
Risk Assessment *A Trustees Responsibilities* *under Sorp 2000*

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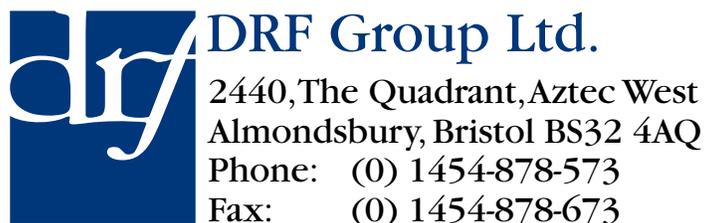


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Contents

<u>Introduction</u>	Page [3]
<u>Need for new requirement</u>	Page [4]
<u>Legal requirement to assess risk</u>	Page [5]
<u>How to assess risk</u>	Page [7]
<u>Deciding what action to take</u>	Page [7]
<u>Keeping things under review</u>	Page [9]
<u>Writing a risk assessment report</u>	Page [10]
<u>Appendix</u>	Page [12]



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Introduction

Charity trustees have often been likened to the directors of a commercial company. They are often called a “Board” and, indeed, in the case of charities which take the corporate form of a company limited by guarantee, the trustees are often also formally directors.

But here any similarities end. Directors of a commercial company bear a relatively easy burden when it comes to safeguarding their company against risks. They only have to avoid being negligent, by which is meant that they only have to act as any other reasonable director might in the given situation. As a judge famously remarked “ a director may be stupid, so long as he is not negligent ”. And within the limits of the law of negligence a fair amount of stupidity is tolerated. Especially, they are not under a responsibility to foresee the future.

Sorp 2000 marked a significant departure in the laws and responsibilities of charity trustees from those of commercial directors. From October 2000 charity trustees have been obligated to foresee what risks lie ahead for their charity. And to tell the public, via the Charity Commission, what they have seen.

This publication is intended as a commonsense guide for trustees and others regarding their responsibilities under the duty to foresee and manage risks that their charity may face. It is written in the knowledge that much has already been published on the subject, but also too that many

trustees and managers still feel a need for guidance on the practicalities of implementing a Sorp – compliant risk assessment and risk management regime.

1. Why there was a need for the new requirement

Unlike directors of a commercial company, charity trustees are seldom involved in the day to day management. In fact, many are not involved more than at quarterly meetings, let alone day to day. This distances them from day to day events and from an often fast changing environment in which their charity works. This environment includes all of the factors which determine the financial and organisational wellbeing of the charity. The political environment. The commercial environment. The service environment within which the charity operates. The fundraising environment. The staff and volunteer recruitment environment. All and any of these can change very quickly, putting an unprepared charity at significant risk. In my own experience of charity involvement I have known of a major charity that was forced, at very short notice, to consider cutting its staff by 50% (with a major knock-on effect to its services to disabled people) or getting the staff to agree a temporary salary cut of 50%. All this was due to an unexpected drop in legacy income over no more than a 3 month period. The charity had relied on legacies as its principal source of unrestricted income to cover core costs such a staff. A proper risk assessment would have identified that their fundraising strategy left them open the exactly this risk.

SORP 2000 requires trustees to include in their Annual Report to trustees a “statement confirming that the major risks to which the charity is exposed, as identified by the trustees, have been reviewed and that systems have been established to mitigate those risks”. The requirement strictly only applies to charities with in excess of £250,000 annual income, but charities with a lower level of income should apply it as part of “best practice”.

This accounting practice rule was enshrined in law by the Charities (Accounts and Reports) Regulations 2000. These rules came into force for accounts filed on or after January 2001.

What risks does the rule apply to?

There is only an obligation to assess and mitigate “major risks” that have been “identified by the trustees”. This might seem to give room for error. But the sections of the directive, discussed below, which deal with recommended methods for identifying and categorising risk make it clear that trustees are under significant pressure not to fail to identify risks or to underestimate their severity.

2. The legal requirement to assess risk

SORP 2000, in paragraph 31(g), imposes on the trustees of any charity a legal obligation to include in their Annual Report to the Charity Commission a “statement confirming that the major risks to which the charity is exposed, as identified by the trustees, have been reviewed and that systems have been established to mitigate those risks”. This accounting practice requirement is given legal backing in The Charities (Accounts and Reports) Regulations 2000 which make it a legal obligation

for the Annual Report of charities with a turnover of over £250,000 to “ contain a statement as to whether the charity trustees have given consideration to the major risks to which the charity is exposed and systems designed to mitigate those risks.

Technically, this means that only charities with over £250,000 turnover are under a legal responsibility to make a risk assessment and management statement and that the others are under a lesser obligation to follow ‘best practice’. In reality, it serves the best interest of all charities to follow the SORP requirement. Some lawyers also argue that the publication of the SORP guidelines in any event put all trustees on notice of the need to be aware of risk and that consequently, under the laws of negligence, their duty of care is now set at the standard of imposed by the guidelines.

Which risks are affected?

To keep things within manageable bounds, SORP 2000 and the Regulations confine themselves to requiring assessment and management of what they call “major risks”.

These are risks which, if they occurred would

- Have a severe impact on operational effectiveness, objectives or reputation;
- AND which have a high likelihood of occurring.

3. Guidance on how to assess risk

The best and most easily implemented advice on ‘mapping’ risks to identify if they fall into the category that is both ‘severe impact’ and ‘high likelihood’ is to place each type of risk within the following matrix:

Severe impact, high likelihood	Severe impact, low likelihood
Low impact, high likelihood	Low impact, low likelihood

The best advice is to start by writing down the different major categories of risk and then carrying out the mapping exercise by fitting each sub-type of risk

4. Deciding what action to take

The assessment will have identified risks and classified them according to severity of impact on the charity. This ‘league table’ of risks also shows up which risks need priority of attention when it comes to implementing a risk reduction strategy.

The Charity Commission highlights, in particular, contracts which the charity has which might have a major bearing on the charity if they were to be disrupted in any way. The Commission also cautions that financial impact may not be the only or indeed greatest impact.

Trustees need to decide what action to take in light of the assessment carried out.

A systematic approach to making this decision will help to minimise the chance of failing to consider something important – in effect, reducing the risk in taking decisions about risk reduction. One way of introducing this kind of discipline into the decision making process is to consider six different courses of action in turn and to decide which of them might be most appropriate to the circumstances.

The six possible courses of action are:

- Avoid the risk altogether, for example, by reducing commitments in a difficult area of work or in locations that pose risk.
- Transfer the risk to someone else. Outsourcing a database or direct mail operation would be a good example of this kind of risk transfer.
- Spread the risk by sharing it with others, for example by sharing leased premises with another charity.
- Introduce tighter controls on the activity to cut down risk, for example, by introducing weekly monitoring of volunteers instead of monthly if that is how they have been monitored hitherto.
- Insure against the risk events occurring.
- Provide financially for the risk by setting aside reserves for this purpose.

It is unlikely that risk will be eliminated altogether and it may well be that the decision is that the identified risk is worth taking anyway. What counts is having a system that can identify and quantify the whole risk, then enables the charity to cut out all unnecessary or unwarranted risk, leaving just a residual risk which the trustees can decide to take.

5. Keeping things under review

The Charity Commission is very keen that this exercise of risk assessment does not simply result in every charity producing a policy document which gathers dust on a shelf from then on. The whole idea is to kickstart an active and adaptive approach to risk management that is a continuous discipline.

The key to maintaining vigilance is to have, as part and parcel of the whole policy, a regular system of review and monitoring.

A simple review can report on each of the risks identified in the assessment, commenting as to whether the risk is still as initially categorised, whether any of the surrounding circumstances have changed and whether any new action is required. At this review, any new risks also need to be factored into the equation.

Finally, the trustees need to monitor the risk assessment process itself to satisfy themselves that it continues to meet its main purpose: enabling the charity more effectively to meet its objectives.

6. Writing up a risk assessment report

Here are some guidelines as to the main chapter headings that should appear in a risk assessment report.

1. Acknowledgment of responsibility

In the first section it is helpful to have a clear acknowledgment by the trustees that they accept their responsibilities to assess and take action on risks the charity might face.

2. Identification of risks

This section should demonstrate that the main risks have been identified, reviewed and assessed as to their impact on the charity.

3. Control mechanisms put in place

This section should show how the charity has responded to the assessment it has made by putting in place controls that will eliminate or reduce the risks.

4. How the identified risks may impact the charity

In this section the trustees need to demonstrate a clear understanding as to how the risks might affect the charity if the risk events were to occur.

5. Dealing with ‘high likelihood, high impact’ risks

It is also helpful to show a strategic approach to the issue of dealing with those risks that are likely both to have a major impact on the charity and have a high likelihood of occurring.

6. A robust monitoring and review process

The risk environment is changing all the time. In this section the trustees should set out how a regular review and monitoring process will ensure that their whole approach to risk assessment will cope with this changing picture.

7. Summary of main conclusions of the process

The report can helpfully conclude with a summary of the main findings and results of the risk assessment process.

Appendix 1

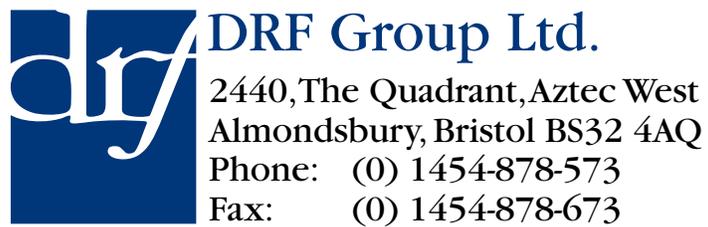
A Sample Risk Register

A good tool for establishing discipline in the area of risk assessment and for building a risk-awareness culture in the organisation is to create and maintain a Risk Register. This summarises and condenses the key findings and action points that have resulted from the risk assessment process.

Pro-forma Risk Register

The table below can be adopted by any charity as its Risk Register

Risk	May Occur	Impact	Gross Risk	Control	Net Risk	Monitor Process	Action	Who
Eg Fundraising Results low	Med.	high	high	Closer Financial control	med		More Frequent reports	Add to Trustee Meeting agendas



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