

Topical tips

Charity Boards



A toolkit for good governance

Every organisation needs to be supported by a sound management structure in order to deliver an effective service, in an efficient manner.

This toolkit aims to help the board of trustees meet best governance practice by setting out six key benchmarks for good governance and providing a checklist of questions for each, to match against your own charity's operations.

In addition the toolkit includes practical templates on various board matters which can be incorporated into a documented 'code of governance' for your charity.

Introduction

Every organisation needs to be supported by a sound management structure in order to deliver an effective service, in an efficient manner.

For charities, there is an added consideration in that the board of trustees, who are ultimately responsible for the strategic vision, direction and service delivery of the entity, are often remote from the day to day management activity carried out by the executive team. Nevertheless, the trustee board has ultimate responsibility for the governance of the charity, for safeguarding its assets and hence for its general well being.

It is extremely important that trustees are fully aware of their responsibilities and understand the steps they need to take to ensure that their charity is properly governed. This is particularly relevant in times of change and with the financial constraints and uncertainties that many charities face.

This toolkit sets out six key benchmarks for good governance and provides a checklist of questions for each, to match against your own charity's operations.

Throughout this guidance we introduce example templates which you may find useful in developing your own governance practices. The templates referred to throughout can be found at the end of the toolkit and also online at www.kingstonsmith.co.uk/charities

Six benchmarks of effective governance for the board

1. Sound leadership and control
2. Clearly defined roles and responsibilities
3. Clear focus and direction
4. Acting with integrity and objectivity
5. Being open and accountable
6. Financially sound and prudent

Use the six benchmarks set out below as an opportunity to identify areas of strength and weakness in governance practice and act on this to generate positive change for your own charity and your stakeholders.

1. Sound leadership and control

A strong board should take collective responsibility for proactive decisions at a strategic level.

Is the board the right size for its purpose?

Make sure the board is not so large that it inhibits effective decision-making but not too small to lack a complement of skills.

Does the board have the right mix of skills, knowledge and experience?

Carry out eligibility checks on new candidates and ensure they can legally accept the post (e.g. do they meet minimum age requirements – broadly 16 if an incorporated charity and 18 if unincorporated; do they hold a criminal record; do they need to be CRB checked?). Obtain a formal **declaration of eligibility to act as a trustee template A**.

Use a **board skills matrix template B** to plot the existing range of skills and experience and to help identify significant gaps.

Consider diversity and equal opportunities when looking for new recruits to the board.

Is the board properly inducted, trained and developed?

Prior to a new trustee joining provide:

- A full information pack which includes as a minimum – the current governing document; strategic and shorter term plans; recent statutory accounts and current management accounts; recent board minutes; CV of current board members; an organisation chart/organogram; general background information.

- An opportunity to visit the charity's offices/ projects, meet trustees and staff and attend a board meeting.
- A clear explanation of the trustee's expected role, responsibilities and legal obligations, input to the board and time commitment.
- Access to Charity Commission guidance – e.g. CC3 The essential trustee: what you need to know.

After appointment ensure:

- New board members are given an opportunity to discuss matters and raise questions outside of the formal board meeting, if they wish, with a longer standing trustee who can act as a mentor.
- There is opportunity for trustees to receive updates on sector developments, and ongoing training in fulfilling their own role.

Does the board make strategic decisions and leave the operational implementation and tasks to the executive management?

Keep clear and open lines of communication to ensure that the board, the Chief Executive and the management team work together to implement strategy and to act on board decisions.

Delegate areas of focus to sub committees, but ensure responsibility remains with the full board.

2. Clearly defined roles and responsibilities

Does the board comply with its governing document for appointment and removal from office, powers and decision making?

It is easy to overlook the fact that the governing document may set time limits for term of office.

Remember that decisions made by trustees who have not been properly appointed or have overstayed their term are effectively ultra vires and this could have serious implications for the charity.

A clear strategy for recruitment and retention of trustees will help to ensure that the board retains key contributors... but remember to plan also for succession, so that the loss of key board members is anticipated and any adverse impact minimised.

Does each board member have a clear understanding of their role and responsibilities?

Key officers such as the Chair, Treasurer and Secretary will have specific functions assigned to them which need to be clearly documented and understood. Executive staff also need to understand their responsibilities and lines of authority, communication and reporting with the board.

Where tasks are delegated there must be a clear process for monitoring of outcomes and accountability.

Our **template C board roles and responsibilities** will help you set out the roles of your key officers.

Does the board monitor its own performance as well as that of the organisation?

Considering the contribution made by individual board members against expectations, as well as the board's ability to meet its own objectives and targets collectively, can provide an effective opportunity for self improvement and development.

Whilst the voluntary capacity in which trustees act can lead to some resistance in managing performance, nevertheless such a review should be seen as a positive means of identifying strengths and overall effectiveness. Without clear expectations there is a greater chance that the board will drift along rather than looking for ways to innovate and change.

As a first step consider an annual self-review of performance. This might, for example, fit in well with a session at a board away day. Use the output as a stepping stone for considering future improvements.

Our **template D board performance and appraisal** will help you evaluate the board's operational strengths and weaknesses.

3. Clear focus and direction

Does the board know its stakeholders and have a clear strategy to meet their needs?

Make sure you identify the interests of all your stakeholders and give them the opportunity to voice their needs. Be aware of any conflicting demands between stakeholders and consider how these can be managed.

Be clear about how your charity has the required strengths and skills to deliver what is needed and understand your limitations.

Does the board have a clear vision which is translated into practical action?

Translate your charitable objects into a clear and understandable vision and mission. Identify specific shorter term objectives that will deliver the mission in practical terms.

Know what you want to achieve and how you will measure your performance against this.

Does the board understand public benefit?

Consider Charity Commission guidance on public benefit and be clear about how you can demonstrate that there is a public benefit to what you deliver and achieve. Ensure that this flows from the objects set out in your governing document and is reflected in your operations and activities.

Does the board have the structure and policies in place to deliver effectively?

Ensure that throughout the organisation there is an understanding of individual roles, responsibilities and lines of communication and reporting.

Make sure that there are formal written policies in place covering key aspects of the charity's operations. Areas to consider should include: internal financial procedures, accounting, reserves, investment; staffing and HR matters; volunteers; child & vulnerable adult protection; health and safety; complaints and grievance procedures (internal and external); data protection; equal opportunities, environmental matters; media, communication and confidentiality;

disaster recovery; risk management; conflicts of interest; brands and intellectual property.

Does the board plan for change?

In times of difficulty it is often the organisations that are able to adapt and to innovate that survive and grow. Charities need to be forward looking and responsive to the external environment they operate in, but at the same time this has to be balanced against the risk of new ventures and the security of funding that will enable these ventures to succeed.

Risk management has to be an integral part of strategic planning and development.

4. Acting with integrity and objectivity

Does the board always act within the law and in the best interests of the charity?

Trustees have a duty to ensure that the charity always acts within the objects laid down in its governing document and to consider the interests of the charity as opposed to any personal benefit.

It can be easy to drift away from defined objectives where activities develop over time so the governing document should be regularly revisited to ensure current activities fall within the defined objectives.

Ensure the trustee board understand the consequences of and the extent of their liabilities in law for wrongful acts.

There is a distinction between the liability of trustees of unincorporated charities, who can be held personally liable for unlawful acts and those of incorporated charities.

The latter benefit from the limited liability provisions under Company Law and where redress in law is generally against the charity itself, unless there is wilful negligence by an individual trustee.

Does the board recognise and deal with potential conflicts of interest?

Trustees of incorporated charities are also classed as directors of the charity in company law. The codification of directors' duties in company law (Companies Act 2006) has brought increased focus on the need to consider situations of potential, as well as actual, conflicts of interest.

Make sure you provide an opportunity for trustees to declare interests by maintaining and regularly updating a register of interests and ask for actual/potential interests to be declared at the start of each board meeting. Use our **template E declaration of trustee interests** to keep a formal record of interests.

Review your governing document and consider, where applicable, whether it adequately complies with Companies Act requirements in relation to conflicts of interest.

Are payments to trustees in accordance with Charity Act legislation, Charity Commission guidance and the terms of the charity's governing document?

Despite changes to legislation brought about by the Charities Act 2006, the overriding principle of Charity Commission guidance remains that trustees act in a voluntary and therefore unpaid capacity.



Trustees may only be paid for serving as a trustee where this is clearly in the interests of the charity and provides a significant and clear advantage over all other options. In these circumstances it is vital to ensure that the charity has specific authority for such payment in its governing document.

Payments made to trustees for services rendered in a capacity other than as a trustee must be in accordance with Charity Commission guidance - *CC11 Trustee expenses and payments* and provided there is no express exclusion of such payments in the charity's governing document. There must be a written agreement covering the contract terms.

Does the board protect the charity's reputation?

Consider how the long and short term outcomes of planned actions might impact on the reputation of the charity both internally amongst its staff as well as externally. This is particularly important to consider when engaging in partnership working where there may be influences which are outside the charity's direct control.

Ensure there are effective policies and procedures to deal with complaints.

5. Being open and accountable

Does the board engage in regular and open communication about its achievements and its work?

Engage with your stakeholders in a positive way to ensure your message is delivered effectively and that you demonstrate the public benefit of your work.

Make sure documents are accessible taking account of specific stakeholder needs. Provide an opportunity for stakeholder feedback, for example through forums and website access.

Does the board set clear and achievable targets and measurement indicators?

Make sure targets are clear and achievable and that you can identify, measure and learn from your successes and failures. Demonstrate how you look for ways to improve.

Use the trustee report, which is included within your statutory accounts, to explain the impact and outcomes of the year's work, linking this to targets set at the start of the year and your future plans.

6. Financially sound and prudent

Does the board properly control and manage its finances?

Ensure the board is fully involved in setting and approving forward plans and financial budgets and targets.

Ensure regular and clear reports are received on the charity's current financial position and its future sustainability.

Provide the level of detail that is necessary for the board to understand the impact of the current position, and to make sound decisions, for example through a 'traffic light' reporting system.

Does the board properly safeguard the assets and undertaking of the charity?

The ultimate responsibility for safeguarding the assets of the charity rests with the trustees.

As a minimum the trustee board must set and understand the policies in place for managing the charity's investments, reserves and borrowing, even where these tasks are delegated to a subcommittee or to external parties, such as investment fund managers, on a day to day basis.

Does the board adequately assess and manage risk including financial risk?

Understand your charity's attitude to and acceptance of risk.

Risk management should form an integral part of strategic planning. Risks need to be assessed in the light of the charity's ability to absorb and manage them. This may be affected by internal circumstances such as staff skills and available financial resources or by external factors such as the impact of changing government policy on the funding environment.

Use 'risk mapping' to analyse specific risks in terms of likely occurrence and severity of impact.

Maintain a risk register which ranks risk, identifies the step taken to mitigate each risk and monitors the residual remaining risk. The register needs to be regularly reviewed in the light of changing circumstances and influences.

Conclusion

A strong focus on implementing good governance practice will provide several significant benefits to any charity.

- It brings an understanding of the risks and opportunities that face the charity, both now and into the future, which in turn ensures that opportunities can be taken advantage of, within defined operating constraints.
- It ensures that robust decisions will be made, based on sound and meaningful information, in order to deliver the charity's mission.
- Outputs and outcomes will be clearly measured and used as a means of improving future performance and in meeting the needs of beneficiaries.
- There should be a positive impact on reputation and relationships both within the charity and with external stakeholders.

Practical templates

To accompany this toolkit use our example templates, which follow, to support the governance process for the following:

- A - Declaration of eligibility to act as a Trustee
- B - Board skills matrix
- C - Board roles and responsibilities
- D - Board performance and appraisal
- E - Declaration of trustee interests

These do need to be adapted to fit the size and structure of each entity but the following should be used a general guide for further consideration.

A word version of these templates is available from our website www.kingstonsmith.co.uk/charities, please go to the 'links' section.

Further information on risk management can be found in our topical tips toolkit – Risk management guide, available to download from our website.

Template A:

Declaration of eligibility to act as a trustee

I declare that:

1. I am over age 16 / 18 years * Note 1
2. I am not an undischarged bankrupt nor have I made a composition or arrangement with, or granted a trust deed for, my creditors which is not yet discharged.
3. I have not previously been removed from trusteeship of a charity by an order made by the High Court or the Charity Commission.
4. I am not subject to an order under Section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, preventing me from being concerned in the management or control of any relevant organisation or body.
5. I am not subject to a disqualification order under the Company Directors' Disqualification Act 1986 or to an order made under section 429(b) of the Insolvency Act 1986.
6. I have not been convicted of an offence involving deception or dishonesty (unless the conviction is spent).
7. I am, in the light of the above, not disqualified by the Charities Act 1993 (section 72) from acting as a charity trustee.
8. I am not subject to a disqualification order under the Criminal Justice and Court Services Act 2000 * Note 2
9. I am not disqualified under the Protection of Vulnerable Adults List * Note 3
10. I undertake to fulfil 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 purpose, objectives and mission.
11. I do not have any financial or personal 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: _____

Note 1: A person under 18 cannot be trustee of a charitable trust or a charitable unincorporated association. A director of a charitable company can be under 18, but must be over 16 years of age.

Note 2: Relevant to charities working with children.

Note 3: Relevant to charities working with vulnerable adults.

When appointing a new trustee consider scrutinising official registers of disqualified persons such as:

The Individual Insolvency Register

Register of disqualified Directors (kept at companies house)

Register of persons removed as a charity trustee by the Charity Commission or High Court Order (kept by Charity Commission)

Template C

Roles and responsibilities of the Board, Individual Trustees, the Chairman and Treasurer

The collective role of the Board is to:

1. Ensure that the organisation complies with its Articles of Association or other governing document; charity law, and any other relevant legislation or regulations
2. Further the charitable objects of the organisation in the pursuit of public benefit
3. Ensure that the policy and practices of the organisation are in keeping with its charitable objects
4. Formulate and regularly review the strategic objectives of the organisation, in collaboration with the CEO
5. Take legal and financial responsibility to safeguard the assets and the continuity of the organisation
6. Be satisfied that financial information is accurate and that controls and systems of risk management are robust and defensible
7. Act always in the interests of the organisation and its beneficiaries
8. Safeguard the wellbeing of the employees
9. Take appropriate professional advice in matters where there may be a significant risk to the organisation or where the trustee could be in breach of their duties
10. Ensure proper procedures are undertaken in the appointment and performance monitoring of the CEO *(and possibly other members of the senior management team)*

In carrying out the collective responsibilities of the Board the individual trustee should:

1. Be properly inducted and continue to seek ongoing training to ensure he/she remains aware of their duties and responsibilities and wider sector developments

2. Declare conflicts of interest, and exercise independent judgement at all times
3. Be an active advocate for the organisation
4. Represent the Board/organisation at meetings and events, and act as spokesperson when requested by the CEO
5. Contribute to the development of business strategy through constructive challenge and contributing ideas
6. Scrutinise performance of management in meeting agreed goals and objectives, and monitor the reporting of performance
7. Regularly attend Board meetings

The role of the Chair is to:

1. Provide leadership for the Board in fulfilling its governance duties
2. Ensure provision of accurate, timely and clear information to trustees
3. Liaise with, and provide support to, the CEO with regard to the organisation's affairs overall
4. Plan the annual cycle of Board meetings and chair them
5. Ensure that decisions taken at Board meetings are implemented and that the organisation is run in accordance with the decisions made by the board of trustees
6. Ensure individual trustee and overall Board effectiveness
7. Set and conduct the annual appraisal of the CEO and support performance (with board support)
8. Maintain the focus and commitment of the board, including renewal and succession planning
9. Ensure the performance of the board as a whole and for individual trustees is reviewed at least annually
10. When necessary, lead the process of recruiting the Chief Executive *(and possibly other members of the senior management team)*

The role of the Treasurer is to:

Help the Board carry out its duty to provide financial oversight by:

1. Liaising with the finance director and other relevant members of staff who are responsible for the entity's finances
2. Ensuring trustees are supplied with financial information by staff in a form that enables them to understand the financial position and the outlook for the organisation
3. Acting as an interpreter in financial matters to trustees who have limited understanding of finance
4. Ensuring the maintenance of accounting standards by the organisation and sound internal controls
5. Taking the lead in developing policies relating to finances, reserves and investments
6. Providing strategic advice to the Board on financial matters
7. Considering the financial implications of strategic plans, annual budgets and financial management reports
8. Liaising with external auditors and taking the lead in their appointment.

Template D:

Board performance and appraisal

The outcome of a positive approach to board appraisal should be an improvement in performance and effectiveness and a willingness to embrace positive change.

Below are examples of questions that should help the board address key areas of working.

Providing an opportunity for informal discussions around performance will often be the first step in the assessment process. It may be sufficient to select particular aspects for review on an annual basis, or as an allotted session during an away day.

Once the idea of review has been introduced and accepted the charity could consider introducing a more formal checklist of questions to be ranked according to how well each respondent feels the board is meeting particular expectations, actions or outcomes.

The board

1. Is the size of the board appropriate for the work we need to accomplish?
2. Is the diversity of the board appropriate?
3. Are the skills of the board adequate and complementary? Where do you see that the board is lacking in skills or expertise?
4. Do board members understand their individual and collective roles and responsibilities?
5. Does the board plan sufficiently far ahead to effectively replace or renew board membership?
6. Are meetings held sufficiently frequently?
7. Do board members attend meetings regularly? If not, how is this addressed?

8. Are meetings too long/ short?
9. Are board members given adequate and relevant background information before each meeting?
10. Is the board effectively led? If not, how could this situation be improved upon?
11. Does the board work and communicate well together?
12. Does the board work and communicate well with the chief executive and the senior management team?
13. Does the board understand the distinction between board and management responsibilities?
14. Where the board delegates roles or functions are these monitored and reported upon regularly?
15. Are there proper terms of reference for designated board roles and subcommittees? Are these persons/ committees fulfilling their role effectively? If not, how can this be improved upon?
16. Do board members give sufficient time to the organisation and contribute in areas outside of board meetings?

Strategy and direction

17. Does the board understand who the key stakeholders and beneficiaries are?
18. Does the board communicate well with its stakeholders and the general public?
19. Does the board understand how its charitable objects are translated into its vision and mission?
20. Does the board understand how it meets its charitable objectives and demonstrates public benefit?
21. Does the board provide clear strategic direction?

22. Does the board have clear targets in the short and longer term?
23. Does the board have a clear understanding of how it will measure performance against targets and how this will be reported (key performance indicators)?
24. Is the board clear that its strategic objectives are reflected in operational plans and budgets?
25. Does the board discuss and approve budgets and obtain regular financial updates during the year of actual performance against budget? If not, how could this be improved upon?
26. Does the board receive regular and timely reports in order to support its decisions? If not, how could this be improved upon?
27. Does the board discuss sector developments and issues that might impact upon their charity?

Governance

28. Does the board understand and keep up to date with its legal and ethical responsibilities?
29. Does the board keep abreast of sector developments?
30. Does the board have clearly defined policies and practices?
31. Does the board ensure adequate systems of internal control are in operation?
32. Does the board have an adequate process for assessing and managing risk?
33. Does the board ensure that assets of the charity are adequately safeguarded?
34. Does the board ensure that employees' interests and needs are supported whilst meeting legal requirements?
35. Does the board avoid potential or actual conflicts of interest?
36. Does the board properly set chief executives performance objectives and review at least annually?

Template E

Declaration of trustee interests

I: _____ (name of trustee), trustee of: _____ (name of organisation)

Set out my interests in accordance with the organisation's conflicts of interest policy and declare that such interest do not disqualify me from acting as a trustee.

	Description of interest and £ value	Personal interest (Y/N)	Interest through connections (Y/N)* Note 1 Give brief description of relationship
Category of interest			
Remunerated employments, professions, directorships and other offices (<i>give name and nature of organisation</i>)			
Unremunerated employments, professions, directorships and other offices (<i>give name and nature of organisation</i>)			
Significant shareholdings/ partnership interests/investments (<i>e.g. exceeding 5% of capital</i>)			
Membership of professional bodies/special interest groups			
Personal use of care or other facilities provided by the charity			
Contractual relationship with the charity in a private capacity (<i>e.g. through services provided other than as a trustee</i>). (<i>Give details of benefits received by the charity and payment received by you or a connected person</i>).			
Contractual relationship I have with the charity in capacity as a trustee (<i>give details of benefits received by the charity and payment received by you or a connected person</i>)			

Signed: _____

Date: _____

Note 1: Through member of immediate family (spouse or dependent children), or other specified connection



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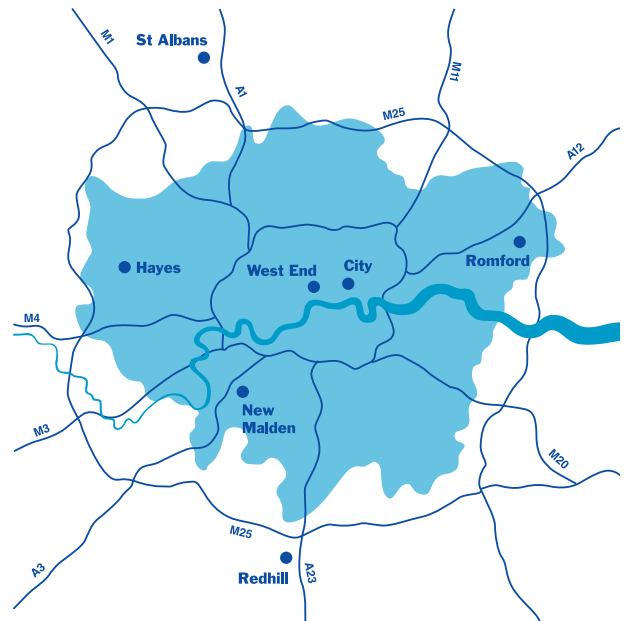
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