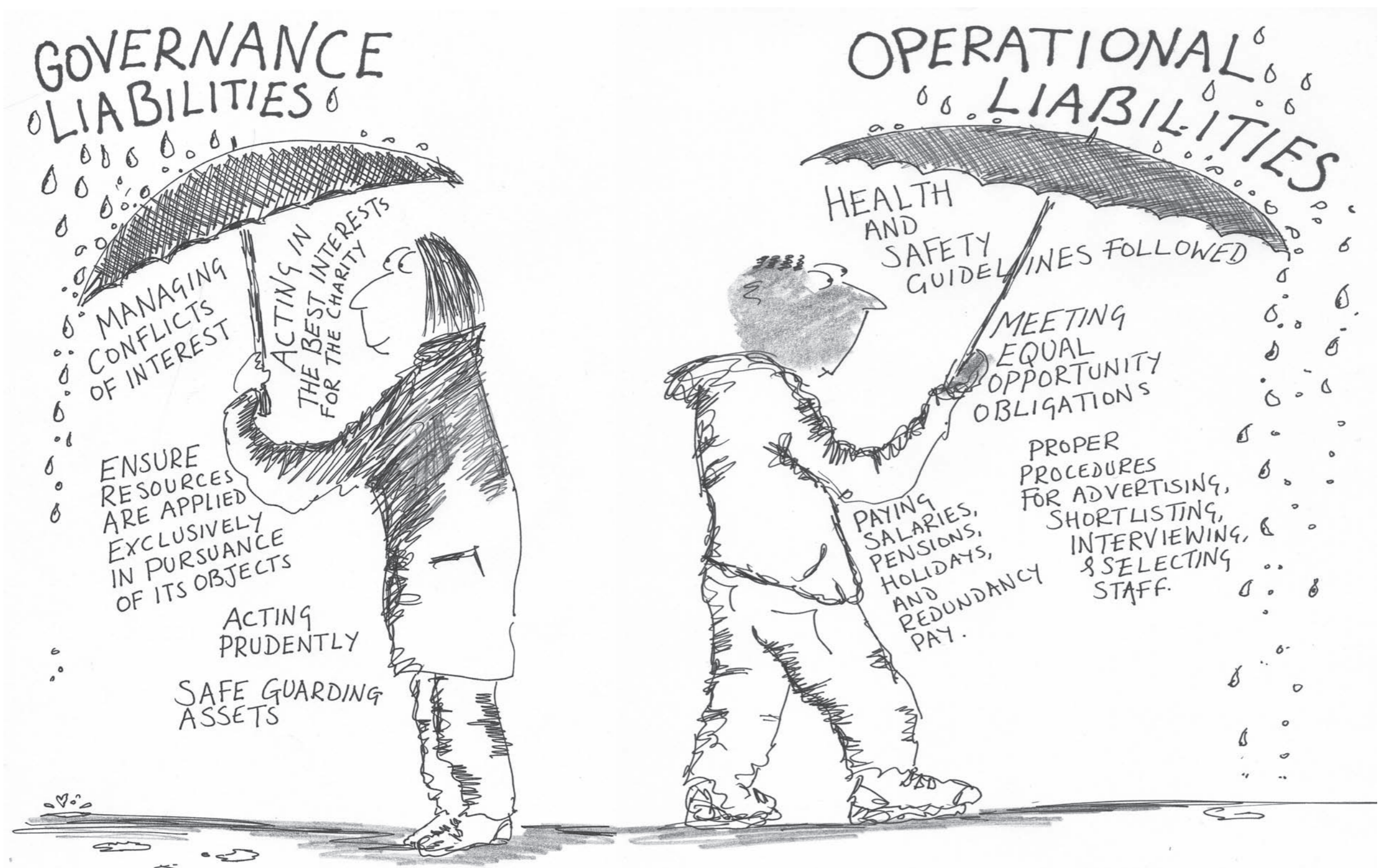




Reducing the Risks Workshop Pack

Including

- **CD-ROM**
- **'Reducing the Risks'** (a guide to trustee liabilities)
- **Quick Guide**
- **True/false quiz**
- **Self assessment checklist**
- **Poster**
- **Trainer's guide**



Reducing the Risks

Welcome to 'Reducing the Risks' Workshop



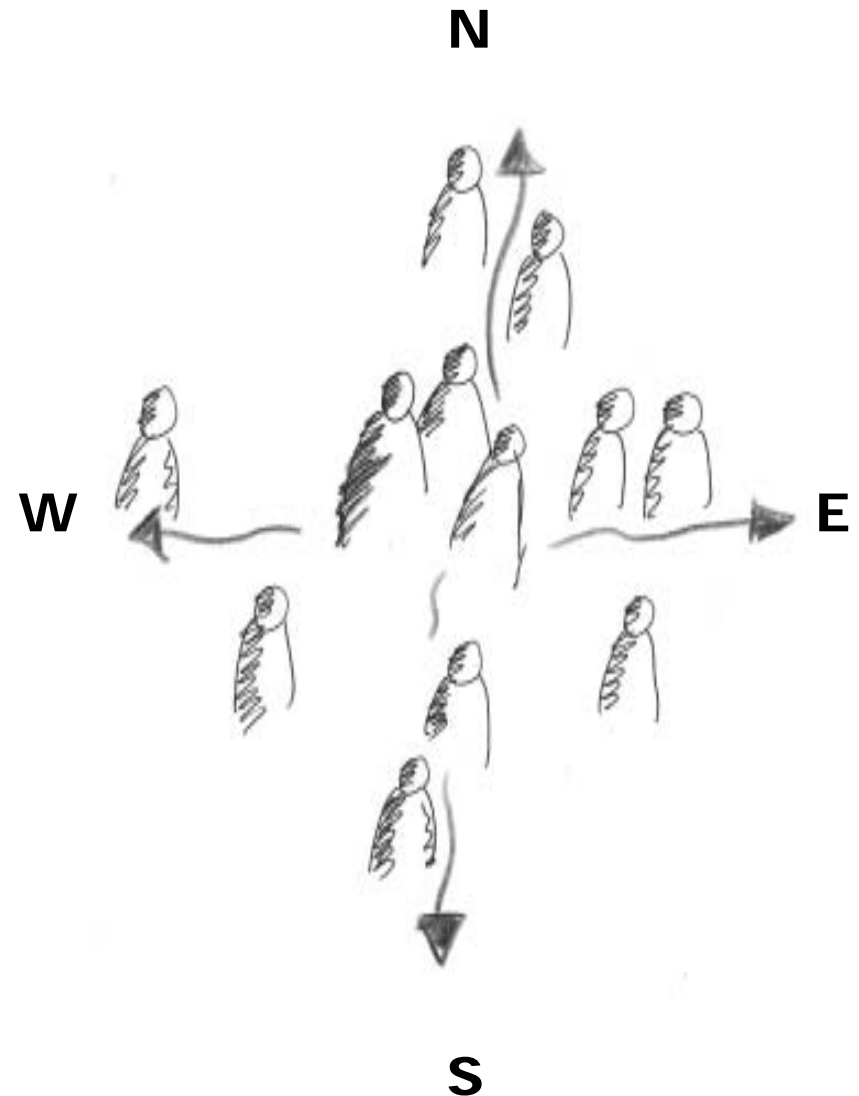
Workshop Purpose

To assess and
minimise the risks
associated with Trustee
Liability



Introductions

- The centre of the room is the location of this workshop. Each wall represents north, south, east and west
- Place yourselves in the room according to where your charity is based
- Introduce yourself by saying the location of your charity and what it does briefly.



Liabilities fall into two categories

Governance
Liabilities:

Arise from
the duties a
trustee has

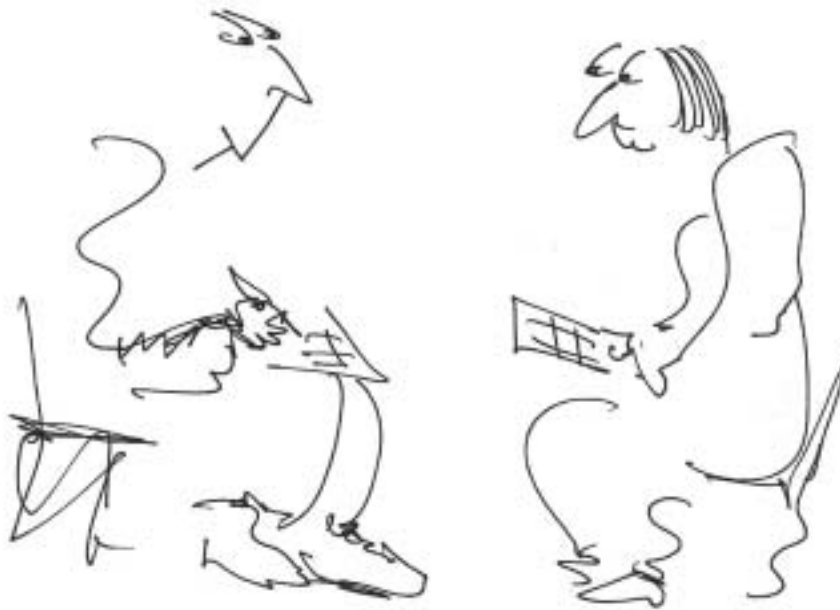


Operational
Liabilities:

Arise from
what the
organisation
does

Quiz – True/False

- Split group into pairs
- Give each pair a true/false answer sheet
- Participants discuss the answers in pairs



What is personal liability?

Trustee liability may arise because trustees:

- Are responsible for the criminal offences of the organisation
- Are responsible for some breaches of statutory duty
- Are liable under covenants, obligations or mortgages affecting land or other property
- Have to repay money because of trust obligations
- Have broken contractual obligations
- Have committed a wrongdoing



Who is a charity trustee?

'The persons having the general control and management of the administration of the charity'
(*Charities act 1993 section 97*)

- Management committee members
- Council members
- Governors
- Board members
- Executive committee members
- Directors



What they have in common is that they are the final arbiters of what their organisation does



Who cannot be a trustee?

- For unincorporated organisations, anyone under the age of 18
- Anyone with a conviction for an offence of dishonesty or deception
- Anyone who is bankrupt
- Someone who has an arrangement with creditors under the Insolvency Act 1986 which has not been discharged
- A person who has been removed by the Charity Commission or High Court from acting as a trustee of a charitable body
- Someone who has been disqualified under the Company Directors Disqualification Act
- Anyone subject to an order under the Insolvency Act 1986 for failure to make a payment under a court order

What do trustees do?

Protect and manage the property of the charity

Ensure financial stability

Ensure effective and efficient administration



Appoint and monitor the performance of the director/CEO

Ensure organisation keeps to its objects as defined in the Governing Document

Safeguard good name of the organisation



Managing Governance Liabilities

Board
development

Professional
advice

Induction
programme



Good
management
practice

Clear roles and
responsibilities

Records of
decisions taken

What do trustees do?

For more information, look at the full guide to 'Reducing the Risks'



Pages 1-8 Defining Trustees and Liabilities

Pages 14-24 Managing liabilities

Take a break



Welcome Back





'Greenshoots Farm' Case Study



- Greenshoots Farm is an inner city farm, bringing the countryside and its activities to urban people
- It is the brainchild of the director Paul Seaton who took a piece of derelict land and with the help of the local people, transformed it into gardens and farmland
- The last 5 years has seen the emergence of a horticultural therapy unit designed to help and stimulate those with learning disabilities

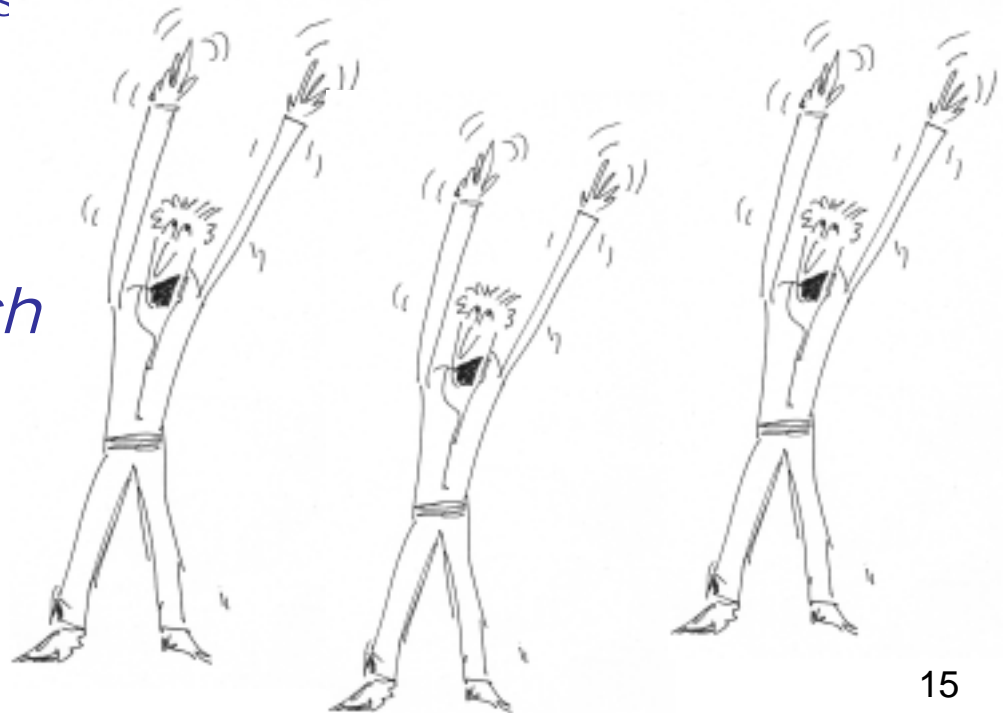
You are now going to see a meeting between Paul and Tricia, the Director and Chair of Greenshoots Farm.

Key Questions to think about

Break into small groups for 15-20 minutes:

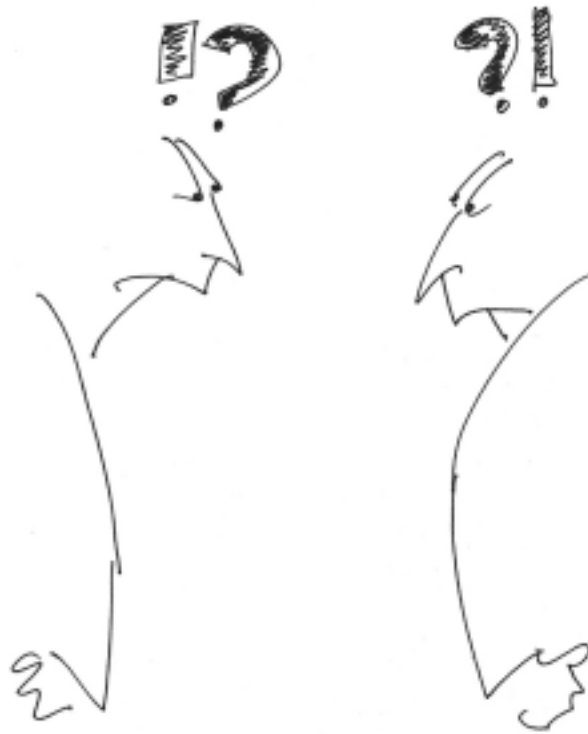
- Make a list of the key governance issues you have seen in this sketch
- Discuss how you would advise this charity in order to avoid a future crisis

Have a stretch



Plenary discussion of the following questions

- Do we have similar issues in our own organisations?
- What steps should we take to make sure we protect ourselves?





Issues arising from Greenshoots sketch

- Health and safety – residents and staff members
- Redundancy for staff members
- Treasurer not doing her job – accounts not up to date
- Committee member not attending meetings
- Donor's money not being spent as instructed
- Investing without advice
- Taking back allotments before contract runs out
- No induction procedure

Liabilities for Operational Risks

The liability could be to:

- A statutory or government regulator
- The other party to a contract – when you do not pay what you owe
- A funder – when you do not complete a project or divert the money for other uses
- A client – for the advice you give when it causes financial loss
- A third party when your minibus has an accident



Liabilities to staff and volunteers

- Financial obligations, including salary, pensions, holiday and redundancy pay
- Procedural duties such as disciplinary procedure
- Paperwork requirements such as contract or terms and conditions of employment
- Insurance requirements including employers' insurance and consideration of other insurance such as fidelity or personal injury cover
- Duties of care under health and safety legislation
- Equal opportunities obligations



Managing Operational Liabilities

Taking professional advice

Appropriate induction, training, supervision and support

Building financial reserves



Having effective risk management procedures

Acting carefully and thinking about risk

Self Assessment Checklist

- Acts as a Governance Health Check
- Ideally best done as a board away day
- Look through it now to get a general feel – discuss it with a fellow participant



Summary

Governance Liabilities

Operational Liabilities

Effective induction
for new trustees

Clear roles and
responsibilities

Regular training for
trustees

Acting carefully and
thinking about risk

Building financial
reserves

Taking professional
advice

Effective risk
management
procedures



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...

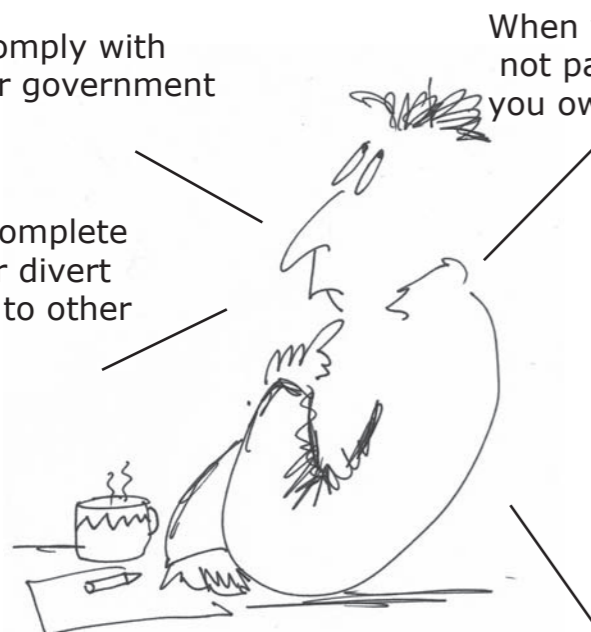
Failure to comply with statutory or government regulator

Failure to complete a project or divert the money to other sources

When you do not pay what you owe

Give advice to a client that leads to financial loss

Third party, for example, in the case of your minibus having an accident



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.

For further details see pages 26 - 28

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 (*see full list on page 31 of the full guide, 'Reducing the Risks'*).



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.

For further details contact:
Governance Hub: www.governancehub.org.uk

Adapted, illustrated and produced by Bill Crooks and Jackie Mouradian of Mosaic Contact: www.mosaic.uk.net

Reducing the risks a quick guide

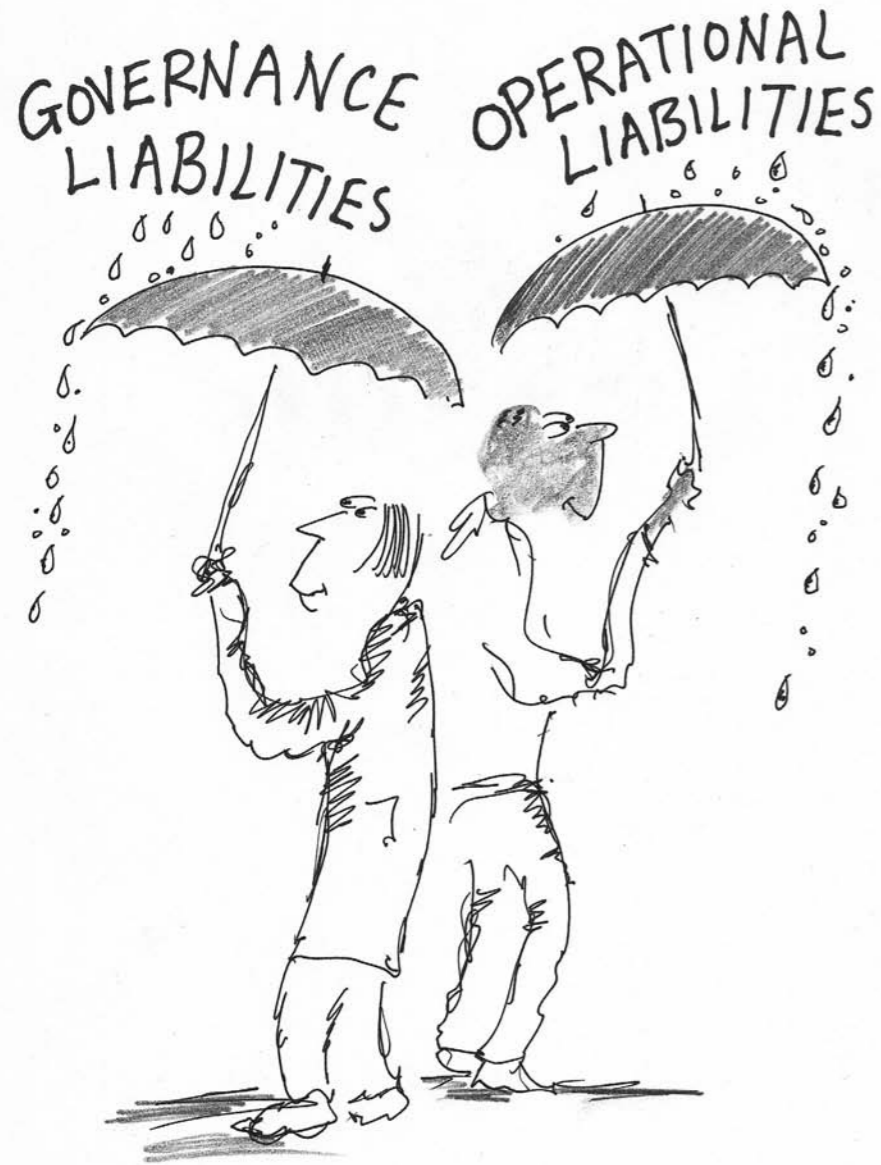


Introduction

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.

See page 3 in the full guide 'Reducing the Risks'

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). For further details, see pages 3-5 in the full guide 'Reducing the Risks'.

What do trustees do?

Give firm strategic direction to the organisation

Act in the best interests of the charity

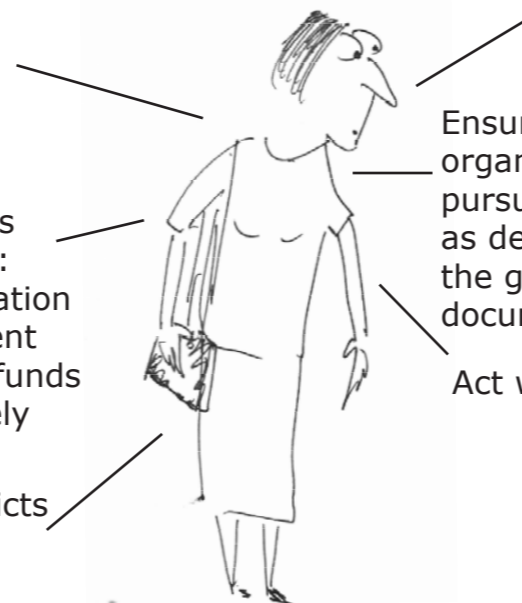
Act prudently which involves ensuring that:

- the organisation remains solvent
- assets and funds are used wisely

Ensure the organisation pursues its objects as defined in the governing document

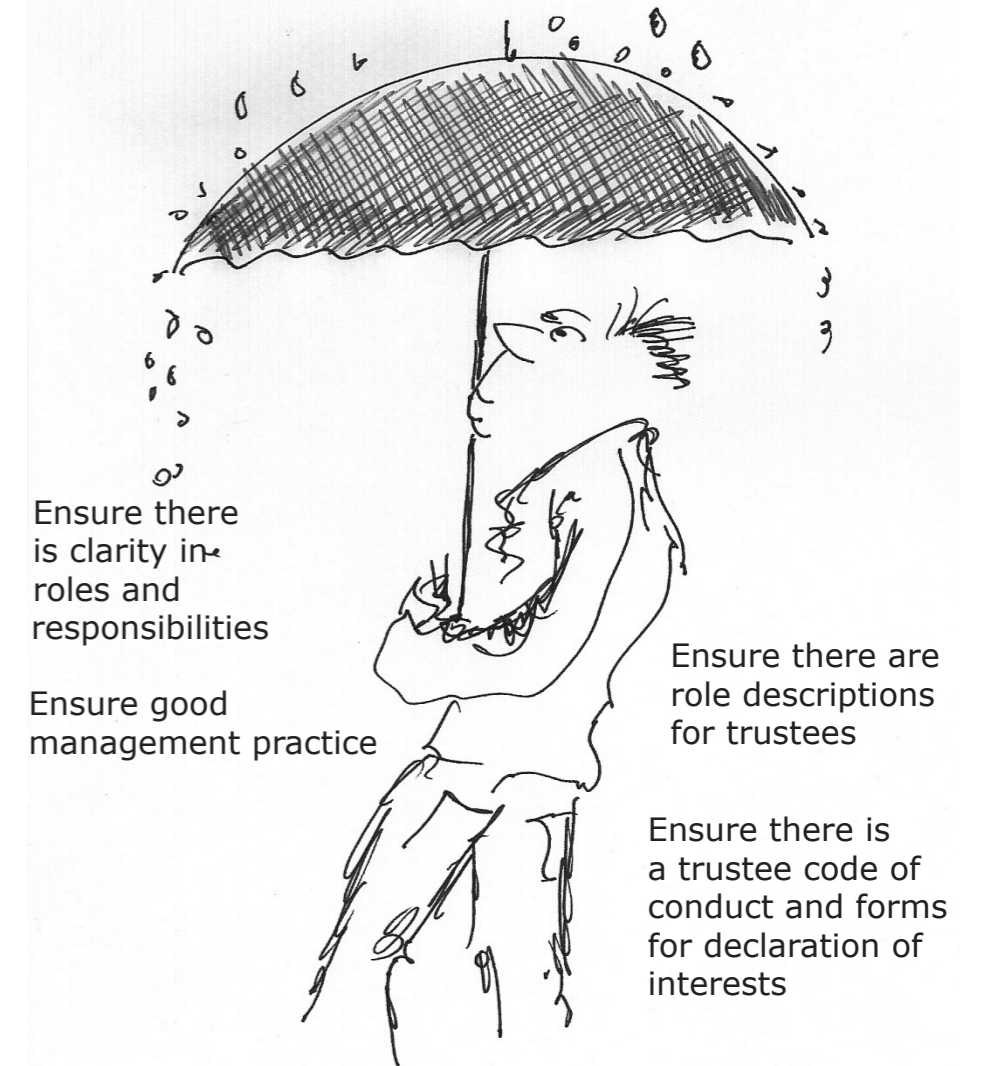
Act with integrity

Manage conflicts of interest



See pages 14 -21 in the full guide 'Reducing the Risks'

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.

See pages 35-36 appendix 2 for a checklist of suggested material for a trustee induction pack. 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.

True / False Quiz

	Questions	True	False
1	Trustees are not responsible for the criminal activities of the organisation		
2	Trustee liability may arise because the organisation cannot meet the final payment on a building		
3	Which of the following are trustees?		
	Management committee members		
	Council members		
	Governors		
	Board members		
	Executive committee members		
	Directors		
4	If the charity is in the form of a company, someone under the age of 18 may serve as a director		
5	Where there is a significant conflict of interest, a trustee should be involved in any decision relating to that conflict		
6	Trustees cannot accept any benefit from being a trustee unless authorised by the governing document, or an Order of the Charity Commission		
7	Acting prudently involves ensuring that the organisation remains solvent and assets and funds are used wisely		
8	Operational liabilities arise from the trustees' personal duties		
9	An operational liability could be to a funder when a project is not completed		
10	The level of risk is the same for a purely voluntary organisation as it is for an organisation employing staff		

True/False Quiz Answers

	Questions	True	False	See 'Reducing the Risks' page
1	Trustees are not responsible for the criminal activities of the organisation		x	2
2	Trustee liability may arise because the organisation cannot meet the final payment on a building	x		2
3	Which of the following are trustees?			3
	Management committee members	x		
	Council members	x		
	Governors	x		
	Board members	x		
	Executive committee members	x		
	Directors	x		
4	If the charity is in the form of a company, someone under the age of 18 may serve as a director	x		5
5	Where there is a significant conflict of interest, a trustee should be involved in any decision relating to that conflict		x	14
6	Trustees cannot accept any benefit from being a trustee unless authorised by the governing document, or an Order of the Charity Commission	x		15
7	Acting prudently involves ensuring that the organisation remains solvent and assets and funds are used wisely	x		19
8	Operational liabilities arise from the trustees' personal duties		x	25
9	An operational liability could be to a funder when a project is not completed	x		26
10	The level of risk is the same for a purely voluntary organisation as it is for an organisation employing staff		x	26



REDUCING THE RISKS

Liabilities Checklist

This checklist is designed to help strengthen the awareness of your trustees about liabilities. It also acts as a signpost to the document 'Reducing the Risks'

Questions

What was the best trustees' meeting you have ever had? What made it so good?

If trustees had to describe the character of their meetings in the form of a mode of transport what would it be, and why?

What has been the most challenging decision trustees have ever had to make?

No	Question	Don't know	Some-times	Most of the time	All of the time
1	Do trustees know about personal liability (See page 2 of Reducing the Risk)				
2	Have trustees been inducted into their role and responsibilities?				
3	Are all trustees aware of their specific duties to the charity? (See page 3)				
4	Are trustees aware of what they are liable for?				
5	Are trustees provided with a briefing pack? (See pages 3-5)				
6	Before a potential trustee joins, are they made fully aware of the role, duties and responsibility they have to the charity to ensure its safe and smooth running?				
7	Does the charity encourage new trustees to attend training on being a good trustee?				
8	Are trustees aware of the Code of Governance? (see www.governancehub.org.uk)				
9	Do trustees refer to and use the code of governance to guide their conduct? (see www.governancehub.org.uk)				
10	Do trustees manage conflicts of interest? See page 14)				

No	Question	Don't know	Some-times	Most of the time	All of the time
11	Do trustees safeguard all the charity assets? (See page 18)				
12	Do trustees act prudently and with care? (See page 19-20)				
13	Do trustees act collectively? (See page 20)				
14	Are trustees aware of the difference between governance and operational liabilities? (See page 8)				
15	Can trustees name 5-6 areas of potential operational risk? (See page 26)				
16	Are trustees aware of the liabilities to staff and volunteers? (see pages 26-27)				
17	Are trustees aware of the increase in risk when a charity moves from being purely voluntary to employing staff? (See page 26)				
18	Are trustees aware of the key tools for managing organisational liabilities? (see pages 27-28)				
19	Do trustees know what is meant by incorporation? (see pages 9-13)				
20	Do trustees receive regular updates on charity law and good practice?				
21	Do trustees review their performance and discuss how it can be strengthened?				
22	Are trustees all aware of key centres of advice and support? (See page 31)				



Reducing the Risks A Trainer's Guide

Introduction

The purpose of this guide is to help you plan and run training events on assessing and minimising the risks associated with trustee liabilities.

Quick tips for making training effective

- Plan well in advance
- Walk yourself through the programme
- Check all the PowerPoint projectors and sound
- Get a flipchart and write a welcome notice, outline of the session, and the questions for the group tasks so the group can read clearly for themselves
- Provide mints or chocolates to brighten up the last sessions
- Check all the marker pens work and are either black or blue so they can be clearly seen
- Have plenty of coloured paper for participants to write their feedback on.

Ways to use the material

- There is a set outline for the trainer to follow which is linked to the PowerPoint 'Reducing the Risks' This has all the instructions for the groupwork and questions for use with the CD-ROM sketch 'Greenshoots Farm'
- Alternatively you can look through the PowerPoints, activities and CD-ROM sketch and select according to the needs of your participants
- If you wish to use the material for trustee training at a board meeting or as part of an away day, or over several evenings, then the material can be broken down into individual blocks. See outline 2 for suggested blocks.
- Alternatively you could use the PowerPoint that has the sketch and video clips inserted into the slides which can be run as a complete package.

Here is a suggested timetable for use with the PowerPoint on its own

Timings	Activity	PowerPoint slide	Comments
9.30	Participants arrive	1. Opening slide	You can create a good atmosphere by providing tea/coffee and jazz music in the background
10.00	Welcome, purpose introductions	2. Workshop purpose slide 3. Two types of liabilities	Explain the workshop will be in 2 parts. The first part will look at personal liability and 'what is a trustee?' The second part will focus on the case study and look at operational liabilities
10.15	Quiz True/False	4 Quiz -true/false	a) break into small groups b) use the answer sheet to respond. You could give a prize for top marks c) Give out answer sheet and explain that we will go into the answers in more depth
10.45	Input on governance liability including personal liability and what is a trustee?	5. What is personal liability 6. Who cannot be a trustee? 7. Who is a trustee? 8. What do trustees do? 9. Managing governance liabilities 10. Where to look for more information	Work through the following slides, 5-10, not dwelling too long on each slide but be prepared to answer any questions
11.15	Coffee/tea break	11. Take a break	
11.30		12. Welcome back	
11.30	Introduce Greenshoots Farm CD-ROM	13. Greenshoots Farm case study	Make sure the participants have the questions before the CD-ROM is shown
11.40	Show CD-ROM		
11.50	Small group discussion using the questions	14. Key questions	Allow the group 20 mins to discuss the questions – then feedback on flipcharts
12.10	Feedback from small groups		
12.25	Plenary Questions	15. Plenary Questions 16. Issues arising from Greenshoots Farm	These are optional – you might find they are answered in the small group feedback. If not then feel free to discuss them
12.35	Input from PowerPoint slides	17. Liabilities for Operational Risks 18. Liabilities to staff and volunteers 19. Managing operational liabilities	
12.55	Self assessment checklist	20. Self assessment checklist	Give out the checklist and explain how it can be used to help identify gaps Get the group to look at and share impressions with fellow participants
13.10	Summary	21. Summary	Briefly summarise the programme

Outline 2

Programme outline for use of training material in individual sessions over a number of weeks or months.

Session 1. 1¼ to 1½ hours

1. Opening slide
2. Workshop purpose
3. Two types of liabilities
4. Quiz True/false
5. Feedback and discussion
6. Input on personal liability and what is a trustee
7. Review session with individual insights and learning

Session 2 1¼ to 1½ hours

1. Opening slide
2. Review the learning from session 1
3. 'Greenshoots' case study on CD-ROM
4. Small group discussion
5. Feedback
6. Input on operational liabilities
7. Review session with individual insights and learning

Session 3 1 – 1¼ hours

1. Opening slide
2. Review the learning from sessions 1 and 2
3. Introduce the self-assessment checklist
4. Discuss common findings
5. Review sources of advice
6. Review learning from the session

Ideas to review the training/learning

Balloons

- At the end of the workshop/session – get everyone to blow up a balloon and write on it in marker pen the things they have learnt from the training
- Put the group into two teams – give one team all the red balloons and marker pens and get them to write on each balloon one liability. Give the other team green balloons and marker pens and get them to write on each balloon one way of managing liabilities.

Once the time is up (about 10 mins) see if they can match up the liability to how it could be managed.

Umbrellas

- Put up two umbrellas at each end of the room – one umbrella represents governance liabilities and the other operational liabilities. Divide the group between the two umbrellas and get them to brainstorm on to post-its the ideas they have learnt for either managing governance liabilities or operational liabilities
- The participants should then stick the post-its on the umbrellas and then check each other's umbrellas. This could be followed by a feedback session.

Other tips for the training

- Provide mints/chocolates at a time when the group is flagging
- Summarise the last session before and after the break
- Introduce each new topic
- Make sure you read all the material before you do the training, especially the full guide to reducing risk, so you know which sections deal with what, should any questions arise.

Reducing the Risks Workshop

Evaluation Form



Name
(optional)

Organisation
(optional)

What was most helpful?

What was least helpful?

What could be improved?

What will you apply back in your organisation?

How was the workshop venue – food, logistics?

Any other comments?

Thank you