



Top 10 Tips on Being a Charity Trustee (August 2011)

The following is adapted from “Top 10 Tips on Becoming a Charity Trustee” produced by Russell-Cooke Solicitors, www.russell-cooke.co.uk

1. The Constitution, Structure & Key Documents

Build a picture of your charity’s culture, legal structure, its objectives and goals and its current financial situation by reviewing key documents: the Constitution; the most recent set of accounts; the last annual return to the Charity Commission; and a copy of any policies and procedures. Ask for explanations if necessary.

2. Objects

Find out the objects of your charity. These are the charitable purposes for which the charity is established and can be found in the governing document. Do your current activities and future plans come within these objects? Are your activities for the benefit of the public rather than certain individuals and do you regularly discuss what these benefits are?

3. Payments and Other Benefits

Ensure you are aware of the restrictions in your Constitution on the kinds of benefits a trustee and certain people connected to a trustee can receive. Whilst you should be able to recover expenses, you will not generally be permitted to be paid simply for being a trustee.

4. Trustee Duties

Remember that as a trustee you have ultimate responsibility for the affairs of your charity, for ensuring the charity delivers its outcomes for the public benefit, complies with its obligations and remains financially stable. Do your fellow trustees have particular responsibilities or skills? If you have a role description this should give you further information on your exact duties, which may differ according to your legal structure.

5. Employment/Volunteers

Do you have employees? Do you use volunteers, consultants or other self-employed people? Ensure you understand what roles individuals have and what their rights are. An employment claim could be one of the largest liabilities your charity faces.

6. No Conflicts?

Take time to consider whether you are involved or have an interest in a particular transaction or situation in which you are or could possibly be considered to have an interest which conflicts with the interest of your charity or might raise a clash of loyalties. Ensure that you and your fellow trustees declare any such interest as soon as they come to light and that there are up to date policies to address any ongoing potential conflict.

7. Trustees vs. Members

Who are your trustees and members? It is important to understand the distinction between the two roles; trustees have duties to the charity and must act in its best interests; members have certain rights (but not right to receive a financial return). In some charities the trustees and members can be the same people, so it is vital to know whether a decision is being taken by the trustees or the members. Remember that your users/beneficiaries may not legally be members and so do not have a vote.

8. Insurance

Obtain copies of your charity's insurance policies. What is excluded from the policies? What limitations are there on the amount that will be paid on a valid claim? Will an excess payment be required? Be aware of loopholes. Are the trustees themselves insured? Do you update your insurers on any changes?

9. Property

Does your charity own or lease property? Make sure you understand the key terms of the lease including the rent, your ability to terminate, any liability for wear and tear and your insurance obligations. Have key dates been diarised?

If you have a license, consider whether you need the added protection of a lease.

10. Should things go wrong – liability

As a trustee your personal liability will depend largely upon your charity's legal structure. If your charity is incorporated (i.e. a company or IPS), your personal liability will generally be limited to situations in which you have acted wrongfully or fraudulently. If your charity is unincorporated (i.e. a trust, association or other body) your personal liability could be unlimited. If this is the case, discuss with your fellow trustees whether you should consider incorporating.

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