# Legal checklist for boards of charities and other voluntary organisations

This document contains a list of legal aspects that need to be covered by most voluntary organisations. The middle column then contains some suggestions on how the aspect could be monitored by your board. The right hand column suggests available resources.

Please note that the list is designed to be adjusted to suit your organisation and is not an exhaustive list of legal obligations or good governance expectations. Legal duties may alter as new laws are passed therefore the organisation may need to add to or adjust the list in the future.

|  |  |  |  |
| --- | --- | --- | --- |
|  | Aspect | Possible monitoring process by board (insert your defined monitoring process) | Further information and support  |
|  | Board Processes |  |  |
| 1 | Appointment, resignation and retirement of board members is in line with the governing document and necessary filings are completed (eg at Charity Commission, Companies House, HMRC). | Monitored by a key board member or company secretary on appointment, resignation and retirement of members.Annual reminder of process is standard at AGM, if AGMs are held, and possibly summary of appointments, etc.  | [Change your charity's details](https://www.gov.uk/change-your-charitys-details) with Charity Commission[File changes to a limited company with Companies House](https://www.gov.uk/file-changes-to-a-company-with-companies-house)  |
| 2 | Accurate and up-to-date registers of members and board members are kept. |  | [Company registers](https://www.gov.uk/government/collections/companies-house-guidance-for-limited-companies-partnerships-and-other-company-types#company-registers) (Companies House guidance) |
| 3 | Length of service of board members and any requirements for meeting attendance is in line with the governing document. | List of board members with appointment dates, due retirement dates, etc clearly shown (plus attendance at meetings and information about quorum requirements). This ‘register’ can be kept by a key board member or delegated to paid staff. Discussed (and if appropriate displayed) at AGM or annually at a board meeting/sub-committee meeting. |  |
| 4 | Members’ meetings, including AGMs (if required), are called and run in accordance with the governing document and, if relevant, company law. |  | [Checklist for a general meeting](https://getlegal.bwbllp.com/products/checklist-for-general-meeting) (customised document £)[Notice of AGM](https://getlegal.bwbllp.com/products/notice-of-annual-general-meeting) (customised document £) |
| 5 | Board meetings are called and run in accordance with the governing document. | Annual reminder of process and quorum requirements in Trustee meeting – (do together with a general recap of governing document and roles of trustees reminder- could be done in just 30 mins). If keeping a register of board members (see number 3 above) attending meetings/length of service etc, simply add a note for each meeting giving total number of attendees and fact that quorum reached.  |  |
| 6 | Minutes are taken of board meetings and all other formal decisions of the board are properly recorded. | Minutes and records of decisions can be kept digitally. | [Charities and meetings: Minutes](https://www.gov.uk/government/publications/charities-and-meetings-cc48/charities-and-meetings#minutes) (Charity Commission guidance) |
| 7 | Board members act in the best interests of the organisation. | Explain board duties (of which this is one) during induction. Consider holding periodic reminder sessions (perhaps every three years). | [The Essential Trustee](https://www.gov.uk/government/publications/the-essential-trustee-what-you-need-to-know-cc3) (Charity Commission guidance)[Board responsibilities](https://knowhownonprofit.org/governance/board-responsibilities) (NCVO guidance) |
| 8 | If a charity, the board ensures that any private benefit from the organisation, including any benefit derived by a board member or person connected with him or her, is authorised under the governing document. |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| 9 | Conflicts of interests are declared and managed by the board. | Set up a system, eg register of interests which is maintained by company secretary or delegated to a key board member or member of staff. Chair to remind to declare any conflict of interest in each board meeting (can be first agenda item). Arrange for annual update of register of interests. | [Manage a conflict of interest in your charity](https://www.gov.uk/guidance/manage-a-conflict-of-interest-in-your-charity) (NCVO member template)[Declaration of interests form](https://knowhownonprofit.org/tools-resources/board-basics/model-documents-and-templates/declaration-of-interests-form) (NCVO member template) |
| 10 | Organisation has proper scheme of delegation and financial procedures setting out who has authority for what. | Annual review of terms of reference of committees and role descriptions of particular board members such as Chair and Treasurer. Annual review of signing and financial authority individual trustees and key staff members. | [Delegation to committees and staff](https://knowhownonprofit.org/governance/governance-structure-and-roles/delegation-to-committees-and-staff) (NCVO guidance)[Financial procedures manual](https://knowhownonprofit.org/organisation/operations/financial-management/procedures) (NCVO guidance with member templates) |
| 11 | The organisation abides by its governing document in relation to admission / exclusion of members. | Company secretary or key board member or member of staff to monitor and report annually to board.Ensure that an accurate and up-to-date register of members is maintained. |  |

|  |  |  |  |
| --- | --- | --- | --- |
|  | Key Regulators |  |  |
| 12 | Annual returns / updates are sent to any relevant regulators such as Companies House, the Charity Commission, Office of the Sottish Charity Regulator, the Charity Commission for Northern Ireland within required timescales. | Produce [organisational management calendar](https://knowhownonprofit.org/tools-resources/board-basics/model-documents-and-templates/organisational-management-calendar-template) of key organisational management dates – use this one document to track multiple areas, eg AGM and notice deadline, insurances renewal, annual Health and Safety checks such as PAT testing, premises check, fire equipment checks, policy and procedure review dates, Data Protection registration dates, Companies House and Charity Commission/OSCR/CCNI report and accounts deadlines, etc. Reports from delegated staff or trustees on key issues such as compliance with HR law, monitoring equality and diversity of the organisation and its activities.Analyse any upcoming deadlines in each board (or sub-committee) meeting and confirm action in each case. This should be a quick check process not a detailed discussion.Upkeep of the calendar can be delegated to paid staff. | Charity Commission for England and Wales[Prepare a charity annual return](https://www.gov.uk/guidance/prepare-a-charity-annual-return) [Change your charity's details](https://www.gov.uk/change-your-charitys-details) Office of the Sottish Charity Regulator[Online services](https://www.oscr.org.uk/becoming-a-charity/online-services) Charity Commission for Northern Ireland[Update your charity's details](https://www.charitycommissionni.org.uk/manage-your-charity/update-your-charitys-details/)Companies House[File an annual return](https://www.gov.uk/file-an-annual-return-with-companies-house)[File changes to a company](https://www.gov.uk/file-changes-to-a-company-with-companies-house)  |
| 13 | If a charity, reports and accounts to the Charity Commission, OSCR, CCNI are prepared in line with Statement of Recommended Practice (SORP) requirements and submitted within required timescales. For charities above the income threshold of £500,000, this includes a statement of management of risks, although it is good practice for all voluntary organisations to have a risk management system in place. | Reminders of deadlines in the [organisational management calendar](https://knowhownonprofit.org/tools-resources/board-basics/model-documents-and-templates/organisational-management-calendar-template) (see 12 above). Treasurer or audit/finance committee/finance director to manage the production of the required reports and present to board meetings in good time to allow discussion. | [Charities SORP](http://www.charitysorp.org/) (guidance) |
| 14 | Accounts are audited or independently examined (if required dependent on income). | Board formally appoints auditors or examiners and receives audited or examined accounts – add to key organizational management calendar dates (see 12 above). | [Choice between audit and independent examination](https://www.icaew.com/en/technical/charity-and-voluntary/audit-and-other-services/choice-between-audit-and-independent-examination) (Institute of Charted Accountants guidance) |
| 15 | The organisation complies with electoral law in relation to local and national elections and referendums, and, if a charity, complies with the law on political activities and campaigning. | This could be the responsibility of a board member or a member of staff responsible for communications. | [A [Get Legal](https://getlegal.bwbllp.com/) document on this will be available soon.][Introduction to non-party campaigning for charities](https://www.electoralcommission.org.uk/__data/assets/pdf_file/0017/193040/Introduction-to-non-party-campaigning-for-charities-May-2016.pdf) (Electoral Commission guidance) |
| 16 | The organisation complies with fundraising law and regulation and ensures the tax implications have been properly addressed. | Delegated to committee or staff member. Board to approve annually fundraising policy, including methods to be used. Treasurer or finance director reports on tax implications. At planning stage, delegated staff (or lead board member) to check requirements for any relevant fundraising activity in Charity Commission Document CC20 Charities and Fundraising. When reporting on fundraising activities, confirm to the board the measures taken to ensure compliance. | [Charity fundraising: A guide to trustee duties](https://www.gov.uk/government/publications/charities-and-fundraising-cc20) (Charity Commission guidance)[Charities and tax](https://www.gov.uk/charities-and-tax) (HMRC guidance)[Charity Tax Group](https://www.charitytaxgroup.org.uk/) (guidance on various taxes)[Fundraising essentials and legislation](https://www.institute-of-fundraising.org.uk/guidance/fundraising-essentials-legislation/) (guidance) |

|  |  |  |  |
| --- | --- | --- | --- |
|  | Operations |  |  |
| 17 | The organisation’s activities and spending are in line with the governing document and (in the case of charities) are undertaken in accordance with the public benefit requirement. | Consider including a sentence in the introduction to any treasurers’ reports reminding board members that when considering the budget, it is their duty to ensure that all spending is in line with the governing document and all activities must be intended to further the organisation’s purposes set out in the governing document and, in the case of charities, in accordance with the public benefit requirement. Alternatively - treasurer simply mentions this when papers are presented.  | [Public benefit: Rules for charities](https://www.gov.uk/guidance/public-benefit-rules-for-charities) (Charity Commission guidance) |
| 18 | The organisation abides by Health and Safety law (including PAT testing, PUWER, Manual Handling, COSHH). | Board members should approve all policies and procedures to satisfy themselves that processes are in place. A health and safety checklist could be kept by the Health and Safety Officer used to aid an annual report back to the board confirming that all necessary checks are taking place (annual checks in organisational management calendar see 12 above). Annual report from Health and Safety lead / officer to board or subcommittee showing how the policy has been followed. This would include having available key documents such as the accident log book and discussing any resultant changes to practices, log confirming weekly testing of fire alarms (eg. tick sheet for weekly fire alarm tests, VDU checks for staff, initial training and reminders provided for staff and volunteers, etc.). | [HR and employment law: Health and safety](https://knowhownonprofit.org/people/hr/health-and-safety) (NCVO guidance)[Health and safety policy](https://getlegal.bwbllp.com/products/healthandsafety-policy) (customised document £) |
| 19 | The organisation carries out risk assessment of its activities and premises used (written risk assessments are required if over 5 employees). | Include in overall risk register. In Health and Safety Officer report to board (see 17 above), confirmation that risk assessments have been made and have available the written risk assessments. Some organisations use an external specialist consultant to check processes.The organisation should maintain a risk register, which should be regularly reviewed by the board and used to inform appropriate risk mitigation strategies and actions. | [HR and employment law: Health and safety](https://knowhownonprofit.org/people/hr/health-and-safety) (NCVO guidance)  |
| 20 | Serious incidents are reported as required by regulators such as the Charity Commission, OSCR, CCNI and the Care Quality Commission. |  | [How to report a serious incident in your charity](https://www.gov.uk/guidance/how-to-report-a-serious-incident-in-your-charity) (Charity Commission guidance) |
| 21 | The organisation abides by safeguarding legislation. | Annual review of policy is conducted by board or delegated to members of staff- confirmation that review has taken place and that processes are followed by staff can be through the organisational management calendar (see 12 above). Board should sign off all policies. | [Managing day-to-day operations: Safeguarding](https://knowhownonprofit.org/organisation/operations/safeguarding) (NCVO guidance) |
| 22 | The organisation abides by data protection law. | Annual review of policy is conducted by board or delegated to members of staff- confirmation that review has taken place and that processes are followed by staff can be through the organisational management calendar (see 12 above). There could be a report to board on activity to ensure compliance by the delegated member of staff/board member. The board should sign off all policies.There should be confirmation to the board that the organisation’s entry to the Information Commissioner’s Office has been renewed annually. | [Data Protection and Charities](https://ico.org.uk/for-organisations/charity/) (Information Commissioners Office guidance)[Managing day-to-day operations: Data protection and GDPR](https://knowhownonprofit.org/organisation/operations/dataprotection) (NCVO guidance) |
| 23 | The organisation abides by the Equality Act 2010. | Annual review of policy is conducted by board or delegated to members of staff- confirmation that review has taken place confirmation that review has taken place and that processes are followed by staff can be through the organisational management calendar (see 12 above). There could be a report on board on activity to ensure compliance by the delegated member of staff / board member. The board should sign off all policies. | [Equality Act](https://www.equalityhumanrights.com/en/equality-act) (Equality and Human Rights Commission guidance) |
| 24 | The organisation complies with the terms of its contracts, including leases and contracts to provide services (for example). | Delegate a key person (trustee or paid staff) to examine all contracts on signing. In financial policy (or risk management policy) define who is entitled to sign contracts on behalf of the organisation.Maintain a register of contracts including key dates such as termination rights, rent or fee reviews, maintenance obligations etc. |  |
| 25 | The organisation has adequate insurance- public liability, employers’ liability (may also consider trustee liability and professional liability insurance although not a legal requirement). | Use the timetable of key dates at each board meeting to confirm when insurance is due and that it is in place. (May be delegated to a staff member to carry out and sub-committee meeting to discuss best value). Arrange for each policy to be reviewed annually before renewal to ensure organisation is complying with the terms of the insurance contract. | [Charities and Insurance](https://knowhownonprofit.org/organisation/operations/insurance) (NCVO guidance) |
| 26 | The organisation’s identity, legal status and contact details appear on website, publicity material, letterheads and other stationery, including email. | Bear in mind when designing new leaflets, cards, etc. and delegate one person to gather together all stationery / publicity material (including email footers and website info) and do an initial spot check. | [How to make sure you include the right information about your charity on official documents](https://knowhownonprofit.org/how-to/how-to-make-sure-you-include-the-right-information-about-your-charity-on-official-documents) (NCVO guidance) |
| 27 | Relevant permissions are gained for publicity materials (eg case studies, photographs). | Have a checklist guideline for people to follow. | [Using somebody else's intellectual property](https://www.gov.uk/using-somebody-elses-intellectual-property) (Government guidance)[Photo consent for community groups](https://www.resourcecentre.org.uk/information/photo-consent-for-community-groups/) (guidance) [Show and tell: A best practice guide to portraying beneficiaries and service users](https://www.charitycomms.org.uk/reports-and-guides#Show-and-tell) (guidance)[A beginner’s guide to media licensing in the charity sector](https://www.charitycomms.org.uk/reports-and-guides%23A%20Beginner%E2%80%99s%20Guide%20to%20Media%20Licensing%20in%20the%20Charity%20Sector) (guidance) |
| 28 | The organisation follows advertising standards regulation – eg when making claims about its services. | Bear in mind when composing promotional materials. Some organisations have a ‘house style’ document or a communications policy and it could be included here. | [Advertising codes](https://www.asa.org.uk/codes-and-rulings/advertising-codes.html) (Advertising Standards Authority) |
| 29 | The organisation abides by the laws relating to trademarks, copyright and patents. |  | [Patents, trademarks, copyright and designs](https://www.gov.uk/browse/business/intellectual-property)  (Government guidance) |

|  |  |  |  |
| --- | --- | --- | --- |
|  | Employment Law |  |  |
| 30 | The organisation abides by employment law. This will include a number of employee benefits and rights areas including:* terms and conditions of employment and preparation of employee handbook
* holiday entitlement and Statutory sick pay (SSP)
* working time regulations
* National Minimum Wage (NMW)
* tax deductions and National Insurance Contributions (NICs)
* maternity, paternity and parental/carers’ rights
* harassment, dismissal and grievance procedures
* redundancy
* auto-enrolment pensions
* whistleblowing arrangements.
 | Have a method in place to provide specialist information – eg board member with HR oversight who advises managers, employ external HR consultants, or ensure that a lead member of staff is trained in employment law to provide this service for the organisation.Board members should have oversight of general terms and conditions of employment. They should receive confirmation that processes have been followed.Volunteers should be clearly distinguished from employees and appropriate policies established in relation to volunteer recruitment and management. Care needs to be taken not to create binding obligations. | [Staff handbook](https://getlegal.bwbllp.com/products/staff-handbook) (customised documents £)[Employment documents](https://getlegal.bwbllp.com/products?filters%5B28662%5D=&filters%5B28665%5D=32474) (customised documents £)[NCVO HR Advice Line](https://www.ncvo.org.uk/practical-support/information/hr) (free phone/email support)[HR and employment law](https://knowhownonprofit.org/people/hr) (NCVO guidance and links to NCVO member templates) |
|  | HMRC, Tax and NI |  |  |
| 31 | The organisation is registered as an employer with HMRC (Employer Registration). | Initial check that this is the case. | [Register as an employer](https://www.gov.uk/register-employer) (HMRC guidance)[Employing staff for the first time](https://www.gov.uk/employing-staff) (Government guidance) |
| 32 | National Insurance Contributions are made and PAYE operated in accordance with requirements. | Treasurer or appropriate staff member needs to confirm this to board meetings when discussing the annual accounts. Also covered through audit. | [PAYE and payroll for employers](https://www.gov.uk/paye-for-employers) (HMRC guidance)[National Insurance rates and categories](https://www.gov.uk/national-insurance-rates-letters) (HMRC guidance)[FMP – payroll services supplier](https://www.ncvo.org.uk/practical-support/trusted-suppliers/supplier-list/301-fmp-payroll-services) (NCVO trusted supplier) |
| 33 | Organisation is registered for VAT if required and VAT returns are made when required. | Treasurer or appropriate staff member needs to confirm this to board meetings when discussing the annual accounts. Also covered through audit. | [VAT registration](https://www.gov.uk/vat-registration) (HMRC guidance)[Saffery Champness – VAT support](https://www.ncvo.org.uk/practical-support/trusted-suppliers/supplier-list/295-saffery-champness) (NCVO trusted supplier) |
|  | Assets and Facilities |  |  |
| 34 | Investments are properly and prudently managed. | Annual reviews of investment policy. Review of investment managers, eg. every 3 to 5 years. Clear terms of delegation of investment management. Surplus funds not needed in near term are suitably invested, taking account of risk and likely timing of use of funds. | [Charities and investment matters: A guide for trustees](https://www.gov.uk/government/publications/charities-and-investment-matters-a-guide-for-trustees-cc14) (Charity Commission guidance) |
| 35 | Land and building disposals, acquisition and charging are undertaken in accordance with legal requirements. | Charities are subject to special restrictions on these activities and lawyers should advise as appropriate. “Land” is widely defined and includes, for example, a lease or even a right of way. “Disposal” includes the grant of a lease or right of way, for example. | [Get Legal: Guide for charities wishing to dispose of property](https://getlegal.bwbllp.com/products/charities-wishing-to-dispose-of-property) (customised document £)[Charity Property Help](https://www.ncvo.org.uk/practical-support/trusted-suppliers/supplier-list/294-charity-property-help) (NCVO Trusted supplier – free advice)[Ethical Property Foundation](http://www.ethicalproperty.org.uk/) (free advice) |