

## Legal checklist for charities and other voluntary organisations

This document contains a list of legal aspects that need to be covered by most voluntary organisations. The right hand column then contains some suggestions on how the aspect could be monitored by your Board.

Please note that the list is designed to be adjusted to suit your organisation. Legal duties may alter as new laws are passed therefore the organisation may need to add to or adjust the list in the future.

	ASPECT	Possible monitoring process by Board (insert your defined monitoring process)
1	Appointment, resignation and retirement of Board members is in line with the governing document	Monitored by a key trustee eg company secretary on appointment, resignation and retirement of members Annual reminder of process is standard at AGM and possibly summary of appointments etc. Include a confirmation statement that they were in line with the governing document.
2	Length of service of trustees and any requirements for meeting attendance is in line with the governing document	List of trustees with appointment dates, due retirement dates etc clearly shown (plus attendance at meetings and information about quorum requirements). This 'register' can be kept by a key trustee or delegated to paid staff. Discussed (and if appropriate displayed) at AGM or annually at a trustee meeting/ sub committee meeting.
3	AGM meetings are run in accordance with the governing document	Annual reminder of process by company secretary of delegated member of staff (from governing document) in the trustee (or sub-committee) meeting prior to the notice period required.
4	Board meetings are run in accordance with the governing document	Annual reminder of process and quorum requirements in Trustee meeting – (do together with a general recap of governing document and roles of trustees reminder- could be done in just 30 mins). If keeping a 'register' of trustees (see number 2 above) attending meetings / length of service etc, simply add a note for each meeting giving total number of attendees and fact that quorum reached.
5	The organisation's activities and spending are in line with the governing document	Consider including a sentence in the introduction to any treasurers' reports reminding trustees that when considering the budget, it is their duty to ensure that all spending is in line with the governing document. Alternatively- treasurer simply mentions this when papers are presented.
6	Trustees/ directors (if a company) act in the best interests of the organisation (also relates to abiding by Breach of Trust Law)	Consider adding an introductory sentence in Board meeting papers reminding Board about their key duties – act in best interests of the charity, manage conflict of interest and act diligently. Alternatively, include this in Chair's oral introduction to each meeting.
7	Annual returns / updates are sent to Charity Commission within required timescales and the sections completed are in line with the organisation's income.	Produce organisational management calendar of key organisational management dates – use this one document to track multiple areas e.g. AGM and notice deadline, insurances renewal, annual Health and Safety checks such



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1



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		<p>as PAT testing, premises check, fire equipment checks, policy and procedure review dates, Data Protection registration dates, Companies House and Charity Commission report and accounts deadlines etc. Reports from delegated staff or trustees on key issues such as compliance with HR law, monitoring equality and diversity of the organisation and its activities.</p> <p>Analyse any upcoming deadlines in each trustee (or sub committee) meeting and confirm action in each case. This should be a quick check process not a detailed discussion. Upkeep of the calendar can be delegated to paid staff.</p>
8	<p>Reports and accounts to the Charity Commission are prepared in line with Statement of Recommended Practice (SORP) requirements and submitted within required timescales. For charities above the income threshold of £500k, this includes a statement of management of risks, although it is good practice for all voluntary organisations to have a risk management system in place</p>	<p>Reminders of deadlines in the organisational management calendar (see 7 above). Treasurer to manage the production of the required reports and present to Board meetings in good time to allow discussion.</p> <p>Risk management system in place considering risks in the following areas:</p> <ul style="list-style-type: none"> <li>• Governance risks – eg inappropriate organisational structure, difficulties recruiting trustees with relevant skills, conflict of interest;</li> <li>• Operational risks- eg service quality and development, contract pricing, employment issues; health and safety issues; fraud and misappropriation;</li> <li>• Financial risks- eg accuracy and timeliness of financial information, adequacy of reserves and cash flow, diversity of income sources, investment management; diligent procedures for authorising spending (financial procedures in place which are followed)</li> <li>• External risks- eg public perception and adverse publicity, demographic changes, government policy;</li> <li>• Compliance with law and regulation- eg breach of trust law, employment law, and regulatory requirements of particular activities such as fund-raising or the running of care facilities</li> </ul>
9	<p>Accounts are audited or externally examined (if required by Charity Commission- dependent on income)</p>	<p>Board formally approves auditors and receives audited accounts – add to key organizational management calendar dates (see 7 above).</p>
10	<p>Annual report and accounts are sent to Companies House within required timescales</p>	<p>Clear delegation of the task to a key trustee (usually treasurer- or member of staff with treasurer oversight). Use organisational management calendar to check deadlines and confirm action (see 7 above)</p>
11	<p>Conflict of interests are declared and managed by the Board</p>	<p>Set up a system e.g. register of interests which is maintained by company secretary or delegated to a member of staff). Chair to remind to declare conflict of interest in each Board meeting</p>
12	<p>The organisation abides by its governing document in relation to admission / exclusion of members</p>	<p>Company secretary to monitor and report annually to Board. Exclusion is likely to be explored in a sub committee meeting.</p>



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13	The organisation abides by Health and Safety law (including PAT testing, PUWER, Manual Handling, COSHH)	Trustees should approve all policies and procedures to satisfy themselves that processes are in place. A health and safety checklist could be kept by the Health and Safety Officer used to aid an annual report back to the Board confirming that all necessary checks are taking place (annual checks in organisational management calendar see 7 above). Annual report from Health and Safety lead/ officer to Board or sub-committee showing how the policy has been followed. This would include having available key documents such as the accident log book and discussing any resultant changes to practices, log confirming weekly testing of fire alarms (e.g tick sheet for weekly fire alarm tests, VDU checks for staff, initial training and reminders provided for staff and volunteers etc)
14	The organisation carries out risk assessment of its activities and premises used (written risk assessments are required if over 5 employees)	In Health and Safety Officer report to Board (see 13 above), confirmation that risk assessments have been made and have available the written risk assessments. Some organisations use an external specialist consultant to check processes.
15	The organisation abides by Safeguarding legislation (Vetting and barring, Children's Act and Protection of Vulnerable Adults)	Annual review of policy is conducted (by Board or delegated to members of staff- confirmation that review has taken place and that processes are followed by staff can be through the organisational management calendar (see 7 above). Board should sign off all policies.
16	The organisation abides by data protection law	Annual review of policy is conducted (by Board or delegated to members of staff- confirmation that review has taken place and that processes are followed by staff can be through the organisational management calendar (see 7 above). There could be a report on Board on activity to ensure compliance by the delegated member of staff / trustee. The Board should sign off all policies. There should be confirmation to the Board that the organisation's entry to the Information Commissioner's Office has been renewed annually.
17	The organisation abides by Equal Opportunities law	Annual review of policy is conducted (by Board or delegated to members of staff- confirmation that review has taken place and that processes are followed by staff can be through the organisational management calendar (see 7 above). There could be a report on Board on activity to ensure compliance by the delegated member of staff / trustee. The Board should sign off all policies.
18	The organisation abides by disability discrimination law	Initial check. A delegated member of staff, key trustee or external consultant could be tasked with informing the Board or sub-committee as necessary on any legislation changes and how the organisation will comply.
19	The organisation abides by contract law	Delegate a key person (trustee or paid staff) to examine all



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	(whether the recipient or the commissioner –e.g. commissioning decorators)	contracts on signing. In financial policy (or risk management policy) define who is entitled to sign contracts on behalf of the organisation.
20	<p>The organisation abides by HR law. This will include a number of employee benefits and rights areas including</p> <ul style="list-style-type: none"> <li>• Terms and conditions of Employment</li> <li>• Holiday entitlement and Statutory sick pay (SSP)</li> <li>• Working time regulations</li> <li>• National Minimum wage (NMW)</li> <li>• Tax deductions and National Insurance Contributions (NICs)</li> <li>• Maternity, paternity and parental/carers' rights</li> <li>• Harassment, dismissal, dispute resolution and grievance procedures</li> <li>• Redundancy</li> <li>• Stakeholder pensions</li> <li>• Transferring a business (TUPE)</li> </ul>	<p>Have a method in place to provide specialist information – e.g trustee with HR oversight who advises managers, employ external HR consultants, or ensure that a lead member of staff is trained in HR law to provide this service for the organisation.</p> <p>Trustees should have oversight of general terms and conditions of employment. They should receive confirmation that processes have been followed.</p>
21	The organisation has adequate insurance- public liability, employers' liability (may also consider trustee liability and professional liability insurance although not a legal requirement)	Use the timetable of key dates at each Board meeting to confirm when insurance is due and that it is in place. (May be delegated to a staff member to carry out and sub-committee meeting to discuss best value)
22	<p>If a company, the organisation abides by company law, including directors' duties to:</p> <ul style="list-style-type: none"> <li>• Act within their power</li> <li>• Promote the success of the company</li> <li>• Exercise independent judgment</li> <li>• Exercise reasonable care. Skill and diligence</li> <li>• Avoid conflict of interest</li> <li>• Not accept benefits from third parties</li> <li>• Declare interest</li> </ul>	As well as informing new directors of duties on induction, provide an annual reminder of duties (combine with roles of trustees' annual reminder). Conflict of interest already discussed
23	The organisation's identity, legal status and contact details appear on publicity material letterheads and other stationery, including email	Bear in mind when designing new leaflets, cards etc and delegate one person to gather together all stationery / publicity material (including email footers and website info ) and do an initial spot check.
24	Relevant permissions are gained for publicity materials (e.g. case studies, photographs)	Have a checklist guideline for people to follow
25	The organisation follows advertising standards law- e.g. when making claims about its services	Bear in mind when composing promotional materials. Some organisations have a 'house style' document or a communications policy and it could be included here
26	The organisation abides by the laws relating to trademarks, copyright and patents	Copyright law is displayed and trustees/ staff reminded about the law's main features.



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27	The organisation is registered as an employer with HMRC (Employer Registration)	Initial check that this is the case
28	HM Revenue and customs requirements are met in relation to National Insurance payments	Treasurer needs to confirm this to Board of trustees' meetings when discussing the annual accounts. Also covered through audit.
29	HM Revenue and customs requirements are met in relation to VAT payment	Treasurer needs to confirm this to Board of trustees' meetings when discussing the annual accounts. Also covered through audit.
30	HM Revenue and customs requirements are met in relation to fundraising – public and house to house collections, raffles/ lottery, event fundraising, broadcast/ telephone/ online fundraising,	At planning stage, delegated staff (or lead trustee) to check requirements for any relevant fundraising activity in Charity Commission Document CC20 Charities and Fundraising. When reporting on fundraising activities, confirm to the Board the measures taken to ensure compliance.



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