Buzzacott

Trustee Training: Regulatory and Governance Update

15 September 2021

10.00 – 11.00

Buzzacott

Agenda

- Introductions and virtual housekeeping
- Part one: Trustees' responsibilities and the Charity Code of Governance - Amanda Francis
- Part two: Risk management and reserves policies - Edward Finch
- Q&A
- Thank you and close

Buzzacott

Part one: Trustees' responsibilities and the Charity Governance Code

Amanda Francis

Buzzacott

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.

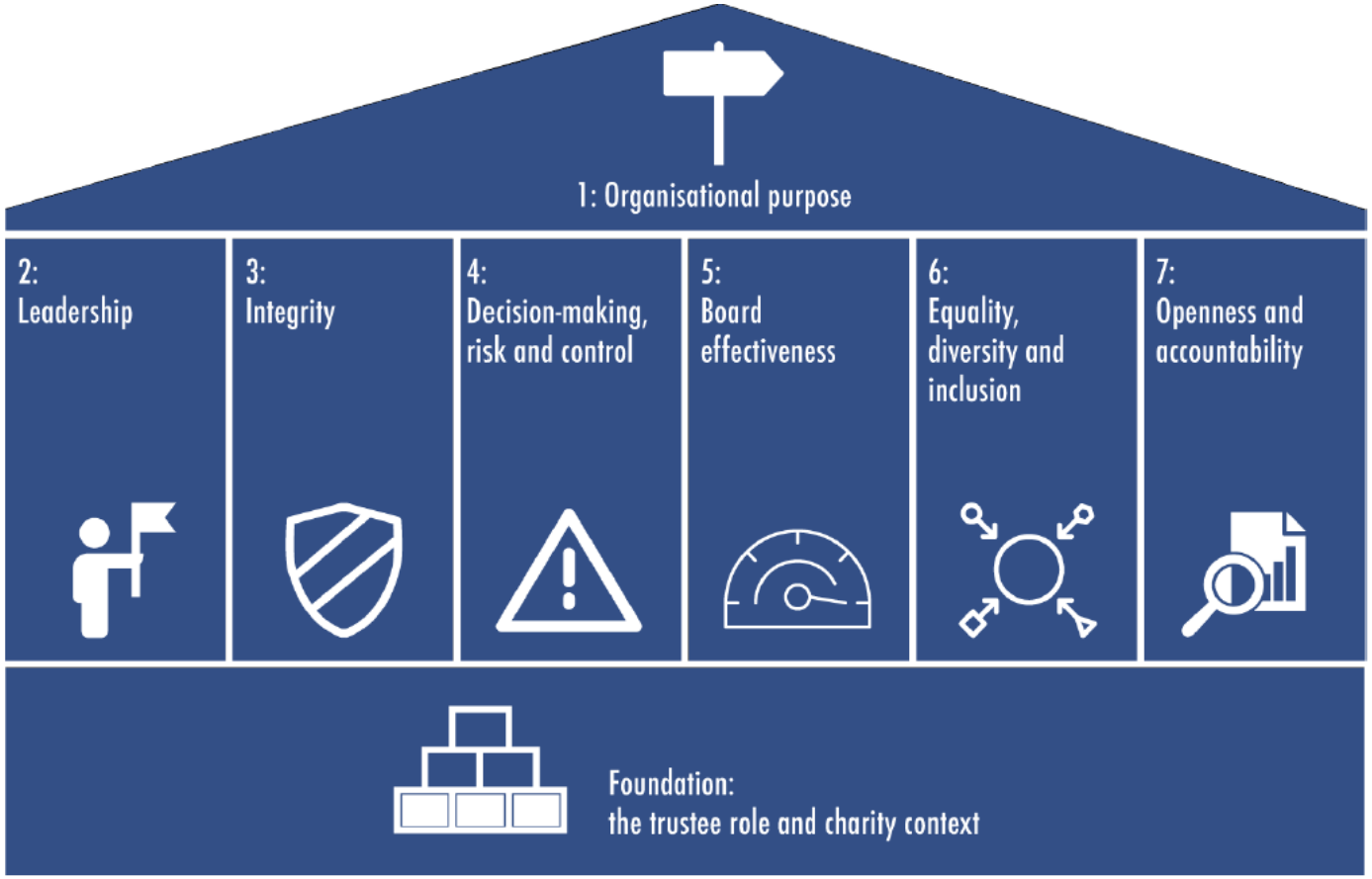
Buzzacott

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
- Updated 7 December 2020 with two of the principles amended
- 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

Buzzacott

A snapshot



Buzzacott

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

Buzzacott

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 It adopts values, applies ethical principles to decisions and creates a welcoming and supportive culture which helps achieve the charity's purposes. The board is aware of the significance of the public's confidence and trust in charities. It reflects the charity's ethics and values in everything it does. Trustees undertake their duties with this in mind.
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 has a clear, agreed and effective approach to supporting equality, diversity and inclusion throughout the organisation and in its own practice. This approach supports good governance and the delivery of the organisation's charitable purposes.
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.

Buzzacott

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

Buzzacott

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

Buzzacott

The board acts with integrity It adopts values, applies ethical principles to decisions and creates a welcoming and supportive culture which helps achieve the charity's purposes. The board is aware of the significance of the public's confidence and trust in charities. It reflects the charity's ethics and values in everything it does. Trustees undertake their duties with this in mind.

- Upholding the charity's values and maintaining the charity's reputation
  - Living the charity's values
  - Compliance with laws and regulations
  - Giving thought to peoples' perceptions
- Ensuring the right to be safe
- Managing conflicts of interest

Buzzacott

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

Buzzacott

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

Buzzacott

The board has a clear, agreed and effective approach to supporting equality, diversity and inclusion throughout the organisation and in its own practice. This approach supports good governance and the delivery of the organisation's charitable purposes.

- The principles of equality, diversity and inclusion are embedded in the organisation
- Removing obstacles to people becoming trustees and to participating in the charity
- Audits of perspectives, skills, experience and diversity
- Annual review on what has been done to address diversity of the board and the charity's leadership against objectives
- Setting context-specific and realistic plans and targets
- Taking action and monitoring performance
- Publishing performance information and learning

Buzzacott

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

Buzzacott

Part two: Risk management and reserves policies

Edward Finch

Buzzacott

Risk management and reserves policies

- Renewed emphasis on sustainability and “business models”
- Statements required in trustees’ annual report
- Connected policies – reserves policies should be risk based
- Core element of increased focus on governance
- Ensure charity’s objectives are met

Buzzacott

Risk management

- SORP 2015:
  - “a description of the principal risks and uncertainties facing the charity and its subsidiary undertakings, as identified by the trustees, together with a summary of their plans and strategies for managing those risks” (FRS102 SORP para 1.46)
- This does not change the underlying activities required of charities, but does increase disclosure

Buzzacott

Risk management process

- Establish risk policy
- Identify risks
- Assess risks
- Evaluate action required
- Periodic monitoring and assessment

Buzzacott

Risk identification

- Whole risk universe – not just monetary/financial
  - Governance risks – e.g. inappropriate structure
  - Operational risks – e.g. service quality
  - Financial risks – e.g. adequacy of reserves
  - External risks – e.g. publicity and government policy
  - Compliance with law and regulation – e.g. breach of trust

Buzzacott

Assessment of risks

- Consider (typically) likelihood and impact of each identified risk
  - Scenario risks
  - “Black swans”
- Risk mapping/scoring system
  - Tail wagging dog?
- Major risks – potentially severe impact and high likelihood
  - Bias toward high impact?
- Establish controls already in place
- Determine actions required

Buzzacott

Risk management

- **Accept** – the cost of managing is greater than the consequence of crystallisation or the consequences are tolerable
- **Transfer** – this is usually insurance but could be well structured partnership or joint venture arrangements
- **Eliminate** – unacceptable risk at any probability so cease risky activity
- **Price** – include a risk premium in pricing
- **Internal control** – accept the risk and reduce it to an acceptable level through internal control processes

Buzzacott

Role of trustees

Likely to involve:

- Ensuring that the identification, assessment and mitigation of risk is linked to the charity's objectives
- Ensuring process covers all areas of risk and is focused primarily on major risks
- Ensuring that the process seeks to produce a risk exposure profile that reflects the trustees' views as to levels of acceptable risk

Buzzacott

Role of trustees

Likely to involve:

- Reviewing and considering the principal results of risk identification, evaluation and management
- Ensuring that the risk management process is ongoing and embedded in management and operational procedures
- Charities Act update likely to require consideration of risks in business model as part of reserves policy and sustainability assessments

Buzzacott

Reserves policies - overview

- "New" CC19 has changed focus
  - Historic guidance biased to justification for holding onto funds
  - Revised guidance focused on "building resilience"
- CC19 includes useful example approaches to developing a policy
- SORP 2015 increases expectations for disclosure, but mainly for "larger" charities

Buzzacott

Definition of reserves – CC19, 3.1

- “That part of a charity’s income funds that is freely available to spend on any of the charity’s purposes.
- This definition excludes restricted income funds and endowment funds, although holding such funds may influence a charity’s reserves policy.
- Reserves will also normally exclude tangible fixed assets such as land and buildings and other assets held for the charity’s use.
- It also excludes amounts designates for essential future spending.”

Buzzacott

What are reserves?

	Unrestricted £'000	Designated £'000	Restricted £'000	Endowed £'000	Total £'000
Fixed assets	100	50	250	600	1,000
Investments	100	100	50	-	250
Net Current Assets	50	25	25	-	100
Total	250	175	325	600	1,350

Buzzacott

What are reserves?

	Unrestricted £'000	Designated £'000	Restricted £'000	Endowed £'000	Total £'000
Fixed assets	100	50	250	600	1,000
Investments	100	100	50	-	250
Net Current Assets	50	25	25	-	100
Total	250	175	325	600	1,350

Buzzacott

What is a reserves policy? CC19, Section 2

Trustees should develop a reserves policy that:

- Fully justifies and clearly explains keeping or not keeping reserves;
- Identifies and plans for the maintenance of essential services for beneficiaries;
- Reflects the risks of unplanned closure associated with the charity's business model, spending commitments, potential liabilities and forecasts; and
- Helps to address the risk of unplanned closure on their beneficiaries (in particular vulnerable beneficiaries), staff and volunteers.

NB CC19 requires publication of policy "even if not required by law."

Buzzacott

Why hold reserves?

- Risk management
  - Curtailment of income
  - Unexpected expenditure
  - Known contingencies
- Working capital
  - “Trading” cycle
  - Cyclical or seasonal cash flows
- Other strategic reasons, e.g investment opportunities or “saving” for asset purchases etc.

Buzzacott

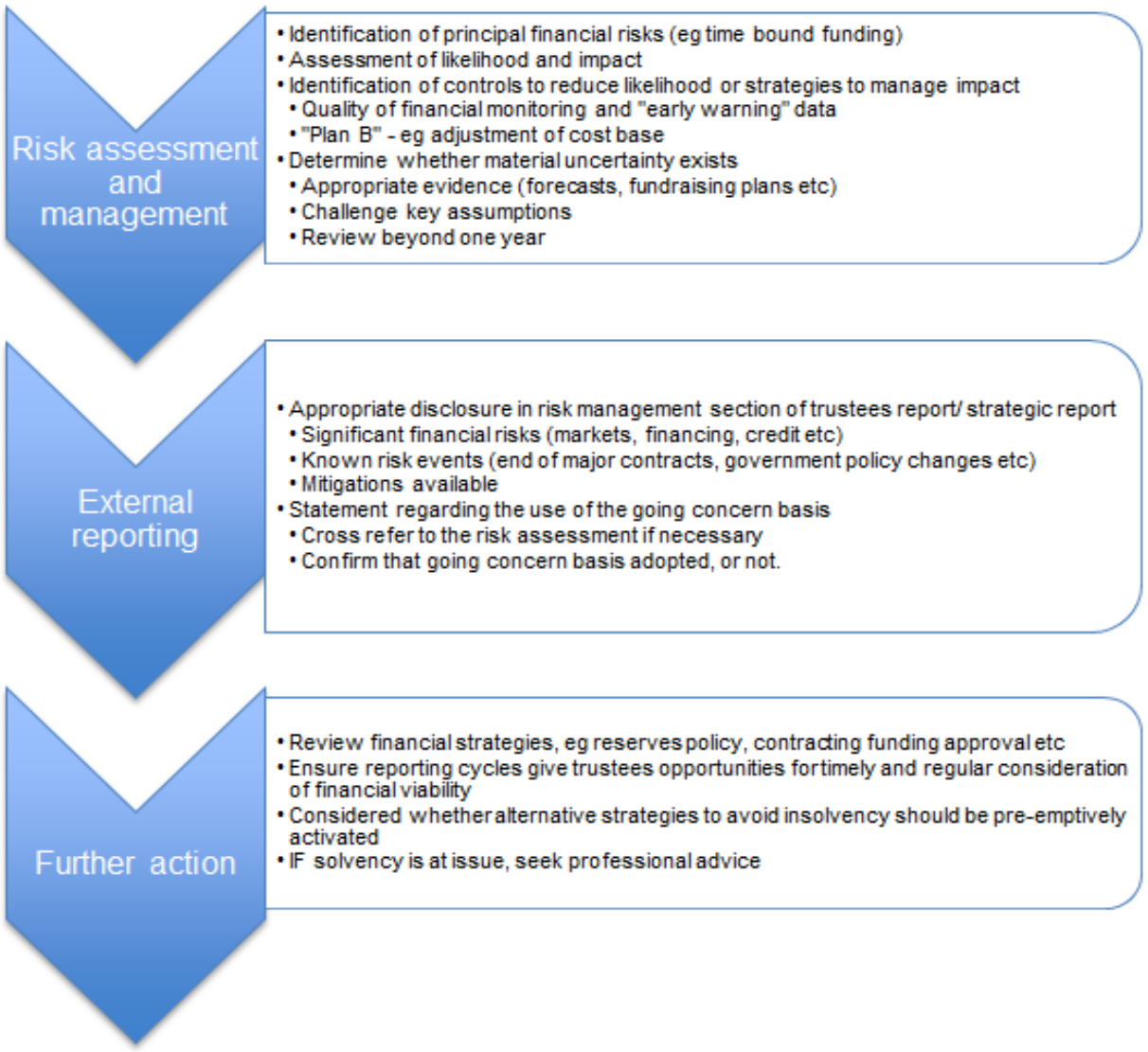
What level of reserves is appropriate?

- No ‘rules’ setting out acceptable level
- Beware of timing effects – consider ranges?
- Legal duty to apply charity funds within reasonable time
- Cushion against future uncertainties
- Based on realistic assessment of needs

Buzzacott

Going concern

- Going concern is an accounting convention
- Trustees should consider financial sustainability as part of risk assessment
- This drives disclosures in trustees' report and assessment of the going concern basis
- Revised audit requirements for December 2020 year ends and beyond



Buzzacott

Conclusion

- Risk management policy informed by level of reserves
- Reserves policy informed by risk assessment
- Trustees reporting and assessment of going concern derive from both
- Not just a compliance exercise
- Ensure charity's strategic objectives are met

Buzzacott

Further guidance – CC website

- Risk management
  - Charities and Risk Management
- Reserves
  - CC19 – Charities' Reserves
  - CC26 – Charities and risk management: a guide for trustees
  - CFG/ ACEVO study "Beyond Reserves" – 2012

Buzzacott

Q&A

Buzzacott

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

Buzzacott

Thank you for attending!