

Charity Commission publishes revised trustee guidance

The Charity Commission has recently published a revised version of its trustee guidance - *The Essential Trustee* (CC3). This comes after a public consultation on the draft guidance, which we reported on in our [April 2015 e-mail update](#).

‘Clearer and more concise’

The Commission’s aim in producing the updated guidance was to make it clearer and more concise, to ensure that all trustees are aware of their duties and what is expected of them. Trustees’ basic legal duties have not changed, but the guidance breaks down a trustee’s role into the following six duties, which are arguably easier to understand than the previous guidance:

- ensuring that the charity is carrying out its purpose for the public benefit
- complying with charity’s governing document and the law
- acting in the charity’s best interests
- managing a charity’s resources responsibly
- acting with reasonable care and skill
- ensuring your charity is accountable

The new *Essential Trustee* guidance has also been praised for adopting a clearer structure and providing links to other relevant Charity Commission guidance.

Changes to ‘must’ and ‘should’

Concerns were raised during the consultation phase about the changes to the meaning of what trustees ‘must’ and ‘should’ do in order to comply with the law and what the Charity Commission considers to be best practice.

Historically the Charity Commission has been very careful to make the distinction between a trustee’s legal duties and recommended good practice. However, the new guidance states that ‘should’ means *‘something that is good practice that the commission expects trustees to follow and apply to their charity’*. This essentially means that trustees will need to comply with specified good practice unless they can justify not doing so (i.e. complying in a different way).

Although the final version of the new guidance does provide a clearer explanation on the difference between legal duties and best practice, there is still a concern that the change places a greater burden on charities to comply with all recommended good practice, and that the tougher tone of the guidance may discourage people from becoming trustees in the future.

Consequences for the sector

It is important that trustees review the revised guidance and understand the consequences of not complying with the legal duties and recommendations contained within it. This is especially relevant in the current climate, with increasing criticism of fundraising practices amongst some charities, and the increasingly tough and interventionist approach adopted by the Charity Commission towards charities that are not complying with their duties.

The new guidance can be found on the [Charity Commission's website](#).

For more information on trustee duties and governance issues for charities please contact:

Andrew Studd

Partner

+44 (0)20 8394 6414

Andrew.Studd@russell-cooke.co.uk

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