Briefing for Council Members of The British Academy’s Sponsored Institutes and Societies

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27 January 2012
Objective

To give an overview of:

- Duties and responsibilities of a charity trustee
- The Hallmarks of an Effective Charity and Principles of Good Governance
- Relationship with the British Academy as a funder
- Charity reporting and accounting requirements
- Key and emerging financial matters for the Board
- Charity Commission developments
- Keep on your radar
The Charity Sector – putting the numbers into perspective

Over 161,000 registered charities with total income of just under £56 billion

*Charity Commission website
## Charities by Annual Income

Latest published figures at 31 December 2011

<table>
<thead>
<tr>
<th>Annual income Bracket</th>
<th>Number of main charities</th>
<th>%</th>
<th>Annual income £bn</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>£0 to 10,000</td>
<td>70,576</td>
<td>43.7</td>
<td>0.233</td>
<td>0.4</td>
</tr>
<tr>
<td>£10,001 to £100,000</td>
<td>51,201</td>
<td>31.7</td>
<td>1.806</td>
<td>3.2</td>
</tr>
<tr>
<td>£100,001 to £500,000</td>
<td>19,121</td>
<td>11.8</td>
<td>4.275</td>
<td>7.7</td>
</tr>
<tr>
<td>£500,001 to £5,000,000</td>
<td>7,955</td>
<td>4.9</td>
<td>11.944</td>
<td>21.4</td>
</tr>
<tr>
<td>£5,000,000 plus</td>
<td>1,736</td>
<td>1.1</td>
<td>37.613</td>
<td>67.3</td>
</tr>
<tr>
<td><strong>Sub-Total</strong></td>
<td><strong>150,588</strong></td>
<td><strong>92.4</strong></td>
<td><strong>55.871</strong></td>
<td><strong>100.0</strong></td>
</tr>
<tr>
<td>Not yet known</td>
<td>11,061</td>
<td>6.8</td>
<td>0.0</td>
<td>0.0</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>161,649</strong></td>
<td><strong>100.0</strong></td>
<td><strong>55.871</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

The Charity Sector – putting the numbers into perspective
## Charity Sector – the numbers

<table>
<thead>
<tr>
<th></th>
<th>09/10</th>
<th>03/04</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Income</strong></td>
<td>£56 billion</td>
<td>£42 billion</td>
</tr>
<tr>
<td><strong>Assets</strong></td>
<td>£97 billion</td>
<td>£66 billion</td>
</tr>
<tr>
<td><strong>FTE’s</strong></td>
<td>668,000</td>
<td>610,000</td>
</tr>
<tr>
<td><strong>No. Charities</strong></td>
<td>162,000</td>
<td>170,000</td>
</tr>
<tr>
<td><strong>No. Trustees</strong></td>
<td>1 million</td>
<td>1 million</td>
</tr>
</tbody>
</table>

*Source: NCVO 2010 Sector Almanac*

*Of the 162,000 registered charities with the Charity Commission, 1,736 have income over £5m (1.1% numbers) which account for 67% of the sector income.*
Duties and Responsibilities of a Charity Trustee
A couple of maxims

Trustees should:

- Govern and not manage
- Delegate but not abdicate
What is a Charity Trustee?

- Charity Trustees are the people who have the general control and management of a charity’s administration.
Charity trustees’ duties

Responsible for:

• Directing affairs of the charity
• Ensuring its solvency
• Delivering the charity’s objectives

Compliance

• Charity law and regulation
• Charitable objects; governing document
• Other applicable law and regulation

Trustees must act with integrity, avoiding personal conflicts of interest or misuse of charitable funds
Charity trustees’ duties (cont…)

**Duty of prudence**
- Ensure continuing solvency of charity
- Apply income to fulfil objects; using funds wisely
- Avoid undue risk
- Take special care when investing or borrowing funds

**Duty of care**
- Use reasonable care and skill
- Take professional advice
  - (if material risk or breach of duty)

(CC3 - The Essential Trustee: What you need to know)
Trustees’ duties and responsibilities

Ensure:

- Charity’s assets are used only for charity’s purposes
- Act reasonably and prudently
- Act solely in the interests of the charity
- Avoid conflicts of interest
- Act collectively
- Ensure good governance
- Safeguard assets
- Manage investments in accordance with the Trustee Act 2000
- Set the policy and direction
- Oversee implementation
- Monitor outcomes
Trustees’ duties and responsibilities

Trustees must accept ultimate responsibility for everything the charity does:

• Trustees are responsible for the vision, mission and overall management of the charity. They are accountable if things go wrong.

• However, Trustees are able to and should delegate in certain circumstances.

• Trustees must comply with ground rules when delegating power.
Trustees have a duty to act collectively

- Decisions and responsibilities are shared, so all Trustees should take an active role

- However, **ALL** Trustees are collectively responsible for decisions made by the Trustees

- Whilst Trustees may have different roles (e.g. Chair) responsibility for decision-making still lies with the board as a whole
Trustee duties and responsibilities

Trustees are responsible for the proper administration of the charity.

They must make sure that:

• the charity’s assets and resources are used only for the purposes of the charity

• the charity is run in accordance with its constitution, charity law and all other laws and regulations which affect its activities
Trustees’ duties and responsibilities

Trustees to act reasonably and prudently in all matters relating to their charity:

- Trustees must “exercise such care and skill as is reasonable in the circumstances”

- The duty will be greater if a Trustee has (or claims to have) any special knowledge or experience, or if their business or profession means they can reasonably be expected to have special knowledge or experience
Safeguard the assets of the charity

• Reputation: A charity must recognise that its name and reputation are valuable

• Risk management: Trustees are expected to identify risks and decide how they should be managed

• Guard against fraud and mismanagement: Trustees should put proper financial procedures in place
Trustees and payment

- Trustees can recover reasonable out of pocket expenses
- Except in certain specified circumstances - Trustees can’t receive any benefit from a charity
- Exceptions:-
  - Charities Act 2006
  - Authorisation from the Charity Commission or the court
Trustees’ expenses and payments

Independent Expert Group review

• Recommendations:
  – Written policy for expenses
  – Complete expense claims with receipts
  – Clarify any fixed payments
  – Set caps for e.g. hotels, travel
  – Include senior employees and volunteers
  – Ensure communicated and part of induction
  – Set authorisation limits and rules
  – Minimise use of cash
  – Mileage – use HMRC rates to avoid tax / NI issues
Trustees must act in the best interests of the charity

• Trustees should not allow their personal interests or views to override this: they must exercise independent judgment

• Conflict of interest rules mean that charity Trustees have:
  - A duty to avoid a conflict of interest situation
  - A duty to disclose a potential conflict of interest
  - A duty to manage an actual conflict of interest
Managing conflicts

- Declaration Form on appointment
- Annual Review
- Maintaining a register of potential conflicts of interest
- Declaration at meeting
- Quorum
- Remaining and speaking
- Voting
Liabilities of Trustees – Breach of Trust

• All charity trustees are, in principle, vulnerable to claims instigated by the Charity Commission e.g. where charity monies are spent on purposes outside the objects

• Relief from Liability
  - Acted reasonably
  - Acted honestly and
  - Ought reasonably to be excused
Charity trustees - liability

Trustees only become personally liable if:

• they cause loss by acting unlawfully, imprudently or outside the scope of governing document
• they commit charity to debts in excess of assets

(CC3 - The Essential Trustee: What you need to know)
Trustees’ liabilities

- Wrongful and fraudulent trading
- Personal guarantees
- Criminal sanctions
Trustee indemnity insurance

• Protects Trustees against claims made against them personally

• Covers
  - breach of trust
  - wrongful trading
Recruitment of Charity Trustees

- Consider balance of skills on the Trustee Board
- Good practice for new Trustees to confirm that they are legally qualified to be a Trustee (e.g. not convicted of an offence involving dishonesty or deception, undischarged bankrupt)
- Proper induction
- Sign Trustees Code of Conduct
Charity Commission guidance

- Charity Commission: www.charitycommission.gov.uk
- CC3 – The Essential Trustee: What you need to know
- CC10 – Hallmarks of an effective charity
- CC11 – Trustees expenses and payments
- CC19 – Charities and reserves
- CC26 – Charities and Risk Management: A guide for trustees
- CC30 – Finding new Trustees
- CC36 – Changing your Charity's Governing Document
- Easy Read guidance – Being a Trustee
- Protecting charities from harm – an online trustee toolkit
- Reporting Serious Incidents – Revised guidance for trustees (June 2010)
Useful websites

• NCVO : www.ncvo-vol.org.uk
  :www.ncvo-vol.org.uk/governanceandleadership
• ACEVO : www.acevo.org.uk
• CFDG : www.cfdg.org.uk
What are the hallmarks of an effective charity?

What are the principles of good governance?
An effective charity

1. Is clear about its purposes and direction
   - Uses clear purposes, mission & values to direct its work

2. Has a strong board
   - Right balance of skills & experience; acts in the best interests of the charity and beneficiaries; understands its responsibilities, with systems allowing it to exercise them

3. Fit for purpose
   - Structure, policies & procedures enable charity to achieve its purposes & mission and to deliver its services efficiently

4. Learning and improving

5. Financially sound and prudent
   - In a transparent and understandable way

6. Accountable and transparent

(CC10 - Hallmarks of an effective charity)
Key principles of good governance

- Understanding of role
- Ensuring delivery of organisational purpose
- Working effectively as individuals and a team
- Exercising effective control
- Behaving with integrity
- Being open and accountable

(Updated October 2010; available on NCVO website)
Governance

“The systems and processes concerned with ensuring the overall direction, effectiveness, supervision and accountability of an organisation.”

(Governance of Voluntary Organisations,)

www.pkf.co.uk
What does a successful Board look like?

Some thoughts:

• Provide social forums for board members to get to know each other
• Make sure everyone has easy access to organisational documents
• Make processes transparent
• Coach individuals to voice concerns in a constructive way
• Distribute leadership across the board
• Provide opportunities to share accomplishments
• Provide opportunities to share concerns with the Chief Executive
• Have ongoing communications
Engage your board members

- Mine the rich experience of your board members: utilise strengths and skills
- Encourage lively and challenging discussions
- Clarify roles and responsibilities of the board collectively and individually
- Be clear about expectations associated with board membership
- Clarify the level of time commitment required for board membership and take attendance at meetings seriously
Governance matters

- Recruitment, selection and induction of trustees
- Delegation of powers
- Council committees
- Constitution
- Strategy
- Risk management
- Selection of key policies, linked through strategy
  - Especially policies on risk, reserves, investment, grants
Relationship with The British Academy as a funder
The British Academy

Is:

• established by Royal Charter and
• a registered charity
  – purposes: education/training, arts/culture

The Council Members/Trustees are therefore subject to:

• UK charity and trust law

The British Academy is governed by its Charter and Byelaws
The objects of the Academy are:

“… the promotion of the study of the moral and political sciences, including history, philosophy, law, politics and economics, archaeology and philology.”

The benefit of the public
How does it achieve this mission today?

“The fundamental purpose of the Academy is: to inspire, recognise and support excellence and high achievement in the humanities and social sciences, throughout the UK and internationally, and to champion their role and value”

Fellowship
- takes a lead in representing humanities and social sciences

Learned society
- fosters and promotes the full range of work that makes up the humanities and social sciences

Funder
- supports excellent ideas, individuals and intellectual resources in the humanities and social sciences

National forum
- supports a range of activities and publications which aim to stimulate curiosity to inspire and develop future scholars, encouraging appreciation of the value of these disciplines.
Your relationship with The Academy

• Compliance within the terms and conditions of the grant
• Funds spent on the purposes given for
• Effective stewardship of those funds
Charity reporting and accounting requirements
Charity reporting by trustees

- Administrative details
- Structure, governance and management
  - recruitment/appointment of trustees
  - induction/training
  - how decisions are made
  - risk statement
- Objectives and activities
- Activities described linked to Statement of Financial Activities
- Policies (for reserves, investment and grants) and linkage to risk statement
- Achievements and future plans
- Give good news, and bad
- Public benefit
Charity accounting

- Legal framework: SORP 2005
- Statement of Financial Activities (SoFA)
- Charitable income and expenditure linked through activities (and linked to trustees’ report)
- Balance sheet
- Accounting policies
- Transactions with trustees (related party transactions)
<table>
<thead>
<tr>
<th>Heritage assets – new Financial Reporting Standard FRS 30</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Greatly increased disclosure</td>
</tr>
<tr>
<td>– Five year summary</td>
</tr>
<tr>
<td>– Management of assets</td>
</tr>
<tr>
<td>• Assets should be capitalised where possible</td>
</tr>
<tr>
<td>– Donated assets</td>
</tr>
<tr>
<td>– Relaxed valuation requirements</td>
</tr>
<tr>
<td>• Where assets are excluded:</td>
</tr>
<tr>
<td>– Must be able to justify it</td>
</tr>
<tr>
<td>– Obtain justification for audit file</td>
</tr>
<tr>
<td>– Explain in financial statements</td>
</tr>
<tr>
<td>• Currently capitalised assets must remain on balance sheet</td>
</tr>
</tbody>
</table>
# Heritage assets – five year summary

<table>
<thead>
<tr>
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<tbody>
<tr>
<td></td>
<td>£'000</td>
<td>£'000</td>
<td>£'000</td>
<td>£'000</td>
<td>£'000</td>
</tr>
<tr>
<td><strong>Additions</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Purchases</strong></td>
<td>20</td>
<td>100</td>
<td>15</td>
<td>1,205</td>
<td>340</td>
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<tr>
<td><strong>Donations</strong></td>
<td>100</td>
<td>40</td>
<td>-</td>
<td>12</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>120</td>
<td>140</td>
<td>15</td>
<td>1,217</td>
<td>340</td>
</tr>
<tr>
<td><strong>Carrying value of sold assets</strong></td>
<td>-</td>
<td>30</td>
<td>-</td>
<td>-</td>
<td>605</td>
</tr>
<tr>
<td><strong>Sales proceeds</strong></td>
<td>-</td>
<td>47</td>
<td>-</td>
<td>-</td>
<td>1,350</td>
</tr>
<tr>
<td><strong>Impairment recognised in period</strong></td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>68</td>
<td>-</td>
</tr>
</tbody>
</table>

Distinguish between transactions reported in balance sheet and those not included

If earlier information not available, give current and prior year. Build up to five years by 2014.
Other key finance matters

• Charities do pay tax
  – PAYE
  – Direct tax
    • *Non primary purpose activities, including trading*
  – VAT

• Trading subsidiary

• Ensure you are aware of statutory compliance deadlines
Key and emerging financial matters for the Board
What we will cover...

• Current economic environment and associated issues affecting charities
  • Going concern issues
    • Big Board talk – 15 questions trustees need to ask – issued June 2009, still very relevant
    • Managing in a Downturn
    • Reserves

• Charity Commission
  • Public Benefit reporting responsibilities

• Keep on your radar
CFDG and Institute of Fundraising survey – Managing in a Downturn and PKF/CFDG 2011 Annual Risk Survey

- Charities need to maintain close relations with funders – open and honest discussions on impact of cuts
- To Autumn 2011, nearly all charities with statutory funding had experienced a real term reduction
- Trustees may have to challenge received wisdom from management team
- Consider challenge and debate over future strategy
- Large number of charities intend to utilise reserves over next two years
Reserves

- Need to maintain appropriate balance of reserves
- Understanding of reserves by Management and Trustees
  - Practical implications
  - Need to communicate internally
- Setting a reserves policy
- Spending reserves in a downturn – risk of eventual insolvency
What we are seeing in practice

On the income and expenditure side

• Budget constraints
• Demand for efficiency savings
• Corporate, individual and sponsorship giving tight
• Increased competition for funds
• Poor return on investments
What we are seeing in practice

On the balance sheet

• Debtors taking longer to collect (especially in service delivery charities)

• Cash constraints on unrestricted funds (potential breach of trust issues)

• Property impairments (in UK and overseas)

• Caught by onerous leases when funding finished

• Difficulty in securing renewed bank financing

• Pension deficit shortfalls increasing
Going concern issues

- Auditors looking very carefully at the robustness of going concern assumptions, operational plans and supporting evidence (at audit planning and completion)
- Under auditing standards - duty lies first with the trustees to satisfy themselves over the going concern basis
- One year from the date of signing the accounts not the year end
- Cash flow is key - minimum of 12 months from signing split across restricted and unrestricted funds
- Potential for trustees to be in breach of trust where using restricted funds for unrestricted purposes. Review your net asset funds note
- Impact on senior management time
Getting your message across

Consider carefully:

• How is your balance sheet going to look?

• Trustee report – what key messages do you want to get over for the year and your plans for the future (and are they realistic and achievable)

• Impact on your key policies
  — Reserves
  — Investment
  — Risk statement
  — Grants

• Cash flow – especially restricted versus unrestricted funds
Charity Commission Guidance

Big Board Talk – The Economic Downturn

15 questions trustees need to ask
Charity Commission developments

Public Benefit reporting

- Charity Commission follow-up report in July 2010 found that 24% of Trustees were not aware of the Public Benefit reporting requirement.

- 3 out of the 4 charities that had been assessed not to be meeting the public benefit requirement have now submitted acceptable plans. One was given additional time to prepare its plan.

- Revised interim guidance issued in January 2012
Keep on your radar

For all of you:

• Potential Conflicts of Interest
• Regulatory requirements
• Cashflow forecasts – split between funds
• Robustness of budgets, forward strategic plans
• Signs of Management stretch
• Use of restricted funds- are you using them effectively?
• Bribery Act – Compliance Toolkit updated
Keep on your radar

For all of you:

• Strength of the internal control environment and risk management procedures
• Fraud risk – proven fact that the likelihood of a fraud increases during a recession (internally and externally)
• Ensure your tax planning is as effective as possible – new changes all the time – especially on the VAT front. Increase in PAYE Inspections
• Charity Commission website, sector umbrella groups and charity specific publications

For some of you:

• CC14 – Updated Investment Guidance for Trustees
“It is not the strongest of species that survives, nor the most intelligent but the one that is most responsive to change.”*

*Charles Darwin
Questions?
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