



MEETING TITLE Board of Directors in Public		MEETING DATE 30/05/2017	
TITLE of PAPER	To Receive: Charity Commission Guidance It's your decision: charity trustees & decision making (May 2017)	PAPER REF	6.4
STRATEGIC OBJECTIVE(S)	N/A		
PURPOSE OF THE PAPER	That the Board of Directors receives the new Guidance and acknowledges the implications for YAS' Charitable Fund and the Board members' responsibility as its Trustees.		
For Approval	<input type="checkbox"/>	For Assurance	<input checked="" type="checkbox"/>
For Decision	<input checked="" type="checkbox"/>	Discussion/Information	<input type="checkbox"/>
AUTHOR / LEAD	Anne Allen, Trust Secretary	ACCOUNTABLE DIRECTOR	Erfana Mahmood, Non-Executive Director and Chairman of YAS' Charitable Funds Committee
DISCUSSED AT / INFORMED BY – include date(s) as appropriate (free text – i.e. please provide an audit trail of the development(s)/proposal(s) subject of this paper): Guidance issued by the Charity Commission, May 2017			
PREVIOUSLY AGREED AT:	Committee/Group: Not Applicable	Date:	
RECOMMENDATION(S)	That the Board receives and acknowledges the implications of the Guidance for YAS' Charitable Fund and the Board members' responsibility as its Trustees.		
RISK ASSESSMENT		Yes	No
Corporate Risk Register and/or Board Assurance Framework amended <i>If 'Yes' – expand in Section 4. / attached paper</i>		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Resource Implications (Financial, Workforce, other - specify) <i>If 'Yes' – expand in Section 2. / attached paper</i>		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Legal implications/Regulatory requirements <i>If 'Yes' – expand in Section 2. / attached paper</i>		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Diversity and Inclusion Implications <i>If 'Yes' – please attach to the back of this paper</i>		<input type="checkbox"/>	<input checked="" type="checkbox"/>
ASSURANCE/COMPLIANCE			
Care Quality Commission Choose a DOMAIN(s)		5: Well led 2: Effective	

NHSI Single Oversight Framework
Choose a THEME(s)

6. Leadership & Improvement Capability (Well-Led)
3. Finance & Use of Resources

Charity Commission Guidance It's your decision: charity trustees and decision making (May 2017)

1. PURPOSE/AIM

- 1.1 That the Board of Directors receives the new Guidance and acknowledges the implications for YAS' Charitable Fund and the Board members' responsibility as its Trustees.

2. BACKGROUND/CONTEXT

- 2.1 This new guidance, published May 2017, the '*Charity Commission Guidance It's your decision: charity trustees & decision making*' explains in detail how charity Trustees should approach making decisions affecting their charity. Its principles should inform trustees' approach to decision making generally. It is important to apply them when making significant or strategic decisions, such as those affecting the charity's beneficiaries, assets or future direction. The Charity Commission does not expect trustees to follow them step-by-step for minor decisions.

The Guidance applies to trustees of all charities in England and Wales, registered, unregistered or exempt. This includes corporate charity trustees.

- 2.2 The principles of trustee decision making that the courts have developed for reviewing decisions made by trustees state that they must:
- i. act within their powers
 - ii. act in good faith and only in the interests of the charity
 - iii. make sure they are sufficiently informed
 - iv. take account of all relevant factors
 - v. ignore any irrelevant factors
 - vi. manage conflicts of interest
 - vii. make decisions that are within the range of decisions that a reasonable trustee body could make
 - viii. Trustees must be able to show how they have followed these principles.

3. PROPOSALS/NEXT STEPS

- 3.1 The Board of Directors (the Trustees) of YAS' Charitable Fund will adopt the principles of decision making in the Guidance which will:
- i. help trustees to ensure they act within their powers and charity law
 - ii. allow trustees to be reimbursed by the charity for the costs and expenses of carrying out the decision
 - iii. help the trustees to show that they have acted properly
 - iv. help to protect trustees if something goes wrong if trustees do not follow the principles of decision making: they could be responsible for financial loss or reputational damage to the charity, their decision could be invalid, or might have to be reversed
 - v. they could open the charity to the risk of legal action, and themselves to the risk of personal liability

- vi. the Charity Commission might have to get involved and use its powers to protect the charity's property and put things right.

4. RISK ASSESSMENT

- 4.1 If the Board of Directors (the Trustees) was to fail to adhere to the Guidance there is a risk that imprudent decisions may be made with regard to YAS' Charitable Fund which could potentially result in one or more of the implications highlighted (at 3.) above.

5. RECOMMENDATIONS

- 5.1 That the Board receives and acknowledges the implications of the Guidance for YAS' Charitable Fund and the Board members' responsibility as its Trustees

6. APPENDICES/BACKGROUND INFORMATION

Charity Commission Guidance It's your decision: charity trustees & decision making (May 2017)