



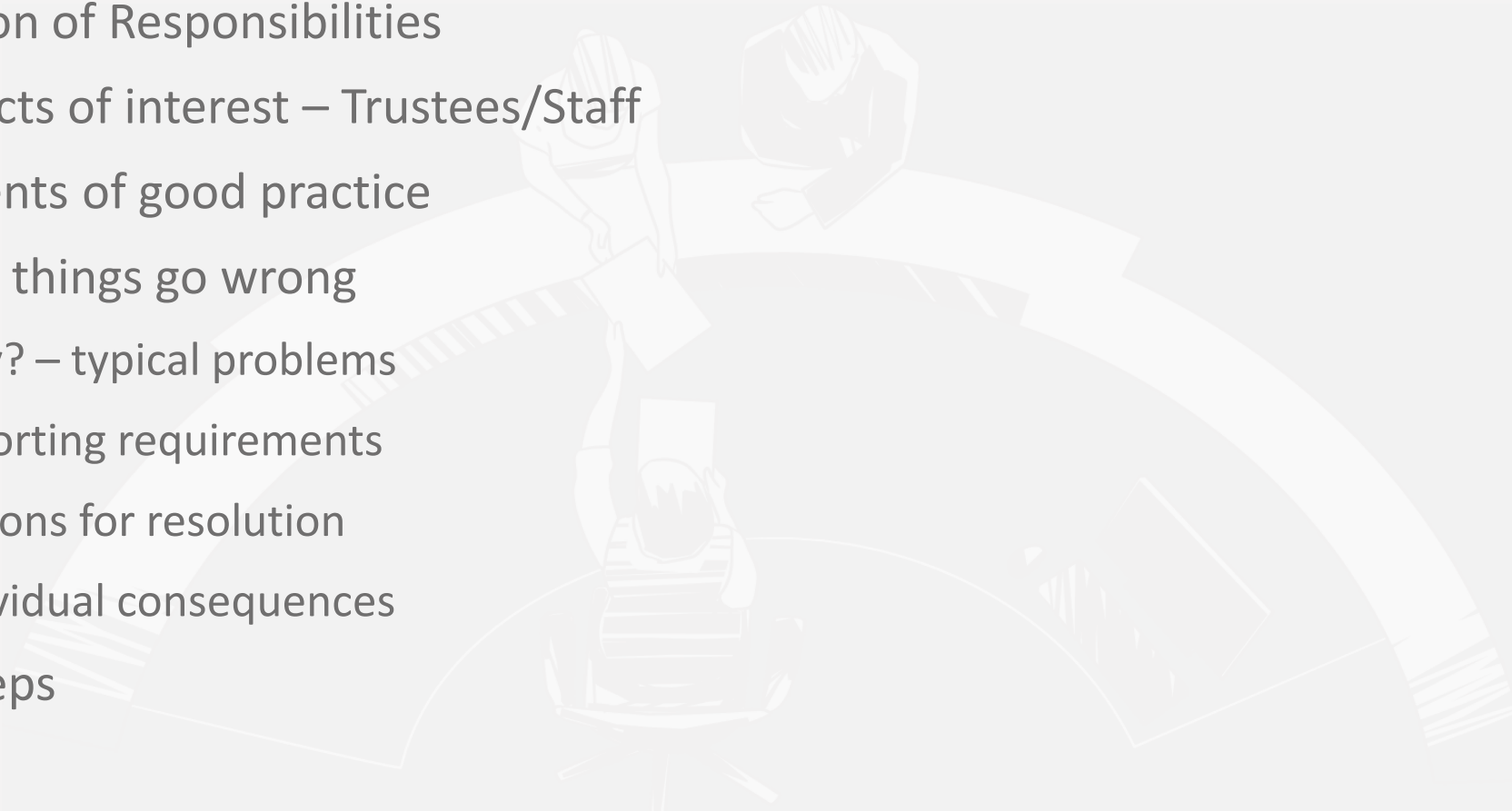
Trustees and senior managers – working together and avoiding disputes

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Trustees & Senior Managers Working Together

Agenda:

- A “whistle stop” reminder of Trustee role basics!
- Division of Responsibilities
- Conflicts of interest – Trustees/Staff
- Elements of good practice
- When things go wrong
 - Why? – typical problems
 - Reporting requirements
 - Options for resolution
 - Individual consequences
- Next steps



Trustee Role - Basics

Charity Trustee Role = Voluntary in nature, but

“The buck stops here”

- Oversight and supervision
- Ultimate responsibility
- “Fiduciary Relationship” – A Duty of Loyalty
 - No conflict
 - No personal profit
 - Undivided loyalty
 - Confidentiality

Trustee Duties

Basic descriptions of duties

- Compliance
- Prudence (responsible, reasonable, honest)
- Care

Trustee is responsible for:

- The Charity itself
- All its activities
- Its subsidiaries
- Its investments

Different Responsibilities/Roles

Trustees

Strategy

Policy

Supervision

Decide and delegate

OR

Staff

Recommend

Undertake delegations

Report back

Carry out delegations

Different Responsibilities/Roles

Staff should:

- Understand the nature of a charity
- Understand the role of the Trustees
- Be aware of the governing document, the objects & beneficiaries
- Understand activities should further objects and meet Public Benefit Test
- Act within delegations

Different Responsibilities/Roles

Trustees

- Generally unpaid
- S/P/S
- Decide & Delegate

The buck stops here

Staff

- Paid
- R/U/R
- Carry out Delegations

The buck DOES NOT stop here

Conflicts of Interest – Trustees & Senior Staff

- More than just something to be “*declared*”
- Generally lighter touch for staff, but not always
- Conflicts of *personal* interest
 - Payments or benefits to Trustees
- Conflicts of loyalty (to another person/body)
 - Connected persons / Umbrella bodies / contracting party
- Who makes decision as to who can:
 - Remain in meeting?
 - Participate in discussions/make recommendations/provide advice?
 - Vote?

Working Together - Elements of Good practice

- Induction of trustees and Staff
- Things to be put in writing:
 - Trustee Role descriptions – General/Specific
 - Staff job descriptions/contracts of employment
 - Trustee delegations
 - Committee Terms of Reference/Delegations
 - Staff delegations
 - Declarations of Interest
- Dissemination of Information

Role Descriptions: Chairman/Officers

Should cover:

- At meetings
- Between meetings
- Externally
- Interaction with staff roles
- Specific issues – performance oversight, financial, regulatory

Delegations

Required for Individual Trustees, Committees, Staff

- Clear terms of reference / role
- Recorded in writing
- Complied with / enforced
- Kept under review & updated
- Interaction with contract of employment / job description

Declarations of Interest

- Keep up to date Register of Interests
- Particular matters to cover
 - Employment
 - Other appointments (including trading subsidiary)
 - Memberships
 - Investments
 - Gifts/Hospitality
 - Beneficiary connection
 - Contracts/remuneration (even indirect)

Working Together - When things go wrong

- Typically why?
 - Absence of elements of good practice
 - Personalities and egos!
 - Longevity
- Reporting Requirements
 - Reporting Serious Incidents
 - Whistleblowing
 - Funders and Contracts

Dissemination of Information

- Who knows what?
 - Trustees – Everything?
 - Staff – Enough to do their job properly
- Duty of Confidentiality
 - Applies to Trustees AND Staff
- Meetings
 - Board – staff only present with agreement of Trustees, can be excluded
 - Staff – Board can require Trustee(s) to attend

When things go wrong: Serious Incidents

- Trustees may need to:
 - Report a Serious Incident to Charity Commission
 - Report a matter to Police
 - Deal with a less serious incident without initial reporting
- Staff / advisors may need to whistle blow:
 - Public Interest Disclosure Act protects ‘whistleblowers’
 - Auditors / Examiners – s 156 Charities Act 2011
- Not sure serious / significant? – Report anyway!

When things go wrong: Serious Incidents

- What/When? (See CC Risk Framework)
- ***Serious*** incident which results (or risks) **significant**:
 - Loss of charity money
 - Damage to charity property
 - Harm to charity's work, beneficiaries or reputation
- Examples include:
 - *Fraud / Theft; Links to terrorism; lack of safeguarding policies / vetting procedures; "disqualified" trustee acting; tax abuse / inappropriate personal benefit; abuse of beneficiaries; donation from unknown source*

Working Together - When things go wrong

- Options for Resolution?
 - Complaints and Grievance procedures
 - Mediation/Arbitration/Court/Tribunal
 - Change Governing Documents
 - Introduce better practice
- Personal consequences
 - Trustee liability?
 - Charities (Protection and Social Investment) Act 2016

Working Together - Next Steps

- Who initiates?
 - Staff recommend & advise, Trustees decide!
- Review internal practices
- Introduce missing elements
- Change the governing document if necessary
- Get outside help

Any questions



Contact details



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