

Trustees' Induction Pack



HUNTS FORUM
of
Voluntary Organisations

Reg. Charity no. 1114926

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This pack, and the enclosed CD Rom, contains the following information:

The information on this bulletin is for general information only. It is not intended to be a substitute for proper legal advice. If you need advice on the law please consult a legal adviser. No liability can be taken for actions taken, or not taken, on the basis of information..... 4

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This pack is designed to give guidance to new Trustees, and contains sheets which can be photocopied for additional packs to be produced.

If you should require this pack in a larger font please contact us

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What do trustees do?

At its simplest, the role of a charity trustee is to:

- Receive assets from donors
- Safeguard them
- Apply them for a charitable purpose according to the wishes of the donor

A serious responsibility

In practice, trusteeship is a serious responsibility requiring you to take an active role in the governance of the organisation. Trustees:

- Take the big decisions about the future
- Ensure everything is legal and safe
- Support the head of staff
- Ensure the work of the charity is carried out
- Ensure the trustee board is up-to-date and skilled.

Fulfilling the role

Trustees are obliged to:

- Act in the best interests of the charity's beneficiaries
- Act together as a group rather than as individuals
- Set aside their personal interests
- Take legal responsibility for the organisation
- Exercise the duty of care that a prudent person of business would in looking after the affairs of someone for whom they had responsibility.

Many organisations provide job descriptions and a trustee code of conduct. These will help clarify the role of trustee.

Keeping up-to-date

You will also need to keep up-to-date with regulation, charity law and, where appropriate, company law, and best practice recommendations.

- The Statement of Recommended Practice SORP for accounting by charities is a requirement

Don't worry, though! The board is not expected to be experts on everything. If it's unsure about what to do, it should take appropriate professional advice.

The organisation should also have a programme of training and board development.

Trustee eligibility and disqualification

The courts can bar people from being a trustee by one of two ways, depending on the structure of the charity. However, they can also exempt people from disqualification.

Here you can find information on how someone may be legally ineligible for membership of a trustee board, and also information on the process of exemption.

Trustee eligibility and age

Trustees cannot be under the age of 18 without the involvement of a parent or guardian.

It is possible, but not straightforward, for a director of a charitable company to be under 18.

However, there are other ways of involving people in an organisation besides becoming a trustee such as volunteering or participating in consultations.

Disqualification under company law

Company law applies to all companies, including charities that are formed as a company limited by guarantee. A court may disqualify people from being a company director if they have a:

- Conviction for criminal offences relating to the promotion, formation, management or liquidation of a company
- Conviction for fraudulent trading or fraud
- Record of persistent default on company legislation for filing accounts and other documents
- Record of conduct as a director that makes them unfit to be involved in Company management
- No disqualification if leave has been granted by the court for him/her to act as a director of a charity. (Company Directors Disqualification Act 1986)

Disqualification under charity law

The Charities Act 1993 covers all charities including excepted and exempted charities. Section 72 disqualifies people with:

- **Unspent** convictions for offences involving deception or dishonesty - theft, fare evasion or falsely claiming benefit, for example
- Undischarged bankruptcy
- Undischarged compositions (arrangements with their creditors)
- Disqualifications from company directorships
- Disqualifications from charity trusteeship by the Charity Commission or court
- Defaults on payments under county court administration orders

As soon as someone comes within section 72, for example the day they are convicted of an offence involving dishonesty, they are automatically disqualified from acting as a trustee.

It is a criminal offence to act as a charity trustee while disqualified. When the disqualification is time limited, the restriction only lasts until the period of disqualification expires.

Criminal Justice and Court Services Act 2000 Part II: Anyone disqualified from working with children by issue of a Disqualification Order is banned from being a charity trustee of a children's charity.

Exemption from disqualification

Charities can apply to the Charity Commission for an exemption from disqualification. The waiver can apply generally, to a specific charity or type of charity.

The Commission will consider what benefit is likely to result, taking into account:

The nature and seriousness of the composition, bankruptcy or offence

- The nature and financial control of the charity's property and assets
- Risk of misappropriation of funds
- Risk of damage to the charity's reputation
- The nature of the charity's work, in particular if it works with offenders, ex-offenders
- Previous disqualifications or charity commission inquiries
- Provisions in the charity's governing document

- Views of the other trustees
- Any other factors the Commission thinks are relevant

Charities or trustees wishing to apply for a waiver should write to the Commission, who may ask for further details of the case.

This provision is made under section 72(4) of the Charities Act 1993.

Trustee declaration of eligibility

I declare that:

- I am over age 18.
- I am not an undischarged bankrupt.
- I have not previously been removed from trusteeship of a charity by a court or the Charity Commission.
- I am not under a disqualification order under the Company Directors' Disqualification Act 1986.
- I have not been convicted of an offence involving deception or dishonesty (unless the conviction is spent).
- I am, in the light of the above, not disqualified by the Charities Act 1993 (section 72) from acting as a charity trustee.
- I undertake to fulfill my responsibilities and duties as a trustee of [name of organisation] in good faith and in accordance with the law and within [name of organisation]'s objectives / mission.
- I do not have any financial interests in conflict with those of (name of organisation) (either in person or through family or business connections) except those which I have formally notified in a conflict of interest statement. I will specifically notify any such interest at any meeting where trustees are required to make a decision which affects my personal interests, and I will absent myself entirely from any decision on the matter and not vote on it.

Signed: (Name of trustee)

Date:

Voluntary Organisations and the Law

A summary

The information contained in this paper has been drawn from various sources including the Charity Commission's website and a presentation made by Peter Mount, a partner in the Corporate Commercial Team at Leeds Smith, Solicitors.

Nothing contained in the paper should be construed as legal advice, it is for information only. If you require legal advice, you should consult a solicitor.

CHARITY LAW

Who needs to register with the Charity Commission?

The legal framework

The amount of legislation facing organisations can seem overwhelming.

For charities, there is the added complication of the Charity Commission which provides the main legal framework that governs charities and how they may operate. The majority of charities are required to register with the Charity Commission, although there are exemptions, the most important of which is those with an income of less than £1000.

For an organisation to be considered as a charity it must meet one of four principal charitable objects:

- The relief of poverty
- The advancement of education
- The advancement of religion
- Other purposes beneficial to the community which could include efficiency of the armed forces, promotion of industry, commerce and art, and protection of animals.

Currently Charities operate under a trust deed, scheme or constitution, or as a company limited by guarantee.

Trustees' duties

The principal duties of the trustees of a charity are to observe the trusts spelled out in the trust deed, ensure that property belonging to the trust is cared for and

disposed of properly and that the charity's obligations towards its beneficiaries are carried out properly. If trustees have relevant professional qualifications, then their duty in that respect increases.

Trustees also have other duties:

- Normally they cannot be paid for their services except for expenses
- If they believe they cannot carry out the aims and objectives of the trust, then they must apply for a Scheme
- They have a duty of care in relation to investment, insurance and other statutory duties
- They must keep proper financial records. If turnover is over £ $\frac{1}{4}$ million, there must be an audit and if over £10,000, a formal examination of the accounts.

Annual reports

All registered charities (including charitable companies) must prepare annual reports. Those exceeding the £10,000 threshold must normally submit them to the Charity Commission within 10 months of the end of their financial year.

Exempt charities are not required by the Charities Act 1993 to prepare annual reports, but may need to do so to comply with their own legislation.

In relation to excepted charities:

Very small unregistered charities (those not exceeding the £1,000 threshold) do not have to prepare an annual report.

Purpose and format of reports

The annual report provides information about the charity, its trustees and officers, and the year's activities, to give readers a more complete picture of the charity.

Trustees are free to adopt any kind of format they choose for their annual report, and its content is not limited to the matters set out in sections 3 and 4 below. Our publications CC64 and CC65 give outlines for charities with incomes under the £100,000 threshold.

Other excepted charities which are not registered can be required under s.46 of the 1993 Act to prepare an annual report and submit it together with the annual accounts for that year.

Payment of trustees

The Charity Commission has to give permission for trustees to be paid. For example:

- single payments for a one-off service;
- continuing payments;
- employment;
- the supply of goods;
- payments in kind and other non-financial benefits; and
- "common purse" benefits (i.e. where the spouse or other close relative of a trustee receives payment or other benefit from the charity - see section 2.3 below).

Trustees' powers

Trustees' powers derive from the trust deed or other governing instrument and trustees must exercise these honestly and fairly. However they are not obliged to give reasons for their actions; only the Charity Commission and the courts may challenge their decisions. Any sale (but not purchase) of land requires the authorisation of the Charity Commission.

Employment

- In broad terms volunteers may be treated under law as employees.
- Voluntary organisations have the same responsibilities towards employees as do commercial companies.,
- They must ensure that they comply with equality legislation: sex and race discrimination.
- All employees, including casual staff, must be given a contract or written statement of terms of employment.
- There should be procedures for grievances and disciplinary action.

Trustee induction: checklist

As a new trustee, you may find it helpful to record your progress against each of these questions. The answers to the checklist are for your own use.

- Have you received an induction pack?
- Have you had an induction course/programme?
- Do you have a statement of your roles and responsibilities as a board member?
- Have you identified what you can offer by way of skills, experiences and knowledge?
- Do you have a copy of any trustee documents and policies (e.g. a code of practice)?
- Do you know when the organisation was set up and its history?
- Do you know the aims of the organisation?
- Do you know about the activities of the organisation?
- Do you know how your organisation is funded?
- Do you know about the key issues facing the organisation?
- Do you know about future projects or activities planned?
- Do you know about other organisations which your organisation has networks or special relationships with?
- Do you understand the structure of the organisation and your role in it?
- Do you understand the staff and volunteer structure and your relationship with staff and volunteers?
- Do you understand your role and responsibilities as a trustee?
- Have you met with the chair and chief officer and had a site visit?
- Have you met and got to know the other trustees?

- Do you know how the work of the organisation relates to initiatives undertaken by other organisations?
- Do you have support or training needs and are they being addressed?
- Have you joined/been invited to join a subcommittee?
- Do you feel you are an equal member of the board, able to contribute fully?

Form of declaration of commitment and qualification for Trusteeship

I _____ am committed to achieving the objectives of
(Organisation name)

I understand the responsibilities and liabilities I am taking on in becoming a trustee of _____ (Organisation name) and agree to devote the necessary time and effort to my trusteeship.

I am not disqualified from acting as a trustee under section 72 of the Charities Act 1993.

Signed:

Dated:

Section 72 of the Charities Act 1993 disqualifies people who:

- have been convicted of any offence involving dishonesty or deception;
- 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 organisation trustee or trustee for a organisation 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 organisation 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).

Trustee Contract between

1. You have been elected onto the trustee board with effect from .
You can serve for three years, with an option for re-election for a further three years, after which you will have to step down from the board. You may reapply to join the board after one year, but re-election is at the board's discretion.
2. Should you at any time wish to resign from the board you should do so by writing to the Chairperson of the board. Reasons should be given if they relate to the organisation and its activities.
3. Should you not attend 3 consecutive meetings of the board without giving apologies, you will automatically lose the right to be a trustee.
4. You have the right as a trustee to:
 - Have equal status and voting rights with all the other trustees
 - Receive training which relates to any area of the board's work
5. Your individual responsibilities are to:
 - Attend trustee board meetings regularly. If you are unable to attend you should give your apologies to the chairperson;
 - Understand and be fully committed to the aims and principles of the organisation
 - Challenge all incidents that contravene the organisation's equal opportunities policy;
 - Take a share of the board's work by offering to work on a sub-committee of the board;
 - Support all decisions once they have been agreed by the board;
 - Respect the confidentiality of board matters and discussions.

An induction programme will be organised for you which will help you to get involved in the board. In addition the organisation will provide opportunities for you to meet other trustees, members of staff and familiarise yourself with the organisation, its policies, plans and financial status

6. Your joint responsibilities with all the other trustees are to:
 - Accept legal responsibility for the workers of the organisation;
 - Act as employers for the workers of the organisation;
 - Decide overall policy for the organisation's work within the guidelines laid down by the members;

- Be satisfied that within the constraints of resources, the organisation is meeting its aims;
- Take a long term view of how the work of the organisation should develop;
- Try to ensure that funding for the organisation continues;
- Ensure that all trustee responsibilities delegated to paid staff and individual members of the organisation are carried out.

7. Trustees are required to declare any interests which may result in conflict while they are serving on the board.

Board member's declaration

- I have read and understood the provisions of the trustee contract
- I have received and read the induction material for new trustees and understand my duties and responsibilities as a trustee
- I undertake to familiarise myself with the organisation's policies, objectives, plans and financial position.
- I shall declare all conflicts of interest as and when they arise. If at any time these conflicts hamper my ability to perform my role as trustee, I shall resign from the board.
- I shall keep all the proceedings at trustee meetings confidential and shall not discuss any of the issues with the press / media without clearance from the Chairperson.

Signed

Dated

Trustee induction: review meeting

A review meeting with the chair two or three months after joining can allow you to feedback with your first impressions.

A review meeting might address:

- Further explanation of the organisation's structure or activities
- Skills and interests that you could contribute to the organisation
- Awareness of time-commitment and responsibilities involved
- Role as trustee and working with staff
- Declared and undeclared conflicts of interest
- Support and training
- Experiences of working with the board and vice versa

Trustee induction: review checklist

As a new board member this evaluation can be completed three or four months down the line in order to review your own experiences. Was it what you expected? What would help you next?

Your experiences

- Has board membership been what you expected?
- Do you fully understand your role?
- Which aspects of your role were the most difficult to get to grips with?
- What do you feel you bring to the organisation?
- What have you contributed to the board?
- Where have you played to your strengths?
- What skills did you not have but were needed?
- How have you set about acquiring those skills?
- Do you feel an equal member of the board?
- What have you gained from board membership?

Your induction

- What was the most useful part of your induction?
- What was the least useful part of your induction?
- What would have helped you settle into your role as a trustee which you did not receive?
- Did you receive what you expected by way of training, support and so on?

Looking ahead

- In looking ahead to your board membership, what do you see as the most difficult and challenging part of your role?
- What are the key challenges of your role in the future?
- How would you like to gain these skills, knowledge and experience?

Trustee joining form

Your name, address, date of birth, ethnic origin, ability and gender is information requested by the Charity Commission.

Please complete using BLOCK letters

Name:	Date of joining: Date of leaving: Date of birth:
Organisation: (where appropriate)	e-mail:
Address: (work)	Address: (home)
Telephone numbers:	Work no:
	Home no:
	Mobile no:
Ethnicity:	<input type="checkbox"/> African <input type="checkbox"/> Asian <input type="checkbox"/> Caribbean <input type="checkbox"/> Chinese <input type="checkbox"/> Irish <input type="checkbox"/> Latin American <input type="checkbox"/> White <input type="checkbox"/> Middle Eastern <input type="checkbox"/> Black <input type="checkbox"/> Mixed <input type="checkbox"/> Any other: please specify
Are you a disabled person?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Gender:	<input type="checkbox"/> Female <input type="checkbox"/> Male
How do you prefer to receive information from us?	<input type="checkbox"/> Post <input type="checkbox"/> email

We would like to circulate your main contact details i.e. name, address, telephone numbers and email to other trustees, but not disclose them to any other third parties. Would you please sign below to signify your agreement to this, or tick the relevant box if you **do not** want this information circulated?

Signed

Dated:

Further information regarding new trustees can be found at:

- N.C.V.O. www.ncvo-vol.org.uk

- Islington Voluntary Action Council (IVAC) www.ivac.org.uk

- Sandy Adirondack www.sandy-a.co.uk

Sample job descriptions

Board Chair job description

General responsibilities

- To ensure that the organisation complies with its governing document, charity law, company law and any other relevant legislation or regulations
- To ensure that the organisation pursues its objects as defined in its governing document
- To ensure the organisation applies its resources exclusively in pursuance of its objects
- To contribute actively to the board of trustees' role in giving firm strategic direction to the organisation, setting overall policy, defining goals and setting targets and evaluating performance against agreed targets
- To safeguard the good name and values of the organisation
- To ensure the effective and efficient administration of the organisation
- To ensure the financial stability of the organisation
- To protect and manage the property of the charity and to ensure the proper investment of the charity's funds
- If the charity employs staff, to appoint the chief executive officer and monitor his / her performance.

In addition to the above statutory duties, each trustee should use any specific skills, knowledge or experience they have to help the board of trustees reach sound decisions. This may involve:

- Scrutinising board papers
- Leading discussions
- Focusing on key issues
- Providing guidance on new initiatives
- Other issues in which the trustee has special expertise.

Additional duties of the chair

- Planning the annual cycle of board meetings
- Setting agendas for board meetings
- Chairing and facilitating board meetings
- Giving direction to board policy-making
- Monitoring that decisions taken at meetings are implemented
- Representing the organisation at functions, meetings
- Acting as a spokesperson as appropriate
- Bringing impartiality and objectivity to decision-making
- Where staff are employed:
 - Liaising with the chief executive to keep an overview of the organisation's affairs and to provide support as appropriate;
 - Leading the process of appraising the performance of the chief executive;
 - Sitting on appointment and disciplinary panels.
 - Liaising with the Chief Executive Officer to develop the board of trustees
 - Facilitating change and addressing conflict within the board and within the organisation, liaising with the Chief Executive Officer (if staff are employed) to achieve this.

The vice-chair acts for the chair when the chair is not available and undertakes assignments at the request of the chair.

Chair person specification

- Commitment to the organisation
- Willingness to devote the necessary time and effort
- Strategic vision
- Good, independent judgement

- Ability to think creatively
- Willingness to speak their mind
- Understanding and acceptance of the legal duties, responsibilities and liabilities of trusteeship
- Ability to work effectively as a member of a team
- Nolan's seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- Leadership skills
- Experience of committee work
- Tact and diplomacy
- Good communication and interpersonal skills
- Impartiality, fairness and the ability to respect confidences

In most circumstances it would also be desirable for the chair / vice-chair to have knowledge of the type of work undertaken by the organisation and a wider involvement with the voluntary sector and other networks.

Charity Secretary job description

The role of the Charity Secretary is to support the chair by ensuring the smooth functioning of the board.

General responsibilities

- To ensure that the organisation complies with its governing document, charity law, company law and any other relevant legislation or regulations.
- To ensure that the organisation pursues its objects as defined in its governing document.
- To ensure the organisation applies its resources exclusively in pursuance of its objects (the charity must not spend money on activities which are not included in its own objects, no matter how worthwhile or charitable those activities are).
- To contribute actively to the board of trustees' role in giving firm strategic direction to the organisation, setting overall policy, defining goals and setting targets and evaluating performance against agreed targets.
- To safeguard the good name and values of the organisation.
- To ensure the effective and efficient administration of the organisation.
- To ensure the financial stability of the organisation.
- To protect and manage the property of the charity and to ensure the proper investment of the charity's funds.
- If the charity employs staff, to appoint the Chief Executive Officer and monitor his/her performance.
-

In addition to the above statutory duties, each trustee should use any specific skills, knowledge or experience they have to help the board of trustees reach sound decisions. This may involve scrutinising board papers, leading discussions, focusing on key issues, providing advice and guidance on new initiatives or other issues in which the trustee has special expertise.

Additional duties

Either personally or by delegation, the secretary should:

- Receive agenda items from other trustees/staff
- Prepare agendas in consultation with the chair and chief executive
- Circulate agendas and supporting papers in good time
- Make arrangements for meetings:
 - Booking the room
 - Equipment
 - Refreshments
 - Facilities for those with special needs
- Check that a quorum is present
- Minute the meetings and circulating the draft minutes to all trustees
- Ensure that the minutes are signed by the chair once they have been approved
- Check that trustees and staff have carried out action agreed at a previous meeting
- Circulate agendas and minutes of the annual general meeting and any special or extraordinary general meetings
- In organisations which are companies, act as company secretary where this role is not delegated to a member of staff
- Sit on appraisal, recruitment and disciplinary panels as required

Secretary person specification

- Commitment to the organisation
- Willingness to devote the necessary time and effort
- Strategic vision
- Good, independent judgement
- Ability to think creatively

- Willingness to speak their mind
- Understanding and acceptance of the legal duties, responsibilities and liabilities of trusteeship
- Ability to work effectively as a member of a team
- Nolan's seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership
- Organisational ability
- Knowledge or experience of business and committee procedures
- Minute-taking experience, if this is not being delegated to staff

Charity Treasurer job description

The overall role of a treasurer is to:

- Maintain an overview of the organisation's affairs
- Ensuring its financial viability
- Ensuring that proper financial records and procedures are maintained.

In small charities without paid staff the treasurer may take a greater role in the day-to-day finances of the organisation.

General responsibilities

- To ensure that the organisation complies with its governing document, charity law, company law and any other relevant legislation or regulations.
- To ensure that the organisation pursues its objects as defined in its governing document.
- To ensure the organisation applies its resources exclusively in pursuance of its objects (the charity must not spend money on activities which are not included in its own objects, no matter how worthwhile or charitable those activities are).
- To contribute actively to the board of trustees' role in giving firm strategic direction to the organisation, setting overall policy, defining goals and setting targets and evaluating performance against agreed targets.
- To safeguard the good name and values of the organisation.
- To ensure the effective and efficient administration of the organisation.
- To ensure the financial stability of the organisation.
- To protect and manage the property of the charity and to ensure the proper investment of the charity's funds.
- If the charity employs staff, to appoint the chief executive officer and monitor his/her performance.

In addition to the above statutory duties, each trustee should use any specific skills, knowledge or experience they have to help the board of trustees reach sound decisions. This may involve:

- Scrutinising board papers
- Leading discussions
- Focusing on key issues
- Providing guidance on new initiatives
- Other issues in which the trustee has special expertise

Additional duties of the Treasurer

- Overseeing, approving and presenting budgets, accounts and financial statements
- Being assured that the financial resources of the organisation meet its present and future needs
- Ensuring that the charity has an appropriate reserves policy
- The preparation and presentation of financial reports to the board
- Ensuring that appropriate accounting procedures and controls are in place
- Liaising with any paid staff and volunteers about financial matters
- Advising on the financial implications of the organisation's strategic plans
- Ensuring that the charity has an appropriate investment policy
- Ensuring that there is no conflict between any investment held and the aims and objects of the charity
- Monitoring the organisation's investment activity and ensuring its consistency with the organisation's policies and legal responsibilities
- Ensuring the organisation's compliance with legislation
- Ensuring equipment and assets are adequately maintained and insured

- Ensuring that the accounts are prepared and disclosed in the form required by funders and the relevant statutory bodies, e.g. The charity commission and/or the registrar of companies
- If external scrutiny of accounts is required, ensuring that the accounts are scrutinised in the manner required (independent examination or audit) and any recommendations are implemented
- Keeping the board informed about its financial duties and responsibilities
- Contributing to the fundraising strategy of the organisation
- 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
- Sitting on appraisal, recruitment and disciplinary panels as required

Treasurer person specification

- Commitment to the organisation
- Willingness to devote the necessary time and effort
- Strategic vision
- Good, independent judgement
- Ability to think creatively
- Willingness to speak their mind
- Understanding and acceptance of the legal duties, responsibilities and liabilities of trusteeship
- Ability to work effectively as a member of a team
- Nolan's seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership
- Financial qualifications and experience
- Some experience of charity finance, fundraising and pension schemes
- The skills to analyse proposals and examine their financial consequences
- Preparedness to make unpopular recommendations to the board

Trustee job description

The statutory duties of a trustee

- To ensure that the organisation complies with its governing document, charity law, company law and any other relevant legislation or regulations
- To ensure that the organisation pursues its objects as defined in its governing document
- To ensure the organisation uses its resources exclusively in pursuance of its objects: the charity must not spend money on activities which are not included in its own objects, no matter how worthwhile or charitable those activities are
- To contribute actively to the board of trustees' role in giving firm strategic direction to the organisation, setting overall policy, defining goals and setting targets and evaluating performance against agreed targets
- To safeguard the good name and values of the organisation.
- To ensure the effective and efficient administration of the organisation
- To ensure the financial stability of the organisation
- To protect and manage the property of the charity and to ensure the proper investment of the charity's funds
- If the charity employs staff, to appoint the chief executive officer and monitor his/her performance

Other duties

In addition to the above statutory duties, each trustee should use any specific skills, knowledge or experience they have to help the board of trustees reach sound decisions. This may involve:

- Scrutinising board papers
- Leading discussions
- Focusing on key issues
- Providing guidance on new initiatives

Trustee person specification

- Commitment to the organisation
- Willingness to devote the necessary time and effort
- Strategic vision
- Good, independent judgement
- Ability to think creatively
- Willingness to speak their mind
- Understanding and acceptance of the legal duties, responsibilities and liabilities of trusteeship
- Ability to work effectively as a member of a team
- Nolan's seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Further information regarding job descriptions can be found at:

- N.A.C.V.O. www.nacvo.org.uk
- Institute of Chartered Secretaries & Administrators www.icas.org.uk

Policies and Acts

Governing Document or Constitution.

A copy of your Organisation's *Governing Document* or *Constitution* should be inserted here

Code of practice for a board of trustees

As a voluntary organisation, which seeks to be effective and accountable, we will be clear and open about our work and conscious of our social responsibilities. In particular:

Effectiveness

1. We will state our purpose clearly and keep it relevant to current conditions.
2. We will be explicit about the needs that we intend to meet and how this will be achieved.
3. We will manage and target resources effectively and do what we say we will do.

Accountability

4. We will evaluate the effectiveness of our work, tackle poor performance and respond to complaints fairly and promptly.
5. We will agree and set out for all those to whom we are accountable how we will fulfil these responsibilities.

Standards

6. We will be clear about the standards to which we will work.

User involvement

7. We will be open about our arrangements for involving users.

Governance

8. We will have a systematic and open process for making appointments to our management committee.
9. We will set out the role and responsibilities of members of our management committee.

Voluntary action

10. We will have clear arrangements for involving, training, supporting and managing volunteers.

Equality and fairness

11. We will ensure that our policies and practices do not discriminate unfairly or lead to other forms of unfair treatment.

Staff management

12. We will recruit staff openly, remunerate them fairly and be a good employer.

Data protection – An introduction

24th October 2001 saw the Data Protection Act come in to force. The Act covers “personal information” about identifiable living individuals.

The act gives you the right to access information held about you by organisations and governs how organisations can use the personal information that they hold - including how they acquire, store, share or dispose of it.

The act is administered and enforced by the Information Commissioner - an independent authority who reports directly to parliament. Organisations which process personal data about individuals, including donors and clients, must register with the Information Commissioner.

Definitions:

- **Data controller:** If you hold data, process it or decide on the use for data, you are a data controller.
- **Personal data:** Any information about a person which can identify them, including opinions and intentions as well as name and address, whether on computer or on accessible paper file.
- **Processing:** This means retaining, recalling and processing.

Personal data shall be processed fairly and lawfully and shall NOT be processed at all UNLESS certain conditions are met.

1. It is obtained for one or more specific purposes
2. It is adequate, relevant and not excessive.
3. It is accurate and up to date
4. It is not kept longer than necessary
5. It is kept in accordance with the rights of the data subject
6. Measures are taken to protect data
7. No data is transferred outside the EU except under conditions

In keeping data, follow some rules:

- Check for old data - old donors, former employees
- Do not accumulate personal data without a reason
- Make sure that employee, beneficiary and donor records are kept up to date
- Have proper procedures for getting rid of data

The Act does try to strike a balance between the needs of the Data Subject and the Data Controller. For example advice-giving organisations may hold information about other organisations or individuals for the sole purpose of passing on to clients.

There are a number of key questions that any organisation should ask itself when looking to ensure that data compliance is in order:

1. Is personal data fair?

Does your organisation make use of the information it has or there any elements of information that are not needed.

2. Do people and organisations know you hold information about them?

If you are holding information on an organisation or individual it is good practice that they are aware of this and agree to this information being held. In some cases there are exceptions to this, for example if contact information is held on a particular person within an organisation.

3. When do we need people's consent?

Often consent is not needed for "standard" information such as contact and organisation details. Consent though should be sort for personal information such as:

- Racial or ethnic origin
- Religious beliefs
- Political beliefs
- Trade union or professional body membership
- Sexual orientation
- Criminal Record

There are exceptions to this but the best way to approach this is with common sense and think about what information you as an individual would be happy for an organisation to hold about you.

4. Is information protected?

Information should be protected from unauthorised access. Access to information should only be by people with a good reason. Special care needs to be taken when information is being given to individuals outside the Data Controller's organisation.

5. Are information collection processes up to date?

The process by which information is collected may have been in place for a significant period of time and information that is collected could be because "that is how it has always been done". The process in which you collect information and the information you collect should be reviewed should be periodically reviewed. Some information you may only need in a small amount of cases and this information may be better collected as and when needed.

6. How long do you keep information for?

As the Data Protection Act covers paper and electronic files how long you keep information needs to be thought out very carefully. The question that needs to be answered is whether there will ever be a situation that it really matters that we no longer have this information. If the answer is no then it is possible that the information can be discarded or processed into an anonymous or statistical format. There are a different set of rules that cover accounting information and they should be adhered to.

7. Are there procedures for people who want to stop information being used for certain purposes?

Some groups or individuals may wish for their information not to be used in certain ways. In commercial organisations this is often in relation to marketing purposes. Within the voluntary sector there may be organisations and individuals that are willing for their information to be passed on to your organisation clients but are unwilling for the information to be passed on to the general public, this can be especially relevant when thinking about information you put on a website that anyone can view. It is important that procedures are in place to accommodate this requirement.

8. What information can be placed online?

When putting information on your website it must be remembered the information can be accessed by anyone, anywhere in the world. The very least your organisation should be doing if you are publishing a list of contacts is to get prior agreement from those whose information is going to be published that this is acceptable.

It is especially important to consider issues of privacy if photograph's of identifiable individuals are going to be used. This information is considered as an overseas transfer and should be treated as such.

A final area that should be considered is the Criminal Records Bureau - using this organisation is the way in which all criminal record checks should be carried out - for more information please visit - www.crb.gov.uk
For further information on the Data Protection Act please visit - www.dataprotection.gov.uk

"Data Protection for the Voluntary Sector" is available from the Directory of Social Change (www.dsc.org.uk) for £14.95 (ISBN1 903991 19 6)
Data Protection - An Introduction

www.ivac.org.uk

DATA PROTECTION - KEY ACTION POINTS

As far as possible get consent for the information you hold, it is suggested that if you hold sensitive information then written consent is the best way to protect your organisation.

Make sure that everyone you hold information about knows it and what you use the information for. Also if this information is going to be passed on to a third party make sure people are aware of that. A statement on publications such as leaflets and any forms that you require to be completed can cover this.

Give people or organisations that option to opt out of any direct marketing and modify systems to reflect this.

Make adequate security arrangements for both paper and computer records. This will include making sure paper filing is kept in a secure office. Electronic records should be in a secure location and require some form of password verification to access.

Implement an organisation policy (linked to organisation's confidentiality policy) that outlines what staff (paid and unpaid) are able to do with people's information. Importantly this should also highlight what they are not able to do and where to get guidance if they are not sure.

These action points are meant as a guide to help your organisation think about the requirements of the Data Protection Act - for more information visit the Data Protection website - www.dataprotection.gov.uk

The Freedom of Information Act 2000 came into force on 1 January 2005.

Under the Freedom of Information Act 2000, anybody may request information from a public authority which has functions in England, Wales and/or Northern Ireland. The Act confers two statutory rights on applicants:

- To be told whether or not the public authority holds that information; and if so,
- To have that information communicated to them.

The Act enables people to gain access to information held by public authorities in two ways:

Publication Schemes

Every public authority must make some information available as a matter of routine, through a publication scheme. Information that is included in such a scheme must be made available to the public.

General right of access

Any person has the right to make a request for information held by a public authority.

Exemptions

The Act recognises that there are grounds for withholding information and provides a number of exemptions from the right to know, some of which are subject to a public interest test.

The Act also sets out procedures for dealing with requests, such as time limits for compliance and fees that must be charged.

www.foi.gov.uk

Human Rights Act.

The Human Rights Act enshrines the European Convention on Human Rights into UK law.

There are 16 basic rights to the Act covering matters from the right to life, freedom of expression to the right to a fair trial.

www.humanrights.gov.uk

Equal opportunities

When discrimination can happen

Discrimination happens when someone is treated worse (in legal terms, 'less favourably') than another person in the same situation. Discrimination may happen:

At work - for example, a black person may be refused a job without good reason, or be racially harassed by other employees. A woman may have a problem about equal pay, or the way she is treated if she is pregnant or has a child to care for.

When you are buying or using goods and services - for example, a person in a wheelchair may be told they can't go into a restaurant because their wheelchair takes up too much space.

When you are buying or renting somewhere to live - for example, a landlord may refuse to let their flat to an Asian person.

At a school or college - for example, a school may treat a black child differently from a white child when deciding whether to exclude (remove) them.

The protection you have in law depends on why you were discriminated against. In the case of sex discrimination, for example, there are specific laws saying when it is unlawful for someone to discriminate against you. The law gives you the right to go to an employment tribunal or to court if you have been treated unfairly. You may get compensation for loss of earnings or if your feelings have been hurt, depending on the kind of discrimination you've suffered. Also, taking an organisation to a tribunal or court may improve the way it behaves towards other people in future.

With some other types of discrimination, such as that based on age, there are no specific laws, but the government is bringing in legislation to cover this by December 2006. In the meantime there are things you may be able to do to stop the discrimination happening.

Health and safety risk assessment for voluntary sector groups

In 1993 the Government introduced a whole new swathe of health and safety regulations, in order to comply with European law. This is generally known as 'The six pack'. These Regulations backed up the main piece of health and safety legislation - the Health and Safety at Work Act 1974.

Enshrined within the 1993 legislation was the principle that all employers had to carry out a risk assessment of their workplaces by the end of 1995, and that this assessment is updated to take into account any changes to working practices (e.g. new staff, new machinery) that might occur¹. The responsibility for carrying out this assessment lies clearly with the employer, and it is part of the legislation that the assessment must be carried out by someone who is 'competent' - the legislation requires that the person carrying out the assessment must have undertaken appropriate training, and be provided with appropriate resources (e.g. time, workspace) in order to carry out the assessment². In addition the competent person must be familiar with what happens in the workplace - e.g. who works there, who does what etc.

1. What is a risk assessment?

A risk assessment is, as the Health and Safety Executive describe: "a careful examination of what, in your work, could cause harm to people.... the aim is to make sure that no one gets hurt or becomes ill".

2. Carrying out a risk assessment:

In the first place the Health and Safety Executive think a risk assessment should be easy, because they make the rash assumption that employers will have made some sort of risk assessment in the past - under COSHH (Control of Substances Hazardous to Health) Regulations³ or in the course of a regular inspection. Unfortunately, the reality for a large number of voluntary organisations is that regular, proper inspections have never been carried out.

¹ Management of Health and Safety at Work Regulations 1992

² Management of Health and Safety at Work Approved Code of Practice (ACOP)

³ Control of Substances Hazardous to Health Regulations 1994 (COSHH)

Carrying out a risk assessment is actually a relatively straightforward process, that probably more than anything else requires some common sense and a little bit of lateral thinking. In any case, the following guidelines should help:

Step one

First, do what used to be called a workplace inspection: walk around the workplace identifying anything that could be potentially hazardous - **write everything down - make a list**. Include *everything* you can think of: not just things that are currently dangerous, but anything with a *potential* risk. It is a good idea to get two people to do this separately (one of these could be a trade union safety representative if there is one) and to compare lists afterwards, in case either of you have missed anything out.

Then think about **invisible** hazards - for example, in the voluntary sector one of the biggest risks people endure is stress (often related to working long hours, under pressure, to tight deadlines) or physical assault. Invisible hazards often include fumes - for example, photocopiers and laser printers emit ozone when in use.

Finally consider whether things that might not normally be hazardous might be in relation to specific people - e.g. pregnant women, disabled workers.

Step two

Once you have identified and listed all the hazards, you need to (i) identify what the specific risk is, and (ii) who is particularly at risk.

(i) Identifying what the risk is in most cases should be easy, and in many cases guidelines already exist and are widely available (for example use of VDUs). However, there will be times where you are not able to assess exactly how great a risk something is. **Remember, it is a requirement of the legislation that the person who carries out the assessment is 'competent'** - in other words if there is a risk you cannot assess because it is not within your area of expertise then you must get someone with the relevant knowledge to do this part of the assessment. This is only likely to occur when you are dealing with specific machinery, or chemicals, in relation to noise, fumes etc. In any case, the appropriate expert *might* already be in your workplace - check with all your organisation's workers. **List these risks.**

(ii) Some people will be more at risk from particular hazards than others - for example a VDU user will be more at risk of suffering RSI (Repetitive Strain Injury - also known

as WRULDs - Work Related Upper Limb Disorders), a cleaner might have specific risks related to the chemical cleaning agents being used, etc. And there will be those particularly at risk in some circumstances for example because they may be working alone, or they may have a disability. **List those potentially at risk.**

Step Three

Think about what you can do to remove the risk. The point of doing a risk assessment is to be aware of the risks, so that you can take action to eliminate or at least reduce the risks. On a simple level if an electrical wire is exposed, you could replace it, or cover it with insulating tape. On a more proactive level, if your cleaner is using potentially dangerous chemical agents - change the cleaning product - use something water-based. **Write down the action you propose to be taken.**

Step Four

Ensure the written record of your findings is made available to staff, and that they co-operate with the carrying out of the recommendations made as a result of the assessment. This might involve a change in working practices, a change in machinery or equipment, and **appropriate training** being undertaken.

Step Five

Review your assessment. You **must** review your assessment when there are major changes in the workplace, such as the introduction of new machinery, or new ways of working - but you must carry out regular reviews anyway - possibly six monthly or annually. If your original assessment was properly recorded the review should be a simple job - you should pretty well know exactly what you should be looking at and looking for - but be aware of changing working practices.

There may be other issues you have to consider:

For example:

- * If you share a building with other groups, it is a **legal requirement** that you all co-operate with each other in carrying out assessments.

- * If your workers have a trade union health and safety representative, you should consult with them before carrying out the assessment, and again after carrying out the assessment - in case they strongly disagree with the results of the assessments, or the proposals you may be making to remedy a potential hazard.

Remember, you should also have a **Health and Safety Policy**, and it is useful to ensure that your risk assessment and your policy are intrinsically linked - however, whatever your policy may state about carrying out risk assessments it is a **legal requirement** that you carry one out, which can be enforced by Health and Safety Executive Officers.

David Abse
July 1995

www.hse.gov.uk

Sample Risk Assessment Form

LIST HAZARDS HERE	LIST NATURE OF RISK	LIST GROUPS OF PEOPLE OR INDIVIDUALS ESPECIALLY AT RISK	LIST ACTIONS TO BE TAKEN

The Disability Discrimination Act 1995 (DDA 1995)

The Disability Discrimination Act (DDA) 1995 aims to end the discrimination that many disabled people face. This Act gives disabled people rights in the areas of:

- employment
- education
- access to goods, facilities and services
- buying or renting land or property

The Act also allows the government to set minimum standards so that disabled people can use public transport easily.

The Disability Discrimination Act 2005 (DDA 2005)

In April 2005 a new Disability Discrimination Act was passed by Parliament, which amends or extends existing provisions in the DDA 1995, including:

- making it unlawful for operators of transport vehicles to discriminate against disabled people
- making it easier for disabled people to rent property and for tenants to make disability-related adaptations
- making sure that private clubs with 25 or more members cannot keep disabled people out, just because they have a disability
- extending protection to cover people who have HIV, cancer and multiple sclerosis from the moment they are diagnosed
- ensuring that discrimination law covers all the activities of the public sector
- requiring public bodies to promote equality of opportunity for disabled people

Some of the new laws - including the increased protection for people who have HIV, cancer and multiple sclerosis - came into force in December 2005.

Others changes will come into force in December 2006.

www.dwp.gov.uk

What does diversity mean for trustee boards?

The challenge for trustee boards is to be responsive to needs; accountable to the people they serve and ultimately be effective in doing their job.

This rarely happens by accident, and good intentions are just the start. Building an effective trustee board requires careful thought and planning, and above all requires a commitment and willingness to change: to look hard at the board, to make changes, question old assumptions and bring in new ideas.

Diversity means being more responsive

Board diversity is not just about representing different groups on the board of an organisation. It is about recognising that organisational effectiveness needs diversity. An effective board must

- Reflect the community the organisation serves
- Close the gap between governors and governed
- Respond to the needs of beneficiaries
- Involve people from different backgrounds and with diverse skills and experiences

Diversity means new perspectives and skills

Ultimately diversifying your board can bring fresh perspectives into the way the organisation is governed and ultimately be more inclusive in the way its mission is fulfilled and services are delivered.

A trustee's contribution may be qualitative as well as quantitative, personal as well as professional; for example, it is as important to have board members who give support and make others laugh as it is to have lawyers and strategic planners!

Diversity means leading from the 'top'

A board of trustees is also in a good position to show leadership to the rest of the organisation. The positions of power are often the last places for change to take place, so if diversity issues can be tackled at 'the top' then this can set the agenda and show that your organisation is committed to change.

Diversity is not just representation

www.ncvo-vol.org.uk

Volunteer expense policy

The board of trustees of believes that all volunteers are entitled to reimbursement of expenses; this includes volunteering by members of the board of trustees. You should not be out of pocket for volunteering. Volunteers are entitled to claim reimbursement of all out of pocket expenses on production of receipts, and will be encouraged to do so. Arrangements for reimbursement are outlined below:

Travel expenses

You are entitled to claim your transport costs to and from the playground and for other travel costs incurred in the course of your voluntary work for the playground.

Fares on public transport will be reimbursed on production of tickets.

If you have a travel pass, reimbursement will be of the fares that you would have paid if you did not have a pass, and a photocopy will be taken in place of receipts.

If a car is used, a mileage rate ofp per mile will be paid.

Subsistence expenses

If you work more than four hours in any one-day, you are entitled to claim a meal allowance, up to a maximum of £..... This will be reimbursed on production of receipts.

All volunteers will be provided with free tea, coffee, soft drinks and biscuits.

Other expenses

All other expenses not detailed above must be authorised by the chair of the board of trustees in advance.

All expenses may be claimed on the day they were incurred, or can be claimed on a weekly basis if preferred.

Additional information

Additional information can be obtained from:

- **Hunts Forum of Voluntary Organisations** www.huntsforum.org.uk
Provide information and advice for and about charities, Newsletters, Book loan, Low cost stationery and office services, Access to training.
- **I.V.A.C.** www.ivac.org.uk
Have sample policies and documents on their website which include: Health & Safety, Harassment, Job descriptions etc.
- **Community Matters** www.communitymatters.org.uk
Have information sheets on various matters including Working Time Regulations, Recruitment, Contract of Employees, Managing Employees etc.
- **Charity Commission** www.charity-commission.org.uk
The Charity Commission is established by law as the regulator and registrar for charities in England and Wales. Their aim is to provide the best possible regulation of charities in England and Wales in order to increase charities' effectiveness and public confidence and trust

- **N.C.V.O.** www.ncvo-vol.org.uk
 The National Council for Voluntary Organisations (NCVO) is the umbrella body for the voluntary sector in England. They work to support the voluntary sector and to create an environment in which voluntary organisations can flourish.

- **Sandy Adirondack** www.sandy-a.co.uk
 Sandy Adirondack is a freelance management consultant and trainer working exclusively in the voluntary/ not-for-profit sector. Her site includes a legal update service which will help your organisation keep up with changes in the law. There are direct links to government guidance, regulations and the legislation itself.

- **The Institute of Chartered Secretaries and Administrators (ICAS)** www.icsa.org.uk/index.php?option=content&task=view&id=61
 Has free guidance notes intended primarily for charitable companies limited by guarantee but also in many cases applicable to unincorporated charities. The notes include model role descriptions for Trustees, Chair, Secretary and Treasurer; model letters to send to new Trustees; a model Trustee Code of Conduct, conflict of interest policy, declaration of interest form and register of interests.

- **Child Protection** www.nspcc.org.uk