

Via online survey: The Charity Commission

5 March 2018

### **Charity Commission Consultation – Trustee Welcome Pack**

ICSA: The Governance Institute is the professional body for governance. We have members in all sectors and are required by our Royal Charter to lead 'effective governance and efficient administration of commerce, industry and public affairs'. With 125 years' experience, we work with regulators and policy-makers to champion high standards of governance and provide qualifications, training and guidance.

We are the professional body qualifying and supporting chartered secretaries and governance, risk and compliance professionals in all sectors of the UK economy. Members are educated in a range of topics including finance, company law, administration and governance, which enables them to add value to any organisation.

ICSA has an extensive pedigree in the governance arena, advising governments and regulators on company law, charity law and governance issues. The breadth and experience of our membership enables ICSA to access a variety of applied experience in order to provide insights into effective practices across a range of organisations. Our members' wealth of expertise and experience, together with their detailed understanding of charity and company legislation and regulation, has informed our response to this consultation.

### **Survey responses**

**1. How engaging did you find the initial 'welcome email'? Would it encourage new trustees to click on the link? (Please select one statement which best reflects your views and add any comments you may have)**

- Not at all
- Needs some more work
- Good enough (It'll do)
- Very good

Additional comments:

In our view it might be worthwhile adding to the welcome email an indication that the role of trustee can also require a significant commitment in terms of work as well as of time. This should have been made clear to the trustee as part of the recruitment process, but may not have been.



Whilst the Commission may not wish to strike a negative note in its welcome email, a more strongly framed outline of the potential impact of trustees failing to adhere to the advice linked to in the guide – both on the charity and on the trustee personally – may prompt a closer reading of the material. We appreciate that the Commission is welcoming new trustees, but it is important that they understand the responsibility of the role as well as its benefits. If such an indication is not given in this email, the message must be conveyed in the guidance.

**2. How would you prefer to be addressed in the welcome email? (Please select one option)**

- By your first name
- By your title/surname
- By something more general, such as 'Dear trustee'
- There's no need for any personalisation - start with the thank you

**3. What about the length of the guide? After reading it through, what did you think about its length and the depth of information? How informative did you find it? (Please select the statement that best reflects your views)**

- Too long and detailed
- Too short - could do with more information
- The length and depth of information is okay

**4. What about the clarity of information and the tone and language used? Was it clear enough for new trustees? (Please select the statement(s) that apply)**

- Hard to understand
- Lacked enough detail
- Easy to follow
- Clear and informative
- Welcoming and engaging

Additional comments:

There is a lack of clarity surrounding a definition of the trustee role. Section 1.1, for example, states (or at least implies, given the section heading) that the new trustee will be working with fellow trustees who are 'equally responsible for the management of the charity'. Whilst in smaller charities trustees may work alongside those who carry out this function, it is not in their role as trustees that they do so and trustees are encouraged to recognise and observe the distinction. The guide also links to the 'Charity meetings' guidance which states 'most meetings will just involve you and the

other trustees, running the day-to-day business of the charity'. This too confuses the strategic role of board members with the operational role of those implementing and carrying out the charity's business.

Whilst 80% of charities employ no staff and therefore trustees play both a governance and an executive role, the important distinction between the two should be maintained as far as is possible. If the Commission were to produce two versions of this guide – one for charities with no staff and one for those who employ staff – the content could be tailored, differentiating between trustees who perform both operational and strategic activities and those who need to focus solely on strategy.

In general, we find the tone of the guide to be on the cautious side in terms of what is expected of a trustee. Whilst, again, we appreciate the need to welcome new trustees to the charity governance community, the primary function of the guide is to raise standards across the sector and to inform new trustees what is expected of them and what their responsibilities are. The covering email may well strike a more welcoming tone, but the accompanying guide should be challenging as well as informative. Some recipients, of course, may not be new to the trustee role and so should not need to be guided so gently around their duties and responsibilities.

##### **5. Overall how did the guide read to you? How well did it flow? Were there any snagging points? *(Please select the statement(s) that best sum up your views)***

There may be a case to be made for adjusting the order of the content in the guide. For example, it might make sense for the trustee duties to be set out at the start of the document rather than addressed in Section 3. These are the most important factors for trustees to consider and they underpin other areas which are discussed earlier in the guide, such as decision making, understanding the charity's purpose, and an awareness of a trustee's powers and the provisions of the governing document.

Given the importance of trustee duties, it may also be useful to present the duties themselves in the document, rather than simply giving practical actions and linking to CC3a, and to stress that they are legal obligations placed on trustees in case this has not been made clear to people new to the role. On the same theme, we would pose the question whether it is appropriate to refer readers to CC3a rather than to the Essential Trustee document in its more complete form? Whilst we appreciate that this is a shorter document, the additional detail in CC3 might be of benefit to new trustees and though we are understanding of the need to avoid overburdening those new to the role with excessive amounts of reading, it is also important that, at this point in their trustee career, they have as much relevant guidance available to them as possible.

In view of the new categories for trustee disqualification, there may be some value in prompting the trustee to check and verify their eligibility for the role, if this has not already taken place.

If the content order is to be altered, it might also be worthwhile to introduce the Charity Governance Code in a more prominent fashion. This is a key document which sets out a good deal of recommended practice which will benefit new trustees. Particularly given that the Commission has withdrawn the Hallmarks document and endorsed the new Code, it seems sensible to recommend it more explicitly to new trustees. Moreover, the section on feeling part of your charity does not seem like the most logical location for the reference to the Code.

We would suggest that the recommendation to familiarise oneself with key policies, currently the final paragraph of section 2.3, may more properly belong in section 1.4 on finding out how a charity operates.

## **6. What key messages, if any, do you feel this guide provides for new trustees?**

1. Understand your duties
2. Familiarise yourself with your charity and colleagues
3. Further information and advice is available from a range of providers

## **7. Is there anything within the guide that you would like to take out or that you think should be included? If so, please explain what you would add or omit:**

The recommendations in sections 1.2-1.4 that trustees avail themselves of the governing document, copies of strategies and plans and financial documents could be extended to cover other key documents with which trustees ought to be familiar, including: role descriptions, if available; a list of matters reserved to the board and scheme of delegation; a trustee code of conduct; the register of interests; and copies of board minutes.

We would make a case for the guide stressing the importance of trustees undergoing an induction process and, if necessary, requesting one as they begin their new role. Whilst this might not be possible in all charities, such a process would complement the section on getting to know the charity. As part of the induction trustees should be encouraged to visit different parts of the charity's operations and meet a range of volunteers, workers, beneficiaries and other stakeholders.

One aspect of a successful induction is addressed in part in section 1.1 – meeting and getting to know fellow trustees. A degree of interaction between current and prospective trustees ought to have formed part of the recruitment process and the due diligence undertaken by both sides prior to appointment. The guide should at the very least give trustees a reminder that this should have taken place. The observation in the recent Taken on Trust report that 71% of trustees were recruited through informal channels suggests that, on the one hand there exists at least some familiarity between new trustees and at least one member of the board, but also that a rigorous process is not always followed. The relationship between trustees will, of course, develop as new members integrate into the board and the charity. However, we would be careful to avoid wording any advice in such a way that implies that it is acceptable to assume a governance and/or leadership role in an organisation without any prior knowledge of it or not having undertaken research prior to appointment.

It will be necessary for the documents linked to in the guide to be updated in order to provide new trustees with the latest advice and information. For example, the version of 'It's your decision' linked to was published in May 2013. Being almost five years old, it cites and refers by name to the old version of the Charity Governance Code as well as to CTN/Small Charities Coalition. The version of CC3a presented was last updated in July 2015. As a result, it too cites the old Charity Governance Code and cannot take into consideration recent legislative and regulatory developments such as the Charities Act 2016 and the Fundraising Regulator. The guidance on 'Reporting a serious incident', on the other hand, is dated September 2017.

## **8. Overall, on a scale of 1 (not very) to 10 (extremely) how engaging and informative do you think that the welcome pack will be for new trustees? (Please select one)**

6 out of 10.

## **9. Any further comments:**

Though we remain mindful of balancing the provision of appropriate guidance with brevity, there is scope for including further detail in the guide. The main document itself is relatively short, and though some of the additional reading linked to is more detailed, we do not feel that this should be off-putting to new trustees. Indeed, it may be that at this stage of their career they are at their most engaged, receptive and interested in acquiring relevant information, and for first-time trustees at the point at which they are most in need of guidance.

The Commission should not be excessively shy in demanding the highest possible standards of governance in charities. With this in mind, the guide presented here could adopt a stronger tone in what is expected of trustees. With appropriate caveats regarding proportionality, we feel that the guide could be more aspirational and stretching and steer even new trustees towards exceeding the minimum standards of good practice.

We would request that ICSA: The Governance Institute be added to the 'Contact book' under section 8. ICSA offers almost fifty guidance notes specific to the charity sector which are free to access, as well as many more across other sectors.

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