

Operational liabilities

Operational liabilities are liabilities incurred by the organisation because of what the organisation does. Unlike governance liabilities, they do not arise from the trustees' personal duties. Some of the main operational liabilities are listed below...

- Failure to comply with statutory or government regulator
- When you do not pay what you owe
- Failure to complete a project or divert the money to other sources
- Third party, for example, in the case of your minibus having an accident
- Give advice to a client that leads to financial loss

There are also liabilities to staff and volunteers, which include obligations to provide:

- salaries
- pensions
- holidays
- redundancy
- equal opportunities,
- health and safety
- contracts of employment.

What to do when worried about liability

If you are worried about any element of your obligations as a trustee or the risks attached, you need to resolve that worry quickly. Below is a list of useful contacts.

The Charity Commission website:
www.charity-commission.gov.uk


The National Council for Voluntary Organisations (www.ncvo-vol.org.uk)

See also the Voluntary Sector Legal Handbook. See Appendix 3 in the full guide, 'Reducing the Risks'. Local or national support agencies such as a council for voluntary services (CVS), sometimes called voluntary action councils.

Reducing the Risks

A quick guide





We are all concerned about managing risk in whatever activities that we undertake. It is important that people who voluntarily give their time to run charities and similar voluntary organisations, should be aware of, and feel comfortable with, the limited risks that are involved.

This leaflet is a quick overview to the full guide 'Reducing the risks' a guide to trustees' liabilities. It seeks to highlight the main points and indicate where they are discussed in further detail.



Two types of liability

- 1 Governance liabilities arise because of the nature of a trustee's job. The most common of these liabilities arise from obligations as a charity trustee or as a company director.
- 2 Operational liabilities arise from the activities or constitution of the organisation. An example is liability for rent under a lease or because of an injury caused to a staff member.

What is a trustee?

The technical definition of charity trustees is: 'The persons having the general control and management of the administration of the charity.' (Charities Act 1993, Section 97)

Trustees are defined by what they do, not how they are labelled. Confusingly, they are called by many different names, including:

- management committee members
- council members
- governors
- board members
- executive committee members
- directors

What they all have in common is that they are the final arbiters of what their organisation does (even if they may not sometimes feel they are).

What do trustees do?

- Give firm strategic direction to the organisation
Act in the best interests of the charity
- Act prudently which involves ensuring that:
 - the organisation remains solvent
 - assets and funds are used wisely
- Ensure the organisation pursues its objects as defined in the governing document
- Manage conflicts of interest
- Act with integrity

Managing Governance Liability

- Ensure there is clarity in roles and responsibilities
- Ensure good management practice
- Ensure there are role descriptions for trustees
- Ensure there is a trustee code of conduct and forms for declaration of interests

Governance liabilities are not difficult to manage as long as you have the information. The starting point is a really effective induction programme for new trustees.

However giving people the material is not enough. A good programme of induction will include taking people through the material in the pack, ensuring they understand it, and introducing them to activities, premises and the people of the charity.