

## Case Study – management responsibility

A charity's trustees did not carry out due diligence when planning to build a new community centre. As a consequence, the centre was built on land that the charity did not own.

### What happened?

The charity had organised a major fundraising campaign in the local area to build a new support centre adjacent to the local NHS hospital. The project had been started by a previous board of trustees some 20 years previously and the new board were keen to see it to completion.

However, the trustees were not aware that the charity did not in fact hold title on the land, but a short-term lease that was about to expire. This emerged after the building work had been completed. As land and not property determines ownership, the land owner held title to the land and any property built on it – not the charity.

During the period since the start of the project the charity's governing document had not been updated, and documents relating to the project had not been handed on to succeeding boards over the years. The original trustees had failed to research the project properly, nor did they seek legal advice before embarking on the project or legal advice to resolve the land dispute. As a result, they failed to protect the charity's assets and faced handing over a substantial asset valued at several hundreds of thousands of pounds to a third party.

### Outcome

The charity finally sought independent legal advice and entered into a long-term occupancy agreement with the NHS Trust, which included safeguards for the use of the building by the charity and an agreement by the Trust that it would maintain the building.

### What can you do to protect your charity?

It's vital that you have proper controls in place to protect your charity's assets.

- When embarking on substantial or capital projects such as this, you **must** seek independent professional advice and ensure that decisions are taken in light of this.
- Where a project is long-term, you must ensure that it is regularly reviewed and that due diligence is carried out. You must also make sure that all new trustees are fully briefed and that information is kept up to date.
- Where you are a trustee of a charity planning or delivering a major project, don't be afraid or reluctant to ask questions or to seek information – indeed, you have a duty to do so.

## Guidance and support

- You can [read our guidance on preparing charity accounts](#).
- You can find help with financial and accounting practices from bodies such as [SCVO](#) and [ICAS](#).