reputation.

## Handling breakdowns

**Dispute resolution** The trustees' job is to sort out disputes and get their organisation running again with the least disruption to its services and as little loss as possible to its assets. It is almost always better to get the parties to the dispute to reach an amicable agreement in the interests of the organisation. And remember that, since the trustees' duty is to return to effective operation, it can't be enough to dig your heels in and say you are in the right. You do need to bring the dispute to a conclusion.

## Procedures for settling disputes Think ahead.

- It is good practice to establish a grievance procedure which applies to all members of the organisation, not only paid staff, and to include an informal troubleshooting or negotiation stage before formal processes can get under way.
- Some charities build these procedures into their governing document or official standing orders so they are difficult to circumvent.
- One mechanism of last resort for dealing with individual trustees who cause serious difficulties is a clause which allows the trustees to dismiss someone from membership of the organisation if they act in a way which brings the organisation into disrepute and to require in the governing document that all trustees are registered members of the organisation. Loss of membership can then automatically mean the offender ceases to be a trustee. (This isn't guaranteed to work in all situations, and there is admittedly a risk that it could be abused by a ruthless group of trustees.)
- If these formal internal approaches fail you must be prepared to find help outside the organisation.

**Outside help** The course you choose needs to reflect the nature of the dispute. Here are some options.

- approach your national body or umbrella organisation if there is one
- ask your local county voluntary council or national body (WCVA) for advice on interpreting your rules or proper legal procedures
- on matters of belief and principle, a respected neutral outsider may be able to offer useful guidance
- a specialist mediation service can help all parties to work together to find their own agreed solution
- arbitration involves the parties in the dispute agreeing to abide by a resolution proposed by an outside body
- the Charity Commission can provide guidance to charities in some circumstances, and may in major cases agree that internal disputes can be resolved by a tribunal or course – but see below on the limits of the Commission's engagement.

**Last resorts** If collaborative efforts fail and if blame is clearly attributable to an individual or small minority, there may be no alternative to taking tough action. But you should be aware that this may also have consequences.

- Disciplining or dismissing staff who are guilty of misconduct could lead to formal grievances and tribunal cases. Be sure of your ground before you act.
- Asking for the resignation of offending trustees may harden resistance, but is usually worth trying.
- Attempting to dismiss a trustee using an internal procedure can backfire because it is likely to attract public attention. In rare cases an ejected trustee may muster friends to mount a counter attack at a general meeting, and the board should be prepared to play the numbers game if they need to.

**Employment tribunals** If an employee is in dispute with you and the relationship has broken down irretrievably, your organisation may face the threat of a case against you at an Employment Tribunal. You should seek legal advice immediately, and ensure that you can access all the papers relevant to the claim against you. If the allegation against you is purely about unfair dismissal, you may reach agreement with the ex-employee for the case to be heard under the ACAS Arbitration Scheme. This is quicker and less legalistic than a Tribunal hearing.

The possible consequences of legal action by staff against the organisation are a powerful argument for carefully planned and managed employment procedures, proper supervision, monitoring and staff support, and first class record keeping.

Here's why:

- a lost case for unfair dismissal can be enough to destroy a small grant-dependent organisation
- the employment and equalities law requires employers to do many things properly, doing almost everything right is not good enough
- being in the right is no guarantee that you can resist an employee's claim; solicitors may recommend an expensive private financial settlement to avoid the poor publicity for a high profile charity or community group which will probably accompany a mud-slinging tribunal case.

## Resisting takeovers

**Pre-empting outside challenges:** Fear of possible internal disputes and loss of control drives many community organisations into putting up barriers against the very people they should be welcoming. The most common worry is that outsiders will march or slip in at the Annual General Meeting and take over the organisation from the group currently in charge. This worry can lead to obstructive or draconian rules to discourage newcomers, resistance to consultation and participation by community members or service users, private or secretly held general meetings, and a preference for stagnation rather than openness at board level.

**It's probably not as bad as you think** But here are a few points to bear in mind before you hide your board behind a wall of self protection.

- People are rarely so well motivated or organised that they are able to mount a coup at a general meeting of a community organisation.
- Successful coups do very occasionally take place. But you should not exaggerate the remote risk that it will also happen to you.
- If you analyse how takeovers succeed, you'll usually find that the 'defending' trustees failed to take even the simplest steps to protect themselves or their organisation from the outside assault.
- As well as being rare, coups are also rarely wholly successful. They may succeed in getting a few newcomers elected to work alongside existing trustees. So what? We all have to co-operate with people we'd prefer not to work with.
- And what's wrong with some new blood anyway? If there are people prepared to put themselves out to run your organisation, who's to say they will necessarily do it badly? Why not try to work with them rather than against them?

**Alternative responses:** Paranoia and a permanent siege mentality hardly equips you well to deliver services which are responsive and fine-tuned to the needs of your beneficiaries or users. There are better ways to safeguard your organisation's interests than retreating into a protective shell. The following suggestions might help if you live in fear of the outside world:

- Make your election and appointments procedures robust and resilient. A common and simple approach is to require newcomers seeking election as trustees to submit nominations a week or two before the annual meeting. Then if you see a coup looming you can easily muster your own supporters to outvote them (assuming you do have support for your hold on power). You shouldn't play politics for the sake of it, but it's sometimes unavoidable.
- Provide for a two or three-year rotation system for the retirement of trustees in your governing document. This makes takeovers much harder to achieve and can result in more stable board membership.
- Some organisations use complicated arrangements with different 'classes' of trustee member elected by and representing different groups of member. This can reduce the risk of large-scale change at board level. But such systems can be difficult to operate and may cause more problems than they are intended to solve.
- If there are eager critics of your work who want to join the board, why not invite them on initially as observers or short-term co-opted members, and see how they work out. They may have lots to offer.
- Unelected trustees appointed by the board and small weak organisational memberships are a fair guarantee against disruptive change and lost control, of course. But if you take this course to avoid being challenged it probably means you have lost the argument, and your opponents will be on the way to showing you up as the bad guys.

## The Charity Commission's role

**Don't expect too much** There is a widespread belief that if you are on the right side of an argument in an internal dispute among charity trustees the Charity Commission will weigh in on your side. Don't bank on it. There are limits to what the Commission can do.

- They can only help you directly if
  - there are no validly appointed trustees to take responsibility for resolving the conflict, and
  - other attempts at resolution have failed.

- Provided all the parties are willing to co-operate, the Commission may help with the process of re-establishing properly appointed trustees (e.g. pointing to mediation services, making arrangements for fair elections, providing advice on how to get things right in future).
- Dealing with other concerns will not be the first priority and depends on individual circumstances.
- The Charity Commission provides comprehensive services to help charities themselves take appropriate action.
- The Commission has powers to take 'regulatory action' (formal inquiries or legal action) on particularly serious matters, and will refer suspicions of criminal activity to law enforcement agencies. But internal disputes are common, and few of them are treated in this way.

## When the Charity Commission will *not* get involved

The Commission receives many complaints from trustees and the public which it specifically will not take up directly, although it may provide guidance on how trustees should behave.

- where you disagree with decisions made by the trustees which have been properly made within the law and the governing document
- to resolve internal disagreements over a charity's policy or strategy
- about incidents of poor service from a charity if there is no general risk to its services, its clients or its resources
- where the issue reported does not pose a serious risk to the charity, its assets or beneficiaries
- where the issue is being dealt with by, or is the responsibility of, another statutory or supervisory body – e.g. planning applications and development control
- on employment issues or claims of unfair dismissal
- where there is a disagreement about the terms or delivery of a contract
- where legal proceedings are being taken by another party against a charity, including those for the collection of debts.

## Checklist

- Are the trustees aware that their primary duty is to protect the assets and work of the organisation, and that this should be the guiding principle in resolving disputes?
- Do trustees know where to go for help if an internal dispute breaks out?
- Do you understand the limited role the Charity Commission can play when charities experience disputes?
- Do you need to update the governing document (memorandum of association or constitution) or your standing orders to make internal arrangements and rules clearer to trustees and other members?
- Are there adequate policies and procedures to cover issues which could give rise to disputes?
- Are you following best practice in all aspects of your employment arrangements? Would they stand up to scrutiny in a tribunal?
- Do you have arrangements for training up staff to deputise for more senior employees?

## Further information

- Charity Commission, *[Complaints about Charities, CC47](#)*
- Charity Commission, *[Where we can help resolve internal conflicts](#)*
- Charity Commission, *[Charities and Risk Management: A guide for trustees, CC26](#)*



## Part 4: Managing money

### 4.1 Trustees and finance

Bringing all trustees up to scratch is not a simple matter of a crash course in accounting practice. There is evidence that many people are so completely turned off by figures that they are unlikely ever to want or be able to participate fully in the scrutiny of finances. So how can trustees claim to be meeting their legal obligations?

There is hardly any point in suggesting that charities must only recruit people who can learn to grapple with balance sheets, budgets, cash flows and income and expenditure accounts. Some charities – those which already have severe difficulties in attracting trustees – would probably close down immediately.

The practical, honest alternative is to admit to the problem and point out that those trustees who do understand finances must carry an extra burden on behalf of those who never will.

There is no question of accepting lower standards of financial monitoring, and training and education must go on. But those who know the ropes will have to work that much harder to make up for those who don't.

### Trustees' general financial responsibilities

**Regulations for charities** Sections 4.2 and 7.7 cover the specific requirements of charities and voluntary organisations for reporting their annual accounts. These vary according to the type of organisation and the level of income.

### Regulations for non charities

- Unincorporated associations
  - have no automatic legal obligation to produce annual accounts, although this is regarded as essential for almost all responsible voluntary organisations, and in practice they are unlikely to receive funding on an ongoing basis if they do not
  - must follow the rules on financial reports in their constitution

- Registered companies must comply with the Companies Act 2006 which requires that they make an annual return and submit accounts to Companies House annually; there are tough fines for failure.

## Responsibilities

The main financial responsibilities of trustees are:

- approving and monitoring budgets
- ensuring that proper control is exercised over both income and expenditure
- fundraising policy and activities
- overseeing any trading activities
- ensuring the tax affairs of the organisation are managed effectively
- ensuring that any investments earn the best possible return without putting the capital at risk
- ensuring that any investments are invested in accordance with the organisation's powers as set out in its governing document
- ensuring that the assets and income are used exclusively to pursue the organisation's objects
- ensuring that reasonable steps are taken to prevent and detect fraud and other irregularities.

Trustees of charities can be personally liable for the misuse of their voluntary organisation's funds (see Section 7.6) so they should make sure they understand their wide-ranging financial responsibilities.

## Skills

**The financial skills which trustees need** All trustees should either have, or be prepared to develop, basic skills in financial management. In particular, trustees should know how to:

- read budgets and accounts
- recognise whether the annual accounts properly summarise their organisation's activities and state of affairs
- interpret basic financial reports and advise on the action to take in response to them
- give direction to professional advisers who are entrusted with property and financial reserves
- assist and monitor fundraising activities.

**Developing financial skills** Many trustees have no previous experience of an organisation's finances. It is important that they are helped to learn the basics of understanding their organisation's accounts. This can be an extremely demanding job for some small voluntary groups, particularly those which have difficulty recruiting trustees. But there is no alternative to ensuring that newcomers to the field of financial monitoring receive the necessary support.

This can include:

- support by the Treasurer (if you have one) or the CEO or finance officer
- internal training sessions using the accounts as a practical example, and attending training courses run by organisations such as county voluntary councils
- asking for financial information to be presented in a form which trustees can understand, such as tables, charts or graphs
- requiring that information includes a written explanation of the financial data
- providing new trustees with a glossary of the terms used in their accounts
- examining the guide to understanding a voluntary organisation's balance sheet and financial reporting in Sections 4.9-4.11.

**If finance turns you off** If you are one of those board members who know that they will never be comfortable with figures you should still persevere with the training, but also openly admit to your colleagues that you have a problem. It's not shameful – and you'll probably find that half the board owns up to the same problem.

You will also be doing the board a favour by ensuring no one gets the mistaken idea that the organisation's financial scrutiny would be completely safe in your hands alone. Instead, ask for the basic features of the accounts to be explained in basic terms so that you are not left totally in the dark.

## Delegation and liability

**Delegation of responsibilities** Charities frequently delegate responsibility for monitoring their financial affairs to the Treasurer or a small finance committee. This is a reasonable approach to dealing with:

- detailed examinations of monthly income and expenditure
- time consuming work on putting together proposals for the annual budget
- monitoring practical issues such as the proper use of procedures by staff, and security arrangements.

But it cannot satisfactorily remove the trustees' overall responsibility for ensuring that:

- the financial affairs of the organisation are managed properly and protected against wrongdoing
- staff and those with direct responsibility for handling the finances (including any finance committee) are properly supervised and are carrying out their duties competently, honestly and effectively.

**The extent of the trustee's liability** Two sets of criteria may be used to judge the performance of trustees of registered charities in meeting their financial responsibilities (and these are sound standards which non charities generally should aspire to, although liability of trustees will be different depending on whether they have limited liability protection as company directors):

- 'proper care and diligence' – a trustee will not, for example, be held personally liable for wrongdoing by any member of staff or professional advisor if the board of trustees has given proper attention to the appointment, duties and supervision of that employee or advisor
- the 'prudence of ordinary men and women of business in the management of their own affairs' – this requires trustees to satisfy themselves that the financial affairs of the organisation are being properly handled in the same way that they would manage their own finances or those of someone else they were responsible for; importantly, ignorance of what is happening, or the absence of dishonesty on the part of a trustee is not accepted as prudent behaviour, and it is your responsibility as a trustee to stay properly informed.

## Checklist

- Do any members of your board need support in understanding the organisation's financial affairs?
- Does your board need to organise any training to strengthen the financial skills of the trustees?
- Examine your governing document. Does it give you powers to delegate financial matters?
- Do you know the terms on which individuals or subcommittees have been delegated financial responsibility by the board of trustees?
- Are you satisfied that your accountant and other advisors are properly supervised and accountable to the board?
- Have you made sure that you know who is responsible for each aspect of your organisation's financial management?
- Have you made sure that reporting requirements have been agreed and maintained?

## Further information

See list for Section 4.2

## 4.2 Accounting and reporting regulations

The various accounting regulations for charities are somewhat complex. They have been laid down and revised by various legislation and regulations, including the Charities Act 2006 and the Companies Act 2006 (which together apply to all companies including charitable companies) and the Statement of Recommended Practice (SORP) on Accounting by Charities as part of a process of improving public accountability.

This section outlines the different reporting requirements for different types and sizes of organisation. For completeness it brings together all the reports which charities and companies are legally obliged to make each – annual accounts, the annual report and the Annual Return. Trustees of charities and limited companies may need to check the full details with information provided the Charity Commission and/or Companies House. (See Section 7.7 for more general guidance on preparing your annual report.)

### Basic accounting requirements

#### All charities

In general, the legislation requires charity trustees to:

- keep proper accounting records of all their organisation's transactions. These should include records of money received and paid out, and records of all assets and all liabilities
- prepare annual accounts
- make annual accounts available to the public on request
- ensure that the accounts disclose with reasonable accuracy at any time the financial position of the charity.

These are fundamental requirements which all voluntary organisations should adhere to, whether or not they are charities.

**All companies** Charities must file accounts in accordance with company law. Company law requires trustees of charitable companies to:

- keep accounting records which show all transactions
- prepare an income and expenditure account and a balance sheet that give a 'true and fair' view of their charity's results for the year and of its financial affairs at the end of the financial year
- provide details of the items in the accounts in the form of Notes to the Accounts

- select suitable accounting policies and apply them consistently
- make judgements and estimates that are reasonable and prudent
- indicate when a full audit has been carried out
- make special provision in the accounts for companies which are expected to go out of business in the foreseeable future.

**Alternative formats for annual accounts.** The regulations refer to two different methods for compiling annual accounts – ‘receipts and payments’ and ‘accruals’. Trustees usually do not need to know how to prepare accounts, but it may help to be able to distinguish between the two systems.

- **Receipts and payments.** This is the simpler method. It consists of an account summarising all money received and paid out by the charity in the year in question, and a statement giving details of its assets and liabilities at the end of the year. A charitable company cannot under company law prepare its accounts on this basis.
- **Accruals.** Non-company charities with gross income of over £250,000 during the year, and all charitable companies must prepare their accounts on the accruals basis in accordance with the SORP. They contain:
  - a balance sheet showing the charity’s financial position at the end of the year

- a statement of financial activities (SoFA) showing all incoming resources, and resources expended during the year (and for company charities only, an income and expenditure account
- explanatory notes
- a statement that they show, in accountancy terms, a ‘true and fair view’.

## Reporting charities’ annual accounts

**All charities**, included unregistered charities, must:

- keep accounting records and retain them for six years (three years for companies) – i.e. cash books, invoices, receipts
- keep Gift Aid records for six years
- make the accounts available to the public on request, and may make a small charge to cover actual costs

## Non company charities

- registered charities, gross income under £25,000
  - accounts must be prepared either on the receipts and payments or the accruals basis (2008 Regulations and the SORP)
  - no requirement for independent examination or audit, unless required by governing document
  - accounts not sent to Charity Commission unless requested

- gross income £25,000 to £250,000
  - accounts prepared either on the receipts and payments or the accruals basis (2008 Regulations and the SORP)
  - independent examination or audit required
  - accounts to be sent to Charity Commission
- gross income £250,000 - £500,000, and total assets not exceeding £3.26m
  - accounts must be prepared either on the accruals basis
  - independent examination by a body specified body, or audit required
- gross income over £500,000 (or gross income over £250,000 and total assets over £3.26m )
  - accounts prepared on the accruals basis
  - statutory audit is required, by a registered auditor
- charities with charitable or non-charitable subsidiaries and combined income over £500,000
  - accounts prepared on the accruals basis
  - statutory audit is required, by a registered auditor.

## Annual reporting by charities

### Types of Annual Report required

- all registered charities, including charitable companies (but not 'exempt' or 'excepted' charities):
  - must produce an Annual Report in a format specified by the Charity Commission, and must make it available to the public on request
  - companies produce a directors' report for Companies House and expand to contain all the information required for the Annual Report.
- all charities, income under of £10,000
  - report may be 'simplified'
  - no need to send Report to Commission
- charities with gross income £10,000 to £25,000
  - report may be 'simplified'
  - no need to send Report to Commission, but they may request it
- gross income £25,000 to £250,000 - Report must be sent to Commission; it may be 'simplified'



- gross income £250,000 - £500,000, and total assets not exceeding £3.26m - Report must be sent to Commission; it may be 'simplified'
- gross income over £500,000 (or gross income over £250,000 and total assets over £3.26m)
- charities with charitable or non-charitable subsidiaries and combined income over £500,000 - full Annual Report required with additional disclosures on the activities of the subsidiaries as required by the SORP.

**Annual Return requirements** for all charities, including charitable companies:

- unregistered charities – no annual return requirement
- registered charities, income under £10,000 - must complete an 'annual update' form with trustee details
- income £10,000 to £1,000,000 – must complete Annual Return
- income over £1,000,000 – must complete Annual Return with Summary Information Return
- charities with charitable or non-charitable subsidiaries and combined income over £500,000 – Annual Return and Summary Information Return is completed on a group basis by the parent charity.

## Annual reporting by companies

**Charitable companies' annual returns** In addition to any reports to the Charity Commission, all companies must send the following to the Registrar of Companies at Companies House within 10 months of the end of the financial year.

- accounts in the prescribed format within 10 months of the end of the financial year
- a trustees' (directors') report
- an auditor's report where appropriate
- the completed Annual Return form (with a list of current directors, and a registration fee).

There is encouragement for filing on line, including a discount for the Annual Return. There are costly penalties for late filing,

**Charity Commission returns:** The charity's contact is notified annually of the Annual return and accounts filing requirements, and it is important to keep contact details up to date. At the time of writing, the deadline for filing charity accounts (where these are required) is 10 months from the end of the financial year. A permanent record of any late accounts filing will appear as part of a charity's public details. But there is no system of fines and no annual return fee.



## Checklist

- Does your board need to review whether your organisation is keeping records of accounts in a form that will satisfy your legal obligations?
- Are any special accounting requirements defined by your governing document which might supersede the general arrangements for charities?
- Are you sure that the most recent audited accounts and trustees' report were properly authorised by the whole board and that your organisation has a procedure for authorising future returns?
- Does your board need to review its procedures for ensuring that an annual return, trustees' report and accounts are submitted correctly and on time?
- Do you need to appoint an independent examiner or auditor under charity regulations?
- If you already have an independent examiner or auditor are you sure you have taken due care in his or her selection?

## Further information

**Companies House:** [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

**Charity Commission guidance,** [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk)

- *Charity Reporting and Accounting: The essentials*, 2009, CC15b
- *Accruals Accounts Pack, CC17 and CC39*
- *Independent Examination of Charity Accounts: Trustees' Guide, CC31*
- *Accounting and Reporting by Charities: Statement of Recommended Practice (SORP 2005)*

## 4.3 Managing investments

Many registered charities that have spare capital on deposit at the bank are more than willing to make interest free loans to other groups or to new projects which they are associated with. When sums are small they may even forget about the need for repayments. Others may decide to put funds in ethical accounts offering low rates of interest, or even to try to maximise their income potential with much more adventurous and possibly risky investments. But charities have an obligation to maximise the income from their funds. In all these cases they could be breaking the law – and individual trustees could be personally liable for any money which is lost.

### Trustees' responsibilities

The trustees of charities must (and the trustees of other voluntary organisations should) act with the same degree of care that prudent business people would exercise 'when investing on behalf of people for whom they had moral responsibility'.

When investing funds, the trustees of registered charities have legal responsibilities under the Trustee Act 2000:

- to obtain impartial, written advice from a person with adequate experience – this could be an accountant, bank manager, stockbroker, a member of the organisation's staff or one of the trustees (trustees who provide investment advice negligently could be professionally liable)
- to maximise the financial return on an organisation's investments while minimising the organisation's exposure to risk (which means that interest-free loans to associated organisations are out of order)
- bear in mind the long-term future of the organisation by protecting its capital from the effects of inflation
- act in their company's interest and not their own.

In practice this means:

- avoiding speculative investments, i.e. those with a high risk of loss
- ensuring that your charity's funds are diversified, i.e. funds which are invested should be spread across a number of different investments to reduce the risk to the charity if a single investment lost heavily.

## Trustees' powers

The voluntary organisation's governing document should define the powers you have to invest.

**Charitable companies** The trustees of charitable companies are bound by their general 'duty of trust' to ensure that investments are conducted properly. Although they are not covered by the Trustee Act, many of the safeguards required by the Act amount to good practice that charitable companies should follow.

**Unincorporated charities** are covered by the Trustee Act which gives them much wider powers to make investments as if they were corporate bodies.

Trustees:

- Must exercise a proper 'duty of care' when making investments and take proper advice
- must consider the suitability of investments to the charity itself
- are required to diversify investments
- may delegate investment functions to agents (who may be trustees or outsiders) on certain conditions
- may appoint trustees as 'nominees' to sign documents and hold property in their name, and 'custodians' who undertake to keep assets and investment documents safe
- must draw up a policy statement for the investment of the charity funds when they appoint an outside investment manager to act as their agent
- must keep the work of agents, nominees and custodians under review, including whether the policy statement is being complied with and whether the people appointed are suitable to continue doing their job
- have the power to acquire land for any purpose allowable by the governing document.

The written investment policy should:

- Cover your organisation's short, medium and long-term needs taking account of both capital and income requirements
- define the scope of investments open to the organisation
- define who is authorised to make investment decisions on your behalf
- be clearly communicated to any investment managers employed by the organisation
- be agreed formally by the board of trustees and reviewed annually.

**Delegation to investment managers** When a charity's investments reach a size where they would benefit from specialist attention it is sensible to delegate decisions to an investment manager. Failure to comply with the Act could leave trustees liable for the acts or defaults of the investment manager. Information on delegation to investment managers can be obtained from the Charity Commission.

**Ethical investments** The trustees' responsibility to provide the greatest financial benefit for a charity from their investments is not changed substantially if they choose to follow ethical investment policies:

- trustees should not invest in companies which are directly contrary to the purpose of the charity – e.g. a health promotion charity should not invest in a tobacco company
- trustees should not allow an ethical investment portfolio to outweigh their obligation to diversify their investments
- an ethical investment policy must be based on the work of the charity, not on the personal ethics of the trustees.

**Investments designed specifically for charities** CCLA Investment Management offer investment funds which were set up with Charity Commission approval, originally under the name 'Charities Official Investment Fund'. These pool charities' funds and diversify investments under the control of specialist investment managers. Services include a deposit fund offering interest rates consistently above standard high street rates and an ethical investment fund. Website: [www.ccla.co.uk](http://www.ccla.co.uk)

## Checklist

- Does your organisation have a written investment policy and have you got a copy? Is it updated on a regular basis?
- Does your board need to check its governing document?
- Are you making the most of the funds you invest?
- Does your board need to check the terms on which advisers or investment managers have been briefed and supervised?
- Do you have up-to-date records of your charity's assets and restricted funds?

## Further information

- Charity Commission, *Investment of Charitable Funds: Basic principles, CC14*
- Charity Commission, *Acquiring Land, CC33*
- Charity Commission, *Sales, leases, transfers or mortgages: What trustees need to know about disposing of charity land, CC28*

## 4.4 Insurance

Insurance can be a complicated business and voluntary organisations can easily lose out if they fail to cover themselves comprehensively or if they do not read the small print. Insurance is worthless if you haven't fulfilled the insurance company's conditions. In most cases, you will be wiser to put money and effort into ensuring you have cover for all the main risks (property, employers liability and public liability) before you start exploring trustee liability insurance. Tracking down combined policies which cover a variety of risks and a variety of different sites can save you a great deal of money.

### Trustees' responsibilities

Trustees have responsibilities for:

- Adequate cover – ensuring that their organisation has adequate insurance cover at all times.

This applies to:

- property (such as land, buildings, plant, furniture and computers)
- cash on the premises or in transit
- liabilities to employees (a legal requirement)
- liabilities to volunteers and the public
- motor insurance (a legal requirement)
- insurance for fundraising or special events
- reviewing policies to ensure the cover is still adequate and the premiums competitive
- keeping an up to date inventory of all property, furniture and equipment.

**Meeting policy conditions** It is essential that trustees understand and fully meet the conditions of insurance policies which they take out. Insurance companies will strictly enforce the terms of their policies and will not pay out for claims if you have failed to do so. Such conditions might require you to install building security systems or have backups of computer files in different premises in the event of a fire or theft.

**Protecting computer data:** It may not be easy to find affordable insurance against the loss your valuable computer files from disasters such as hard disc failures and viruses. And even if you could, insurance can't replace the irreplaceable. On this front you are best advised to use rigorous backing up systems and install virus protection software which is automatically updated all the time. Take note from those who have experienced losses. They will assure you that your present precautions are almost certainly inadequate, and you will probably wait until you lose all your data before you do anything about it. Well, you've been warned.

## Types of policy

**Property** Whether the property is leased or owned by the charity or held on behalf of the charity (by trustees in unincorporated charities), you are responsible for ensuring that there is adequate insurance cover for:

- the structure of buildings – it is advisable to choose an 'all risks' policy; trustees should take professional advice on the sum insured (and check your lease to see whether you are responsible for paying for the insurance)
- the contents of premises – an 'all risks' policy usually covers damage to contents from most events; you will need additional cover for some risks if the policy is not 'all risks'

- consequential loss – this covers any costs resulting from disruption to the activities of the charity, e.g. loss of income after a fire.

## Your liability as an employer

- Employers liability insurance – trustees are required by law to insure against personal injury or illness sustained by their employees as a result of their employment:
  - all individuals who have an employment contract with the organisation must be covered
  - you must ensure that a copy of the certificate of insurance is displayed at the premises (you can be fined heavily for failing to do so)
- employers' legal indemnity insurance provides cover against losses related to employment matters, such as legal expenses and compensation arising from industrial tribunal awards, and is worth considering
- staff sickness – you may want insurance to cover the cost of staff sick pay if they are ill, particularly if you depend on them heavily for raising the money you need to survive.

**Fidelity insurance** – you can insure against dishonesty by staff and volunteers who handle large sums of money.

**Public liability insurance** is essential to cover for injury, illness or damage to property incurred by members of the public (including volunteers and trustees) as a result of the organisation's activities. You have special responsibility for volunteers and should ensure that:

- they are informed about the insurance cover which applies to them
- volunteers who drive their own cars on the voluntary organisation's business have adequate motor cover (this could involve a small increase in their personal premiums)
- volunteers over the age of 70 are not excluded from the public liability cover.

It is recommended that cover should be for a minimum of £5m.

**Professional indemnity insurance** If the staff or trustees advise the public or other organisations, you should consider taking out professional indemnity insurance which protects against claims for incorrect advice. In some cases, contracts are conditional on voluntary organisations securing professional indemnity insurance, although it can be expensive. Shop around for professional indemnity insurance – there is at least one policy on the market which is designed for voluntary organisations and won't cost you a fortune.

**Trustee liability insurance** The trustees of unincorporated associations may want to themselves against action taken against them if things go wrong.

But you should recognise that opinions are firmly divided over whether trustee liability insurance is generally worthwhile. You cannot legally insure against some risks, such as unlawful action by company directors. The situation is even less favourable for insuring the trustees of charities (see below).

## Personal liability cover for charity trustees

**Insuring charity trustees** Until recently charities have usually needed the Charity Commission's approval to buy indemnity insurance for their trustees (because it has been construed as a personal benefit). Trustees now no longer need an explicit approval from the Commission or from their governing document. But they are still required by law to meet a number of conditions, including being assured that the expenditure is in the best interests of the charity and doesn't cover illegal activities and trustees who act in bad faith. (See also Section 7.6.)

**Assessing the need for cover** Trustees who have behaved honestly very rarely suffer financial loss as a result of being trustees, and dishonest trustees and those who act in bad faith cannot be covered by insurance anyway. There may be little value in the trustees of charitable companies being covered by this insurance. But trustees may pay privately for their own personal liability insurance cover if they want to.



**Contracts** Trustees of unincorporated charities cannot be insured against liabilities under contract, e.g. if you order goods and the charity lacks the money to pay for them.

**The extent of cover** If you do decide to take out personal liability insurance for trustees, you should ensure the cover includes:

- insurance against breaches of trust made as a result of honest mistakes
- protection in respect of claims for wrongful advice or information (professional indemnity insurance)
- insurance to protect the charity against fraud or dishonesty by employees or trustees.

## Further information

- Charity Commission, *Charities and Insurance*, CC49
- Charity Commission, *Use of Church Halls for Village Hall and other Charitable Purposes*, CC18
- WCVA free download, *2.7 Risk Management*
- WCVA free download, *2.X11 Insurance*
- WCVA free download, *2.x12 Data protection*

## Checklist

- Does your organisation review the procedures for ensuring that cover is adequate?
- Has your organisation taken appropriate advice on the sums insured?
- Are you satisfied that all the important conditions of insurance have been fulfilled?
- Does your organisation inform volunteers about the insurance cover it provides for them?
- Are you satisfied that your organisation fulfils its legal requirements in respect of employers' liability insurance?
- Do you face a risk which justifies spending the organisation's assets indemnifying the trustees?

## 4.5 Policies on reserves and risk

The question of what is a reasonable level of reserves for a voluntary organisation to keep is a source of great worry for some groups. Should they have cash in the bank when they are asking funders for grants, or should they safeguard their future by putting something aside for the uncomfortably frequent rainy days experienced by voluntary organisations? Their concern may be justified by the attitudes of a few funders who historically simply do not understand the needs of the organisations they purport to support – and who would turn grant bids down willy nilly if the applicant has got a few thousand pounds in the bank.

Charities are now required to have clear policies for determining how much they need to keep in reserve. But there is little specific guidance on how much this should be relative to, say, your annual turnover. You will need to use your own judgement.

The Charity Commission also advises charities to review the risks they face, though the obligation to do so only applies to larger organisations.

### Reserves policies

**Good practice for all** Holding reserves and managing financial risks effectively is sound practice for any voluntary organisation. So it is advisable to develop and regularly update policies for handling these issues. The legal constraints on charities, do not apply to non charities, of course. But they do provide a good foundation for operating successfully. So it is worth looking at the rules for charities, even if they do not apply to you.

New organisations which think it would be good to have reserves to worry about should recognise that building up a reasonable financial cushion may be absolutely essential for their survival if they hit problems or hard times. They are a necessity which you should build into your financial planning and budgeting.

## How much?

- **The reserves mystery** One of the greatest mysteries for organisations which are exploring reserves policies why it is so hard to find advice on a good rule-of-thumb figure for their reserves. It's not an unreasonable requirement. But the Charity Commission, as the main regulator, have reasons for avoiding an answer – they want charities to calculate their real needs rather than pick a random figure out of the air.
- **What is reasonable?** OK, but it is only fair to provide some guidance, and a sum that corresponds to at least three months running costs is a good place to start, and for larger and more complex charities, at least six months. Yes, it will be greatly influenced by many factors in individual organisations, and you should certainly weigh them up and write a policy which explains them all. But it would not be surprising if the figure you come to equates to approximately three to six months of operation.
- **What might be less reasonable?** Experience suggests that funders might consider the level of a local voluntary organisation's reserves unreasonable if it was close to or more than 100 per cent of their normal annual expenditure. A funder who questioned a level of only 25 per cent of your annual turnover would probably be the unreasonable one.

## Overview of requirements law and SORP

Charity law and the Charity Commission's Statement of Recommended Practice (SORP) on accounting requires that:

- any income received by a charity is spent within a reasonable period
- trustees can fully justify the income which they hold as reserves
- reserves are that part of a charity's unrestricted income funds that is freely available to spend
- charities must have a reserves policy and report what it is in the annual report
- even if no reserves policy is in place, the annual report must say so
- a reserves policy
  - takes into account the charity's financial circumstances and other relevant factors
  - is monitored throughout the year
  - is regularly reviewed.

**What are reserves?** There may be a difference between the reserves you hold and the reserves you can justify holding. Let's start with calculating what your reserves actually are.

Charities typically have:

- 'restricted funds' and endowments whose use is limited by the donor's wishes or instructions and the purpose for which they were raised – these will not be part of your reserves, but they may influence how much money you need to keep in reserve
- 'unrestricted funds' can be spent as the trustees think fit on charitable purposes, and they will constitute your reserves after excluding money which:
  - is necessarily tied up in your day to day operation
  - you keep to fund ongoing programmes
  - you are investing to spend on specific future charitable projects.

You must state the end of year reserve figure in your annual report. This should include reserves held by any subsidiary trading companies. (See Section 4.9 for further explanation of restricted and unrestricted funds and endowments.)

**Why have a reserves policy?** Before calculating how much you need to keep in your reserve fund it is worth reflecting on the value of having a reserves policy at all. A reserves policy can

- give confidence to funders by demonstrating good stewardship and financial management
- demonstrate the charity's sustainability and capacity to manage unforeseen financial difficulties
- give funders such as grant-makers, an understanding of why funding is needed to undertake a particular project or activity
- give assurance to lenders and creditors that the charity can meet its financial commitments
- head off possible criticism about the unspent funds mentioned in the annual report
- help with strategic planning, e.g. how new projects or activities will be funded
- help with budgeting
- help with risk management by identifying any uncertainties for future income.

## Special circumstances

- **Income from investments** If your charity has income from investments and endowments you may need to clarify how this should be treated. Usually it counts as part of the unrestricted funds and should not be allowed to accumulate with the capital.
- **Unjustifiable reserves** Tax exemption on charity income is only available where money is invested or spent for the benefit of the charity. So high levels of unjustified reserves might be taxable. Trustees could have problems too, justifying inadequate reserves.
- **Complex activities and structures** The downloadable Charity Commission leaflet 'Charities and Reserves, CC19' provides advice on how to develop reserves policies for complex organisations

## Trustees' responsibilities

Trustees have several responsibilities to keep in balance when considering what an appropriate level of reserves is:

**The duty to provide for necessary expenditure** You could be judged to be negligent as a charity trustee if you do not ensure that your organisation has adequate reserves to meet necessary and foreseeable costs.

**The duty to spend** You could lose credibility with the community and funders, and be judged under charity law to be in breach of trust, if you allow the level of your reserves to build up without good reason. You have a duty to spend the income of your organisation on its objectives, unless:

- the governing document gives you a power to accumulate income
- you are planning for specific future charitable project (perhaps a community centre, but not an office block for staff)
- it is a permanent endowment.

## How do you decide the level of your reserves?

### What to include

Trustees need to think carefully about what they should reasonably provide for in their reserves. These might include money to:

- provide its service
- pay its staff and creditors
- allow for possible maternity, sickness or redundancy payments
- keep its property in good repair
- pay for insurance
- replace equipment
- survive a possible interruption to its income – such as a late grant payment or a dispute over a payment.

You should check each year whether the items are still relevant, and recalculate any items which have changed – e.g. the redundancy provision should vary with the length of service of your staff. But don't let the exercise become a major chore. Think in terms of reasonable estimates rather than precise calculations.

## Factors affecting reserve levels

Your level of reserves should take into consideration:

- the variety of your sources of income
- the extent to which your income and expenditure fluctuates from year to year – for instance, if your organisation is largely dependent on:
  - variable legacy income
  - vulnerable local authority funding
  - stable covenants
- whether your reserves value could be quickly realised if necessary
- how easily you can adjust expenditure to take account of fluctuations in income.

## Charities and risk

**Charity requirements** All charities with an annual income over £250,000 must include a statement of risk in the annual accounts. It is good practice for other organisations to take a similar approach, particularly where they are vulnerable to major or foreseeable risks.

Charities should:

- identify the major risks that apply to their charity
- make decisions about how to respond to the risks they face
- make an appropriate statement regarding risk management in the Annual Report.

## Types of risk

The Charity Commission identifies the following areas of possible risk:

- **governance risks** – e.g. inappropriate organisational structure, difficulties recruiting trustees with relevant skills, conflict of interest
- **operational risks** – e.g. service quality and development, contract pricing, employment issues; health and safety issues; fraud and misappropriation

- **financial risks** – e.g. accuracy and timeliness of financial information, adequacy of reserves and cash flow, diversity of income sources, investment management
- **external risks** – e.g. public perception and adverse publicity, demographic changes, government policy
- **compliance with law and regulation** – e.g. breach of trust law, employment law, and regulative requirements of particular activities such as fund-raising or the running of care facilities.

**Risk management in context** Risk management has only recently been taken on board seriously by voluntary organisations and charities, and it is still often the preserve of more substantial charities with the resources to carry out the recommended planning processes. Risk assessment has become mandatory as part of health and safety policies, but it takes on a wider significance in relation to the many things which may go wrong in a community organisation or charity, from minor interruptions to normal work up to potentially catastrophic upheavals such as the threat of costly legal action or the loss of the CEO. Also, importantly, it is necessary to distinguish between financial disasters which may immediately damage services and management and governance problems which might lead indirectly to the same adverse consequences while at the same time being complex to resolve or even to identify accurately. Advance planning should not simply focus on what to do if the money runs out.

**The need for a risk management strategy** As the people responsible for the charitable funds and community resources, all trustees (whether or not they are running registered charities) should think seriously about their policies for handling threats to those assets. You should be aiming for

- a strategy geared to the needs and capacity of your own organisation rather than something off-the-shelf
- an approach which covers different levels of threat across all aspects of the organisation, not just financial issues
- practical plans which can be implemented effectively, and quite possibly at high speed, if needs arise.

## The basic approach

At an elementary level key stages are likely to include the following actions:

- establishing a Risk Policy
- identifying particular risks and controls
- assessing levels of risk
- evaluating what action needs to be taken
- periodic monitoring and assessment.

**Finding out more** Developing a strategy to deal effectively with risk is a big subject, and not easy to deal with in a general guide for trustees. The Charity Commission leaflet CC26 '[Charities and risk management: A guide for trustees](#)', deals with the process comprehensively.

**Not enough time?** It is easy enough to conclude that the task is too big to tackle and that other priorities have to be dealt with. But it's also worth reflecting that

- voluntary organisations which find the time for risk management tend also to be the ones which are best prepared to take advantage of opportunities and the ones which do best when times are hard
- risk management may be an expensive investment, but not as expensive as the disasters you are unprepared for when things go wrong.

## Checklist

- Does your organisation have a policy on the level of reserves?
- Is the policy reviewed each year?
- Does your annual report routinely include a report on reserves?
- Are new trustees given a copy of the policy?
- Do you need a risk policy? Do you review it regularly?
- Does your annual report routinely include a report on risks facing your organisation?

## Further information

WCVA free download, [2.7 Risk management](#)

Charity Commission guidance downloads:

- [Charities and reserves, CC19](#)
- [Charities and Risk Management: A guide for trustees, CC26](#)
- [Managing Financial Difficulties and Insolvency in charities, CC12](#)
- [Charities and Investment Matters: A guide for trustees, CC14](#)
- [Charity Reserves and Defined Benefit Pension Schemes](#)
- [Small Charities and Reserves, RS5](#)



## 4.6 Charities and trading

Even at a time when voluntary organisations are increasingly encouraged to become more sustainable and to provide public services, they still have to perform all manner of distracting acrobatic tricks to ensure that their trading activities are both legal and financially worthwhile. Despite legal and tax changes in the last decade or so, trading by charities can be a perplexing and worrying issue for trustees. And for non charities there remains the unpleasant prospect that profits generated by the efforts of volunteers will be taxed by the very governments which are promoting volunteering.

Trading by voluntary organisations and charities is a big subject dealt with by WCVA's sister publication *It's an idea but is it business – a guide to third sector trading*. So this section is a basic introduction to the issues specifically faced by charities. One myth to dismiss straight away is that charities can't trade. They can. The real question is whether the restrictions they face make it worth their while.

### Legitimate charity trading

#### Who says whether charities can trade?

Trading by charities is limited by:

- the governing document
- the Charity Commission, which lays down most of the basic rules
- HM Revenue and Customs (HMRC), which assesses liability for tax on trading profits and allows some concessions.
- The main benefit of charities being allowed to trade is that they do not pay corporation tax on their profits to HMRC as conventional businesses do, provided those profits are used solely for the purposes of the charity.

## Charities may trade:

- if the trading activity is in pursuit of their objects or 'primary purposes' – e.g. a museum can charge for admission, and a community sports centre can charge for the use of its facilities
- where the goods or services being traded are mainly produced or carried out by the charity's beneficiaries e.g., the sale of goods made by disabled people in a sheltered workshop
- by selling donated goods (this is not regarded as 'trading' by the Charity Commission or HM Revenue and Customs)
- if the trade is ancillary to the charity's objectives and takes place in the course of the charity carrying out its main ('primary purpose') functions – e.g. the sale of refreshments to the users of an arts centre (though the establishment of a commercial café facility for the general public would not be ancillary).

**Tax concessions on other types of trade** The Charity Commission does not normally consider fundraising to be an ancillary trade in itself. But there are provisions which exempt charities from paying tax on the profits of certain specified types of fundraising events and small-scale trading activities.

## • The 'Extra-Statutory Concession for Fundraising Activities'

This covers the profits of charity events such as performances, competitions, dinners and dances, festivals and auctions, provided they are used for charitable purposes which are already exempt from VAT. HMRC also provides advice on how to minimise the tax liability for events which are not exempt.

- **Small trading** Charities can generate profits tax-free on 'small trading' activities which are not already exempt, provided they use the profits for the purpose of the charity. The terms relate to the gross income of the charity and the small trading income as shown in the table below. The profits may even be considered to be exempt if the limits are exceeded but the charity had a 'reasonable expectation' that they would not be.

| Charity's gross annual income from all sources: | Tax exemption if sales are below: |
|-------------------------------------------------|-----------------------------------|
| Under £20,000                                   | £5,000                            |
| £20,000 to £200,000                             | 25% of gross income               |
| Over £200,000                                   | £50,000                           |

*Table showing tax exemptions on small trading*

## Other types of tax-exempt income

- **mixed trading** HMRC also allows a tax concession on a mixture of primary purpose trading with ancillary trading (e.g., a museum which sells both books and fundraising items such as mugs and pens). The exemption applies if the turnover for non-primary purpose trade is below £50,000 and less than 10 per cent of all trade for the year
- **business sponsorship** is not regarded as trading for tax purposes unless the charity is considered to be providing significant advertising for the sponsor. A small logo and reference to the sponsor on publicity material, for instance, would not be seen as advertising
- **leasing premises** to a tenant is not taxable, but providing associated services such as caretaking could be considered as trading and therefore subject to tax
- if a charity **acts as an agency for a trading company** it may sell new items alongside donated items on its own premises, and charge the trading company a reasonable amount for providing this service; this convoluted provision, which sounds like a tax dodge, is fully recognised by the Charity Commission and HMRC, and illustrates how grotesquely complex charity trading can be – do get more information before you try it

- **legally run lotteries** are trading, but are exempt from tax and are not regarded as contrary to the charity law restriction on direct trading by a charity for fundraising purposes; if you want to run a lottery check the lottery regulations very carefully and make sure you stick to them.

## Subsidiary trading companies and non-charitable trading

**Can you do it anyway?** Where the trading is not permissible under charity law, the main option for a charity is to set up a subsidiary trading company (which can Gift Aid any profits to the parent organisation to avoid corporation tax).

Before your charity can set up a subsidiary trading organisation you must check that:

- this is acceptable under your governing document
- the investment will not be too speculative and is properly planned
- it is acceptable under your investment policy.

**What is the aim?** Advice to charities on how to overcome the restrictions on their trading activities often overlooks the range of reasons for wanting to do so in the first place, and the fact that different aims need different solutions.

This is because the Charity Commission tend to see that the main justification for it is to invest the charity's resources in order to generate a profit for the charity's coffers. The real world is more complicated. Your real aims may also be to:

- create employment
- develop sustainable commercial community activity or to build skills and local pride; or
- to extend the charity's activity into a related grey area which may not be covered by your charitable purposes - e.g. a charity providing low cost furniture to poor families for the relief of poverty may want to run a recycling operation salvaging wood from unwanted furniture.

**Options** If your charity wants to promote trading activities which are not recognised as charitable, the only realistic course is to set up (or encourage others to set up) a separate and non-charitable trading company. There are several possible structures, but it is important to recognise that only the first of these in the following list, the wholly owned subsidiary, will remain part of the charity:

- a wholly owned subsidiary company limited by shares (where the shares are owned by the charity)

- a 'parallel' trading company – a company limited by guarantee or Community Interest Company (CIC) which is not registered as a charity, but which retains some association with the charity (e.g., the charity nominates some of the trading company's directors)
- an entirely separate company limited by guarantee 'owned by' the community
- a company limited by guarantee which runs as a worker' co-operative
- a private company limited by shares
- finally, you should not overlook the possibility that a charity's objects might be changed to extend the range of acceptable 'primary purpose' trading, though you should also recognise that the Charity Commission is unlikely to allow you to do this without very sound reasons.

## Choosing the best option for you

- subsidiary trading companies are clearly the safest for generating income for the charity because the charity is in complete control, although this imposes additional accounting and reporting restrictions

- a 'parallel' (or completely separate) company limited by guarantee or CIC doubles up the administration work and accounting costs, but it may be better for some social enterprise because it:
    - avoids accounting complications for the charity, and encourages better separation of management activities
    - makes the trading more distant from the charity, which may be helpful for the image of the charity for some types of commercial enterprise
    - may provide the opportunity to broaden the range of people involved in your activities (eg local residents), and to bring in directors with skills which are more appropriate to the trading venture than to the charity – also a charity subsidiary company can do this if it chooses
  - if you simply want to go beyond your existing charitable objectives to create jobs, the type of trading organisation will be determined by the people who will be employed and how independent they will want to be from the investment constraints of the charity (whether in a private company, a workers' co-op, or community-owned company limited by guarantee)
  - you should not overlook the fact that if you just want to bring money into the charity, you may be able to do so by making better use of your existing resources and avoiding separate trading activities altogether:
    - you may be able to generate income by subletting part of your premises (this is not regarded as trading, and you must charge a realistic rent anyway)
    - your staff may be able to carry out research or consultancy work for other organisations under your charity's general educational objectives (there may be tax implications for this, and you should get advice)
    - you may be able to widen the scope or improve the viability of an existing 'primary purpose' charitable trading activity,
    - perhaps most importantly for small organisations, the provision for 'small trading' (see page 210) means that you might be trading for a very long time under the charity's banner before you hit the £50,000 income threshold.
- Your obligation to see a return** Since charity law sees a subsidiary trading company as an investment by the charity with the purpose of generating a financial return, you are under an obligation to ensure that there is some benefit from the charity as soon as possible. Guidance suggests that if there is no sign of a profit within three to five years the investment should be considered a failure – and the trading activity ended. But in practice there could be a big difference between the subsidiary trading company becoming sustainable and making a small profit (which it should certainly be expected to do) and its capacity to produce a realistic financial return for the charity.

And this is the reality of social enterprise for many small to medium size voluntary organisations. It's a pity that all the legal and tax changes of recent years have still not properly recognised this important and often pioneering aspect of work in the voluntary sector.

## Separating the charity from the trading organisation

As a matter of charity law and sound business practice, trustees should ensure that:

- the financial structures of the charity and any trading company are kept completely separate (this is most difficult and most important where the charity owns a trading subsidiary)
- the interests of the charity do not become dominated by those of the trading organisation (and, for commercial reasons, vice versa)
- any loans made to a trading company are within the terms of the charity's governing document, are at a commercial rate of interest and are properly secured
- if the charity and the trading subsidiary share premises, equipment or staff, care is taken to apportion costs accurately between them, to avoid any hidden subsidy of the trading company by the charity

- a separate trading company cannot be given the right to appoint trustees to the charity (although the charity may have the power to take a place on the board of the trading company)
- where you have a separate trading company, you should at the very least have one trustee on the charity's committee and one trustee on the trading company's committee who does not sit on both – otherwise you will find it difficult in practice to ensure that the two boards have distinct roles.

**Accounting implications** The Statement of Recommended Practice (SORP) on Accounting by Charities requires charities to make a complete declaration of income and profits from trading activity. For example, where the primary purpose of a charity is wholly or mainly carried out by a trading activity, such as charging fees for the provision of services, the gross income from such activity and the gross expenditure should be disclosed in the Statement of Financial Activities (SOFA). Trustees need to ensure that the accounts of trading subsidiaries are prepared in accordance with the SORP on Accounting by Charities.

## Pros and cons

**The compromise** The various arrangements for trading companies to separate their activities from charities usually involve some sort of compromise. You will probably have to consider the balance of advantages and disadvantages of this general approach.

## The benefits of the trading alternatives

- they preserve the charity's charitable status
- they protect the charity from loss if the trading venture fails (the liability of the trading company will be limited to the extent of its own assets)
- the charity should eventually benefit from the profits of the trading company (But don't forget that where community-based trading ventures are concerned, people invariably start out with totally unrealistic expectations of profits, and the idea that they can fund new jobs in the charity or sustain social services is usually miles from the reality.)
- the trading company can donate part of its pre-tax profits to the charity using Gift Aid or a charitable covenant, enabling the charity to benefit from any corporation tax paid by the business (see Fundraising, Section 4.8).

## Disadvantages of trading companies

- Gift Aid arrangements can be damaging for trading ventures because it is difficult to assess the best level for the charitable donation and the business may end up without enough to re-invest surpluses for its long term security

- unlike shops selling donated goods, premises carrying out commercial trading to generate funds for a charity are not eligible for the automatic 80 per cent rate relief which charities are entitled to (so any concessions are at the discretion of the local authority)
- the consent of HMRC may be required to prevent the charity from losing some of its tax exemptions
- there are extra complications for accounting practices for wholly owned subsidiaries, though not for 'parallel' and independent trading companies (see SORP implications above).

## Official warnings

**The need for advice** The Charity Commission points out that considerable sums have been lost by charities in making unwise investments in subsidiary trading companies. There are many complex legal, investment and taxation issues to consider which are beyond the scope of this guide, so further guidance by specialists is essential. Make sure these are people who can offer a broad experience and knowledge of trading and charities in a range of circumstances and a range of different trading structures – don't automatically follow the lead of someone you know who has set up a trading structure in a particular way.



## Things to watch out for:

Trustees are expected to consider these points:

- The separate identities of the subsidiary trading company and the charity should be made clear to the public and not confused – e.g. use different names.
- The trading subsidiary cannot be used as a means of paying trustees by the back door.
- The charity should not feel any moral obligation to fund the trading company, and must not pay the debts of the trading company.
- You should plan for the trading company to be financially viable as soon as possible, normally within 5 years.
- Authority may be necessary to allow a charity to lease property to a subsidiary.
- Make sure that the charity's investment in the subsidiary really does qualify for the tax benefit you are hoping for – a mistake could be costly.
- If the trading company is involved in selling through the internet (an increasingly popular opportunity for voluntary organisations) it will be subject to Consumer Protection (Distance Selling) Regulations 2000 (see information from Businesslink, [www.businesslink.gov.uk](http://www.businesslink.gov.uk)).

## Checklist

- Does your board need to review the trading activity of your charity to be satisfied that it complies with charity law?
- Do you need to review the accounting treatment of your charity's trading activity?
- Are your non-charitable trading subsidiaries or associates adequately capitalised without putting the funds of your charity at risk?
- Are they sufficiently separate from the management of the charity?
- Would you be able to recover your entire investment if you now disposed of your trading company?

## Further information

- HM Revenue and Customs – look for the charities section on their website, [www.hmrc.gov.uk](http://www.hmrc.gov.uk)
- Charity Commission, *Trustees, trading and tax, CC35*
- Mel Witherden, *It's an idea but is it business? A guide to third sector trading*, WCVA



## 4.7 Taxation and rating

The one thing that can be said confidently about the tax liabilities of charitable and voluntary organisations is that they are not simple. So be very careful about taking advice from someone you met in the pub (or in the bar at a conference). If in doubt, get professional help.

### Trustees' responsibility and liability

#### Responsibilities

- Trustees need to understand how taxation may affect their organisation because:
  - an unexpected tax bill or unclaimed tax relief could have an adverse effect on the organisation's financial position
  - failure to manage the organisation's tax affairs properly may expose trustees to the risk of personal financial liability for its tax bills

- trustees are responsible for ensuring that the tax affairs of the organisation are properly handled, including:
  - the payment of PAYE, VAT, corporation tax and capital gains tax
  - taking action to minimise tax liabilities
  - claiming tax relief promptly
  - reclaiming income tax which has been paid by donors on donations under Gift Aid, give-as-you-earn and payroll schemes and covenants
  - claiming 80 per cent mandatory rate relief from local authorities on premises occupied by a charity
  - checking whether local authorities are offering discretionary 100 per cent rate relief for charities.

#### Liability

- Trustees of all types of voluntary organisation can be held personally liable if they are responsible for poor administration of their organisation's tax affairs
- trustees of unincorporated voluntary organisations can also be held personally liable if their organisation becomes insolvent and cannot pay its tax bills
- trustees can be protected from personal liability if they have sought proper advice.

**Advice** Issues such as VAT and corporation tax can be extremely complex for charities and voluntary organisations, and are beyond the scope of this guide. You should:

- seek advice from HMRC
- speak to a professional advisor – a quick conversation with a VAT specialist for instance is not expensive and could save you a fortune
- keep notes of any advice offered.

## Further information

- HM Revenue and Customs – look for the charities section on their website, [www.hmrc.gov.uk](http://www.hmrc.gov.uk)
- WCVA free download, [8.7 VAT](#)
- WCVA free download, [8.8 Payroll](#)
- Kate Sayer and Alastair Hardman, *A Practical Guide to VAT: For Charities and Voluntary Organisations*, Third Edition, 2008, Directory for Social Change

## 4.8 Fundraising responsibilities

Fundraising is central to the success of most voluntary organisations. But it is often done badly – either over-enthusiastically (leaving prospective funders frustrated, the public exhausted or disillusioned and the law at best downtrodden) or not at all (with opportunities untapped, and organisations little better off than when they started). Or it can just be a job for the CEO, done at high speed ten minutes before the application deadline (assuming the officer was aware of the opportunity in the first place) or sent out at random to anyone who might part with a few quid. All the trustees want to know about it is that the cheque is on its way.

It is clearly in the interest of all voluntary organisations to plan their fundraising and carry out research into the opportunities available to them. But this is a huge subject. Some of the guidance listed under 'further information' suggests where you might start looking. However, this section concentrates on the legal responsibilities of charity trustees – including new regulation introduced by the Charities Act 2006 - and the help available from the state to help maximise the benefits of their efforts.

### Trustees' responsibilities

Trustees must make sure that their organisation has sufficient resources to pursue its aims and objectives. This will certainly involve fundraising activities unless your group is exceptionally well endowed as a result of donations.

**Basic obligations** Trustees' responsibilities include:

- ensuring that the fundraising activity of their organisation is properly controlled by:
  - proper budgeting
  - control of professional fundraisers
  - acting within the law
  - proper agreements with commercial companies

- ensuring that accounts of fundraising activities are kept
- supervising a fundraising subcommittee (if your governing document gives you power to have one) by:
  - providing its terms of reference
  - securing reports of its activities
  - monitoring money spent on fundraising
- ensuring that fundraising activity is in accordance with the aims and objectives of the organisation
- ensuring that fundraising activities do not offend members of the public
- ensuring that it does not exploit people who are beneficiaries of the organisation
- protecting the integrity of the organisation when entering into joint promotions with commercial companies (e.g. teaming up with tobacco companies for health campaigns, or supporting alcoholics with the help of breweries)
- carrying out fundraising in an efficient and effective manner (e.g. not spending a disproportionate amount on salaries for fundraisers)

**‘Self regulation’** The Charity Commission has in the past encouraged charities to take seriously the idea of self regulation to maintain high standards of fundraising. This involved adopting the standards recommended by the Institute of Fundraising and following their guidance on issues such as

- clarifying objectives
- developing a fundraising plan
- assessing the risks for the charity, financial and otherwise
- selecting an appropriate fundraising method
- using fundraisers if necessary in an appropriate way.

The obligations on trustees justify this approach for larger organisations, though it is probably more than many very small charities would expect to do.

The principle of self regulation has been qualified to some extent by the increased regulation introduced by the Charities Act 2006.

## Regulation and control

**An overview of the pitfalls** Fundraising is an area where charities can easily get into trouble, sometimes seriously. The following list is intended to give a flavour of the things trustees should be looking out for. Whatever type of fundraising you are planning, you should be prepared to do some homework first to make sure you will avoid the traps. The dangers include:

- contravening regulations on employing charity fundraisers
- tricky legal requirements on running lotteries, charity appeals, street and house-to-house collections, and activities involving alcohol
- keeping adequate Gift Aid records
- managing trading activities within charity and tax law (see Section 4.6)
- complex regulations on VAT and public events
- breach standards laid down by bodies such as the Advertising Standards Authority
- the security of money collected by staff and volunteers
- drawbacks involving children in fundraising.

## Efficient, legal fundraising

- Professional charity fundraisers and commercial participators  
Anyone other than a volunteer, member of staff or trustee who is fundraising for your organisation is regulated under the Charities Act 1992. They are defined either as a 'professional fundraiser' or a 'commercial participator' (a company or business that may be supporting your organisation through sponsorship) Charities should study their responsibilities before engaging the services of a professional fundraiser or entering into an agreement with a company. Here are some of the things you will need:
  - a written agreement in a prescribed form between the charity and the professional fundraiser
  - adequate provision for the transfer of the funds raised by such a fundraiser to the charity (the fundraiser cannot retain any money but must invoice the charity for any agreed fees or costs incurred)
  - to make sure the fundraiser makes a clear statement to any donor that they are paid by your organisation to fundraise and states the proportion of the donation that will go to the charity
  - a written agreement in a prescribed form between the charity and a commercial participator (e.g. where the charity receives a donation every time a particular product is sold or service is taken up by a company)

- proper accounting arrangements for dealing with the proceeds of fundraising (eg all money raised by public appeal must be held in a separate bank account).
- fundraising budgets – Voluntary organisations engaged in substantial fundraising activities should consider establishing a separate fundraising budget to clearly identify fundraising costs. This will help the organisation to decide if particular types of fundraising activities are cost-effective as there will be a clear ratio of costs incurred to monies raised. Any budget should include targets for income and expenditure, and regular reports comparing actual figures with budget figures should be prepared for trustees to examine performance and progress.

## New regulations – the Charities Act

**Overview** 2006 The Charities Act makes some important changes to the regulation of fundraising, including:

- tightening the obligations of professional fundraisers
- new duties for trustees, staff and volunteers when making charity appeals
- a new licensing scheme for street and door-to-door collections.

## New licensing for Street collections

- Types of collection to be covered by the new licensing:
  - all collections for charitable, philanthropic or benevolent purposes that are conducted either door-to-door or in a public place, including collections of cash, direct debits or standing orders, and goods
  - premises covered include private premises such as shopping malls and railway stations
- **Types of collection not covered:**
  - collections that take place inside shops or other business premises, churches, village halls, people's homes, etc
  - tins, and collections for non-charitable purposes.
- **Licenses** A license for door-to-door collections will cover the whole of England and Wales. Organisers of collections in public places have to apply first for a general public collections certificate and subsequently a license to collect at certain times in certain places in the local authority area.
- **Exempted from the licensing scheme** are 'local, short-term charitable collections': e.g. collections involving volunteers, such as carol singing, or a collection for a school jumble sale these. A license for exempted collections will not be necessary but collectors have to inform the local authority beforehand.

## New rules for charity appeals and collections:

When fundraising in a public or door-to-door, charity workers (other than professional fundraisers) will have to state

- who they are fundraising for
- the proportion of collections which will go to different beneficiaries if there is more than one
- the fact that they are an officer, employee or trustee of the charity
- that they are paid for fundraising.

**Professional fundraisers and commercial participators** have to make much clearer statements about their fundraising role and purpose than previously.

## Charities and tax-effective giving

The government has a number of schemes which allow charities and sports clubs to reclaim the tax already paid on money donated, or to claim the donation before tax is paid.

Opportunities include:

- Payroll Giving – at-source donations by employees, which are deducted tax free from their pay

- Gift Aid – donations by individuals on which the charity can reclaim basic-rate income tax paid by the donor
- gifts of certain shares and securities – check with HMRC on which will qualify
- bequests completely free of inheritance tax
- gifts of assets, such as land, free of capital gains tax
- gifts of assets such as buildings free of income or corporation tax
- charitable covenants.

**Payroll Giving** Charities can make arrangements with companies to encourage their employees to make donations from their pay at source – after National Insurance but before PAYE has been deducted. Employers need to register with a Payroll Giving agency which manages the distribution of funds to all the charities nominated by the employees. The agency normally takes a small sum from each donation for administration. WCVA operates a payroll giving scheme in conjunction with the payroll giving agency, Charitable Giving, where WCVA pays the administration charge, meaning an employee's entire donation goes directly to their chosen charity.

Payroll Giving is useful for charities which already have good relationships with business organisations. But it has not taken off significantly to date.

[Foreword](#)[1: Strategies,  
planning and  
monitoring](#)[2: Managing  
the work of the  
organisation](#)[3: Better ways  
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what the law  
expects](#)[Index](#)

**Gift Aid for individuals** Gift Aid is a flexible way to attract donations. It appeals to donors who can see the value of their gift increased when the government passes on to the charity the income tax they have previously deducted. If the prevailing rate of tax is 20 per cent a £10 donation grows to £12.00.

It is a major improvement in ease, speed and accessibility over earlier covenanting arrangements. Gift Aid applies to even the smallest gifts and can be operated by very small charities, provided they are prepared to manage the inevitable bureaucracy for recording donations and reclaiming tax. They need to get donors to complete a simple form which includes their name, address and signed approval for tax to be reclaimed. Claim forms are provided by HMRC.

**Gift Aid for companies** Companies do not need to deduct any tax before making a donation to charity. Payments by subsidiary trading companies can be made up to nine months after the end of the trading period when the profits were earned.

**Bequests** Any charity with a good reputation with the public can potentially benefit from bequests in the wills of supporters when they die. Income is likely to be unpredictable and uneven, and it may take promotions over a long period to start to generate donations. But one windfall bequest can make a real difference.

**Gifts of 'real property'** Gifts of land and buildings can be free of income tax or corporation tax and gifts of buildings are exempt from capital gains tax.

**Deeds of covenant** have mostly been superseded. But they are relatively easy to set up and may still be useful for a charity which wants to legally bind an individual or a company, which is not a subsidiary, to make regular tax-free donations for a period of at least four years. Gift Aid is again the mechanism for retaining the tax which would otherwise be deducted before the donation is made.

**Sports Clubs** Sports clubs are not automatically able to register as charities. But there are special tax concessions for clubs if they are open to the whole community. Check with HMRC or the Giving Wales Officer at WCVA for details.

## Better fund raising

**A fundraising strategy** Voluntary organisations are very strongly advised to treat fundraising as an integral but distinct part of their planning activities and to devote time to developing a co-ordinated fundraising strategy which can make efforts less haphazard, better organised, more skilled and more focused.



The strategy should include:

- the names of the those who will implement it
- a recognition of skill needs and the means to deal with them
- project ideas
- resources set aside for the job
- target organisations and activities
- timetables of funding deadlines
- monetary targets to aim for and to match against achievements.

**The Fundraising Standards Board** The FRSB aims to increase public confidence in charitable giving. It is supported by the governments of Wales, Scotland and England and runs the only independent self-regulatory scheme for fundraising in the UK. Its roles include:

- working with the charity sector to provide updates and support in order to increase commitment to best practice in fundraising
- monitoring and helping resolve public complaints about fundraising
- requiring members to use the 'give with confidence' tick logo on fundraising materials to give reassurance of their commitment to best practice.

## Outside help

- WCVA provides a detailed fundraising pack, and has responsibility for the Sustainable Funding Cymru project which offers practical information for those working towards long-term financial sustainability. It also offers advice and guidance on sources of funding, how to diversify your funding mix, and where to go for help.
- For further information on any aspect of tax-effective giving contact the Giving Wales Officer at WCVA, [givingwales@wcva.org.uk](mailto:givingwales@wcva.org.uk).
- The Institute of Fundraising has a range of leaflets on fundraising standards.
- The Directory of Social Change publishes books on many fundraising topics, and operates online fundraising directors which larger organisations may think are worth investing in.
- Smaller charities may benefit from training and support from advisors and successful fundraisers in other charities, and can use the funding search facilities available through the local county voluntary councils.

## Checklist

- Does your board need to review the fundraising activity of your organisation to make sure that it complies with legal requirements?
- Does your organisation have a budget for fundraising?
- Does your board receive regular monitoring reports on its fundraising activities?
- If your organisation has a fundraising subcommittee, does it have clear terms of reference for its activities?
- Has your board considered whether trustees require training in the role and techniques of fundraising?
- Is there more your charity could do to promote tax-effective giving?

## Further information

### Contacts:

- HM Revenue and Customs – go to charities section on the website, [www.hmrc.gov.uk](http://www.hmrc.gov.uk)
- Institute of Fundraising, [www.institute-of-fundraising.org.uk](http://www.institute-of-fundraising.org.uk)
- Sustainable Funding Cymru, [www.sustainablefundingcymru.org.uk](http://www.sustainablefundingcymru.org.uk)
- the Charitable Giving scheme see [www.charitablegiving.co.uk](http://www.charitablegiving.co.uk)
- Directory for Social Change, [www.dsc.org.uk](http://www.dsc.org.uk)

Charity Commission, *Charities and Fundraising, CC20*

Charity Commission, *Reporting Serious Incidents – guidance for trustees*

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## WCVA free downloads:

- [7.1 Developing a fundraising strategy](#)
- [7.2 Grants – fit for funding](#)
- [7.3 Applying to funders](#)
- [7.3.1 Accounting for volunteers time in funding applications](#)
- [7.4 Sources of funding](#)
- [7.4.1 Small grants](#)
- [7.4.2 Lottery funding](#)
- [7.4.3 Trusts and foundations](#)
- [7.4.4 Welsh Assembly Government grant funding](#)
- [7.4.5 Non-devolved UK Government grant funding](#)
- [7.4.6 Europe](#)
- [7.4.7 Funding sources for health and social care projects](#)
- [7.4.8 Funding sources for sports projects](#)
- [7.4.9 Funding sources for arts projects](#)
- [7.4.10 Funding sources for environmental projects](#)
- [7.4.11 Funding for community buildings](#)
- [7.4.12 Funding for youth oriented projects](#)
- [7.4.14 Funding for places of worship](#)
- [7.4.16 Funding sources for climate change projects](#)
- [7.5 Loans](#)
- [7.6.1 Fundraising events](#)
- [7.6.2 Fundraising legacies](#)
- [7.6.3 Fundraising donations](#)
- [7.7 Introduction to procurement](#)
- [7.7.1 Introduction to tendering](#)
- [7.7.2 Developing a successful tender](#)
- [7.7.3 Costing your tender](#)
- [7.8 Trading](#)
- [7.8.1 Charity shops](#)
- [7.9 Giving \(sources of funds\)](#)
- [7.7.x10 Tax effective giving](#)
- [7.x10.1 Introduction to payroll giving](#)
- [7.x10.2 Payroll fundraising](#)
- [7.x10.3 Payroll giving consortia](#)
- [7.x10.4 Introduction to Gift Aid](#)
- [7.x10.5 Gift Aid Promotion](#)
- [7.x10.6 Gift Aid Record Keeping](#)
- [7.x10.7 Gift Aid FAQ](#)
- [7.x11 Corporate funding](#)
- [7.x12 Specialist European Teams](#)
- [7.x13 Working together to raise income](#)
- [7.x14 Community Investment](#)

## 4.9 Understanding the balance sheets

There is a huge gulf between what the trustees of smaller charities are expected to know and the financial information they can actually understand. This is not because they are dull, but partly because of the private technical language of financial accounting which can be such a turn off for people who dislike jargon.

This section provides a basic glossary of terms to guide trustees through reading the balance sheet in their annual accounts – which they do need to be able to do. For a more down-to-earth approach still, see section 4.10 on practical financial monitoring and 4.11 on financial reports.

**The balance sheet** is a snapshot of assets (what the organisation owns), creditors (what the organisation owes) and funds (the resources the organisation has available) at a particular date. The terms used are explained below. They refer to the headings on the Example Balance Sheet at the end of this section, and the Example Simplified Balance Sheet for monthly financial reports at the end of Section 4.9.

### Assets

**'Assets'** These are items owned by an organisation which have a monetary value. They can be the result of purchases or donations:

- they are either 'fixed assets' which can be expected to be held by the organisation for more than a year, or
- 'current assets' (such as bank balances) which change constantly.

Assets are held for the organisation's own use or for investment purposes.

**‘Fixed assets’** There are two types of fixed assets:

- ‘tangible’ assets – these are land, freehold property, motor vehicles, furniture and equipment, which are shown on the balance sheets at their value when they were acquired, less the value they have since lost or ‘depreciation’ (buildings in contrast may well increase in value)
- ‘intangible’ assets – these include long term investments.

‘Depreciation’ simply means writing off the value of an item during its useful life – for example, computer equipment costing £900 might be assumed to have little or no value after three years, so it would be entered in the accounts as worth £600 at the end of the first year and £300 at the end of the second year.

**‘Investments’** Investments are assets held for the income which they produce. Some investments are held for the long term and are included under fixed assets; others are held for the short term and are included under current assets. Examples of investments include stocks and shares, and property which creates income for the organisation.

**‘Current assets’** Examples of current assets are:

- cash you are holding on your premises;
- bank balances – your current and deposit accounts
- investments of a short-term nature (e.g. loans to trading subsidiaries)
- ‘debtors’ – sums of money which are owed to the organisation, for instance unpaid invoices
- other amounts owed to the organisation, such as grant instalments which are due but have not yet been paid.

## Creditors

**‘Current creditors’** Current creditors are what the voluntary organisation is liable to pay others (the direct opposite of debtors). They are amounts which will actually be paid to the ‘creditor’ (i.e. the person or company the debt is owed to). Current creditors may include:

- bank overdrafts or loans
- amounts owed to suppliers – ‘trade creditors’
- accruals
- deferred income.

**'Accruals'** are expenses incurred during the period covered by the accounts which remain unpaid at the end of the period (e.g. a stationery order which arrived with an invoice on 31st March, and which you will pay in the next financial year or the electricity bill covering the last quarter.)

**'Deferred income'** is income which has been received before the balance sheet date but relates to the following period and is carried forward. An example would be a grant received shortly before the balance sheet date, but intended to fund the organisation's activities during its next financial year.

**'Provisions'** Also sometimes included in this group is an item called 'provisions'. This represents a sum identified for costs or expenditure that cannot at present be precisely calculated.

**'Net current assets'** are the current assets minus the current creditors. In crude terms, this is the sum of money your organisation would be left with if it immediately paid all its bills and insisted that its debtors also paid everything they owed.

**'Long-term creditors' or 'creditors falling due after one year'** are long term liabilities which the organisation is not due to pay during the next year, e.g. the balance on a long-term loan or mortgage.

**'Net assets'** This figure is the balance remaining after deducting all the liabilities (current creditors and long-term creditors) from the all fixed and current assets.

## Funds

**'Funds'** This section of the balance sheet indicates where the net assets have come from. They are split between:

- 'general funds' or 'unrestricted funds', including 'designated funds', and
- 'restricted funds' including:
  - 'permanent endowment funds'
  - money given for special appeals.

**'Unrestricted funds' or 'general funds'** are funds which the organisation can use for its general day-to-day purposes, since they are not subject to special restrictions. Provided they are used for the organisation's objectives (and for charities this must be consistent with the organisation's charitable status) their use is at the complete discretion of the trustees.

**'Designated funds'** are part of the organisation's unrestricted funds which have been set aside by the voluntary organisation itself (as opposed to an outside donor) to be used for a particular purpose.

Examples include:

- funds allocated for a new building
- a staff redundancy contingency fund
- money allocated by a grant-making charity to cover grants it is committed to in future years.

The use of designated funds is at the discretion of the trustees, so they are shown separately from 'restricted funds'.

**'Restricted funds'** are subject to specific conditions imposed by the donor and binding on a charity's trustees. The conditions may be stated expressly by the donor or may be implied, as in the case of money sent in response to a special appeal. These funds represent unspent income or assets, which cannot be used for any other purpose.

A **'permanent endowment'** is a particular form of restricted fund which must be held permanently by a charity – for instance, a community building which is protected from being disposed of for other purposes, or a large capital sum which must be retained to generate interest for the charity's use. Only the income earned on the capital may be spent.

**Total funds** The total of all the different types of funds must be equal to (i.e. be in balance with, and hence the name 'balance sheet') the 'net assets' figure.

## Statements of assets and liabilities

A **statement of assets and liabilities** is a simpler statement than a balance sheet used under the SORP on Accounting in Charities by smaller unincorporated charities which prepare their accounts on the 'receipts and payments' basis. See Section 4.2.

### Checklist

- Do any members of your board need support in understanding the organisation's accounts?
- Does your organisation give all trustees a guide to its accounts, covering such items as any designated or restricted funds, and giving any necessary explanations, for example clarifying if amounts raised at fundraising events are shown at gross or net value, or if a monetary value has been included to allow for goods which have been donated?
- Does your organisation give all trustees a list of any significant assets, and any obligations attached to them?

## An Example Balance Sheet of a small charitable company – Aberanywhere Community Project Limited

### Balance Sheet as at 31 March 2010

|                                                | Notes | 2010<br>£     | £                    | 2009<br>£     |
|------------------------------------------------|-------|---------------|----------------------|---------------|
| <b>Fixed assets</b>                            |       |               |                      |               |
| Tangible assets                                | 8     |               | 11,250               | 10,000        |
| Investments                                    | 9     |               | 11,654               | 10,892        |
|                                                |       |               | <u>22,904</u>        | <u>20,892</u> |
| <b>Current assets</b>                          |       |               |                      |               |
| Debtors                                        | 10    | 7,835         |                      | 5,628         |
| Cash at bank and in hand                       |       | 26,473        |                      | 3,797         |
|                                                |       | <u>34,308</u> |                      | <u>9,425</u>  |
| Creditors: amounts falling due within one year | 11    | 8,384         |                      | 8,752         |
| <b>Net current assets</b>                      |       |               | <u>25,924</u>        | <u>673</u>    |
| <b>Net assets</b>                              | 12    |               | <u>48,828</u>        | <u>21,565</u> |
| <b>Unrestricted funds</b>                      |       |               |                      |               |
| Designated funds                               |       | 10,000        |                      |               |
| General funds                                  |       | 18,396        |                      | 20,249        |
|                                                |       |               | <u>28,396</u>        | <u>20,249</u> |
| <b>Restricted funds</b>                        |       |               | <u>20,432</u>        | <u>1,316</u>  |
| <b>Total funds</b>                             | 13    |               | <u><b>48,828</b></u> | <u>21,565</u> |

These accounts are prepared in accordance with the special provisions of Part VII of the Companies Act 1985 relating to small entities.  
Approved by the management committee on 13 September 2010 and signed on its behalf by:

J. Smith, Treasurer



## 4.10 Practical financial monitoring

It is one thing for guidebooks to advise trustees to make sure they understand the balance sheet prepared by an accountant for the annual accounts and quite another to ensure that the board has the capacity to safeguard the voluntary organisation's finances for the 12 months between the annual independent financial examinations or audits. One might even argue in some cases that their least worry is the annual accounts, because that is the one time of the year when their finances are likely to be looked at by someone who really understands accounting.

The main challenge is to establish a simple workable monitoring system which the majority of trustees can readily understand, which is relatively easy to operate, but which provides an accurate picture of the organisation's position. You will not find this in conventional guidance on the legal responsibilities of trustees.

This section describes the need for and the challenges of financial monitoring. Section 4.11 recommends a reporting system and suggests how they can be used together.

### Monitoring for control and understanding

**Trustees' responsibilities** Financial management is the responsibility of the board of trustees. The responsibility for appointing people to manage your money (the treasurer, the bookkeeper, the finance manager, your accountant) also rests with the board. The trustees are responsible for the information and the instructions these people are given to carry out their work. If things go wrong, the committee will have to carry the can. Most trustees know this, but it can be extraordinarily difficult to translate concern into suitably responsible practice.

## Financial monitoring

Above all, the trustees are responsible for ensuring that:

- the organisation's money is secure
- all movements of money are properly recorded
- the organisation has and will continue to have the resources it needs to do its job.

Monitoring is a systematic means of achieving this. It is not a dead-end bureaucratic process, because the reports which are used by the trustees to monitor the effectiveness of your financial systems and controls are also essential for making informed financial decisions at both a policy and an operational level. You cannot control your organisation if you do not understand how it is working.

## Where monitoring fits in

A number of people have important roles in different parts of your arrangements for managing your money:

- Day-to-day records will be kept by at least one employee or volunteer, the administrator or bookkeeper, who:
  - keeps the basic financial records of money received, money spent, bills received
- looks after the banking of money and withdrawals from the bank
- administers the petty cash system, if you have one
- pays the staff's salaries and wages and keeps payroll records;
- financial reports and plans may be prepared by the CEO or administrator, who will put the raw financial information into a meaningful and understandable format – i.e. into balance sheets, income and expenditure accounts, budgets and budget reports
- monitoring – the trustees and the CEO will use these reports to understand the organisation better, i.e. to
  - assess the financial position of the organisation
  - guide them when making policy and spending decisions
  - help them look for any danger signs
  - pinpoint any defects in the way the records are kept and money is looked after
  - ensure computer records are protected from losses due to viruses or technical problems.

The same people who monitor the financial reports will also be responsible for physical monitoring checks, i.e. ensuring that:

- the record books system or computer programme is being used correctly
- security arrangements to protect cash, cheques, purchasing arrangements etc are running correctly.

**Alternatives to accountant-ese** A key part of understanding your organisation is the accounting language which you use. This will vary greatly according to the experience and interests of the trustees. But there can be little doubt that very many boards of trustees cannot, and have no serious wish to, speak accountant-ese. It sounds foreign to them, like someone else's jargon – and people may resist it for this reason alone.

So boards of trustees need a version of accounting language which they feel comfortable with and which does not turn half of them off when they pick up the monthly financial report. This requires support and training for trustees. But it also means that you should encourage your financial advisors to speak to you if necessary in jargonless language that you can all easily understand. If accountant-ese is a problem you should work on it.

## How to get it wrong

Financial monitoring can produce a variety of negative attitudes among trustees and staff alike. It is as well to be aware of these before you start because lack of co-operation or understanding can wreck even the best system.

**“Why bother with financial monitoring?”** Some trustees see financial monitoring as a necessary chore, rather than a real job with a point. For the cynical, here are a few practical reasons for being serious about monitoring:

- If your organisation fails because the trustees did not keep proper control of its financial affairs you can be held personally liable for the losses. If you don't monitor regularly you cannot possibly be keeping proper control.
- A busy but poorly monitored organisation can slump from apparent viability to insolvency in just a few months; this means that you can kill off your organisation with perhaps just a couple of board meetings where the CEO or the treasurer present excuses rather than financial reports.
- Most CEOs and treasurers are scrupulously honest and competent enough at financial management for their voluntary organisations to be 100 per cent safe in their hands without the board of trustees ever coming near them. But how do you know that this is the case in your organisation without monitoring?

- Why would you all work so hard to set up and run your organisation, only to turn your back on it when it might need you most?

**“If we don't have it, we can raise it”** It is not uncommon for people who have come into voluntary activities from an interest in ‘doing something for the community’ to believe that the only financial matters which need to concern you are those connected with being successful fund raisers.

Basically they do not have a concept of financial management. They are easy to recognise because, when you are considering redundancies caused by a grant cut, they are proposing to run a jumble sale. When you are evaluating the pros and cons of a big contract opportunity they suggest your problems will be solved by the National Lottery (getting a grant from it, or gambling on it perhaps).

Such people are usually well-meaning and may be immeasurably valuable to the organisation in other capacities. But this is their real danger, because it seems unkind to shut them up. You need to organise a training session without delay.

**“Don't bother us”** There are many understandable reasons why individual trustees, or the board as a whole, may fail to monitor a project's finances properly. It helps to recognise them:

- “no one showed us how” – which is a training issue
- “we are too busy with other things” – a priorities issue
- “we don't want to”, i.e. we are prepared to work hard as a volunteer on almost anything, as long as it is interesting (and finances are not interesting to us) – an issue of recruiting additional trustees perhaps
- “we can't” – it is realistic to work on the assumption that perhaps as many as half the members of any group can never be trained, cajoled or bullied into taking a serious and active role in monitoring the monthly financial reports.

## **“I have my reasons”**

- **Hiding a lack of skills:** Volunteers and paid staff are sometimes unwilling to admit they do not have the necessary skills, and they cover up by making excuses: the regular appraisals of paid staff should be geared to detect whether this is a problem
- **Hiding the truth:** Another much less common reason for producing inadequate financial reports is dishonesty; the merest suspicion of dishonesty can be so severely damaging to an organisation, whether or not it is justified, that the board of trustees must remove any grounds for suspicion by insisting that full and open reports are presented to them every month.

**“We’re committed to monitoring, but we’re not very good at it”** Here are some of the more common mistakes made by groups who know they should monitor, but still can’t get it right:

- No financial report is produced this month because:
  - you cannot find a reliable treasurer (you have not given the issue the right priority)
  - your manager or treasurer were too busy (they probably got their priorities wrong)
  - you are all too polite to ask
- the wrong information – small voluntary groups often have a fixation with monthly income and expenditure accounts, with the result that they never look at a balance sheet to check the health of their organisation;
- irrelevant information – if you tell the committee the cost of the office toilet rolls rather than the costs of providing your services then that’s exactly what they will discuss;
- too much information – it is extremely common for an eager CEO to provide so much information that the trustees cannot sift out what is relevant and important, so you need to decide clearly what you need to know.

## Financial monitoring: the basics

### The very basics

The following items aren’t optional:

- a bank account
- accounts books or a computer programme for recording all financial transactions, income and expenditure and monthly totals
- someone to keep the cash book up to date and to prepare financial reports
- a realistic budget which shows you have sufficient income to cover expected spending
- a monthly meeting (the full board of trustees or a finance subcommittee or both)
- the ‘Financial Report’ as an obligatory agenda item at that meeting
- a written financial report available to all members present in advance.

## What are you looking for?

Information is no use if you don't know what you want to use it for. Here are the main issues you should be looking at when you discuss the financial report:

- What is your organisation's current position:
  - how much money have you got which is immediately available for you to use?
  - how solvent are you? ie if you stopped operating today would the organisation be able to pay all its debts
  - is your organisation getting richer or poorer?
  - what do you owe that you must pay soon (eg PAYE, National Insurance, VAT, your staff salaries and your suppliers)?
  - do you need to reserve any of the money you have for any special purposes?
- are you in control:
  - what money is owed to you, who owes it?
  - are you expecting grant payments?
  - how are you going to ensure you receive what you are owed?
  - will you be able to continue operating in the coming weeks and months?
  - what efforts are you making to attract or sustain new and existing sources of income?
- how well are you managing your finances:
  - are you viable? ie are you paying out more or less than you are receiving each month?
  - are you keeping within your agreed budget?
  - are you spending money wisely?

## General guidance for monitoring by trustees

**Understand what you are doing and why** You may want to refer here to Section 4.11, which recommends a system for making financial reports and includes the table 'Making use of financial reports' showing why you should be monitoring as well as what.

**Don't mention the toilet rolls** Anyone who is panicked by financial reports should panic openly.

The awe created by columns of figures is widespread and indiscriminate with its victims. Many people who are in other respects coherent, intelligent and responsible human beings suddenly cannot cope. One way people disguise this inadequacy is to deflect the conversation on to something more tangible, such as the cost of toilet rolls. If you fail to bring this into the open, their silence or obstruction might prevent the remainder of the trustees who can cope with figures from discussing the finances at all.

### Minimising the terror

Make life easy for yourself and your colleagues:

- ensure that the reports which are circulated have the most important details highlighted
- attach simple, brief explanatory notes which interpret the figures

- include the occasional graph to make the information more accessible (e.g. a line or bar graph of the 'net current asset' figures each month for the past year)
- provide brief clear written reports to accompany the figures.

### Don't be afraid to ask questions

Trustees have a right to ask questions about the accounts.

- **Don't be afraid to ask obvious questions** There's no shame in wanting to understand things better. Anyway, obvious questions don't always produce obvious answers, and the replies you get may be enlightening for everyone.
- **Ask difficult questions** This is monitoring after all, so any question which might help you and your colleagues to get closer to the real performance of the organisation is usually legitimate. If the information is not readily available or you are not satisfied with the answer you get, there are plenty of ways forward – a private discussion later with the CEO or treasurer, a report to the next meeting, or a look at the financial records yourself. It's your right as a trustee.
- **But not nasty questions** There is another type of difficult question which may be designed to provoke and undermine rather than elucidate, e.g. "how much of this large total for staff travel expenses were claimed by the CEO", or "why weren't the trustees consulted about the bulk order for toilet rolls?" These should be discouraged.

**Be open-minded and supportive** This is your opportunity to support, not to trip up the CEO. Most managers welcome any serious interest in the accounts by the trustees because it means they can share their concerns and their successes. You certainly need to get suspicious if you discover there is a reluctance to divulge information. But even then you should be extremely careful about indicating any distrust, and most particularly about any challenge to the integrity of an employee or volunteer. The relationship will never recover.

**Do not act hastily** Large numbers of suggestions for improvements in the running of the organisation will stem from discussions of the financial reports. That is part of the value of the process. But you should be extremely careful about leaping, for instance, from discussing a problem highlighted by a balance sheet to instructing your CEO directly on how to run the operation. The manager is probably much more familiar with the financial situation than the trustees are, and radical new policies may be inappropriate. If major changes seem to be needed you should make sure they are properly investigated and evaluated by the staff, or at another meeting, before you take irreversible action.

**Set up a finance committee** The disadvantage of handing over monitoring to a finance subcommittee is that other members of the main board of trustees or board may never get a chance to contribute. It is also quite possible to end up with futile duplicate discussions in the two groups if the meetings are poorly chaired.

But a small finance subcommittee with properly defined terms of reference can be useful for supporting the staff, carrying out checks in a non-threatening way, and coping with the otherwise distracting minor details. The board can then receive abbreviated reports and reserve their detailed involvement for issues such as setting the annual budget and policy discussions with large spending implications. Don't forget, though, that the board still has the job of checking that the finance committee is operating effectively.



## Internal financial regulations

**Standards for good financial practice** It is vital that the trustees set standards for good financial practice, and ensure that there are clear directions and procedures for dealing with financial affairs. These 'internal regulations' should be appropriate to the size of your organisation and should not be over bureaucratic. If you have appointed an independent examiner or auditor, they may be able to help you decide what measures are suitable for your organisation. In general, trustees should ensure that internal financial regulations include:

- details of who is responsible for each aspect of maintaining financial records and preparing reports
- the delegation of responsibilities for financial matters to paid staff, volunteers subcommittees and outsiders
- procedures for preparing and approving financial plans and budgets
- the banking arrangements
- the payment of staff
- policies and procedures for purchasing goods and services
- procedures for authorising expenditure on behalf of the organisation

- a detailed description of the duties and responsibilities of the treasurer
- procedures for controlling, opening, listing and distributing incoming post where money is received in this way
- procedures for authorising and controlling activities concerned with raising or generating funds by or on behalf of the organisation.

The board should review these regulations from time to time to ensure that they are in keeping with the changing needs of the organisation.

**Safeguards** It is also important to clarify procedures to ensure the security of your funds and to protect individuals who handle them:

- a minimum of two people should be present whenever money is handled (e.g. when emptying collection tins, counting takings after a jumble sale)
- all money received should be banked gross
- never make payments out of money received – this is a serious offence because it makes proper accounting for your income and expenditure impossible and could make discrepancies in your cash income untraceable
- keep a cash float for all small payments, replenishing this from the bank account not from cash receipts

- no one should have sole authority for both ordering goods and for authorising the purchase of those goods
- no-one should be able to authorise any payments to be made to themselves, e.g. wages and expenses claims – otherwise, if anything goes wrong, even as a result of an innocent mistake, it will be difficult for the individual to shake off suspicion.

## Checklist

- Do you receive monthly financial monitoring reports? If not, why not?
- Have you taken appropriate action to deal with any budget deficiencies?
- Does your board need to review the financial reports you receive to ensure that they provide sufficient details of the financial performance of individual activities undertaken by your organisation?
- Does your board need to check that your financial regulations and safeguards are comprehensive and relevant to the needs of the organisation?
- Do you ask your independent examiner or auditor to comment on the organisation's financial controls?

## Further information

Charity Commission, *Internal Financial Controls for Charities, CC8*

Morgan. Gareth G, *The Charity Treasurer's Handbook*, 3rd edition, Directory of Social Change, 2010.

### WCVA free downloads:

- [8.1 Setting up a financial system](#)
- [8.2 Setting a budget](#)
- [8.4 Monitoring expenditure and budget](#)
- [8.5 Financial controls](#)
- [8.x11 Avoiding fraud](#)

## 4.11 A format for financial reports

It's stunning how little you can learn about an organisation's financial health from the bog standard report of last month's income and expenditure which very many boards receive each month. Additional information to allow comparisons between these figures and the budget forecasts helps a little. But if you really want to find out how you stand, you must get a picture of how much your organisation is worth today – and how this compares with the situation in previous months. This section shows how inexperienced trustees can use a 'simplified balance sheet' to get to the information you really need.

## Elements of the monthly report

### The aim

Committees need financial information which:

- contains things they need to know
- they can read quickly
- they can learn to understand
- they can question.

**The approach** The following recommended model for a basic monthly financial report is designed to meet the needs of a wide range of small and medium-sized organisations. It does not pretend to follow formal accounting practices. Instead it is designed to meet the known practical needs of trustees for basic information which is easy to understand and which leaves out unnecessary and distracting detail. Accountancy jargon is kept to a minimum, and issues such as fixed assets and depreciation do not feature. This approach can be amended easily to include additional information needed by individual charities.

**The essential monthly financial report** The recommended financial report consists of three parts, each one occupying no more than one side of A4 paper:

- **a simplified 'balance sheet'** at the end of each month, showing the value of your financial resources (it is not a true accounting 'balance sheet', so the name might offend accountants); it is simple to put together, easy to understand, and it can tell you quickly whether you're getting richer or poorer)
- **a budget report** for the current month and the year to date, comparing your budget forecast with a summary of your actual income and expenditure
- **a written report** to interpret the simplified balance sheet and the budget report.

**The simplified 'balance sheet'** The balance sheet is extremely easy to prepare (if you keep good financial records) and highly informative. In its simplest form almost any trustee can quickly learn to understand it.

The balance sheet is a snapshot of:

- how much money you would have (your 'net current assets') on any particular day (usually the last day of the month)
- if people who owed you money paid up immediately, and

- if you then paid off all your debts to your suppliers, any outstanding VAT and Inland Revenue payments, and any bank loans.

The 'net current assets' is not a real amount of money, so don't get too excited by it. But it can be a valuable indicator of your financial state of health month to month. Also, it deliberately ignores things like the value of your equipment and buildings because their value is relatively static and the amount they are worth is largely irrelevant to how well you're managing your finances - because if you actually sold them to realise their value, you would probably no longer be able to provide your service.

If the figure is minus rather than plus there may be an innocent explanation. But it could signify major trouble.

**The monthly budget report** The budget report brings together information from two places in your accounts system – your annual budget and the monthly 'income and expenditure account' which summarises the organisations transactions each month. It tells you:

- what you originally expected to receive and to spend during the last month and during the financial year so far (summarised under standard headings)
- a summary of what you actually received
- a summary of what you actually spent.

## Information you can do without:

- Cash book records – in small voluntary organisations with small numbers of transactions each month, all the trustees frequently want to look at are the cash book records of every payment in and out during the month; this practice is not wise where there are larger numbers of transactions
- The full budget – it is very common for trustees to be given a full budget report each month showing forecasts for all 12 months of the year, with the result that some trustees do not know where to start looking. So only provide the full report if trustees ask for it and, if you do so, it is a good idea to mark the current month's figures with a highlighter pen or computer equivalent.
- In theory, some organisations could dispense with the budget and just study recent income and expenditure. But you would have to come up with a convincing justification.

## Making sense of the balance sheet

The following notes explain how the simplified balance sheet below works in practice. It could be useful to read it in conjunction with the example simplified balance sheet at the end of this section.

**Knowing you're in safe hands** The information on the balance sheet is in itself powerful evidence that your accounts are being well managed.

The fact that it has been prepared at all suggests that the person responsible for your accounts has:

- properly recorded all the month's financial transactions
- reconciled the bank statement
- balanced the petty cash records
- checked the invoices which you sent out but which have not yet been paid
- looked at what your suppliers are owed, and, quite possibly, brought HMRC payments up to date
- maintained an ongoing VAT record if it is required
- counted (and hopefully banked) all the cash
- scouted around to ensure there are no outstanding problems
- checked for errors in the accounts.

But do be a little cautious. It is not unknown for staff and volunteers under pressure, or just plain incompetent or dishonest, simply to invent information to cover up their failings. So other physical checks of your systems are also strongly advised, particularly when new people become involved in your systems.

You should read the following notes in conjunction with the example format for the Simplified Balance Sheet above.

**A balanced view of the bank balance** The amount of money in the bank is desperately misunderstood by some trustees. Don't automatically get excited by big bank balances or depressed by small ones.

A bank account boosted by a £20,000 grant cheque to cover wages for the next six months may not actually be enough to ensure your survival. On the other hand, sending out an invoice for a £20,000 contract which you completed last month could legitimately make you feel quite secure, even if there is relatively little in the bank.

**The 'bank balance'** figure should be a 'reconciled balance' at the date of the balance sheet (i.e. it should be based on the organisation's latest bank statement with adjustments for additional recent income and expenditure). Get advice if you need help on this.

**Cash in hand** 'Cash in hand' is money you are holding on your premises, usually cash you have received from users or customers which is waiting to be banked. You should take note if large sums are reported since it suggests a possible problem with your banking arrangements and a security risk.

**'Debtors' (money owed to the organisation)** You should issue an invoice promptly when anyone receives goods or services from you but does not pay at the time they receive them (these are called 'credit transactions'). Keep the debtors figure as low as possible. If it grows or won't decrease, this may mean that your arrangements for credit control are not good enough, e.g. that you are not being firm or diligent enough in chasing people who owe you money. If there are only a few, you could list everyone who owes you money on the balance sheet under 'debtors', so that you are reminded of who you need to keep an eye on or chase. Otherwise, just show a total.

**Taking stock** If you run a café or shop or carry on some other trading as part of your activities, the 'value of stock' figure can point you to many important issues:

- whether you are buying the right amount of raw materials
- whether you are losing goods and materials through damage or waste (particularly items such as food and drink which have a limited life)
- whether you are suffering from theft.

A monthly stock check to calculate the value of the unsold goods and materials can be highly informative, and is strongly recommended. In many community businesses it is imperative.

**VAT repayments** This only applies in the rare situation where you are registered for VAT and you are able to reclaim your VAT payments.

**Loans to other bodies** If you make loans to another body (e.g. to help fund a subsidiary trading company) it is important that you check that repayments are being made.

**'Creditors' (money you owe to suppliers etc)** Creditors are people and organisations you owe money to. Normally you will have received an invoice from them showing the amount. But it is sensible to include any other big bill you have incurred in your creditors total on the monthly balance sheet, even if you have not yet received an invoice. You should keep all invoices you receive together and transfer them to another file as soon as you pay them. This way you can keep track of creditors each month. A computer accounts system of course will do this automatically.

**Inland Revenue** Include all PAYE tax and National Insurance payments you owe on wages and salaries which have been paid or are due to be paid up to the date of the balance sheet. Monitor the figure closely. It is extremely important that you do not get behind with these payments.

**VAT** A manual record system should be set up in a way that lets you record the VAT you are charging as you go along, so that you can quickly extract the figure you owe to HMRC.

**'Restricted funds'** If you are holding money in your bank account which is earmarked by a funder to be spent on a specific project or purchase at some future date, you should show it here as a liability rather than an asset. This may sound odd at first. But the money is not technically freely yours to spend at present, so you cannot rightly regard it as an asset.



Unless you receive grant payments monthly, the amount of restricted funds you are holding will vary a lot month to month. So you need to regularly recalculate how much is left. When there are several grants to keep track of you need to keep records on a computer (and possibly operate a 'cost centre' system – which is beyond the scope of this guide, but is covered by WCVA's sister publication *It's an idea but is it business – a guide to third sector trading*).

**Advance payments** You may occasionally receive other payments in advance which are not strictly 'restricted funds' under charity law, e.g. for contract work which you have not completed. Advance payments should be treated on the balance sheet in the same way as restricted funds. (Again, it may not be immediately obvious why money you have already received should be treated as a liability rather than an asset. But if you haven't yet done the work to justify a payment, the financial picture will be distorted unless you treat it as if you haven't had it.)

**Liabilities you are liable to overlook** Make sure you understand everything which is covered by 'other liabilities'. Are there any special payments which you will have to make for staff wages, holidays, or redundancies?

**Understand your 'net current assets'** The crucial 'net current assets' figure is simply the total of your assets minus the total of your liabilities. Although meaningless on its own, the 'net current assets figure' is the ultimate indicator of whether your financial position is developing or declining over a period of time. Compare the 'net current assets figures' each month for the past year, and you will see the pattern. Variations over one or two months may be blips, but anything beyond that may be a trend. A simple graph can help to show up trends visually for those who do not enjoy figures. If the trend is consistently downward it is time to take remedial action.

## Monitoring the budget

*See also the example 'Monthly Budget Report' at the end of this section.*

**So you haven't got a budget** If you do not prepare a budget you may have much of a clue where you are going. You won't be able to take decisions safely about fresh items of expenditure, new projects, staff pay rises, etc. You might survive for years in this condition. But that will be no more impressive than drifting in the Pacific Ocean in a rowing boat and avoiding Australia – in fact you could be drowned in a storm at any moment.



You must delegate someone in your organisation to draw up a budget, and keep it up to date. The budget should:

- cover a full 12 month period, preferably the 12 months of your financial year
- keep the headings for income and expenditure categories as close as possible to those you have used in previous budgets, grant applications etc, so that you can make historical comparisons and easily transfer information from one place to another
- be based as far as possible on your previous accounts records, or the experience of organisations doing similar work and/or using similar premises
- include a provision for 'contingencies' – other unforeseen expenditure as a percentage (say three to five per cent) of the total – if this is likely to be relevant to your organisation
- show seasonal variations in items like gas and electricity charges as realistically as possible through the year (i.e., not the same average figure for every month or quarter)
- incorporate detailed notes on how you arrived at the figures it contains – otherwise they will not mean anything to other people in the organisation (e.g. the travel costs should relate

to a total mileage at the standard mileage rate; and income figures should relate to something real such as a total number of users paying an average amount per head); make sure that any supporting information which does not appear in your finished budget is retained for future reference – it's easy to forget how you arrived at your figures last year.

**What you really need is a cash flow forecast** A cash flow forecast is very little more work to produce than a simple budget, and it will be much more useful for monitoring. The main distinguishing features are:

- income is shown in the month when you expect to receive and bank the payment, not necessarily when you issued the invoice or carried out the work
- expenditure is shown in the month when you expect to make the payment, not necessarily when you made the purchase or incurred the debt
- a 'month-end balance' or 'balance carried forward' figure is shown for each month (this is the bank balance at the start of the month plus expected income minus expected expenditure, and is directly comparable with your actual bank balance, so you can easily monitor how accurate your forecasts are).

**The only budget you've got is the work of fiction in your Business Plan?** Then redo it fast so that it matches the real world. Update any budget that has become so out of date or remote from your actual experience that it is no longer useful. Perhaps you think it's cheating to rewrite your financial forecasts whenever they prove to be wrong? But budget projections are to give you guidance, not to provide a test of your fortune telling abilities. The budget provides a model beside which you can assess your current performance. The more versions you produce, the closer you will get to understanding the way your finances are working, and the more control you will have over them.

**Month by month monitoring** The budget report is designed so that you can easily compare your actual income and expenditure, heading by heading, against your original budget forecast. How you present and then use this information is up to the inventiveness and perception of your trustees and staff:

- You will start to see which aspects of your activity need better control or closer examination – this can be crucially important if you are working on contracts where you know that margins are tight.

- It can be useful to show major ongoing contracts and different types of sales income separately in your budget report.
- Larger organisations need a separate budget report for each substantial project which they operate so they can be monitored independently of one another. This involves operating a 'cost centre' system.

**Year-to-date comparisons** The comparison between the actual and the forecast finances for the past month is much less useful than the comparisons for the year to date (unless you only happen to be in the second month of the financial year, of course). Also, it can often be instructive to see what happened at the same time in previous years, particularly if your activities are seasonal (such as running holidays for disadvantaged groups, or outdoor play facilities). Then you can plan to take advantage of recurrent peaks and troughs in demand for your service.

## Example format for a 'Simplified balance sheet' for reporting a voluntary organisation's financial position.

Not all the headings will be relevant to you. But you can edit the sheet to meet your organisation's needs. And don't be afraid to change the wording, either, if you want to eliminate more of the jargon.

### Aberanywhere Community Project – Simplified Balance Sheet

Net current assets at ..... (end of month)

#### ASSETS

|                                             |   |           |
|---------------------------------------------|---|-----------|
| Bank balance                                | £ |           |
| Petty cash                                  | £ |           |
| Cash in hand                                | £ |           |
| Debtors (money owed to the organisation)    |   |           |
| Invoice No. 001                             | £ |           |
| Invoice No. 002                             | £ |           |
| Invoice No. 003                             | £ |           |
| Value of stock (trading organisations only) | £ |           |
| VAT repayment due                           | £ |           |
| Loans to other bodies                       | £ |           |
| Other assets                                | £ | _____     |
| <b>Total assets</b>                         |   | <b>£A</b> |

#### LIABILITIES

|                                     |                   |
|-------------------------------------|-------------------|
| Bank loan                           | £                 |
| Other loans                         | £                 |
| Creditors (money owed to suppliers) |                   |
| Supplier X                          | £                 |
| Supplier Y                          | £                 |
| Supplier Z                          | £                 |
| Inland Revenue due                  | £                 |
| VAT payment due                     | £                 |
| Restricted funds                    | £                 |
| Advance payments                    | £                 |
| Other liabilities                   | £                 |
| <b>Total liabilities</b>            | <b>£B</b> _____   |
| <b>Net Current Assets</b>           | <b>_____ £A-B</b> |

## An example format for a simple monthly Budget Report

(this can be an extract from a spreadsheet of the budget for the whole year, or the full spreadsheet with the four key columns highlighted.)

### Aberanywhere Community Project – Budget report for ..... (month and year)

|                           | Forecast for (month) | Actual for (month) | Forecast year to date | Actual year to date |
|---------------------------|----------------------|--------------------|-----------------------|---------------------|
| <b>INCOME</b>             |                      |                    |                       |                     |
| Contract 1                |                      |                    |                       |                     |
| Contract 2                |                      |                    |                       |                     |
| Grants/donations          |                      |                    |                       |                     |
| Sales income              |                      |                    |                       |                     |
| Membership fees           |                      |                    |                       |                     |
| Bank interest             |                      |                    |                       |                     |
| Other income              |                      |                    |                       |                     |
| <b>Total</b>              |                      |                    |                       |                     |
| <b>EXPENDITURE</b>        |                      |                    |                       |                     |
| Wages/salaries, NI        |                      |                    |                       |                     |
| Fees                      |                      |                    |                       |                     |
| Rent/rates                |                      |                    |                       |                     |
| Heat/light                |                      |                    |                       |                     |
| Telephones                |                      |                    |                       |                     |
| Stationery/postage        |                      |                    |                       |                     |
| Travel expenses           |                      |                    |                       |                     |
| Insurance                 |                      |                    |                       |                     |
| Publicity/printing        |                      |                    |                       |                     |
| Cleaning                  |                      |                    |                       |                     |
| Repairs                   |                      |                    |                       |                     |
| Capital equipment         |                      |                    |                       |                     |
| Bank and audit            |                      |                    |                       |                     |
| Contingencies             |                      |                    |                       |                     |
| Capital equipment         |                      |                    |                       |                     |
| <b>Total</b>              |                      |                    |                       |                     |
| <b>Balance for period</b> |                      |                    |                       |                     |

## Making use of financial reports

| What you need to know                                                                                         | Why?                                                                                                                                                                                              | How to find out                                                                                                                                                |
|---------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>What is your organisation's current position?</b>                                                          |                                                                                                                                                                                                   |                                                                                                                                                                |
| How much money have you got which is immediately available for you to use?                                    | So that you don't confuse ready cash with other assets (owning a building worth £200,000 won't help when you are trying to pay the gas bill to heat it)                                           | 'Bank accounts' on the current balance sheet                                                                                                                   |
| How solvent are you? i.e. if you stopped operating today would the organisation be able to pay all its debts? | Your job is to safeguard the organisation's interests – trustees (even company directors) can be personally liable for any debts if they continue to do business while the organisation insolvent | The 'net current assets' figure (this excludes items of property which you could not easily sell in a hurry) or the 'total assets' figure on the balance sheet |
| Is your organisation getting richer or poorer?                                                                | You probably need to act if the position is consistently getting worse                                                                                                                            | Comparing the 'net current assets' figure on several recent balance sheets                                                                                     |
| What do you owe that you must pay soon (e.g. PAYE, NI, VAT, your staff and your suppliers)?                   | So that you can set aside or bring in money to make payments on time                                                                                                                              | 'Current creditors' on the balance sheet                                                                                                                       |
| Do you need to reserve money for any special purposes?                                                        | Grants or donations which have been received for specific purposes cannot be transferred to general running costs or other projects                                                               | 'Restricted funds' on the balance sheet                                                                                                                        |

| What you need to know                                                  | Why?                                                                                                                                                            | How to find out                                                                                                                    |
|------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|
| <b>Are you in control?</b>                                             |                                                                                                                                                                 |                                                                                                                                    |
| What money is owed to you, and who owes it?                            | To check how you are going to collect it                                                                                                                        | 'Debtors' on the balance sheet                                                                                                     |
| Are you expecting grant payments?                                      | You may need the money                                                                                                                                          | Overdue instalments should appear on the balance sheet under 'debtors' or 'other assets'; the CEO should know future payment dates |
| How are you going to ensure you receive what you are owed?             | To avoid a build up of debts to the organisation and future cash shortages                                                                                      | By discussing the current debtors, and ensuring credit control systems are working                                                 |
| Will you be able to continue operating in the coming weeks and months? | Minus figures in the 'month-end balance' row at the bottom of the budget report are a warning of 'cash flow' problems – i.e. not having money free to pay bills | By checking the 'month-end balance' row at the bottom of the budget report, and by discussing future plans                         |
| What efforts are you making to attract/sustain sources of income?      |                                                                                                                                                                 | By reviewing your planning and fundraising work                                                                                    |

| What you need to know                                                                  | Why?                                                          | How to find out                                                                                                             |
|----------------------------------------------------------------------------------------|---------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|
| <b>How well are you managing your finances?</b>                                        |                                                               |                                                                                                                             |
| Are you viable? i.e. are you paying out more or less than you are spending each month? | A fundamental duty of trustees                                | By checking for frequent minus figures for the month-end balance in the budget report                                       |
| Are you keeping within your agreed budget?                                             | Overspending now might mean trouble later                     | By comparing the 'actual' monthly budget figures with the 'forecast' monthly budget figures in the budget report            |
| Are you spending money wisely?                                                         | A fundamental duty of trustees                                | By comparing actual and forecast figures in the budget report, and by examining the cost of individual items of expenditure |
| Do you have all the information you need?                                              | You can't make sound judgements with insufficient information | Gaps in the information, and possible doubts about its accuracy                                                             |

## 4.12 Sustainable funding

Nothing is easier than becoming dependent on a single source of funding such as an annual local authority grant or a large contract to deliver charitable services. It has happened repeatedly over the years to large numbers of voluntary organisations. In recent years groups have come to regret their dependence on European Union grants, for example, and before that they had been supported by government programmes for the unemployed.

The lesson that voluntary organisations persistently fail to learn is that no funding is forever, and funding bodies are surprisingly unsentimental about turning off the tap when they need to. If the majority of your funding comes from a single grant or one source of income which is suddenly cut off, you may be lucky enough to get away with a funding crisis that sets back your work for months or years.

Alternatively, your organisation may just close down and vanish. If you think you might be at risk you probably need to do some urgent planning to establish alternative income streams.

### What is 'sustainability' and 'sustainable funding'?

**Unreliable language** Be careful. 'Sustainability' is one of the most over-used and abused terms in the language of public policy. It is applied by almost anyone and everyone – from social engineers to environmentalists – to advance their individual cause and control their territory. Voluntary organisations have their own varied interpretations of the word 'sustainable', and the politicians and funders who hold the purse strings may have quite different ideas. Mistaking their requirements and expectations could prove expensive.

**Making sense of 'sustainable funding':** Sustainable funding as described here is a process for increasing an organisation's financial stability. It is about ensuring the long-term future. In simple practical terms it is about financial survival – working to ensure you will have the resources to be here in three years, five years and hopefully ten years time.



## It is *not* about:

- any particular source of funding;
- just being better at grabbing grants (because that can make you more rather than less dependent on insecure grant funding).

**What sustainable funding involves** Don't be surprised if the following description simply sounds like a common-sense approach to building a sound and resilient organisation. That's exactly the point. Sustainable funding particularly involves:

- diversifying your sources of income
- diversifying types of income
- effective planning and all that this involves – vision, imagination, knowledge of opportunities and constraints, a realistic programme of action, the capacity to deliver, progress monitoring etc
- developing the skills and capacity of your organisation to manage these new income generating activities
- a serious commitment to change.

## The trustees' obligations

**The funding threat** It is hardly necessary to highlight the threats to smaller charities and community organisations from diminishing funding sources. The squeeze is everywhere – government spending cuts, the loss of European Union grants, falling investment income available to charitable trusts, the decline in charitable giving and public spending power, and government policies which tend to 'professionalise' charitable services and drive resources into the hands of a limited number of larger organisations. The problems are long-lasting, and it is difficult to escape the conclusion that many of the weakest organisations will not survive.

**Trustee responsibilities** Less obvious, perhaps, is a trustee's responsibility to deal with these threats – and in charities this is actually an obligation, which is given extra emphasis by the Charities Act 2006 and the self-regulatory scheme for fundraising. Funding is a core concern because without it trustees are unlikely to meet the requirements described throughout this guide for:

- ensuring their organisation has resources to deliver services and achieve its aims
- planning for its long-term future
- communicating their cause effectively

- being accountable to the public and developing long term relationships with supporters
- safeguarding their organisation's assets.

## Diversifying income

**The challenge** Most voluntary organisations naturally prefer to remain in their comfort zone. If their main income has always come from a council grant it can be extraordinarily difficult even to contemplate anything different, and the skills to pursue alternatives may not exist. It is certainly very difficult, but that is no excuse for not trying. Anyone who has escaped this type of dependency will vouch for the massive benefits this brings.

### Finding more sources

- **The danger** If your funding comes entirely or mainly from a single source – perhaps a central government grant renewed every three years, a council service level agreement, a charitable foundation or grant making charity you work with closely, or the donations of small group of members and subscribers – you will be most at risk from sudden changes beyond your control. Years of work can be wiped out overnight if that source dries up.
- **Your response** An initial step towards funding sustainability is to find additional pots of money like the income you already receive. This may be difficult, but you will probably be in fairly familiar territory and the upheaval for your organisation will be minimal.

**The different types of funding** It can be much tougher (but more rewarding) to aim for different types of funding. There are broadly four different types of funding which support voluntary bodies, each involving a significantly different relationship between recipient and the person or body providing the money. The vast majority of organisations are stuck fast in one or other of the first two of these categories:

- **the 'gift economy'** – funding generated by philanthropy and voluntary donations which can usually be used without restrictions at the discretion of the organisation receiving it (though in the case of charities only for charitable purposes of course); examples include public appeals and collections, Gift Aid (see Section 4.8), bequests and some forms of sponsorship
- **grant funding** – money provided by charitable foundations and public bodies which normally comes with strings attached specifying what it can be spent on, targets to be achieved and reporting requirements

- **contracting** – this involves the voluntary organisation delivering services or goods and being bound by the terms of a legal contract or a service level agreement to a public, private or voluntary sector purchaser; the contract may specify budgets, delivery targets and timescales
- **open market trading** – this produces unrestricted income for the voluntary organisation in return for providing services or products to customers. This 'social enterprise' trading, as it is now called, may produce income at the same time as furthering a charity's aims and objectives (e.g. a lunch club charging for meals for elderly people) or it may be carried out primarily to generate a profit (e.g. the bar in a community theatre, or renting office space to commercial tenants in a community building). See Section 4.6.

## How diversification makes you more sustainable

Not everyone can easily increase the number or types of funding sources they use. But there are huge advantages to taking whatever steps you can.

- **Reducing risk** Reliance on a funder for 90 per cent of your income means that you will probably be forced out of business if this funding is withdrawn. But if you can attract income from several different sources so that none of them provides more than half of what you need, you are much more likely to survive if any of them is suddenly cut.
- **Thinking ahead** You should not wait until your funding is under threat, that is already too late. Start diversifying your funding now while you are still secure.
- **Impressing funders** Diversified funding impresses funders by convincing them that you are prepared to try to stand on your own feet – and it reduces their unspoken fear that you might become a burden or embarrassment by becoming dependent on them.
- **Fundraising continuously** Even if you remain totally dependent on charitable grants, managing your fundraising on a continuous basis can mean that different grants come to an end at different times. This reduces the element of grant panic, and makes your organisation much less vulnerable if one of your funding streams cannot be replaced.
- **Increasing choice** Increasing the different types of funding you use gives you more choice. Once you have augmented your grant funding with earned income from trading activities you may soon find other exciting trading ideas to pursue, and they in turn will provide wider scope for grant bids.

- **Creating transferable skills** Delivering services on a contract basis requires good quality management, and you may find it more demanding than the grant-funded work you are used to. But the skills you learn from delivering contracts efficiently can feed back into everything else you do, including raising money.
- **Generating management fees** You should ensure wherever possible that each grant and contract you secure is designed to attract a small management fee - which you can use to employ staff of your choice, or enhance or carry out cherished and otherwise unfundable activities.
- **Sharing overhead costs** There is a gross and widespread misapprehension about the way that social enterprise trading can earn you money. Most trading in its early years yields little or no profit (and very rarely indeed produces enough profit to let you employ extra staff to run separate social projects as many people hope). But what trading can do from day one is ease the burden of your existing overheads – by paying a share of the rent, heating, administration, accounting and equipment costs etc. This can make the difference between sustainability and failure to a small organisation with modest financial needs.
- **Earning commercial rents** Letting buildings and office space is probably the single simplest and most lucrative way to diversify income. A further step in this direction is to acquire buildings

(preferably the freehold and at below market rates where public bodies have property which is surplus to their needs) to use for community or charity activities and raising rental income. As long as the buildings are suitable, this type of asset development can provide collateral for loans if you need them, and give you the security of knowing that if all else fails you will still have the value of the property to fall back on.

## Planning for the long term

**The importance of planning** Effective planning is critical for the health of any organisation. And healthy organisations tend, by definition, to be sustainable. The Trustees Guide to Fundraising published by the Institute of Fundraising and the downloadable WCVA guides (see Section 4.8 for a list) cover the planning and sustainability issues. But there are many other ways of clarifying your objectives, exploring new opportunities, setting goals and sharpening your skills which can all help to improve your organisation's sustainability. Part 1 of this guide and Section 1.2 in particular deal with planning in general.

**A planning approach:** For a trustee, thinking about sustainable funding means developing a long-term strategic approach (rather than short-term, reactive funding), looking three, five or ten years ahead. It also means planning your operational strategy based on the income streams you have available.

In order to plan for your charity's future, you need to have a clear understanding of your current funding base and how this might be developed. You need to ask:

- What are our plans for income generation over the next three years and five years?
- What financial resources do we need to achieve these plans?
- What areas of fundraising are we relying on to deliver these resources – and how can these be extended?

## The key issues

See the checklist below for the specific issues you need to consider.

## Making your organisation more sustainable

**The right approach:** The right approach is critical. A willingness to change is absolutely vital. This sounds obvious, yet some organisations simply grind to a halt when they are confronted with the challenge. They may be persuaded to go through the motions of planning for sustainable funding, but that's as far as it goes. With luck they may even survive when times get hard, but there's no guarantee.

Sometimes you must also be willing to take risks, especially if you are already facing problems because of your existing unsustainable funding arrangements.

**The right organisation** Developing sustainable funding is indistinguishable from developing a sustainable organisation. It requires:

- a clear mission
- healthy relations with other sectors
- committed constituents/members/volunteers
- flexibility and adaptability
- clear, realistic strategic plans
- sufficient financial resources to enable you to put your plans into action (groups often baulk at diverting staff time to fundraising, but economising here can mean disaster later)
- committed, well trained and competent staff
- strong and sustainable leadership (see Section 3.8)
- effective, high-quality work
- useful results and impacts
- a strong profile, a good reputation and public accountability.

**The right skills** Gearing up for the changes can be extremely demanding. Social enterprise development may take your organisation into unfamiliar territory, and if you do it right it will certainly change the way manage your work. This guide's sister publication *It's an idea but is it business – a guide to third sector trading* covers the subject in depth.

In particular, you are likely to need to develop new skills in areas such as:

- market research and some aspects of business planning
- costing work, tendering for competitive contracts
- assessing and managing risk (see Section 4.5)
- contract management, compliance and quality control (see Section 2.8)
- handling management accounts and financial controls systems (see Section 4.11).

**The benefits of success:** There are a couple of very positive things that advisors don't usually tell you about sustainability planning.

- The process of pursuing sustainable funding is challenging, but it doesn't have to be daunting or frightening. It can open up huge new areas of possibility, and free your organisation to try things it has never done before. It gives you a chance to think differently, and become creative and innovative, and it can be exciting and exhilarating for your trustees and staff from the moment the planning work starts.
- The benefit is not just about financial survival. Imagine waking up one day to discover that you are suddenly free to realise the full potential of your organisation, and that you do not have to be a slave forever to funders who tell you what they want you to do. It may seem fanciful if you are facing an immediate funding crisis, but sustainable funding sometimes means just that if you start soon enough.

## Checklist

- What is the overall structure of your funding and where does fundraising fit in?
- What types of income do you receive?
- Are you heavily dependent on one source or one type of income?
- Who are the donors you depend on most and how long do you expect to keep them?
- How much of the income you receive is restricted (tied to a particular project or piece of work) and how much is available as core or unrestricted funding?
- Are you making the most of tax-effective fundraising techniques?
- Are you building in contingency plans when you develop your strategy?

## Further information

- Mel Witherden, *It's an idea but is it business? A guide to third sector trading*, 2011, WCVA
- Institute of Fundraising, *The Trustees Guide to Fundraising*, 2007. The Guide includes contacts and an extensive booklist.
- Peter Dyer & Anne Moynihan, *Sustainable funding: A guide for trustees*, 2012, NCVO
- Sustainable Funding Cymru ([www.sustainablefundingcymru.org.uk](http://www.sustainablefundingcymru.org.uk)) See Section 4.8 on fundraising responsibilities for contacts and a list of downloadable information.

## Part 5: The role of the trustee

### 5.1 What are 'trustees'?

It is an unfortunate accident of the language that the people responsible for running voluntary organisations have commonly come to be known by collective names such as 'management committees' and 'boards of directors' – which imply that those involved have an obligation to find something to manage and direct. Unsurprisingly, therefore, management committee members and directors do a great deal of 'managing' and 'directing', even when they don't need to. What those words disguise is that their real role, legally and morally, is that of trustees, and this somewhat old fashioned sounding term suggests a rather different function.

'Trustees' are people who are entrusted to look after something for the benefit of others. It is arguable that some voluntary organisations would achieve even more if they concentrated on taking care of their resources, and left others (such as their paid staff) to do the managing.

### Trusteeship

If you are responsible for controlling the management and administration of a voluntary organisation and you are not employed by the organisation, you are probably a trustee. If so, you have legal responsibilities. If your organisation is also a registered charity you are a charity trustee and subject to a number of additional legal responsibilities. But in terms of managing organisations well, there should be no significant difference between the way trustees act, whether or not they happen to be subject to charity law.



Trustees are people who are entrusted to look after money or other resources given to an organisation by others for the benefit of a third party. The trustees' job is to ensure that this is used effectively to achieve the particular purpose for which it was given.

For example, if money is donated by the public or a local authority to help homeless people, the trustees' duty is self-evidently to make sure that it is spent on improving their prospects of getting accommodation or relieving their suffering, or other projects which confront the problem of homelessness.

## What if you are called something else?

The people who govern your voluntary organisation may be called:

- members of the committee
- management committee members
- council members
- executive committee members
- governors
- board members
- directors.

These are all 'trustees'. The directors of a charitable company are the trustees, no matter what they are called in the articles of association (see Sections 6.3 and 7.2). Charity law defines charity trustees as the people responsible under the charity's governing document for controlling the management and administration of the charity. This definition can be usefully applied to trustees in any voluntary organisation.

**Consistency and clarity** A great deal of confusion is caused by these different titles, and many trustees are not aware that the term – and information and guidance materials for trustees, and the associated legal responsibilities – actually apply to them. Your organisation should make this clear when new trustees are recruited to the Management Committee, the Council, the Board or whatever other name you may give to your group of trustees. New charities might consider adopting the title 'Member of the Board of Trustees' to make the point (it can still be abbreviated to 'Trustee' or 'Board Member' for convenience in everyday use.) For consistency, this guide uses the terms 'board' for the body and 'trustee' or 'board member' for the member.

**When is a 'director' not a director?** Many voluntary organisations compound the confusion by calling their most senior member of staff the 'Director' – even though all staff act under the direction of the trustees, and it is particularly misleading in charitable companies where the senior employee is unlikely to be a director of the company. This Guide refers to the most senior member of staff as the 'CEO', though smaller organisations probably prefer the simple term 'manager'.

## When is a trustee not a trustee?

There are several other circumstances where people working for voluntary organisations may be uncertain whether they are actually trustees. It is extremely important that people are fully aware of their status, and that the role they play properly reflects their responsibilities. The types of trustee most likely to give rise to confusion are:

- shadow directors
- representative and nominated trustees
- local branch committees or trustees
- holding or custodian trustees.

## Holding trustees

Some organisations have a group known as 'the trustees' whose job may be to:

- act as patrons or
- hold the trust property on behalf of the charity.

They are 'holding trustees' and are not the trustees in law. Only those who take responsibility for controlling the management and administration are the trustees in law. Members of the holding trustees group may sometimes also be trustees of the organisation with full responsibilities for it.

**Shadow directors** The CEO, Finance Director or an outside consultant can in some circumstances be seen to act as a 'shadow director' of a company limited by guarantee. This could occur in an organisation with a dominant management and a passive board of trustees which does what it is told and leaves the decision making to the senior member of staff or consultant. An employee who is deemed to be a shadow director might be held under company law to be a 'constructive' trustee who shares the responsibilities and liabilities of trusteeship for some purposes.

**Representative and nominated trustees and personal responsibilities** Some voluntary organisations give other organisations the right to appoint representative or nominated trustees. This is usually done to ensure that:

- vacancies on the trustee board can be easily filled
- bodies which have an interest in the work of the organisation can be involved with it
- the community or the users of the voluntary organisation's services are represented on the trustee board
- major funders can directly monitor the use of their funding.

(Be careful to distinguish between an individual trustee who is a representative of or nominated by another organisation, and a corporate trustee – i.e. an organisation which acts in its own right as a trustee but which sends a real person to meetings. See Section 5.2.)

There is a very widespread problem with the way representative trustees see their role. **If you have been appointed as a representative trustee it is critical that you recognise that you personally carry the responsibilities and liabilities of being a trustee. It is your duty to act independently and in the best interests of the organisation you have been appointed to.**

**You are not on the board of trustees to represent the interests of the body which nominated you**, and there can easily be circumstances where acting in the best interests of the voluntary organisation is in conflict with the best interests of the nominating body.

If you encounter an irreconcilable conflict of interest, you should withdraw from discussion of the item and your action should be minuted.

Even so, you may still be held jointly responsible and liable for any decision made by the organisation. If this is likely to be a problem for you or the organisation which nominated you, it may be better for you to resign as a trustee.

**Local branches** Some national organisations have groups or branches with local committees. If the branch is constitutionally part of the national organisation (see Section 2.7) then the members of the local committee are not trustees. The trustees are the members of the national governing body. It is quite possible, of course, that an individual member of the local committee is also a trustee of the national charity.

If each of the local branches or groups is independent with its own governing document and is merely affiliated to a national organisation, then the members of the local committees will be trustees of that local branch or group.

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## Checklist

- Is it properly understood in your organisation who the trustees are? Do you need to take steps to clarify the situation?
- Do you provide explanations of the roles of trustees and the CEO in induction material for new trustees?
- Is there a need to make these roles clear by writing them into your organisation's standing orders?

## Further information

- Charity Commission, *The Essential Trustee: what you need to know, CC3*
- WCVA free download, *5.1 Principles of governance*

## 5.2 Who can become a trustee?

Many voluntary organisations are so desperate to recruit members to their boards of trustees that they really don't mind who their trustees are, provided they attend the odd meeting, and are reasonably easy to get on with. New trustees are frequently told "don't worry, you won't have to do anything". Under these circumstances it may difficult to ensure that recruits are either eligible or suitable. The best you may hope for is that they grow into effective trustees. But that can be a risky strategy.

### Legal requirements

**Individuals as trustees** Any person aged 18 or over and of sound mind can act as a trustee of an unincorporated charity. Any person aged 16 or over can be the trustee of a limited company, provided that they are not disqualified by law. Other unincorporated associations may decide the rules for themselves – but they should bear in mind that trustees are personally liable if anything goes wrong.

### Can anyone be a trustee?

Charity and company law disqualifies people who:

- have unspent convictions for offences involving deception or dishonesty
- are undischarged bankrupts
- have been at any time removed from trusteeship of a charity by the Charity Commission or the court in England, Wales or Scotland, because of misconduct or mismanagement
- are disqualified from being company directors
- have failed to make payments under county court administration orders
- have made compositions (i.e. come to an arrangement) with their creditors and have not been discharged.

It is a criminal offence to act as a charity trustee while disqualified. Anyone convicted of an offence involving dishonesty is automatically disqualified from acting as a trustee on the day of their conviction. If a disqualified person refuses to resign you could have trouble expelling them, unless there is a clause in your governing document stating that such trustees must stand down.

**Waivers for disqualified charity trustees** Charities sometimes have good reason to include people who would otherwise be disqualified – e.g. ex-offenders in charities working with offenders. The Charity Commissioners can grant a waiver to individuals who have been convicted of a relevant offence or become bankrupt.

### **The Company Directors Disqualification Act 1986**

The court may disqualify anyone from becoming a trustee of a charitable company if:

- they have been convicted of criminal offences relating to the formation; management or liquidation of a company
- they have been persistently in default of company legislation for filing documents
- they have been found guilty of fraudulent trading or fraud
- their conduct as a director has made them unfit.

**Restrictions in the governing document** The voluntary organisation's governing document may also limit membership of the organisation or the board of trustees – e.g. to people living in a certain area or to members of a particular religious denomination.

**Corporate trustees** It is also possible for corporate bodies (e.g. a local authority) to act as the trustee of a charity. In this situation the body itself acts as the trustee (as distinct from an individual who is appointed by that body to represent it on the board of the charity). Before appointing a corporate trustee it is necessary to ensure that both the charity and the corporate body have the power in their governing documents for this to happen. It is worth bearing in mind that this produces a complex relationship, and there are relatively few cases where a charity would find such an appointment to be an advantage.

## **Qualities of trustees**

The selection of people to become trustees should be guided by a variety of factors:

**Individual trustees** should be selected for:

- their honesty, trustworthiness, reliability and impartiality
- their commitment to the organisation's work
- the skills and experience they bring.

**Balance** The board should include a balance of the skills and experience needed to direct the work of the organisation. There are real dangers, for instance, if the trustees of a playgroup are chosen only because they are parents, and no one on the board knows about finance, or childcare regulations. (See also Section 3.4 on building the board.)

Other key characteristics Trustees should:

- understand the responsibilities they are taking on (and should be prepared to receive training if they don't)
- be prepared to commit the time needed to play an active role
- be absolutely trustworthy.

Further details are given in the example person specification (see Section 5.4).

## Checklist

- Do you routinely check the eligibility of people who become trustees of your organisations?

## Further information

- National Council for Voluntary Organisations, *Good Practice in Trustee Recruitment Toolkit*
- Charity Commission, *Finding New Trustees: What charities need to know CC30*

## 5.3 The role of a board of trustees

When money is tight and numbers and morale on your board of trustees are low, it can be hard to spell out the serious role of trustees and draw attention to their responsibilities and obligations. Too stark a message may deter much-needed new recruits. But saying nothing can leave your management weak and ineffectual, and could even land you in trouble with the Charity Commission, your funders, your staff, or your clients.

### Trusteeship

**The basic role** The role of a trustee is basically to receive assets from donors, safeguard them, and apply them for a charitable purpose according to the wishes of the donor. The board of trustees is the governing body of a voluntary organisation and is ultimately responsible for everything the organisation does. In registered charities the board or committee is accountable in law to the donors through the Attorney General and the courts.

### Core responsibilities

Also the trustees must:

- act in the best interests of the beneficiaries
- exercise the same care as a prudent business person would in looking after the affairs of someone for whom they had responsibility (this 'duty of care' is spelled out in the Trustee Act 2000 and in Charity Commission guidance material on the Act in relation to investments, though it clearly has far wider relevance)
- act together as a group, rather than as individuals, setting aside their personal interests
- give time to carrying out their duties, normally without payment or gain (except for a few special circumstances such as some social enterprises which appoint their CEO as a board member, and very occasionally in registered charities subject to Charity Commission permission (see Section 7.3))
- act within the terms of their governing document (e.g. powers to delegate tasks to subcommittees, to change the governing document, to make investments; and to take out trustee liability insurance – see Sections 3.3, 4.3, 4.4, 6.2, 6.3 and 7.2).



**Other tasks** Trusteeship is a serious responsibility and should not be undertaken lightly. Trustees must be prepared to give the necessary time to:

- reading board papers
- attending board meetings
- keeping themselves informed about the organisation's activities
- keeping up to date (as appropriate) with regulations recommended good practice, employment law, charity law and other legislation
- undertaking other work which might be needed, either collectively or together – e.g. help with management in small organisations without paid staff.

## Running the voluntary organisation

It is obvious that one of the roles of trustees is to run the organisation. But defining what this means in any or every voluntary organisation in all circumstances is far from simple. An international aid charity is a very different animal from the community hall committee run entirely by volunteers. Their management structures, staffing, resources, fund raising strategies and operations will bear little if any resemblance to one another.

Equally the community hall group might decide it wants to expand its premises and facilities dramatically, and undertake a host of new social, environmental and economic projects. It could be the same organisation with the same governing document, but the way it does its job before and after the expansion will also probably be quite different.

**'Governance' and 'management'** Yet the fundamental responsibility of the trustees for the governance of the voluntary organisation does not change, even though its management may be constantly evolving to meet new circumstances and to improve its effectiveness. The management responsibilities of trustees are described in detail in Part 2.

**Realistic work as managers and volunteers.** This guide strongly discourages trustees from becoming involved in management if they are paying staff to do this work. Clearly, in smaller organisations which do not employ staff, it will be necessary for this work to be shared by the trustees. But the workload should not be unrealistic. Boards should:

- be careful to make it clear to all members exactly how much is expected of them
- not expect every member to be able to contribute the same amount of time or the same quality of work

- not allow one person to carry the full burden of management on a voluntary basis – you will become dependent on them and they may burn out quickly leaving you with no management at all
- encourage some voluntary activity by the trustees, even when there are staff employed – it encourages collaborative working and teamwork, and helps trustees to understand the organisation better (see Section 2.4 on staff and the board), provided there are clearly drawn boundaries to their responsibilities.

## Distinguishing governance from management

Most small voluntary organisations make no distinction between management and governance – the word itself may unfamiliar to new trustees. As a result, they often experience difficulty, even embarrassment, about talking about their fundamental objectives or 'vision'. Worse still, they frequently face interminable confusion and disagreements about whether the trustees or the staff should 'manage', and what management involves (see Section 2.1).

**'Governance'** is the term used for the matters which trustees must deal with personally, as opposed to those that they can delegate to staff and others.

Governance is about ensuring the organisation has:

- leadership and direction
- a clear, shared vision of its purpose and what it is aiming to achieve
- a common understanding of how in broad terms the purpose and aims will be achieved
- a sense of urgency about its work
- established priorities for different aspects of its work
- safeguards for its assets (money, property, equipment and human resources)
- the capacity to use its assets effectively in delivering its services
- the ability to supervise the CEO
- management arrangements to enable it to operate within agreed policies, the law and its budget.

**Management** In contrast, day-to-day management and operational matters do not need to be handled personally by the trustees, and can be delegated to staff if any are employed. These are the more obvious features of running the organisation:

- organising and supervising staff and volunteers
- fund raising, financial management, routine administration
- organising the operation and delivering services.

The benefits of recognising 'governance' Recognising the distinction between governance and management can bring significant benefits, even in small organisations with few or no staff:

- trustees will be better prepared to safeguard the organisation's long-term future as well as to deal with short-term crises
- trustees can be more prepared to take up fresh opportunities and extend the voluntary organisation's services if they share a common vision
- trustees can free themselves more easily from routine management and administration matters, which can be delegated to staff as the organisation grows
- staff can be clearer about their jobs, and perform more efficiently.

## The board's main roles

The board's main roles are to:

- clarify and develop the organisation's mission and purpose
- uphold the organisation's ethos and values
- develop and agree the organisation's long-term (or strategic) plan (see Section 1.2)
- develop and agree the organisation's policies

- ensure that all the organisation's activities are within the law (see Parts 2 and 7)
- ensure that all the activities come within its objects (see Section 7.2)
- ensure accountability as required by law (the Charity Commission, Inland Revenue, Customs and Excise, etc) and to others such as donors, beneficiaries, staff, volunteers, and the general public ensure accountability to the Registrar of Companies, as required by law
- ensure the organisation has adequate resources
- ensure the organisation's property, assets and other resources are protected and managed effectively (see Sections 2.5 and 4.1- 4.7)
- agree the budget and monitor financial performance (see Sections 4.9-4.11);
- monitor the work programme and services
- review annually the performance of the board of trustees (see Section 3.5)
- establish procedures for recruitment, support, appraisal, remuneration of staff, and for dealing with disciplinary matters (see Section 2.2).

In order to carry out its role the board must:

- meet as often as is necessary for the proper administration of the organisation (this is usually monthly, and should never be less than quarterly)
- seek professional and other expert advice where necessary.

**Delegation to committees** It is not possible for trustees to relieve themselves of the need to take personal responsibility for governing their organisation or the obligation to act together when they take decisions affecting it. But the governing document may give trustees the power to delegate authority to a subcommittee of the board for a particular aspect of the organisation's work, or delegate authority to a task group or committee whose members need not necessarily all be trustees. However, any decisions made by such groups remain the responsibility of the whole board of trustees. The terms of reference and reporting-back procedures of any committees, subcommittees or task groups should be laid down in writing and agreed by the board of trustees (see Section 3.3 for more information).

Delegated authority means that committees can act on behalf of the organisation and only need to report back on what they have done. You may also ask subcommittees to investigate, make recommendations, prepare documents and grant applications etc without giving them full authority to act on their own. But it is worth remembering that you may be more likely to have committed committee members if they are given responsibility to take action, rather than the obligation to seek the sanction of the full board for everything they want to do. And you will find you get things done much more quickly.

**Delegating authority to staff** A voluntary organisation may choose to delegate its day-to-day management and all its operations to staff under the following circumstances:

- the governing document must give it the power to do so
- the scope of delegated authority should be set down in writing
- decisions made by staff on important matters must be reported to the board of trustees without delay
- the board remains legally responsible for all activities of the organisation, including matters delegated to staff.

The matters and scale of activities delegated to staff will depend on the size of the organisation. In principle the trustees should:

- set the policy framework within which the staff are allowed to operate
- provide appropriate guidelines to specify what the staff may do and how they should operate.

This may be relatively straightforward for larger organisations with substantial and clearly defined tasks which can be carried out by staff (e.g. managing the distribution of a large grant fund, or delivering a single self-contained service to clients), or by charities with local branches where the requirement to specify the extent of local branch autonomy may be unavoidable.

But the position may be less clear for, say, a community development project which is providing a wide variety of local services, and responding opportunistically to project funding offers when they arise. Defining general objectives may be simple enough, but there can be tensions between the trustees' wish to pursue a development programme with predetermined priorities and the staff's freedom to act swiftly in the organisation's best interests. See Section 2.1 for more on this topic.

## When trustees shouldn't govern

### Volunteering – when trustees are not in charge

Many trustees fail to distinguish between their voluntary role as a member of the board, and the other volunteering work they may do for the organisation – sometimes with disastrous results. In addition to your main roles as a trustee described above, which give you overall responsibility for the voluntary organisation, you may also help with book keeping work, fund raising, public relations or delivering your organisation's service. In this case you will probably be responsible to the CEO or another member of staff. Then it is your job to be directed and not to direct. Even if the organisation does not employ anyone, good management demands that there is an individual or group to supervise and co-ordinate the volunteering work, and you will be responsible to them.

## Checklist

- Do all the members of your board have a clear understanding of its role?
- Does your board make sure that the CEO and staff have a clear understanding of the role of the trustees?
- Do trustees distinguish between the different roles they play, and how do they do so?
- Do you need to review the agendas of your meetings and group together items which relate to the governance of the organisation and those to do with the day-to-day operational management?
- Does your board spend part of a meeting each year reviewing its role and assessing its own performance?
- Does your governing document give you powers to delegate to subcommittees or staff?
- Are your powers of delegation adequate? If not, do they need revision?

## Further information

- Charity Commission, *The Essential Trustee: what you need to know*, CC3
- Charity Commission, *Trustee expenses and payments*, CC11
- Trusteenet, [www.trusteenet.org.uk](http://www.trusteenet.org.uk)

## A sample Code of Governance for Trustees

The purpose of this document is to provide a model code of conduct for trustees. This model aims to capture good practice. As such it should be used as a guide rather than a definitive code, and should be tailored to meet the specific needs of your organisation. The principles of the Nolan Committee on standards in public life have helped to provide a framework for this guidance.

### Selflessness:

Trustees of .....(name of group)

have a general duty to act in the best interest of the organisation as a whole. They should not do so in order to gain financial or material benefits for themselves, their family, their friends or the organisation they come from or represent.

### Integrity:

Trustees of .....(name of group)

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 well as avoiding actual impropriety, they should avoid:

- any appearance of improper behaviour
- accepting gifts and hospitality that might reasonably be thought to influence their judgement.

### Objectivity:

In carrying out their role, including making appointments (including trustee appointments), awarding contracts, recommending individuals for rewards and benefits or transacting other business, the trustees should ensure that decisions are made solely on merit.

[Foreword](#)[1: Strategies,  
planning and  
monitoring](#)[2: Managing  
the work of the  
organisation](#)[3: Better ways  
of working](#)[4: Managing  
money](#)[5: The role of  
the trustee](#)[6: What type  
of organisation](#)[7: Know  
what the law  
expects](#)[Index](#)

## Accountability:

Trustees of .....(name of group)

- have a duty to comply with the law on all occasions in accordance with the trust placed in them and in such a way as to preserve public confidence in the organisation
- are accountable for their decisions and actions to the public, funders and service users
- they must submit themselves to what scrutiny is appropriate to their role.

## Openness:

Trustees of .....(name of group)

- should ensure that confidential material, including material about individuals, is handled with due care
- should be as open as possible about their decisions and action that they take. They should give reasons for their decisions and restrict information only when the wider interest clearly demands.

## Honesty:

Trustees of .....(name of group)

- have a duty to declare any interests relating to their trustee role and to take steps to resolve any conflicts that may arise, and where private interests of a trustee conflicts with their trustee duties, s/he must resolve this conflict in favour of the trustee role
- must make relevant declarations of interest in the different circumstances and roles they play both within and outside the organisation.



## Leadership:

Trustees of .....(name of group)

- should promote and support the principles of leadership by example
- must respect the role of the CEO. There will be circumstances under which trustees will be working directly with staff. Guidelines for such working relationships must be clear to both staff and trustees and, when these occasions arise, the CEO/Chair should be informed in advance.

## Conflicts of interest:

- any trustee who has a financial interest in a matter under discussion should declare the nature of his/her interest and withdraw from the room unless s/he has a dispensation to speak
- if a trustee has any interest in the matter under discussion which creates a real danger of bias (that is, the interest affects her/him or a member of her/his household more than others affected by the decision) s/he should declare the nature of the interest and withdraw from the room, unless s/he has a dispensation to speak
- if a trustee has any other interest which does not create a real danger of bias, but which might reasonably cause others to think it could influence their decision, s/he should declare the nature of the interest, but may remain in the room, participate in the decision, and vote if s/he wishes
- if in any doubt about the application of these rules, s/he should consult with the Chair
- it is recommended that each trustee's interests are recorded in a written statement and listed in a register.

## 5.4 A trustee role description

What happens when you have a trustee who does not know what their job is? They attend meetings in silence, failing to contribute anything. They may disrupt your meetings with protests that “I don't know what I'm doing here” or waste time with frustratingly inappropriate interventions. They may even cause havoc attempting to do everyone else's job. Surely it's time to give your trustees the guidance of a proper description of their roles?

### Benefits of a role description and a 'person specification'

Many voluntary organisations now provide role descriptions and person specifications for their trustees. (Organisations are advised for legal reasons not to use the term 'job description' in conjunction with any voluntary post, including that of trustee.)

#### Role descriptions

The benefits of a role description are:

- helping the organisation clarify the role of its trustees
- providing guidance for people thinking about becoming trustees
- providing guidance when considering nominating others to become trustees
- providing the organisation with a kind of code of conduct by which you can measure the behaviour of trustees who cause problems or step out of line.

Benefits of a 'person specification' A person specification defines the qualities and skills which you need from your trustees. This can be useful for:

- emphasising the breadth and balance of qualities needed for an effective board
- helping to clarify the range of special qualities and skills needed when recruiting new trustees
- providing guidance for people thinking about becoming trustees
- reminding trustees of the standards they need to uphold.

**Trustee's declaration** To underline the importance of their role and to alert new recruits to the legislation on disqualification, trustees can be asked to sign a declaration that they understand their responsibilities and that they are not disqualified from acting as a trustee. A specimen declaration is provided below. Not everyone feels confident about asking trustees to take this formal step, especially if it is difficult to recruit new members to the board. But once it is an established practice for existing members it will not feel so unusual to apply the approach to newcomers. Those organisations which do so are generally pleased with the results.

## Induction for trustees

**Induction training** It is essential to provide some form of induction training to all new trustees to ensure that they are aware of their responsibilities. This may take the form of written materials (such as sections of this guide) or training as part of regular board meetings or one-to-one advice and guidance from the Chair or CEO.

**The Induction Pack** Don't forget that part of the training for new trustees must include providing them with (and helping them to understand) a pack of material about the organisation which includes:

- the governing document
- the annual report and accounts
- the current budget
- the code of conduct
- internal policy statements
- the strategic plan, business plan and/or operational plan.

**The away day** The strategy planning events discussed in Section 1.2 can offer excellent induction opportunities for new trustees, and are often best planned to take place shortly after the AGM when new board members are appointed.

**A 'skills audit' for trustees** Don't assume that you automatically know what each of your trustees can contribute. You can miss out on valuable skills and experience if you fail to ask them. It can be useful, especially in new organisations, for trustees to complete a simple form listing their work experience, skills, knowledge, qualifications and areas of special expertise. Alternatively you can get board members to write pen portraits of themselves or talk about themselves as part of a trustee training session or in the course of preparing the strategic plan. But keep a record of what they say.

## Checklist

- Does your organisation have role descriptions for trustees?
- Does your organisation apply its equal opportunities policy to its recruitment, nomination and selection procedures for trustees?
- Does your board have effective arrangements for providing induction for trustees? Is there more that could be done?

## Further information

- WCVA, *Good governance: A Code for the third sector in Wales*
- WCVA free download, *5.2 Trustee duties and responsibilities*
- WCVA free download, *5.4 Recruitment, selection and induction*
- WCVA free download, *5.5 Training and development for trustees*

## Model trustee role description

This model trustee role description can be adapted to meet your organisation's particular needs.

**Trustee of .....(name of organisation)**

The duties of a trustee are:

1. To ensure that the organisation operates within the law – including the requirements of charity law and company law, and legislation on issues such as employment and health and safety.
2. To ensure that the organisation follows the objectives set out in its constitution/governing document.
3. To ensure that the organisation uses its resources only to follow these objectives (i.e. that money is not spent on other activities, no matter how worthwhile they may be).
4. To make an active contribution to the board in its work on setting the organisation's direction, policies and targets, and evaluating its performance.
5. To safeguard the reputation of the organisation in the eyes of the public and its users/clients.
6. To ensure the organisation is run effectively and efficiently.
7. To work for the organisation's financial security.
8. To provide good management for the organisation's property and its funds.
9. (If the organisation employs staff) to appoint and support the CEO and monitor her or his performance.
10. To read board papers, lead discussions, raise relevant issues, and provide information, advice and guidance requested by the board on issues on which the trustee has particular knowledge or experience or ability.
11. (Where trustees are nominated by another body) to work in the interest of the organisation rather than that of the nominating body.
12. To use any specific knowledge or experience he or she has to help the board of trustees reach sound decisions.

## Model trustee person specification

Trustee of .....(name of organisation)

Each trustee must be:

- honest, trustworthiness and reliable
- committed to the voluntary organisation
- aware of and willing to accept the legal duties, responsibilities and liabilities of acting as a trustee
- willing to devote the necessary time and effort to their duties as a trustee
- willing to play a constructive part in the governance of the organisation
- clear about the role of the organisation in the community
- able to make impartial judgements about issues affecting the organisation
- able to think creatively
- willing to speak their mind in meetings, and to challenge points of view and statements which they disagree with
- able to work effectively as a member of a team, and willing to accept majority decisions
- willing to take part in training.

The board of trustees collectively will need skills and experience in the following areas:

- setting targets, monitoring and evaluating performance
- financial management
- the type of work being done by the organisation
- fundraising
- legal matters such as employment and health and safety

Depending on the size of the voluntary organisation and nature of its work, the list of areas of expertise required by the board collectively may also need to include the following:

- recruitment and personnel management
- promoting the organisation and marketing its services to users and the public
- computers and information technology
- campaigning and lobbying
- knowledge of the organisation's service as a user
- experience as a volunteer with the organisation
- membership of other bodies and voluntary organisations that work with the organisation.

## Model form of declaration of commitment and qualification for trusteeship

I (name) ..... am committed to achieving the objects of  
(name of voluntary organisation) .....

I understand the responsibilities and liabilities I am taking on in becoming a trustee of (name of voluntary organisation)  
..... and agree to devote the necessary time and effort to my role as trustee.

I am over the age of 18.

I am not disqualified from acting as a trustee under section 72 of the Charities Act 1993.\*

I am not under a disqualification order under the Company Directors Act 1980.

I do not have any financial interests in conflict with those of (name of voluntary organisation)  
..... (either in person or through family or business connections)  
except those which I have formally notified in a statement to the trustees. I will specifically notify any such  
interest at any meeting where trustees are required to make a decision which affects my personal interests,  
and will absent myself from any decision on the matter and not vote on it.

Signed: ..... Date: .....

The law disqualifies people who:

- have unspent convictions for any offence involving deception or dishonesty
- have been adjudged bankrupt or sequestration of their estate has been awarded and (in either case) they have not been discharged
- have made a composition or arrangement with, or granted a trust deed for, their creditors and have not been discharged in respect of it
- have been removed from the office of trustee for a charity by an order made by the Commissioners or by the High Court, on the grounds of any misconduct or mismanagement in the administration of the charity for which they were responsible or to which they were privy, or which they by their conduct contributed to or facilitated
- have been removed, under Section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (powers of Court of Session to deal with management of charities), from being concerned in the management or control of any body
- are subject to a disqualification order under the Company Directors Disqualification Act 1986 or to an order made under section 429(2) (b) of the Insolvency Act 1986 (failure to pay under county court administration order).

## 5.5 The role of the officers

Annual general meetings (AGMs) and board meetings throughout the land echo constantly to dismal mumblings such as “If there’s no one else to do it, I suppose I’ll have to be Secretary”, “I’ll do the Treasurer’s job, but that doesn’t mean I know anything about money”, “I’ll take the job until you find someone else, but don’t expect me to actually do anything.” This is a pretty realistic reflection of the problems of finding people to take on the officers’ roles in boards of trustees. But it does not have to be an excuse for not taking jobs seriously, for doing them badly, or for failing to offer support and guidance to inexperienced officers. In some cases the difference between a weak officer and an effective officer is no more than understanding what is expected of them.

## The officers’ group

### The work of the officers’ group

Many boards of trustees find it useful to have a small group of trustees who:

- deal with matters needing attention between meetings of the full board
- take a lead in preparing the business for board meetings
- act as an effective link between the staff and the board of trustees
- share with the CEO the task of representing the organisation in public
- sit on recruitment panels for senior staff appointments
- sit on disciplinary panels and appeal panels.

Such a small group can only act on behalf of the board if they are authorised to do so by the governing document, and should not be allowed to inadvertently take power or ultimate responsibility away from the full board.



**Composition of the officers group** Such groups are sometimes called the 'honorary officers', the 'officers' or 'the executive committee' (although the term 'executive committee' may also be applied to other larger committees of trustees). They commonly include the Chair, Vice-Chair, Secretary and Treasurer, who are usually elected by the members of the board of trustees (but sometimes by the full association or company at its annual general meeting).

## Role and responsibilities

- the governing document may give the individual officers particular roles, functions and responsibilities (see below)
- unless the board has explicitly delegated decision-making powers to the officers, the officers group should act only in an advisory capacity
- officers should report their actions to the full board as soon as practicable to prevent the other trustees from feeling excluded by the inner group.

## The officers

See below for detailed role descriptions of the honorary officers

**The Chair** has an important and substantial role:

- managing meetings and providing leadership (see Sections 3.1 - 3.3)
- supporting the CEO, and acting as the channel of communication between the trustees and staff
- acting as a figurehead of the organisation.

Other tasks may include:

- authorising action to be taken between meetings of the full board
- signing cheques and legal documents
- supervising and appraising the work of the CEO.

**The Vice-Chair** acts for the Chair when the Chair is not available and undertakes work in co-ordination with or at the request of the Chair. An important function for the Vice Chair is to help share key knowledge and responsibility so that there is someone to take over if the Chair leaves (see Section 3.8 on the leadership succession).

## **The Secretary** Tasks include the following:

- in voluntary organisations without staff, secretarial duties will include sending out agendas and board papers, taking minutes, checking that a quorum is present and booking the meeting room
- taking minutes during parts of a meeting from which all staff have been excluded
- other duties delegated to the honorary officers or at the request of the Chair.

The work is sometime split between a minutes secretary and an officer who looks after correspondence and agendas etc.

**The Company Secretary** It is now optional for companies to have a Company Secretary, but if the position is required in your existing articles you should continue with it. The Company Secretary's job is to ensure that the organisation complies with the requirements of company law, including:

- keeping the Register of Members and Register of Directors up to date
- notifying Companies House of any changes in trustees
- preparing and filing the annual return
- making sure that the company documents are kept safely.

In companies with paid staff, the job of Company Secretary is not normally assigned to the Honorary Secretary but delegated to a senior member of staff.

## **The Treasurer** The job of the Treasurer is to:

- take the lead in overseeing the financial affairs of the organisation
- ensure the organisation is financially viable, and has proper financial records and procedures
- interpret and explain accounting requirements to the trustees, and to ensure that they receive reports they need
- ensure that the accounts and financial systems are audited as required by law
- (in some smaller voluntary organisations with few or no staff) personally maintain the financial records and prepare budgets and reports
- act as a cheque signatory.

The Treasurer should have sufficient technical expertise to guide the financial affairs of their organisation. For example, if the voluntary organisation has large investments the Treasurer should have sufficient knowledge to ensure that they are earning the best possible return.

**The Treasurer's work in practice** The job of Treasurer is frequently done badly simply because it is poorly understood, not because people are incapable. In reality, boards of trustees do not normally have a member with the skills to prepare a full set of annual accounts, and neither do they need one. But what is needed is someone to take responsibility for overseeing the finances. What skills Treasurers lack when they start the job can usually be acquired quite quickly through experience, the advice of colleagues and staff and, perhaps, some training. The tasks will vary, depending on the size of the organisation and the skills of staff responsible for financial record keeping, but it is likely to include:

- checking that the organisation has the money it needs to operate effectively –by liaising directly and regularly with members of staff or volunteers responsible for the accounts, i.e. not necessarily by preparing the accounts personally
- ensuring that staff or volunteers provide financial reports on time (and making the reports themselves if necessary)
- helping to work out better ways of presenting information to trustees
- carrying out regular spot checks to make sure the books of account are up to date and correspond with the reports to the board
- carrying out checks to make sure the financial systems are working properly, particularly arrangements for security of cash, signing cheques, purchasing, making payments and credit control
- reminding members to consider the financial implications of decisions they are taking, and not to take decisions unless they have sufficient information in front of them.

To do the job effectively, the Treasurer:

- must have the full support of the board
- have a collaborative working relationship with the CEO (and/or the Chair)
- must be thorough, vigilant, (and sometimes sceptical), and committed to good financial housekeeping
- must know what book-keeping and security systems are in place
- does not have to be a financial wizard
- should check with others, including the professional person who prepares the annual accounts, on issues and practices which the Treasurer is unsure about.

## Role descriptions

The following model role descriptions and person specifications for the honorary officers can be valuable in clarifying the roles for your main officers and in focusing on issues where special training or support may be needed for people who take them on. The language is more suited to well-established boards that are aware of what they should be doing. But the models can be adapted to suit the particular needs of your organisation.

The role descriptions might also be useful as part of an internal training session on the role of trustees and officers.

## Further information

- WCVA free download, [\*5.3 Governing body structures and honorary officers\*](#)
- WCVA free download, [\*5.6 Working with the chief officer\*](#)

## Model role description: Chair and Vice Chair

### Role description

The role of the Chair is to lead the board of trustees, ensuring that it fulfils its responsibilities for the governance of the organisation. When staff are employed, the Chair's role is also to work in partnership with the CEO, helping her or him achieve the aims of the organisation, and to establish a productive and effective relationship between the board of trustees and the staff/volunteers.

The responsibilities of the Chair will include:

- providing leadership for the board of trustees
- planning the annual cycle of board meetings, setting agendas for board meetings, chairing board meetings
- checking that decisions taken at meetings are implemented
- representing the organisation at functions and meetings and acting as a spokesperson as appropriate.

Where staff are employed:

- liaising with the CEO to keep an overview of the organisation's affairs and to provide support to the CEO as appropriate
- appraising the performance of the CEO according to the agreed procedures
- sitting on recruitment and disciplinary panels.

## Person specification

In addition to the qualities needed by all trustees, the Chair/Vice-Chair should also possess the following:

- leadership – including an ability to focus the attention of colleagues on key issues, to guide the business of meetings, to foresee and avoid potential problems, to operate with the support of other trustees etc
- an understanding of management, including the challenges and opportunities of managing the specific work of the organisation
- experience of committee work

- tact and diplomacy – i.e. sensitivity to the views and feelings of others, the ability to achieve results by negotiation and compromise and the capacity to persuade others to negotiate and compromise
- skills in working with and getting the best out of other people
- impartiality, fairness and the ability to respect confidences
- time to perform the role effectively.

In most circumstances it is also desirable for the Chair/Vice-Chair to have:

- knowledge of the type of work undertaken by the organisation
- a wider involvement with the voluntary sector and other networks.

## Model role description: Treasurer

### Role description

This model role description for a Treasurer incorporates a wide range of responsibilities that may not be appropriate to many smaller organisations, so it should be edited carefully to make it applicable to your individual organisation. It will also be necessary to establish clearly the relationship between the Treasurer and the CEO is employed.

The overall role of a Treasurer is to maintain an overview of the organisation's affairs, ensuring its financial viability and that proper financial records and procedures are maintained.

The responsibilities of the Treasurer will include:

#### Monitoring and handling the accounts:

- overseeing, approving and presenting budgets, accounts and financial statements
- ensuring financial reports are prepared and presented to the board
- ensuring that appropriate accounting procedures and controls are in place
- liaising with any paid staff and volunteers about financial matters
- keeping the board informed about its financial duties and responsibilities
- making a formal presentation of the accounts at the annual general meeting and drawing attention to important points in a coherent and easily understandable way
- ensuring that the accounts are audited and prepared in accordance with the Home Office Regulations, any auditors' recommendations are implemented, the accounts are included in the annual report and are submitted to the relevant statutory bodies, e.g. the Charity Commission
- ensuring that the accounts are audited and prepared in accordance with company law, any auditors' recommendations are implemented, the accounts are included in the annual report and are submitted to the relevant statutory bodies
- sitting on appraisal, recruitment and disciplinary panels as required.

## Financial planning:

- Being assured that the financial resources meet the organisation's present and future needs
- contributing to the fundraising strategy of the organisation
- ensuring the organisation's strategic plan takes financial implications into consideration.

## Managing the financial resources:

- Ensuring that the organisation has an appropriate reserves policy
- ensuring that the organisation has an appropriate investment policy (e.g. that its financial reserves are secure and earning reasonable interest)
- ensuring that there is no conflict between any investments held and the aims and objects of the organisation; monitoring the organisation's investment activity and ensuring its consistency with the organisation's policies and legal responsibilities.

## Person specification

In addition to the qualities needed by all trustees, the Treasurer should (as far as possible) also possess the following:

- financial experience and knowledge of business planning, and some experience of issues such as voluntary sector finance and fundraising and pension schemes
- the skills to analyse proposals and their financial consequences
- a readiness to make unpopular recommendations to the board
- availability to provide information to staff or volunteers on an ad hoc basis
- an ability to present financial information in a user-friendly way
- a willingness to learn appropriate new skills if required.

## Model role description: Secretary

### Role description

The role of the Secretary is to support the Chair by ensuring the smooth functioning of the board. The responsibilities of the Secretary will include either doing the following tasks or delegating them to members of staff and ensuring that they have been carried out:

- making all the arrangements for meetings (booking the room, arranging for equipment and refreshments, organising facilities for those with particular needs, etc)
- preparing agendas in consultation with the Chair and CEO and circulating them and any supporting papers in good time (at least a week before the meeting)
- receiving agenda items from other trustees/staff
- checking that a quorum is present
- minuting the meetings and circulating the draft minutes to all trustees
- getting minutes signed by the Chair once they have been approved

- checking that trustees and staff have carried out action agreed at the previous meeting
- circulating the agendas and minutes of the annual general meeting and any special or extraordinary general meetings
- sitting on recruitment and disciplinary panels as required
- acting as Company Secretary where this role is not delegated to a member of staff.

### Person specification

In addition to the qualities needed by all trustees, the Secretary should also possess the following:

- skills in organising meetings and managing paperwork
- knowledge or experience of business and committee procedures
- minute-taking experience, if this is not being delegated to staff.



## Part 6: What type of organisation?

Part 6 of this guide is designed to take a step-by-step tour of the main types of organisation you are likely to encounter as voluntary organisations in a way which will help newcomers to make sense of the options they face. This means that basic distinctions between unincorporated associations and companies limited by guarantee are discussed first. Unlike the confusing practices in some other guides, the complexities of charitable status are dealt with separately later, as another 'level' of voluntary organisation.

### 6.1 Getting to grips with the basics

Charitable status, companies limited by guarantee, and the possible personal financial risks faced by members of unincorporated associations are confusing and worrying issues for many trustees. It's not only newcomers to the voluntary sector who find terms like 'legal structures' somewhat daunting. You do need to take the issues seriously. But there's no need to panic, and you definitely should not just ignore them in the hope that they'll go away.

This section explains some of the basics about types of organisations and constitutions, starting with suggestions for new groups. Sections 6.2 and 6.3 look at 'unincorporated associations' and 'companies limited by guarantee', which are the most common options for community and voluntary organisations. To keep things as straightforward as possible, the more complex questions of charitable status and registration are dealt with separately in sections 6.5 and 6.6.

## First steps for new groups

**The steering group** When new groups first come together, they commonly feel an entirely unrealistic pressure to instantly start a charity, form a company or at least to choose a constitution and set up a formal organisation. But you shouldn't get hung up on this. While you are still only talking about what you want to do (rather than doing anything or spending money) you just do not need any of it. That can come later. This stage of an organisation is sometimes called the 'steering group', because it is steering towards setting up a formal body (though the term does not have any legal meaning).

**Getting a constitution** When you have decided what your aims are, you will need a simple set of rules which lay out how you should operate and gives you some credibility and assurance among outside organisations, such as funders. For example, you are likely to want rules which ensure that your funds will be protected, are used only for the aims of the organisation, and cannot be given to members of the group even if the organisation winds up. These rules are your constitution or 'governing document' (this is the standard term used in this guide).

- **Keeping it simple** Unless you are immediately going to take on major financial or legal responsibilities, you are strongly advised in most cases to keep your constitutional arrangements as simple as possible to start with. Don't worry about charitable status or forming a company, even if you firmly intend to register later on. This has the important benefit of avoiding the risk of getting bogged down in lengthy technical discussions which your group members may not understand, and which could actually drive them away.
- **Model constitutions** Never try to write a new constitution from scratch by yourself. Locate the template of a basic constitution for an 'unincorporated association' (see Section 6.2).
  - The Charity Commission have one on their web page 'Resources for charities with an income under £5000' (It doesn't matter that you may not intend plan to be a charity – it's a useful starting place.)
  - If you are planning to set up a local group related to a national body the parent organisation may provide their own model constitution.
  - Your local County Voluntary Council (CVC) and other support organisations will provide documents and advice.

- **Using the model** Work through the outline or model constitution with members of your steering group filling in the gaps where choices are needed, and perhaps changing other details to fit your circumstances. You will probably have to make decisions on a few basic points as you discuss it, including:
  - the name of your organisation
  - its purpose or objectives and who will benefit, and perhaps the geographical area which your activities will cover
  - the number of people who have to attend meetings for valid decisions to be made (the 'quorum')
  - the maximum and minimum acceptable numbers of people on your committee or board
  - how they are appointed or elected, and perhaps how long they will serve and in what circumstances they will be expected to retire or leave.
- **Taking precautions** Make sure the steering group members understand the constitution. Get an advisor to check any significant changes you make to the wording of a standard model. Make quite sure that you will not be prevented by the rules from changing the constitution, or scrapping it later when you are prepared to move on to the next stage of your development.

**Next** Your new governing document means that you are now a bona fide voluntary organisation, and you can move forward at your own pace to start planning your activities. If you choose to, you can delve into the complexities of other legal structures and charitable status. But take your time to find out what you will be getting yourself into. See Section 7.2 for more about governing documents.

## Legal structures – some reassurances for newcomers

**Don't be put off** The world does not usually come to an end if you make mistakes setting up and running a voluntary organisation. A great deal of information and experience is available for you to tap into, so the risks of getting it wrong are very small anyway.

But there are understandable reasons why people, particularly those new to working with charities and community organisations, get nervous when they hear about 'legal structures'. You wouldn't be the first to flinch at the apparent complexities and the unfamiliar jargon. But it's really not as bad as it sounds, and here's why.

- The recurring term 'legal structures' seems to throw people at the mercy of a legal system which is likely to be unfamiliar to them. Stop worrying – driving a car to the end of your street imposes a wider range of legal responsibilities than joining the board of a voluntary group, and that doesn't deter people.
- The abstract word 'structure' itself is just a bit of jargon for 'type of organisation'.
- Even worse is the phrase 'governing document', which is a general term for an organisation's rules or constitution. (The main justification for using 'governing document' is that it allows the word 'constitution' itself to have a particular technical meaning which we will come to later. But many people would be less bewildered if allowed to replace this with the more familiar word.)
- People very commonly find it strange that charities can be limited companies, and vice versa. The fact is they can. While 'company' nowadays has a business connotation, its original meaning was a group of people who have come together for a common purpose.
- For the same reason, the idea that 'ordinary people' (particularly in disadvantaged communities) might become 'company directors' can also feel alien. It can be important to overcome this social and emotional objection to registering a community organisation as a limited company. Anyone over the age of 16 can become a company director and hundreds of thousands of people are. If you still have reservations, think of it as taking control and showing that groups of people can stand up for themselves and achieve things by working together that they couldn't do on their own. It's what people should be doing!
- Recent governments have deliberately taken steps to raise awareness of the responsibilities of charity trustees following a number of high-profile cases where charitable status has been seriously abused or mismanaged. Responsibilities have not actually increased markedly – but awareness of them has.
- Changes to company and charity law in 2006 created two new types of company which are of interest to voluntary organisations. The wider range of options available is bound to add to the confusion for people already feeling uneasy about the 'legal structures'.

**It's simpler than you think** If choosing the right type of organisation or legal structure is a concern, the following assurances may help.

- **Don't rush** New organisations should not be pushed or panicked into choosing legal structures the moment they get started. Local authorities and support agencies may occasionally have their own reasons for urging groups to quickly register as companies or charities. But they won't be the ones taking responsibility, so make sure you understand the implications before you act.
- **You probably already have legal responsibilities** Getting legally constituted does not expose you to greater risk – it helps you to manage your responsibilities better. As soon as people start working together in any kind of voluntary group they have some (usually very limited) legal responsibilities. Getting constitutional rules and working as a formal committee is likely to give you more, not less, protection.
- **But if you are about to take on significant financial responsibilities** If you will soon employ staff, own or lease a building, handle large sums of money or provide public services, then form a company. Operating as a limited company will give protection to your organisation and the people who run it. In this situation the question to ask yourselves is not “should we form a company?”, but “is there any good reason why we shouldn't?” (One exception to the ‘don't rush’ advice is when you already have any of these major responsibilities and are not formally constituted. If this is the case, don't hesitate – get advice.)
- **You are not alone** Setting up a new voluntary organisation is a big step for the people involved. But it is an everyday occurrence throughout the country, and there is a huge amount of easily accessible experience and knowledge within reach. Don't hesitate to contact your County Voluntary Council, a parent or umbrella organisation, or another similar voluntary group for advice.

## The main options

**Voluntary organisations** (including charities) fall into one of several recognised categories, and the important ones are discussed in detail in later sections of this guide. The legal status of each is quite distinct, and it is important for trustees to be aware of what type of organisation they are responsible for. These are:

- unincorporated associations
- limited companies
- trusts
- industrial and provident societies.

**What about charities?** The first three of these classes of organisation may in some circumstances also be charities. If you find all the different options confusing, try to think of charitable status as a way of running your voluntary organisation after you've decided its basic legal structure. To help you keep to this distinction, charities are discussed separately in Sections 6.5 to 6.8.

**Basic types of limited company:** There are only four legally distinct forms of limited company or partnership, which are each defined by who owns them. Of these only two are widely used by voluntary organisations, and one of these has significance primarily for trading ventures. The four are:

- public limited companies (forget these – you will not be forming a PLC!)
- limited liability partnerships (designed primarily for individuals)
- companies limited by shares (used occasionally by community trading ventures)
- companies limited by guarantee, used very widely by community groups and charities.

**The flexible company limited by guarantee** Companies limited by guarantee (and companies limited by shares if you need to use them) allow for enormously flexible arrangements. If people make mistakes, it is not usually structures which they get wrong but the way they adapt them in their individual circumstances. Making adjustments later is also simpler than most people imagine.

**New structures with special uses:** This flexibility has been exploited by the government recently to add two new legal structures. You can treat these as 'optional extras' rather than difficult core choices. They are:

- **Charitable Incorporated Organisations (CIOs)** – these are companies limited by guarantee which have 'built in' charitable status (see Section 6.6).
- **Community Interest Companies (CICs)** – these are specially regulated companies designed for social enterprise trading, which are either limited by guarantee or limited by shares. CICs are explained in detail in the companion WCVA handbook *It's an idea but is it business? A guide to third sector trading*.
- **The new legal structures in context** – It's true that CIOs and CICs have complicated the choices for new voluntary organisation. But they are not important enough to lose sleep over. Here are some more reassurances:
  - The new options are actually only variations of the existing structures and arrangements for companies limited by guarantee or companies limited by shares.
  - If you see advantages to using one of these structures, do so. They are harmless.
  - But in the unlikely event that you make a bad choice initially you can in most circumstances change the structure at a later stage. You will experience inconvenience or, at worst, a higher tax bill, rather than legal sanctions.

**Other constitutional arrangements:** You may come across other slightly more idiosyncratic legal formats which are used by certain types of social enterprise organisations. But, except for a few very special circumstances, they do not have advantages over limited companies. Newcomers can usually discount them as options.

- **Industrial and Provident Societies (IPS)** tend to be more cumbersome and less flexible than companies limited by guarantee. They have the advantage that they can sell shares to the general public, which might be useful for social enterprises.
- **Credit unions** are a specialised and highly regulated community banking organisations.
- **Trusts** (when the term is used in a specific technical sense) use a rather old-fashioned legal structure for charities, which is rarely recommended for voluntary organisations nowadays (see Section 6.8). Note: the word 'trust' is also widely used in the names of community and development bodies, but has no particular legal meaning.



**Terms that have no legal status:** Many terms have no meaning in British law, and have no specific constitutional arrangements associated with them. They are really descriptions of ways of working (sometimes rather indistinctly), and sometimes reflect changing fashions and politics over the last 30 years. You should not get distracted by them – although their supporters may sometimes recommend off-the-shelf constitutions. The terms include:

- community association
- community business
- community co-operative
- community development trust
- community partnership
- community trust
- development trust
- not-for-profit organisation
- social firm
- village hall committee
- voluntary organisation
- worker co-operative
- social enterprise.

## Knowing what you are

**Why you need your rules:** Every trustee and senior staff member should have their own copy of their organisation's governing document. Any trustee that has mislaid or never received an up-to-date version should automatically ask the Chair or CEO for one. The governing document is not always as clear as it could be, but it should :

- define the organisation's legal status
- give the trustees basic information about their responsibilities for the organisation
- lay down the rules for how the organisation is to be run.

**Being clear about your organisation's status:** Some organisations surprisingly have difficulty establishing what their legal status is, who their trustees are, or whether the trustees have personal liability. Here are some indicators if you have difficulties.

- **Companies:** If your organisation is a limited company, the governing document will be labelled the 'memorandum and articles of association' or 'articles of association' for versions compiled after 2006. There will also be an indication of whether the company is 'limited by guarantee' or 'limited by shares'. Take a look at your organisation's stationery too. Under company law, a company is required to indicate on its letterhead if it is a company.



- **Charities:** If your organisation is a registered charity, the constitution, the memorandum and articles, or the trust deed (as appropriate) will say so. However, documents can be misleading, and the only guarantee of charitable status is an entry in the Charity Commission register which you can check on the internet.
- **Unincorporated associations and trusts:** Constitutions and trust deeds, especially those dating back many years, may provide limited information or be couched in difficult legal language. It can sometimes be difficult to identify exactly who the trustees are, but their personal liability will usually be obvious from the context. In the case of registered charities, the Charity Commission may be able to offer advice.

(See Sections 6.2, 6.3, 6.4 and 6.7 for explanations of the different types of organisation. Section 7.2 describes governing documents in more detail, and Section 7.6 explains the legal liability of trustees.)

## Further information

- Charity Commission, *Small Charity Constitution*

## 6.2 Unincorporated associations

If you want simplicity and flexibility, and you will not be taking responsibility for property or substantial sums of money, an unincorporated association could be the structure you need.

### Suitability

An unincorporated association is a group of people who come together to pursue a shared aim. It is well suited to small organisations which:

- have modest assets
- have a membership
- have elected trustees (who may be called 'committee members')
- want to take account of residents' or members' views
- depend partly or largely on volunteer effort.

It is typically used, for example, by:

- self-help groups
- local societies
- local campaigning organisations.

### Advantages of unincorporated associations

Unincorporated associations:

- are simple to set up and inexpensive to run
- are very flexible because the constitution can be tailored to suit the needs of the organisation
- can allow control to lie in the hands of either the membership as a whole or a smaller group of trustees (frequently called the 'management committee') elected by the members, or even a small group alone without the need for a membership
- may have a constitution which can be changed relatively easily, usually subject to the approval of a certain percentage of its membership
- have considerable independence and freedom of action (if they are not registered charities) – for instance, they do not have to submit accounts to outside bodies.

## Disadvantages of unincorporated associations

Unincorporated associations:

- have no legal personality, so they cannot directly hold property and may find it too difficult to borrow money – legal transactions have to be in the names of the individual trustees and cannot be carried out in the name of the organisation (you will need to appoint a small group of holding or custodian trustees who hold the assets in their names)
- give trustees no protection against unlimited personal liability, i.e. if the association has insufficient assets to pay its debts, the trustees will personally have to pay them (in exceptional cases the personal liability can extend to the wider membership)
- can be susceptible to abuse by trustees, e.g. to reduce the democratic rights of members.

## The 'constitution'

**Flexible rules for non charities** There is almost unlimited scope for the terms of the governing document (usually known more simply as the 'constitution') of an unincorporated association without charitable status. In theory you can run the organisation exactly as your members want. If you want to run a club for people making quilts or for hill walkers it hardly matters what the rules are for collecting membership subscriptions or appointing officers, provided the people you invite to join agree to accept them. That freedom quickly disappears if you involve the wider public in supporting your events, making donations or grants, and trusting you to provide community services. Then your constitution will need to specify how the trustees and the association as a whole will operate fairly, transparently and honestly. The flexibility is significantly reduced again for unincorporated associations which apply to register as charities (see Section 6.6 and 6.7).

**Moving up from a simple start** Section 6.1 explains how new groups can get started with a very basic 'off-the-shelf' constitution (which may be only two or three pages in length). But this may not be robust or thorough enough for a membership organisation or a community group aiming to achieve a higher profile or large grants. Then rules on the appointment of trustees, voting procedures, declaring conflicts of interest etc may need to be clearer or more complex. If this is the case you should consider upgrading your constitution.

**Sources of constitutions** The Charity Commission provides the Charitable Associations Model Constitution GD3, which can be adapted and used by charities and non charities alike. Some national organisations and charities provide approved model constitutions for members or associate groups. These are listed on the Charity Commission website.

Using a standard model is recommended because many funders and supporters are prepared to help non charities if they are satisfied that their objects are right, that the organisation is open and democratic, and that its funds will be safe from misuse by individuals. You may want to tweak the charity constitution to serve your own purposes. But it would be unwise to get rid of the clauses which protect the public unless you really need to.

**Contents** An unincorporated association should usually have a constitution which sets out:

- the name in which the association will be administered
- the 'objects' of the organisation
- trustees' powers
- criteria for membership and voting rights
- procedures for electing trustees, holding meetings, etc
- financial matters
- amendment procedures
- dissolution procedures.

**Appointment of the trustees** The trustees will normally be elected from the membership following procedures set out in the constitution. Trustees may also be appointed by outside bodies such as a local authority.

**What happens if you grow?** Many unincorporated associations need to change to become a company limited by guarantee - e.g. if it has grown to employ staff and manage premises and trustees no longer want to be personally liable. This is not difficult. Guidance is available from the Charity Commission. You will need professional advice from an accountant if you are closing down one organisation and transferring its assets to another.

**What happens to your assets if you close?** An association may close because it can no longer attract trustees, because their funding is running out, or because it is converting to a company limited by guarantee. It is critical that the trustees are scrupulous in the way they dispose of any remaining assets. Where the organisation's money has been donated by the public, or by public bodies, it is clearly improper (and indisputably illegal in the case of charities) for the assets to be distributed among the trustees or members. It is common practice to specify that assets must in these circumstances be donated to another organisation with similar objectives, or that an independent body such as a local authority or a charity should determine how they are disposed of.

The constitutions of unincorporated associations which have been registered as charities with the Charity Commission normally specify what must happen to their assets if they close down. If there is no such clause, charities should apply to the Charity Commission for guidance.

## Checklist

- Are the trustees aware that they are personally liable if the organisation has debts it cannot pay?
- Does your board need to review whether or not an unincorporated association is still the most appropriate legal structure for carrying out the organisation's purpose?

## Further information

- Charity Commission, *Small Charity Constitution*
- Charity Commission, *Charitable Associations: Model Constitution, GD3*

## 6.3 Companies limited by guarantee

The idea that a voluntary organisation can be a limited company and that the committee members might take on the imposing title of 'company directors' can be daunting for some people. In fact, directors can call themselves what they like in private and in public. 'Committee member' is fine if you prefer it.

### What is a company limited by guarantee?

**The Company** When voluntary organisations form companies, the type of legal structure they normally use is the 'company limited by guarantee', which has some features in common with, as well as significant differences from, public limited companies and private companies limited by shares – which are familiar features of the private sector.

In a company limited by guarantee:

- the company members have equal voting rights (as distinct from votes dependent on the number of shares they hold in other types of company)
- instead of holding shares (which imply financial risk) the members' liability is limited – and basically this means that you won't have to pay the company's debts if it goes bust, provided you've behaved properly as a director.

**Voluntary organisations as limited companies** Technically, the governing document of a company limited by guarantee can allow the trustees ('directors' or 'board members') considerable flexibility. It is not possible, or even particularly useful, to describe all the options in this guide. The format described here is the one which applies most commonly to voluntary organisations. (But it does ignore the provisions which allow workers in some co-operatives to control their companies and benefit financially as trustees.)

The particular form of governing document described in this section is framed in a way which is recognised as charitable by the Charity Commission. Variations for non-charities are referred to where relevant.

## Advantages and disadvantages

### Advantages of limited companies

- Companies have the legal status of being incorporated organisations. Incorporation gives a voluntary organisation its own legal personality. Contracts can be entered into in the name of the organisation, staff can be employed and property can be owned by it. This means that the names on legal documents do not have to be changed every time there is a change of trustees (as is the case with unincorporated associations).
- Companies limited by guarantee are private companies with a membership instead of shareholders. The members all guarantee to pay a nominal maximum sum, usually £1 or £5, if the company becomes insolvent – that is, liable for debts which cannot be repaid from the charity's assets.
- Limited liability
  - Non charities Trustees are usually, but not necessarily, members of the company. As members, trustees will not be personally liable for the debts of a company above the nominal sum they have guaranteed. A few particular exceptions are explained in Sections 7.5 and 7.6.

- Charities The trustees of companies which are also registered as charities have the same protection under company law. But they should be aware that as in any charity they can still be held personally liable by the Charity Commission for any breaches of trust, such as spending the charity's assets on a project which is outside the scope of their activities as defined in their memorandum and articles of association, or making bad investment decisions without obtaining advice. See Part 7.

**Disadvantages of limited companies** The main disadvantages, compared with unincorporated associations, are:

- the additional bureaucracy involved in meeting the requirements of company law – making annual returns to Companies House, submitting public accounts, etc
- the modest extra cost of the initial incorporation
- the requirement that the names of trustees and the accounts are available for public inspection
- the costs of preparing annual accounts.

## The Articles of Association

**The old 'memorandum and articles'** Until 2009 companies were registered somewhat confusingly with two documents – the memorandum of association (which defined the purpose and powers of the company) and the articles of association (which lay down the administrative rules on issues like the membership, the appointment of directors and the way meetings are conducted).

**The new single document** All new companies must be registered with a set of 'articles of association' which includes all these details. (The 'memorandum' is reduced to a form listing the people who formed the company, which is soon no more than an historical record.)

**Contents of the articles of association** The following list is not necessarily comprehensive, but it includes the main issues which you should expect to see covered by the articles of a company limited by guarantee.

- the company's name
- the location of its registered office
- the objects or aims
- the fact that members' liability is limited
- the size of the members' guarantee
- the powers of trustees to achieve the objects
- special powers as required, such as provision for worker-trustees or power to use the company's assets to pay for trustee liability insurance
- details of what happens to the assets if the company is wound up
- who can become a member of the company
- the number of trustees, how they are elected or appointed, for what period, and any restrictions on who can become a trustee
- procedures for holding meetings, including annual and extraordinary general meetings, and for voting
- financial and auditing procedures
- procedures for appointing auditors
- powers to delegate to staff or subcommittees
- rules on declaring and handling conflicts of interest
- administrative provisions, e.g. notices, indemnities, standing orders.



## The election and appointment of trustees

**Trustees and directors** With very rare exceptions the company directors are the trustees. They may use any term they like to describe themselves – 'directors', 'board members', 'members of the board', 'governors', etc. The term 'trustees' is not often used by the companies themselves. It's a good idea to avoid the terms 'management committee' and 'board of management' because this can create the misleading idea that the trustees are necessarily responsible for day to day management. They are not – see Part 1.)

**The difference between the company membership and the board** Limited companies are designed in principle to have a careful balance between the directors who are responsible for the good management of the organisation and the general company members who are responsible (through the Annual General Meeting and other general meetings) for making sure the board does its job properly. This suits many community organisations, although it is possible for the board and the membership to be identical in practice.

**Procedures** Company law requires the members of a company to appoint or elect the directors following procedures contained in the articles of association. The articles usually set out:

- procedures for the nomination and election of directors, whether from within or outside the membership

- procedures for the appointment of trustees by outside bodies (if applicable)
- who can become a member of the company, the procedure for becoming a member and the procedure for expelling a member.

**Board-led companies** When the company members are all directors (trustees) there will be a somewhat circular appointment process. The existing directors appoint the new members of the company. The company meets, notes the retirement of some of the trustees and 'elects' the new members as trustees. Voluntary organisations and charities which follow this process usually have a clause in their articles requiring trustees to be members of the company.

- **Advantages:** This is a stable arrangement which gives those currently bearing responsibility for the organisation (who should have a thorough knowledge of its work and the role of trustees and the qualities required) the power to elect their successors.
- **Disadvantages:** The approach is also undemocratic and leads to self-perpetuating boards which keep out others who may be willing and able to contribute. It also lacks a group of people who can remove the trustees from office if trustees have become corrupt or are neglecting their duties. Some voluntary organisations attempt to overcome this by having at least twice as many members as trustees.

**Member-led companies** A more democratic approach taken by other voluntary organisations allows a wide range of people to become members and elect the trustees.

- The advantages of this approach is that it involves a wide membership, which may include donors, supporters and beneficiaries or users, in the election of trustees, giving greater accountability
- the disadvantage of wholly elected boards is that they may lack some of the skills and experience needed for effective governance in a voluntary organisation, so it is a good idea to reserve a few places for appointed or co-opted trustees who can be brought in to plug any skills gap.

## Who is a 'member'?

**Different types of member** Confusion often arises over what the term 'member' means, and you need to be careful to make proper distinctions:

- board members/directors: these are the trustees
- company members are legally entitled to elect the directors (trustees) and may be individuals or corporate bodies or both; you are required by law to record their names; the articles may give you the power to charge them an annual membership subscription

- 'user' members may be people who pay an annual membership subscription to receive your organisation's services, but who do not have any other rights; in law they may be considered as 'affiliate' or 'associate' members; the problem with a structure that includes a separate class of 'user' members is that it can be divisive, and cause resentment for the members and board who control the company.

If there is any possibility that people's membership status will be questioned, e.g. if they demand voting rights, you should check how the articles of association and the terms of membership define 'members'.

**Keeping track:** To avoid confusion about exactly who is a member of a limited liability company (which you must do by law) there are two practical steps you can take:

- make an up-front charge equal to their limited liability (usually £1) at the time when people first become members – and record this in the accounts
- charge a modest annual membership fee so that it is obvious who has ceased to maintain their membership – avoiding the build up of dead wood in your membership (people who have lost interest or moved away) can also save money and time when it comes to mailings.

## Charitable companies

**If you intend to register later** as a charity you will need to establish a company limited by guarantee with an 'objects clause' and articles which are recognised as charitable by the Charity Commission (see sections 6.6 and 6.7).

### Checklist

- Could your memorandum and articles be improved by updating it in line with the provisions of the 2006 Companies Act and 2006 Charities Act?
- Do you review your memorandum and articles of association periodically to check that it still meets your needs?
- Does your board need to review its membership policy or the way it elects or appoints trustees?
- Can you easily keep track of who is a member?

## Further information

- Charity Commission, *Charitable Companies: Model Memorandum of Association and Model Articles of Association, GD1*

## 6.4 Community Interest Companies

Community interest companies (CICs) are an important recognition of the importance and value of social enterprise organisations – which include the many voluntary organisations that carry out trading activities. But since their introduction as part of the Companies (Audit, Investigations and Community Enterprise) Act 2004, the constitutional structure has proved less useful to small local enterprises than many people hoped. This section provides a brief overview of the new CIC arrangements, while the issue of trading is covered comprehensively by the sister WCVA publication *It's an idea but is it business – a guide to third sector trading*.

### What are CICs about?

**The purpose of CICs:** The government introduced CICs

- to reduce the costs and complexity of setting up trading organisations which operate on a 'not for profit' basis for community benefit
- help to raise the profile of 'social enterprise'
- help companies which are run for community and social interest to access finance.

### The 'asset lock':

- Until the arrival of CICs there was no simple, clear way of locking assets of limited companies to a public benefit purpose, other than charitable status. This meant that buildings and other property owned by organisations that trade for community benefit were vulnerable, particularly if enterprises undertook major commercially-funded investments.
- The community interest company provides a transparent, flexible model safeguard or 'lock in' for assets to ensure they are retained for community benefit. The format is intended to be both clearly defined and easily recognised.
- Charities provide the same protection, but with more regulation and more restrictions on the trading which companies undertake.

## The regulation of CICs

- As with ordinary private companies, CICs can be limited by guarantee or limited by shares. (See Section 6.3).
- Much of the constitutional structure of CICs is similar or identical to that of private companies limited guarantee or limited by shares.
- The major change is the role of the Regulator who is responsible for ensuring that companies which use this structure comply with annual reporting requirements and genuinely operate in the interest of the community.
- This regulation is effectively a trade off for the privilege of the asset lock facility.

## The value of CICs

### The advantages

- **A standard model** CICs offer a relatively straightforward, standard constitutional format for organisations to make it easier for them to attract commercial investments for their development.
- **Asset lock** A CIC's asset lock ensures that a company's assets are 'locked' to be used only for community benefit.
- **Community links** The regulatory arrangements are intended to ensure that CICs create strong links between their activities and the communities they serve.
- **Less regulation than charities** CICs are an alternative to charities, with less regulation and control. (CICs cannot be charities: the choice is either/or.)
- **The 'CIC club'** It was hoped that CICs would become a recognised format for social enterprise trading, though this seems to be happening rather slowly and may already have run out of steam.
- **Flexibility** CICs offer almost everything that ordinary companies limited by guarantee and companies limited by shares can already do.

**Where CICs can't help** CICs have not proved to be a way of encouraging the development of social enterprise among smaller voluntary organisations. It's not that there's anything wrong with CICs – just that they don't make much difference to this type of organisation.

- **Corporation tax** CICs do not enjoy any of the tax advantages of charities if they make a profit. So there will be few if any advantages in charities with modest trading activities converting to CICs.
- **Flexibility and constitutional** simplicity Enterprises which for tax reasons cannot afford to be CICs will be stuck with the restrictions of charity law and the existing messy constitutional structures including subsidiary trading companies.

**Duplicating the charity asset lock** The CIC's asset lock is already enjoyed automatically by charities.

**No help with growth** CICs will provide greatest benefits to larger voluntary organisations which are not charities and are actively expanding because they should have easier access to loans and potential private sector partners. The problem, of course, is that the legislation makes it no easier for small enterprises to grow into bigger ones in the first place.

## Key provisions of the legislation

### Basic arrangements CICs:

- can be either companies limited by guarantee or companies limited by shares (under the 1985 Companies Act)
- follow the same basic incorporation process and annual reporting procedures with annual fees as other companies (with some extra elements)
- must be committed to pursuing community interests, and have to satisfy the CIC Regulator when they are incorporated that they satisfy a 'Community Interest Test'
- are required to produce an annual 'community interest report' to show the steps taken to pursue public and community benefits
- be required to reflect the role and importance of local stakeholders (staff, beneficiaries, funders, shareholders) by involving them as fully as possible in the company and to report on the efforts which they make to involve them.

## Assets and finance CICs

- have a permanent statutory 'lock' on the value of their profits and assets – which means that they can trade and make profits, but the companies' resources cannot be taken over and used for private benefit
- are able to use assets as collateral for loan finance
- are able to raise capital by the sale of shares (although the dividends payable on the shares will be capped to limit distribution of profits to shareholders) but...
- ... be protected from adverse takeovers and prevented legally from being controlled completely by investors
- are free to set up subsidiaries – either other CICs or non-CICs
- are able to transfer surpluses to charities and other CICs provided stakeholders and the Regulator agree
- are required to use assets for community benefit if they are wound up – i.e. passed to a charity or another CIC (and not allow them to be distributed to members)
- are subject to insolvency law – i.e. they can lose their assets if they become insolvent

- can prevent assets which have been provided by donors from being seized by unsuitable creditors if the CIC becomes insolvent (the donor can attach conditions to their donation).

## Ineligible activities

CICs have a fairly free range, but they may not:

- act as or support political parties;
- carry out political campaigning or engage in political controversy, e.g. campaigning for and against vivisection, abortion, the freedom to smoke etc.

## Other regulations

- existing companies are able to convert to CICs
- changes to a company's objects must be approved by the Regulator.

**Applications** The application process is like that for other companies in most respects, although there is an extra form for declaring the applicant's community interest. Forms and guidance information can be downloaded from the CIC website.

If you want to register immediately you are likely to want to use the new form of charitable incorporated organisation which makes the process simpler. (See Section 6.8).

## Checklist

- If your organisation is not a charity and is acquiring buildings or land assets, have you investigated whether the CIC asset lock might be an advantage?
- Before you register a CIC, have you checked whether you are missing out on the benefits of charitable status?

## Further information

- Contact the CIC Regulator, Companies House, Crown Way, Cardiff, CF14 3UZ, tel: 029 2034 6228. CIC website: [www.cicregulator.gov.uk](http://www.cicregulator.gov.uk)



## 6.5 What is a charity?

The tax advantages for charities only benefit those which generate surpluses, and charitable status certainly does not provide the easy route to grant funding that is sometimes expected. Fewer than a third of voluntary organisations in England and Wales are registered charities. So being a charity is not necessarily the default state for community groups, clubs and societies, or social enterprises. And there is good reason for this: the privilege of being granted charitable status is balanced by serious responsibilities for trustees and obligations for their organisations which not everyone wants to take on.

If you haven't been deterred by the rigours of governance described elsewhere in this guide, the description in this section of the factors used to assess applications for charitable status should at least give you a sense of the legalist approach and the bureaucracy which surrounds the issue. Whichever course you take, these are things to be aware of before deciding for or against charity registration.

## Charitable status

**Scope of this guidance** Information in sections 6.5, 6.6, 6.7 and 6.8 is specific to charities in England and Wales only.

**The history** The Charities Act 2006 is arguably the biggest shake-up in charity law since charitable purposes were first defined in 1601 by the Charitable Uses Act. Previously the law could tell us what was 'charitable', but not precisely what a 'charity' was. Activities which might be considered charitable continued to accumulate haphazardly after the 'four charitable heads' were spelled out in 1891 as:

- the relief of poverty
- the advancement of education
- the advancement of religion
- 'other purposes beneficial to the community' which (in a question-begging way) are recognised as charitable.

Right up to 2006 these 'other purposes' were a catch-all for issues as diverse as animal welfare, conservation of the environment, community regeneration and more.

**A charity** The Charities Act 2006 defines a charity as a 'body or trust which is for a charitable purpose that provides benefit to the public', and it must be wholly charitable. The meaning of this is extremely important. A charity has to demonstrate that:

- its activities relate to one or more of 13 newly defined charitable purposes
- it doesn't do anything else not covered by the 13 headings
- it operates for the benefit of the public (rather than a limited group of individuals)
- it does not have some aims that are for the public benefit and some that are not.

Satisfying only one or two of these conditions is not enough.

**The 13 headings** The Charities Act's new list of headings replaces the original four charitable heads with 12 specific 'descriptions of purposes' and one general description (a catch-all to ensure against inflexible exclusions as before). The list is:

- the prevention or relief of poverty
- the advancement of education
- the advancement of religion

- the advancement of health or the saving of lives
- the advancement of citizenship or community development
- the advancement of the arts, culture, heritage or science
- the advancement of amateur sport
- the advancement of human rights, conflict resolution or reconciliation, or the promotion of religious or racial harmony or equality and diversity
- the advancement of environmental protection or improvement
- the relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage
- the advancement of animal welfare
- the promotion of the efficiency of the armed forces of the Crown, or of the efficiency of the police, fire and rescue services or ambulance services; and
- other purposes that are currently recognised as charitable or are in the spirit of any purposes currently recognised as charitable.

**Charitable purposes** The list has the potential to provide the Charity Commission, those applying for charitable status and the wider public with a way distinguishing whether any of the particular activity is likely to be charitable. The Commission's website provides a detailed analysis of the various activities which could be covered by each heading, and lists of examples which fit. The approach is typically legalistic and bureaucratic (and rather tedious to explain in detail), so not everyone will warm to it.

But it does have the little advertised benefit of requiring applicants to be much clearer than they perhaps were in the past about what their charity's objectives were and what exactly they would do to achieve them. In an environment where there is less money to go round and more and more charities are crowding one another out, this can't be a bad thing.

**The two principles of public benefit** There are two key principles both of which must be met in order to show that an organisation's aims are for the public benefit. Within each principle there are some important factors that must be considered in all cases.

- Principle 1: There must be an identifiable benefit or benefits, and
  - it must be clear what the benefits are;
  - the benefits must be related to the aims;
  - benefits must be balanced against any detriment or harm;
- Principle 2: Benefit must be to the public, or a section of the public, and
  - the beneficiaries must be appropriate to the aims
  - where benefit is to a section of the public, the opportunity to benefit must not be unreasonably restricted by geographical or other restrictions or by ability to pay any fees charged
  - people in poverty must not be excluded from the opportunity to benefit
  - any private benefits must be incidental.

## Implications for existing charities and new applicants

### The public benefit test

The fact that an organisation has a stated aim which falls within one of the descriptions of purposes does not necessarily mean it is charitable. To be a 'charitable purpose' it must also be for the public benefit. The Charity Commission has powers to require existing registered charities to prove this.

The public interest test changes the earlier view that anything connected with the original heads of poverty, religion and education is automatically charitable, and it opens the door for other beneficial activities to be recognised.

The challenge to the 'education charity' status of public schools on the understandable grounds that they benefit affluent families rather than the general public neatly illustrated what is at stake here. In the event, the schools were deemed to have passed the public benefit test when they agreed to offer a small number of bursaries to the children of poorer families. The bar would appear to be quite low, but the Charity Commission does have to be persuaded.

**Non charitable benefits** An organisation cannot be charitable if:

- its aims are illegal or could be said to further illegal aims under the law of England and Wales; or
- it is set up for the personal benefit of its trustees, employees or other groups of people who are defined by their personal or contractual relationship with one another, such as a professional institute; the one exception to this is charities for the relief of poverty
- it is set up for political aims.

**Some organisations which don't qualify** Some types of organisation are often assumed to be charitable when they are not, including:

- sports clubs set up to benefit their members or promote excellence (as distinct from sports facilities open for everyone or specifically provided for special groups such as elderly people)
- bodies promoting political or propagandist aims
- friendship bodies such as town twinning associations
- groups raising funds for other charities where the organisers do not have any say over how the funds are spent.

**Why not fundraising?** Fundraising is a way to achieve charitable objectives not a charitable aim in itself. If you want to carry out fundraising as a charity you will need to ensure that your objectives are consistent with the proposed use of the money you hope to generate. For existing charities this can sometimes mean setting up new charities or changing their objects. But check with the Charity Commission first.

**Demonstrating charitable purposes:** Applicants for charitable status are required to provide evidence that proposed activities fit entirely within the 13 headings and that the public will benefit. (See more about the application process in Section 6.7) This is more focussed and perhaps more challenging than the situation before the 2006 Act. It is not necessarily enough for applicants to say that their organisations' activities are beneficial.

**Requests for clarification** An applicant who claims to be planning to undertake community development work at a new community building, for instance, is quite likely to receive a follow-up request for information from the Charity Commission asking what activities will be carried out, for whom and with what expected result. This may be the case even when an applicant quotes verbatim the wording for one of the 'description of purpose' that is used on the Commission's website. The request is quite normal and does not mean your application is about to be rejected. (The stated reason for this kind of inquisition is that the broad published descriptions may have more than one meaning, not all of which are charitable. So the applicant must specify one which is exclusively, and unambiguously, charitable. The Charity Commission will consider each case on its own merits.)

## Advantages of being a charity

The main advantages of charitable status are that:

- charities do not normally have to pay income/corporation tax capital gains tax, or stamp duty
- gifts to charities are free of inheritance tax
- charities automatically benefit from 80 per cent relief on normal business rates on the buildings which they use and occupy, and they may be granted 100 per cent relief
- in some circumstances charities can get special VAT treatment (but this advantage rarely applies in practice)
- are often able to raise funds from the public, grant-making trusts and local government more easily than non-charitable bodies
- charities may find that their status gives them recognition and a formal role in representing people and the needs of the community
- charities are able to give the public the assurance that they are required to follow good practice and that they are monitored by the Charity Commission
- charities are well provided with relevant information from the Charity Commission, and may seek their advice.

## Limitations of being a charity

**Rules and restrictions** Balancing the advantages are the many restrictions and obligations which charities are subject to, which affect what they can do and the way they work.

These include:

- the need to have exclusively charitable aims, which may prevent them from carrying out some of the work they would like to do
- limits on political or campaigning activities (see Section 7.4)
- strict rules on trading (see Section 4.6)
- a bar on trustees receiving financial benefits unless this is specifically authorised by the governing document or the Charity Commission (see Section 3.6)
- the need for trustees to avoid any situation where their personal interests might be seen as conflicting with their duties as trustees (even if there is no actual conflict (see Section 3.6)
- financial reporting obligations.

## Exaggerated advantages

- **Grants** While it is true that some organisations will make grants only to charities, the advantage for charities is sometimes exaggerated, and you may even encounter passionate arguments for and against charity registration which focus on this issue. The reality is that it depends what you want money for, what kind of organisation you are, and who you are likely to be asking. So generalisations are unhelpful.
- **Tax** Corporation tax advantages only apply if you earn surpluses which are likely to be taxed, and few charities qualify for VAT benefits.
- **Rate relief** is only useful if you permanently occupy buildings, and some non charities enjoy partnership arrangements with local authorities which are just as beneficial as rate relief.
- **Public profile** Whether your work will benefit from the kudos and credibility of charitable status actually depends on the nature of your work and existing relations with the community. Successful high profile organisations may not find the charity label helps at all, and more attention-shy groups may not welcome the need for public accountability.

## Other changes in the Charities Act 2006

**An overview of the Act:** The Charities Act 2006 is a substantial piece of legislation which has made a very large number of changes. It can be important for people who know something about the way things were before the lengthy staged process of introducing its provisions to be aware of what is different.

But the Act is not at all easy to summarise. This is because its effects are so widely spread – on the smallest to the largest charities, on existing charities and new applicants, on conventional charity structures and new constitutional arrangements, on the duties of individual trustees and their collective responsibilities, on bureaucracy which has been relaxed and rules which have been tightened, and on the work of the Charity Commission itself. The Commission's leaflet 'The Charities Act 2006 – What trustees need to know' provides useful coverage of the detail as well as an accessible summary.

The following is an indication of the issues which have changed, rather than a comprehensive list of the changes themselves. You may want to pursue some points further.

**Registration** Charities with an annual income of over £5,000 must register (previously £1,000).

**Changing the objects:** Unincorporated charities can make small adjustments to their charitable purposes without Charity Commission permission, provided they are approved by 75 per cent of members and reported to the Commission.

**Changing the constitution or articles** Charity Commission permission is not necessary for changes to the administrative rules of unincorporated charities (e.g. the committee quorum), or for changes to the articles of association of charitable companies except articles relating to:

- the charity's objects
- the disposal of assets if the company is dissolved
- authorising benefits to trustees.

**Payment for services provided by trustees** Subject to strict conditions, it is now much easier to pay trustees for goods and services which they provide to their charity (though not to pay them for acting as a trustee).

To do so you should:

- set out the terms of the payment in a written agreement
- ensure the payment amount is reasonable
- be satisfied that the arrangement will save money or provide a better quality service
- keep the number of trustees being paid to a minority of the board
- conform to the rules in the governing document (or change them if possible and necessary)
- ensure that trustees who stand to benefit take no part in making the agreement
- respect the trustees' duty of care if they have special expertise or knowledge to act in the same way as they would if they were acting normally in a business capacity
  - consult Charity Commission on line guidance
- **transferring assets, spending endowment funds and mortgaging land** is easier for smaller unincorporated charities
- **managing mergers** is easier when charities merge
- **the charitable incorporated organisation** is a new legal structure for incorporated charities with limited liability, to avoid dual regulation by both the Commission and Companies House.



**When things go wrong** The Charity Commission has increased powers to intervene when things go seriously wrong for charities, including:

- a Charity Tribunal to hear appeals against their decisions
- providing advice on donated property and gifts
- making rulings on the membership of charities.

But these powers are only likely to be used in exceptional circumstances, and the responsibility will normally rest with trustees to resolve their problems and disputes (see Section 3.9).

## Further information

The Charity Commission provides extensive information to help trustees to understand what charities are and what their responsibilities will be.

Among the many invaluable documents and downloads available from their website [www.charity-commission.gov.uk](http://www.charity-commission.gov.uk) are the following:

- [\*Charities Act 2006: what trustees need to know\*](#)
- [\*Guidance on registering a new charity\*](#)
- [\*Choosing and Preparing a Governing Document, CC22\*](#)
- [\*Example charitable objects\*](#)
- [\*The Essential Trustee: what you need to know, CC3\*](#)
- [\*Speaking Out – Campaigning and Political Activity by Charities, CC9\*](#)
- [\*Trustee expenses and payments; CC11\*](#)
- [\*Charity Reporting and Accounting: The essentials 2009, CC15b\*](#)
- [\*Sales, leases, transfers or mortgages: What trustees need to know about disposing of charity land, CC28\*](#)
- [\*Trustees, trading and tax, CC35\*](#)

## 6.6 Applying for charitable status

If you decide to apply for registration as a charity be prepared to put some work into it. There are ways to speed up the process – such as making on line applications and using standard documents. But even after you have submitted all the files and paper work you may need to provide the Charity Commission with further explanations and justification. A thoughtful, systematic and patient approach will serve you well.

### Step-by-step to charity status

#### Do you really want to be a charity?

It is perfectly possible to run effective, socially valuable community and voluntary organisations without charitable status. And charitable status brings with it a wide range of serious legal responsibilities for the trustees who run them. This guide says quite a lot about what these are, so there is no need to go ahead with your eyes closed.

You should start by weighing up:

- whether your group will be able to meet all these obligations
- whether the advantages of charitable status outweigh the disadvantages
- whether your activities will even qualify as charitable.

The Charity Commission guide '*Things to think about before starting a charity*' is also good place to start.

**Learn about charitable status** The Charity Commission will need to be persuaded of the following things about your organisation before they will register it:

- that it has recognised charitable purpose
- its purposes are exclusively charitable
- it will provide public benefit
- trustees understand their public benefit duties – to work for public benefit, take notice of guidance and make annual reports.

The Charity Commission provides guidance in its 'Commentary on the Descriptions of Charitable Purposes in the Charities Act 2006' and 'Charities and Public Benefit' to help you decide whether your organisation might qualify.

**Weigh up whether you want it** Study the advantages and disadvantages of charitable status in Section 6.5 before deciding to go ahead.

**Make trustees aware of their responsibilities** Study sections of this guide on trustees' responsibilities and download guidance from the Charity Commission, and share the information with your trustees. They may not welcome the burden and the control.

## Make sure you can deal with the challenges

- will you be able to raise money to achieve your charitable objectives (if not there is no point in going any further)?
- are there existing charities doing the same thing with whom you would be in competition?
- will you be able to recruit and retain committed trustees? (this is a challenge for most charities, and failure is a common cause of charities closing).

## Choose a name

When deciding on the name of your new charity you should:

- choose something distinctive and will not mislead the public
- avoid words which might cause offence or be prohibited by law
- check the online register of charities at the Charity Commission (and Companies House) to make sure it is not too similar to an existing name (the Commission may suggest you change it and can also require a name to be changed if it is found to be unacceptable after you have registered - and they will not be responsible for the costs involved)
- make a separate special application if you want to use the word 'charity' or 'charities' in the name of a charitable company (check with the Commission and Companies House).

## Choose the right type of organisation for your charity

The various sections of Part 6 of this guide explain all the main types of organisation which you are likely to need to consider (with the exception of specialist initiatives such as credit unions where you will need to get customised advice).

- **Eligible for charity registration** Only four types of organisation can be registered as charities, and this narrows the field immediately. They are:
  - unincorporated associations (see Section 6.2)
  - charitable trusts (see Section 6.7)
  - companies limited by guarantee (see Section 6.3)
  - charitable incorporated organisations (see Section 6.8).
- **Ineligible for registration** These include more specialist bodies:
  - community interest companies
  - companies limited by shares
  - credit unions
  - friendly societies.

- **Unincorporated charitable associations** are very widely used and are particularly suited to small locally-based organisations with relatively limited responsibilities. Trustees of existing associations can apply for charitable status at any time.
- **Charitable companies (companies limited by guarantee)** are recommended where the trustees have significant responsibilities for buildings, finance and staff. They are very common and relatively easy to set up.
- **Charitable incorporated organisations** are expected to replace ordinary companies limited by guarantee (with which they have much in common) for new registrations.
- **Charitable trusts** are rather old fashioned, but they may be favoured by trustees who want to operate informally and without too much public attention.

**Draft the 'objects clause'** This is perhaps the single most important part of your charity's governing document or 'constitution' because it defines what your organisation intends to achieve. Your application for charitable status will depend on whether the Charity Commission believe it is appropriate and achievable. But getting them right can be extremely difficult. How should you go about drafting the objects clause?

- If you know a similar existing charity they may be able to provide you with wording which you can adopt or adapt;
- Organisations which are branches of national charities or members of networks and federations may be able to obtain a standard objects clause which properly describes their objects;
- The Charity Commission lists national organisations whose objects have already been formally approved;
- The Commission's website has a section which provides approved objects clauses for a variety of types of charity;
- If none of this helps, you may do a search on the Register of Charities for organisations which seem similar to your own. But beware: the 2006 Act has introduced new approaches to the scrutiny of objects clauses, and standards have changed over the years. So older charities are not always the best models.

## Prepare the governing document

- **Options** The type of 'constitution' or governing document will depend on the type of organisation (see also Section 6.1). The three options are:
  - unincorporated association – 'constitution' or 'rules'
  - charitable trusts – 'trust deed'
  - companies limited by guarantee – articles of association
  - charitable incorporated organisation – articles of association.
- **Using model forms of governing document:**
  - The Charity Commission provide model governing documents with comprehensive guidance notes which you can adapt to your own needs.
  - Some large national charities also produce an approved governing document (including standard objects clauses) which can be used by organisations associated with that charity.
  - You need to have good reasons for not using one of these models because the workload and risks of error are substantial if you try to assemble the document yourself.

- However, the Charity Commission do not make their models available in a computer-editable format and the layout renders the files resistant to much conversion software. This means that work is probably needed to convert them to a form which you can customise to suit your needs - unless you know someone who has already produced an editable version.
- **Think before you pay** There is rarely a need to pay a solicitor to draft the governing document; in fact many non-standard constitutions can prove to be highly problematic, and can be extremely difficult to alter if the organisation's needs change later.
- **Learn together** Discuss the structure of the document with the trustees, or get training to take you through the whole process of selecting and completing your constitutional arrangements.
- **Adopt the document** You need to adopt the constitution/articles of association or trust deed before you can formally apply for registration with the Charity Commission. If you are using articles of association you should go ahead with registering the company.

**If you don't need to register** Not all charitable organisations need to (or are able to) apply to register with the Charity Commission.

- The exceptions are:
  - charities with an income of under £5,000
  - bodies outside England and Wales
  - certain bodies described as 'exempt' or 'excepted' – which are beyond the scope of this guide, and the interests of ordinary voluntary organisations.
- Small charities with an income of under £5,000 can use a simple form of constitution available from the Charity Commission. They will be considered to be bona fide charities provided they have wholly charitable objectives and operate for public benefit. But they will not have a charity number issued by the Commission.
- To secure a reference number which will be evidence of charity status and to qualify for relief from corporation tax, small charities need to register with HM Revenue and Customs (see the HMRC website for information).
- In due course there are expected to be arrangements for small charities to register voluntarily with the Charity Commission. But this is not possible at the time of writing.

## The registration process

**Registration options** You can apply by completing an application form on line or by submitting a form on paper, depending on your preferences. Each has its advantages.

### Documentation

- **Make sure the application is complete**

You need to send the following to the Charity Commission:

- the completed application form
  - a signed trustee declaration form
  - a copy of the governing document
  - the certificate of incorporation for limited companies
  - evidence of income (or a letter or email from the Commission confirming that they have agreed to assess the application if the income threshold has not been reached).
- **Keep copies** Don't forget to save copies of everything you send, because you may need to refer to it later, and you can't depend on the Commission to return your paperwork.

- **Don't submit drafts** There was a time when the Commission would give advice on draft governing documents and draft objects clauses prior to the application being made. They will no longer do this except in very special circumstances, such as speeding up the registration of charities for urgent disaster appeals.

**CRB checks** If you propose to work with vulnerable beneficiaries the trustee declaration requires the trustees to confirm that the organisation has carried out any necessary or recommended checks with the Criminal Records Bureau (CRB) or any other relevant agency.

**'Speeding up your application'** The Charity Commission encourages applicants to use the online application form and the model documents because it speeds up the registration process. (It is clearly easier to assess a governing document submitted in a standard format, for instance.) But administrative efficiency is not necessarily synonymous with user flexibility. So you may need to weigh up whether it is better to have a quick response to your application or an application which your organisation feels in control of.

**Declaration by the trustees (or 'promoters')** All the trustees must sign the declaration form and provide information so that their eligibility for trusteeship can be checked.

## The assessment

The Charity Commission assesses whether:

- your organisation's objects are capable of being charitable
- the intended activities are capable of achieving these objects
- your organisation can demonstrate 'sufficient public benefit'.

## The Charity Commission response

It is quite normal for the Charity Commission to:

- advise on changes to the wording of the objects clause (it is advisable for you to be flexible and to consider their suggestions seriously because the alternative may be a rejected application)
- offer advice on changes to the administrative arrangements
- ask for further information or clarification to enable them to assess whether:
  - a proposed purpose really is charitable
  - the proposed activities are exclusively charitable
  - the activities will benefit the public (see Section 6.5).

**Rejections** If the Commission decide that the organisation is not exclusively charitable they will explain why. If you disagree with their decision you will have the opportunity to provide further information and ultimately the right of appeal to the Charity Tribunal.

**Date of registration** Registration dates from the point when your charity is entered on the Register of Charities. If you need HM Revenue and Customs to backdate tax exemption to the point when you started to operate as a charity you will need to make a formal request to them.

**This is only the beginning** After registration your association with the Charity Commission will involve:

- reporting any changes to your governing document
- reporting changes to the information on the Register of Charities (e.g. the correspondent's address) by returning the charity detail update form each year
- report if your charity no longer exists or operates
- send an annual return (charities with a gross income exceeding £10,000) within 10 months of the end of the charity's financial year
- send your Accounts, Examiner's or Auditor's Report, and Trustees' Annual Report (charities with a gross income exceeding £25,000) within 10 months.



## Further information

**The Charity Commission** provides extensive information to assist with the process of setting up and registering a charity. Among the many invaluable documents and downloads available from their website [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk) are the following:

- [\*Guidance on registering a new charity\*](#)
- [\*Choosing and Preparing a Governing Document, CC22\*](#)
- [\*Charitable Companies: Model Articles of Association GD1\*](#)
- [\*Charitable Trusts: Model Trust Deed, GD2\*](#)
- [\*Charitable Associations: Model Constitution, GD3\*](#)
- [\*Examples Of Charitable Objects Objects\*](#)
- [\*Resources for starting small charities\*](#)
- [\*The Essential Trustee: what you need to know, CC3\*](#)
- [\*Trustee expenses and payments; CC11\*](#)
- [\*Charity Reporting and Accounting: The essentials 2009, CC15b\*](#)

- [\*Users on Board: Beneficiaries who become trustees, CC24\*](#)
- [\*Finding new trustees: What charities need to know, CC30\*](#)
- [\*Trustees, trading and tax, CC35\*](#)

**HM Revenue and Customs:** HMRC provide [guidance notes](#) for charities on their website, including registration for small charities and taxation guidance.

## 6.7 Charitable trusts

Charitable trusts are a rather special type of charity nowadays, mainly because most people prefer to steer clear of them. Their relative lack of flexibility, often poor public accountability and potential for impenetrable trusteeship arrangements means that they are not usually recommended for new charity registrations. But there are still plenty about and it can be helpful to understand how they differ from unincorporated associations and charitable companies limited by guarantee.

**The structure** A trust establishes a relationship between three groups of people: donors, who agree to entrust money or property to trustees, who manage that asset for the benefit of the beneficiaries.

**Uses** The charitable trust format is used by many older charities and typically today by:

- grant-giving trusts

- church restoration or building repair funds
- some smaller service-providing organisations
- organisations not requiring a membership structure.

### Advantages of charitable trusts

Charitable trusts:

- are relatively cheap to set up and run
- have no ongoing costs
- are usually simple to administer and have a board which can be self-perpetuating, appointed by the founder or the remaining trustees (or which may be appointed by outside bodies) – allowing the people setting up the trust to exercise continuing influence (there is an increasing tendency for trustees to be appointed for a limited period)
- can keep their affairs private, because the trustees are answerable only to the court and the Charity Commission (which makes them particularly well suited to grant-giving bodies who do not want their decisions questioned or reasons disclosed to applicants).

The ability to run the organisation in an informal manner is a great advantage to some charities.

## Disadvantages of charitable trusts

- Trusts are unincorporated organisations and therefore have no separate legal identity – so legal transactions must be carried out in the names of people known as 'holding' or custodian trustees, not the charity.
- When the custodian trustees resign or new trustees are appointed, trust assets will have to be transferred into the names of the new group of trustees, which can incur legal expense (although this can be avoided by appointing a corporate body as custodian trustee which holds the assets indefinitely).
- The existence of custodian trustees can cause confusion over responsibility for the charity, but in reality they do not perform any executive function and must comply with the lawful instructions of the charity trustees.
- Trustees of charitable trusts do not have the protection of limited liability which trustees of charitable companies enjoy: if the trust has insufficient assets to pay its debts, or liabilities arising from negligence or libel, the trustees will personally have to pay them.
- The trust structure can be inflexible: if the trust deed does not contain a power of amendment it may only be altered by an order of the court or of the Charity Commissioners and permission is not always granted, so it is particularly important to draft the objects clause as widely as possible and to include powers of amendment.
- It can be difficult to remove a trustee who refuses to resign if they are unsuitable or have acted improperly, unless the trust deed includes a power to remove trustees (otherwise an application would have to be made to the Charity Commission or the court, and it would be unlikely to succeed unless the future of the charity was threatened).

## The governing document – the 'trust deed'

A charitable trust's governing document is usually a declaration of trust or a trust deed. This sets out the:

- names of the first trustees
- the initial trust fund
- the name in which the trust will be administered
- charitable objects
- trustees' powers
- eligibility for trusteeship
- procedures for appointing trustees, holding meetings, voting, etc
- amendment procedures
- dissolution procedures.

**Appointment of trustees** The boards of charitable trusts are normally self-perpetuating although they can be appointed for fixed terms by outside bodies. New trustees are appointed by the existing trustees in accordance with eligibility criteria and procedures laid down by the trust deed.

**Closing down** Charitable trusts may close down, e.g. because their job is complete, their purposes are out of date or they need an alternative legal structure. If the trust deed does not stipulate what happens to remaining assets when the charity closes down, the trustees should approach the Charity Commissioners. It may be possible to transfer the assets to another charity with similar objects.

### Checklist

- Does your board need to review whether or not a trust is still the most appropriate structure for carrying out the organisation's purpose?

## Further information

- Charity Commission, *Charitable Trusts: Model Trust Deed, GD2*
- Charity Commission, *Appointing Nominees and Custodians: Guidance under s.19(4) of the Trustee Act 2000, CC42*

## 6.8 Charitable Incorporated Organisations

First mooted more than ten years ago, Charitable Incorporated Organisations are intended at last to enable charitable companies to be created in a single step with one purpose-built constitutional structure. Until now it has been necessary to set up a company limited by guarantee and then apply to the Charity Commission to grant it charitable status – a process which did not always go smoothly as many frustrated trustees will attest.

### What have we been waiting for?

At its simplest, a Charitable Incorporated Organisation (CIO) is another form of company designed especially for charities. In practice the format and obligations of CIOs are very similar to existing charity companies. But whereas these must be registered with, and are answerable to, both Companies House and the Charity Commission, there is a simpler one-step process for setting up CIOs and the Charity Commission is the single regulator.

At the time of writing and after repeated delays, the government has still not agreed the detail of regulations for CIOs. Since the 2006 Charities Act was passed there have been extensive consultations, the Charity Commission has published two alternative sets of model constitution, and firm information about the intended arrangements has been accumulating on the Commission's website. You should monitor this to stay abreast of the regulations as they are clarified and progressively brought into effect (see Further information below).

## Opportunities and benefits

As with charitable and non-charitable companies the trustees of CIOs are protected in most circumstances against contractual liabilities. CIOs only register with the Charity Commission, but the relative benefits will depend on what sort of organisation you are starting with.

### For unincorporated organisations:

The main advantages of registering a new charity as a CIO are:

- the members and trustees are usually personally safeguarded from the financial liabilities the charity incurs, which is not normally the case for unincorporated charities
- the charity has a legal personality of its own, enabling it to conduct business in its own name, rather than the name of the trustees.

**For existing unincorporated charities:** Transforming an existing unincorporated charity into a CIO is the equivalent of creating a new charitable company. This is a natural step when trustees need extra protection or when the unincorporated charity is taking on legal obligations such as leases and property ownership, but the process is quite demanding.

It involves:

- registering the new CIO with the Charity Commission
- formally transferring assets of the existing charity to the CIO
- winding up the original charity.

**For charitable companies:** Apart from the marginally simpler annual reporting process, there are few advantages to converting an existing charitable company to a CIO – although the arrangements for doing so are straightforward. Larger charities which may want to raise loan finance by issuing debentures (a subject beyond the scope of this guide) should stick with the company limited by guarantee structure.

## The obligations of CIOs

### The basic arrangements

The rules governing CIOs include the following requirements:

- all CIOs must register with the Charity Commission, regardless of their income, even if they have an income of less than £5,000
- a CIO cannot be an exempt charity
- a CIO does not come into existence until the Commission registers it

- a CIO must have a registered principal office in either England or Wales
- all CIOs have to submit an annual return and accounts to the Commission; the rules on accounts are the same as those for charitable companies (see Section 7.7)
- CIOs have to keep a register of members and a register of trustees - anyone can ask to see, or be provided with a copy of, the register of trustees
- as for charitable companies, the constitution of a CIO must contain certain provisions; there are two model forms of constitution for use by a CIO, one where the members are not necessarily trustees (the association model) and one where the only members are the trustees (the foundation model)
- amendments to a CIO's constitution will not be valid until they have been registered with the Commission and certain amendments will need prior consent
- insolvency law applies to CIOs.

**Applications** An application to set up a CIO must be made to the Charity Commission on line. It is recommended that applicants use one of the two sets of the Commission's model rules to ensure that the wording of the CIO constitution conforms to the requirements of the Charities Act 1993.

## Converting from existing charities and other structures

- There are no special provisions for converting charitable trusts and unincorporated charities to CIOs – see the Commission's website for information on the process.
- Unincorporated charities with permanent endowments will need to make arrangements to transfer these to the CIO.
- Charities with fixed benefit pension schemes will need to check the implications of converting to a CIO.
- Special regulations will be introduced in due course to enable Community Interest Companies and Industrial and Provident Societies to convert to CIOs.

## Further information

- Charity Commission, *Choosing and preparing a governing document, CC22*
- Charity Commission, *Foundation model constitution for a CIO*, PDF
- Charity Commission, *Association model constitution for a CIO*, PDF

Watch the Charity Commission website for updated formation on CIOs.

## 6.9 All change: the 2006 Companies Act

You wait for a major change to relax regulations for charities and voluntary organisations, and two come along at once. While the Charities Act 2006 had a significant impact on the way charities are run, the Companies Act 2006 represented a big shake up for the way companies of all kinds are set up and controlled. For the trustees (directors) of charitable and community companies set up before the 2006 Act, some new regulations are optional, and others are mandatory immediately for new and established companies. This means that it may take a while for full the implications of the legislation to become apparent, and you could be in for surprises if you come to change your articles of association later.

## How voluntary organisations are affected

### Companies generally

Voluntary organisations which were limited companies before the 2006 Companies Act came into force need to be aware of the main changes which have been introduced.

- Some changes only affect companies registered since the act came into force, and directors have the option of revising their articles in line with new arrangements or staying as they are – e.g. relaxed requirements on general meetings, the chair's casting vote, appointing a company secretary, and electronic communications.
- Some changes must be implemented – e.g. the provision for proxy voting, and in particular the regulation of conflicts of interest



## Charitable companies:

There are special provisions for charities relating to:

- conflicts of interest
- Charity Commission permission to change the charitable objects.

## Do you need to update your articles of association?

The range and variety of changes to important aspects of running a limited company (charitable or otherwise) are significant enough for directors to consider undertaking a radical updating of their articles of association. Here are a few tips which may help to guide what you do:

- If you already feel that your governing document was in need of a facelift because your circumstances have changed, this might well be the occasion for a thorough overhaul.
- The Charity Commission suggests that it is good practice for charities to review their constitutions and if appropriate to adopt their Model Articles of Association (which bring together the contents of the previous model memorandum and articles).
- There is nothing to stop non charities from making selective changes to update their articles in line with the individual provisions of the Act. But don't just depend on the summary below - make sure you fully understand the legal requirements.
- There is always a significant risk of introducing inconsistencies if you make piecemeal changes to your articles. If your voluntary organisation is not a charity but the existing articles correspond generally with those of registered charities it is well worth considering a wholesale change to adopt the Charity Commission's comprehensive Model Articles, with modest adjustments to suit your own needs.
- Changing your articles of association does not need to cost you money. It can be carried out in-house by trustees or staff, especially if you are simply adopting a standard model. But there can be real benefits for larger organisations undertaking a thorough constitutional and organisational review with the help of a facilitator or advisor. This can include drafting a new set of secondary rules or 'standing orders' to clarify a range of other details about the operation of the board and the company.
- If you decide to change from an older form of memorandum and articles to the new single document format (see below) you will need to register this with Companies House in a prescribed way. The Charity Commission guidance leaflet CC36 describes how to do this. Adopting a single document might also possibly lead to two inconsistent sets of rules on trustee indemnity which you would need to resolve.
- More detailed information about the 2006 Companies Act can be found on the Companies House website.

**Charities and conflicts of interest:** The rules on the way charities should handle conflicts of interest is dealt with in Section 3.6. But trustees of charities registered prior to the Act - whose articles of association may or may not provide appropriate direction for trustees – may find the regulations complex at first. It is strongly advised that they study the guidance material provided by the Charity Commission. See A guide to conflicts of interest for charity trustees and Conflicts of interest and the Companies Act 2006 – questions and answers on the Commission's website.

## Relevant changes in the Act

**Electronic communications** Formal correspondence between a company and its members can be conducted by email or other forms of e-communication defined by the Act, subject to certain conditions.

**Directors' duties** The Act identifies the new duty for individual directors to act in the way they consider, in good faith, would be most likely to achieve the purposes of the company (s.172).

**Casting vote** A Chairperson under articles adopted after 1 October 2007 cannot have a casting vote at a general meeting (but can at a meeting of the directors where permitted by the articles of association).

**Annual General Meetings (AGMs)** There is no longer a legal requirement for a company to hold an AGM. However, AGMs are still recommended good practice for charities and voluntary organisations, so the articles should make provision for them.

**Extraordinary General Meetings (EGMs)** The category of 'extraordinary' general meetings has been discontinued. Meetings of the company are now simply 'general meetings', and the minimum notice required is 14 days. But it may still be useful to require longer notice for AGMs and general meetings where special resolutions are being considered.

**Short notice meetings** The period of notice for general meetings can be shortened if this is supported by members who represent at least 90 per cent of the total voting rights (or up to 95 per cent if specified by the articles).

**Members' right to appoint proxies** Members of charitable companies have the right to appoint proxies to vote on their behalf, and notices of general meetings must refer to this right.

**Written resolutions** Written resolutions signed individually by members no longer need to be unanimous. A simple majority is needed for an ordinary written resolution and a 75 per cent majority for special written resolutions.

**Accounting** The requirements for preparation and scrutiny of the accounts of charitable companies are now the same as those for non-company charities. (See the Charity Commission guidance *Charity Reporting and Accounting: The essentials*.)

## **Company Secretary**

It is no longer necessary to have a company secretary.

**Conflicts of interest** The Act gives directors the statutory duty to avoid a situation in which they have, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company. (See all Section 3.6.) This obligation already applied to the directors of charitable companies.

But there are special arrangements for handling conflicts of interest in charities:

- In the case of a charitable company the Companies Act duty does not apply to a conflict of interest arising in relation to a transaction or arrangement with the company if this is permitted by the company's articles of association.
- The Charity Commission may specifically authorise a transaction or arrangement which could give rise to a conflict of interest – e.g. permission for the spouse of an employee to act as a trustee provided suitable safeguards are in place.
- Unconflicted directors may also authorise a conflict of interests if the articles permit them to – e.g. when the representative of another body is appointed as a trustee of the charity (which may be viewed as a 'conflict of loyalties')

**The minimum age** for company directors is 16.

## At least one director to be a 'natural person'

A company must have at least one director who is an individual person (rather than a corporate body).

**Single document** New companies now have a single main governing document - the articles of association - to set out their powers and to regulate their administration. (Companies set up prior to the Act have separate documents for their memorandum and articles, but they do not need to make any changes.) Companies still need a memorandum of association, but it will be a very short document stating that the subscribers wish to form a company under the Companies Act 2006 and that they agree to become its members.

**Consent to change charitable objects** Charitable companies will still need Charity Commission consent to make changes which materially alter their objects or powers. But minor changes to the wording or numbering of their objects, or incorporating the objects as part of the articles does not require consent. Any change to the objects does not take effect until registered by Companies House. Directors must let the Charity Commission know the date on which Companies House registered their amendments.

**Company Names** Any company which is a charity is automatically exempt from the requirement to have the word 'limited' in its name.

## Checklist

- Does your board need to review whether or not a trust is still the most appropriate structure for carrying out the organisation's purpose?

## Further information

- Companies House, [Companies Act 2006 Guidance – www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)
- Charitable Companies: [\*Model Articles of Association GD1\*](#)
- Charity Commission, [\*Changing your Charity's Governing Document, CC36\*](#)

## Part 7: Know what the law expects

**Charity law is quite explicit about the legal responsibilities of the trustees of registered charities, even though many trustees are unaware of what these are. But voluntary organisations which are not registered as charities cannot assume that they are in the clear. Their trustees will, for instance, be subject to contract and employment law, and to the Companies Acts if they are limited companies.**

Unincorporated associations that are not registered as charities, need to be particularly vigilant, even though they seem to have the greatest freedom, because their internal rules can be vague and ill-defined. It is easy for disputes to break out among members and trustees, and difficult to resolve them when there is no outside body to lay down the law – unless individuals use the extreme ultimate sanction of taking legal action against their colleagues. One way of avoiding such disasters is for non-charities to establish practices wherever possible which emulate those of registered charities – and where they deviate from these, to do so consciously rather than by default.

Part 7 is addressed primarily to registered charities, but this does not mean that it is irrelevant to other voluntary organisations.

## 7.1 Summary of legal responsibilities of Trustees

This section brings together the key legal responsibilities which are discussed elsewhere throughout this guide.

### The liability of trustees

**Directors of limited companies** Company directors are protected to some extent (but not completely) by the limited liability status – provided they have acted properly.

**The board or committee members of unincorporated voluntary organisations** are personally liable for any debts and losses incurred by their organisations.

**All trustees of charities** are potentially liable for breach of trust to their charities, but may be excused if they acted honestly and reasonably.

See Section 7.6 for more detail on liability.

### The main responsibilities

**What are the legal responsibilities?** Trustees are responsible in law for the proper administration of their organisation in accordance with its governing document. That means:

- you are ultimately responsible for everything the charity does and how it does it
- your overriding duty is to act in good faith (i.e. in the belief that what you are doing is correct)
- you must make sure that the charity pursues its aims, uses its assets exclusively to pursue those aims, and acts in the interests of its beneficiaries
- personally, you must take an active part and act in the best interests of the charity, avoid conflict with your personal interests (see Section 5.5) and you must not profit from your trusteeship (see Section 7.3).

## Key requirements under charity law

Charities must operate within the law on:

- eligibility: no one can act as a trustee if they have been disqualified (see groups of disqualified people Section 5.2)
- disclosure: you must follow the Charity Commission's disclosure, reporting and accounting requirements in the 1993 Charities Act – failure to do this is a criminal offence
- trading: (see Section 4.6)
- political activities (see Section 7.4)
- fundraising (see Section 4.8).

**Company law** As a trustee of a charitable company, you must comply with the legal requirements relating to:

- company directors
- up to date company returns
- record keeping
- company's interests – you must act in the best interests of the company even where this conflicts with your private or other interests
- insolvency – you must not continue trading as a company if you know, or should have known, that your company is insolvent (see Section 7.5).

**Your standards as a trustee** Trustees are expected to act reasonably and prudently in all matters relating to the charity and in its long-term interest. In practice:

- you must act with the same degree of care as a prudent business person would exercise in the managing their own business or the affairs of someone else for whom they had responsibility
- you need to know about the legal, financial and managerial issues affecting your charity, though you are not expected to have expert knowledge
- you must act within the law – e.g. on employment and health and safety issues
- if you claim to have specialist expertise in a given area, the courts and the Charity Commission will expect you to act with greater care than your less expert fellow trustees
- if you are not an expert and do not seek advice on legal, financial or managerial matters, you could be regarded as having acted imprudently and you may be personally liable for the consequences
- charity legislation requires you to seek professional advice in some instances, for example, in relation to certain land transactions (see Section 2.5). When you do seek advice, you should keep copies of relevant correspondence and/or notes of conversations.

**Collective responsibility** Trustees are jointly responsible for the activities of the charity and you must act together.

This has important implications for dealing with maverick trustees and for individual trustees who disagree about important decisions:

- no trustee acting alone can commit his or her fellow trustees, unless specifically authorised to do so, but
- the board's decisions do not have to be unanimous - you are bound by the decisions of your fellow trustees even if you were absent from a meeting
- if you vote against an important decision you should make sure your vote is recorded in the minutes
- on serious matters, e.g. plans to spend resources on something outside its objects (which would be a breach of trust) you should draw the danger and its possible consequences to the attention of other board members and, if your advice is not taken, consider resignation.

## Protecting the charity's assets

Trustees have a duty to protect all the assets belonging to the charity, by ensuring that there are adequate financial controls (see Sections 4.1, 4.10-4.11) and that any land or buildings the charity owns are well maintained and insured (see Sections 2.6 and 4.4).

**Handling money** It is good practice to have two people present whenever cash is handled, and authorising payment for them (see Section 4.10 re internal financial regulations). This is not only sensible for the charity; it also protects individuals against suspicion if money goes astray.

**Bank accounts** You should make sure that there are adequate controls for operating the charity's bank account which cannot be abused. Cheques should normally be signed by at least two people, including one trustee, unless there are other controls which give a similar or greater degree of protection. Any money that the charity has should be placed on deposit if it is needed in the near future, if it is not needed in the immediate future it should be invested, in accordance with the investment powers in your governing document.



**Endowments** Any funds, land, buildings or other assets which form part of the charity's 'permanent endowment' (i.e. assets which have been given to the charity to keep permanently, while benefiting from the income that can be earned from the asset) should be preserved and invested to produce a good income while protecting the real value of the capital.

**What legislation?** The legislation, which in general affects your charity, includes:

- **Charity and Companies Acts:** the main legislation covering the activities of all charities are the 1992 and 1993 Charities Acts and the 2006 Charities Act. You also need to be aware of the De-Regulation and Contracting Out Act 1994 and the Trustee Act 2000. In addition, charitable companies are subject to the 1985 and 1989 and 2006 Companies Acts
- **other legislation affecting charities:** Depending on the work of the charity, you may also have to comply with the legislation covering such matters as employment, health and safety, taxation, environmental matters, data protection, child protection and trading standards. Further details are included in Parts 2 and 4 on management and finance.

**Knowledge of the legislation?** As a trustee you are not expected to have a detailed knowledge of this legislation. But you should be aware that it exists and take appropriate steps to ensure you comply with it – for example by:

- delegating the responsibility, for gathering information and informing the board, to a volunteer or member of staff (but it is your responsibility as a trustee to ensure that the person is properly supervised)
- arranging training and discussion sessions to draw board members' attention to the legislation affecting your organisation
- using internal audit checking procedures (mainly in larger charities).

## Following your rules

Your governing document or constitution the Memorandum and Articles of Association if your organisation is a limited company also provides rules which trustees must follow (see Section 7.2). These may include:

- 'powers' to pursue the organisation's aims, such as the power to borrow money or own property; if you act outside a charity's powers, for instance by unlawful sale of charity property, or making unlawful investments, you are committing a breach of trust and may be personally liable to reimburse any loss or expenditure
- operating rules: the governing document will probably cover issues such as who can be a member and the composition of the Board or Management Committee
- standing orders: some charities also write additional rules or 'standing orders' for internal procedural matters such as the conduct of board meetings, the composition of the board and other committees if they are not included in the governing document. You will need to be familiar with and follow these rules, which must not contradict or repeal anything contained in the governing document see also Section 3.3).

## Checklist

- Are your trustees aware of the full range of their legal responsibilities?
- Do you need to provide more information on responsibilities in your induction pack or through training sessions?

## Further information

- Charity Commission, *The Essential Trustee: what you need to know*, CC3
- Sandy Adirondack, *Just About Managing*, 4th edition, 2006 from [www.sandy-a.co.uk](http://www.sandy-a.co.uk)

## 7.2 The governing document

Many charities have memorandum and articles of association or a constitution which they only refer to after something has gone wrong – if they can find it. If no one pays much attention to your governing document the rest of the time, it may only take a couple of changes of Secretary to lose it completely or reduce it to a barely readable fifth generation photocopy. Of course, even if the document is filed away safely, the problem which has driven you to consult your rules might have been avoided had your group been more aware of it in the first place. Or your troublesome or maverick trustees might have thought twice about their actions if they had known that their colleagues were clued up enough on the constitution to rein them in.

The message is clear: get to know your constitution or memorandum and articles.

## Outline of the governing document

Your 'governing document' (apologies for the charity jargon) is the document which defines the aims of your organisation, the powers you have to pursue those aims, and how the organisation must run itself.

What you need to know

- you should be familiar with the governing document (but you don't necessarily need to know it in detail) so that you can refer to it for guidance when you need to
- you should be provided with a copy personally when you become a trustee as part of your induction
- if you need help in understanding the language of the document or what it means in practice you should ask for this to be dealt with at a meeting or in a training session for board members (the archaic legal language in some older documents can sometimes be extremely off-putting).

**What your governing document is called** The terminology varies depending on the type of charity, the governing document is more likely to be called the:

- the **'constitution'** (unincorporated associations)
- the **'trust deed'** (charitable trusts)
- the **'memorandum and articles of association'** or **'articles of association'** (companies limited by guarantee)
- **'rules'** (industrial and provident societies).

## What it consists of

A typical governing document includes the following issues:

- **aims and objectives** (the 'objects' clause): that is, what you aim to do, and who will benefit (the beneficiaries)
- **area of benefit**: this describes the local, regional, national or international geographic area you will cover (it may be included in the objects clause)
- **powers**: what you are allowed to do in order to pursue your aims and objectives (see below)
- **membership**: who can be a member of the organisation, how they join, subscriptions and how membership is terminated

- **general meetings of members**: rules for holding and running annual general meetings and other meetings, including the quorum (minimum number of people attending to hold a valid meeting)
- **the board (or 'management committee')**: rules for the election or appointment of trustees ('board members' or 'committee members'), and procedures for running it, the quorum for board meetings, the maximum and minimum numbers of members, different classes of committee member, the appointment of officers
- **finance**: rules for managing money and property
- **alterations**: how to change these rules
- **indemnity**: an optional clause sometimes included to allow board members to be insured using the assets of the organisation against liabilities incurred through doing their job properly
- **committees**: 'the authority to set up committees and any restrictions on the way you do it'
- **standing orders**: how to use 'secondary rules' for the organisation which don't involve you in changing the governing document
- **dissolution**: how to wind up the organisation.

## Writing your objects

**The objects clause states** the objectives of your organisation. For charities the objects can only refer to the particular types of activity which are recognised by the Charity Commission as charitable (see Section 6.5) and you are strictly limited to objectives which are recognisably charitable). The objects for non charities may be expressed any way you like. Even so, you should consider carefully about what you should say.

**General pointers** Here are some issues you should consider:

- **What is the purpose?** Objects are what you want to achieve, not what you want to do. So, rather than a phrase like 'build a multipurpose community centre for the people of Stonybroke', you might say something about improving access to education and opportunities for recreation and healthy lifestyles.
- **Wide or narrow objects?** Narrow objects such as 'provide playgroup activities' may be fine. But what if your organisation grows quickly and wants to provide facilities for school age children or run a day nursery? Broader objects from the start about children generally will avoid the uncomfortable sense that you are changing direction later. It can be useful for non charities to be both very general and more specific – 'to improve the quality of life of residents of Stonybroke, particularly older people and those with limited mobility'.

- **Including everything** Groups drafting their objects are often tempted to list in detail every activity they want to pursue, in the belief that this will impress funders or potential supporters. But this exposes them to critics who can point to all the objects which they are not achieving because resources are not available or they haven't yet got round to them.

## Special considerations for charities

- **Tougher tests** The Charities Act 2006 has in practice changed the way objects need to be drafted - the tests applied when you apply for registration are tougher. Unless you are using a standard form of words (using the Charity Commission's 'Example Charity Objects' or the governing document of one of the organisations approved by them) you will need to satisfy the Commission that your objects:
  - are covered by a recognisable charitable purpose
  - are of benefit to the public
  - are achievable in practice.

- **Activities outside the objects** It is a breach of trust for charities to act outside their objects – e.g. if a charity set up for the poor residents of Stonybroke started to divert their resources to well-heeled citizens in the neighbouring city of Bankersville. If your Stonybroke charity was likely to expand later to help the few poor people in Bankersville, it might be useful to specify this wider geographical area in your objects from the outset. Otherwise you would have to get Charity Commission approval for a change at a later date.
- **Confusing objects with powers** Be careful not to confuse objects with powers. The objects are the primary purpose of an organisation; its powers provide the means of achieving that purpose, and are not charitable e.g. employing counsellors and publishing leaflets may be essential to a bereavement charity, but they are not objects.
- **Setting aims without means** Charitable objects alone cannot ensure that a new charity will be accepted by the Charity Commission; you will need to demonstrate that it has the necessary powers, organisational capacity and access to resources to do its job.
- **Restrictions on changing the objects** The Charities Act 2006 underlines how important the objects clause really is. It has made it much easier to make adjustments to your governing documents. But the objects clause is one of the few areas where the Charity Commission's specific approval for changes remains essential.

## Powers

The governing document is likely to list the powers available to the board to enable them to carry out the objects.

### A sample list of powers

The following powers may be included in your governing document:

- to co-operate with other bodies and people to achieve your objects
- to promote or set up services such as homes, clinics, hostels etc
- to promote or form other bodies or organisations which can help the organisation financially or otherwise
- to improve or increase the knowledge or understanding among the general public on the issues which the organisation is concerned about
- to print, publish and circulate books, pamphlets, newspapers and so on as relevant to the organisation
- to purchase or take on a lease of premises; also to equip, sell, buy, manage, develop, let, furnish, mortgage property, etc
- to obtain and receive money by way of donations, contributions, bequests etc

- for a company, to act as a trustee for other bodies
- to invest money
- to borrow or raise money
- to transfer property or assets belonging to the organisation
- to promote changes in the law or acts of parliament in order to pursue the objects of the organisation
- to join or be part of other bodies whose objects are similar
- to provide welfare for the employees or ex-employees
- to be able to insure the trustees against personal liability
- to do anything else that will help with the attainment of the organisation's objects (an all-embracing power which is standard for limited companies and found in many other constitutions).

## Working within your powers

As an existing trustee you must ensure your organisation does not act beyond its powers. A new organisation should think carefully about the powers it might need when it is established; it is usually better to include a comprehensive list at the outset to avoid problems later, though you should be careful not to take on powers that are wholly inappropriate for your work.

## The memorandum and articles of association

**The new format** The Companies Act 2006 introduced a significant change in the format of the governing document for limited companies.

- **The memorandum and articles:** Prior to 2007 the objects and powers of a company were described in the 'memorandum of association' and the administrative details of how it should work were described in the 'articles of association'.
- **A single document:** New companies now have a single document, the articles of association, which includes the details which were previously contained in the separate memorandum. The memorandum itself is now just a list of the people who first formed the company.
- **Changes:** Companies registered before the Act might want to adopt a new set of articles of association using a standard model available from the Charity Commission - which includes updated versions of regulations introduced by the legislation. See Section 6 for more details.

## Further information

- Charity Commission, *Choosing and preparing a Governing document, CC22*
- Charity Commission, *Example charitable objects*



## 7.3 Payments to charity trustees and other benefits

You may feel it's bad form as a trustee to take any money from a charity, particularly a poor one which is struggling to maintain its services. Or you may be frightened that reimbursing trustees for their out-of-pocket expenses is the start of a slippery slope to uncontrolled freeloading and damage to the charity's coffers and its reputation. But discouraging trustees from taking expenses might deter good prospective members from joining your group, and you might end up with a poorly balanced board consisting only of those people who can afford to work with you.

At the other end of the spectrum, the Charity Commission now makes it easier for some trustees to be paid for providing services to the charity. This could be a thin-end-of-the-wedge temptation which in some cases will be wise to resist.

### The law

**Changing times** Charity law says that trustees should not be placed in a position where there could be a conflict between trusteeship and their own personal interests.

- In practice this has usually meant that they should not derive any personal benefit from their work as trustees. Traditionally the Charity Commission has given strong emphasis to the 'no personal gain' mantra in the way it has regulated most charities.
- The Charities Act 2006 makes it rather easier for trustees to be paid for providing goods and services to their charity, where this can be justified. But these will still be relatively unusual cases (see below).

**Out of pocket expenses** Trustees are not expected to do work at their own expense, and charities may pay claims for reasonable out-of-pocket expenses for:

- necessary travel and overnight accommodation costs
- telephone or postal costs
- authorised attendance at conferences seminars or training events
- the costs of some family caring responsibilities while the trustee is on the charity's business
- a helper to accompany a trustee who has disabilities.

Wherever possible, payment should only be made against receipts.



**Service users** Trustees of a charity who are also service users may make use of the facilities, services and other benefits, provided they do not have any special privileges - e.g. trustees of a charity which runs a luncheon club for elderly people could use its subsidised meals service unless perhaps they were too young to qualify.

**Restrictions on benefits** It can be easy for trustees to accidentally slip into a position where they receive benefits which are not actually permitted. It is wise to check carefully what your own rules and what the Charity Commission regard as acceptable if you feel that trustees are at risk. But here are a few guidelines:

- some possible trustee benefits are expressly prohibited by the governing document
- if there is a special benefit which you want to give trustees you must ensure that this is acceptable to the Charity Commission and reflected in your governing document – e.g. free or subsidised nursery places for the children of trustee when other users are required to pay the full price
- you need to be particularly cautious if trustees have private use of the charity's equipment, or rent or lease the charity's property at less than a market rent (Commission approval is required), or receive an 'honourarium' (i.e. an ex gratia payment) in return for voluntary work
- charities should not make loans to their trustees.

**Conflicts of interest** The broader and sometimes complex issue of conflicts of interest and how to handle them is dealt with in Section 3.6. There can be very serious repercussions for charities whose trustees are perceived to have conflicts of interest. Note the word 'perceived'; you should take steps to protect the charity against the possibility that outsiders will mistakenly believe you are acting wrongly. And benefits may be indirect. For instance, you should ensure that the charity has permission to appoint a trustee whose spouse is an employee, and the trustee should take no part in discussions about the pay and conditions of their relative – because payment to them is regarded as a benefit to the trustee.

**Breach of trust** Breaking the 'no benefit' rule constitutes a breach of trust and could be regarded as a serious matter, leaving you personally liable for making good any loss which results to the charity. If you make a profit from dealing with the charity in breach of trust, you could have to pay the amount of the profit to the charity.

## When a charity may pay its trustees

**The voluntary principle** Normally it is unacceptable for charity trustees to receive payment for working for their charity. This includes a routine bar on trustees being employed by a subsidiary company. They must remain volunteers to avoid deriving personal benefit from the charity. While the voluntary principle remains extremely important, the Charities Act 2006 recognises that paying a trustee for work they carry out may sometimes be in the best interests of the charity

**What trustees may be paid for** The board of a charity may decide to pay a fellow trustee for providing goods or services to the charity provided it can be demonstrated that this is to the charity's advantage – perhaps on grounds of price, quality of goods or services, or difficulty in locating someone to else to do the work. The more obvious examples are trustees with special expertise such as solicitors, accountants, electricians and plumbers.

**Responsibilities of paid trustees** In order to take advantage of this relaxation in the regulations, charities must adhere strictly to a number of conditions.

- The trustees must be satisfied that the arrangement is in the best interests of the charity.
- There must be a written agreement relating to the service which is being delivered.
- The amount of the payment must be reasonable in relation to the services provided by that person.
- The trustees concerned must always absent themselves from discussions concerning their own appointment or remuneration.
- If more than one trustee is being paid, the benefiting trustees must be a minority of the charity's trustees.
- The charity's governing document must not contain anything that might prohibit the relevant person from receiving payment.
- The charity must act in accordance with Charity Commission guidance.
- Trustees who receive payment either for their professional services or as a member of staff may be expected to carry out their duties as a trustee with a higher duty of care – i.e. with the same care as they would in their professional life rather than an ordinary member of the public.

**The bar of payment for being a trustee** The permission for a charity to pay trustees for professional services is absolutely not the same as paying someone for her or his services as a trustee, which remains unacceptable.

**Members of staff** A small but increasing number of charities have powers in their governing documents (approved by the Charity Commission) to permit the appointment of a member of staff to their board of trustees. The Charity Commission allows this where a charity has been able to demonstrate that it is necessary for someone to be a trustee as well as an employee, as they are unable to find anyone else with the same specialised skills or experience. It is a condition of the Charity Commission that there is never a majority of such trustees on the board.

## Policies on expenses claims

**Disadvantages of not claiming** Many trustees do not claim their expenses, regarding it as another way of supporting their charity. But some charities insist that all trustees claim their expenses, leaving those who do not wish to claim to donate their expenses back privately. The effect of this approach is that no trustee who needs to make a claim feels obligated to forego legitimate expenses simply because their colleagues are not claiming.

**Donating expenses back** Indeed, if trustees do claim their expenses but then donate them back, the financial position of the trustee will remain broadly unchanged, but the charity may gain from the income tax that can be reclaimed under Gift Aid.

**Expenses claim forms** If expenses are paid, it is good practice to include an expenses claim form with papers for the meeting, giving guidance on the amounts that can be claimed. Encourage the use of public transport wherever possible.

## Checklist

Does your charity abide by the 'no benefit' rule for trustees?

Does your governing document give you the necessary powers to make payments to trustees?

Do you monitor and regulate the benefits which trustees receive from your organisation and from using its services? Can you justify them?

Does your charity's policy on reimbursement of trustees' expenses need review?

Do you have a clear policy on handling conflicts of interest?

## Further information

- Charity Commission, *Trustee expenses and payments*, CC11
- Charity Commission, *Ex-Gratia Payments by Charities*, CC7
- *Users on Board: Beneficiaries who become trustees*, CC24
- Charity Commission, *Trustee payment: new power to pay for services provided by a trustee*, CSD-1381A
- Charity Commission, *Guidance note in respect of contracted employment of a trustee*, CSD-1381B
- Charity Commission, *A guide to conflicts of interest for charity trustees*
- Charity Commission, *The Essential Trustee: what you need to know*, CC3
- The Committee on Standards in Public, *Seven Principles of Public Life*

## 7.4 Political activities by charities

Many people believe mistakenly that charities are forbidden to take part in any form of political activity. In fact, political activity may be essential for achieving your charitable objectives. But it can be tricky distinguishing between what is acceptable and what might land you in trouble. What about raising a banner on a campaign march? Or running a press campaign to tell the public why the government should change the law? Or meeting with politicians before an election to get your aims into their manifesto? What about joining them on a political platform to support the party which will achieve the changes you want or denouncing the party which you know is never going to see things your way? It's easy to be intimidated by uncertainty into doing nothing – and easy to be carried away by your own enthusiasm.

## Charity Commission guidance

The Charity Commission accepts that:

- charities can put their views to the government, seek to inform and educate the general public and advocate solutions to the problems they are trying to tackle, providing this campaigning and education work is based on a well-founded, reasoned case and expressed in a way that enables people to make up their own mind, avoiding data they know, or ought to know, to be inaccurate
- charities must not participate in party political demonstrations
- while they can conduct and publish properly constituted studies or surveys, charities must not distort research to support a preconceived position or view
- charities are allowed to respond to invitations to comment on proposed legislation, to supply members of legislative and policy making bodies with material for use in debate which would further the charity's purpose, and to advocate a change in the law or public policy by presenting the government with a reasoned memorandum setting out its case
- a charity may affiliate to a campaigning alliance even if the alliance includes non-charitable organisations, provided certain conditions are met

- when deciding whether or not to spend the charity's money on this type of political activity, trustees must satisfy themselves that there is a reasonable chance the activity will be successful in furthering the charity's purpose and thus help those the charity exists to benefit.

## The law

The main reason for uncertainty on the subject of political activity is that right and wrong are determined by interpretation of case law rather than legal statutes. The Charity Commission guidance is based on this interpretation. Here are a few basic principles:

- trustees are responsible for ensuring that their charity complies with the law relating to political activities by charities
- charities may have a duty as well as a right to campaign to change public policy on any issue relevant to their work where they have direct experience to offer; by the very nature of their knowledge and social concern, some charities are well placed to play a part in public debate on important issues of the day
- the law makes a distinction between political purposes and political activities. An organisation set up to achieve a political purpose cannot be registered as a charity (but an organisation set up to achieve a charitable purpose may engage in activities which are directed at securing, or opposing, changes in the law or in government policy, provided they take account of the constraints the law places on political activity by charities)
- the courts have defined two different sorts of political activities:
  - party political activities: charities must not become involved in these, and must not try to persuade members of the public to vote for or against a candidate or political party
  - activities designed to change or retain a particular policy or laws at home or abroad: these are permissible for charities in some circumstances (see below)
- political activities by charities are permissible if:
  - they are directly related to the charity's work and designed to further its objects
  - they support the charity's work, but remain ancillary to it
  - they are conducted in a manner appropriate to a charity.

## Acceptable political activities

**The aims of political activities by charities** Charities have played a key role in changing society since the Nineteenth Century by contributing to changes in legislation and government policy. Their work gives them an understanding of the nature, extent, causes and solutions to the problems that they are addressing. So they are clearly well-placed to promote and advise on the action which needs to be taken. They do this by campaigning. In many cases they cannot avoid being political. The political efforts of the Anti Slavery Society 200 years ago clearly shows the critical function of charity campaigning.

**What is permissible?** Charities may, within limits, use political means to achieve their charitable purposes, for example:

- a charity may undertake policy work and political activity when it comes up against a problem affecting the people or the cause it exists to promote, provided this is likely to be an effective way of dealing with the issue
- a charity may engage in political and campaigning activities based on its direct experience or research, provided it has a reasonable expectation that it will further its objectives.

Types of political activities Charities may take part in:

- responding to requests for the views of charities on policy issues from politicians and civil servants in central and local government, and in foreign governments and international agencies
- raising issues with central and local government organisations
- respond to Green and White Papers, and make representations about Bills
- providing briefings to MPs and the Lords and lobby in the Welsh Government and in Brussels and Strasbourg
- undertaking research and publish the results
- carrying out public education work and campaigning to alert beneficiaries, supporters and the public to issues, such as existing or proposed government policies, which affect the people or the cause they were set up to promote
- encouraging supporters to raise the issues in informed debate and by reasoned argument.

## Unacceptable political activities

### Charities must:

- not raise issues which do not relate directly to their charitable objects – a children's playgroup could not, for example, campaign for animal welfare, no matter how close to their hearts the plight of little furry animals may be
- avoid propaganda and the use of data they know, or ought to know, are inaccurate
- not present a case unless it is based on their experience or research
- avoid any involvement in party politics.

**Avoiding party politics** Charities should not be driven by a particular political ideology, although it is inevitable that sometimes their policies may coincide with that of a particular political party, or that a political party may decide to adopt a policy first advocated by a charity. This does not prevent the charity from continuing to promote their policy on the issue but the charity must make it clear that its views are independent of the political party and that it is not campaigning on the issue in order to support a particular political party.

## Special provisions at election time

- **Electoral law** Charities are subject to the constraints of electoral law, although a charity can respond to comments of political parties during an election on matters directly relevant to it. Charities must not seek to persuade the public to vote for or against a particular party.
- **Charity manifestos** Many charities produce 'manifestos' at election time to alert the public to where they stand on particular issues. But they should refuse requests from politicians who attempt to use a charity's campaign as any kind of endorsement for a political party.
- **Referendums** Similar guidance applies to referendums. A charity may set out the pros and cons of a 'yes' or a 'no' vote for their beneficiaries of the charity. But there should be a very clear connection between the objects of the charity and the question to be settled by the referendum if they plan to campaign actively for people to vote in a particular way. They should certainly avoid doing so in referendums which are peripheral to the charity's objects or which have a strong and potentially damaging party political dimension.



## Setting up parallel campaigning bodies

Some charities which want to escape completely from the restriction placed on political campaigning set up non-charitable voluntary associations or companies which run in parallel with but totally separate from the charity.

### Advantages

- it will not be subject to any of the restraints imposed on charities, including fund raising for political causes
- it will be able to campaign freely.

### Disadvantages

Charity funds cannot be used to set up or finance such a body:

- administrative and accounting arrangements must be completely separate from the charity's
- it incurs additional administration costs
- it will lose the benefits of tax-effective giving schemes
- premises occupied will not automatically qualify for business rate relief
- legal advice is advisable before taking this step, to ensure it is necessary and that the separation is adequate.

## Guidance and enforcement

**The role of the trustees** Depending on the extent to which your charity is involved in campaigning and political activities, trustees should:

- take the major decisions about the educational, policy and campaigning work of your charity (and not leave this to the staff)
- issue any staff, volunteers or supporters with guidelines setting out your policy on political activities and how campaigns are approved
- set up arrangements for periodically reviewing policy statements, published reports and political activities to ensure they comply with charity law
- check whether your political activities are covered by your charity's objects and powers, and that they are likely to be effective at achieving your aims
- review the level of resources you put into political activities and consider whether this is justified
- regularly review membership of campaigning alliances and other bodies to check that involvement might reasonably be expected to further the charity's objects.

## The Role of the Charity Commission

The Charity Commission:

- provides guidance based on its interpretation of the legal principles and expects trustees to comply with the guidelines
- monitors charities' activities
- can set up inquiries into political activities.

Where it appears that a charity is acting outside the guidelines, the Commission will ask for an explanation. If they are not satisfied they may apply one of a range of options depending on the scale and nature of the political activity, the attitude of the trustees and any previous history of improper activities. The options include:

- simply giving advice to trustees
- asking for the repayment of mis-spent funds
- restricting future political activity.

## Checklist

- Have you and your fellow trustees got copies of the Charity Commission's latest guidelines?
- Does your board need to review your charity's political activities to ensure that they are within the law?
- Does your board need to consider whether it could meet the needs of its beneficiaries more effectively by undertaking some political activities compatible with the charity's charitable status, or by setting up a non-charitable company or association to carry out policy and lobbying work?

## Further information

- Charity Commission, *Speaking Out – Campaigning and Political Activities by Charities, CC9*
- Charity Commission, *Charities, Elections and Referendums, Guidance Update – January 2011*
- Charity Commission, *Charities and Political Donations, Guidance Update – April 2009*

## 7.5 Companies and wrongful and fraudulent trading

It is rare for the directors of a company limited by guarantee to have no inkling of impending financial difficulties. But they may not be sure exactly how bad things are, and they may prefer to rely on their CEO or their finance officer to keep them informed. Sadly, in some cases this is exactly the point when officers with incompetence, or worse, to hide are least likely to provide the information the trustees need, and are most likely to take dangerous risks. Yet if the company is going to go bust, it could be the trustees who pay for these mistakes. The case for vigilance by trustees is obvious.

### Insolvency and wrongful trading

**The law** Wrongful trading takes place if a company continues to operate when the company directors knew, or ought to have known, that there was no reasonable prospect of the company avoiding

going into insolvent liquidation. Insolvent liquidation is the winding up of a company when it does not have sufficient assets to meet its debts to creditors (the equivalent for a company of an individual becoming bankrupt). In their defence under the Insolvency Act 1986, the company directors may show that they took every reasonable step to minimise potential losses to the creditors.

**Shadow directors** The directors of a company are the trustees and, when wrongful trading occurs, the term director can be extended to include 'shadow directors', i.e. other people who may give directions and instructions which the company directors usually act on. This covers those who pull the strings of a company but who are not formally on the board. In some instances, staff such as the CEO or finance director or a consultant could also share responsibility.

### Penalties

When a charitable company becomes insolvent:

- trustees can be disqualified (for two to fifteen years) from being a company director
- trustees who have been guilty of wrongful trading can be held personally liable by the court to repay money to creditors (although the risks of this in a charitable company seem very small).

**What do you do?** When a company runs into financial difficulties it can be extremely tempting to continue the organisation's activities in the hope that the situation will improve. But the trustees' first responsibility is to consider the company's creditors and take steps to minimise their potential loss, particularly if there is a danger of going into insolvent liquidation. The best way for trustees to avoid the trap of wrongful trading is:

- to monitor finances closely every month
- to prepare updated financial forecasts immediately there are signs of difficulty
- to seek professional financial advice
- to hold back on any new financial commitments
- to suspend all operations as soon as it appears that insolvency is a likely end result.

## Fraudulent trading

Fraudulent trading takes place in a company if any business has been carried on with the intent to defraud the company's creditors or for any fraudulent purpose while company is being wound up. Trustees would be guilty of fraudulent trading if, for instance, they had incurred a debt which they had little prospect of repaying.

Fraudulent trading is both a criminal and civil offence and applies where there has been actual dishonesty in the running of the organisation. Apart from any penalties a court may impose, trustees may be required to make good the creditors' losses.

### Checklist

- **Does your board protect itself from wrongful trading by making sure it receives regular, adequate, up-to-date financial information?**
- **If your organisation is in financial difficulties do you need to consult an insolvency practitioner to obtain advice on your ability to trade through the difficulties or on alternative insolvency procedures which might be pursued?**

## Further information

- Charity Commission, *Managing Financial Difficulties and Insolvency in Charities, CC12*
- Charity Commission, *Reporting serious incidents – guidance for trustees*

## 7.6 Liability of Trustees

Trustees can easily feel bombarded with contradictory and alarming information about their responsibilities and the consequences of getting things wrong. It is not uncommon for boards to become paralysed, unconvinced that they really are in danger (but worrying about it anyway) and unsure whether they should convert their charitable association into a charitable company (and so doing nothing about it). It's enough to deter some organisations from registering as charities in the first place – although they might be most at risk if there is no one setting the rules on how they should manage their affairs. Should you put an end to the doubt and pay a solicitor or a consultant a chunk of your hard-earned cash to sign you up as a company limited by guarantee? Should you try to insure the trustees against personal liability? This section can't answer these questions for your organisation, but it can perhaps put the problem in proportion.

### The risks

**The positive side** Very few trustees who have behaved honestly have suffered financial loss as a result of their trusteeship. There are several factors in your favour:

- the Charity Commission advise that if charity trustees act prudently, lawfully and in accordance with their governing document then any liabilities they incur as trustees can be met out of the charity's resources
- the Charity Commission and the courts have the power to relieve charity trustees from liability where they have acted honestly and reasonably
- as a trustee, you are not personally liable for the wrongful acts of staff or agents, provided you have exercised proper care in their appointment and supervision.

**It depends what your organisation does** As a trustee, the risk of personal liability depends partly on the work of your organisation. Organisations engaged in service provision will generally face greater risks than charities involved in grant making because you will face wider legal responsibilities and more likelihood of encountering financial problems.

## Unincorporated associations

However, there are a few rare cases where unincorporated associations have had insufficient assets to pay their creditors and the trustees have personally had to pay the organisation's debts.

- **Everyone's liability** The trustees of all trusts and unincorporated associations (charitable and otherwise) can be held personally liable for:
  - debts in contract or civil wrongs such as negligence or libel (the legal term covering this area is 'tort')
  - failure to comply with relevant statutory requirements in areas such as health and safety, trade descriptions and financial services
  - failure to deduct employees' PAYE.
- **Charity trustees** Charity trustees specifically are additionally liable for breach of trust under charity law; examples are:
  - spending a charity's money on an activity which is outside the charity's legal objects
  - unpermitted political activity by charities
  - loans by charities to associated trading companies at less than the full commercial rate
  - loss by charities resulting from a speculative investment
  - acting as charity trustees when disqualified

## Limited liability companies

- **Liability protection generally** Trustees of all companies limited by guarantee are not liable beyond the sum they have guaranteed if they are members of the company, usually £1 to £5:
  - for the debts of the company or
  - for negligence or libel.
- **Where protection ends** But the benefits of becoming a company and limiting liability are not as comprehensive for trustees as is sometimes thought. Trustees can be liable for:
  - breach of their duties as company directors, eg wrongful trading under the Insolvency Act 1986 (see Section 7.5), fraudulent trading (see Section 7.5), and acting as a company director when disqualified
  - failure to comply with relevant statutory requirements in areas such as health and safety, trade descriptions and financial services
  - failure to deduct employees' PAYE.

## Additional liability of trustees of charitable companies

Like the trustees of unincorporated charitable organisations, the directors of charitable companies can also be personally liable for:

- Breach of trust under charity law; examples are:
  - spending the charity's money on an activity which is outside the charity's legal objects
  - unpermitted political activity
  - making loans to an associated trading company at less than the full commercial rate
  - loss resulting from a speculative investment;
- breach of their duties as company directors; examples are:
  - using the charitable company's assets to procure a benefit for the trustees
  - making a loan to a trustee.

## The liability of retired and newly appointed trustees

**New trustees** Although the Charity Commission expects new trustees to assume responsibility for decisions made by the board of trustees in the past, newly appointed board members do not have to assume responsibility for past breaches of the charity's trusts. If, as a new trustee, you discover when you take office that the charity is currently acting in breach of trust, you must take steps to remedy the situation or else you, too, will become liable for the breach.

**Retired trustees** Trustees do not cease to be liable for their actions in breach of trust when they retire or resign. You will remain liable for any breaches of trust committed during your term of office. This means, for example, that if the Charity Commission investigated some wrong doing which took place a year or more ago, all those trustees who had been in office at the time could be ordered to share the cost of any loss or damage – although in practice it is very rare for a trustee to suffer financial loss as a result of his or her trusteeship.



## How trustees can be protected

There are a number of ways in which trustees can limit the risk of personal liability. Some are obvious, and absolutely nothing beats good management.

**Good management practice** If you want to keep control of your voluntary organisation and protect yourselves as trustees, the very best thing to do is simply to ensure it is well run. In practice there is really no sensible alternative. You should pay particular attention to:

- monitoring: if trustees know what their organisation is doing (through good management reporting) and, more importantly, exactly how it stands financially (as a result of good financial reporting) it is very much less likely that they will lose control
- sound financial controls and clear procedures will prevent losses and abuses
- clear role descriptions, induction procedures and relevant training for members of your board will ensure that trustees know the law, and the importance of good practice and vigilance
- clarity can prevent the confusion that causes avoidable mistakes and that sometimes hides individual misdeeds – clear lines of responsibility, budgetary guidelines, written policy statements to ensure responsibilities are understood, and good communication on all these issues will all help here
- checking the minutes: you should make your own notes of the board's decisions, and check them against the minutes before agreeing them; the minutes become the legal record of the board's decisions.

See Parts 2 and 4 for further guidance.

## Trustee liability insurance for charity trustees

(See also Section 4.4)

- **Relaxation of the rules:** Since the Charities Act 2006 charities have not needed the Charity Commission's approval to buy indemnity insurance for their trustees, provided Trustees satisfy themselves that the charity's governing document does not expressly prohibit the purchase of indemnity insurance,.
- **Limitations:** Any indemnity insurance policy must exclude some specific areas, mainly in relation to covering costs and fines from trustees acting in bad faith.
- **The implication for charities:** It is still not entirely clear whether insuring charity trustees against the risks they face as trustees is worthwhile in all cases. Charitable companies may not find it worth the expense.



## Trustee liability insurance for companies generally

- **Restrictions** The Companies (Audit, Investigations and Community Enterprise) Act 2004 effectively narrowed the gap between charities and non charities by prohibiting companies from providing insurance to indemnify (protect) their directors from the company's liabilities and from criminal proceedings. (This also applies to an organisation's associated and subsidiary companies.)
- **When may non charitable companies indemnify directors?** With those exceptions taken into consideration, companies and associated companies are permitted to:
  - indemnify directors against some (but not all) liabilities to third parties
  - pay directors' legal costs up front, provided that the director repays the loan if he is convicted in any criminal proceedings
  - exempt company officers other than directors from, or indemnify them against, liability, including liability to the company
  - purchase directors' and officers' liability insurance.

**Distancing yourself from the Board** Trustees who disagree with decisions taken by their boards and who are concerned about the way these affect their liability may be faced with agonising choices. There may not be much space for objectivity or reasoned argument if these situations arise during acrimonious disputes, as they often do. There are some steps you can usefully take:

- make sure your disagreement is minuted
- make sure you explain clearly how your concern is linked to the possibility of personal liability – it is one thing to disagree with a spending decision, for instance, and quite another to say you think it represents a breach of trust and could render all directors liable to repay the sum themselves
- don't vent your frustration by going straight to the press or a funder to condemn what has happened – this could in itself constitute a breach of trust by you personally (particularly if you turn out to be mistaken or over-reacting) and internal squabbles in charities may be too common an occurrence for outsiders to take them seriously
- if you think your fellow trustees are seriously misguided and expect the results of their decision will inevitably be damaging, you should consider resigning from the board: as trustees are judged to act jointly, it could be argued that your continued membership of the board would not remove your liability.

**Personal guarantees** A bank or lender may ask for personal guarantees from individual trustees when a charity approaches them for a loan. This is a serious step to take because the people who have given the guarantee might have to repay the loan themselves if the organisation runs into financial difficulty. You should always consider the risks extremely carefully and take legal advice before agreeing to provide a personal guarantee.

## Checklist

- Have you assessed the degree of risk of personal liability faced by your board of trustees and is your board ensuring good management practice?
- Can you limit this risk by better management practices?
- Does your board need to consider taking out trustee liability insurance?
- Does your board need to consider incorporation?

## Further information

- Charity Commission, *The Essential Trustee: what you need to know*, CC3
- Charity Commission, *Charities and Insurance*, CC49
- Charity Commission, *Managing Financial Difficulties and Insolvency in Charities*, CC12
- Department for Business Innovation and Skills, *Guidance on Companies (Audit, Investigations and Community Enterprise) Act 2004 provisions relating to directors' liability* – [www.bis.gov.uk](http://www.bis.gov.uk)

## 7.7 The annual report

It is easy to become overwhelmed by the weight and extent of the regulations and recommendations on the contents of charities' annual reports. Some charities do not even get this far. They produce reports (which can equally well be scrappy photocopied jobs or lavish glossy brochures with full-colour printing) composed of randomised information which hints strongly that no one has bothered to think about who the readers will be, or what impression they should create. The trick in producing really useful annual reports is to cover the required ground, and an absolute basic is the need to cover the relevant requirements of Companies House and the Charity Commission.

## Legal requirements and recommendations for accounts and reports

There are several sets of statutory regulations which require charities and limited companies to prepare and make public information about their activities, including publishing annual reports. These spell out for individual cases the types of information which annual reports must contain. The specific arrangements for all reporting requirements by charities and limited companies - which may vary depending on income levels – are listed in Section 4.2. In addition, there are suggestions for good practice, and some common sense guidelines about how the main public document, the Annual Report, should be prepared and used. These are:

**The basic requirements for annual reports** Charity law requires all charities to produce an annual report consisting of:

- a narrative report, setting out what the charity is trying to achieve and how it is going about it
- a financial review, showing the charity's financial position, transactions during the accounting period and a clear indication of the charity's ability to meet its financial obligations.

**Preparation and approval** The report is the joint responsibility of all the trustees. Although the Annual Report and the Annual Accounts are technically different documents, they are normally presented together in the same publication. Trustees must formally approve the report and accounts as a body at a meeting, and should receive drafts a reasonable time in advance.

## Reporting by companies

- All companies are required to produce an annual directors' report under company law.
- In practice, charitable companies can meet additional charity law specifications by expanding the directors' report to include the required and recommended information.

## Annual accounts and annual returns

- All limited companies and charities depending on their annual income (check Section 4.2 for details) are required to send annual returns (or an annual update form) to Companies House, or the Charity Commission, or both. Annual returns include lists the trustees and contact details.
- Charities with an income of over £25,000 must send their annual reports and accounts to the Charity Commission. There are various specifications about the format for annual accounts and who can prepare them.

- Both agencies require accounts to be provided within 10 months of the end of the financial year, and Companies House imposes automatic fines for late filing.

**SORP regulations and recommended practice** The basic reporting requirements for charities' annual reports and what they should contain are laid down in:

- the Charities (Accounts and Reports) Regulations, which came into force in 1996, and
- the **Statement of Recommended Practice (SORP) on Accounting by Charities** which was issued by the Home Office in 1997 and revised in 2000 (referred to as 'SORP 2000') to amplify the formal 1996 Regulations. SORP 2000 simplifies some of the 1997 requirements and adds a few new ones.

Together the regulations and recommended practice are detailed and wide-ranging, and have the effect of making charities fully accountable to the public for their financial affairs. Although SORP recommendations do not have the backing of law it is useful to treat them together with the formal 1996 Regulations as providing a basic template for the annual report and accounts of all charities.

**Information** The Charity Commission provides comprehensive information about SORP requirements, including Accounts packs and worked examples. Trustees should ensure that their accountants or independent examiners are fully aware of the 1997 Regulations and SORP 2000. The most important of the detailed requirements are listed in the 'Reporting requirements' sub-section below.

**Voluntary sector endorsement** Despite the problems of producing comprehensive annual reports, SORP has been supported by voluntary sector agencies and support bodies, including Wales Council for Voluntary Action, and organisations are strongly encouraged to improve their performance in this area.

## Producing a useful annual report

The legislation and the guidance has been introduced to ensure that charities are more publicly accountable. And the trustees' annual report can be a crucial document for presenting the work of the organisation to the public. So, although it can seem a chore, the inescapable demand to produce a report every year can be turned into a valuable opportunity. The last thing you should do is produce a report simply to satisfy the demands of the Charity Commission – charities have other audiences which are far more important.

The benefits of the annual report can include:

- **review:** an opportunity to step back from the daily grind and review your progress internally, or, better still
- a **'social audit' report:** the document which brings together, comprehensively, information about your performance and shows how this stands up against the targets you previously set yourselves for the year
- **promotion:** the production of a document for general public consumption which establishes your role and tells the real story about how you do your job, and the benefits which you create for the community, packing in far more than the normal publicity leaflet or press release
- **publicity:** a publicity opportunity in its own right – you may only need to send a copy to newspapers to get valuable column inches of positive coverage
- **recruitment:** a general purpose document which can be used to attract interest and support – from volunteers, prospective new trustees, and new users or clients – and an enclosure with role descriptions to give job applicants a flavour of your operation

- **induction:** an introduction to new volunteers and staff to back up the information you provide in induction sessions
- **service credibility:** the time to make funders know what good value they are getting for their money by detailing the qualitative and quantitative outcomes of your charity's activities, or, alternatively
- **damage limitation:** a means of coming clean pre-emptively about the problems and obstacles which have been barriers to progress, and to explain what is being done to remove them – i.e., giving an honest positive spin to issues which might make funders and supporters nervous about your work
- **fundraising:** a background document to support grant applications and bids for contracts.

**Report formats** The image created by your report is important. So it is worth spending time thinking about what it will contain, what messages you want to get across and what it will look like. The main issue to consider is who the main audiences will be, and how you want to speak to them:

- a multipurpose report which does several of the jobs identified above can justify the use of some of your publicity budget, and may save expense overall

- small charities seldom need to spend large sums of money on design work – modern computers can help people to create highly impressive results relatively easily, particularly if you look at other charities' reports and try to emulate features that you like
- the report does not need to be glossy – a flashy presentation can even lead to criticism that money has been wasted
- there is no need to follow slavishly any format implied by the SORP good practice suggestions, as long as you include all the relevant information (though you will inevitably be constrained in the presentation of financial information)
- even the most modest report can be brought to life by the odd photograph
- statistics may mean more and look more interesting if they can be presented in a simple graph.

**Who does it?** If a charity employs staff it is invariably a paid worker who produces the annual report. Input from the trustees may go no further than a brief report squeezed out of the Chair for page 2. But in some cases, particularly where other means of developing the charity's image are limited, it can be worthwhile to involve the trustees actively at the outset in discussing the report's objectives and format.

## Contents of the Annual Report

**Required formats and content** The format required by the Charity Commission depends on the income of the charity – more detailed requirements apply to charities which are required to have statutory audits of their accounts.

### All charities

The following are required in all annual reports:

- **Reference and administrative details** of the charity, its trustees and advisers:
  - the charity's registered name; any other name which a charity uses
  - charity registration number, and if applicable, the company registration number
  - address of the principal/registered office of the charity
  - names of all the charity's trustees or custodian trustees on the date the report was approved (where there are more than 50 trustees, the names of at least 50 of the trustees, including all the officers). Where the trustee is a body corporate, the names of any person who is a director of the body corporate are given
  - the name of any other person who served as a charity trustee or custodian trustee in the financial year in question
- note, the Charity Commission may give permission for trustees' names not to be disclosed if this would put them in danger (e.g. a women's refuge charity)
- **Structure, governance and management**

Depending on the size of the charity and needs of readers, the Annual Report should give readers an understanding of how the charity is constituted and its structure, how trustees are appointed and trained and how decision making works. Details will probably include:

  - the type of governing document and legal structure
  - methods for recruiting and appointing new trustees, including details of any constitutional provisions such as elections
  - the name of trustees who are appointed by an outside body
- **A review of finance and assets containing:**
  - policy on reserves, levels held and why, the amounts and purpose of any designated funds, and likely timing of expenditure
  - a statement if there is no reserves policy
  - steps being taken to eliminate any deficits in funds
  - full details of assets held by custodian trustees.



- Public benefit statement saying whether the charity trustees have due regard to the guidance on public benefit published by the Commission.

**Charities which do not require a statutory audit** These charities must also include the following in the Annual Report:

- **Objectives and activities** objects of the charity and the main activities undertaken by the charity to further its charitable purposes for the public benefit
- **Achievements and performance** a brief summary of the achievements of the charity during the year in relation to its objects.

**Charities which do require a statutory audit** The reporting requirements for these larger charities are much more substantial, and are laid down by the Statement of Recommended Practice (SORP 2005). Information is available from the Charity Commission.

**Further detail:** For more information on the accounting requirements of charities of different sizes see Section 4.2.

## Checklist

- Have you assessed the degree of risk of personal liability faced by your board of trustees and is your board ensuring good management practice?
- Can you limit this risk by better management practices?
- Does your board need to consider taking out trustee liability insurance?
- Does your board need to consider incorporation?

## Further information

- Charity Commission, *Charity Reporting and Accounting: The essentials, 2009, CC15b*
- Charity Commission, *Accounting and Reporting by Charities: Statement of Recommended Practice (SORP 2005)*
- Charity Commission, *Receipts and Payments Accounts Pack, CC16*
- Charity Commission, *Accruals Accounts Pack, CC17*
- Charity Commission, *Is your charity in the red?* (leaflet on annual reporting deadlines)



## 7.8 Mergers and closures

In harsh financial times it's a grim reality for some trustees that they must start thinking about the possibility of working collaboratively with other organisations and planning for mergers or takeovers in order to survive. For others that might already be too late. Then the priority is to wrap up the operation in a tidy way and cause as little damage as possible to the beneficiaries and clients, employees and people they owe money to.

In the case of charities, the Charity Commission provides guidance on how to act legally and properly. This can be useful even for organisations which are not subject to charity law.

## Mergers and takeovers

**What are they?** Voluntary organisations do not normally operate like predatory commercial companies taking one another over to exploit their resources. And if they do, this guide should not offer encouragement. But there are circumstances where:

- combining the operations of two or more compatible organisations produces a single body which can operate more effectively, generate more income and provide a more comprehensive or useful level of service by acting as one
- the best way to prevent the failure of an organisation and the permanent loss of its services is to let another organisation take over its work – usually to achieve economies of scale or some other financial advantage.

**How does it work?** There are two basic choices.

- The organisations can collaborate on the creation of a new body to which they contribute their assets and expertise, good names etc.
- One organisation can take over the assets of the other. This might be an opportunity for restructuring and rebranding, but there is no need to create a new company or charity.

**Voluntary sector realities** Friendly mergers motivated by a spirit of partnership and driven by common gains are a great goal. But the collaboration to create them does not come easily.

- The Charity Commission supports the idea of mergers in principle because there are many charities in Wales and England which do the same thing, and which might do their jobs more efficiently if they came together. But mergers are actually rather uncommon.
- Mergers may be promoted as positive events resulting from collaboration and mutual good will. In reality, they can be messy, fractious and cobbled together because one or more of the organisations are in trouble.
- Voluntary organisations can often be highly competitive and suspicious of one another. It is not unknown for groups with similar activities to describe one another as 'territorial', and 'ruthless'. They can find it difficult to work together closely, and the fear of being taken over is a massive obstacle to trustees thinking seriously about mergers.

**What's involved in creating a successful merger?** Despite this unpromising background, successful and productive mergers between voluntary organisations do take place. But you have to be dedicated and hardworking to pull them off. Here are some of the issues involved.

- Start by gathering plenty of information about the structure, assets, resources etc of the organisations involved.
- It's important to make sure that the governing documents of all the parties say nothing to disallow mergers.
- Most governing documents allow organisations to transfer their assets to another organisation with similar objects. But charities can get help from the Charity Commission if they hit constitutional obstacles.
- The objects of merging organisations don't need to be the same. But they should be compatible, ideally 'a good fit'.
- Most organisations will need to win the support of members and secure a vote in favour of a merger at a general meeting.
- The cost of mergers can be substantial, and there is a risk of underestimating the expenditure, time, effort and distractions involved. (But for charities there is no obstacle in principle to paying to set up mergers with charity funds.)

- A large amount of planning is essential, and the commercial, financial and legal risks should be very carefully considered (particularly in the case of charities and limited companies which have a legal duty of care to their beneficiaries and/or obligation to apply 'due diligence' in evaluating opportunities.) The Charity Commission guidance 'Charities: Collaborative Working and Mergers' usefully lists the issues to take and the issues to consider.
- The Charities Act 2006 makes it easier for small unincorporated charities to pass their property to other bodies. Explicit Charity Commission permission is no longer required, though they must be informed. (The Act has also set up a Mergers Register to keep track of charities which come together.)
- The benefits may not be apparent immediately, if the transfer is properly planned they will emerge over time.
- It can be important to bear in mind that a merger which is likely to lead to the CEO losing her or his job will have to be managed by the trustees with little help from paid staff.

## The end of the road?

**No time to wait and see** When a voluntary organisation becomes aware of financial problems or other crises which might threaten its future such as the risk of the mass resignation of its board it's time for action. This does not necessarily mean that closure is looming. But it's no time for speculation or wait-and-see.

**Not too late for a rescue?** Serious crises are beyond the scope of this guide. You need to get professional advice. Hopefully you will have been monitoring the situation carefully for some time, and are able to recognise that it is a crisis before it's too late. Then a financial rescue (perhaps involving an agreement with creditors to reschedule your repayments and action to cut back significantly on expenditure) or a merger with another organisation may still save the day. Sadly, this isn't the case and the main objective will be to mitigate the pain and distress to staff and the users of your service, and the damage to the reputations (or, in very extreme cases, the pockets) of the trustees.

**Advice** If the problem is financial you should be speaking to an accountant. In other situations if the damage is not yet irreparable you may get useful help from a parent or umbrella organisation or advice agency. But if the damage is self-inflicted, don't be surprised if your allies start to disappear.

**Closing unregistered associations** Winding up a voluntary organisation which is not a limited company is relatively straightforward in that you cannot as a body be forced to wind up.

- But creditors might take action for recovery of the charity's debts against individual trustees – hence the advisability of professional guidance, and perhaps the appointment of a liquidation specialist if the charity can afford it, to manage the endgame.
- The constitution should explain the arrangements for a voluntary closure. Usually this involves a general meeting and a resolution with a specified majority. In the case of charities you need to check carefully with the constitution, and (with the Charity Commission if you are uncertain) that you are acting properly.
- Trustees should keep a detailed record of all their meetings and decisions to demonstrate they acted properly.
- Assets should not be moved, but you may be able sell some to pay creditors.
- Different creditors should be placed in a specified order of priority if you will not have enough money to pay off everyone. Be very careful that you know what you are doing. And don't necessarily trust the advice from a bank if you owe them money – they have a vested interest in getting their money back.

## Closing limited companies

**Wrongful trading** If you are in financial difficulties, before you take another step you should be aware of the issues covered by Section 7.5 on wrongful trading.

**Possible approaches** Limited companies should behave in a similar way to unincorporated voluntary organisations. But there are more opportunities for you to lose control of the situation as a result of court action. Professional advice is vital. But here are the possibilities. Although limited companies are easy to start up, closing them can be complicated, and how it happens will depend on your circumstances. If the company is still solvent (able to meet all its financial liabilities) it is likely to choose dissolution. If it cannot meet its debts it may opt for voluntary liquidation or it may be forced into compulsory liquidation by its creditors.

**Dissolution** You can only use this option if the company is still solvent and if directors and members agree. It is cheaper than liquidation because you do not need to appoint a liquidator. You must stop trading and providing services, and ensure that all financial obligations are met (taxes, staff pay, contracts etc) and appropriate authorities are informed. The company can be deleted from the Companies House register three months after trading has ended. (See Further Information below.)

**Liquidation** Whether the liquidation is voluntary or compulsory the process legally requires the appointment of a liquidator who takes over responsibility for the company from the directors. Voluntary liquidation may be slightly more palatable, but the experience for directors of meeting those they owe money to at a creditors meeting is not one to relish. The government's Insolvency Service provides a wide range of guidance leaflets on its website [www.insolvency.gov.uk](http://www.insolvency.gov.uk)

**Avoiding closure** Companies which are in financial difficulty may be able to avoid closure by coming to a voluntary arrangement with their creditors (speaking to each one and agreeing terms for repaying some or all of the debt) or using the more formal Company Voluntary Arrangement (which involves going to court). Professional advice in these circumstances is vital, particularly as there is a risk of breaking the law against trading while insolvent (see Section 7.5).

## Further information

- Companies House, *Liquidation and Insolvency, GPO8* and *Strike off, Dissolution and Restoration, GP4* – [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)
- The Insolvency Service Dealing with debt: how to wind up your own company, [www.insolvency.gov.uk](http://www.insolvency.gov.uk)
- Charity Commission, *Collaborative Working and Mergers, CC34*
- Charity Commission, *Milestones: managing key events in the life of a charity, RS6*

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