

# Information for Prospective Directors 2017



[www.scotland-malawipartnership.org](http://www.scotland-malawipartnership.org)

Address: Room 3/7, City Chambers, City of Edinburgh Council, High Street, Edinburgh, EH1 1YJ

Tel: 0131 529 3164 Fax: 0131 529 3168 E mail: [info@scotland-malawipartnership.org](mailto:info@scotland-malawipartnership.org)

A company limited by guarantee (SC294378) and a registered Scottish charity (SC037048)

**CONTENTS:**

<b>I.</b>	<b>Introduction</b>	Page 3
<b>II.</b>	<b>Background</b>	Page 3
<b>III.</b>	<b>Vision, Mission and Values</b>	Page 7
<b>IV.</b>	<b>Governance</b>	Page 10
<b>V.</b>	<b>Board of Directors' Terms of Reference</b>	Page 11
<b>VI.</b>	<b>Competencies</b>	Page 13
<b>VII.</b>	<b>Areas of Expertise</b>	Page 14
<b>VIII.</b>	<b>Policy and Planning</b>	Page 14
	- <b>Financial management</b>	
	- <b>Annual approval of the budget</b>	
	- <b>Regular financial reports</b>	
	- <b>Budget revision</b>	
	- <b>Financial regulations</b>	
	- <b>Statutory and regulatory requirements</b>	
	- <b>Other areas of financial responsibility</b>	
	- <b>Advocacy and fundraising</b>	
	- <b>Employment and personnel</b>	
<b>IX.</b>	<b>Guidelines for directors</b>	Page 17
	<b><u>Appendix 1: Directors' Duties (Companies House)</u></b>	Page 20
	<b><u>Appendix 2: What is expected of a Director? (OSCR)</u></b>	Page 29
	<b><u>Appendix 3. Factsheet 1</u></b>	Page 33

**The Scotland Malawi Partnership's 2017 Annual General Meeting will be held on the 30<sup>th</sup> September at Stewart's Melville College, Edinburgh. At the meeting there will be the chance for Members to stand for positions on the Board of Directors. All prospective new Directors must have read this document and completed and returned an application form, no later than 09.00 on the 19<sup>th</sup> September 2017,.**

## **I. INTRODUCTION**

This handbook is designed to give you an introduction to the role of a Director, and the working of the Scotland Malawi Partnership, to tell you something about its background and history, its vision and values. It also gives guidelines, which are intended to act as a checklist of responsibilities, as well as to define other duties expected of Directors. The information in this booklet should be read in conjunction with the various policies of the Scotland Malawi Partnership, the Memorandum of Association, the Standing Orders and the Strategic Plan.

If you require further information or clarification on any point in this handbook, or in any of the Scotland Malawi Partnership policies and procedures, please discuss this with the Chief Executive ([david@scotland-malawipartnership.org](mailto:david@scotland-malawipartnership.org)).

## **II. BACKGROUND**

The friendship between Scots and Malawians began in 1859, with the warm welcome extended to David Livingstone and his companions when he entered what is now Malawi for the first time.

Over the next 150 years countless individuals, families and institutions have struck up friendships, which have often found expression in the creation of development projects.

When necessary the Scotland-Malawi relationship has taken a directly political form. In the late 1880s a massive, popular campaign in Scotland persuaded the British Government to rethink its initial unwillingness to become involved in the area, leading to Britain, rather than Portugal becoming the colonizing power.

In the 1950s, when the racist Federation of Rhodesia and Nyasaland was imposed on Malawi, Scots stood shoulder to shoulder with Malawians in resisting it, until finally the Federation was dismantled and Malawi became an independent country in 1964.

More recently, in the 1990s, Scots offered significant solidarity as Malawi threw off the shackles of its one-party system and became a multi-party democracy.

The challenge posed by the United Nations Millennium Development Goals was taken up in Scotland in the late 1990s by David Livingstone's alma mater Strathclyde University when, in partnership with Bell College (local to Livingstone's birthplace at Blantyre), they launched their Malawi Millennium Project.

This Millennium Project was the catalyst for a new round of networking among individuals and

organisations in Scotland with strong ties to Malawi. Many sensed that significant value could be added by coming together under a single umbrella. The Scotland Malawi Partnership was officially launched in April 2004 with the support of the Lord Provosts of Edinburgh and Glasgow.

The following year, 2005, the G8 met at Gleneagles, with the Make Poverty History campaign drawing public attention to the issue of international development. At the same time the Scottish government published Scotland's first international development strategy, with a particular focus on the relationship between Scotland and Malawi.

On the 3<sup>rd</sup> November 2005 the historic Co-operation Agreement between the governments of Scotland and Malawi was signed, and immediately afterwards the Scotland Malawi Partnership hosted a "Malawi After Gleneagles" conference at the Scottish Parliament. Our patrons, HRH the Princess Royal and His Excellency President Bingu wa Mutharika, and the First Minister, Rt Hon Jack McConnell MSP, looked forward to a new chapter in our strengthened friendship.

During 2005 the Partnership registered as a Scottish Charity (SCO37048) and as a Company Limited by Guarantee (SC294378). Three-year funding (2005-08) was awarded by the Scottish Executive in 2005 which allowed the Partnership to employ a full-time Coordinator and to rent office space within the Edinburgh City Chambers. Since then successive triennial core grants have allowed the SMP to grow in size, impact and influence.

Enthusiastic members, a dynamic Board of Directors and the effective leadership of staff [Leo Williams (2006-08) and David Hope-Jones (2008-)] have enabled the Partnership to build up an extensive programme of activity: growing its membership, producing regular bulletins of information, creating a comprehensive website, organising sector-specific workshops, stakeholder meetings and training events, responding to enquiries from members of the public and the media, running the Cross-Party Group on Malawi in the Scottish Parliament, organising a programme of academic exchange, relating to Malawian counterparts and hosting their visits to Scotland, and arranging high-profile events when required, both in Scotland and in Malawi.

The Partnership draws its strength from strong community roots, personal involvement and a deep history of mutual respect and common cause.

This has fostered a new model of international development, one rooted in people-to-people networks.

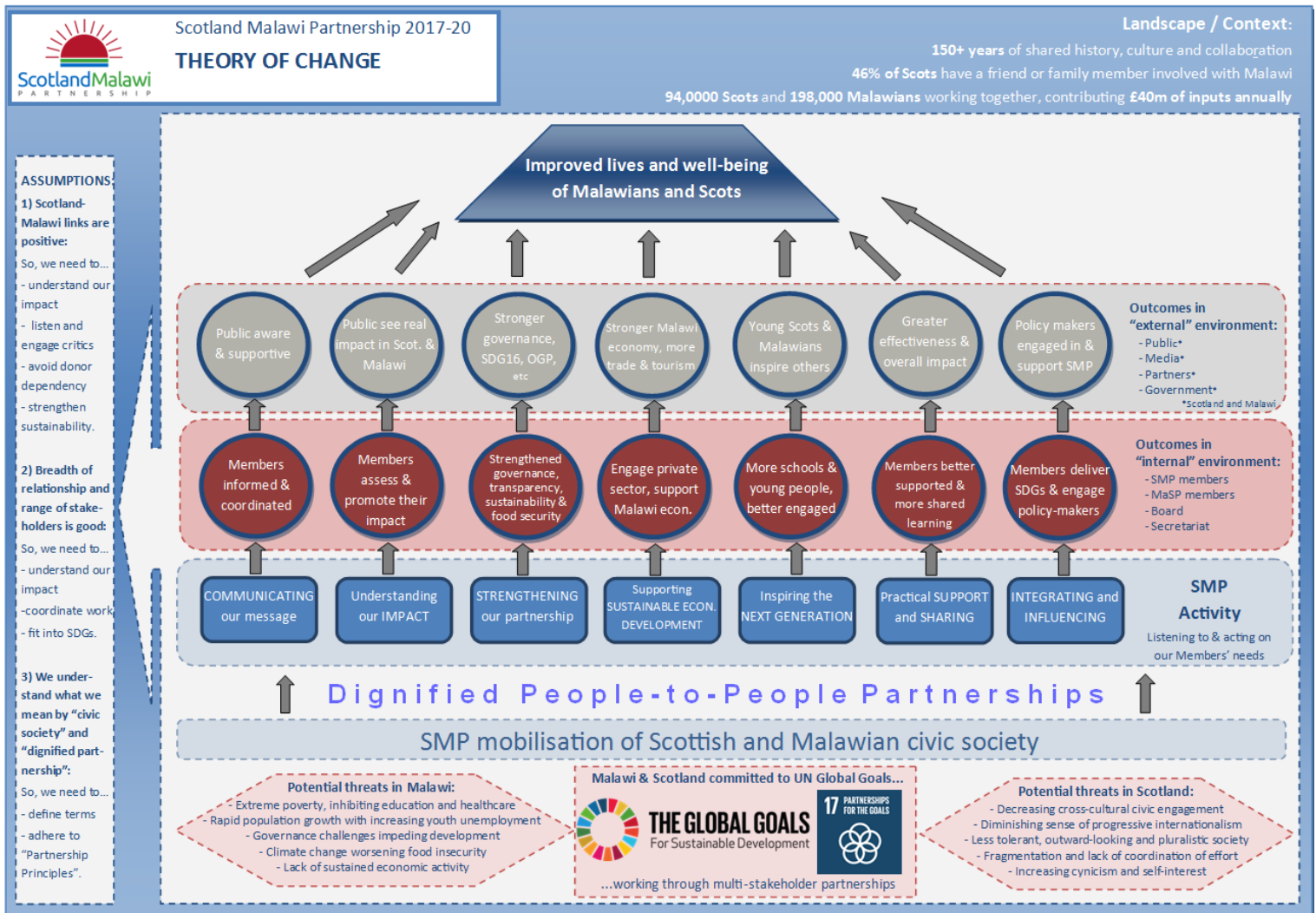
Vital government support acts as seed funding, which is then multiplied many times over as individuals and organisations offer their expertise and resources to the common effort.

The contribution of a primary school or church group is as important as that of any leading development charity, only the scale differs.

With growing confidence the Partnership commends this model as one which represents effective aid as it mobilises the community at large to contribute to the realisation of the Millennium Development Goals and Malawi's own Growth and Development Strategy.

The Partnership has recently embarked on its ambitious 2017-20 Strategic Plan which has seven strands of core activity:

- STRAND ONE: Communicating our message
- STRAND TWO: Understanding our impact
- STRAND THREE: Strengthening our partnership
- STRAND FOUR: Supporting sustainable economic development
- STRAND FIVE: Inspiring the next generation
- STRAND SIX: Practical support and sharing
- STRAND SEVEN: Integrating and influencing



### **III. VISION, MISSION, VALUES AND PRINCIPLES**

#### **VISION STATEMENT**

**The SMP exists to inspire the people and organisations of Scotland to be involved with Malawi in an informed, coordinated and effective way to the benefit of both nations.**

The Scotland Malawi Partnership promotes a people-to-people model of development, rooted in the shared history between our two countries. It focuses on active relationships between people to foster a shared understanding of the development challenges facing Malawi and to support the development of practical, sustainable solutions. It is through this deeper understanding and shared human experience that the people of Scotland and Malawi will be able to effect real and lasting change, both through their own activity and by influencing the policies and actions of governments and institutions.

#### **MISSION STATEMENT**

We aim to foster links, consistent with our values, between the two nations, and encourage development of sustainable projects in Malawi by:

- informing and inspiring civil society in Scotland about the work of the Partnership, the unique shared history between Scotland and Malawi, and the development challenges facing Malawi, in order to increase public support for extending and enriching the relationship between the two nations
- seeking to employ an alternative model of international development, based on mutually beneficial civil society partnerships and links, and advocating its wider employment elsewhere
- acting as a forum for encouraging best practice amongst member organisations through the provision of training and the sharing of ideas, processes and information
- encouraging a reduction in the duplication of effort in Malawi by facilitating networking, promoting shared learning and raising awareness of existing initiatives
- developing support mechanisms which can lead to an exchange of people and/or advance cultural, political or economic understanding between Scotland and Malawi
- informing our members of activities, opportunities or items of significance arising in either Scotland or Malawi
- demonstrating the relevance of Scotland's civil society contribution to the attainment of the Government of Malawi's Growth and Development Strategy and the Millennium Development Goals.

## **VALUES**

Our Values describe our approach, and our Vision and Mission can only be achieved if staff, directors, member organisations and associate members hold these values:

Mutual respect – we recognise that the historic bilateral civil society relationship between Scotland and Malawi is built on trust and mutual respect and we celebrate its inherent reciprocity

Cooperation - We foster a spirit of cooperation, building partnerships and alliances in pursuit of our objectives, avoiding duplication and forging creative ways to work together

Internationalism - We stand in the tradition of Scottish internationalism, resisting isolationism and xenophobia, believing that Scotland's strength lies in building strong relationships with nations elsewhere in the world

Service - Paramount in all our work is provision of the highest possible quality of service to our members. We strive to meet their expressed needs by offering relevant information, advice, training and resources

Continuous improvement – we continuously strive to improve the quality of our service, as perceived by our members, to encourage viable, ethical development activity between our members and their Malawian counterparts

Sector understanding – we understand the sector(s) in which our members are operating, both in Scotland and Malawi, and respond positively to situations which can advance developmental aspects of the Partnership

Development – staff, directors and members are committed to encouraging links between Scotland and Malawi, to reduce poverty, promote justice and relieve suffering in Malawi. To achieve that, we all have a role to play in managing our own development and in being supportive of others

**PARTNERSHIP PRINCIPLES:**

After consulting more than 200 members in Scotland and Malawi, we have settled on 11 key principles that we think, together, underpin true partnership:

**P**lanning and implementing together: *Whose idea is this?*

**A**ppropriateness: *How does it fit within local and governmental priorities?*

**R**espect, trust and mutual understanding: *How would you feel if you were at the other side of the partnership?*

**T**ransparency and Accountability: *How are challenges, issues and concerns listened to?*

**N**o one left behind: *Who is excluded from your partnership?*

**E**ffectiveness: *How do you know if your partnership is working?*

**R**eciprocity: *What does each side contribute in the partnership?*

**S**ustainability: *How long is your partnership for and what happens when it ends?*

Do no **H**arm: *Could anyone be worse off as a result of your Partnership?*

**I**nterconnectivity: *How do you connect with what others are doing in this area?*

**P**arity (equality): *Who 'owns' the partnership? Who has the power?*

These 11 partnership principles underpin all of our work but also all the advice, support and information we offer our members and partners.



#### **IV. GOVERNANCE**

Governance is the key to the Organisational Structure. Governance has been defined as “...the overall guidance, direction and supervision of an organisation.” (NCVO 1992)

For the Scotland Malawi Partnership to be effectively governed it requires directors to:

- have a clear understanding of their roles
- have an understanding as to how governance might break down
- be professional about recruitment of new directors
- be properly informed
- regularly review management performance

The role of a Director is to:

- Give direction and leadership to the company - Shape and review the vision, mission and values; agree long-term objectives and strategic plans; establish broad policies for the way the company should work (e.g. finance, human resources etc.)
- Manage finances - establish effective financial management control systems; ensure financial security of the company; develop a basic understanding of finance
- Ensure legal compliance and observance of statutory provisions – keep track of legislation affecting company and its operations; ensure law is observed (e.g. Charity law, company law, employment law, health and safety, equal opportunities, data protection, human rights, public liability etc.) and statutory returns are filed.
- Determine the values and ethical position of the company
- Be responsible for the company’s administration
- Manage people - appoint, support, supervise and monitor the performance of its senior staff
- Manage resources - influence the overall allocation of resources (property and equipment); ensure sufficient funds available to run company
- Manage itself – hold regular meetings; ensure sufficient information available to make good, informed decisions
- Be accountable – to stakeholders; establish performance measures for the company and monitor against these measures

The key roles of the Board in determining its own work should include:

- Defining the ideal size and composition of the Board
- Structuring sub-committees and working groups to anticipate the future needs of the company
- Recruiting and inducting new members to meet present and future requirements of the organisation
- Ensuring directors are clear about their responsibilities
- Procuring training and support to meet directors’ development needs
- Determining its own agenda and priorities; setting projects and goals
- Monitoring its own performance and that of its committees

Governance is not management. Management activities are carried out by the staff and directors should not be involved in day-to-day matters that are the responsibility of staff. Directors should provide leadership and may become involved in operational tasks, but only under the guidance of the Administrator / Company Secretary. Staff should implement the strategy as agreed by the Board, turn committees' intentions into action, manage systems and procedures and, possibly, become involved in developmental/research work for strategy.

It is also worth noting the reasons why governance breaks down:

- Ignorance – non-executive directors are unaware of their legal responsibilities or the part they play in decision-making
- Over-reliance – on the paid staff to direct the organisation
- Complacency – tradition decrees that everything is satisfactory and directors need pay little attention to the business
- Lack of expertise – directors are volunteers and not necessarily chosen for their skills and experience in governing companies
- Dominant or weak chairman – fails to provide effective leadership
- Cliques – may undermine collective approach of management

## **V. BOARD OF DIRECTORS' TERMS OF REFERENCE**

**Purpose of Board:** to govern the Scotland Malawi Partnership and ensure that the Scotland Malawi Partnership meets its stated objects; take responsibility for giving direction to the company; ensuring that there is a framework for accountability; adopting and reviewing all systems and methods of control, financial and otherwise; monitoring people, resources and performance and for ensuring that the Scotland Malawi Partnership is complying with all aspects of the law, relevant regulations and good practice.

### **Composition**

The board of directors will consist of no fewer than 3 directors (and no more than 16) appointed by the board itself, with appropriate skills and expertise.

- The chair of the board will be appointed by the directors and will serve for a maximum of a three-year term. The chair may be re-appointed for a further term and serve a maximum of 6 years.
- Directors will be appointed by the board and will serve for a three-year term.
- One third of the directors will retire by rotation every three years. Directors may be re-appointed for a maximum of two terms and serve a maximum of 9 years, after which time they must stand down for a minimum period of 1 year.

- The board will consist of a chairman, (up to) two vice chairmen and other directors (as appropriate)
- The Company Secretary / Administrator shall be in attendance at meetings, but shall not necessarily be a Director
- Directors are expected to attend all Board meetings and those of particular relevance to the Scotland Malawi Partnership e.g. Annual General Meeting; non-attendance at three, or more, consecutive Board meetings may result in a Director being asked to step down
- Until otherwise determined by the board a quorum shall consist of three directors,
- For voting purposes each Director will have one vote. In the case of an equal number of votes cast for/against the motion the Chair of the Board will have a casting vote
- The board will report regularly and at least every 12 months to its supporters and donors, partner organisations and staff and volunteers
- The board is authorised to obtain appropriate external legal and other professional advice in order to fulfil its responsibility

### **Directors**

- Directors will be required to sign a declaration that they are not disqualified, in law, from acting as a director
- Directors will not be remunerated for services given to the Scotland Malawi Partnership but they will be entitled to claim scale expenses for attending to Scotland Malawi Partnership business

A Director is expected to:

- Be committed to the development of Malawi.
- Have an enthusiasm for the work of the Scotland Malawi Partnership and a commitment to carry out the duties of a board member.
- Have the ability to work as a member of a team and a willingness to state personal convictions, and equally, to accept a majority decision and be tolerant of the views of others.
- Have a willingness to deal openly with staff and colleague board members when pleased or displeased about an issue.
- Be a respected member of the community.
- Be prepared to offer personal and business skills and experience to support the work of the staff, if required.

### **Main duties**

#### General

- Provide direction and purpose for the Scotland Malawi Partnership
- Ensure a framework of effective policies and procedures is in place
- Ensure that the Scotland Malawi Partnership complies with all aspects of the law, relevant regulations and good practice and meets the objects as defined in the Memorandum and Articles of Association
- Ensure financial viability for both funding and operations

- Ensure prudent financial management, with effective control, auditing and reporting mechanisms
- Approve annual accounts and report
- Ensure prudent investment management, with effective control, auditing and reporting mechanisms
- Determine allocation of resources, funds, people and programmes
- Analyse and assess risk in all sectors of operation
- Appoint chairmen of committee and provide terms of reference
- Monitor the performance of the Scotland Malawi Partnership, against plans and agreed targets
- Ensure all Scotland Malawi Partnership assets and property are well-managed and maintained
- Be accountable to supporters and donors, partner organisations, staff and volunteers
- Recruit, appoint and appraise/review staff
- Ensure a framework of effective communication and reporting is in place
- Provide minutes of all board meetings for review and subsequent archival retention
- Accept reports and minutes from sub-committees and determine/homologate actions
- Ensure agreed decisions are implemented
- Establish a system of communications and delegated decision-making so that urgent decisions can be made and acted upon between board meetings
- Create working parties or ad-hoc committees to deal with specific items
- To investigate any financial, legal or other matter which may put the Scotland Malawi Partnership at risk
- Form the final appeal panel in grievance and disciplinary cases affecting members of staff
- Promote and maintain the good name of the Scotland Malawi Partnership
- Encourage a culture within the Scotland Malawi Partnership whereby each individual feels he or she has a part to play in promoting the Scotland Malawi Partnership and guarding its probity.
- Co-opt additional directors if necessary, and retain advisers with specialist knowledge and skills as required.

## **VI. COMPETENCIES**

The Board of Directors requires a broad range of competencies, with particular strengths in some of the following areas:

- Knowledge and experience of Malawi
- Organisational / sector awareness
- Handling change
- Inter-personal effectiveness
- Judgment and decision-making
- Leadership
- Managing relationships
- Personal motivation

- Planning and organising
- Self-confidence and resilience
- Strategic thinking and vision
- Team working
- Technical/professional knowledge

## **VII. AREAS OF EXPERTISE**

The current Board have identified the below ideal areas of expertise for prospective new Directors:

- Human Resources and employment;
- Business, investment, trade and tourism;
- Legal (both charity and company);
- Finance and accounting;
- Fund-raising.

**All members are welcome to stand for election but the Board especially encourages those with one or more of the above skill sets to stand.**

## **VIII. POLICY AND PLANNING**

The Board has responsibility for governing the Company and also has the power to decide how it should be done.

All Scotland Malawi Partnership policies and the strategies to implement them are discussed and decided by the Board. In most cases the policy documents will have been prepared by the Administrator / Company Secretary, discussed by the Policy and Strategy Committee and recommended to the Board for approval. This will include policies on equal opportunities, employment, marketing and public relations. All official strategic documents such as Strategic Plans, annual Business or marketing plans should be read, discussed and approved by the Board.

It is the job of the Administrator / Company Secretary, and staff, to implement these policies and undertake the day-to-day management of the Company. The expertise of the staff should be respected at all times, provided that management decisions are consistent with Board policies. All aspects of service delivery and policy implementation should be monitored and evaluated by the Board on a regular basis and policy revised as appropriate.

## **Financial Management**

Board members must be fully aware of the financial position of the Company at all times. To satisfy the requirement for sound financial management they should ensure Financial Regulations are complied with. This would normally be designated to the Audit and Finance Committee. The following should be undertaken and the numbers and explanations understood:

### **Annual approval of budget for the coming year**

This will contain details of projected income and expenditure consistent with the Strategic Plan. It should only be approved if it is realistic (an unrealistic budget is one in which the proposed levels of income and expenditure are unattainable). Actual financial figures from previous years can provide a good guideline.

Any capital expenditure should be clearly indicated and, when appropriate, cost benefit or feasibility information provided.

### **Regular financial reports**

Budgets require constant monitoring and revision. The Board should receive regular statements, quarterly is usually ideal. A quarterly statement should show the cash flow position of the organisation on the date and a statement of income and expenditure prepared on an accrual basis (i.e. the accounting convention where income and expenditure is recognised as it is earned or incurred rather than when received or paid).

The Treasurer will present reports at Board meetings and answer detailed questions about the financial report.

### **Budget revision**

If income and expenditure to date differ widely from the approved annual budget the Board should request and approve revisions of the budget. Hard financial decisions should be made when necessary.

Budgets are often drawn up at a point when definite information about funding is unavailable. The budget should be confirmed or revised as firm information becomes known.

## **Financial regulations**

It is good practice to have clear, agreed financial regulations for the organisation. These should cover at least the following:

- Cheque signing rules
- Spending authority – with whom it lies and any limits

- The power of the Chairman, the Treasurer, the Administrator / Company Secretary and the Audit and Finance Committee to take financial decision between meetings and any limits
- Tendering requirements for large purchases

### **Statutory and regulatory requirements**

The Board is also responsible for ensuring correct accounting records are kept and that the statutory returns are made. While the Administrator / Company Secretary is charged with ensuring this happens, overall responsibility lies with the Board and not with the individual member of staff.

### **Other areas of financial responsibility**

- To oversee the investment of funds
- Tax mitigation (ensuring that all eligible allowances against tax are claimed)
- Insolvency considerations
- Non-charitable trading
- Appointing bankers and auditors

*Note: as a director, you should ensure that at all times, the Scotland Malawi Partnership is run within the limits of its financial resources. If not, and the Board of directors is not seen to have acted with due Care, Diligence and Skill, you could be held personally liable and prohibited from being a Board director of any company at any time in the future.*

### **Advocacy and Fund-raising**

To carry out its work the Board requires a mix of people with different skills and also with a high standing in the community or within their field of work. The Board has a crucial role to play in terms of public relations, fund-raising and advocacy for the organisation to all sectors of the public but particularly to those who may themselves support the Scotland Malawi Partnership or who can 'open doors' for the Scotland Malawi Partnership.

Board members are ambassadors for the Scotland Malawi Partnership and should strive to promote the Company, its activities and its needs to as many useful individuals and bodies as possible, so as to enhance its profile. Directors should also keep their eyes and ears open for information or opportunities which may be of interest or assistance to the Scotland Malawi Partnership.

Directors also have a responsibility for working actively on behalf of the Scotland Malawi Partnership to raise funds. This includes lobbying for public grants and donations, helping to raise sponsorship from the private sector and maximising earned income.

## **Employment and Personnel responsibilities**

The Board is responsible for defining and reviewing Scotland Malawi Partnership policies on employment and personnel procedures, including:

Equal opportunities, contracts, staffing structure, dismissal, grievance and disciplinary, sickness, holidays, maternity/paternity/compassionate leave, salaries, appraisal, pensions, expenses payments and training.

The Board is responsible for the recruitment of the Administrator / Company Secretary, with directors serving on the interview panel and agreeing the job description, person specification and terms of employment. When the new person takes up his post the Board must ensure that they are fully briefed about the aims and objectives of the organisation and its policies. It is also the Board's responsibility to ensure that the incoming Administrator / Company Secretary fully understands his/her job description. The Administrator / Company Secretary reports to the Board, through the Chairman.

The Chairman, or another Director appointed by the Board, is responsible for conducting the performance appraisal of the Administrator / Company Secretary. This Director should be involved with all staff who report to the Administrator / Company Secretary.

Health and Safety is another important area for which the Board has responsibility and it should ensure that the staff manage any premises in a way that is safe and efficient for both employees and visitors and that it complies with all aspects of current legislation. The Board should review the health and safety procedures on an at least annual basis.

## **IX. GUIDELINES FOR DIRECTORS**

**Title:** Director

**Purpose:** To be responsible for:

- determining strategic direction and policies for the good governance of the Scotland Malawi Partnership
- ensuring the company operates within the law and observes its statutory and regulatory obligations;
- monitoring the performance of senior staff
- communicating the aims and objectives of the company to potentially useful people and organisations;
- ensuring appropriate remuneration packages are in place for directors and staff;
- appointing new directors

**Term:** Directors are elected for a three-year term and are eligible for re-election for a further two terms, up to a maximum of nine years service, at which point they must stand down for at least one year.

**Responsible:** To the Chair of the Board



### Personal Attributes

1. An enthusiasm for the work of the Scotland Malawi Partnership, a commitment to carry out the duties of a Board member.
2. The ability to work as a member of a team and a willingness to state personal convictions, and equally, to accept a majority decision and be tolerant of the views of others.
3. The willingness to deal openly with staff and colleague Board members when pleased or displeased about an issue.
4. A respected member of the community.
5. A preparedness to offer personal and professional business skills and experience to support the work of the staff, if required.

Directors “should bring an independent judgment to bear on issues of strategy, performance, resources including key appointments and standards of conduct.” *Cadbury Report 1992*

### Legal and Financial Duties

1. To ensure that the organisation operates in accordance with appropriate legislation, including the filing of statutory returns and keeping of company registers.
2. To ensure the prudent financial management of the company by:
  - Exercising diligent financial control
  - Scrutinising quarterly statements of the financial position
  - Discussing and deciding on annual budgets and revisions
3. To ensure the Scotland Malawi Partnership keeps proper accounts and that audited accounts are produced annually and submitted to the appropriate authorities.
4. To ensure that all Scotland Malawi Partnership assets and property are well-managed and maintained.
5. To appoint bankers and cheque signatories and to make clear decisions about staff spending powers.
6. To appoint auditors and ensure annual audits are conducted
7. To ensure the Scotland Malawi Partnership is adequately insured.

### Employment and Personnel Duties

1. To define and review annually Scotland Malawi Partnership employment policies and procedures, including:
  - Equal opportunities, salaries, contracts and appraisal, dismissal, grievance and disciplinary procedures, sickness, holidays, maternity/paternity/compassionate leave, pensions, expenses payments, training
2. To make decisions relating to the employment of staff:
  - To approve the staffing structure
  - To take part in the recruitment procedure for senior staff
  - To form the final appeal panel in grievance and disciplinary cases
3. To agree job descriptions, person specifications and terms of employment of senior management and, in outline only, for other members of staff.

### **Policy and Planning Responsibilities**

1. to determine all policies and strategies, review all areas of policy implementation, including this document, at least annually and make appropriate revisions
2. to review the annual business plan

### **Advocacy Responsibilities**

1. To act as an ambassador for the Scotland Malawi Partnership.
2. To promote the Scotland Malawi Partnership, its activities and its needs to the private, public and voluntary sectors, as appropriate, so as to enhance its profile
3. Assist with the company's fund-raising.
4. To act as a listening post in order to provide any information regarding significant events which may be of assistance to the Scotland Malawi Partnership.

### **Management Responsibilities**

1. To agree a cycle of meetings with appropriate papers to service the Board efficiently
2. To establish a system of communications and delegated decision-making so that urgent decisions can be made and acted upon between Board meetings
3. To co-opt additional directors or advisers with specialist knowledge and skills as required.
4. To establish fixed-term working parties on specific issues, if required.

In order to carry out these duties and responsibilities the Director must:

1. Know the history, and background, of the Scotland Malawi Partnership and be able to give a clear description of its work.
2. Give proper time and attention to his/her duties as a director and be present at an annual minimum of two thirds of all appropriate meetings to keep abreast of developments
3. Act strictly according to the Memorandum and Articles of Association of the Scotland Malawi Partnership.
4. Act only to the advantage of the Scotland Malawi Partnership, without regard to his/her private interests, or those of others.
5. Not derive any personal benefit or gain, including payment for services as a director, and not be an employee of the Scotland Malawi Partnership.
6. Read all papers prior to meetings and all material distributed by the Scotland Malawi Partnership.
7. Attend Scotland Malawi Partnership organised events, where appropriate

If a Board member is unable to devote the necessary time to carry out his/her duties and responsibilities it is incumbent on the member to resign in writing to the Chairman, so as to allow an active replacement to join.

Directors do not receive any remuneration from the Company but are entitled to claim expenses for work carried out on behalf of the Company (including attendance at Board meetings). Such expenses should be agreed in advance with the Administrator / Company Secretary and submitted on a Directors' Expenses Form, along with appropriate receipts, to the Administrator / Company Secretary.

## **Appendix 1. DIRECTORS DUTIES**

### **1. General**

#### **1.1 Who are directors?**

Broadly speaking, directors are the agents of a company who manage its business and affairs. They are appointed to office by the shareholders or, as additional directors, by the company's board.

Whilst the Companies Act 1985 is unhelpfully vague in its description of a director as including "any person occupying the position of director by whatever name called" it does confirm that a director is to be recognised by his function and not by his title. A company may therefore describe its directors as "governors", "trustees" or "managers" without affecting their legal status as directors. The converse is also true and a person who has not been formally appointed to the office of director may nonetheless use the title of "director". In these circumstances however, care should be taken to ensure that such an individual is not regarded as a director under the Companies legislation which may be the case if he acts as, or assumes the position of, a director.

#### **1.2 Are there different types of director?**

Directors are often categorised and described with reference to their role within a company and/or the way in which they have assumed office. A company therefore may have what are known as "executive directors", "non-executive directors", "alternate directors", "shadow directors", "de facto directors", "associate directors" and/or "managing directors".

#### **1.3 What are directors' duties?**

Directors' duties arise from both case law and statute. The decisions of the courts have made it clear that all directors are expected to have a reasonable understanding of their legal responsibilities. The main duties of a director can be summarised as follows:-

- a duty to exercise such degree of skill and care when carrying out his/her duties as a director, as may be reasonably expected from someone of their skill and ability (for further information see paragraph 2 below);
- fiduciary duties to the company to act honestly and in good faith and in the best interests of the company (for further information see paragraph 3 below);

- duties imposed by statute, including the statutory obligations imposed by the Companies Act 1985 (for further information see paragraph 4 below); and
- with effect from October 2007 the new Companies Act 2006 codified duties (for further information see paragraph 1.4 below).

#### 1.4 **Is there one single code or place that sets out all directors' duties?**

There is no single code or exhaustive list of directors' duties currently in force. The law relating to directors' duties is found in statute and case law. With a range of statutory and common law sources from which duties may arise or evolve, establishing and interpreting the duties of a director and the standard of skill and care expected of him can be a difficult task.

However, the government has recognised this problem and the new Companies Act 2006 includes codified directors' duties. The Companies Act 2006 is being brought into force in phases with the codified duties due to be implemented on 1 October 2007. The seven new codified duties of a director will be:

- Duty to act within powers;
- Duty to promote the success of the company;
- Duty to exercise independent judgement;
- Duty to exercise reasonable care, skill and diligence;
- Duty to avoid conflicts of interest (not applicable until 1 October 2008);
- Duty not to accept benefits from third parties (not applicable until 1 October 2008);
- Duty to declare interest in a proposed transaction or arrangement (not applicable until 1 October 2008).

The new duties do not replace the existing non-statutory duties but the wording of the Companies Act 2006 suggests that they will be interpreted and applied in the same way as those duties. The government's intention was to consolidate all directors' duties and set them out in one place however this was not entirely achieved. It is not clear how far previous case law will be relevant to the interpretation of the new duties.

Directors who are unclear about their duties in any way should ensure that they seek appropriate professional advice and guidance.

#### 1.5 **Is there a distinction between the duties of an executive director and a non-executive director?**

A non-executive director has the same statutory duties and obligations as any other director; although the courts may apply different standards when determining the level of skill and standard of duty of care that a non-executive can be expected to demonstrate. The only distinction in legal terms between an executive and a non-executive director is that non-executive directors should be independent. Therefore, non-executive directors should not have additional

management duties within the company (for example as finance or sales director).

In practical terms a non-executive director will not be involved in the day-to-day running of the company. However, to discharge his duties he should:

- attend board meetings regularly;
- ensure that all relevant information is supplied to him; and
- generally take an active interest in the affairs of the company.

Although a non-executive director may rely significantly on information and explanations supplied by executive directors and senior management, he should not do so blindly.

#### 1.6 **To whom do directors owe duties?**

Directors' duties are generally speaking owed to the company of which they are a director and not to other group companies or individual shareholders or groups of shareholders. There can however be circumstances in which directors owe duties to third parties other than the company. For example, where a company is in financial difficulty as well as considering the interests of the company and its shareholders, directors are also expected to take steps to safeguard the interests of the company's creditors.

#### 1.7 **Do directors have duties to employees?**

Under the new Companies Act 2006, directors should consider the best interests of the employees when promoting the success of the company. However it is the company, rather than the employees, which can enforce this duty.

### 2. **The duty of skill and care**

#### 2.1 **What are directors' duties of skill and care?**

A director is under a duty to the company to use reasonable skill and care in carrying out his functions. The basic standard of general knowledge, skill and care expected of any director, is that which may reasonably be expected from a person of the director's knowledge and experience. This test concentrates on the nature of the individual, rather than the nature of his office. It therefore follows that a higher standard is imposed on, for example, a director who is professionally qualified or has particular skills connected to his directorship or has years of experience than on a newcomer to the business world.

#### 2.2 **What level of skill is required of a director?**

Although there is no objective standard of the level of skill required of a director, case law confirms that all directors must recognise that they have,

collectively and individually, a continuing duty to acquire and maintain a sufficient knowledge and understanding of the company's business to enable them to properly discharge their duties as directors.

### 2.3 **How is the duty of 'care' assessed?**

Directors must attend diligently to the affairs of the company to which they are appointed. The degree of diligence required will vary depending on the facts and circumstances of each particular case. It will depend, for example, on the role in the management of the company assumed by the director and the duties expected of a person in that role.

### 2.4 **Is a director liable when a job is delegated to someone else?**

Subject to the articles of association of the company, the board of directors may delegate specific tasks and functions, but must be satisfied that they are delegating to a suitably qualified person who is honest, competent and reliable (whether this be to one or more directors or a third party). The exercise of the power of delegation will not absolve a director from the duty to supervise the discharge of delegated functions.

## 3. **Fiduciary duties**

### 3.1 **What are directors' fiduciary duties?**

All directors owe common law fiduciary duties to the company that appoints them. Broadly, they are duties which impose responsibility on the directors to act honestly and in good faith and in the best interests of the company. Whilst there are differing views as to how fiduciary duties should be categorised, the principal duties are generally recognised as follows:-

- (i) to act in good faith in the best interests of the company;
- (ii) to exercise one's powers for a proper purpose;
- (iii) to avoid conflicts of interest;
- (iv) not to fetter one's discretion; and
- (v) not to make personal profit from opportunities arising from a directorship.

### 3.2 **What duty does a director have to "act in good faith"?**

Directors must act in what they consider to be the best interests of the company. They therefore cannot use their powers to benefit third parties or themselves. The duty is subjective and a court will usually only interfere where it is found that no reasonable director would consider the action taken to be in the best interests of the company.

3.3 **What duty does a director have to exercise his powers for a “proper purpose”?**

The powers conferred upon directors and the context in which they can be reasonably exercised will be outlined in a company’s memorandum and articles of association, relevant shareholders’ resolutions and board minutes. Directors must exercise their powers for the purpose for which they are conferred.

3.4 **What duty does a director have to avoid conflicts of interest?**

It is the duty of directors to avoid putting themselves in a position where their personal interests or duties to a third party conflict with their duties to the company. This does not apply if the company gives consent – either in its articles of association or by a resolution of the company in general meeting. If an actual or potential conflict arises, to avoid the likelihood of liability, a director must ensure that it is disclosed to, and approved by the company. If a director is in doubt as to whether there is a conflict of interest, he should inform the board and/or seek professional legal advice.

3.5 **What duty does a director have not to make personal gain or profit?**

A director’s fiduciary position precludes him from making personal profit from any opportunities which arise from his directorship. This applies even if he acts entirely honestly and for the good of the company. Any profit arising in such circumstances must be repaid to the company unless it has been previously disclosed and authorised by shareholders or is permitted by the company’s constitution. It makes no difference that the company itself would never have been able to make the profit in question.

3.6 **What duty does a director have not to fetter his discretion?**

A director has a duty not to fetter his discretion (e.g. agreeing with a third party how to exercise his discretion) which would stop him exercising an independent judgement at the relevant time. An exception does exist where directors decide that it is in the company’s best interests to enter into a contract or arrangement and carry it into effect. They can undertake to exercise their powers in a particular way if this is necessary to give effect to the contract or arrangement. However, generally speaking a director must be able to exercise his discretion according to what he considers to be in the company’s interests at the relevant time.

4. **Statutory duties**

4.1 **What are directors’ statutory duties?**

General companies legislation imposes duties both upon the directors personally (such as the directors' duty to treat shareholders equally) and upon the company. In the latter case, if a director fails to ensure that the company's obligations are discharged, penalties may be imposed on both the company and the directors. Statutory obligations are also imposed on directors and companies outside the scope of the Companies Acts. For example, directors may face liability where a company fails to meet the statutory obligations of environmental, health and safety, tax, employee and consumer protection legislation.

#### 4.2 **What are the duties imposed on directors by the Companies Act 1985?**

The Companies Act 1985 places a number of duties on directors, many of which are administrative obligations. With over 150 statutory offences contained in the 1985 Act the list at Factsheet 1 looks only to summarise some of the main duties imposed by the Companies Act. Broadly speaking these duties will apply under the new Companies Act 2006 too.

### 5. **Breach of duties**

#### 5.1 **What happens to a director who does not comply with his duties?**

If a director does not comply with his duties he may be liable to civil or criminal proceedings. Defaulting directors may be liable to a fine, possibly a daily default fine for continued contravention and may be disqualified from acting as a director (see paragraph 5.3 below). In some instances, where a serious breach of duty has occurred, a director may be liable to imprisonment.

#### 5.2 **Who can bring an action against the directors?**

Only those to whom a director owes a duty can bring an action against a director (for further information to whom directors owe duties see paragraph 1.6). In general terms this means that the company may bring an action against defaulting directors. However, it is possible that in some circumstances third parties may bring an action against the directors. For example, creditors may bring an action against the directors for any losses they suffer where directors allow a company to trade after the point in time when they knew or ought to have concluded that there was no prospect of the company avoiding insolvency (for further information see paragraph 6 below).

#### 5.3 **Can a director be disqualified?**

The Companies Directors Disqualification Act 1986 sets out the circumstances in which the courts (normally acting on the initiative of the Department of Trade and Industry) can make a disqualification order against a director. The court can make an order against a person in various circumstances, including:-



- where a director has been convicted of a criminal offence in connection with the promotion, formation, management, liquidation or striking off of a company;
- where there has been persistent default in the filing or delivery of returns, accounts or other documents with the registrar of companies;
- if the director has been found guilty of fraudulent trading (see paragraph 6.4) or any fraud or breach of duty in relation to the company;
- where, as a result of fraudulent or wrongful trading, the court has ordered the director to contribute to the assets of his company; or
- if the Secretary of State feels that it would be in the public interest that the director should be disqualified.

The duration of directors' disqualification under this legislation ranges from 5 to 15 years.

#### 5.4 **Can directors be personally liable?**

Directors are generally not liable for the company's debts and liabilities unless they have given personal guarantees. They may however be personally liable if they have acted improperly or in breach of their duties.

### 6. **Directors duties and the insolvent company**

#### 6.1 **What duties do directors have where a company is, or is likely to become insolvent?**

Once a director knows or ought to have concluded that there is no reasonable prospect of a company avoiding an insolvent liquidation, he must take every step to minimise the loss to the company's creditors. In particular the Insolvency Act imposes additional obligations on directors of a company in financial difficulty. They are expected to take steps to safeguard the interests of the company's creditors and face criminal prosecution, personal liability and/or disqualification if those requirements are not met.

#### 6.2 **What is wrongful trading?**

A director may be liable for wrongful trading if the company has gone into insolvent liquidation (i.e. the company's assets are insufficient to pay its debts and other liabilities including contingent liabilities and expenses of winding up) and prior to the company going into insolvent liquidation he;

- knew (or ought to have concluded, based on his actual skill, knowledge and experience and the skill, knowledge and experience that a director in his position ought to have) that there was no reasonable prospect of the company avoiding the insolvent liquidation; and

- failed to take every step he ought to have taken to minimise potential losses to creditors.

A director found liable for wrongful trading may be ordered to contribute to the company's assets for the benefit of its creditors. The aim is compensatory (to the company's creditors) rather than penal. It is not sufficient that the directors take steps to minimise the loss to certain creditors and not others. The directors must act in the interests of all creditors.

### 6.3 **Can a director avoid liability where the company is in financial difficulty by resigning?**

Resignation is unlikely to be a means by which a director can hope to "minimise the loss to creditors" and as such he cannot avoid liability by doing so when he realises that the company is facing financial difficulty. A director should remain on the board of a failing company to ensure that his warnings are recorded; both for his own protection and so that at least one voice will be heard representing the interest of creditors, if his co-directors refuse to act. Only following such steps should resignation be considered with appropriate professional advice. Wrongful trading applies both to current and former directors.

### 6.4 **What is fraudulent trading?**

A director is guilty of fraudulent trading where he was knowingly party to the carrying on of a company with the intent to defraud creditors (whether of the company or any other person) or for any other fraudulent purpose. The offence carries both civil and criminal penalties. Upon the application of the liquidator in the course of the winding-up a court may order a director found guilty of fraudulent trading to make such contribution to the company's assets as it thinks proper. For example, the courts have found directors liable if they continue to incur credit on their company's behalf without any reasonable expectation of funds being available to repay the debt when, or shortly after, it falls due.

### 6.5 **What should a director do if he suspects that his company is in financial difficulty?**

A director who suspects that his company is in financial difficulty should:-

- raise the issue at board level;
- hold regular board meetings and minute discussions;
- ensure that the board as a whole seeks appropriate legal and financial advice on a regular basis, to ensure that it is complying with its responsibilities. An individual director can seek separate advice if he does not approve with what the board is doing;

- ensure up to date financial information is circulated regularly to all directors;
- scrutinise carefully all new liabilities and ensure no liability is incurred where there is no reasonable prospect of it being met; and
- review all transactions that might be perceived to be preferential or at an undervalue. A director who authorises a transaction that is subsequently reversed may be held to be in breach of his duties to the company.

## 7. **Indemnity and insurance protection**

### 7.1 **Can the company indemnify a director for breach of duties?**

The Companies Act prohibits a company from exempting a director from any liability attaching to him in connection with any negligence, default, breach of duty or breach of trust by him in relation to the company. However, a company can indemnify a director against such liability provided certain conditions (set out in the Companies Act 1985) are satisfied. These are referred to as 'qualifying third party indemnity provisions' and advice should be taken as to whether these provisions apply in a particular case.

### 7.2 **Can the company take out insurance cover for its directors?**

The extent of directors' responsibilities is now so wide ranging that it is relatively common for companies to take out insurance policies on behalf of their directors. The Companies Acts make it clear that a company can take out insurance cover for its directors against loss in respect of most of their liabilities. A company can also take out insurance cover for a director in relation to any liability attaching to a director in connection with any negligence, default, breach of duty or breach of trust by him in relation to the company.

## Appendix 2. WHAT IS EXPECTED OF A DIRECTOR?

<b>Act in the interest of the charity</b>	
<b>Responsibilities</b>	<b>Examples of Good Practice</b>
<p>Put interests of charity first.</p> <p>Declare any conflict of interest and do not take part in any discussion or decision if there is an irreconcilable conflict of interest between the charity trustee and any person responsible for their appointment.</p> <p>Manage conflict of interest of fellow charity trustees and take steps to remove charity trustees in serious or persistent breach of their duties.</p> <p>Ensure any remuneration of charity trustees complies with the conditions set out in the Act.</p> <p>Individual charity trustees must ensure they are not disqualified from being a charity trustee.</p>	<p>Charity trustees declare any conflict of interest and do not take part in any discussion or decision on the matter.</p> <p><b>Adopt a charity trustee 'Code of Conduct' which includes commitment to upholding aims of the charity and guidelines on conflicts of interest.</b></p> <p>Potential charity trustees to confirm they are not disqualified.</p> <p>New charity trustees to declare any interest that may give rise to conflicts of interest.</p> <p>Maintain up-to-date register of charity trustee's interest.</p> <p>Charity trustee misconduct procedures formulated and applied.</p> <p>Review the constitution to ensure the power to remove charity trustees who are in serious or persistent breach of the Act is available.</p> <p>Adopt a charity trustee remuneration policy and procedures which ensure any remuneration complies with the conditions set out in the Act.</p>

<b>Operate in a manner consistent with charity's purpose</b>	
<b>Responsibilities</b>	<b>Examples of Good Practice</b>
<p>Ensure that all activities of the charity fall within the charity's purposes.</p> <p>Ensure charity adheres to its constitution or governing document.</p> <p>Ensure assets are not applied to non-</p>	<p>All charity trustees have a copy of and be familiar with the charity's constitution or governing document.</p> <p><b>Induction pack given to all new charity trustees which includes the constitution or governing document, up to date information</b></p>

charitable purposes	<p><b>about the activities of the charity and any statement of the values of the charity.</b></p> <p>Refer to the charity's purposes when developing and agreeing strategic plans.</p>
<b>Act with Care and Diligence</b>	
<b>Responsibilities</b>	<b>Examples of Good Practice</b>
<p>Ensure charity is run properly, responsibly and lawfully.</p> <p>Act as guardians of the charity's assets.</p> <p>Ensure the charity is solvent.</p> <p>Ensure Board of Trustees is 'fit for the purpose' and the charity trustees are working together.</p> <p>Apply duty of care to paid staff and volunteers</p>	<p>Agree and regularly review the strategy and policies of the charity.</p> <p>Agree financial delegation and budgets, and monitor financial performance.</p> <p><b>Agree framework for support and management of paid staff and volunteers.</b></p> <p><b>Ensure procedures are in place to keep up-to-date with legal responsibilities e.g. employment legislation.</b></p> <p><b>Agree expectations of charity trustee attendance at meetings and what to do if these are not met.</b></p> <p><b>Annually review progress/effectiveness of the charity and agree priorities for improving performance.</b></p> <p><b>Include in charity trustee's induction pack the role, responsibilities and liabilities, and the remit of any sub-committees.</b></p> <p><b>Agree and implement programme for charity trustee training, board building and renewal.</b></p> <p><b>Agree and apply process for managing serious differences between charity trustees, and between charity trustees and staff.</b></p> <p>Consider any constitutional change that may be appropriate, e.g. permitting remuneration of trustees/delegation of investment decisions/change in accounting reference date/change in selection and rotation of trustees.</p>

	<p><b>Delegate, by the Board, a specific area of oversight (e.g. investment, trustee training) to each trustee.</b></p> <p><b>Regularly review board procedures for: receiving reports, confidentiality, managing risks, tackling issues of poor performance and overseeing compliance with regulations.</b></p> <p>Take professional legal or financial advice if required.</p>
--	--

<b>Ensure charity complies with the provisions of the Act and any other relevant regulation</b>	
<b>Responsibilities</b>	<b>Examples of Good Practice</b>
<p>Ensure details of the Charity on the Scottish Charity Register are accurate.</p> <p>Submit to OSCR an Annual Return, Monitoring Return (if appropriate) along with a copy of the charity's accounts signed by a charity trustee.</p> <p>Obtain consent if changing the charity's name or purposes, or if amalgamating or winding up the charity.</p> <p>Notify OSCR of changes to the constitution within 3 months of them being made.</p> <p>Keep financial records, prepare an annual statement of accounts and subject these to external scrutiny as required by the Accounting Regulations.</p> <p>Accounting records must be kept for at least 6 years.</p> <p>Establish a formal agreement between the charity and any professional fundraiser or commercial organisation carrying out fundraising for the charity, and adhere to forthcoming Fundraising Regulations.</p> <p>Provide a copy of the charity's constitution or governing document, or annual accounts to members of the public if requested to.</p>	<p>Establish board meeting cycle to allow for consideration of the accounts.</p> <p>Establish board meeting cycle to allow for reporting to OSCR.</p> <p>Adopt Institute of Fundraising codes of practice.</p> <p>Consider joining the self regulation scheme developed by the Fundraising Standards Board.</p> <p>Ensure procedures are in place to keep up-to-date with legal responsibilities e.g. employment legislation.</p> <p>Regularly review board procedures for overseeing compliance to regulation.</p>

<p>Adhere to the regulations on how charities should refer to themselves in their documents and on publicity materials.</p> <p>Adhere to other relevant legislation and regulation (e.g. employment law, health and safety, data protection etc).</p>	
---	--

**Appendix 3: FACTSHEET 1**

<b>Duty</b>	<b>What does this involve?</b>
Accounting and Financial Duties	<p>The legal duty of producing the company's accounts is placed upon the directors. They have two basic duties concerning the annual accounts. The first is to prepare, sign and lay before the company in general meeting financial statements comprising a balance sheet and a profit and loss account for each financial year. Their second duty is to deliver to the Registrar of Companies a signed copy of the accounts enclosing the supporting reports.</p> <p>It is also provided more generally that directors must assist auditors to whatever extent is necessary to supply the information required in the audit of the company's accounts.</p>
Notifying the Company when dealing in its Shares	<p>When appointed, a director should notify the company within five days if he has any interest in its shares or debentures or of any other group company. If a change in his interest occurs he must notify the company in writing within five days of the change. The definition of an "interest" is very widely drawn, and a director's interests are deemed to include those of his spouse and other members of his family and companies in which he has a material interest. The provisions relating to directors interests are complex and directors in doubt should always take professional advice as to their obligations.</p>
Loans to Directors	<p>Complex rules prohibiting a company from making or guaranteeing a loan to one of its directors or a director of a holding company are set out in the Companies Acts. Various exceptions apply to these prohibitions, depending broadly on:-</p> <ul style="list-style-type: none"> <li>• the size of the loan; loans totalling up to £5,000 can be made to a director for any purpose;</li> <li>• the purpose of the loan; subject to conditions (including obtaining shareholder approval), a sum greater than £5,000 may be permitted if the loan is to meet expenditure incurred on behalf of the company or to enable the director to properly perform his duties; and</li> <li>• the type of company; a money lending company may take advantage of some additional exemptions.</li> </ul>
Disclosure of Termination Payments	<p>Payments made to a director by way of compensation for loss of or retirement from office may require to be disclosed to, and be approved by, shareholders. Non-compliance renders the defaulting director liable to a fine and to account for monies received.</p>
Transactions	<p>Shareholders approval is required before a director, or a person</p>



**Duty****What does this involve?**

connected with a director, can acquire a non-cash asset from the company or a subsidiary of the company, where the value of the asset or assets to be acquired exceeds £100,000 or, if less, 10% of the company's net asset value (down to a minimum of £2,000). The same restriction applies where the company or a subsidiary acquires a non-cash asset from a director or a person connected with a director.

If the approval of shareholders is not obtained, the director concerned, and all the directors who authorised the transaction, are liable to account to the company for any profit, and must indemnify the company against any loss or damage resulting from the arrangement or transaction.

[The Listing Rules also require shareholder approval for certain transactions between a listed company or its subsidiary and a director or any group company or an associate of a director.]

Disclosure  
Interests  
Contracts

of If a director has any interest, direct or indirect, in a proposed or  
in subsisting contract, transaction or arrangement with the company he is  
obliged to disclose this at a meeting of the full board of directors.  
Normally, this declaration must be made at the first board meeting at  
which the matter is considered. The duty extends and includes interests  
of persons connected with the director. Failure to disclose an interest  
renders the director liable to a fine and may justify the company in  
refusing to honour the contract, or entitle it to require repayment of any  
money or other assets received by the director under such contract.

Administration

A company is under a number of statutory obligations to disclose certain types of information, including filing returns with the Registrar of Companies and making documents available for inspection at the company's registered office. Directors are responsible for ensuring the company's due administration, that it keeps proper accounting records, maintains proper registers, makes its returns to the Registrar and prepares its annual accounts on time.