

DTAS Annual Conference
2026

Active Governance



Pamela Barnes and Lynn Molleson, DTAS
Paul Breen and Diana Stoica, Brodies

Agenda

→ Welcome and Introductions

→ Governance Essentials

→ Governance Review

→ Reviewing your Governing Documents

→ Q&A Session



Governance Essentials

¹ Legal structure

² Statutory Duties

³ Board — Core Roles



Development Trusts: Legal Structures

**Company Limited by
Guarantee (CLG)
Can be charitable**

**Two-tiered Scottish
Charitable Incorporated
Organisation (SCIO)**

**Community Benefit Society
Can be charitable**

More information on legal forms can be found in the DTAS Legal Forms Factsheet and the DTAS Startup Toolkit

“Levels” of responsibility

1a. Company Limited by Guarantee (CLG)

Companies Act 2006 & amendments/ additions



1b. Community Benefit Society (CBS)

Co-operative and Community Benefit Societies Act 2014 & amendments/ additions



2. Charitable status/SCIO

Charitable purposes / public benefit recognised

Charities and Trustee Investment (Scotland) Act 2005 & Charities (Regulation and Administration) (Scotland) Act 2023



3. Your governing documents

4. Other pertinent Scottish & UK legislation e.g. employment GDPR, H&S

Statutory duties of Company or Society Directors

1.
Duty to act within
your powers

2.
Duty to promote
success of the
company

3.
Duty to exercise
independent
judgement

4.
Duty to exercise
reasonable care

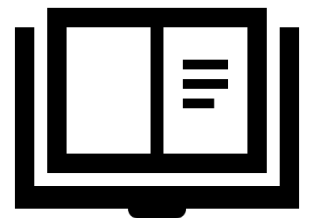
5.
Duty to avoid
conflicts of interest

6.
Duty not to accept
benefits from 3rd
parties

7.
Duty to declare
(financial) interest

8.
Duties in
insolvency

9.
Duty to attend
meetings



Companies
Act 2006 &
amendments/
additions

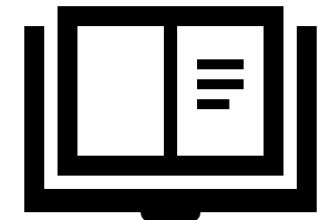
Statutory duties of Charity Trustees

1.
Duty to act in the interests
of the charity

2.
Duty to operate in a
manner consistent with
the charity's purpose

3.
Duty to ensure
compliance with act &
other legislation

4.
Duty to act with care &
diligence



Charities and
Trustee Investment
(Scotland) Act 2005

Charities (Regulation
and Administration)
(Scotland) Act 2023

Trustee Duty #1

Duty to act in the interests of the charity

- Act in the interests of the charity
- Declare and manage conflicts of interest
- Remuneration must be in line with the Act
- Charity trustees must not be disqualified

Good practice: code of conduct, register of interests, misconduct procedures, conflict of interest policy and on agenda, procedures to remove trustee in breach of duties.

Trustee Duty #2

Duty to operate in a manner consistent with the charity's purpose

- All activity falls within purpose
- All activity consistent with governing documents.
- Assets not applied to non-charitable purposes.
- Charity trustees must not be disqualified

Good practice: all trustees have and read the charity constitution, constitution regularly reviewed, induction pack for new trustees, refer to purposes in strategic planning.

Trustee Duty #3

Duty to ensure compliance with act & other legislation

- Accurate details registered with OSCR (and Co House/FCA) and submit return.
- OSCR consent for changes to board, purposes, constitution.
- Accounting procedures, reporting and record keeping.
- Compliance with fundraising regulations, employment regulations etc.

Good practice: Board meeting cycle based around compliance with OSCR reporting, keep up to date on legal responsibilities

Trustee Duty #4

Duty to act with care and diligence

- Run charity properly and diligently
- Act as guardians of charity's assets and ensure charity is solvent.
- Ensure board is fit for purpose and works together.
- Duty of care to trustees, staff and volunteers.

Good practice: financial monitoring processes, roles and responsibilities of trustees, good set of policies and procedures for managing employees and volunteers, DTAS Wellbeing service, skills audit, reserves policy

What are the key legal hazards?

1.
Breaching statutory
duties

2.
Wrongful trading

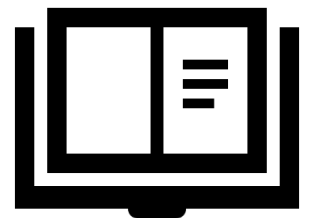
3.
Exceeding scope of
purposes/powers

4.
Holding insufficient
reserves

5.
Failure to attend
meetings

6.
Personal actions (not
board decisions)

7.
Other
legislation



Companies
Act 2006 &
amendments/
additions

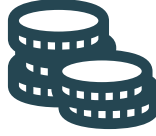
The Director/Trustee's Role, typically*

- Attends board meetings
- Participates in decision-making
- Approves policies and budgets
- Monitors finances and programs
- Recruits and inducts new directors
- Complies with bylaws and policies
- Promotes the organisation's mission



Governing Board - Core Roles

 Set strategy and monitor delivery

 Ensure accurate accounting records and **monitor financial performance**

 Risk management and mitigation

 Adherence to law

 Have sufficient knowledge about the organisation's affairs

 Decision making – collective responsibility

Financial oversight - duties

Ensure you understand the organisation's finances

Ensure the finances are being managed responsibly

Vigilance and attention to financial management underpin good governance practices and prevent any personal liability should things go wrong.

Financial oversight – what you can do

- Financial planning – agree and monitor a budget
- Management accounts, cashflow, financial statements
- Role description for Treasurer
- Treasurer report at Board meetings
- Finance sub-committee
- Scheme of financial delegation
- Co-option
- Training

Financial oversight – how others can help

- Accountant
- Bookkeeper
- Outsourcing payroll
- VAT advice via DTAS
- Financial training via DTAS
- Use of software such as Xero or Quickbooks
- Just Enterprise for general financial support

Delegation of powers

The Board cannot delegate any of their statutory duties or other responsibilities - the responsibility for the overall management and smooth running of the organisation remains with the Directors.

If allowed by the organisation's Governing Documents, the Board can delegate the functions of the organisation (i.e. work that the Board have agreed is required) to sub-committees and/or staff, independent advisors, etc...

The role of...

	Board / Management Committee	Staff and/or Volunteers
Overall	lead, direct and ensure	manage, implement and deliver
Vision and leadership	develop/approve long-term strategic plans and monitors progress in implementing the strategic plan	carry out agreed work plan, which helps achieve organisation's long-term plans
Accountability and legal liability	monitor the activities of the organisation and ensure that activities support the organisation's overall purpose/aims	prepare/present reports on activities to the Board/Management Committee
Keeping it legal	ensure compliance with all relevant legal and regulatory requirements	follow organisational policy/procedures as set out by the Board/Management Committee and report to Board/Committee
Financial management	ensure adequate financial resources are sought/secured ensure money and property is properly managed prepare funding applications	follow organisation's financial procedures, keep books up-to-date, prepare reports, etc as agreed with Board/Management Committee
Managing staff and volunteers	ensure appropriate organisational policies and procedures are in place	implement organisational policies and procedures

GOVERNANCE ESSENTIALS TRAINING

By Development Trusts Association Scotland

GOVERNANCE ESSENTIALS



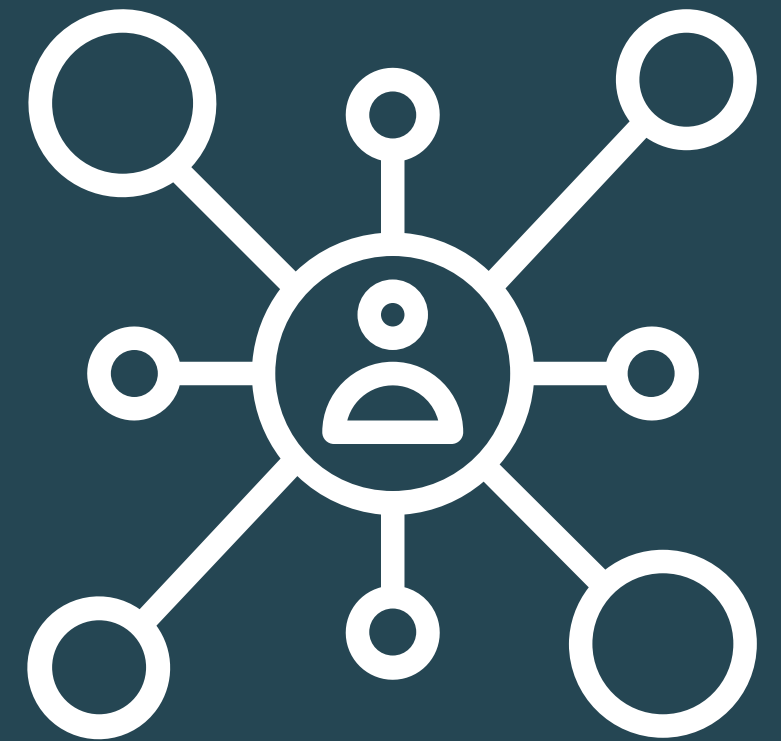
9 Nov -

10 - 11.30am

Governance Review

Resources

- The Scottish Governance Code for the Third Sector
- SCVO Good Governance Checkup
- DTAS pillars of organisational resilience – Governance & Leadership resources
- OSCR guidance on making changes and reorganising



The Scottish Governance Code for the Third Sector

- 1 Organisational Purpose
- 2 Leadership
- 3 Board Behaviour
- 4 Control & Risk Management
- 5 Effectiveness

goodgovernance.scot/governance-code



Good Governance Checkup

A self-assessment tool to strengthen your board's practice

- 1 Filled out online by Trustees
- 2 Takes about 30 minutes
- 3 Produces a score and action plan
- 4 Option to access support from SCVO

governance.checkup.scot



DTAS Website – Members' Area

Governance & Leadership Resources

- 1 Sample Code of conduct
- 2 Board Member Induction Toolkit
- 3 Directors Handbook
- 4 Register of Interests template

Members Area

dtascot.org.uk

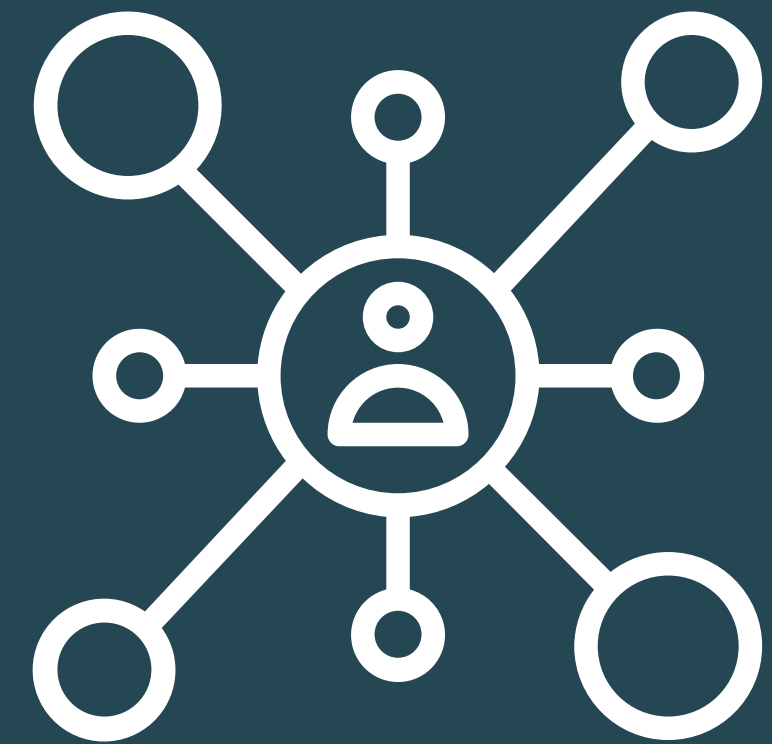


Regularly Review Governing Documents

- 1 DTAS Model Rules
- 2 Changing structure?
- 3 Do you need legal advice?



Questions and Answers





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Thank you!

Pamela Barnes
Aspiring Development Trust Advisor
07539 743 401
pamela@dtascot.org.uk

Lynn Molleson
Member Support Advisor
South of Scotland & Crisis Support Lead
07985 211428
lynn@dtascot.org.uk