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Trustee Training: Regulatory and Governance Update

17 November 2020

15:30 – 16:45

Agenda

- Introductions and virtual housekeeping - Amanda Francis
- Part one: Trustees' responsibilities and the Charity Governance Code - Amanda Francis
- Part two: Financial governance - Edward Finch
- Q&A - Chair: Amanda Francis
- Thank you and close

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Part one: Trustees' responsibilities and the Charity Governance Code

Amanda Francis

Charities and changing public expectations

- Recent issues surrounding charities mean that the public is less inclined to look favourably on charities and give them “the benefit of the doubt”
- Intense media scrutiny
- The Charity Commission is shining the spotlight on charity governance and the quality of trusteeship
- Charity trustees need to be able to demonstrate an understanding of their duties
- Higher moral and ethical standards – not a matter of ensuring legal compliance only
- There is no such thing as a “private charity”!!

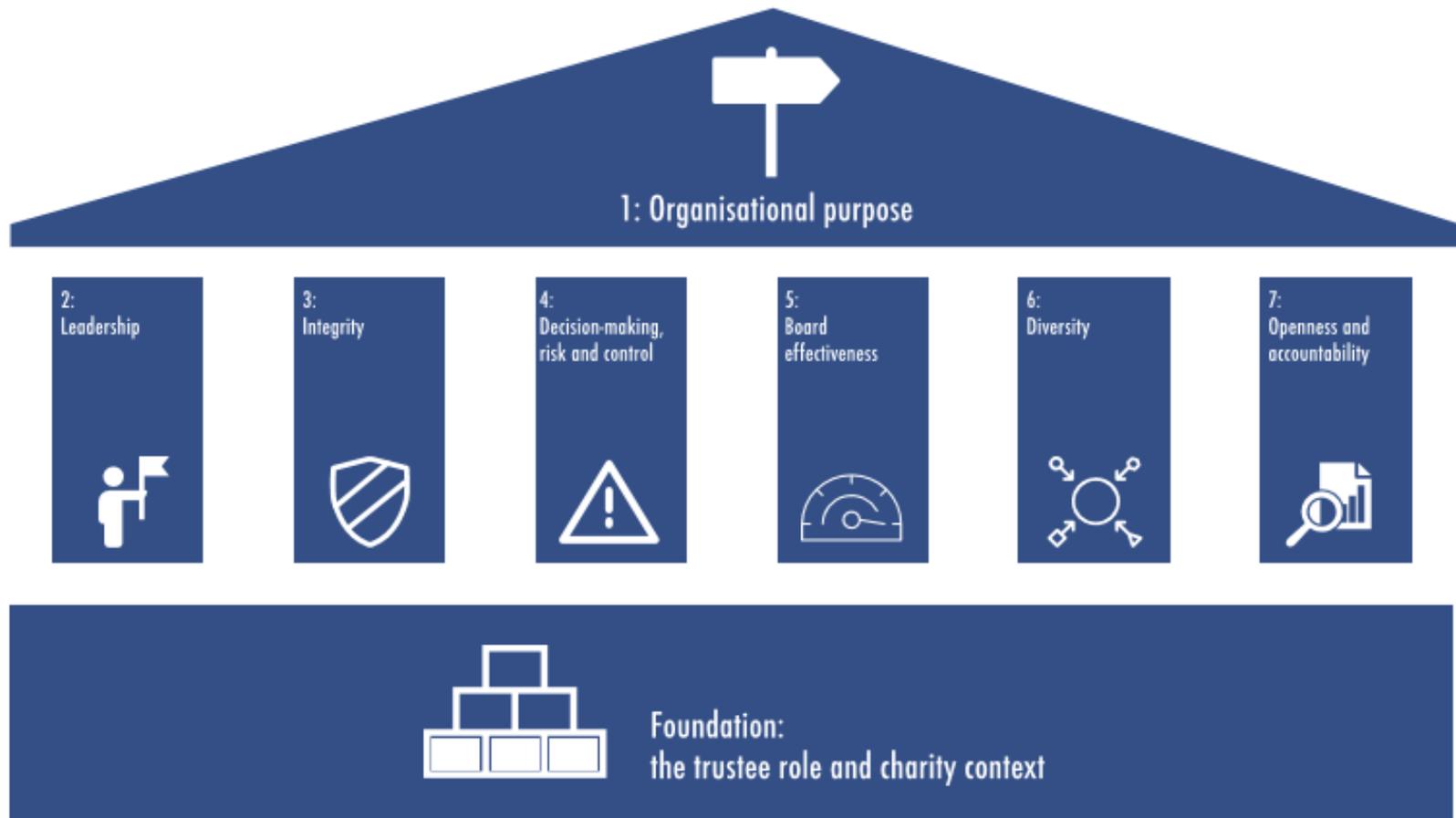
All of the above highlight the growing need for charities and their trustees to demonstrate good governance to:

- Ensure compliance with the law and relevant legislation; and
- Promote a culture where everything is focussed on achieving the charity’s objectives and vision.

The Charity Governance Code

- Not a legal or regulatory requirement
- Draws upon the Charity Commission's guidance but sets principles and recommended practice so it is deliberately aspirational
- Essentially developed by the sector to help charities improve, develop and evolve their governance
- Two versions:
 - Charities with income of £1 million or more and whose accounts are audited – the Larger Version
 - Other charities – the Smaller Version
- Reference in the charity's trustees' report

A snapshot



The Foundation

All trustees:

- Are committed to their charity's cause and have become a trustee because they want to help the charity deliver its purposes more effectively for the public benefit
- Recognise that meeting their charity's stated public benefit is an ongoing requirement
- Understand their roles and legal responsibilities and have read and understand CC3 and their charity's governing document
- Are committed to good governance and want to contribute to their charity's continual improvement

The Seven Principles

1. The charity is clear about the charity's aims and ensures that these are being delivered effectively and sustainably.
2. Every charity is led by an effective board and provides strategic leadership in line with the charity's aims and values.
3. The board acts with integrity, adopting values and creating a culture which helps achieve the organisation's charitable purposes. The board is aware of the importance of the public's confidence and trust in charities, and trustees undertake their duties accordingly.
4. The board makes sure that its decision-making processes are informed, rigorous and timely, and that effective delegation, control and risk-assessment, and management systems are set up and monitored.
5. The board works as an effective team, using the appropriate balance of skills, backgrounds and knowledge to make informed decisions.
6. The board's approach to diversity supports its effectiveness, leadership and decision making.
7. The board leads the organisation in being transparent and accountable. The charity is open in its work, unless there is good reason for it not to be.

The charity is clear about the charity's aims and ensures that these are being delivered effectively and sustainably.

- Reviewing the charity's charitable purposes and its work – are they: relevant and valid?
- Is there an agreed strategy for the short, medium and longer term with clear milestones to measure outcomes and impacts?
- Are there clear budgets and cash flows that demonstrate that the charity's income and business model is sustainable?
- Are there more effective ways of working?
- Reviewing the charity's public benefit

Every charity is led by an effective board and provides strategic leadership in line with the charity's aims and values.

- Collective responsibility
- An effective chair with a clearly defined job description
- Responsibility for the CEO
- Good agendas; papers for the meeting; and minutes
- Agrees and promotes the charity's values
- Allows debate and respects others' views
- Supports but constructively challenges
- Give sufficient time

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The board acts with integrity, adopting values and creating a culture which helps achieve the organisation's charitable purposes. The board is aware of the importance of the public's confidence and trust in charities, and trustees undertake their duties accordingly.

- Maintaining the charity's reputation
 - Compliance with laws and regulations
 - Giving thought to peoples' perceptions
- Managing conflicts of interest

The board makes sure that its decision-making processes are informed, rigorous and timely, and that effective delegation, control and risk-assessment, and management systems are set up and monitored.

- A written Scheme of Delegation which is reviewed regularly
- Committee structure with proper terms of reference and clear thought given to membership
- Review of key contracts with third parties
- Review of key policies and procedures
- Review of operational plans and budgets and monitors performance against these, holding the executive to account
- Benchmarking
- Reviewing and actively managing risks
- Appointment of auditors and key professional advisers

The board works as an effective team, using the appropriate balance of skills, backgrounds and knowledge to make informed decisions.

- Regular meetings with clear programme of work
- Trustees take time to get to know one another
- In-house and external advice
- Skills mix, knowledge, experience and ability to relate to beneficiaries
- Clear trustee appointment process
- Initial and ongoing induction/formation
- Performance reviews

The board's approach to diversity supports its effectiveness, leadership and decision making.

- Removing obstacles to people becoming trustees
- Audits of skills, experience and diversity
- Annual review on what has been done to address diversity of the board and the charity's leadership against objectives

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The board leads the organisation in being transparent and accountable. The charity is open in its work, unless there is good reason for it not to be.

- Communicating with beneficiaries, staff, volunteers, funders/donors, etc
- Reviewing negative and positive feedback and ensuring there is a complaints process
- Transparency on the remuneration of senior staff
- Availability of minutes

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Part two: Financial governance

Edward Finch

Outline

- Accounts and audit
- Investments
- Grant making
- Internal control
- For part two
 - Risk management
 - Reserves
 - Going concern

Accounts and audit

- Responsibility for:
 - Keeping sufficient accounting records
 - Preparation of accounts
 - Annual report
 - Filing
 - Appointing examiner/ auditor
 - Annual return
- Interaction with management?

Accounts

- Requirements vary with legislative framework
 - Companies Act 2006
 - Charity law in E&W, Scotland, NI
- Smaller non-company charities (including CIO's) can use receipts and payments
 - Up to £250k of income
- All companies and larger non-companies use “accruals basis” – the Statement of Recommended Practice

Annual report

- Requirement of Charities Act 2011 (&/ or other UK equivalent)
- Companies may combine content with directors' report and strategic report
- Content set out in SORP
- Simple requirements for small charities with additional requirements for "large" charities – i.e. income > £500k

External scrutiny

- Audit required if:
 - Income exceeds £1 million; or
 - Gross assets exceed £3.26m and income exceeds £250,000
- Independent examination required if
 - Exemption from audit claimed and income > £25,000
- Appointment by trustees
 - Auditor must be appropriately registered
 - Independent examiner
 - Suitably experienced if income < £250,000
 - Appropriately qualified if income £250,000 - £1m

Trustees' role in year end reporting

- Review and feedback on audit strategy
- Accounting policies and presentation
- Approval of accounts and report
 - As a body
- Provision of information and explanations – including letter of representation
 - With backing assurances from management?
- Consideration of auditors findings
 - Including holding management accountable for actions

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Investments

Investment advice

- Required except when the Trustees reasonably conclude in all circumstances it is unnecessary or inappropriate
- Is given by a person reasonably believed to be qualified to give it
- An agreement to manage investments on a discretionary basis must be governed by formal agreements
- Best practice to agree risk parameters and overall strategy in writing

Investment policies – objectives and benchmarks

- Balancing risk and return
- Absolute measures vs. tracking and indices
- Asset allocation
- Agree with the Fund Manager
- Ethical considerations

Categories of investments

- Financial investments – for example
 - Shares and paper debt
 - Property held to rent
 - Unitised funds
- Programme related investments – for example
 - Loans to other charities
 - Loans to beneficiaries – eg. micro finance
 - Shares in purely mission related businesses
- “Mixed motive”
 - CC14 offers no example...

Programme Related Investment (PRI) and “Mixed motive”

- PRI – clearly related to furtherance of the charity’s objects
 - Losses are charitable expenditure
 - Investments carried at cost
 - Separate policies and disclosure
- Mixed motive – some correlation with objectives
 - Must be justified before investing
 - Consider professional advice
 - Private benefit acceptable?
 - Statutory power in Charities (Protection and Social Investment) Act 2016

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Grant making

Basic principles

- Making payments to others to further charitable objectives
 - Partnership working and consortia
 - Conduit funding
 - Charity to charity “donations”
- Flexibility vs. strategic funding
 - SORP emphasises the tension
 - Many organisations have “strategic” and demand led funds
 - Original donors’ intentions?

Control issues

- Adequate due diligence in advance of funding
- Monitoring – qualifying expenditure for tax purposes? (HMRC)
- Delivery of outputs
- Reports on progress
- Scheduling and authorisation of payments

Accounting and reporting

- Trustees' report
 - Grant making policy
- Accounts
 - Grants shown in notes
 - Analysis of significant grants to institutions
 - Number of grants to individuals
 - Analysis of grants and apportioned support costs by activity

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Internal control

Internal financial control

- CC8 – Internal financial controls for charities:
 - Regular review of controls
 - Monitoring through:
 - Budget
 - Internal audit?
- Special attention to financial crime
 - Fraud
 - Bribery etc
 - Cyber threats and data protection
- Closely linked to risk management and reserves policies

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Q&A

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Get in touch

Amanda Francis, Partner

+44 (0)20 7556 1261
asf@buzzacott.co.uk



Buzzacott LLP

+44 (0)20 7556 1200
enquiries@buzzacott.co.uk

Edward Finch, Partner

+44 (0)20 7556 1411
finche@buzzacott.co.uk



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Thank you for
attending!