REALISING THE POTENTIAL OF GOVERNANCE:

THE REPORT OF THE ACEVO GOVERNANCE COMMISSION

EXECUTIVE SUMMARY

The ACEVO Governance Commission was established in 2012 in order to review the state of governance in the charity sector, and to make recommendations as to how it could be improved. In response to evidence suggesting an increase in concern regarding governance-related issues in the voluntary sector, the ACEVO Governance Commission set out to produce a practically-focused piece of work, focused on supporting voluntary organisations to understand and address the issues and challenges that can affect their governance. Guided by the concerns raised by respondents to the Commission's consultation exercises, the report focuses on three main areas: appraisal and accountability; understanding roles and responsibilities; and board management.

1) APPRAISAL AND ACCOUNTABILITY

One of the key functions of a charity's board is to hold the chief executive and executive team to account, and to maximise their performance in implementing and delivering the organisation's policies, strategy and objectives as agreed by the board. Equally, trustees collectively and individually should themselves be properly accountable for fulfilling their duties effectively and in accordance with their legal responsibilities.

Notably, while 65% of organisations responding to the ACEVO Governance Survey stated that they carried out a formal CEO appraisal on an annual basis over half of organisations do not carry out chair appraisals. In this section we explore how charities can ensure a higher degree of accountability for chairs, boards and chief executives, looking at some models and key points to consider when establishing an appraisals procedure.

In addition, a number of respondents to the Commission's consultation observed that the degree of external accountability for charity governance is low in comparison to other sectors. We put forward recommendations aimed at strengthening external accountability requirements for standards of charity governance

RECOMMENDATIONS:

FOR CHARITIES:

We recommend that all charities establish a regular formal appraisal procedure for:

- the chief executive (or equivalent)
- the board of trustees
- the chair

We recommend that trustees discuss and consider the potential benefits of establishing a subcommittee or a designated trustee with ongoing delegated responsibility for governance.

FOR THE CHARITY COMMISSION:

- We recommend that the Charity Commission explore the development of a 'good governance kitemark', as suggested by the review of social sector skills & leadership chaired by Dame Mary Marsh.

- We recommend that charities be required to include in their Annual Report a section reporting on key governance processes and standards.

FOR FUNDERS AND COMMISSIONERS:

- We recommend that funders and commissioners explicitly consider the strength of an organisation's governance as part of their assessment process..

2) UNDERSTANDING ROLES AND RESPONSIBILITIES

The Commission's consultation exercise revealed that the roles and responsibilities of voluntary sector boards, chairs, CEOs and staff are not uniform, but reflect the diversity of the sector itself. It is essential that charities consider how they can best support their trustees to understand their duties and responsibilities, as the role of a charity trustee has some unique and increasingly complex characteristics.

This section examines how charities can assist trustees to understand and adhere to the responsibilities and requirements of their roles, and explores the importance of leadership in establishing an organisational culture that encourages ongoing conversations that generate continuous improvement with regard to roles and responsibilities. It also suggests a need for clearer Charity Commission guidance supporting trustees to manage the tension between the core responsibilities of being a charity trustee and those of being a director of a charitable company or a trading subsidiary.

RECOMMENDATIONS:

FOR CHARITIES:

We recommend that charities ensure they have up-to-date written guidance in place that can be given to trustees on induction, including:

- Accurate, written role profiles which are discussed and agreed on appointment, and are subject to regular review.
- Written schemes of delegation detailing all areas where the board has delegated functions or responsibilities, including to sub-committees, working groups, individual trustees, the CEO, staff or specified volunteers.
- A copy of the business plan's section on governance and organisational terms of reference.

We recommend that guidance for trustees on induction be subject to regular review, and that this guidance be supported through a programme of appropriate opportunities for training and professional development.

FOR THE CHARITY COMMISSION:

- We recommend that the Charity Commission re-examine its guidance on the governance of trading subsidiaries of charities (CC35) with a view to better supporting trustees to understand and manage the potential conflict between the 'director' and 'trustee' roles.

3) BOARD MANAGEMENT

The final section of this report looks at how charities can establish and maintain a well-functioning board and a high standard of governance overall. This includes: the selection, recruitment, training and support of new trustees, including approaches to broadening the diversity of background and skills within charity boards; ensuring that the board receives key, relevant information through the effective management of board papers; managing conflicts and disputes, for example in cases of relationship breakdown among key personnel; and ensuring that boards are supported to fulfil their risk management responsibilities effectively.

These topics reflect the board management issues raised by respondents to the Commission's consultation. For example, 52.5% of respondents to the Commission's survey felt that their organisation had difficulty in recruiting trustees from under-represented backgrounds. This section puts forward practical guidance aimed at supporting organisations to address some common concerns about the effective management of charity boards.

RECOMMENDATIONS:

FOR CHARITIES:

- We recommend that all charities use an open, advertised process to publicise trustee vacancies and request applications.
- We recommend that all charities draw up a comprehensive induction checklist for incoming trustees.
- We encourage charity trustees to review and decide how to ensure that their governance training and support needs are adequately met and budgeted for.
- We recommend that trustees discuss and put in place an agreed process for addressing and resolving conflicts between key personnel at an early stage.
- We recommend that trustees consider implementing defined term limits, staggered to ensure an appropriate rate of turnover.
- We recommend that trustees ensure that their organisation maintains a formal, written risk register, kept under regular review by the board.

FOR THE GOVERNMENT:

- We endorse the recommendation made by the Social Sector Skills Review[1] that charity trustees should have a legal right to take time off work for trusteeship, as do school governors and magistrates.
- We recommend that the Treasury review its funding of the Charity Commission in order to assess whether current and planned levels of investment are sufficient to enable it to carry out its investigative functions effectively.

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[1]   Leading Social, the Dame Mary Marsh Sector Skills Review, http://leadingsocial.org.uk/

BACKGROUND:
THE IMPORTANCE OF GOOD GOVERNANCE

The ACEVO Governance Commission was established in 2012 in order to review the state of governance in the charity sector, and to make recommendations as to how it could be improved. ACEVO established the Commission following an increase in governance-related enquiries to the ACEVO Governance Helpline and ACEVO's CEO in Crisis Service, which saw a 40% increase in usage during 2012/13[1]. This suggested that, while overall standards of governance in the sector remain very high, voluntary organisations were experiencing an increase in governance-related problems and concerns.

Consequently, the ACEVO Governance Commission set out to produce a practically-focused piece of work, designed to support voluntary organisations to understand and address the issues and challenges that can affect voluntary sector governance. Rather than re-stating the principles and theories of good governance that have been examined elsewhere (e.g. in the Code of Good Governance Handbook)[2], this report is intended to be a source of practical support for organisations considering how to improve and further develop their governance standards. The decision to set up the ACEVO Governance Commission was also influenced by the fact that good governance is central to meeting the most pressing challenges that third sector organisations currently face. The past few years have seen significant changes, both to the environment in which charities operate and the type and range of activities that many charities undertake.

Most obviously, the sector has experienced a major fall in income from both private and public sources following the 2008 economic crash and subsequent public sector austerity. Public funding to the sector has also been falling since 2011 and is projected to continue, with recent estimates forecasting a loss of £1.7bn worth of public funding to the sector by 2017/18[3]. Income from donations has also been affected by the economic slowdown, with survey data recording a 20% fall in charitable donations in 2011-12 alone[4]. This restricted financial environment has put increased pressure on charities to seek out alternative sources of income and take difficult decisions regarding their activities and spending. Recent research has found that as many 90% of charities believe they face more risks now than in the past, with more than one in ten uncertain as to whether they will still exist in five years time[5]. In such a challenging context it is especially important that an organisation's governance is up to the task of protecting the interests of the charity and its beneficiaries.

At the same time, the changing nature of the voluntary sector over the past few years has made further demands of third sector governance. There has been a dramatic shift towards earned income from contracts, and away from the grant funding on which the sector has long relied. Income from trading and contracts is now estimated to account for 55% of the third sector's total income, surpassing donations, grants and investments[6]. Charities are becoming more commercially-minded and more open to working with both the private and public sectors in order to generate new sources of income and reach as many beneficiaries as possible with their services. The breadth of opportunities to become involved in public service delivery has also expanded dramatically, particularly on behalf of local government and the NHS, as well as centrally-led services such as the Work Programme.

This shift has created new challenges for charities as they seek to adapt to their changed environment, for example by acquiring new skills and capacity, exploring commercial partnerships and engaging more widely with service commissioners. It is essential that standards of charity governance should keep pace with these developments as charities' activities become more varied, more risky and more complex.

Finally, the Commission notes that good governance is most vital at the point when things go wrong, by which time it is usually far more difficult to address any shortcomings. We hope that this report will encourage charities to reflect on their governance arrangements and consider how well they would fare in a crisis. The recommendations put forward in this report can help organisations to ensure that their governance is robust enough to meet any future challenges.

1   Ian Griggs, "Calls to charity chief executive crisis helpline up by 40 per cent", Third Sector, 6 March 2013, http://www.thirdsector.co.uk/news/1173462/

2   Good Governance: a Code for the Voluntary and Community Sector, http://www.governancecode.org/

3   Neena Bhati & Joe Heywood, Counting the Cuts (2013 Update), NCVO, May 2013

4   The Guardian, "Donations to charity fall 20% in a year, study finds," 13 November 2012, http://www.guardian.co.uk/money/2012/nov/13/charity-donations-fall-uk-survey

5   The Guardian, "Charities: we've got five years left at best", 24 July 2013, http://www.guardian.co.uk/society/2013/jul/24/charities-voluntary-sector-five-years-existence

6   NCVO UK Civil Society Almanac, http://data.ncvo-vol.org.uk/a/almanac12/income-streams/what-is-the-voluntary-sectors-most-important-type-of-income/

CONSULTATION

To inform this report, the Commission conducted a number of open consultation exercises, through which people could contribute their views and experiences of voluntary-sector governance. These included an online survey and a series of five consultation events held across different regions of the country. These consultation exercises attracted contributors from a wide range of roles, including CEOs or equivalents, chairs, trustees, senior managers and consultants, representing a diverse range of organisations. Over 25% of survey respondents, for example, were drawn from organisations with 10 staff or fewer, while a similar proportion came from organisations with 100 staff or more. Respondents raised a wide range of issues and considerations which we have aimed to reflect in this report.
In total, 181 people completed the Commission's survey in full, and another 49 people submitted partial responses. A further 80 people attended the consultation sessions held around the country.

SURVEY RESPONDENT ROLES (RESPONDENTS TICKED ALL THAT APPLIED):

Chief Executive	63%
Chair	9%
Trustee	13%
Senior manager	12%
Consultant/other	7%

SIZE OF RESPONDING ORGANISATIONS (NO. OF FULL-TIME EQUIVALENT STAFF)

None	3%
Fewer than 10	23%
10-50	37%
50-100	11%
100-500	19%
500-1000	4%
More than 1000	2%
Did not say	0.5%

AREAS OF FOCUS

In choosing its areas of focus for this report, the Commission was guided by the views expressed by survey and consultation respondents. We observed that there were three broad areas where respondents identified weaknesses and causes for concern in sector governance. These were:

1) Appraisal and accountability. Charities must ensure that boards and chairs, as well as CEOs, are held accountable for their performance. Survey data revealed a low level of accountability for chairs and board members in particular, suggesting that this is an area of weakness in sector governance. The first section of this report aims to provide practical guidance and suggestions for effectively holding all key personnel to account effectively.

2) Clarity and understanding of roles and responsibilities. Concerns were expressed that the different roles of trustees, chairs and chief executives are not always well understood, leading to confusion and potentially damaging 'boundary disputes.' In the second section of this report, we explore how charities can ensure that key personnel understand their distinct roles and adhere to them.

3) Board management issues, including recruitment and training, and dispute resolution. Consultation respondents raised a number of board management issues with the Commission, from the recruitment and induction of new trustees to addressing relationship breakdown among key personnel. The final section of this report puts forward some practical guidance aimed at supporting charities to establish and maintain an effective board and high standards of governance.

NOTE ON TERMINOLOGY

For the sake of simplicity and clarity, we refer throughout this report to the chairs, trustees and chief executives of charities, although charities use a wide range of terms to refer to these roles. The terms as used in this report are intended to include equivalent roles within the sector. Additionally, many charities do not employ a chief executive or equivalent, with key management functions undertaken by board members and/or volunteers. However, we hope that these charities will still benefit from considering how the recommendations aimed at CEOs can be applied to the person with lead management responsibility in the organisation.

ADDITIONAL NOTE

This report contains a number of recommendations aimed at the Charity Commission, in its role as the sector's regulator. The Charity Commission was also represented on the ACEVO Governance Commission through its chief executive, Sam Younger. However, all recommendations are those of the ACEVO Governance Commission alone. It should not be assumed that the report's recommendations have been endorsed by the Charity Commission, or that it will act on them.

ACKNOWLEDGEMENTS

SECTION 1: APPRAISAL AND ACCOUNTABILITY
RECOMMENDATIONS:

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the chief executive (or equivalent), the board of trustees, and the chair.

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We recommend that the Charity Commission explore the development of a "good governance kitemark", as suggested by the review of social sector skills & leadership chaired by Dame Mary Marsh.

We recommend that charities be required to include in their Annual Report a section reporting on key governance processes and standards.

FOR FUNDERS AND COMMISSIONERS:

We recommend that funders and commissioners explicitly consider the strength of an organisation's governance as part of their assessment process.

One of the key functions of a charity's board is to hold the chief executive and executive team to account, and to maximise their performance in implementing and delivering the organisation's policies, strategy and objectives as agreed by the board. Equally, trustees collectively and individually should themselves be properly accountable for fulfilling their duties effectively and in accordance with their legal responsibilities.

Our survey data suggests increasing awareness amongst charities of the importance of ongoing monitoring and evaluation to organisational performance. Amongst survey respondents, 85% stated that their organisation had taken steps to improve its oversight of staff activities in the past 3 years, while 80% had taken steps to develop monitoring and evaluation of board performance. However, our survey also indicated gaps in charities' accountability procedures, such as a lack of appraisal mechanisms for boards and board members.

This section examines how charities can improve the accountability of their board and chief executive, including through the use of formal mechanisms and the development of an organisational culture that promotes ongoing monitoring and improvement.

CEO APPRAISAL AND ACCOUNTABILITY

FORMAL OR INFORMAL?

In the majority of cases, voluntary sector chief executives are held to account by their board through a formal appraisal system. 65% of organisations responding to the ACEVO Governance Survey stated that they carried out a formal CEO appraisal on an annual basis, while 12% did so every two years. However, 18% of respondents stated that their organisation never held a formal CEO appraisal, while 4.5% did so only every five years or more.

It is perhaps surprising that in 2013 almost a quarter of charities do not have regular appraisal procedures in place to monitor and evaluate CEO performance on an ongoing basis. When asked to state whether they agreed that "my organisation's board is able to effectively monitor and evaluate CEO performance," 19% of survey respondents strongly agreed, and 46% agreed. However, 12% disagreed and 4% strongly disagreed, suggesting a significant minority of charities still have inadequate monitoring and appraisal methods for CEO performance.

A number of respondents pointed out that where formal appraisals are not used, less formal performance monitoring mechanisms are usually in place, such as ongoing observation of CEO performance by board members and benchmarking against targets agreed in the business plan. However, a best practice approach to CEO accountability and monitoring should include a formal appraisal system, conducted on a regular basis. The Voluntary and Community Sector Code of Good Governance recommends 'proper and formal arrangements for the chief executive's appointment, supervision, support, appraisal and remuneration.[1]'

Informal arrangements are vulnerable to being overlooked or forgotten, for example when there is a change of key personnel. In addition, the responsibilities of a charity CEO are complex and wide-ranging, and should therefore be made explicit to the post-holder upon appointment and subject to regular review. A formal appraisal system provides a framework that encourages clarity around key objectives and regular communication between the CEO and board on performance issues. It ensures that board members' expectations and objectives for the CEO are agreed amongst the board and communicated explicitly to the CEO, supporting clarity of objectives, a stronger working relationship, and ongoing feedback on performance.

A formalised system for CEO appraisal can produce a range of benefits for the board, the CEO, and the organisation as a whole. As well as encouraging stronger accountability for performance against agreed targets, it provides a strong framework for CEO support and development, providing an opportunity to review available support and identify areas where further support and professional development would be useful. Appraisals also provide a good basis for setting future targets and performance objectives, based on a closer understanding of prior performance, strengths and weaknesses, and for clarifying and quantifying any performance-related pay targets. An effective appraisal system can also contribute to improving the performance of the organisation as a whole by helping to build a culture of accountability and continuous improvement, and by strengthening the working relationship between the board and senior management. Consequently, we recommend that all charities establish a regular formal appraisal procedure for their chief executive (or equivalent).

A number of useful resources exist to provide guidance on effective chief executive appraisal, such as the ACEVO publication Your Chair and Board- A survival guide and toolkit for CEOs,[2] which provides a range of tools to support charities in agreeing an effective CEO appraisal system. As an initial framework for drawing up a plan for CEO appraisal, we recommend that boards consider how they will address the following key areas:

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1   Good Governance: A Code for the Voluntary and Community Sector, http://www.governancecode.org/

2   http://www.acevo.org.uk/Page.aspx?pid=1040

PERFORMANCE MANAGEMENT:

- Review the chief executive's achievements and weaknesses against agreed objectives, competences or performance benchmarks.
- Make the CEO aware of any areas for improvement or concerns about his or her performance.
- Assess and quantify progress towards any performance-related remuneration targets.

CEO SUPPORT AND DEVELOPMENT:

- Identify areas for the chief executive's further training, support and professional development.
- Adjust the shape of the chief executive's role where appropriate.
- Review the support provided by the chair and board as a whole to the chief executive.

STRATEGY AND OBJECTIVES:

- Set short, medium and long term objectives for the chief executive and indirectly for the senior management team.
- Identify barriers to success of the organisation in the past and avenues for action in the future.
- Communicate and discuss any differences in vision, attitudes and objectives for the future of the organisation.

COMPLIANCE AND ACCOUNTABILITY:

- Demonstrate compliance with the sector's Code of Good Governance and best practice in accountability.
- Demonstrate to funders, donors and regulators that the organisation takes performance management seriously.

MAKING IT HAPPEN- CULTURE AND BEHAVIOUR

It is important to acknowledge that the existence of a formal appraisals procedure does not in itself guarantee effective monitoring of CEO performance. There was widespread agreement among chief executives responding to the Commission that CEOs should be prepared to take the lead on establishing and maintaining an appropriate appraisal system, as boards can be reluctant to propose this for fear of being perceived as antagonising the chief executive.

"It's often the case that appraisal processes exist but aren't implemented in practice.
Like all governance, you have to make it happen."
CONSULTATION RESPONDENT

While it is certainly appropriate for a chief executive to take the initiative on encouraging the establishment and implementation of a formal appraisal process for themselves, board members should be prepared to lead this process. There is a perception that charity board members can be reluctant to challenge their chief executives;[1] as the majority of trustees are lay volunteers, while CEOs usually have a high level of professional expertise, it can feel unnatural to question their decision-making. However, it is essential that board members have the confidence to monitor CEO performance and challenge the CEO where required. A formal appraisal process can help to place this process on an agreed and regular footing, making it a less daunting proposition for both board and CEO. Ultimately, those organisations that manage performance appraisal most effectively are those that foster a culture of supportive accountability and an ethos of challenge and continuous improvement.

CEO APPRAISAL CASE STUDY: VICTIM SUPPORT

Victim Support is a national charity supporting witnesses and victims of crime across the whole of England and Wales. It turns over c.£43 million and has around 1,500 staff. It has a board of 12 trustees. The annual CEO appraisal process begins with a self-appraisal element: the CEO produces a report on the past year's operations and progress towards agreed targets. This report is then reviewed by the chair, the Deputy chair and the Treasurer, before all trustees receive and discuss the report. Questions are put to the CEO in a dedicated session with the chair, deputy chair and treasurer. The chair, deputy chair and treasurer then produce a second report which is presented to the board, who then set objectives and performance targets for the following year.

In addition, the board meets five or six times a year and gets an update from the CEO, discussing milestones, targets and the strategic plan. The chair of the board has an annual review conducted by their deputy, supported by the rest of the board.

Victim Support also have a new system of accountability in place that involves their 6,000 volunteers, who are grouped in divisions comprising a few counties each. Local and divisional advocates represent the views of volunteers, with 4 National advocates elected from the divisional advocates meeting with the CEO and the chair at least two times a year. Volunteers are not formally part of the governing structure, but they have the chance to feed into it.

This process helps keep the CEO to account, and allows the charity to keep track of progress. It also keeps the organisation close to its targets, which is especially important in the current climate.

1   James Gillies (1992) Boardroom Renaissance

CONDUCTING A CEO APPRAISAL

There are a number of different approaches to appraising the chief executive, including 360 degree external appraisals, upward appraisals in which staff have input, self-appraisal, and appraisals led by the Chair, a group of board members or the board as a whole. A number of these approaches are examined in detail in the ACEVO publication Leading the CEO and Chair to Effective Governance[1] , revised 2012, which also includes useful templates and examples from within the sector and outside it.

SOME KEY CHARACTERISTICS OF AN EFFECTIVE APPRAISAL:

- Objective and impartial, with assessment made against clear, measurable and agreed objectives based on the previous appraisal.

- Confidential.

- Conclusions, future targets and any other findings to be recorded in writing.

- Proportionate to the size, resources and aims of organisation.

- Based on a pre-agreed and understood structure and format which is consistent from year to year, enabling comparison over time.

- Plenty of notice given for preparation in advance.

- Includes an element of self-appraisal to increase CEO input into the process and enable them to air any concerns.

- Includes an opportunity for board members to input their opinions and experiences.

- Takes place on a regular and predictable basis (usually annually).

BOARD APPRAISAL

Charities are held externally accountable in a number of ways, including to the public through the Annual Report, through their reporting to funders or commissioners, and in demonstrating compliance with the legal and regulatory framework in which they operate. However, there are strong reasons to ensure that internal accountability mechanisms exist to support continuous improvement and inform decision-making in areas such as objective-setting, recruitment and professional development.

This principle applies as much to a charity's board as to its paid staff. Given the complexity and importance of the board's role, it is important to ensure that a process exists to monitor and assess the performance of the board, and to implement it effectively. The Code of Good Governance recommends that a board appraisal be carried out at least every two years.

"The board should ensure that at least every two years, it sets aside time to reflect on its own performance and functioning as a team…The results of these appraisals should be used to make necessary changes and improvements, to inform the creation of appropriate training programmes, and to guide board member renewal and recruitment"

CHARACTERISTICS OF AN EFFECTIVE BOARD REVIEW:

- Forward-looking and focused on learning and improvement.
- Sensitive to trustees' volunteer status and proportionate in terms of demands on trustees' time.
- Provides trustees an opportunity to reflect on their own responsibilities and performance as well as that of the board as a whole, and encourages suggestions for improvement and development.
- Enables the CEO and Senior Management Team to feed in their views.
- Conducted on a regular basis (at least every two years).
- Conclusions and targets should be written up for discussion by the board, with a view to finding areas for improvement and development.

A number of respondents to the ACEVO Governance Commission expressed concerns that the prospect of formal appraisal could put off potential trustees, who after all give up their time on a voluntary basis, and might not appreciate the prospect of undergoing formal monitoring and evaluation. This was seen as a particular issue for smaller organisations for which trustee recruitment can at times be more challenging. However, others pointed out that trustees can come to appreciate regular appraisal if carried out well, as appraisal processes give trustees the chance to express their views on how the board could be improved. Appraisals also provide a framework which encourages trustees to think about their own performance, responsibilities and support requirements, form a view on board effectiveness, and consider how it could be improved. Consequently we recommend that all charities put in place a formal appraisal system for trustees.

THE TWO MOST COMMON FORMS OF TRUSTEE APPRAISAL, OFTEN USED IN CONJUNCTION, ARE:

- Individual trustee appraisals. These range from formal reviews informed by written self-assessment, or less formal procedures involving scheduled conversations. These are frequently led by the chair. It is not usually seen as appropriate for the CEO to lead on board appraisal given that the CEO is held accountable by the board.

- Whole-board appraisals. This option was considered by many respondents to be a less stressful prospect for trustees. A whole-board appraisal would often be facilitated by an independent external source such as a consultant. Alternatively, two organisations might consider a board-to-board, peer-led approach, in which two boards mutually review and appraise each other's governance standards.

Appraisal systems can be adapted from a range of templates and resources, such as the NCVO 'Good Trustee Guide[1]', or sample appraisals available from Governance Pages[2]. Alternatively, some organisations seek external support such as the Governance Review Service[3] offered by ACEVO, which incorporates a whole-board appraisal using a confidential online questionnaire to assess the skills and performance of the board.

Whichever methodology is used, the effectiveness of board appraisals depends greatly on organisational culture and behaviour. Effective board accountability requires an organisational culture that encourages trustees to take accountability seriously, and reflect on their responsibilities and performance on an ongoing basis.

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1   NCVO, Good Trustee Guide, http://www.ncvo-vol.org.uk/products-services/publications/good-trustee-guide

2   Governance Pages, http://www.governancepages.org.uk/sample-documents/trustee-appraisal/

3   ACEVO Governance Review Service, http://www.acevo.org.uk/Governance/Governance+Review+Service

TRUSTEE AND CHAIR APPRAISAL CASE STUDY: KEECH HOSPICE CARE

Keech Hospice Care is a charity which operates two hospices, one serving adults primarily from Luton and South Bedfordshire, and one serving children from across Bedfordshire, Hertfordshire and Milton Keynes. It has an annual turnover of around £9 million and employs around 250 staff. It has a unitary board of 13 trustees.

In 2010 the incoming chair decided to implement an annual board and chair appraisal system. Previously there had been no system for regular board appraisal, which was identified as a weakness during a board development programme. Under the new system, each trustee completes a 10-question self-appraisal form with questions previously agreed by the board. This then informs a one-to-one conversation with the chair, held flexibly with regard to timing and location in order to minimise the call on trustees' time. The chair then summarises these conversations into a short report which is sent around the board and used to inform board development.

In addition, after the completion of all trustee reviews, two or three trustees volunteer to form a small committee to appraise the performance of the chair. The chair completes the same self-appraisal form, and trustees are invited to add their comments. The CEO submits a report while the Senior Management Team jointly submit a general overview of their thoughts on the chair's performance. The chair then meets with the trustee subcommittee for an appraisal informed by the comments received.

Keech Hospice Care told the Commission that the introduction of a formalised appraisal system has had a number of benefits for the board and the charity. It supports better communication and closer relationships between the chair and the trustees. The appraisal conversations are used to plan trustee progression, development and subcommittee membership. The chair reported feeling more confident in the support and commitment of trustees as a result, while trustees appreciated the opportunity to feedback their views in a structured way. Overall, the introduction of a formal board appraisal system supported stronger governance and a more effective board.

KEECH HOSPICE CARE SELF-APPRAISAL QUESTIONS:

1. How do you view the overall health of the Hospice?
2. How effective is the Board and could we improve the working of the Board of Trustees?
3. What do you feel have been your main contributions to the Hospice as a trustee?
4. Are your expertise and experience being used effectively by the Hospice?
5. How do you view your working relationship with fellow trustees?
6. How do you view your working relationship with the CEO and Senior Management Team?
7. Are there any particular projects or areas in which you would like to be more involved?
8. How satisfied do you feel with your contribution to the Board and the work of the Hospice and can you identify any further training or visits that would help you in your trustee role?
9. Do you have any points you would like to raise for discussion which are not covered in your responses to the above questions?

CHAIR APPRAISAL

Although the role of a charity's chair is key to effective charity governance, chairs are traditionally subject to much lower levels of formal monitoring and accountability than chief executives. Our survey data reveals that over half of charity chairs never receive a formal appraisal, while less than a quarter are appraised annually. Similarly, while 56% of organisations have taken steps to improve monitoring of CEO performance in the past three years, only 25% of organisation have done so for chair performance.

SURVEY (% RESPONSES):
HOW OFTEN DOES YOUR ORGANISATION CARRY OUT A FORMAL APPRAISAL OF:

	AT LEAST ONCE A YEAR	AT LEAST ONCE EVERY 2 YEARS	AT LEAST ONCE EVERY 5 YEARS	LESS THAN ONCE EVERY 5 YEARS	NEVER
THE CHAIR	22.5	12.7	6.4	4	54.3
THE CEO	65.3	11.9	2.8	1.7	18.2

Perhaps unsurprisingly, confidence in organisations' monitoring of chair performance was fairly low. When asked whether their organisation was capable of effectively monitoring and evaluating chair performance, 30% agreed and 7% agreed strongly. In comparison, 21% disagreed and 10% disagreed strongly. A significant proportion (32%) chose 'neither agree nor disagree', reflecting the comparatively low level of attention given to chair accountability issues within the voluntary sector. The low level of confidence within the sector in its ability to hold chairs to account effectively suggests that the traditional lack of focus on chair appraisal is unhelpful. Boards that are currently without a clear system for appraising chair performance should consider whether they are capable of adequately monitoring this important role. The Commission recommends that all charities have a regular formal appraisal procedure in place for the chair.

In some cases, charities are held back by the difficulty of knowing who is best-placed to initiate and carry out an appraisal of the chair's performance. The chair plays a key role in any charity and so effective accountability is essential, but we recognise that many boards have found it difficult to decide how best to approach this process. Ultimately, however, it is the board's responsibility to select an appropriate process without the input of the chair. Boards may find it useful to mandate a working group to examine best developing practice in chair appraisal and deliver recommendations for future arrangements back to the board as a whole. If the organisation's circumstances allow, it is useful to hold a budget for appraisal, enabling the investment of a proportionate amount of resources, e.g. in external facilitation where appropriate. When considering how best to appraise the chair, boards may wish to consider the following options:

- A temporary subcommittee of trustees formed each year for the purpose of chair appraisal (see Keech Hospice Care case study on page 18).

- A Senior Independent Trustee with a standing responsibility for holding the chair to account.

- A permanent subcommittee of trustees, excluding the chair, with an ongoing responsibility to ensure high standards of governance (see page 23).

- An external facilitator.

- Chair appraisals should not be carried out by the Chief Executive, as the chair plays a key role in holding the CEO to account.

Mechanisms such as these can help to provide a framework for clear and effective chair accountability.

ONGOING ACCOUNTABILITY

Organisations would not consider doing without the ongoing scrutiny of finances provided by an accountant, but many have only occasional and irregular processes for the review and monitoring of governance standards. Too often, this means that governance stays off the agenda until the point where failures in governance reach crisis point. A growing number of charities have explored the idea of having a designated person or group with the responsibility of independently monitoring governance on an ongoing basis. By asking a designated person or persons to take responsibility for overseeing governance and reporting on it to the board, charities can improve their ability to identify and address any weaknesses at the earliest possible stage. This also helps to ensure that accountability remains an ongoing priority and is embedded in the organisational culture.

The Commissions heard a range of suggestions on who might be best-placed to fulfil this role. Suggestions included appointing a Senior Independent Trustee with designated responsibility for governance, similar to the Senior Independent Director role found on many private-sector boards, or asking the Company Secretary to take on the role (in organisations that have one). Other organisations have appointed a small governance sub-committee, excluding the chair of the organisation, which meets independently and reports any issues to the board as a whole.

"It (our governance sub-committee) stops us forgetting about governance until things go wrong, makes sure we do what we said we'd do, and looks for any gaps in trustee skills"
CONSULTATION RESPONDENT

These ongoing monitoring processes need not be too onerous; a subcommittee meeting and reporting on governance once or twice a year should be enough to ensure that governance issues are picked up and addressed on an ongoing basis. A governance subcommittee could also be well-placed to facilitate appraisal of the chair, or to investigate any governance-related concerns raised by trustees or staff.

We recommend that trustees discuss and consider the potential benefits of establishing a small subcommittee or designated trustee with ongoing designated responsibility for governance. At the same time, good governance must always remain a priority and a key responsibility of the entire board. Consequently, it is essential that any mechanism for supporting ongoing good governance is reinforced by a wider organisational culture of mutual support and learning.

STRENGTHENING EXTERNAL ACCOUNTABILITY

A number of respondents to the ACEVO Governance Commission's consultation exercises observed that the degree of external accountability for charity governance is low in comparison to other sectors. The current reporting requirements for charities place much less emphasis on governance standards than on areas such as financial reporting and reporting on the public benefit impact of charity operations. Charities' Annual Reports are required to include details of trustee recruitment processes and particulars of the organisation's governing document, while charities subject to statutory audit must provide additional information covering their organisation's decision-making structure, and confirmation that the board has considered possible risks to the charity[1]. Beyond these basic considerations, there is no requirement to report on whether a charity has the policies and arrangements in place that would support good governance.

Some charities are subject to additional regulatory regimes as a result of the nature of their activities, and there is a trend towards stronger focus on the accountability of those responsible for good governance. For example, charitable providers of health and care services are regulated by the Care Quality Commission (CQC), including through on-site inspections. The CQC is currently consulting on changes to its inspection model, including new measures to "make sure that directors or leaders of organisations have made legal commitments to provide safe and high-quality care, and are personally held to account for it."[2]

The evidence presented to the Commission about comparable regulatory regimes suggests that investment in strong external accountability mechanisms for governance can contribute to a broad improvement in standards, as well as an increase in awareness and understanding of the trustee (or equivalent) role. A good example of this can be found in the schools sector. Since September 2012, Ofsted, the schools inspectorate, has reported on school governance in greater depth in its inspections, and included a paragraph on governance in all Section 5 school inspection reports.[3] Ofsted now inspects school governing bodies against a range of criteria, including clarity of vision and direction, holding staff to account, and level of understanding of the schools' strength and weaknesses. It has the capability to order a governance review or, in extreme cases, the formation of an interim executive board. The framework is suitable for large and small schools, expressed in proportion to the size and complexity of the organisation.

The National Governor's Association told the Commission that Ofsted's investment in holding school governing bodies to account has helped to generate clear expectations of governors' responsibilities, and caused school governors to focus more on considerations of their own effectiveness and accountability. The stronger focus on school governance has also helped to raise the profile and visibility of the school governor role and contributed to more effective leadership.

1   Charity Commission Guidance CC15, http://www.charitycommission.gov.uk/publications/cc15b.aspx#h

2   CQC Consultation, http://www.cqc.org.uk/public/sharing-your-experience/consultations/consultation-changes-way-we-inspect-regulate-and-monito

3   Michael Wilshaw speech at Policy Exchange, http://www.policyexchange.org.uk/modevents/item/sir-michael-wilshaw-creating-a-step-change-in-school-accountability-equipping-parents-and-governors-with-the-information-needed-to-assess-school-performance

OFSTED CRITERIA FOR ASSESSMENT OF SCHOOL GOVERNING BODIES[1]

SCHOOL GOVERNING BODIES ARE ASSESSED ON THE EXTENT TO WHICH THEY:

- engage with key stakeholders.
- operate in such a way that statutory duties are met and priorities are approved.
- provide challenge and hold the headteacher and other senior leaders to account for improving the quality of teaching, pupils' achievement and pupils' behaviour and safety.
- contribute to the school's self-evaluation and understand its strengths and weaknesses.
- support and strengthen school leadership.
- use performance management systems, including the performance management of the headteacher, to improve teaching, leadership and management.
- ensure solvency and probity and that the financial resources made available to the school are managed effectively.
- use resources to overcome barriers to learning, including reading, writing and mathematics.

1   Department for Education, Governors' Handbook, available at http://www.education.gov.uk/schools/leadership/governance/b00224781/govhandbook/accountability

We suggest that investment in a clearer external accountability mechanism for charity governance could produce similar benefits for the voluntary sector as have been observed in schools. Clearly it is important for charities to report publicly on key matters such as their financial health and the nature and impact of their work. But given the centrality of good governance to organisational effectiveness, there is a strong case for more public reporting on standards of governance as well. This point was addressed by the 2013 Social Sector Skills Review, which put forward the recommendation of an 'Investors in Governance Kitemark', to be awarded to charities that could demonstrate the quality of their governance processes and procedures[1]. Award of the kitemark would demonstrate to funders and the wider public that the charity's governance meets certain agreed and publicly available standards, with the aim of 'nudging' charities to adopt them.

The ACEVO Governance Commission endorses this proposal and we recommend that the Charity Commission explore the development of a "good governance kitemark", in consultation with its partners such as sector representative organisations. However, we suggest that the current reporting requirements on charity governance do not adequately reflect its importance. We therefore recommend that charities be required to include in their Annual Report a section reporting on key governance processes and standards, in the same way as they report on the fulfilment of public benefit requirements or risk management procedures. This could be presented on a 'comply or explain' basis, which either confirms that the organisation has key processes in place, or provides an explanation of why they are unnecessary.

1   Leading Social, http://leadingsocial.org.uk/strengthen-governance/#more-210

This would include processes such as:
• An objective trustee recruitment procedures.
• A comprehensive trustee induction programme.
• Opportunities for trustee training and development (not necessarily external or paid-for).
• A regular appraisal procedures for trustees, chair and CEO.
• Written roles and responsibilities and schemes of delegation for board members, chair and CEO.
• Written processes for dispute resolution and for managing conflicts of interest.
• Agreed term limits.

A reporting requirement covering these areas would enable funders, donors and the general public to have greater confidence in charities' governance processes. In addition, it would help to increase the status and visibility of governance issues, putting them on a par with key considerations such as financial risk and public benefit. The existence of appropriate processes does not guarantee good governance, which also depends on organisational culture and behaviours which cannot be captured in a single report. However, stronger public reporting on governance would compel boards to reflect on their governance and keep their procedures under regular review. This could be supplemented by initiatives such as the proposed Good Governance Kitemark, which would represent an additional 'gold standard.'

Finally, we suggest that funders and commissioners of voluntary organisations would benefit from considering how to ensure that the organisations they work with have high standards of governance. A stronger focus on governance would contribute to driving up standards in the sector, as well as giving funders and commissioners the assurance that the governance arrangements of their charitable partners are sufficiently robust and sustainable. We therefore recommend that funders and commissioners explicitly consider the strength of an organisation's governance as part of their assessment process.

SECTION 2.
UNDERSTANDING ROLES AND RESPONSIBILITIES

RECOMMENDATIONS:

FOR CHARITIES:

We recommend that charities ensure they have up-to-date written guidance in place that can be given to trustees on induction

We recommend that guidance for trustees on induction be subject to regular review, and that this guidance be supported through a programme of appropriate opportunities for training and professional development

FOR THE CHARITY COMMISSION:

We recommend that the Charity Commission re-examine its guidance on the governance of trading subsidiaries of charities (CC35) with a view to better supporting trustees to understand and manage the potential conflict between the 'director' and 'trustee' roles

The Commission's consultation exercise revealed that the roles and responsibilities of voluntary sector boards, chairs, CEOs and staff are not uniform, but reflect the diversity of the sector itself. Consultation responses revealed a range of different conceptions of what these roles entail and how they interact. For example, some respondents argued for a clear strategic/operational split, in which boards handle strategy and oversight and operational issues are left to management, arguing that board involvement in operational matters can create conflicts of interest and impede accountability. Others maintained that the idea of a strategic/operational distinction is unrealistic and unhelpful, and that the two areas cannot be distinguished in practice. Similarly, the Commission heard a range of views on the role of the chair; some organisations saw the role as simply 'the trustee who chairs the board meetings', while others saw it as a key leadership role, responsible for driving organisational direction, strategy and culture.

In some cases these differences appeared to reflect the different shapes, sizes and situations of voluntary organisations. Smaller charities, for example were seen as more likely to rely on board members to fill skills gaps and supply particular expertise, while larger charities were seen as relying more on paid staff and consequently had less board involvement in operations. However, this was by no means universal and a range of views were heard from charities of different types and sizes.

"I think the Governance/Executive split is more difficult in smaller organisations where trustees bring in great skill and expertise" SURVEY RESPONDENT

Given this diversity of views, the sector's confidence in its understanding of the different roles and responsibilities of key personnel might be expected to be low. However, our survey results show a relatively high degree of confidence in this area. 35.3% of respondents stated they were very satisfied that the different roles and responsibilities of their chair, board and CEO were clear and well-understood, and 44.6% were satisfied. This compares to a total of 13% of respondents who were either dissatisfied or very dissatisfied, suggesting that lack of clarity in this area remains an issue in a significant minority of charities. Given the importance of the chair-board-CEO dynamic to charity governance, the fact that over 10% of respondents expressed dissatisfaction should be a cause for concern. Due to the diversity of the voluntary sector and the range of views expressed on the roles and responsibilities of charity boards and management, it would be wrong to seek to impose a particular understanding of these roles on all charities. However, it is essential that charities consider how they can best support their trustees to understand their duties and responsibilities, as the role of a charity trustee has some unique characteristics. Charity Commission guidance CC3 summarises the trustee role as follows:

"Trustees have and must accept ultimate responsibility for directing the affairs of a charity, and ensuring that it is solvent, well-run, and delivering the charitable outcomes for the benefit of the public for which it has been set up."[1]

At the same time, the trustee role is a non-executive one. Trustees act as part-time non-executive directors, in most cases giving their time on a voluntary basis; 91% of survey respondents stated that their organisation does not pay any of its trustees. Board members often rely on the chief executive and paid staff, where applicable, to provide them with necessary information and to implement their decisions. Yet they retain ultimate responsibility for the conduct of the organisation, its compliance with legal and regulatory requirements and the stipulations of its governing documents, and its financial sustainability.

This tension reflects a fundamental difference between a charity trustee and a company director. Trustees are required to protect the interests of their organisation's beneficiaries and its public benefit mission,[2] whereas directors under the Companies Act 2006 are required to prioritise the interests of stakeholder, staff, and the company itself. When trustees are under both duties simultaneously- for example, if they are on the board of a charitable company registered with Companies House, or a registered trading subsidiary of a charity- these divergent responsibilities can create a tension which trustees need to work through and resolve. There is currently a lack of helpful guidance for trustees on managing and resolving this conflict.

1   Charity Commission, The Essential Trustee: What you need to know (CC3), http://www.charitycommission.gov.uk/publications/cc3.aspx#b2

2   Ibid.

To help trustees understand the core, common responsibilities of charity trustees, we would highlight Charity Commission Guidance CC3: "The essential trustee: what you need to know," which is a concise and readable resource setting out the core responsibilities and duties of charity trustees. We recommend that all charities should give a copy to new trustees on induction. In addition, we recommend the Seven Principles of Public Life drawn up by the Committee on Standards in Public Life (sometimes known as the Nolan Principles)[1]. Originally drawn up for public bodies, the Nolan Principles have since been adopted by many boards across the public, private and voluntary sectors, as well as being included in the Ministerial Code, and set out the principles which board members should adhere to when carrying out their duties. Finally, we also recommend the National Occupational Standards for Trustees, which provide guidance on the skills and knowledge that trustees require in order to govern their organisations well. [2]

As well as promoting better understanding of the core principles of charity trusteeship, it is important to ensure that trustees have a clear understanding of their precise role in their organisation's governing structure and decision-making processes. We recommend that charities ensure they have up-to-date written guidance in place that can be given to trustees on induction. These should include:

• Accurate, written role profiles discussed and agreed on appointment, and subject to regular review.

• Written schemes of delegation detailing all areas where the board has delegated functions or responsibilities, including to sub-committees, individual trustees, the CEO, staff or specified volunteers.

• A copy of the business plan's section on governance and organisational terms of reference.

These should be subject to regular review and supported through a programme of appropriate opportunities for training and professional development, in order to:

1. Ensure that all board members understand the key responsibilities that are common to all charity trustees.

2. Ensure that all board members and staff understand their particular role and responsibilities, and how they are distinct from those of other board members, the chair and the CEO.

3. Ensure that the organisation's leadership and culture encourages and supports board members and staff to observe these distinctions in practice.

4. Have agreed, written procedures in place for addressing 'boundary disputes' where they occur.

1   http://www.public-standards.gov.uk/

2   Skills Third Sector, http://www.skills-thirdsector.org.uk/national_occupational_standards/trusteenos/

Additionally, in the Commission's view there is a need for additional guidance for trustees on managing the tension between the duties of a trustee and the duties of a company director. In a charitable company limited by guarantee, the Company Law duties on directors do not appear to sit easily in every respect with the responsibilities of charity trustees. Trustees of charities (however constituted) who are also directors of a trading subsidiary, can also find themselves in a conflict position due to Company and Charity Law. Charity Commission Guidance CC35: Trustees, trading and tax is clear that the charity's interests must always be prioritised ahead of any trading arm, but lacks detail on how to manage conflicts that may arise in the course of a trustee's duties - for instance, when choosing between increased spending on beneficiaries and long-term investments in the organisation's future. Notably, when Governance Commission survey respondents were asked about their satisfaction with the governance of trading subsidiaries, over 20% were either 'fairly' or 'very dissatisfied.' Consequently, we recommend that the Charity Commission re-examine the relevant guidance (CC35) with a view to better supporting trustees to understand and manage the potential conflict between the roles and responsibilities of charity trusteeship and of directorship as defined by the Companies Act 2006.

ROLES AND RESPONSIBILITIES CASE STUDY: INDEPENDENT AGE

Independent Age is a national older people's charity, befriending and campaigning for older people and offering advice services and social support for their wellbeing. Based in London Olympia, it turns over £6.6 million per year and employs 85 staff. It has a unitary board of 14 people.

Clear role descriptions are set from the CEO and chair down. They have a good personal dynamic and respect each other's boundaries, particularly the difference between governance and day-to-day management. The CEO has a clear 'no-surprises policy', whereby they regularly discuss important issues such as tactical engagement with trustees. A trustee guide sets out the responsibilities of the board, alongside a code of conduct for trustees and a written guide for the chair.

When recruiting trustees the charity looks for evidence that the candidates have an understanding of charity governance and trustee duties. The nominations committee discusses this with candidates prior to making any decisions, and they are briefed on their responsibilities before starting. The charity keeps trustees informed of available training and professional opportunities.

Independent Age told the Commission this process makes it easier to hold board members to account, since careful delegation means they cannot avoid responsibility. It also means that they can delegate roles on the basis of people's interests and strengths, so their energy is used most effectively, and trustees are more satisfied with their overall experience. They emphasised to the commission that successful governance requires sustained hard work, however relaxed and informal it may be. Governance was at the heart of a recent transformation of the board, which should ensure a broad range of skills and a readiness for change for the future.

BEHAVIOURS AND 'BOUNDARY DISPUTES'

The guidance, policies and procedures above can help to provide a framework that encourages clarity of roles and responsibilities within an organisation's governing structures. Like other aspects of good governance, however, these must be supported by the organisational culture and followed in practice by board members if they are to have any impact. A number of respondents to the Governance Commission consultation noted that while the theoretical distinctions between the roles and responsibilities of chairs, trustees and chief executives are widely understood, this is not always reflected in the practical reality. Lack of clarity and lack of shared understanding of roles and responsibilities can be a source of tension and impede the smooth running of the organisation.

"The hardest task is managing differing expectations of what these roles and responsibilities look like in practice. Everyone agrees the principles"

SURVEY RESPONDENT

Charity boards are often described as having a primarily 'strategic' function, with 'operational' functions being the province of the chief executive and management team. However, it is not always clear in practice where this boundary lies, and several respondents to the Commission's consultation exercise identified board 'overreach' as a potential cause of conflict and disruption in charities.

It should be noted that different organisations take different approaches to trustee involvement in operations. Organisations with few or no paid staff will by necessity require trustees to get involved in operational matters which elsewhere would be the responsibility of staff. However, while understanding of roles and responsibilities will vary across different charities, it is important that role distinctions are observed once they have been agreed and put in place.

When charities face particular challenges, there can be a temptation for the board to get more involved on the operational side, for example by seeking to influence decisions that are the agreed responsibility of the chief executive and management team, or by dealing directly with staff. This can often be counter-productive, creating confusion and mixed messages, and slowing decision-making. Unplanned, 'ad hoc' interventions by trustees beyond their agreed areas of responsibility are as likely to create problems as to achieve solutions. Similarly, trustees are usually discouraged from dealing directly with staff without the input of the chief executive; management of staff is the responsibility of the CEO and management team, and there is a danger that unplanned contact with staff can undermine their leadership.

"The lack of freedom to lead afforded to the CEO creates significant problems for the organisation. Interference from the chair holds back progress, decision-making, strategic vision and direction setting"

SURVEY RESPONDENT

Instead, charities should aim to encourage an ongoing conversation on role boundaries and a mutually supportive atmosphere in which any concerns can be discussed. If board members wish to make suggestions or raise concerns about operational matters, they should feel able to discuss them with the chair and wider board, in order that the board can come to a collective agreement about the appropriate response. A good level of contact between paid staff and the board can be useful and constructive, but it should take place within an agreed and understood framework.

"The board and the senior staff, as well as the chair and the chief executive in particular, need to be clear about the distinction between strategic and operational decisions and the difference between governance and delegated management. This is not an easy process as there will be many grey areas. If these issues are discussed, problems are less likely to occur and, if they do, they can be openly talked about and resolved"

HELP THE HOSPICES TRUSTEE INDUCTION PACK [1]

1   Help the Hospices Trustee Induction Pack, http://www.helpthehospices.org.uk/our-services/publications/publications-catalogue/?24300964_entryid210=133223

If disputes over appropriate activities and responsibilities cannot simply be resolved through open discussion and communication, we suggest that the chair take the lead on resolving the issue. The Commission's consultation exercises revealed that different voluntary organisations have notably different conceptions of the role of the chair. Frequently, charity governing documents do not define the role beyond that of a trustee, while the Charity Commission's guidance is ambiguous in this area:

The chair, as well as helping to plan and chair trustee meetings, may also be the link between the trustees and the employees and representing the charity at appropriate events. However, when it comes to making decisions about the charity, the trustees must take them together.

CHARITY COMMISSION GUIDANCE CC3 [2]

As there is not a clear and consistent definition of the role of a chair of a charity, we found that the role is viewed differently across the sector. For example, some of the charities we heard from saw the chair as holding a key leadership role within their organisation, while others felt that the chair's extra responsibility was limited to keeping order in board meetings. We concluded that it would be a mistake to suggest a one-size-fits-all approach across the sector. Nonetheless, we observed that in many cases the chair was seen as the most influential figure when it came to establishing a positive board culture and 'setting the tone' for the ethos of the board and the organisation as a whole; the chair was also widely seen as best-placed to liaise between the board and the management team. Given the importance of the chair's role to an effective organisation, it is notable that while charity CEOs can turn to organisations such as ACEVO for advice and support regarding a dispute, there is no established body supporting chairs and trustees on a similar basis. This discrepancy should be addressed. The Commission noted the emerging Institute of Chairs, launched in 2012, as an organisation with great potential to improve the support available to chairs, and we hope to see this initiative develop and grow to help fill the support gap.

2   Charity Commission Guidance CC3, The Essential Trustee: what you need to know, http://www.charitycommission.gov.uk/publications/cc3.aspx

SECTION 3. BOARD MANAGEMENT

RECOMMENDATIONS:

FOR CHARITIES:

We recommend that all charities use an open, advertised process to publicise trustee vacancies and request applications.

We recommend that all charities draw up a comprehensive induction checklist for incoming trustees.

We encourage charity trustees to review and decide how to ensure that their governance training and support needs are adequately met and budgeted for.

We recommend that trustees discuss and put in place an agreed process for addressing and resolving conflicts between key personnel at an early stage.

We recommend that trustees consider implementing defined term limits, staggered to ensure an appropriate rate of turnover.

We recommend that trustees ensure that their organisation maintains a formal, written risk register, kept under regular review.

FOR THE GOVERNMENT:

We endorse the recommendation made by the Social Sector Skills Review[1] that charity trustees should have a legal right to take time off work for trusteeship, as do school governors and magistrates.

We recommend that the Treasury review its funding of the Charity Commission in order to assess whether current and planned levels of investment are sufficient to enable it to carry out its investigative functions effectively.

1   Leading Social Sector Skills Review, http://leadingsocial.org.uk/

RECRUITMENT

An essential aspect of putting together an effective board is, of course, recruiting the right people to act as trustees. Charities look for different qualities in their board members based on their own particular needs and circumstances, but the Commission's consultation work suggested that a number of charities find it difficult to fulfil two important requirements: the need to encourage a diverse and representative board, and the need to find the right skills to complement an organisation's existing capabilities and personnel.

BOARD DIVERSITY

A number of respondents to the Commission's survey and consultation sessions felt that the sector had a problem with the lack of diversity of background among board members. When survey respondents were asked 'how satisfied are you with the diversity of your organisation's board?' only half responded positively (11.4 % 'very satisfied' and 39.1% 'satisfied), and over a quarter responded negatively (20.7% 'fairly dissatisfied' and 7.6% 'very dissatisfied'). In addition, 52.5% of survey respondents felt that their organisation had difficulty in recruiting trustees from under-represented backgrounds.

These findings align with previous work on diversity within the sector, which suggests a clear need for improvement in the diversity of charity boards. ACEVO's 2012 Pay Survey found an even lower level of satisfaction with board diversity, as well as strikingly low levels of representation of trustees of ethnic minority backgrounds. The 2012 ACEVO Pay Survey also showed that while 92.6% of charities had at least one trustee of white ethnicity, the number of trustees of other ethnicities was far lower. Apart from white ethnicity, the most widely-represented ethnicity on charity boards was Asian/British Asian, represented on only 20.4% of boards[1]. It is clear that the overwhelming majority of charity boards still fail to represent or reflect the diversity of backgrounds of their beneficiaries and supporters.

More positively, the Governance Commission survey indicates that more organisations are now actively working to address the low levels of diversity on their board, with 39.7% of survey respondents and several contributors to consultation sessions stating that their organisation had taken steps to improve its ability to recruit trustees from underrepresented backgrounds. These included methods such as the following:

• Targeting advertisements towards vehicles that can reach a wider range of potential trustees from differing backgrounds

• The use of agencies specialised in working with underrepresented groups to promote trustee vacancies

• Explicitly stating in role advertisements that the organisation is seeking trustees from underrepresented backgrounds

• Setting targets for minimum numbers of board members to be from particular under-represented groups

• Seeking external advice and support e.g. from an independent consultant

• Active recruitment drive among service users/beneficiary groups

• Targeted approaches to individuals

Despite these efforts, many respondents clearly felt frustrated at the limited success of efforts to broaden representation among trustees. Tellingly, these often reflected the fact that to improve board diversity requires the support and buy-in of the whole board and organisation. A number of consultation respondents suggested that boards and chairs sometimes impeded organisational efforts to focus more strongly on diversity of background.

"It proves exceptionally difficult to get diversity onto the agenda in a meaningful way. This has led to trustees recruiting people they know in their own image and a very poor standard of governance."
SURVEY RESPONDENT (CEO)

"Wider recruitment efforts haver been undermined by the chair recruiting from personal contacts, without proper consultation with the CEO or the board."
SURVEY RESPONDENT (CEO)

This suggests that efforts to improve board diversity require unity of purpose within the board as a whole and the wider organisation. It also suggests that recruiting from personal contacts rather than through an open and objective process can perpetuate the problem of poor diversity. Only two thirds of respondents to the Governance Commission survey felt that their organisation used an objective process to recruit trustees. The example of Mind (below) demonstrates how an open, advertised recruitment process can be used to support the organisation's wider objectives of increasing diversity and beneficiary representation on the board

To support increased diversity among trustees and avoid the problem of boards recruiting 'in their own image' from a limited pool of contacts, we recommend that all charities use an open, advertised process to publicise trustee vacancies and request applications, as recommended by Charity Commission guidance CC30[1]. We recognise that for smaller charities in particular this may have cost implications, and any measures must be proportionate to the scale and circumstances of the organisation in question. The NCVO guide to trustee recruitment for small charities suggests some useful lower-cost options to help smaller charities establish an effective recruitment process. [2]

In addition, there was widespread agreement that there is a need to increase the visibility and profile of charity trusteeship in wider society in order to reach a more diverse pool of candidates. Initiatives such as Trustees' Week, an annual event to promote trusteeship and showcase trustees' work, show that the sector is attempting to address this issue- the fourth annual Trustees' Week will take place in November 2013. However, many respondents felt that such initiatives, while popular within the sector, fail to get sufficient traction more widely, particularly among those under-represented groups that charities are trying to reach. The continued lack of trustee diversity suggests that this may be the case.

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[1]   Charity Commission Guidance CC30, http://www.charitycommission.gov.uk/publications/cc30.aspx

[2]   NCVO, Trustee Recruitment for smaller organisations, http://www.ncvo-vol.org.uk/trusteerecruitmentforsmallorganisations

TRUSTEE RECRUITMENT CASE-STUDY: MIND

Mind is a national charity providing advice and support to empower anyone experiencing a mental health problem. They campaign to improve services, raise awareness and promote understanding of mental health. The central body has a turnover of £30 million, and employs around 190 staff, whilst the network of more than 160 independent local Minds – across England and Wales – has a turnover of over £95 million, employing around 2,291 full-time staff.

Mind's Council of Management consists of up to sixteen trustees drawn from Mind's membership. Up to eight trustees are elected by the members of Mind, and up to eight members are co-opted by Council.

At Mind's AGM in 2007 it was agreed to enshrine in its Articles a principle that at least 50% of trustees should have or have had experience of mental health problems, and that Council must include so far as it is practicable at least two individuals from black or minority ethnic communities, and at least one individual living in Wales. Of the current board, 70% have had personal experience of mental health problems.

Trustees are recruited from 1 December for a term of three years, and may serve up to three consecutive terms. Members of Mind are formally notified of the election through the Mind membership magazine, e-newsletter and e-newsletter to Local Minds in July. Details and application packs are available on the Mind website and on request from the Chief Executive's office from July. The closing date is in August. A screening panel of trustees then review all of the applications to decide which are eligible, assessing whether they meet the skills and experience criteria. If the number of eligible applicants succeeds the elected places available a ballot is held. An electoral statement from each application is circulated to all members, who vote for their preferred candidates (number of votes depends on the number of vacancies). The candidates with the highest votes are elected. The process brings significant member engagement, with around 24% voting each year.

Following the election, skills and diversity gaps will be identified and criteria agreed by the screening panel for the remaining co-option appointments. Recruitment will then progress to identify suitable co-options, either from known contacts, through Mind's networks or through external recruitment in specific publications.

Mind told the commission that the diversity this process produces in its Council of Management is essential to the charity's aim of speaking for its diverse community. To complement this, a Trustee Equalities Champions group was established in 2013. The role of the Champions is to drive a focus on issues of racial/ethnic equality and other forms of marginalisation within Council and their sub-committees (each committee has a nominated Champion). They hope this will enable the board to prioritise such issues when substantive strategic and operational decisions are made.

BOARD SKILLS

Other than diversity of background, the most pressing recruitment-related concern expressed by consultation respondents was the need to secure a suitable range of trustee skills. Interestingly, there was some disagreement over the suitability of improving organisational skills and capacity through trustee recruitment. Some felt that trustee independence can become clouded in this situation. For example, specialised organisations often develop a board around their area of activity, recruiting people with specific experience related to the charity's core activity. This might include examples such as a health and social care charity recruiting trustees with experience of a particular medical condition. It was pointed out that this can create difficult situations and potential conflicts of interest when tough decisions need to be made, such as considering how to reduce spending due to financial pressures. Others felt that where a trustee's professional skills are drawn on to support the day-to-day running of a charity, this can reduce their ability to independently and objectively scrutinise the work of the executive.

These are valid concerns, but we suggest that they can be managed through effective induction and training (see below) as well as a strong understanding of the different roles and responsibilities of trustees and the executive team. For the majority of charities, and particularly those with few or no professional staff, trustees are an important source of skills and expertise. The importance of having trustees capable of asking informed questions and challenging the executive where required was also given as a strong reason for encouraging 'subject matter experts' on the board. ACEVO's 2012 Pay Survey suggests that, far from feeling undermined or challenged by trustees' skills, the majority charity chief executives would like to see a wider range of skills represented in boards: CEO confidence in the skills and experience of boards was notably lower than chair confidence on this issue.

2012 ACEVO PAY SURVEY: SATISFACTION WITH DIVERSITY OF SKILLS

Satisfaction with board diversity in terms of:	CEO	Chair
Skill set	46.7	57.4
Experience and knowledge	59.7	67.3

Whether prioritising diversity of backgrounds or of skills, charities will need to consider the most effective method for recruiting new trustees. Again, our consultation exercises revealed notable differences of opinion on this issue. While many respondents argued for full and transparent open procedures in every case, others felt that the use of networks and the 'tap on the shoulder' approach can work well.

"We use direct approaches to individual professionals by the Executive. The organisation's work engages with diverse groups, so we are able to identify and encourage people to stand for the board"
SURVEY RESPONDENT

There will no doubt be situations in which the recruitment of personal contacts produces excellent results. However, there is also a danger that by recruiting exclusively from their circle of existing contacts, boards simply end up recruiting 'in their own image,' in terms of both background and professional skills or experience. Charities have become increasingly aware of the benefits of open and objective recruitment processes for trustees, and we reiterate our recommendation that an open recruitment process is preferable to a closed process, with the potential to support increased diversity of skills as well as increased diversity of background among charity boards.

INDUCTION, TRAINING AND SUPPORT

It is important to ensure that incoming trustees have a good understanding of the organisation they are joining and their responsibilities within it. are given the information and support needed to fill the role effectively. There are a number of good guides to trustee induction including those produced by the Charity Commission[1] and KnowHow NonProfit[2] . We recommend that all charities draw up a comprehensive induction checklist for incoming trustees, including:

- Guidance setting out the general responsibilities of charity trustees, such as Charity Commission Guidance CC3.
- Key organisational information, including a written role description, scheme of delegation of responsibility, and copies of the organisation's governing documents, annual report and annual accounts.
- Introductions to the chair and fellow board members, and where appropriate members of the executive team.
- The opportunity to get to know the details of the organisation's activities and operations, for example through site visits, observation of activities, and meeting with staff and beneficiaries.

In addition, some charities choose to trial new trustees on subcommittees or advisory councils before they progress to the full board; others may use initial probationary periods to ensure that incoming trustees are capable of fulfilling their responsibilities effectively.

Although it is essential to have comprehensive trustee induction procedures in place, support and development opportunities for trustees should not only be available during the induction process. There was a widespread view among consultation respondents that too many charities are reluctant to spend money on board development or training. Few funders make provision for governance costs and the sector does not make a strong public case for the importance of investment in good governance. Consequently, the cost of supporting and maintaining good governance is often understated and the training and development needs of board members are not met. Only 41% of respondents to the Governance Commission survey stated that their organisation held a budget for governance development.

We would encourage charity trustees to review and decide how to ensure that their training and support needs in relation to governance are adequately met and budgeted for. There are a range of training, support and professional development options for board members, from individual training to board development programmes, peer support networks, and mentoring programmes. Those organisations that do make good use of these resources report largely positive experiences of them; for example, organisations that put in place a mentoring programme for either their chair or chief executive felt that it was effective in 74% of cases, according to our survey data.

The Commission advises all charities to actively encourage and support board members to engage with opportunities for professional development and learning. One obstacle to this, however, is the limited availability of many trustees who invariably have a range of other responsibilities and commitments to meet. To help address this obstacle and encourage wider take-up of training and development opportunities, we endorse the recommendation made by the Social Sector Skills Review[3] that charity trustees should have a legal right to take time off work for trusteeship, as do school governors and magistrates. This would not only widen the potential trustee pool and increase the visibility of charity trusteeship, but would also make it easier for trustees to make appropriate arrangements for ongoing training and development. It would also better reflect the importance and value of charity trusteeship, both to the sector and wider society.

1   Charity Commission paper RS1 - Trustee Recruitment, Selection and Induction, available at http://www.charitycommission.gov.uk/media/95069/report1text.pdf

2   Knowhow Non-Profit, http://knowhownonprofit.org/people/volunteers/trustees/trusteeinduction

3   Leading Social Sector Skills Review, http://leadingsocial.org.uk/

KEEPING THE BOARD INFORMED

Charity boards rely heavily on the information and preparation provided by the executive team to keep them informed and up-to-date on issues under consideration. Board papers prepared in advance of board meetings can either help or hinder the decision-making process. Consequently, it is in the interest of the chief executive and his or her staff to ensure that the board is clear on what decisions it needs to make, and has the all relevant information needed to make good decisions. To support effective board decision making, the executive team should ensure that board papers set this out as clearly as possible. Good board papers should:

- Give trustees a clear weekend in advance (two if possible) to read the papers and submit any comments. It is helpful if any comments and replies are circulated to the whole board via email in advance of a board meeting to facilitate discussion and save time.

- Aim to be as concise and clear as possible in all information presented. Avoid jargon or technicalities where possible.

- Clearly set out the decisions/choices that need to be made by the board in the upcoming meeting.

- Include all relevant information that the board should have when making each decision.

- Where the chief executive has a view on the best course of action, state this clearly and give reasons for it.

- Be discriminating in which decisions require the board's attention. They are there to oversee and scrutinise, not to manage.

MANAGING CONFLICTS AND DISPUTES

At times, even well-functioning charity boards can become affected by conflicts and disputes, either within the board, or between board members and members of the executive team. If there is no effective mechanism to address and resolve these problems, they can degenerate into protracted and sometimes costly disputes. The Commission's consultation exercise suggested that these incidents are rare; however, it was also clear that where they do arise they can impede the governance and operations of a charity if not effectively addressed. Furthermore, there is reason to believe that concern around conflicts between key personnel is increasing in the sector. The 2013 Charity Pulse survey, for example, found that 29% of respondents saw the working relationships in their charity as unhealthy, and 63% of those cited the leadership at their charities as the main cause of dissatisfaction[1]. Causes of conflict on charity boards can include:

- A failure to acknowledge and address conflicts of interest (or potential conflicts of interest).
- Conflicts of loyalty, for example among ex-officio board members.
- Failure to follow the governing documents or other agreed policies.
- Perception of undue interference and crossing of boundaries.
- Resistance to changes to organisational governance, or other major decisions.
- A lack of commitment to and engagement with the charity and its activities.

In some rare cases, conflicts arise as a result of the identification of noncompliance or malpractice among board members. Some respondents to the Governance Commission felt that these cases, although rare, are not always effectively addressed when they do arise. In particular, there is a view that chief executives wanting to 'blow the whistle' on their organisation's governance can become very isolated. In the vast majority of cases, the CEO will raise the issue with the chair and/or the wider board who will be able to address the issue. However, in those rare cases where the board and chair are reluctant to acknowledge or address an issue, potentially because of their own involvement, a chief executive's position can become very difficult. They would naturally turn to the Charity Commission, as sector regulator; however, the Commission's resources are limited and it is unusual for it to suspend trustees. In the meantime, the chief executive's job and income might well be at risk. The negative impact of this may not only affect the chief executive; as in the case study below, disputes of this kind can lead to a costly employment tribunal and significant legal costs for the charity concerned.

1   Charity Pulse 2013 – Better together?, Birdsong Charity Consulting, available at http://bird-song.co.uk/resources/

CONFLICT CASE STUDY: GLASTONBURY ABBEY

Glastonbury Abbey is a charitable trust formed to maintain and care for the ruins and surrounding areas of Glastonbury Abbey in Somerset, England; educate the public about the historic and religious importance of the site; and advance religion in accordance with Church of England doctrines. It has a turnover of around £1 million and a board of sixteen trustees, including 4 ex-officio trustees from the local diocesan board.

The following case study is reproduced with kind permission. First published in Third Sector 23 July 2013

ThirdSector

Katherine Gorbing, the former chief executive of Glastonbury Abbey, raised concerns with the board about how the charity's assets were being managed, alleged bullying by trustees and alleged conflicts of interests among trustees.

Gorbing says she made numerous attempts to resolve the problems she says she discovered at the charity, but the board did not act. She began a grievance procedure that led eventually to her dismissal.

Gorbing contacted Acevo's CEO in Crisis service and was given legal and emotional support. She made a claim of unfair dismissal to the Bristol Employment Tribunal in March this year. A scheduled five-day hearing ended on the second day when both sides agreed on a settlement.

The charity paid Gorbing £55,000, gave her a reference and made a statement of her achievements in the board's official minutes.

Gorbing says she spent more than £100,000 on legal fees and was forced to sell her home because of the loss of income.

Glastonbury Abbey says its trustees conducted a fair and detailed process in accordance with best practice and being a good employer. It says they sought legal advice and specialist HR support on all aspects and gave Gorbing every opportunity to make representations. The settlement agreement with Gorbing, it says, contained no admission of liability and was the most beneficial route for all parties.

This case study shows how a breakdown in relationships can result in legal action and wasted time and money on all sides, if not effectively addressed. When conflicts arise, it is essential to have a process in place that enables and encourages open and honest dialogue on the issue at an early stage. The Governance Commission's consultation exercises showed that charities employ a wide range of approaches, formal and informal, for resolving conflicts. Many respondents felt that the most important thing was to find an appropriate forum for talking it through with the parties involved, either on a one-to-one basis or as a group. Board away-days were seen as a good environment to talk through difficult issues, while others sought to use board appraisal as a means to address them. More formal mechanisms included the use of an external mediator from outside the organisation to hear all sides of the story and make an independent recommendation to the board. In other cases, the organisation's Patron or President, or even its major funder, were approached to broker a conversation. Alternatively, where there is a standing sub-committee with responsibility for ongoing monitoring of governance (as suggested above), this may be well-placed to take the role of mediator in any disputes.

While the precise mechanism will vary depending on the circumstances of the organisation, we recommend that trustees discuss and put in place an agreed process for addressing and resolving conflicts between key personnel at an early stage.

In addition, there is a concern that the reductions to the Charity Commission's budget has reduced its ability to intervene in response to whistleblowing on misconduct within charities. The Charity Commission's budget has undergone significant cuts since the change of government in 2010, and further funding reductions are planned. The Commission's budget was £29.6 million in 2010/11; following the 2013 Spending Review, it is forecast to fall to £20.4m by 2014/15, a fall of 31%.[1] Although we appreciate that the government aims to reduce spending, there is a danger that these cuts could be a false economy if they reduce the Commission's ability to respond to allegations of misconduct, leading to less effective charities and reduced public trust in the sector. Consequently we recommend that the Treasury review its funding of the Charity Commission in order to assess whether current and planned levels of investment are sufficient to enable it to carry out its investigative functions effectively.

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1 Abi Rimmer, "Charity Commission budget will be cut by six per cent in 2015/16", Third Sector, June 2013, http://www.thirdsector.co.uk/Finance/article/1187883/charity-commission-budget-will-cut-six-per-cent-2015-16/

TERM LIMITS

Several respondents to the Governance Commission's consultation exercises felt that term limits for charity trustees and chair could play a role in avoiding or resolving conflicts between key personnel. The view was expressed that the absence of term limits can lead to a situation in which boards that have gone for many years without significant personnel changes become fixed in their thinking and resistant to challenge or change. For example, founder trustees were identified as sometimes difficult to work with by some chief executives, who observed that founders' emotional attachment to the organisation and established ways of working may impede their ability to take a strategic view of current challenges. Founders may be especially invested in the issue that drove them to found the organisation and unwilling to prioritise other areas, take a wider view of the organisation's aims, and respond to external pressures and change.

By putting agreed term limits in place for trustees, charities can ensure that the board membership is refreshed and renewed over time. Given the changes to the environment in which charities operate over the last decade alone, there is a strong case for term limits to ensure there are sufficient opportunities to bring in new members and new ideas. As the former chair and chief executive of General Electric, Jack Welch, once put it: 'If the rate of change on the outside exceeds the rate of change on the inside, the end is near.' Charities can use term limits to ensure a planned, predictable turnover of board members, and to create opportunities to broaden the range of skills, experiences and backgrounds represented on their board. Furthermore, in situations where there is a concern over performance or a breakdown in the relationship with a particular board member, term limits at least provide the assurance that they can eventually be moved on. This is far from an ideal resolution, but preferable to allowing the situation to be prolonged indefinitely.

It is advisable for the governing document to state for how many years the charity trustees are appointed to hold office. Otherwise, a charity trustee who is no longer effective could continue as a charity trustee until he or she dies or chooses to resign

CHARITY COMMISSION GUIDANCE NOTE CC22 [1]

When implementing term limits, it is important to ensure that they are long enough for board members to acquire a detailed understanding of the organisation and their own role, and to apply that knowledge and experience in their service as a trustee. Additionally, charities should ensure that board membership is not changed en masse, but at a manageable rate, retaining a core of experienced trustees at all times. Consequently, we recommend that trustees consider implementing defined term limits, staggered to ensure an appropriate rate of turnover. We recognise that those charities that find it difficult to recruit good trustees (sometimes a problem for smaller or more locally-focused charities in particular) may need to be more circumspect about applying trustee term limits. However, the majority of charities would benefit from limiting trustee terms of office wherever practicable. Smaller charities may wish to consider including a provision for the re-appointment of trustees at the end of their terms if a suitable replacement cannot be found.

[1]   Charity Commission Guidance CC22, http://www.charitycommission.gov.uk/publications/cc22.aspx#42

MANAGING RISK

A core function of any charity's board is to anticipate, assess and report on potential risks to the organisation. All charities requiring an audit are required to make a risk management statement in the trustees' annual report, and ultimate responsibility for doing so accurately falls on the trustee body. Clearly, effective risk assessment and management is essential, not only to avoiding unnecessary risks, but also to enabling the organisation to take appropriate risks where required. Perhaps worryingly, 30% of respondents to the Governance Commission survey expressed low confidence in their organisation's ability to 'effectively assess and manage risk, and take appropriate risks where necessary to advance the organisation's aims.'

At a time when many charities are losing core funding, moving into new areas of activity, or considering collaboration with other organisations, charities face a greater range of risks than ever. It is therefore essential that risk is properly anticipated and assessed. This should not be confused with becoming risk-averse; charities must be able to take appropriate risks where they support the organisation's aims and public benefit mission. However, all charities must ensure that they are able to identify and understand the full range of risks facing the organisation.   Financial, reputational, operational and compliance-related risks all need to be appropriately considered, assessed, and mitigated against if necessary. It is also important not to dismiss risks that appear to be remote possibilities. Low-probability risks can often have the severest consequences when they do occur, particularly if not properly considered and accounted for.

"The board members I have worked with have struggled to properly assess the breadth of risk. They have tended to put undue focus on financial risk and public perception of the organisation without putting equal weight onto identifying and mitigating operational and strategic risks"
SURVEY RESPONDENT

Charity Commission Guidance CC26, Charities and Risk Management, should be required reading for all charity trustees. In addition, we recommend that all organisations maintain a formal, written risk register, kept under regular review, to inform regular discussion at board meetings. Trustees should not feel they need to undertake every aspect of the risk assessment process; as the Charity Commission guidance states, "in all but the smallest charities, the trustees are likely to delegate elements of the risk management process to staff or professional advisers." [1] However, trustees should be supported to understand and engage with risk assessment and management as a core board function. Appropriate training and development opportunities can help trustees to feel confident in their understanding of the range and complexity of risks that a modern charity can face.

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[1] Charity Commission Guidance CC26, http://www.charitycommission.gov.uk/publications/cc26.aspx#c1

Ultimately, each organisation needs to find the right balance, so that trustees are not over-involved, but are engaged enough to have a good overview and understanding. A good level of trustee engagement in risk management processes will help to foster an organisational culture in which understanding and responding to risk is recognised as a core responsibility common to all trustees.

The following recommendations may also be of use to boards wishing to improve their risk management capability:

• Consider creating a simplified risk register that the board can quickly review in each board meeting- e.g. using a traffic light system to indicate the severity of identified risk.

• For each risk, the probability of it occurring, likely impact, and mitigating actions should be considered and included in the risk register.

• Subcommittees can help to look at individual risks in more detail. Allocate different risks to the appropriate subcommittees to assess and examine before re porting to the board.

• Alternatively, use an audit subcommittee with clear delegated responsibility to review risk on an ongoing basis.

• There can often be too much focus on legal and financial risk to the detriment of other forms of risk. Ensure that trustees understand that reputational risk, governance risk and operational risk also need to be considered.

• Finally, it can be helpful if an individual board member champions and takes responsibility for ensuring that risk remains a key priority for the board and the organisation as a whole.

APPENDIX

The Commission focused primarily on England, but we expect that the lessons and recommendations arising from the work will be of interest and use to charities in Scotland, Wales and Northern Ireland.

The Commission membership was drawn from across the third sector and included members with a range of experience of charity governance, including as trustees, CEOs and external consultants.

The Commission membership was as follows:

• Derek Twine, recent CEO of the Scout Association and Vice-Chair of Church Urban Fund (Commission Chair)

• Sam Younger, CEO of the Charity Commission

• Monica Shafaq, CEO of the Kaleidoscope Plus Group

• Paul Martin, CEO of The Lesbian and Gay Foundation

• Michael Quicke, CEO of CCLA, and former trustee and Chair of the Audit Committee of the National Trust

• Patricia Armstrong, Chief Executive of ACOSVO, Chair of Scotland's Third sector Governance Forum, Member of Scotland Committee of Institute of Directors

• Alex Swallow, CEO of the Small Charities Coalition, Founder of Young Charity Trustees, Trustee at Centre 404

• Patrick McHugh, Founding Chairman, City Centre for Charity Effectiveness

• David Fielding MBE, Managing Partner of Attenti; Trustee and Vice Chair of Equinox Care, Special Advisor to ACEVO

• Ruth Lesirge: Independent governance specialist; founder trustee Association of Chairs, trustee London Film School, trustee Bishopsgate Institute

• Anne-Marie Carrie, former CEO of Barnardo's

• Pamela Chesters, former Chair of Trustees, Action for Children

• Gerald Kidd, Partner in Pothecary Witham Weld Solicitors

• Jenny Berry, Director of ACEVO; Trustee of RBS Micro Finance Fund, Three Rings, and Community Transport UK

Alex Massey (ACEVO) was Secretary to the Commission.

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