

## Trustees Responsibilities

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### Role of Charity Trustees

- Responsible for general control & management of administration of charity
  - Have ultimate responsibility for charity; solvent, well run, delivers charitable outcomes for the public benefit
1. Compliance
  2. Duty of prudence
  3. Duty of care

### Types of charities

1. Incorporated charities
2. Unincorporated charities

### New trustee?

- Find out about the charity and what is expected of you as a trustee
- Read Annual Reports
- Meet existing Trustees and senior staff, beneficiaries
- Obtain copy of governing document...and read it

### Can trustees delegate their responsibilities?

Can delegate some powers to agents or employees but remain responsible for running the charity

### 1 Compliance

- With charity law
- Requirements of Charity Commissioner
- Prepare reports; Annual Return, Accounts
- With Governing documents
- Act with integrity; avoid conflict of interest, misuse of charity funds and assets

### 1 Compliance

Can trustees be paid for their duties?

- No and must not benefit from their connection with the charity
- Can receive reasonable and necessary expenses

Exceptions:

Governing document allows

1993 Act allows payment for provision of goods and services over and above duties as trustee

Cannot normally be employed by the charity

## 1 Compliance - Public benefit

- Charities Act 2006:
- Explicitly includes public benefit in definition of charity
- Public Benefit Assessments – Emerging Findings Report

## Charity Commissioners: Public benefit assessment – Emerging findings Report

### “Mission drift”

- ‘Mission drift’ is straying from original or stated aims
- As Aims have to be for public benefit, sticking to and assessing these are important
- If ‘Mission Drift’ occurs and aims are not reviewed or amended it may be extremely difficult to assess public benefit

## 1 Compliance - Public benefit

Principle 1:

There must be an identifiable benefit

Principle 2:

Benefit must be to the public, or a section of the public

## Charity Commissioners: Emerging Findings Report

Charity Commissioners: Emerging Findings Report

- Assessing Detriment or Harm
- Vulnerable beneficiaries: “helpful to provide evidence, especially third party, of how risk of detriment is dealt with.”

## Charity Commissioners: Emerging Findings Report

Sub-principle 2b – Benefit restricted to a section of the public

- Where the benefit is for one section of public, ensuring this is not unreasonably restricted

Case Studies: Boys School, Jewish Retirement Home

## 1 Compliance

- With charity law – Public Benefit
- Requirements of Charity Commissioner
- Prepare reports; Annual Return, Accounts
- With Governing documents
- Act with integrity; not paid, avoid conflict of interest, misuse of charity funds and assets

## 2 Duty of prudence

- Ensure charity is solvent
- Use charitable funds and assets only in furtherance of the charity's objects
- Avoid activities that might place at risk funds, assets or reputation
- Care when investing or borrowing

## 2 Duty of prudence

### Principles

- Fairness and objectivity
- Expenditure must be distributed fairly to those qualified to benefit
- Where there is a permanent endowment, need to strike fair balance between interests of present and future beneficiaries
- Personal conduct of trustees
- Prime concern is interests of charity, must act reasonably and prudently
- Conflict of interests
- Check Governing document

## 2 Duty of prudence

### Investments

- Trustee Act 2000 gives general power of investment
- Subject to Governing document
- **Consider:**
  - Suitability
  - Diversity
  - Regular reviews
  - Take advice

## 2 Duty of prudence

- Ensure charity is solvent
- Principles of fairness and objectivity,
- Use charitable funds and assets only in furtherance of the charity's objects
- Particular care when investing or borrowing

## 3 Duty of care

- Use reasonable care and skill; using personal skills and experience obtain external professional advice

TA 2000 'Duty of care'

- Having particular regard to any special knowledge or experience

Balance of skills on trustee board

## Role of Charity Trustees

- Compliance
- Duty of prudence
- Duty of care

= solvent, well run, delivers charitable outcomes for the public benefit

### Liability of charity trustees

Trustees can be personally liable for liabilities or for making good any loss where;

- Not acted prudently
- Not complied with the law or
- Governing document
- Incur liabilities greater than value of charity's assets
- Charity can insure trustees against personal liability

### How is office of trustee terminated

- Governing document
- Resign
- Removed
- Die

### Financial Reporting

- Financial statements
- Trustees' Report
  - to discharge the charity trustee's duty of public accountability and stewardship

### Financial Report

- 10 month filing deadline
- Income < £25,000 no reporting requirements
- Income > £25,000 Trustee's Annual Report and accounts
- Receipts + payment (non company) Income < £250,000
- Accruals (non company) Income > £250,000
- Company limited by guarantee

### Financial Report cont.

- Income > £25,000 < £500,000 Independent examination
- Income > £500,000 audit
- Total assets exceed £3.26m and income > £250,000 audit
- Governing Document requirement
- Annual Return > £10,000 Annual Return update < £10,000

### Trustee report

- Greater insight into the charity's activities and achievements
- Reference and administration details
- Structure, management and governance
- Objects and activities
- Achievements and performance
- Financial review
- Future plans
- Custodian

Thank you – any questions?

