

BOARD GOVERNANCE REVIEW

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PURPOSE

1. To update Trustees on the planned review of the NBN Board Governance Structure and detail outcomes from the first review committee meeting held.

TRUSTEE ACTION

2. Note the matters discussed and suggestions raised at the first Board Governance Review meeting
3. Advise of other suggested options for NBN Governance structure
4. Agree ways forward and suggested next steps

INTRODUCTION

5. Good governance is essential for the success of any organisation. The board of trustees should bring passion and commitment as well as relevant skills and experience to the organisations they are involved in. Regularly reviewing the governance of a charity and the composition of the board is recommended good practice. It provides the opportunity to review the skills required by the charity and provided by the current trustees to identify any gaps.
6. It is also a good opportunity to refresh understanding of the roles and responsibilities of trustees. It is important to remember that the law defines trustees as having control and so they are legally responsible for the charity. Therefore, it is important for trustees to fully understand what their responsibilities are.
7. Dorothy Dalton in her book *“Good Governance: a practical guide for trustees, chairs and CEOs”* sets out the key responsibilities as:
 - Ensuring that the charity has a clear vision, mission and strategic direction and is focused on achieving these
 - Being responsible for the performance of the charity and its culture
 - Ensuring that the charity complies with all legal and regulatory requirements
 - Acts as guardians of the charities assets, both tangible and intangible, taking all due care over their security, deployment and proper application
 - Ensuring that the charity’s governance is of the highest possible standard
8. She also states that trustees are expected:

- To act only in the interests of the charity
 - To be involved in major decisions jointly with the other trustees
 - Not to benefit from their roles as trustees and company directors
9. Furthermore, the Charity Commission in their document *“The independence of Charities from the State - RR7”* (full document attached) state that “In carrying out his or her responsibilities, a trustee must act solely in the interests of the charity. A trustee is not a delegate of the body that appoints him or her. It is no part of a trustee’s function to represent or promote the interests of a third party, whether that third party is the body that has appointed him or her, a funding body, or a body of which the trustee is a member or employer or in which he or she has some other interest. It follows that a funding body cannot properly insist upon appointing a trustee to protect its interest as a condition of providing funding.”
10. In the same document the Charity Commission also set out the relationship between charities and government authorities, which is especially relevant for the NBN Trust;
11. “Charities play an increasingly important role in the supply of services on behalf of local (and, to a lesser extent, national) government. However, for co-operation between charities and the State to be effective, it is important that the framework within which charities operate should be clearly understood. Increased co-operation increases charities’ reliance upon the State for funding and, in turn, creates a potential risk to the charities independence.”
12. “Charity law is clear that governmental authorities can set up charities. Just because a body has been set up by the State does not prevent it from being a charity. However, for a body to be a charity, it must be independent. By this we mean that it must exist in order to carry out its charitable purposes, and not for the purpose of implementing the policies of a governmental authority, or of carrying out the directions of a governmental authority. A body set up to carry out the policies or directions of a governmental authority might engage in much the same sort of activities that a charity might undertake. But it would be carrying out those activities in order to further the purposes of a non-charitable body, not to further a charitable purpose. [...] It would be difficult to avoid the conclusion that a body of that kind was not really a charity at all.”
13. This review is timely given the recent changes in the data infrastructure, shrinking government budgets and the challenges and opportunities ahead due to Open Data. The review aims to ensure that the NBN Trust’s board of trustees includes individuals who provide the mix of skills and experience to progress the NBN Trust towards its vision and strategy.

SUMMARY OF THE MEETING HELD ON 9 JUNE 2017

14. The Board is there to provide governance for the NBN and as such we should be looking for trustees who have the skills we need to help progress the NBN, rather than representing their organisations or sectors. The chair and the CEO should identify the skills that they need within the board and there should be a recruitment process that is open, transparent and available to anyone - within or outside the wider network. Trustees would then be selected through an interview process. A paper will be taken to the next board for discussion of this suggestion.
15. In terms of what should be taken to the board, this should focus more on finances (guided by the FMC), progress against action plan, appropriate deployment of resources towards strategic aims and horizon scanning. Rather than on the details and lengthy CEO reports.

OVERVIEW

There are 3 main areas for consideration and these are;

1. Composition

16. The Board is too big to be truly effective. Board conversations can tend to go all over the place. It is difficult to discern or to marshal a consensus. Some members often contribute little. Decisions can be hard to reach.
17. The review committee favours the creation of a smaller Board with no more than 12 members plus the Chair. The academic literature argues for a board of 8 or 9 as being the optimum size.
18. Need to ensure we are cost effective and efficient - large Boards cost more!
19. Need to establish what it is we want first and then how many Board members do we need to achieve it.
20. Representation and influence from the Network can be done via other means – e.g. workshops, questionnaires etc as per the NBN strategy review. Independent committees could be established who have the links back to Board and throughout the Network to discuss wider biological recording and NBN matters
21. Options to have a wider standing forum that meets quarterly. To also possibly re-establish the inter agency meetings so they can regularly feed information back to the Board from standing items.
22. Frequency and attendance of Board members needs to be considered as we often find that not all Trustees attend every meeting and we rarely often have everyone present. To consider that if we did reduce the number of Board members we need to ensure that all do attend where possible.

2. Relationship with Members

23. On the relationship with members - we know that some members feel disenfranchised. There is no mechanism for members to ensure that their concerns and views are represented at Board. The Board is only marginally representative of the spectrum of members.

24. The Board review committee favours making at least some Trustee positions subject to election by the membership, with constituencies of (say) public bodies, academic institutions, schemes and societies, individual members. Some places should continue to be filled by co-option to ensure independence.
25. We would need to have a broad overall UK view including all agencies to be able to represent them at the Board as they may lose interest if detached from the matters being discussed i.e. SBIF could nominate someone to the Board to represent Scotland.
26. Need a Board who are impartial and can help build the NBN and not the other way round. The Trust is not there to serve the needs of the country agencies
27. To have an open Board with people who are driven to take the NBN forward and will be active in working with the CEO and NBN staff.
28. Suggested that we have an open and transparent call out for new Board members - interview potential Trustees for skills the Trust needs; not just biological recording; i.e. technical development, fundraising - what would help take the Trust forward
29. To possibly retain ability for membership to nominate potential members but to include anyone who wants to put themselves forward.
30. Some continuity for Board members would be helpful and we could opt for a phased approach over 2 to 3 years to retain some key skills, however the committee feel a transitional phase is not helpful and to try and complete this within a year if possible. This will become clearer once we form up what we need.

3. CEO Relationship with the Board

31. On the CEO relationship – The committee believes that we still haven't successfully made the transition from an executive Board with a Director to a Board with a CEO. This means that at Board meetings we get into too much detail, including operational detail and the CEO may sometimes be inhibited from the proper exercise of her function - that is, made to feel that she needs to seek cover or permission when that is not really appropriate.
32. The committee therefore favour initiating some Board development and training to assist us with getting our roles straight.
33. We would still need standing items on the Board agenda such as;
 - Progress against action plan strategy - how are we doing, required changes.
 - Finance - ensuring we have sufficient reserves - focus more time on deploying resources - are we comfortable that resources are being put towards the important matters - FMC will remain in place to deal with detail
 - Horizon scanning - IT development, government, recording community changes - how can we meet challenges

1. A formal paper will be taken to the July Board meeting to inform discussions and to seek approval on suggested next steps
2. A follow up meeting of the committee will be held after the July Board
3. To then formalise a suggested way forward and develop what the Trust's key skills should be
4. To review the Trust Articles and Rules and Standing Orders in line with Charity Commission guidance and requirements to ensure these are appropriate and give us options for reconstitution of the Board
5. Seek nominations for new Trustee members
6. Hold AGM. The next AGM is due to be held on 16th November at the NBN Conference
7. Implement the new Board and hold Trustee induction sessions and training

ANNEX 1;

CURRENT BOARD SKILL SET

Required Competencies and Rank

Competency	Summary	Problem / Risk Areas
Financial Management	None: 1 Limited: 2 Working Knowledge: 6 Professional Competency: 1	TBC – potential risk area
Governance	None: 1 Limited: 2 Working Knowledge: 5 Professional Competency: 2	TBC – potential risk area
Public sector biodiversity agenda	None: 1 Limited: 1 Working Knowledge: 5 Professional Competency: 4	
Voluntary sector recording community	None: 1 Limited: 1 Working Knowledge: 6 Professional Competency: 2	TBC – potential risk area
Risk Management	None: 2 Limited: 1 Working Knowledge: 5 Professional Competency: 2	TBC – potential risk area
IT	None: 1 Limited: 4 Working Knowledge: 4 Professional Competency: 1	TBC – potential risk area
Government policy	None: 2 Limited: 1 Working Knowledge: 4 Professional Competency: 3	
Research	None: Limited: 2 Working Knowledge: 2 Professional Competency: 6	
Strategic planning	None: 1 Limited: 1 Working Knowledge: 5 Professional Competency: 3	

Desired Competencies and rank

Competency	Summary	Problem / Risk Areas
Biological recording	None: 1 Limited: 1 Working Knowledge: 6 Professional Competency: 2	TBC – potential risk area
Uses of biodiversity data	None: 0 Limited: 0 Working Knowledge: 3 Professional Competency: 7	
HR	None: 2 Limited: 4 Working Knowledge: 4 Professional Competency:	TBC – potential problem area
Marketing	None: 4 Limited: 3 Working Knowledge: 2 Professional Competency: 1	TBC – potential risk area
Change management	None: 3 Limited: 1 Working Knowledge: 3 Professional Competency: 3	
Environmental consultancy	None: 4 Limited: 4 Working Knowledge: 1 Professional Competency: 1	TBC – potential risk area
Internal audit	None: 2 Limited: 4 Working Knowledge: 4 Professional Competency: 0	TBC – potential problem area
Legal: Company & Charity Law	None: 3 Limited: 5 Working Knowledge: 2 Professional Competency: 0	TBC – potential problem area
Communications	None: 1 Limited: 1 Working Knowledge: 8 Professional Competency: 0	TBC – potential problem area
Legal: IPR	None: 7 Limited: 1 Working Knowledge: 2 Professional Competency: 0	TBC – potential problem area
Legal: Health & Safety	None: 2 Limited: 3 Working Knowledge: 5 Professional Competency: 0	TBC – potential problem area