Charity Fact Sheet

The Financial Responsibilities of Trustees

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The financial responsibilities of trustees are neatly summarised in the Charity Commission's booklet "CC3 - The Essential Trustee: What you need to know" as follows:

"The trustees of every charity must ensure that its finances are used appropriately, prudently, lawfully and in accordance with its objects".

In practice, this statement can be broken down into a number of areas.

Internal Controls

Should trustees fail to act prudently, lawfully and in accordance with their governing document they may be in breach of trust and personally liable to meet any resulting call on the charity's property or to make good any loss to the charity. Furthermore, since trustees must act jointly in administering a charity, they will be responsible jointly for any liability incurred by them or on their behalf.

It follows that while trustees should exercise appropriate care when entering into transactions or contracts on behalf of the charity, their responsibilities extend to careful oversight of the activities of others. Key to this is the establishment, monitoring and updating of appropriate internal controls. As emphasised time and time again in Charity Commission inquiry reports, delegation of these duties to a chief executive or senior management team is not appropriate unless the trustees then exercise appropriate scrutiny in respect of the activities of that chief executive or team.

Investment of Surplus Funds

Whatever the agreed level of reserves maintained by a charity, it is good practice to invest any funds not needed for immediate expenditure. This should be undertaken in accordance with an appropriate Investment Policy.

Trustees are responsible for taking appropriate advice and ensuring that any investment is suitable in terms of its duration, risk and rate of return. They are responsible also for constant monitoring of the performance and continuing suitability of the investments chosen. From the point of view of internal controls, it is advisable that no single trustee should be in a position to control a particular investment or policy generally.

Budgeting

It is essential that trustees make proper estimates about expected income and expenditure in order to plan ahead effectively.

Budgeting, cashflow forecasts and financial planning generally should form a central part of a charity's financial controls and this area should be subject to regular reporting to and monitoring by the trustees as a body. The charity should have in place effective mechanisms to obtain the necessary level of information at an appropriate frequency. Variances against budget should be questioned and, if deemed necessary, the underlying causes addressed.

Borrowing

Before borrowing any sum, trustees should consider whether appropriate powers are present in their governing document (if there is any doubt, the Charity Commission should be consulted). If suitable powers exist, the trustees should obtain advice from a person of appropriate experience who has no interest in the proposed loan. This advice should cover whether the loan is necessary, whether the terms are reasonable and whether the charity will be able to repay the loan on those terms.

Accounts and Annual Report

Trustees are required to account for their financial stewardship on an annual basis, with those accounts being subject to the appropriate level of scrutiny, and being filed with the Charity Commission (and if applicable, Companies House) within 10 months of the year end. (This is soon to be reduced to 9 months for accounts commencing on or after 6th April 2008). It should also be ensured that the accounts are available to the public.

The external scrutiny thresholds have been amended by the Charities Act 2006 (for incorporated and unincorporated charities). A separate factsheet deals with this and other implications of the Charities Act 2006.

In the majority of cases, the format of accounts will be governed by the Statement of Recommended Practice (SORP) Accounting and Reporting by Charities and it will be necessary to submit the accounts to the Charity Commission and to make then available for public inspection on request. Trustees should ensure that they are also familiar with the detailed requirements of the Charities Act 1993 and subsequent regulations. Any underlying records must be preserved for at least six years.

The SORP also requires that charities include in their Annual Report a statement of their reserves policy and, where relevant, both a statement of their investment policy and an assessment of performance against that policy and comments on the effectiveness of fundraising in the year.

The accounts should also clearly highlight any restrictions on the individual funds of the charity. It is the trustees' responsibility to ensure therefore that this information can be extracted from the charity's accounting records at any time. In addition, any funds held for different purposes should be accounted for separately and any interest arising should be allocated to that particular fund. There should also be a statement showing that the trustees have paid due regard to the "General Guidance on Public Benefit" published by the charity commission and the trustees report should demonstrate how public benefit is being met.

Fundraising

Trustees are responsible for ensuring that any fund-raising activity is properly undertaken and that all funds raised are properly accounted for. An appeal should property describe what the public's donations will be used for, and if it is intended for any excess funds raised to be applied to the general purposes of the charity then this will need to be clearly stated in the appeal literature. Furthermore trustees need to be aware that certain types of raffles or lotteries require a licence from a local authority and for larger activity, where income exceeds £20,000, registration with the Gaming Board will be necessary.

Where trustees allow others to undertake fund-raising on their behalf, they should ensure that all sums are paid into a bank account in the charity's name before deduction of expenses. Trustees should ensure that all fund-raising methods are subject to their approval and, where external fundraisers are employed, must arrange for a proper contract to be drawn up. Such arrangements have specific legal requirements which include the prescribed form of the agreement with the professional fundraiser, informing donors in a statement what proportion of their donation will be used to pay these costs and how the charity will benefit from using such a service.

Applying and Collecting Income

Trustees have a responsibility to collect in full all money owed or due to the charity, including tax and rating reliefs. It is therefore important that the trustees are confident that controls within the charity will ensure this is the case.

The charity's income must be spent solely on the purposes as set out in the governing document and spent with absolute fairness between persons qualified to benefit from the charity. It should not be accumulated unless the trustees have some specific future use for the income or have received specific authority. This should link into the reserves policy of the charity. Trustees of charities with a permanent endowment must maintain a fair balance between the interests of present and future beneficiaries.

Finally, it should be noted that trustees should not benefit financially (or otherwise) from the charity either directly or indirectly. In the absence of an express provision in the governing document or specific authority from the Charity Commission, trustees are not entitled to receive any payment out of the charity's property beyond the reimbursement of reasonable expenses (and these should only be paid when supported by appropriate documentation). Any other payments, borrowing, contracts or other business with the charity may constitute a breach of trust. In such cases, the trustee may be required to make good to the charity any loss that results or to account for any profit made.

It is worth noting that the Charities Act 2006 allows payments to be made to trustees for provision of a service to the charity, subject to certain safeguards. As these safeguards are quite comprehensive, we have a separate factsheet on this area. This is not a payment for being a trustee, and cannot apply to the majority of trustees on the Board.

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