TRUSTEE DEVELOPMENT

Module One
Trustee Induction
TRUSTEE DEVELOPMENT
Module One

By the end of this session you should be able to understand:

- What a charity is
- What the role of a trustee is
- The responsibilities of trustees
- The liabilities of trustees
- Your governing document
Elizabethan statute of 1601 defined charitable as: ‘the relief of aged, impotent and poor people, the maintenance of schools of learning, the repair of bridges, churches and highways, and the relief or redemption of prisoners or captives’
What is a charity?

- 1891 concept of charity classified under four ‘heads’
  - The relief of poverty
  - The advancement of education
  - The advancement of religion
  - Other purposes beneficial to the community in a way recognised as charitable

However…….
The new Charities Act 2006
(did not repeal the 1993 act but updates and creates new provisions)

- Heads of charity increased to 13
- New Charitable Incorporated Organisation (CIO) status to be introduced
- New rules on public charitable collections
- Changes to audit thresholds
- Other changes include rules on payment of trustees and power to spend capital
- Must be able to demonstrate and have a duty to report ‘public benefit’
Heads of Charity – Revision 2006 (increased to 13)

- The prevention & relief of poverty
- The advancement of education
- The advancement of religion (include belief of many gods – or no god)
- The advancement of health or the saving of lives
- Advancement of citizenship or community development
- The advancement of culture, arts, heritage and science
Heads of Charity – Revision 2006

- The advancement of amateur sport
- Advancement of human rights, conflict resolution and reconciliation or the promotion of religious or racial harmony or equality & diversity
- The advancement of environmental protection or improvement
- The promotion of animal welfare
- Relief of those in need by reason of youth, age, ill health, disability, financial hardship or other disadvantage.
- Promotion of the efficiency of the armed forces, police, fire & rescue or ambulance services
- Other purposes currently recognised as charitable and any new purposes which are similar to another
WHAT IS TRUSTEESHIP?

The responsibilities, liabilities and accountabilities
What is Trusteeship?

- Trustees are people who are entrusted to look after money or other resources given to charity by a person or group of people.
- Trustees have a responsibility to ensure the charity’s resources are used only for the purposes for which the charity was set up.
- Trustees should operate within Charity Law and according to their governing document.
Who are Trustees?

- Trustees are defined under Section 97 of the Charities Act 1993 as:
  - “the persons having general control and management of the administration of a charity”

- Trustees may also be called:
  - Members of the committee
  - Management committee members
  - Council members
  - Executive committee members
  - Governors
  - Directors

BUT THEY ARE STILL TRUSTEES AND HAVE THY SAME RESPONSIBILITIES AND LIABILITIES
What is Trusteeship? — The relationships

FUNDERS
Donors, charitable trusts, local authorities

BENEFICIARIES
Service users, members, Local community

PARTNERS
Support & Advice

TRUSTEES
- Act in best interests of beneficiaries
- Make sure money is spent on purpose intended
- Operate within an organisational structure
- Avoid conflicts of interest

Day to day tasks
often delegated to staff or volunteers
12 Essential Responsibilities

1. Determine the organisation’s Vision (where the organisation is going) and mission (how they are going to get there)
2. Engage in strategic planning
3. Formulate needed policies
4. Approve and monitor the organisation’s programmes and services
5. Ensure adequate financial resources
6. Provide effective fiscal oversight and ensure sound risk management
12 Essential Responsibilities

7. Select and support staff and review their performance
8. Understand and respect the relationship between trustees and staff
9. Act as a responsible employer (as set out in employment law)
10. Enhance the organisation’s public image
11. Carefully select and induct new trustees
12. Carry out trustee business efficiently
How do you become a Trustee

- Election
  - At the AGM
  - By a section of the association with representative rights

- Co-option
  - Normally balanced against number of elected members

- Appointment from outside
  - Local authority representatives
  - Other related agencies

- Ex-officio
  - Appointed by virtue of their office e.g. a mayor or vicar

Details of how your committee is made up will be in your constitution
Observers

- May be nominated to your organisation
- Are there by invitation
- It should be clear that they are observers and therefore **cannot take part in any decision-making and do not have a vote**
Can anyone be a Trustee?

- Not everyone can be a trustee.
- **The Charities Act 1993** sets out who is disqualified from acting as a trustee
- **Company Law** sets out who is disqualified from acting as a company director
- See Charity Commission publication **CC3, The Essential Trustee – What you need to know**, for more details (you can order free copies from the Charity Commission or download from the website at)

http://www.charitycommission.gov.uk/Charity_requirements_guidance/Charity_essentials/The_essential_trustee.aspx
Duties of a Trustee

- To comply with the governing document
- To exercise ‘Duty of Care’
- Comply with charity and company law (as appropriate)
- Protect the charity’s property
- Act in the best interest of beneficiaries
- Avoid conflicts of interests
- Duty to act collectively
- Not to financially benefit
Trustee Liabilities

- Not to commit breach of trust
- Debts and liabilities of the organisation
- Note: Trustees of all types of charity can be held personally liable for:
  - Breach of trust under charity law
  - Acting as trustees when disqualified
  - Failure to comply with statutory requirements such as health and safety etc
  - Failure to deduct employee’s PAYE

Remember trustees will only be held liable if they have been negligent, **but remember** that ignorance is no defense as this is considered as negligence.
Few trustees who have acted honestly suffer financial loss as a result of their trusteeship as long as they—

- Develop good management practice
- Define clear roles and responsibilities for everyone involved in the organisation
- Keep records of decisions taken (minutes of meetings)
- Board development – Make sure trustees are well trained
- Ensure you have contingency funds as defined in a reserves fund policy
- Take appropriate professional advice on anything the board does not have knowledge about
Limiting Liability

Insurance will not protect a trustee from liability incurred as a result of a breach of trust knowingly committed.

“The Insurers shall not be liable for loss arising from any act or omission which the trustee knew to be a breach of trust or breach of duty or which was committed by the trustee in reckless disregard or whether it was a breach of trust or breach of duty or not.” Charity Commission 2008

Therefore insurance will have limited value as it will not cover you unless a problem has occurred despite having all appropriate systems and procedures in place.
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<th>Who they are</th>
<th>What they do</th>
<th>Special features</th>
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| **Board members** (trustees, council, committee) | Work as a team to make most important decisions | Don’t get paid
Team of equals |
| **The Chair**                | Board member chosen by other board members to run meetings                   | Important job
Runs meetings
Ensures all opinions heard
Acts as facilitator |
| **Chief Executive** (Centre Manager/Administrator etc) | Day to day running or org – puts boards decisions into practice | Gets Paid
Not a board member
Reports to the board |
| **Sub-committee**            | Small group assigned to focus on particular task                             | Can’t make decision without board’s authority |
Honorary Officers

- **Treasurer** – responsibility for monitoring and reporting financial information to board (but not solely responsible for charity’s finances)
- **Secretary** – administrative support to the board, taking minutes, dealing with correspondence and legal issues
Holding Trustees (patrons)

Most charities are unincorporated which means they do not exist in law and therefore cannot hold legal contracts. To solve this holding trustees can be appointed. These individuals

- Purely ‘lend’ their names for the legal holding of property
- Are not managing trustees!
- Rights to property (whether leased or owned)
- Holding trustees have no right of vote and may not interfere with the business of managing the charity
Official Custodian

The Official Custodian for Charities (via Charities Commission) will act as holding trustee if requested.

Having an Official Custodian preferred way of securing property as individuals can move or even die. There is also now a cost to changing names on Trust deeds

Information can be found at in the Charity Commission document CC13 - The Official Custodian for Charities' Land Holding Service

Governing Document
(Your Organisations Constitution)

- Sets out the aims or ‘objects’ – the underlying purpose of the organisation
- Objects must be exclusively charitable and will often define the geographical area in which the charity will work
- It sets out the powers and structural arrangements for managing the charity
- Vital document that should be used as reference point for government decisions.
The charity can only do what the governing document says it can do.

If it does **not** say you can do it, you can’t do it!

All trustees, staff and volunteers should be familiar with this document as it defines your organisation’s aims and puts a structure to its activities.
Governing Document Exercise

Follow the link to some simple exercises you could do to see how well you know your constitution

Link to exercise
This training can be brought to your organisation – if you would like to discuss this further please contact Alison Angell (link to email)