

## Role description: **Trustee (Board of Governors)**

### **PURPOSE:**

Trustees, whether elected, appointed or co-opted onto the Board of Governors (the governing body of the British Association for Counselling and Psychotherapy 'BACP') ensure that BACP's activities are properly formed, monitored and delivered; within financial probity, and comply with the charitable aims, objectives and policies of BACP.

Trustees also serve as Company Directors.

### **RESPONSIBLE TO:**

The members of BACP, the Charity Commission and Companies House.

### **Overview**

Trustees are responsible for the development of BACP's overall strategy and policy. Together with the Chief Executive Officer (CEO), you'll ensure the delivery of BACP's activities meet its strategic intents.

As a Trustee, you are answerable to the members of BACP and the Charity Commission, with focus on six key areas. To understand more what it means to be a Trustee, see '[What it means to be a Trustee](#)' later in this profile.

You are also a Company Director. To understand more what it means to be a Company Director see '[What it means to be a Company Director](#)' later in this profile.

### **Term of office**

Elected and Appointed trustees hold office for four years from the close of the Annual General Meeting (AGM) at which their election or appointment is declared; to the close of the fourth AGM thereafter (or shorter as the Board of Governors may prescribe to secure rotation and/or as laid out in the Articles of Association and Standing Orders). Co-opted Trustees shall hold office for one calendar year from date of co-option.

### **General responsibilities**

Trustees, whether elected, appointed or co-opted, should use any specific skills, knowledge and experience they possess in support of BACP and its leadership team to reach sound decisions. These include:

- to act as an ambassador and advocate for the Association and the counselling professions;
- to work with the Chair and Deputy Chair to ensure good governance;
- to work with the CEO to develop and drive strategic aims;
- to represent the Association and all its members to wider stakeholder groups;
- to attend and/or speak at BACP and non-BACP events, representing the counselling professions community, addressing related issues and concerns;
- to be mindful of the Board's responsibilities to employees and the general public;
- to be mindful of the six key areas of a Trustee as defined by the Charity Commission;
- to be mindful of the seven duties of a Director as defined by the Companies Act 2006.

## Carrying out the role

Trustees are expected to:

- understand the charity's purpose as set out in BACP's governing documents;
- raise matters or concerns as to the governance of BACP;
- attend Board of Governors meetings fully prepared having scrutinised papers and documentation;
- take an active part in decision making;
- formulate and approve BACP's strategic aims and imperatives;
- adhere to and support the governance framework;
- attend the Annual General Meeting where feasible;
- represent BACP from time to time at functions, external events;
- maintain absolute confidentiality of sensitive/confidential information received in the course of the Trustee's responsibilities to the charity, unless legally required to disclose;
- observe the code of conduct and procedures as they relate to volunteers;
- uphold the seven principles which constitute the charity governance code:
  - organisational purpose
  - leadership
  - integrity
  - decision making, risk and control
  - board effectiveness
  - diversity
  - openness and accountability.

## Person specification

The Trustee will:

- be visionary about the counselling professions and/or the efficacy of counselling;
- demonstrate business acumen and an ability to think creatively;
- have strategic vision: to articulate and support organisational strategy;
- have good, independent and sound judgement;
- understand and accept the legal duties, responsibilities and liabilities of their role;
- be willing to devote the necessary time and effort to the Trustee role.

*The Board, or an appointed sub-committee, may shortlist candidates for requisite skills match. Article 26 refers. The Board may also stipulate, and prioritise, four nations representation.*

## Remuneration

There is no remuneration attached to this role, however, reimbursement of reasonable expenses incurred in carrying out the role of Trustee will be reimbursed in line with BACP's Business Expenses Policy.

## Time commitment

It is anticipated that the time commitment attached to this role, on average, will be 24 days per year. This has been calculated assuming attendance at all Board meetings (held over two days four times a year); attendance at BACP's AGM; time for preparatory work relating to Board meetings and activities; as well as attendance at some BACP events and conferences.

### Delegated committees

As part of its governance structure BACP operates six committees, chaired by a Trustee, to provide additional scrutiny and probity:

- Audit, Risk and Performance;
- Finance and Policy;
- Membership and Professional Standards;
- Public Protection;
- Remuneration and Governance;
- Research.

The committees, except the Remuneration and Governance, meet four times per annum and further information can be found on the governance section of BACP's website. Trustees who Chair a committee, on average, will be required to commit an additional ten days per year: to cover meetings and the required preparatory work. Therefore, experience in committee work/leadership may be beneficial.

### Onboarding

You'll be required to participate in an onboarding programme to support you in your Trustee role. This will include meeting with key BACP staff such as the Chief Executive, Chief Operations Officers and Heads of Service. You'll receive a comprehensive information pack and the Governance team at BACP will remain an ongoing point of contact for support, guidance and direction.

You'll also have a meeting with the Chair and/or Deputy Chair and will be warmly welcomed to the Board by your fellow Trustees who will also support, and guide as required. One fellow Trustee may also act as a mentor in your first year.

### Learning and development

To support you in the role, internal opportunities for learning and development will be available, e.g. media training, access to online modules and development days. External opportunities will also be considered where relevant to the Trustee role and as part of a Board skills gap analysis; and subject to budget provisions.

### Additional information

The Charity Commission website is a useful source of additional information.

## What it means to be a Trustee

As a Trustee, you are answerable to the members of BACP and the Charity Commission. Your focus is on six key areas:

### 1. Ensure your charity is carrying out its purposes for the public benefit.

You and your co-Trustees must make sure that the charity is carrying out the purposes for which it is set up, and no other purpose. This means you should:

- Ensure you understand the charity's purposes as set out in its governing document;
- Plan what your charity will do, and what you want it to achieve;
- Be able to explain how all of the charity's activities are intended to further, or support, its purposes;
- Understand how the charity benefits the public, by carrying out its purposes;

*Spending charity funds on the wrong purposes is a serious matter. In some cases the Charity Commission may deem the Trustees have to reimburse the charity personally.*

### 2. Comply with your charity's governing document and the law.

You, and your co-Trustees, must:

- Make sure that the charity complies with its governing document;
- Comply with charity law requirements and other laws that apply to your charity;
- Take reasonable steps to find out about legal requirements, for example, by reading relevant guidance or taking appropriate advice when you need to.

*Registered charities must keep their details on the Register up to date and ensure they send the right financial and other information to the Commission in their annual return or annual update.*

### 3. Act in your charity's best interests.

You must, with your co-Trustees:

- Decide what will best enable the charity to carry out its purposes;
- Make balanced and adequately informed decisions, thinking about the long term as well as the short term;
- Avoid putting yourself in a position where your duty to the charity conflicts with your personal interests or loyalty to any other person or body;
- Not receive any benefits from the charity unless its properly authorised and is clearly in the charity's interests. This also includes anyone who is financially connected to you, such as a partner, dependent child or business partner.

### 4. Manage your charity's resources responsibly.

You must act responsibly, reasonably and honestly. This is sometimes referred to as the 'duty of prudence'. Prudence is about exercising sound judgement. You, and your co-Trustees, must:

- Make sure the charity's assets are only used to support, or carry out, its purposes;
- Not take inappropriate risks with the charity's assets or reputation;
- Not over-commit the charity;
- Take special care when investing or borrowing;
- Comply with any restrictions on spending funds.

*You, and your co-Trustees, should put appropriate procedures and safeguards in place and take reasonable steps to ensure that these are followed. Otherwise, you risk making the charity vulnerable to fraud or theft, or other kinds of abuse, and being in breach of your duty.*

**5. Act with reasonable care and skill.**

As someone responsible for governing a charity, you and your co-Trustees, must:

- Use reasonable care and skill, making use of skills and experience and taking appropriate advice when necessary;
- Give enough time, thought and energy to the role, for example, by preparing for, attending and actively participating in all Trustees' meetings.

**6. Ensure your charity is accountable.**

You, and your co-Trustees, must comply with statutory accounting and reporting requirements. You should also:

- Be able to demonstrate that your charity is complying with the law, is well run and effective;
- Ensure appropriate accountability to members - if your charity has a membership separate from the Trustees;
- Ensure accountability within the charity, particularly where you delegate responsibilities for particular tasks, or decisions, to staff and/or volunteers.

## What it means to be a Company Director

As a Director of BACP, you will be registered at Companies House. The seven duties of a Director, as defined by the Companies Act 2006 are listed below.

### Scope and nature of general duties

The general duties specified in sections 171 to 177 are owed by a Director of a company to the company. A person who ceases to be a Director continues to be subject:-

- to the duty in section 175 (duty to avoid conflicts of interest) as regards the exploitation of any property, information or opportunity of which he/she became aware of at a time he/she was a Director, and;
- to the duty in section 176 (duty not to accept benefits from third parties) as regards things done, or omitted, by him/her before he/she ceased to be a Director.

*To that extent, those duties apply to a former Director as to a Director, subject to any necessary adaptations.*

The general duties are based on certain common law rules and equitable principles, as they apply in relation to Directors and have effect in place of those rules and principles as regards the duties owed to a company by a Director.

The general duties shall be interpreted and applied in the same way as common law rules or equitable principles, and regard shall be had to the corresponding common law rules and equitable principles in interpreting and applying the general duties.

The general duties apply to a shadow Director of a company where and to the extent that they are capable of so applying.

### The duties

#### 1. Duty to act within powers

A Director of a company must:

- a. act in accordance with the company's constitution, and
- b. only exercise powers for the purposes for which they are conferred.

#### 2. Duty to promote the success of the company

- a. A Director of a company must act in the way he/she considered, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole, and in doing so have regard (amongst other matters) to:
  - i. the likely consequences of any decision in the long term;
  - ii. the interests of the company's employees;
  - iii. the need to foster the company's business relationships with suppliers, customers and others;
  - iv. the impact of the company's operations on the community and the environment;
  - v. the desirability of the company maintaining a reputation for high standards of business conduct, and;
  - vi. the need to act fairly as between members of the company.
- b. Where or to the extent that the purposes of the company consist or, or include purposes other than the benefit of its members, subsection (1) has effect as if

they reference to promoting the success of the company for the benefit of its members were to achieving those purposes.

- c. The duty imposed by this section has effect subject to any enactment or rule of law requiring Directors, in certain circumstances, to consider or act in the interests of creditors of the company.

### **3. Duty to exercise independent judgement**

- a. A Director of a company must exercise independent judgement.
- b. This duty is not infringed by his/her acting:
  - i. in accordance with an agreement duly entered into by the company that restricts the future exercise of discretion by its Directors, or
  - ii. in a way authorised by the company's constitution.

### **4. Duty to exercise reasonable care, skill and diligence**

- a. A Director of a company must exercise reasonable care, skill and diligence. This means the care, skill and diligence that would be exercised by a reasonably diligent person with:
  - i. the general knowledge, skill and experience that may reasonably be expected of a person carrying out the functions carried out by the Director in relation to the company, and;
  - ii. the general knowledge, skill and experience that the Director has.

### **5. Duty to avoid conflicts of interest**

- a. A Director of a company must avoid a situation in which he/she has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company;
- b. This applies in particular to the exploitation of any property, information or opportunity (and it is immaterial whether the company could take advantage of the property, information or opportunity);
- c. This duty does not apply to a conflict of interest arising in relation to a transaction or arrangement with the company;
- d. This duty is not infringed:
  - i. if the situation cannot reasonably be regarded as likely to give rise to a conflict of interest; or
  - ii. if the matter has been authorised by the Directors.
- e. Authorisation may be given by the Directors:
  - i. where the company is a private company and nothing in the company's constitution invalidates such authorisation, by the matter being proposed to and authorised by the directors; or
  - ii. where the company is a public company and its constitution includes provision enabling the Directors to authorise the matter, by the matter being proposed to and authorised by them in accordance with the constitution.
- f. The authorisation is effective only if:
  - i. any requirement as to the quorum at the meeting at which the matter is considered is met without counting the Director in question or any other interested Director and;
  - ii. the matter was agreed to without their voting or would have been agreed to if their votes had not been counted.
- g. Any reference in this section to a conflict of interest includes a conflict of interest and duty and a conflict of duties.

**6. Duty not to accept benefits from third parties**

- a. A Director of a company must not accept a benefit from a third party conferred by reason of:
  - i. his/her being a Director, or;
  - ii. his/her doing (or not doing) anything as a Director;
- b. A third party means a person other than the company, an associated body corporate or a person acting on behalf of the company or an associated body corporate;
- c. Benefits received by a Director from a person by whom his/her services (as a Director or otherwise) are provided to the company are not regarded as conferred by a third party;
- d. This duty is not infringed if the acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest;
- e. Any reference in this section to a conflict of interest includes a conflict of interest and duty and a conflict of duties.

**7. Duty to declare interest in proposed transaction or arrangement**

- a. If a Director of a company is, in any way directly, or indirectly, interested in a proposed transaction or arrangement with the company, he/she must declare the nature and extent of that interest to the other Directors;
- b. The declaration may (but need not) be made:
  - i. at a meeting of the Directors, or
  - ii. by notice to the Directors in accordance with:
    - Section 184 (notice in writing), or
    - Section 185 (general notice).
- c. If a declaration of interest under this section proves to be, or becomes, inaccurate or incomplete, a further declaration must be made;
- d. Any declaration required by this section must be made before the company enters into the transaction or arrangement;
- e. This section does not require a declaration of interest of which the Director is not aware or where the Director is not aware of the transaction or arrangement in question.

For this purpose, a Director is treated as being aware of matters of which he/she ought reasonably to be aware.

- f. A Director need not declare an interest:
  - i. If it cannot reasonably be regarded as likely to give rise to a conflict of interest;
  - ii. If, or to the extent that, the other Directors are already aware of it (and for this purpose the other Directors are treated as aware of anything of which they ought reasonably to be aware); or
  - iii. If, or to the extent that, it concerns terms of his/her service contract that have been or are to be considered:
    - by a meeting of the Directors; or
    - by a committee of the Directors appointed for the purpose under the company's constitution.