Scotland

Critical Fundraising Report #2

Editor - Mafe Marwick
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ROGARE
THE FUNDRAISING THINK TANK

About Rogare

Rogare (Latin for 'to ask') is the independent think tank for the global fundraising profession.

We are the engine that translates academic ideas into professional practice, and we aim to bring about a paradigm shift in the way fundraisers
use theory and evidence to solve their professional challenges.

Our main current research topics are:

- Fundraising ethics
- Relationship and donor-centred fundraising
- Beneficiary framing
- Professionalisation of fundraising
- Regulation of fundraising
- Gender issues in fundraising

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About CFR reports

Critical Fundraising Reports are explorations of the issues and trends relating to particular areas of fundraising, providing a snapshot or barometer of the current important and critical issues in those fields.

Rogare produces three types of CFR reports, for:

- Types of fundraising, e.g. telephone, major gifts
- Issues in fundraising, e.g. ethics, regulation
- National reports.

The national reports aim to:

- Identify the key current and emergent critical issues and challenges in those countries
- Identify the knowledge gaps that exist in fundraising in those countries – these could be lack of theoretical knowledge (such as a paucity of ethical theory) or a lack of practical knowledge (such as not enough research on gender differences in giving)
- Outline any suggested, preferred or recommended courses of action – including recommendations for future research (NB these will only be outlines, not fully developed solutions).

Each national report follows a similar framework, allowing comparison between countries, but of course, each report only carries information that is relevant to that country, so not all reports will cover the same areas.

Each report begins with a SWOT and PESTLE analysis, from which some, though not all, of these factors are selected for further detailed analysis.

Critical Fundraising Reports are compiled and collated by members of Rogare's International Advisory Panel and others invited to work on these reports. The content of these reports therefore represents those factors and issues that members of these task groups consider relevant and important. These reports do not aim to be comprehensive, and there may well be issues that other people would have included.

However, the aim of these reports is to highlight trends, issues and challenges that general consensus would most likely suggest are the most important and topical issues that fundraisers in the country need to be aware of.

Critical Fundraising Reports are 'live' documents that will be regularly updated as new things appear on the radar and others drop off.

Finally, it should be borne in mind that Rogare focuses on theory and evidence, and trends and issues; Rogare is not a best practice body. Therefore, *Critical Fundraising Reports* are not guides on how to improve a particular piece of fundraising, whether that is a type of fundraising such as telephone fundraising, or something more wide-ranging such as regulation.

Rogare's aim is to get fundraisers thinking more about the kinds of theory and evidence they need to overcome the professional challenges they face, and so our *Critical Fundraising Reports* are designed to describe these challenges and highlight what kinds of knowledge fundraisers will need to meet them. ❻

2.1
Introduction

Ian MacQuillin
Director, Rogare –
The Fundraising Think Tank

This Critical Fundraising Report for Scotland is the second in Rogare's series of national reports following the publication of the *CFR (Ireland) Report* in August. Both reports have been researched and produced to an incredibly high standard, and I would like to take this opportunity to thank Mafe Marwick for the excellent work she had done in steering this report to completion.

In its three-century union with England and Wales, Scotland has seemingly made a disproportionate contribution to the success of the United Kingdom, in so many different fields and disciplines – medicine, engineering, economics, theatre, politics, the military, and the civil service. Scotland has always seemed to punch above its weight.

It wouldn't be too hard to outline a similar argument for Scotland's contribution to fundraising.

But that's not the argument I want to make here. Rather than highlight and celebrate Scotland commonalities with fundraising in England and Wales, I think it's important we recognise the differences, and why these might be important.

Following the fundraising crisis instigated by the suicide of Olive Cooke in 2015, fundraising south of the border has experienced the kind of upheaval and transformation most professions (if indeed, fundraising is a 'profession'), rarely undergo – and only if something is fundamentally rotten with them (and I don't believe that to be the case).

Yet much change proceeded in England as if there were something fundamentally rotten, with the result that remedies imposed from outside the sector were disproportionate, and yet remedies recommended from inside did not go into sufficient depth in the analysis of any problems because they tended to assume the scale of that 'rottenness'.

Those changes that engulfed English fundraising looked at one point if they would also sweep Scotland along with them. However, Scottish fundraisers decided that the proposal in respect of a new regulatory regime would not be appropriate, and neither the remit of the Fundraising Regulator nor the Fundraising Preference Service will extend north of the border.

The PESTLE analysis in this report argues that 'Scottish people are different' from other Britons. Now is the time for that difference to be felt in fundraising: for Scotland to become an alternative locus for the development of fundraising thought and ideas – and the annual conference of the Institute of Fundraising (Scotland) does seem to have a different vibe about it.

For every development in fundraising in these islands, we need a group that feels it has the space to step back and say, hang on, we are not sure this is the right way to do things. And that group may just be in Scotland.

2.2
Introduction

Mafe Marwick
Chair of CFR (Scotland)
Task Group

The aim of this report is to identify and explore the main issues that affect fundraising practice in Scotland, and to offer recommendations to tackle these issues. We hope that the issues and topics tackled in the report will resonate with readers, and will be a stepping stone for debate and discussion, and for fundraisers to work together in order to find solutions to the challenges identified.

This report should be a live document, as it is expected that issues identified will change with time, and also that other issues or challenges will be raised or added through discussion.

I am most grateful to the CFR task group (see box) for taking the time to analyse in detail the main issues identified, and for their insight and My special thanks must also go to the following and their Organisations for their generosity with their time and their most valued insights and reports:

• Dr Alison Elliot, Scottish Fundraising Standards Panel
• Lucy McTernan, SCVO
• Fiona Duncan, The Corra Foundation
• Douglas Hamilton, R S MacDonald Trust
• Morag Fleming, Iof Scotland.

I am also grateful to Rachel Baxter, Edinburgh's Children Hospital Charity, and Ali MacLeod, National Trust for Scotland, for their input to the SWOT and PESTLE, and to all fundraisers, service delivery staff, trustees and funders, who in the course of many conversations and consultations, have also shaped this report.

The issues addressed in the report have been compiled based on existing evidence, rather than personal opinions, in line with Rogare's critical thinking approach. However, it should be noted that finding evidence to support the ideas and issues and topics developed in the report has been a particular challenge, and this has been highlighted throughout the report as an important issue for fundraisers in Scotland.

Consultation for the SWOT and PESTLE was representative of a wide range of fundraising charities, from service delivery organisations, arts and education, and heritage, as well as funders and institutions. However, consultation was not carried out widely to all fundraisers, and therefore the purpose of the report is to initiate debate and, hopefully, find common ground and a co-operative way of finding solutions and a way forward, rather than being conclusive in its appraisal.

There was consensus among all consulted on the main challenges developed in the report and these were the result of the question "what do you think are the two main issues affecting fundraising in Scotland today".

We explore those in depth in the five essays that form the core of this report. ◐

Task Group members

Rogare International Advisory Panel members
Mafe Marwick (chair)
Gary Kernahan
Margaret Clift

Co-opted members
Jo Anderson
Roy Biddle

3
Executive summary

The topics analysed below have been highlighted from the SWOT and PESTLE exercise shown in sections 4 and 5 of this report, and in discussions held with the task group and contributors.

An important point to note is that, in common with many other areas and walks of life, Scotland has its own particular way of addressing issues. Many challenges that affect the whole of the UK are usually resolved differently in Scotland. Examples of this are Scotland's approach to new fundraising regulations, its treatment of media stories, and the consultative relationship the charitable sector has with funders, government and local authorities. This report focuses on how issues specifically affect Scotland or those that are unique to Scotland.

1 Fundraising regulation

In the last two years there have been many regulatory changes in fundraising practice that have the potential to significantly change the way we fundraise. Cross-border charities will have to adapt to working under two different regulatory systems, with the added complication of the Fundraising Preference Service being adopted in England and Wales but not in Scotland.

Recommendations

1. Charities continue to be trusted in Scotland with the regulation of their own fundraising. This puts the onus on them to be aware of, respect, promote and uphold the highest of fundraising standards, as well as to publicise the work of the Scottish Fundraising Standards Panel in order that the public is aware of the complaints procedure.

2. Cross border charities must be clear to their supporters, fundraisers and all stakeholders about how their fundraising is regulated, and aware of the differences in regulation in each jurisdiction. Expedient communication of processes will be vital, especially when there are complaints.

3. More investment in training and leadership is required in Scotland to ensure fundraising is practised to the highest standards, as well as robust analysis and data that is Scotland-specific, to enable informed strategic decisions.

4. Trustees must be aware of their responsibilities with regards to fundraising. For this to effectively happen, it is vital that fundraising is represented at board level. For fundraising to be successful and carried out to high standards, there needs to be integration of the function with the delivery of services or operations of the charity, and with all internal and external communications. Fundraising cannot operate in isolation, and must be at the core of the mission of the organisation.

5. The power the media has over the success of fundraising is well evidenced, and therefore charities need to maintain good media relations, a good flow of communication with supporters that generates trust, as well as be prepared to challenge media misconceptions on their own and collectively

2 Cuts in public funding

The impact of the reduction of statutory funds both at national and local level is having a detrimental impact on charities, increasing demand for services as well as competition for voluntary funds. Additionally, a drive to contracting through procurement, typically with the lowest bidder winning, often leaves fundraising to offset the gap and/or shore up core costs..

Recommendations

1. Partnership working and shared resources must be at the forefront of all strategic thinking. Whether it is for delivery of services, sharing support functions or forming strategic alliances with the corporate sector. Joint ventures, as long as there is ethical synergy and shared aims and objectives, will ensure sustainability and achieve charitable aims.

2. Professional bodies and umbrella organisations should provide guidance and support to small and newly-formed charities to enable partnership working and sharing resources.

3. Statutory funders should move towards full cost recovery in recognition of the real cost of overheads and support services, and ensure their systems do not benefit larger charities to the detriment of small and medium ones, which cannot compete with the low bids that diverse funding streams can support.

4. Charities should invest time and resources to generate voluntary income. This will not only help ensure that their services are delivered and their missions accomplished, but it will also increase their independence to determine their own direction and to represent the people that use their services, even when this means challenging local and national government.

5. In an environment of diminishing trust and adverse media, charities must do more to explain why they exist and the value they add to communities. Internal clarity of purpose and evidencing impact, as well as effective external communications, will be key to raising funds in an increasing competitive and crowded market.

6. Funders must improve their systems and work co-operatively to streamline processes and in this way save charities time and resources when applying for funding. Centralised information, universal applications, and sharing of resources and information will all contribute to an easier and most cost effective process for charities.

3 Number and size of charities in Scotland

Scotland has more charities per head of population than any other part of UK but the majority of organisations are small. Although this makes for a thriving sector, it creates competition for the same pots of funding in a marketplace crowded with similar causes, which raise questions about efficiency and duplication.

Recommendations

1. In an increasingly resource constrained financial landscape, Scotland's voluntary sector has the opportunity to make the most of its diversity, breadth and reach into the local community by taking advantage of fundraising methods that capitalise on community engagement and by forging new strategic collaborations. These collaborations can not only create more effective services, but can create a more attractive package for sponsors and grantmakers, and help with knowledge sharing to upskill staff and volunteers to raise money.

2. Collaborations must be supported by improvements in training provision across the sector and recognition that achieving long-term financial sustainability through self-generated income requires investment. Government – national and local – can nurture this through provision of training. Funders too can play a part, by permitting funds for capacity-building in their grants, thereby recognising their role in helping charities' long-term financial resilience.

3. Trustees may wish to consider whether a merger with an organisation that matches values and objectives is a way to fulfil its charitable purpose more effectively. This requires trustees and managers to think beyond organisational needs in favour of what works best for beneficiaries. It should be noted however, that bigger is not always better – and Scotland's more remote communities may be better served by local grassroots organisations working in collaboration.

4. Government and umbrella organisations such as SCVO must encourage and support collaboration between charities and help organisations to consider mergers when appropriate.

5. Funders could collaborate among themselves by sharing information about charities, projects and issues they encounter in order to streamline the application process and save resources.

4 The fundraising profession in Scotland

There is a lack of affordable professional development opportunities for fundraisers in Scotland and therefore a lack of skilled/trained/experienced senior fundraisers across the profession. This leads to difficulty in recruiting and retaining fundraisers, as well as in maintaining high standards in fundraising practice.

Recommendations

1. Charities need to recognise that they now operate in a candidate-short market and should review their recruitment process. It is increasingly important to 'sell' the charity and opportunity. Robust recruitment processes should be developed, and candidate packs beyond the usual job description, currently only provided for senior roles, could be provided to give greater insight into the role.

2. Managers must develop comprehensive induction plans and implement them from day one. Staff turnover is inevitable, especially for many junior roles. In these circumstances making new recruits productive and skilled immediately will be key.

3. New roles should be planned by considering future talent requirements and constructing developmental strategies to ensure the charity has appropriately skilled people to deliver in the future

4. Fundraisers in Scotland, at least in the medium term, will need to accept that the learning and development support for their charity will be limited. As a consequence, they will need to be proactive, to seek out opportunities and build their own personal brand.

5. Fundraisers should plan their careers and set own objectives before they move to their next position. It may be hard to convince future employers of claims of delivery of substantial growth and objectives if the time spent in the job is too short, or there have been multiple changes of jobs in short periods of time.

6. Umbrella bodies and charities themselves must invest in accessing and producing Scotland-specific research and analysis that enable learning and evidence-based decision making. Additionally, they must strive to provide a comprehensive programme of training and professional development tailored to the Scottish market and accessible to fundraisers of all sizes, stages and locations.

5 Implications for charities of GDPR and other data protection legislation

The General Data Protection Regulation (GDPR) comes into effect on 25 May 2018 when it will supersede the Data Protection Act 1998 (DPA). Despite its significance for businesses and charities in Scotland and all across the EU, there is a great deal of misinformation and misunderstanding about the GDPR. There is a pressing need for charities to be properly informed about GDPR and to develop policies and protocols to ensure that any data collection and processing they undertake is compliant.

Recommendations

1. Charities that have not started to review systems to ensure that they are compliant with GDPR still have time – they are encouraged to start planning as soon as possible. A good starting point for this would be to review the ICO's suggested 12 step programme for preparing for the GDPR. While this maybe a particular challenge for smaller charities, which predominate in Scotland, they will not be exempt.

2. Recommendations include ensuring awareness at senior levels within the organisations that GDPR is coming into force, documenting the data that the charity holds and how it processes this data, and – in particular – who the charity shares it with.

3. If they haven't already, charities should nominate an individual or a committee to take responsibility for ensuring compliance with data protection. One of their first jobs should be to identify the lawful basis for processing activity in the GDPR, and document this.

4. Organisations should review their privacy notices (for instance in email signatures) and put a plan in place to ensure that these are compliant. These should clarify the lawful bases for processing data.

5. Other key areas to review and ensure GDPR compliance are:
   • Procedures to ensure that donors and other data subjects have the rights afforded them under the GDPR
   • Subject Access Request procedures taking into account new timescales and information
   • Processes and standards for seeking, recording and managing consent to process data
   • Procedures to detect a data breach.

6. Ensuring compliance with existing data protection legislations as well as GDPR will be a challenge for charities across the UK. Support and guidance from SCVO and other CVSs might be particularly valued among Scotland's smaller charities.❻

4
PESTLE analysis of fundraising in Scotland

Political

Devolved government

- The Scottish Government has a range of devolved responsibilities which include health, education, law and order, rural affairs, housing and the environment. These are broadly in line with charitable purposes. Responsibilities have changed a number of times since devolution began in 1999, specifically with the Calman Commission's recommendation regarding tax raising powers, and the Scotland Act 2012 transferring further financial powers from Westminster.

- Scotland is currently governed by the Scottish National Party, now in its third term after the 2016 Scottish election, which it won with 63 seats, and a turnout of 55.6 per cent (65 seats needed for a majority). Up until the recent national election (June 2017) Scotland had 59 seats in Westminster, of which 56 were won by SNP. This has now changed, with SNP loosing 21 seats to hold 35, and the Conservative, Labour and Liberal Democrat parties holding 13 (+12), seven (+six) and four (+three) seats respectively.

- There is a consultative relationship between the Scottish Government and the charitable sector both at ministerial and civil service level.

Brexit

- As with the rest of the UK, the effects that Brexit and the approach to negotiations the UK Government adopts will have on the charitable sector and on funding remain a key concern. In April 2017, the prime minister Theresa May called a general election to be held in June to strengthen the majority in Parliament, and in this way, the mandate the Tory Party had in negotiating Brexit. The result was the reverse, and, with Brexit negotiations started, what kind of Brexit the UK will end up with has become more uncertain.

- EU funding is proportionally more important to Scotland than to the rest of UK, as it was set to receive 14 per cent of the allocated budget to the UK, between 2014 and 2020. This is higher than Scotland's population share, which is 8.3 per cent.

- Charities are not evenly spread across the country, with the split by local authority varying: there are fewer charities in North Lanarkshire, South Lanarkshire and Falkirk, the latter also having the lowest income for charities by resident. Larger charities tend to be based in Edinburgh, Glasgow, Fife and the Highlands (this last partly as a consequence of European funding, which enabled new charities and organisations to form in order to address identified issues).

IndyRef2

- Sixty-two per cent of Scotland voters voted Remain in the Brexit Referendum. Since then, the Scottish parliament backed Nicola Sturgeon's call for a second independence referendum by 69 votes to 59, providing the First Minister with the mandate to seek a second referendum between autumn 2018 and spring 2019. However, the seats lost by SNP in the general election and the gains by Unionist parties have put talks and decisions for IndyRef 2 on hold.

- A second referendum may present many challenges for Scottish and crossborder charities before and after the referendum. Although it is unlikely UK funders would stop funding an independent Scotland, it is possible that some may need to review their eligibility criteria and their trust deeds (Scottish Fundraising Working Group 2016).

Economic

Cuts in statutory funding

- The impact of the reduction of statutory funds both at national and local level is having a detrimental impact on charities, increasing demand and competition for voluntary funds. The drop in public sector funding currently stands at 18 per cent (SCVO 2016a).

- There is an acknowledgment among charities that the financial situation will only get worse.

- For those organisations concerned with health, the integration of health and social care in Scotland has potentially huge implications as structures and budgets will change and potentially reduce. Fifty-six per cent of social care provision in Scotland is through voluntary organisations.

- Additionally, a drive to contracting through procurement, typically with the lowest bidder winning, often leaves fundraising to offset the gap and/or shore up core costs.

Increase in cuts to Scottish budget from UK Government

- The Spring Budget stated a £2.9m cuts in the next 10 years.

Increase in demand for services

- Government figures show 1.05 million people in Scotland were living in relative poverty after they had paid housing costs in 2015/16, by to two per cent on previous year.

Investment in fundraising

- Many charities that were completely funded by statutory sources have invested in fundraising to start raising voluntary funds, and others have increased their investment to address the inevitable competition for funds. Conversely, some organisations have frozen all investment and shrunk their operations to adapt to funding cuts (see, for example, SCVO 2017).

Lifestyle giving

- Many companies are adopting the language and storytelling of charities, persuading consumers to buy their products while 'making a difference'. This presents both a threat to charity fundraising, as it creates an extra layer of competition to charities, but also an opportunity for partnerships with the corporate sector.

Funders require greater impact

- As competition becomes ever more intense, major grantmakers (both voluntary and statutory) want to demonstrate greater impact with their grants. This can include prioritising consortium projects (as in the case of the People's Postcode Lottery's Dream Fund), favouring projects that can help to shape policy (Hunter Foundation, RS Macdonald) or encouraging applicants to ensure their projects have a national, sector-wide impact (Heritage Lottery Fund, Esmée Fairbairn).

- As funding for state benefits and local authority services decreases, funders are also prioritising youth employment and disability inclusion (particularly companies), probably incentivised by government and local authorities. Additionally funders are supporting geographic areas that receive little statutory funding. Charities need to adapt to this model in terms of programme delivery.

Social

Scottish people are still Scottish first

- The regular survey carried out by ScotCen Social Research in 2016 found that 62 per cent of the population in Scotland consider themselves either Scottish (28 per cent) or more Scottish than British (24 per cent), against eight per cent who consider themselves either more British than Scottish (three per cent) or British not Scottish (five per cent).[1] Although the percentage of people considering themselves Scottish has decreased since 2000 when it was 68 per cent, and the percentage of those who consider themselves British has slightly increased by one per cent, there is still a marked majority who consider themselves Scottish first and foremost. This makes it imperative that cross border charities are mindful of national issues, differences in legal, education and political systems, holiday calendars, etc.

- The Celtic Charity Awareness Monitor undertaken by nfpSynergy in 2015, states that 48 per cent of Scots would prefer their donations to be spent in Scotland, with 26 per cent preferring UK (but not necessarily Scotland) and five per cent to international. Although the figures for Scotland are declining (it was 56 per cent in 2009), this preference is still strong[2].

- The Scottish diaspora has always been instrumental in funding charitable work in Scotland. As an example, the Scotland galleries at National Museums Scotland, which opened in 1998, were heavily funded by Scots living in the USA and Canada. Also, Tartan Day was established in New York in 1982 and was recognised by the US senate in 1998. This generation's wealth is now passing to their children, most of whom will not have lived in Scotland, and yet have a very strong connection with the country. The impact that Brexit and IndyRef2 may have on the Scottish Diaspora is still to be determined, and will be of particular importance for the education and culture sectors, which have 501(c) foundations in the US. The exact figures of Scots living abroad is not known as some countries do not include this in their census, and the figure increases if people who consider themselves Scottish by ancestry is included (more than 30 million) (McCall 2016). The number of people claiming Scottish descent in the USA, Canada, Australia and New Zealand was estimated at around 16.9 million (Scottish Government 2009).

Scottish people are different

- When we examine specific questions from attitudinal surveys regarding beliefs or policy, Scots' answers are not very different from people in other parts of the UK. Additionally, Scots' tastes or habits are not different either: they go to the same shops, buy the same things, share the same banks, do the same things in the evenings and at weekends, etc. However, there is a belief among Scots that they have a different set of values, and this drives many of their decisions. One of these is charitable giving, with Scots always scoring the highest among the more generous in UK: Scottish households donated an average of £356 a year, followed by Wales with £328, and England with £285, despite earning more than Scots (Bagwell et al 2013)

A different ethos

- Scotland has a different ethos from England when it comes to public services and social justice, and this helps charities operating north of the border. The attitude within government, inside local authorities and across Scotland as a whole was angled towards social justice and preserving the public sector – far more than it is in England. As a result, charities in Scotland benefit in many ways, particularly because this shared ethos made partnerships between charities and the public sector much easier to maintain. An example that illustrates this difference is the attitude towards executive pay for the charitable sector. While this has been a big issue south of the border, when the Daily Mail tried the same tactic in Scotland, the sector and government responded strongly (Armour 2017).

Cultural sector bucking the trend on decreased giving

- Although the majority of charities are experiencing a decrease in giving, the cultural sector, which historically was the least popular giving category, has experienced an increase in charitable giving of one per cent to two per cent of total UK. Scotland-specific figures are not available, but SCVO cited capital campaigns such as Edinburgh Zoo and the Panda effect, Scottish Opera Theatre Royal upgrade, the new Beacon Arts Centre, and the Black Watch Museum purchase and development of Balhousie Castle as examples (SCVO 2014).

Technological

Digital channels

- Fundraising through digital channels continues to grow. In 2015, 16 per cent of all donations were carried out online (Charities Aid Foundation 2016) and this number is set to grow exponentially in the next few years. In 2014, the Digital Donor Review showed that 11 per cent of people preferred SMS (text message) giving above other channels, though only one in four fundraising charities offered it as a way to give (Give As You Live 2014). Research also shows that 47 per cent of people who start a donation process do not complete the donation because the experience is not intuitive or engaging enough (Nomensa 2012). Fundraisers must become more proficient at working with digital channels and maximise the opportunities that this cost-effective medium offers. This is an area of weakness for many Scottish charities and an investment and training issue.

Threat of cyber attack

- In a survey of 100 business managers by BAE Systems, 57 per cent said that their organisations had received a cyber attack in the past 12 months, costing companies an average of £300,000 (for one in 10 it cost up to £1m)[3]. In Scotland, cybercrime is estimated to cost the economy around £3bn per year, affecting individuals, private sector and public sector (Interface 2016).

- Rapid developments in technology are unlocking new areas of opportunity in all organisations and sectors; however this development has also enabled increased security threats and attacks. Implementing adequate cyber security systems to counter these threats is a serious issue and requires charities to continually look at security techniques to counter cyber threats, which has budget and resource implications.

- Around 10 per cent of the world's data is estimated to be stored in the cloud. The threat of a cyber attack, such as the one recently experienced by the NHS, means more charities might opt to use cloud based technology, which costs less in terms of time and money and can be safer depending on the quality of the cloud provider compared to the charities' current IT departments.[4]

Contactless donation boxes

- With the rise of the cashless society, contactless donation boxes provide an opportunity for charities to continue to generate funds from the public. According to a survey of 2,000 carried out by YouGov, 15 per cent of people have walked past a donation box because they are unable to give by card. Barclaycard says this means that charities are "missing out on more than £80m" (Weakley 2017).

- Contactless spending grew by 166 per cent last year and more than half of adults now make a transaction with a contactless card at least once a month (ibid).

Legal

Scotland's legal structure

- Scotland has its own legislative structure and its own charity regulator, the Office of the Scottish Charity Regulator (OSCR). The Charities and Trustee Investment (Scotland) Act 2005 (the 2005 Act) places a duty on OSCR to encourage and assist charities in meeting the requirements of charity law. Every charity operating in Scotland needs to be registered with OSCR. The difference in legislation is a consideration not only for fundraising but for service delivery, as charities need to be mindful of differences in specific laws to ensure they are complying with all legal requirements.

Different fundraising regulator

- In July 2016, the Code of Fundraising Practice was transferred to the new Fundraising Regulator, and Scotland has agreed to abide by the same code, it has established its own independent panel – the Fundraising Standards and Adjudication Panel for Scotland, administered by OSCR. This will mean that cross-border charities will now have to adapt to work under two regulators, and a future separation of the codes could not be ruled out in the medium and long term.

Changes in data management and compliance

- Regulatory changes in the way we store, share and use data are changing the way we relate to our supporters, moving from transactional to relational support and focusing on lifetime value rather than short-term gain. Fundraisers must recognise and respect supporters' preferences and build and nurture relationships centred on and adhering to supporters' wishes. This requires skilled fundraisers as well as sophisticated systems.

- New guidance from the ICO (which affects Scotland) and the imminent implementation of the GDPR could have a very significant impact on fundraising in Scotland. Because of incorrect and ambiguous guidance until 2015, many charities have realised they are not compliant, and few will have evidence of consent in place, as required by GDPR from 2018.

- ICO clarifications have reduced the potential for telephone fundraising and as a result some of Scotland's leading telephone fundraising agencies closed down.

- Additionally, ICO clarifications mean that charities conducting wealth screening and prospect research, must provide people with a clear notification that they are doing this, and give them the option to object to it, although the consent of the data subject is not required as charities might still be permitted to use the legitimate interest criterion to process the data this way (ICO 2017, p9). This could have a significant impact on nascent major gifts programmes, which are finally becoming more widespread. The rapid establishment and growth of the IoF's Major Gifts Special Interest Group (established in 2015) may be evidence of this growth. ◔

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1   https://whatscotlandthinks.org/questions/would-you-rather-describe-yourself-as-british-or-scottish/ – accessed 26.10.17

2   See, for example, https://nfpsynergy.net/scottish-donations-scottish-beneficiaries-scots-increasingly-urge-during-downturn – accessed 26.10.17

3   https://www.baesystems.com/en/cybersecurity/take-the-test

4   http://www.telegraph.co.uk/connect/better-business/cybersecurity-trends-for-2017/

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5
SWOT analysis of fundraising in Scotland

Strengths

A thriving charitable sector
- There are more charities per head of population in Scotland than any other part of UK: 3.4 in Scotland, 2.4 England, 2.1 N Ireland, 2.3 Wales (NCVO 2015). Eighty-four per cent of Scottish households used a charity last year, and 73 per cent enjoyed a social activity provided by a charity (SCVO nd).

Culture of co-operation
- The charitable sector in Scotland has a history of co-operation, and despite the need to compete for funds, fundraisers co-operate greatly with one another, sharing projects information, practice, informal mentoring, etc. This culture of co-operation extends to grantmakers and statutory funders, with much co-operation and information sharing between grantmakers in Scotland, and a movement towards joint initiatives for early intervention and preventive spend. Real efforts are being made by trusts to develop shared reporting criteria, for instance.

Strong roots in the community
- Fundraising in Scotland has historically been community and events based, with very few charities having the large budgets to invest in face-to-face or door-to-door individual giving programmes. Scotland is well positioned to adapt and take advantage to the shift in focus and resurgence of community fundraising instigated by the fundraising crisis that resulted form the suicide of Olive Cooke in 2015.

The Fundraising Standards and Adjudication Panel for Scotland
- Consultation in Scotland determined that, while charities welcome regulation as a guarantee of high standards, they wanted a light touch system that would maintain a process of self-regulation, with the addition of an Independent Panel that would promote high standards in fundraising and would adjudicate on any complaints that could not be sorted out by the charity concerned (Elliot 2017). This means that Scotland will not have to abide by the Fundraising Preference Service, and the effects that this will bring to Scotland as a potential fundraising market are yet to be seen.

Innovative partnerships between the private sector, funding organisations and charities
- An example of this is the three-way partnership between Scottish Ballet and Check-it Scaffold Services for the sponsorship of Swan Lake, with match funding from Arts and Business Scotland in the form of a New Arts Sponsorship Grant from the Scottish Government via Creative Scotland. In addition to its sponsorship of the production, Check-it match-funded individual donations to the Swan Lake appeal.

Weaknesses

Most charities are SMEs

* The bulk of the third sector in Scotland comprises small community groups, most of them with no paid staff. Although the turnover of the third sector in Scotland doubled in the last 10 years, growth has been concentrated in a small number of large organisations (SCVO nd). The largest 100 charities in Scotland account for almost half of the sector's turnover (ibid). More than half the charities in Scotland have an income of less than £25,000 and only 19 per cent bring in over £100,000 (ibid). It is worth noting that the upside of this is that fundraising, out of necessity, has hardly ever had the budgets to implement much of the fundraising practice that has been criticised by the press and fined by regulators. Recent fines from ICO[1] – which have affected the credibility of the sector – have all been against larger charities, none of them Scottish national ones.

Sustainability

* Cuts in funding and reduced budgets result in the sustainability of charities being compromised by the organisation's need rather than its beneficiaries. At the same time that inability to meet core costs increases the number of beneficiaries and the need for services. The outcome of this may be closure of services, and take over and/or merger of charities (which can be a strength and a weakness) l Investment in cause and brand Tighter budgets and lack of funding makes it increasingly hard to argue for the need for investment in communications to support fundraising. However, the two are inextricably linked and in an environment of reducing trust and increased scrutiny, it is imperative that the public feel confident when giving to a charitable organisation. Clear information and messages about the cause and charity brand is increasingly important. Many fundraisers work without communications support.

Lack of fundraising capacity or expertise

* The size of most charities and their restricted budgets make it difficult for most charities to employ or capacitate fundraisers, especially in specific disciplines such as corporate fundraising, major gifts and individual giving. Three quarters of Scotland's voluntary sector organisations don't have any paid staff (SCVO 2014). Just over one per cent of charities (around 240) have a fundraised income over £500,000, while only 40 have a fundraised income over £5 million; 170 charities spend more than £100,000 on fundraising (Scottish Fundraising Working Group 2016).

Lack of fundraising training and personal development opportunities

* This is a real issue to fundraisers in Scotland, particularly to those outside the central belt. The Institute of Fundraising as a UK membership body is yet to adapt its training to the Scottish market. The majority of training is organised and delivered by volunteers, and when provided formally, the cost of training is prohibitive for many Scottish charities (see above). The Fundraising Diploma is offered very rarely (it will be delivered in Scotland for the first time this year), without more senior qualifications on offer. This leaves the majority of fundraisers in Scotland having to learn and develop informally, and to build expertise through their networks. Although this state of affairs has encouraged co-operation among the sector with fundraisers informally sharing information and mentoring each other, it is a handicap for practitioners individually and their charities. The Institute of Fundraising Scotland is addressing these issues by adopting its own training delivery programme.

Opportunities

Generosity of Scottish supporters
- Scottish Supporters have been found to be the most generous in the UK in many different studies across the years. Eighty-nine per cent of Scots supported a charity in 2015 compared to 81 per cent in UK (SCVO 2016b). According to CAF research, people in Scotland give the second highest average amount (£16 per month on average) after London, and have the second highest proportion of the population giving to charity (61 per cent) (SCVO 2015a). In 2013, Scotland was reported to be the country with the highest donations from mainstream donors, on average £356 a year, a third more than Londoners who gave £268 – despite the fact that per capita household income is 25 per cent higher in the capital (Bagwell et al 2013). Although generosity of Scottish supporters has been evidenced particularly in low value/high volume gifts, there may be evidence (albeit anecdotal) of an increase in philanthropic giving both from HNWIs and foundations.

Public support and trust in charities in Scotland
- Scotland has not seen the steep drop in trust and confidence reported in UK-wide surveys: 82 per cent of people in Scotland trust charities and 73 per cent feel confident in making donations (SCVO 2015a).

Alliances and co-operation
- Competition for resources has encouraged innovative consortia and partnerships between charitable organisations. In addition, the fact that many companies, trusts and philanthropists wish to partner with UK-wide organisations may present an opportunity to Scottish charities, which could pursue a strategy of developing cross-border partnerships that broadens the opportunity for attracting major funding.

Investment in fundraising
- The investment that many charities have made in trusts and high value individual giving should yield results in the next years. Many small and medium organisations have started fundraising as the result of statutory cuts. There are still some large charitable organisations delivering social care programmes and funded largely from statutory sources that will be experiencing significant cuts (SCVO 2016a). With the integration of health and social care in Scotland this is becoming a reality for many. Although these organisations are turning to voluntary sources for income, adding greater competition to the sector, they are also investing in fundraising.

Scotland as a funding destination
- Charities in Scotland benefit from both the home market of trusts, which want to give in Scotland (RS Macdonald, Robertson Trust, etc.), and those (often London-based) charities and European funders that want to spread their funding across the UK, and have specific targets for funding in Scotland. (This links to IndyRef #2 and Brexit as a threat.) Additionally, there is a tangible donor market with an interest in funding in Scotland – Scottish companies and those with high numbers of staff or customers in Scotland, Scottish grantmakers with geographic restrictions, philanthropists etc. – offering opportunities for increasing restricted and unrestricted/core funding.

Lifestyle giving
- Many companies are adopting the language and storytelling of charities, persuading consumers to buy their products while 'making a difference'. Some refund five per cent or more of product costs through cashback sites Social businesses such as Social Bite or Boozy Cow are blurring the lines between charity and business and in some circumstances actively fundraising. This presents both a threat as it creates an extra layer of competition to charities, but also an opportunity for partnerships with the corporate sector.

Crowdfunding
- This is the trend towards disintermediation with people fundraising for their friends/families, spread virally through social media or community fundraising, outside of the envelope of a charity (which could also present threats) (SCVO 2016a). It has also been a key feature of the 2017 general election where people are showing their allegiance to individual politicians by donating to their individual campaigns (Williams 2017). Crowdfunding is part of a wider technological development as the low implementation cost has reduced barriers of entry. This year crowdfunding stories have been shared more than 1.2 million times, with people four times more likely to share a crowdfunding story than make a donation to a charity (Weakley 2017).

Rage giving
- Although very new to the UK and without examples in Scotland yet, this is the transatlantic trend whereby people are showing their values or feelings through giving (Hills 2017, MacLaughlin 2017). An example of this is Gina Miller's Remain tactical voting campaign (Mortimer 2017).

Threats

Lack of Scotland-specific research

- Most of the statistics charities use on which to base fundraising decisions come from UK studies. Some of these will exclude or not account for Scotland-specific issues, and quite a number will exclude Scotland from the studies all together. This makes it hard to determine market opportunity, trends, cause engagement etc., and challenging to make evidence-based statements about the state of fundraising and funding in Scotland, in order to make robust strategic decisions. As an example, Fundratios, which provides benchmarks for fundraising charities to measure against, is based on large charities, usually UK national (presumably due to the cost of participating), and therefore not helpful for measuring performance of Scottish charities. Fundratios was introduced in Scotland a few years ago, but it was not repeated due to prohibitive the cost.

The size of the charitable sector in Scotland

- There are more than 24,000 registered charities in Scotland, more per head of population than any other part of UK (OSCR 2017). While this makes for a thriving sector, it also creates competition for the same pots of funding in a marketplace crowded with similar causes, raising questions about efficiency and duplication.

Changes in regulation

- In the last two years there have been many changes in fundraising practice and data management: The Etherington Review (Etherington et al 2015) commissioned by the UK Government in 2015, and the Scottish Government's review of fundraising self-regulation (SCVO 2015b), rapid changes to the Institute of Fundraising's Code of Practice (with the code now managed by the Fundraising Regulator), and a new framework for EU General Data Protection Regulation. Additionally, the Information Commissioner's Office has investigated and fined a number of charities for non-compliance and breaching the Data Protection Act. .

- Cross-border charities will have to adapt to working under two different regulators, with the added difficulty of the FPS adopted in England but not in Scotland

Governance

- Governance capacity represents an increasing challenge in Scotland. A number of charities struggle to recruit trustees from a very small pool of available candidates, and there is the added concern of capacity and expertise. Research using UK-wide data (Getting on Board 2017) found that over half of the UK's 200,000 charities have a trustee vacancy or would consider an addition to their board. Seventy-four per cent of charities find trustee recruitment difficult, yet many individuals who apply for trustee roles find the experience so dispiriting that they wish they hadn't bothered (ibid). Potential trustees report charities being informal and unprofessional and even when roles are publicised (10 per cent of all vacancies), frequently being slow to process applications, taking months or even years to finalise the appointment. Worse, there are far too many stories where applicants

do not receive a response at all (ibid).

- The increasing demands placed on charities both in terms of funding and service delivery requires an effective board that supports and challenges operational staff.

Decreased trust in charity fundraising

- Although Scotland has not seen the steep drop in trust and confidence reported in UK-wide surveys (stated above as a strength), in a survey done by OSCR in March 2016, 35 per cent of respondents reported that their trust had decreased, with more than half relating to media stories. The proportion of respondents that were "very concerned" about the fundraising methods of charities had increased from 15 per cent in 2011 to 26 per cent in 2016. The proportion of "not at all concerned" dropped from 30 per cent to seven per cent in the same period (Scottish Fundraising Working Group 2016).

The political environment

- The National General Election (June 8), Brexit and the possibility of IndyRef 2 (See Political in PESTLE Analysis). Some of these factors, such as Brexit, are unprecedented. In times of political uncertainty (and the economic nervousness that ensues), the greatest threat to philanthropic income may not be the lack of funding available but the delays in decision making and commitment to funding by donors. This was experienced in 2013/14 before the Independence Referendum, particularly from English decision-makers.

Niche causes and long-term needs

- As cuts in public funding increase, funders prioritise immediate needs, benefiting charities dealing with social justice, youth unemployment and disability inclusion, making it more challenging for niche causes and for certain capital campaigns or causes deemed 'less urgent' to access funding.

London-centricity

- Most major giving from trusts, corporates and individuals is concentrated in England and specifically in London (Pharaoh and Walker 2015). In 2016, Coutts reported that of the 355 large donations made in 2015, London accounted for 260 gifts – 71 per cent of £1m+ giving[2]. In arts fundraising alone, 69 per cent of all giving to culture and heritage is concentrated in London and the South East (National Museums Directors' Council 2008). This is even more pronounced in gifts from individuals, where 89.9 per cent go to London-based organisations, compared to 67.8 per cent of business support and 73.1 per cent of foundation and trust support (Arts and Business, 2012).

- Most UK companies have their HQ in London and favour UK-wide corporate partnerships, which puts Scottish national charities at a disadvantage. In the case of sister charities pursuing joint corporate partnerships, the Scottish partner usually finds its needs, including brand representation and a proportionate calculation of income, are not always fairly considered. ◐

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Notes

1   See:https://www.wired-gov.net/wg/news.nsf/articles/ICO +investigation+reveals+how+charities +have+been+exploiting supporters+07122016152000 ?open and https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2017/04/ico-fines-eleven-more-charities//

2   http://philanthropy.coutts.com/en/reports/2016/unitedkingdom/findings.html – accessed 26.10.17

6.1
Fundraising regulation in Scotland

Ⓐ Mafe Marwick

Problem statement
In the last two years there have been many regulatory changes in fundraising practice that have the potential to significantly change the way we fundraise, reducing the opportunities to effectively communicate with our supporters and maximise fundraising opportunities. Cross-border charities and Scottish charities that fundraise south of the border will have to adapt to working under two different regulators, with the added complication that the Fundraising Preference Service being adopted in England and Wales will not extend to Scotland.

Description of the issue

In summer of 2015, following the fundraising crisis instigated by the reporting of the suicide of Olive Cooke, the respective governments commissioned a review of fundraising regulation, which in England and Wales was led by Sir Stuart Etherington, ceo of the National Council for Voluntary Organisations (NCVO), and in Scotland by a working group led by Scottish Council for Voluntary Organisations (SCVO). The need for two different reviews addressed the fact that most causes for which funds are raised are matters devolved to the Scottish Parliament, and these are different, as are fundraising regulations and legislation. These events happened as the result of, and amidst, a flurry of adverse press, reports of lack of trust in charities, and cancellations of donations, creating anxiety and confusion from donors and charities alike.

After both reviews (Etherington et al 2015 and SCVO 2015) were published, SCVO established a working group to produce an options appraisal for the design of a self-regulation process in Scotland, an engagement plan to gather the sector's views, and develop a decision-making process. The working group report and subsequent consultation with the sector and the public concluded that Scotland remained committed to self-regulation, with an enhanced role for charities and OSCR.

In July 2016 the independent Scottish Fundraising Standards Panel (SFSP) was formed in Scotland to uphold fundraising standards and oversee fundraising complaints related to charities registered with OSCR. The panel comprises volunteer members of the public, donors, fundraisers, the Office of the Scottish Charity Regulator and the Scottish Government.

At the same time, the Fundraising Regulator was formed in England and Wales to regulate charities registered with the Charity Commission for England and Wales (CCEW).

For charities that are registered in both Scotland and England and Wales, the lead regulator model is applied: when a charity's lead regulator is CCEW, any fundraising complaints are dealt with by the Fundraising Regulator, and when a charity's lead regulator is OSCR, any fundraising complaints are dealt with by SFSP. This is the model used by both charity regulators.

The Code of Fundraising Practice, previously held by the Institute of Fundraising, was transferred to the Fundraising Regulator in July 2016: it outlines fundraising standards for all charitable organisations in the UK. The SFSP and Fundraising Regulator work together to consider any amendments to the code.

The Fundraising Regulator received more than 150 complaints from members of the public in the first two months of its existence, and at the time of writing (September 2017) is investigating around 20 complaints at any given time. Although the SFSP has received a small number of complaints, none merited investigation, either because the complainant had not first approached the charity, or the complaints were not fundraising specific.

Fundraising Preference Service

The 2015 Etherington review agreed that a service should exist for members of the public to control the nature and frequency of direct marketing approaches that they receive, including fundraising communications. Through this service people can choose to stop email, telephone, post and/or text messages from a selected charity. The Fundraising Preference System (FPS) was designed to help members of the public manage communications from charities based in England, Wales and Northern Ireland.

In Scotland, the decision of the Fundraising Implementation Group found that FPS did not offer any further protection to donors than provided by the current laws. Donors living in Scotland can use the FPS to stop communications from charities registered in England, Wales (and Northern Ireland in due course) that fundraise in Scotland, but charities based in Scotland will not need to abide by FPS.

Figures from the Fundraising Regulator show there have been more than 6,300 requests from 2,600 people to block communications in the first month, but more than 4,000 of those came in the six days after its high-profile launch. This indicates a sharp falling off in the number of people using the service after the launch.

Information Commissioner's Office (ICO)

At the time of adverse media and the investigation into fundraising practices, the ICO investigated a number of charities and fined 13 for breaking data protection law by swapping lists of donors with other charities, wealth screening through collating personal data to assess how much money a potential donor might have, and telematching (using some data supplied by a donor to track down more information about them). These practices had been widely used by many British charities.

The ICO fines were first revealed in the Daily Mail and not on the ICO website.[1] ICO later published the fine notices, headlined "ICO investigation reveals how charities have been exploiting supporters" and stated the charities "secretly" screened wealth.[2] It was made clear that it was not the practice that was wrong under the Data Protection Act, but the fact that the potential donor or supporter was not informed that they were being screened.

Implications

The issues in Scotland

The SCVO review and all consultation carried out in Scotland affirmed the difference in the way issues were affecting Scotland and the model chosen to address them:

- The vast majority of Scotland's 24,000 charities that fundraise do so with the strong support of the public, and without issues. There have been some specific concerns to Scotland, like the Sick Kids 'New Pyjamas' campaign in 2010[3], The Kiltwalk in early 2015[4], and concern about high ceo salaries in 2016[5].

- Trust in charities had not dropped as dramatically as in the rest of UK. The proportion of people reporting to be "very concerned" about fundraising costs in OSCR's public attitude survey increased from 29 per cent in 2011 to 48 per cent in 2014, and regarding fundraising methods from 15 per cent in 2011 to 26 per cent in 2014 (SCVO 2015, p13).

- SCVO's survey conducted in November 2015 showed 82 per cent of respondents agreed that charities are trustworthy and act in the public interest (SCVO 2015). This was significantly higher than the UK-wide 57 per cent reported by the Charities Aid Foundation (2015) survey that year, and shows that trust in charities remains high in Scotland. However, more than one in four people surveyed reported losing trust in charities over the previous year, and 41 per cent said that negative media stories had affected their trust (Scottish Fundraising Working Group 2015). This would be corroborated by the 52 per cent of people who "strongly" or "tend to" agree that charities in Scotland are trustworthy in the latest CAF Scotland Giving Report, published in October 2017 (Charities Aid Foundation 2017).

- The fundraising methods that have been criticised by regulators are not as prevalent in Scotland due to the size and budgets of most charities. In 2014 (the latest available figures – SCVO 2014) individual giving made up only six per cent of the total income of large organisations when taken as a group as many are funded via other sources such as public sector contracts. and gives more money per capita than anywhere else in UK (£16 compared with £14 in England and Wales and £10 in Northern Ireland). Additionally, according to a joint survey carried out by IoF and YouGov, more people donate in Scotland than the rest of UK: 68 per cent of people in Scotland have made a donation or bought something from a charity within the last three months, against 61 per cent in the UK (IoF 2017). This latter figure is reported as 65 per cent in the latest Scotland Giving Report (CAF 2017).

- Since OSCR opened in 2011, only 2.69 per cent of inquiries opened were fundraising issues. The same low numbers were registered with the erstwhile Fundraising Standards Board.

- Most causes that are being fundraised for, such as health, the arts and higher education, are matters devolved to the Scottish Parliament.

- Scottish charities enjoy a good relationship with the press, and a united front in times of challenge. When some Scottish media attempted to write negative stories related to charities at the height of media scrutiny in England, they got no traction from the public, charities or Scottish Government (Armour 2017).

The model chosen

The review and subsequent consultation in Scotland concluded that a model of enhanced self-regulation would be most proportionate in responding to the issues affecting Scotland. Before the review, charities adhered to three fundraising professional bodies: the IoF, the Public Fundraising Regulatory Association (PFRA) and the Fundraising Standards Board. The fundraising practices of charities that chose not to adhere to these bodies by membership were not regulated. The new independent panel (SFSP) will now regulate all charities.

With regards to the Fundraising Preference Service, Scotland considered that there was not sufficient evidence to suggest that the FPS would offer anything to improve fundraising practice over the current legal requirements or the Telephone Preference Service (TPS) and the Mail Preference Service (MPS).

Therefore, after consultation with key partners, it concluded that the FPS would not be required in Scotland. The Fundraising Implementation Group considered that there was adequate legislation in place, but it was extremely important that charities fully understand their current legal obligations, have the right processes in place to fulfil them and are ready [for the upcoming data protection legislation.[6]

Cross-border charities

Cross-border charities registered with both the Charity Commission and OSCR, will be regulated by the 'lead' regulator. This model has been adopted by both the Fundraising Regulator and SFSP. Although there is scope for confusion for cross border charities as well as supporters, the responsibility will be for charities to be clear about the process and to communicate this to supporters, especially if there are complaints. How

challenges presented by different regulatory frameworks will affect some fundraising methods and channels, such as digital, is still to be seen.

Development of Good HQ

A development resulting from the consultation, is Good HQ,[7] a new digital platform developed by SCVO that provides a space for people to review and share their experiences about the causes and charities they support. Good HQ offers supporters a place to feed back about the causes they care about, find new ways to get involved, and encourage others to get involved. Good HQ is offered as a place where organisations can collect feedback, raise their online profile and encourage people to get involved. It is suggested that it could be likened to a 'TripAdvisor' for the voluntary sector. The service has just been launched and is not yet widely used.

The media

The media plays an all important role in fundraising success: it is necessary for the promotion of all fundraising activities, and it influences public perception of charities and charity work. Although charities seem to have emerged from the media storm of 2015, nfpSynergy's biannual Journalists' Attitudes and Awareness Monitor[8] (JAAM) recently found that 71 per cent of journalists think the level of critical stories about charities will increase or stay the same over the coming year, and 65 per cent would cover a charity scandal or controversy (Harper 2017). The public is, in the main, less empathetic, the new data regulations could bring new scandals, and fundraising will be under more scrutiny than ever.

Good relations with the media will continue to be vital to preserve charities' reputations with the public, as is the need for transparency, openness and honesty, as well as agility for challenging adverse and unfounded criticism, both individually and collectively.

Charities and benevolent organisations

The scope of both the SFSP and the Fundraising Regulator in respect of giving platforms (crowdfunding platforms such as JustGiving) is now being investigated. This came to light after JustGiving seized control of a fundraising page on its site that purported to have been set up in memory of Aysha Frade, who was killed in the terrorist attack on Westminster. Users spotted this page had been started by a woman who had the same name as someone convicted of fraud (Radojev 2017).

At present the task of monitoring these sites does not fall to either regulator as these platforms are not charities, and the causes and people raising the money are not necessarily connected to a charity. The Fundraising Regulator is currently holding discussions with platforms to explore how the Codes of Fundraising Practice can be updated to include standards for online giving platforms.

In Scotland, The Guide to the Charities and Benevolent Fundraising (Scotland) Regulations 2009 was set up to regulate all benevolent bodies, which are described as "any body, whether or not it is a charity, which has been set up for charitable, benevolent or philanthropic purposes". According to this definition, online giving platforms and crowdfunding pages would seem to fall under the scope of the regulations.

Conclusion

The last two years have been times for great concern for charities and fundraisers in particular in Scotland. Now that the Scottish Fundraising Standards Panel is in place, it would appear that fundraising and charities' credibility can only be enhanced by the new model.

The fact that at the time of writing the SFSP has not needed to investigate any of the few complaints received would indicate that the public in Scotland is more content with fundraising practice than people in England and Wales. However, it may also be that people do not know yet, or are confused as to where to go to complain.

Although there is no room for complacency, and as long as charities are clear about their responsibilities, fundraisers should be confident in a system that offers autonomy while preserving standards, protects the vulnerable, and independently assesses complaints.

Recommendations

1 Charities continue to be trusted in Scotland with the regulation of its own fundraising. This puts the onus on them to be aware of, respect, promote and uphold the highest of fundraising standards, as well as to publicise the work of the SFSP in order that the public is aware of the complaints procedure.

2 Cross border charities must be clear to their supporters, fundraisers and all stakeholders about how their fundraising is regulated, and aware of the differences in regulation in each jurisdiction. Expedient communication of processes will be vital, especially when there are complaints.

3 More investment in training and leadership is required in Scotland to ensure fundraising is practised to the highest standards, as well as more analysis and data that is Scotland-specific, to enable informed strategic decisions.

4 Trustees must be aware of their responsibilities with regards to fundraising. For this to effectively happen, it is vital that fundraising is represented at Board level. For fundraising to be successful and carried out to high standards, there needs to be integration of the function with the delivery of services or operations of the charity, and with all internal and external communications. Fundraising cannot operate in isolation, and must be at the core of the mission of the organisation.

5 The power the media has over the success of fundraising has now been established, and therefore charities need to maintain good media relations, a good flow of communication with supporters that generates trust, as well as be prepared to challenge media misconceptions on their own and collectively.

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6.2
Cuts in public funding

⦿ Mafe Marwick

Problem statement
The impact of the reduction of statutory funds both at national and local level is having a detrimental impact on charities, increasing demand for services as well as competition for voluntary funds. The drop in public sector funding currently stands at 18 per cent (SCVO 2016). There is an acknowledgment among charities that the financial situation will only get worse. For those organisations concerned with health, the integration of health and social care in Scotland has huge implications as structures and budgets will change and potentially reduce. Fifty-six per cent of social care provision in Scotland is delivered by voluntary organisations. Additionally, a drive to contracting through procurement, typically with the lowest bidder winning, often leaves fundraising to offset the gap and/or shore up core costs.

Description of the issue

Over the last decade the third sector has enjoyed a high level of financial support from the public sector, with around 40 per cent of total income coming from local authorities, government and other public sector funders. Between 2004 and 2010 public sector funding quadrupled from £468m to £1.87bn in 2010. This growth trend was reversed from 2010, with austerity policies and funding cuts leading to a 10 per cent drop in public sector monies between 2010 and 2013. Taking inflation into account, this is a reduction of 18 per cent in real terms. Public sector cuts to date have primarily affected grant programmes. (SCVO 2016). The most affluent authorities saw a decrease of five per cent compared with seven per cent for the most deprived (Hastings et al 2015).

This downward trend is not expected to change in the near future. The Scottish Government is expected to experience a £2.9bn cuts in the next 10 years as stated by the Chancellor of the Exchequer in the Spring Budget 2017.

Public spending cuts have not affected Scotland in the same way as they have in England and Wales. Between 2010/11 and 2015/16, English local authorities cut spending by 27 per cent in real terms, compared with 11 per cent in Scotland. Cuts were driven primarily by reductions in central government funding, although the (partial) freeze on council tax in both countries also contributed.

The Joseph Rowntree Foundation (Hastings et al 2015) found in its research that cuts hit poorest areas hardest in England. It estimated that councils in the most deprived areas cut spending between 2010 and 2013 by £90 per head more than the most affluent councils. The cuts in spending power and budgeted spend are systematically greater in more deprived local authorities, mainly because these councils are more grant dependent. In Scotland cuts have been more evenly distributed with five per cent cuts in the most affluent authorities and seven per cent cuts in the most deprived areas. The slower pace and smaller scale of cuts in Scotland should enable more investment in preventative work, with the capacity to generate future savings (ibid).

Charities find themselves trying to adjust to significant cuts to their public funding while at the same time demand for their services is increasing. The SCVO Welfare Reform Mapping Report (2013) highlighted that 72 per cent of surveyed organisations had experienced a significant increase in demand for services, with 88 per cent expecting further increases as welfare reform is rolled out.

Currently, two-thirds of the sector's organisations are involved in social care-related activities, community, social & economic development, and culture and recreation. Housing – despite the smaller number of organisations –accounts for almost a third of the sector's turnover, followed by social care, which accounts for a quarter of turnover. Two-thirds of organisations operate locally, while seven per cent operate nationally across Scotland, and two per cent have an international focus (Scottish Government 2016).

Within the arts, there have been reductions of different degrees in the core grants of the arts quango Creative Scotland, the 'national companies' of Scottish Opera, RSNO, Scottish Chamber Orchestra, Scottish Ballet and the National Theatre, as well as the budgets for the National Galleries and Museums. There has been a drop in culture spend from £170.2m to £154.1m for 2016/17 (Miller 2015).

"Competition for voluntary funds has increased with many charities needing to fundraise for the first time, and in some cases with very little or no resources or expertise. This may in future lead to violation of regulations, decreasing public trust and as a result decreasing donations and public support, exacerbating the issues experienced by fundraising charities in the last two years."

Implications

The cuts in public spending resulting from the austerity policy of the current UK Government has affected charities' fundraising in the following ways.

Public sector bodies are unable to pay the full cost of contracts and therefore charities need to subsidise these with voluntary funds, or from their reserves. This affects organisational capacity at all levels and leaves no resource for preventive work, the creation of new projects, or to explore innovation in practice, which is bound to create problems for the years ahead.

There has been a continuing shift from grant-based funding to more contractual models. Contracts have increased from 18 per cent in 2004 as a percentage of public sector funding to 70 per cent in 2013. Contracts are geared towards large-scale procurement, with few opportunities for smaller organisations to tender. The 500 largest organisations in Scotland receive twice as much public sector funding as all the small- and medium-sized organisations put together (SCVO 2016). It is important to note that 69 per cent of third sector organisations in Scotland receive no money from the public sector, which means that this shift affects medium-sized charities the most. Most medium and small charities are unable to plan ahead for more than a year at a time (ibid).

The increased reliance on contracts may undermine charities' ability and freedom to challenge those who commission services. A significant part of the unique value that the charitable sector adds to society is its position as experts in its field and advocates of their beneficiaries. Charities' independence is compromised if their dependence on contracts increases.

Competition for voluntary funds has increased with many charities needing to fundraise for the first time, and in some cases with very little or no resources or expertise. This may in future lead to violation of regulations, decreasing public trust and as a result decreasing donations and public support, exacerbating the issues experienced by fundraising charities in the last two years.

On a positive note, charities generally agree that they have always had a closer and more effective relationship with government (of any political persuasion) in Scotland, and

find it easier to access funds than it is south of the border. It is also believed there is a shared ethos angled towards social justice between government, local authorities and the charitable sector that makes partnership working between charities and the public sector much easier to maintain (MacDonnell 2015). The existence of social care strategic commissioning panels in partnership with users, carers and providers, although challenging and with much room for improvement, aims to give charities a platform to express views, and shape how funds are spent.

Community planning partnerships in each local authority are made up of all local service providers, including the police and the health authority, and in every area, a 'third sector interface' organisation should have a seat at the table. Involvement in these by charities varies according to local authorities, and charities often disagree regarding the effectiveness of this system.

Grantmakers in Scotland follow this spirit of co-operation, with a sharing of information and initiatives for early intervention and preventive spend. Efforts are been made by trusts to develop shared reporting criteria and applications, that will save times and resources for charities.

The new funding environment is inviting innovation and creativity to find new ways of funding work, and increased co-operation among private and independent funders. Charities are beginning to move from a core funding model to an income generation model with diverse sources of funding and commercial activities (ibid).

There are innovative partnerships between charities and the private sector, moving from a corporate social responsibility perspective to a new model where the corporate sector acknowledges the value a partnership with a charity can bring to the wellbeing of their own workforce, their families and the communities in which they operate (ibid).

The advent of digital taxation, as well as the devolution of income tax with a divergence of rates in Scotland, could bring innovative ways of maximising tax relief on donations. Various options are possible for a redesign of Gift Aid that could make administration easier and maximise the benefits of the relief. At a joint SCVO-ICAS

event on charity tax held in May 2016, HM Treasury put forward some potential options (which do not necessarily express its views):

- The rest-of-UK basic rate is applied to all donations from UK taxpayers, including Scottish ones. This would mean that charities would continue to claim Gift Aid at the rest-of-UK basic rate of income tax, regardless of any changes to the Scottish rate of income tax.

- The Scottish or rest-of-UK basic rate is applied to donations depending on the status of the taxpayer. This would mean that charities would receive Gift Aid commensurate with the basic rate of income tax paid by the donor.

- Gift Aid is replaced with public expenditure. In this scenario, donations would be topped up by the UK Government by a percentage of their value. Gift Aid as a tax relief would cease to exist.

- Tax relief is simply provided to donors through deducting donations direct from their gross income, rather than through Gift Aid claims or any other method.

These ideas are still at conception form, and the charitable sector in Scotland has not been widely consulted yet. Any change in Gift Aid or tax relief on donations has the potential to cause concern and debate among charities.

Conclusions

The negative effect of public cuts on the charitable sector is undeniable. The downward trend of public cuts has not been reversed, and the effects of Brexit on the economy and how this will affect charities has yet to be determined. There have been many calls to reduce the scale and pace of cuts, and to support the longer-term capacity required to develop the most effective delivery of services.

For their part, charities need to find strategies that diversify their funding sources and reduce their dependency on public funds, if they are, first and foremost, to continue to exist in future, and then to maintain their independence in order to direct their own course, impartially represent their beneficiaries and fulfil their missions. ◐

Recommendations

1 Partnership working and sharing resources should be at the forefront of all strategic thinking. Whether it is for delivery of services, sharing support functions or forming strategic alliances with the corporate sector. Joint ventures, as long as there is ethical synergy and shared aims and objectives, will ensure sustainability and achieve charitable aims.

2 Professional bodies and umbrella organisations should provide guidance and support to small and newly-formed charities to enable partnership working and sharing resources.

3 Statutory funders should move towards full cost recovery in recognition of the real cost of overheads and support services, and ensure their systems do not benefit larger charities to the detriment of small and medium ones, which cannot compete with the low bids that diverse funding streams can support.

4 Charities should invest time and resources to generate voluntary income. This will not only help ensure that their services are delivered and their missions accomplished, but it will also increase their independence to determine their own direction and to represent the people that use their services, even when this means challenging local and national government.

5 In an environment of diminishing trust and adverse media, charities must do more to explain why they exist and the value they add to communities. Internal clarity of purpose and evidencing impact, as well as effective external communications, will be key to raising funds in an increasing competitive and crowded market.

6 Funders must improve their systems and work co-operatively to streamline processes and in this way save charities time and resources when applying for funding. Centralised information, universal applications, and sharing of resources and information will all contribute to an easier and most cost effective process for charities.

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6.3
Number and size of charities in Scotland

◔ Margaret Clift

Problem statement
Scotland has more charities per head of population than any other part of UK (3.4 in Scotland compared to 2.4 in England, 2.1 in N Ireland and 2.3 in Wales per 1,000 people according to NCVO (NCVO 2016), but the majority of organisations are small. Although this makes for a thriving sector, it also creates competition for the same pots of funding in a marketplace crowded with similar causes, which raise questions about efficiency and duplication.

Description of the issue

Scotland's voluntary sector comprises an estimated 45,000 organisations (SCVO 2014), including more than 24,000 registered charities, as well as grassroots community groups, social enterprises, grantmaking trusts, community interest companies and credit unions.

Small and more likely to be volunteer-led

Scotland's charities have a higher median income than in England or Wales (Mohan and Barnard 2013 p22), but the vast majority of the organisations that comprise Scotland's third sector are small in scale. Around 20,000 are grassroots community groups, most of which are volunteer-led, and of Scotland's c24,000 registered charities, around 84 per cent have an income of less than £100,000 compared to nearly 80 per cent in England and Wales (NCVO 2016). More than half have an income of less than £25,000 and 56 per cent are local, delivering work or services at a local authority level or below. The likelihood of this being the case increases in more rural areas, which have a higher number of charities per head of population than urban areas (Keller et al 2012).

Large and more likely to be funded by local or national government

Just four per cent (around 700) of voluntary organisations in Scotland have a turnover greater than £1m. These organisations employ 73 per cent of the sector's 138,000 staff members, and are responsible for four-fifths of the sector's income (SCVO 2014). Housing and social care make up 55 per cent of the sector's £5 billion turnover. A much greater proportion of income received by these organisations comes from statutory sources. Scotland, like other parts of the UK, has been significantly affected by local authority funding cuts, but there is evidence to suggest that the cuts have been slower, and more evenly distributed than in other parts of the UK (Hastings et al 2015).

Fundraising is for everyone

In Scotland's voluntary sector, the largest organisations derive the largest proportion of their income from statutory sources rather than fundraising, and the smaller organisations have no paid staff—and thus, no professional fundraising teams. However, fundraising is still critical to most voluntary sector organisations in Scotland: four out of five charities derive some of their income from fundraising (SCVO 2015a).

People in Scotland donate more per annum than in other UK nations (Bagwell et al 2013), a higher proportion of them donate (77 per cent compared to 61 per cent), and more make use of charities (84 per cent compared to 79 per cent) (Mackinnon 2016), suggesting a higher level of engagement overall. Despite this positive relationship, the majority of charities in Scotland are deeply concerned about their financial situation: four out of five small- and medium-sized charities don't feel they can plan more than a year ahead due to financial uncertainty (SCVO 2017).

Implications

The size, scale and composition of Scotland's voluntary sector presents unique challenges and opportunities for fundraising.

Greater trust

Very few charities in Scotland have the capacity and resources to engage street fundraisers or fundraising agencies. This means that while charities in Scotland might have less opportunity to build a large base of committed givers, they have also been somewhat shielded from the impact of the negative criticism directed at charities with a high reliance on these methods of fundraising. In Scotland, 82 per cent of people believe charities are trustworthy compared to 57 per cent in England (Mackinnon 2016).

Community focus

The high proportion of local charities in Scotland lends itself to community fundraising, which relies heavily on volunteers and local engagement. Income from this type of fundraising has increased across the UK (Blackbaud et al 2015, p6) and in Scotland is likely to be boosted by a trend towards people in Scotland wanting their philanthropy to be felt close to home (nfpSynergy 2010). The rise and rise of online platforms make this type of fundraising more accessible for smaller volunteer-led charities – if they have the knowledge to take advantage of it.

Collaboration

A higher number of charities per capita means that competition for funding is intense. This should lead to greater collaboration as charities are forced to consider sharing premises, services, skills and learning. Research suggests that charities (SCVO 2017) and funders (Duncan 2016) alike see this as a potential positive, and it may particularly benefit the 'squeezed middle' – medium-sized charities where demand is outstripping investment. However, it has been stated by funders that charities should undertake more collaborative work, both in terms of sharing resources and in co-producing projects. In seeking funding, there is an overstating of differences and uniqueness, which more often than not refers to delivery methods or internal differences, rather than outcomes for beneficiaries. This approach forces funders to choose between charities that propose to do the same work, when a joint approach could improve outcomes and benefit competing charities.

"In seeking funding, there is an overstating of differences and uniqueness, which more often than not refers to delivery methods or internal differences, rather than outcomes for beneficiaries. This approach forces funders to choose between charities that propose to do the same work, when a joint approach could improve outcomes and benefit competing charities."

Creating consortia could also improve the chances for smaller charities to secure corporate partnerships, improving their geographic reach while maintaining their local engagement.

Mergers

Mergers between charities often happen as a result of crises and not as a way of improving outcomes or further charitable purposes, and might be better characterised as takeovers – where one organisation transfers its assets and activities to become part of another organisation, and is then dissolved.

Collaboration between funders

Collaboration between funders can lead to better decision-making, a more effective voluntary sector, and reduce the resources charities must invest in securing funding. As an excellent example, 360 Giving support UK grantmakers to publish information on who, where and what they fund in an open, standardised format to build a better picture of the funding landscape.[1]

This helps grantmakers to make strategic decisions about where their funding is most needed and can have the most impact. Applying a similar approach to the grant application process could prove equally effective. For example, grantmakers who share similar funding objectives could collaborate to create a single application process.

Lack of training

Despite its advantages, the number, size and geographic spread of charities poses significant challenges for fundraising. Outside of Scotland's central belt there are limited training opportunities for professional or

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volunteer fundraisers, and many charities cannot afford fees, travel or accommodation to access training outside of their local area.

Recruitment challenges

Sixty per cent of charities plan to identify new sources of fundraising over the next year (SCVO 2017), but fundraising roles have been identified as the second hardest voluntary sector role to fill, particularly in locations outside the central belt, such as Aberdeen (Aberdeen and Grampian Chamber of Commerce Research Unit 2014). The combination of lack of training and fewer professional fundraisers outside of the central belt presents a challenge for Scotland's voluntary sector. (See Kernahan and Anderson 2017, this volume.)

New technologies

Supporters are choosing to engage with the causes they are passionate about in a direct way. Crowdfunding and successful campaigns started and carried out by individuals not associated with a specific charity show that people are choosing to directly engage with causes, bypassing the formal intervention of the charities.

Crowdfunding platforms mean that supporters now have the option to engage directly with the causes they are passionate about, rather than through the mediation of a charity. Platforms like this mean that donations can be frozen until objectives have been achieved and that donations can be made directly to a beneficiary, bypassing charities altogether.

If these technologies continue to prosper, with communities mobilising to raise money and awareness of social issues, the way we give could change forever. ◔

Recommendations

1 In an increasingly resource-constrained financial landscape, Scotland's voluntary sector has the opportunity to make the most of its diversity, breadth and reach into the local community by taking advantage of fundraising methods that capitalise on community engagement and by forging new strategic collaborations. These collaborations can not only create more effective services, but can create a more attractive package for sponsors and grantmakers, and help with knowledge sharing to upskill staff and volunteers to raise money.

2 Collaborations must be supported by improvements in training provision across the sector and recognition that achieving long-term financial sustainability through self-generated income requires investment. Government – national and local – can nurture this through provision of training. Funders too can play a part, by permitting funds for capacity-building in their grants, thereby recognising their role in helping charities' long-term financial resilience.

3 Trustees may wish to consider whether a merger with an organisation that matches values and objectives is a way to fulfil its charitable purpose more effectively. This requires trustees and managers to think beyond organisational needs in favour of what works best for beneficiaries. It should be noted however, that bigger is not always better – and Scotland's more remote communities may be better served by local grassroots organisations working in collaboration.

4 Government and umbrella organisations such as SCVO must encourage and support collaboration between charities and help organisations to consider mergers where appropriate.

5 Funders could collaborate among themselves by sharing information about charities, projects and issues they encounter in order to streamline the application process and save resources.

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Notes

1   http://threesixtygiving.org

6.4
The fundraising profession in Scotland

⊘ Gary Kernahan and Jo Anderson

Problem statement
There are a lack of affordable professional development opportunities for fundraisers in Scotland and therefore a lack of skilled/trained/experienced senior fundraisers across the profession. This leads to difficulty in recruiting and retaining fundraisers, as well as in maintaining high standards in fundraising practice.

Description of the issue

There are an estimated 45,000 voluntary organisations in Scotland, of which around half are registered as charities. Four out of five charities in Scotland derive some of their income from donations from voluntary sources, meaning around 18,000 charities undertake some form of fundraising.

There are around 2,000 fundraisers in Scotland of which around 31 per cent belong to the professional body, the Institute of Fundraising (IoF). Around 40 per cent of the members of the IoF across the UK hold a professional fundraising qualification (MacQuillin 2017, p10) but evidence is scarce on how this breaks down in terms of the marketplace in Scotland.

The size of most charities and their restricted budgets make it difficult for most charities to employ or capacitate fundraisers, especially in specific disciplines such as corporate fundraising, major gifts and individual giving.

There have been a number of barriers to professional accreditation being identified by fundraisers including affordability and access. Profiling of the fundraising profession in Scotland is non-existent, which, along with a distinct lack of any Scottish-based research on the fundraising market, is a real barrier to effective strategic planning.

The majority of fundraisers in Scotland learn and develop informally, and build expertise through their networks. Although this state of affairs has encouraged co-operation among the sector with fundraisers informally sharing information and mentoring each other, it is a handicap for both practitioners individually, and their charities.

Implications
Recruitment

Recruiting to fundraising roles has always been challenging, but recently, in a 'candidate short' market, fundraising recruitment has felt tougher than ever. As more charities and nonprofits enter the realm of fundraising and as established teams grow, the job-seeking fundraiser can be more selective. Larger organisations can respond to the challenge by offering higher salaries and attractive packages, but this is not available to the smallest organisations, which comprise the majority.

Recruitment is a costly activity, and whether undertaken in-house or with an agency, the direct and indirect costs are substantial. Therefore, an effective and agile recruitment process is vital: long and badly designed application forms, slow decision making, lack of clarity of job descriptions, and the like, disengage potential candidates.

Worryingly, as demand for good fundraising is growing, the sector seems unable to attract new talent: Aled Morris, ceo of London based Harris Hill Charity Recruitment, reported in the 2017 Harris Hill Salary Survey that his company had a "record-breaking year" of growth with the biggest increase in number of vacancies for digital fundraising roles (Harris Hill 2017). The sector in Scotland needs a dramatic shift in the number of people coming into fundraising. And for them we need a 'Hogwarts for fundraisers'. The sector needs to promote fundraising as a career and to develop exceptional learning and development opportunities to retain this talent.

A traditional route for many going into a profession is through a system of formal education. This is not the case for fundraisers as there is no such route offered in the UK. Therefore many fundraisers often fall into fundraising as opposed to choosing it as a career path (MacQuillin 2017, p20). Rogare has been considering this conundrum for some time and concluded that"when assessed against standard criteria, it is not certain that fundraising is a profession (ibid, pp8-14). Twenty years ago, fundraising was often a second career for retired professionals from the public sector.

Now the sector is filling up with young career-minded professionals, but there is no clear path to accredited,

recognised and ongoing professionalism. It could be argued that the Institute of Fundraising Academy[1] is part of this solution. However, for the fundraiser based in Scotland, this is an expensive activity for an individual and a budget-sucker for the organisation. Organisations need to appraise the results of such training balanced against the realities of staff turnover.

Additionally, the Academy does not necessarily work as a career pathway since many, if not most, fundraisers 'fall into fundraising' and therefore learn their trade while in the job, rather than train to become a fundraiser.

The Institute of Fundraising in Scotland has spent the last few months considering a new delivery plan for Scotland and has been gathering views along the way. There is no doubt that a refreshed approach to CPD and talent development based on Scottish marketplace needs should be front and centre of this plan.

Induction

Effective on-boarding of fundraisers plays a crucial role in a talent development strategy. Too often, poor induction processes lead to confused employees, high turnover and reduced productivity. Given how much the charity invests in recruitment, ensuring the best possible start will pay dividends in the long run. More often than not, a recruiting manager appoints its star candidate, breathes a sigh of relief on their first day and then returns to his/her busy workload, without enough support being offered to the new employee.

Heather Morgan, HR Director at Great Ormond Street Hospital (GOSH) urges us to "take every opportunity to show our employees the difference they make" (Morgan 2017). She describes how the induction process at GOSH follows the principle "treat them with the same care and respect we would a charitable donor". We must have an excellent plan that sets out the first few months of their tenure and immerses them in the work of the organisation early so they too can be passionate about the cause.

Most importantly the induction process must match the level of investment in recruitment.

Retention

Managing staff turnover in the charity sector is a well-established challenge. Almost every fundraising team will be working to deliver income growth over a set time period. Retaining the skilled fundraising staff that the organisation worked so hard to recruit is crucial to attaining that growth objective. However, very few organisations appear to have supporting talent strategies that identify the type of people and skills they will require in the future.

The last Scottish Salary Survey (Tait 2015) found that it is still common for fundraisers in their first or second role to stay in post for around two years. The survey found two distinct groups of fundraisers: a group of experienced fundraisers more settled in their role; and the other less experienced group, likely in their first or second role, keen to move.

When considering retention strategies there are many social developments that require careful consideration. The growing importance of flexible working is a prime example. The 2016 Modern Families Index (Working Families 2016) found that 69 per cent of millennials already work flexibly and 44 per cent of dads aged under 35 drop their children off at school every day.

Salary increases are often viewed as the primary reason for turnover. However a lack of development opportunity is often the main reason cited for decisions to leave. Investment in ongoing learning and development is still relatively low across the sector which creates a situation whereby charities spend much more on recruiting a fundraiser (via agency fees) than they will ever invest in developing that person after they join.

Remuneration

Remuneration remains an important hygiene factor. Although financial reward is not a long-term motivator, employees will quickly become demotivated if they feel that their salary does not fairly reflect their value/contribution. Annual benchmarking exercises to ensure salaries are competitive against the sector are useful.

Annual cost of living rises are not always the norm, and approaches to managing remuneration vary from organisation to organisation, which means many fundraisers are not clear on how they can advance their salary. As at 31 March 2017, OSCR reported that there were 24,064 registered charities in Scotland, the majority of which are small with no/few employed staff (OSCR 2017). It is, therefore, more common to find charities in Scotland with flat structures which offer limited opportunity for internal advancement.

It could be argued that the sector is, by default, sending a message to fundraisers that to enhance their salary they have to change organisations and gain promotions. While moving into management is a natural step for some, for others it means a step away from the thing that they are truly excellent at.

To retain talented staff, an opportunity for organisations in Scotland could be to 'flex' the role to provide developmental opportunities for the post holder. This could involve taking on responsibility for delivering additional income streams or managing cross-team projects; taking on additional responsibility and accountability could then lead to salary enhancements.

Retaining the skilled fundraising staff that the organisation worked so hard to recruit is crucial to attaining that growth objective. However, very few organisations appear to have supporting talent strategies that identify the type of people and skills they will require in the future.

Lack of analysis and evidence-based information and research

Most of the statistics on which charities base fundraising decisions come from UK studies. Some of these will exclude or not account for Scotland-specific issues, and quite a number will exclude Scotland from the studies altogether. Additionally, charities and fundraising teams in particular do not keep robust records that will aid analysis, and the development of staff by enabling them to learn from past activity, so improving their decision making and skills.

Conclusion

Developing exceptional talent is critical for the fundraising future in Scotland. The sector may not be able to pay the most competitive salaries but it compensates by appealing to people's passion and values. It needs to address the issue of professionalism and provide a defined career pathway culminating in being a brilliant fundraiser and leader. In nimble team structures, roles should be flexed to provide developmental opportunities and match the skills of existing team members. The alternative will inevitably lead to poor practice and a dearth of fundraisers leaders in future.

Retention will continue to be challenging going forward. Charities in Scotland must recognise the growing demand for flexible working and adjust their approach to help attract and keep hold of talented fundraisers.

Achieving financial goals, in this increasingly challenging and uncertain environment, is dependent on having the right people with the right skills in place. Recognising the skills in delivering these ambitions and engaging supporters must become a core part of organisational strategy, and training and development of fundraisers an integral part of investment. ◔

Recommendations

1 Charities need to recognise that they now operate in a candidate-short market and should review their recruitment process. It is increasingly important to 'sell' the charity and opportunity. Robust recruitment processes should be developed, and candidate packs beyond the usual job description, currently only provided for senior roles, could be provided to give greater insight into the role.

2 Managers must develop comprehensive induction plans and implement them from day one. Staff turnover is inevitable, especially for many junior roles. In these circumstances making new recruits productive and skilled immediately will be key.

3 New roles should be planned by considering future talent requirements and constructing developmental strategies to ensure the charity has appropriately skilled people to deliver in the future.

4 Fundraisers in Scotland, at least in the medium term, will need to accept that the learning and development support for their charity will be limited. As a consequence, they will need to be proactive, to seek out opportunities and build their own personal brand.

5 Fundraisers should plan their careers and set own their objectives before they move to their next position. It may be hard to convince future employers of claims of delivery of substantial growth and objectives if the time spent in the job is too short, or there have been multiple changes of jobs in short periods of time.

6 Umbrella bodies and charities themselves must invest in accessing and producing Scotland-specific research and analysis, which enable learning and evidence-based decision making. Additionally, they must strive to provide a comprehensive programme of training and development tailored to the Scottish market and accessible to fundraisers of all sizes, stages and locations.

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1   https://www.institute-of-fundraising.org.uk/events-and-training/qualifications/

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6.5
Implications of GDPR and other data protection legislation

⊘ **Roy Biddle**

Problem statement

The General Data Protection Regulation (GDPR)[1] comes into effect on 25 May 2018 when it will supersede the Data Protection Act 1998 (DPA). Despite its significance for businesses and charities in Scotland and all across the EU, there is a great deal of misinformation and misunderstanding about the GDPR. There is a pressing need for charities to be properly informed about GDPR and to develop policies and protocols to ensure that any data collection and processing they undertake is compliant. For clarity, the summary of the requirements of the GDPR in this paper is drawn from guidance produced by the Information Commissioner's Office (ICO)[2]. The ICO has authority across the UK, including Scotland. It should be noted that guidance is still being generated by the ICO, and there are not yet authoritative answers to all questions relating to the regulations.

Description of the issue

Between 2015 and 2017, the ICO carried out an investigation into practices in charity fundraising and some charities' compliance with data protection legislation. This resulted in 13-UK wide and English/Welsh charities being found guilty of breaking the law when handling donors' personal information.

In December 2016 the ICO announced fines against the RSPCA and the British Heart Foundation. Eleven further charities were fined a total of £138,000 by the ICO for misusing donors' personal data through activities such as data sharing, wealth screening and data matching.

The ICO found that the 13 charities had breached the Data Protection Act (DPA), for instance, by: "secretly" screening donors to assess their wealth and ability to donate; piecing together personal information that donors had not supplied; and by sharing personal details with other charities, without donors' consent[3]. It is worth noting that, on this occasion, the Information Commissioner used her discretion to significantly lower the fines: the legislation allows for fines of up to £500,000.[4]

The example of these 13 charities suggests that many other charities have been carrying out activities that are not compliant with the DPA; and although none of the charities that were fined were Scottish charities, it is not unreasonable to assume that some Scottish charities may have carried out non-compliant activities.

When GDPR comes into effect, charities will face further obligations, for instance in relation to how they secure consent from donors and others for processing data. It is a matter of priority for the sector that charities recognise and respond to their current and new obligations regarding data protection in order to avoid reputational damage and to protect the rights of donors and other individuals.

Overview of GDPR

The aim of the GDPR is to both strengthen and simplify data protection legislation across the EU, in order to return control to individuals over their personal data. Unlike much EU legislation, the GDPR is a 'regulation' rather than a 'directive' – this means it will become law in all EU countries at the same time. While the ICO acknowledge that there are questions about how the GDPR would apply in the UK on leaving the EU, the UK government has confirmed that the UK's decision to leave the EU will not affect the commencement of the GDPR in May 2018. The legislation will apply equally in Scotland and the rest of the UK.

Like DPA, the GDPR applies to 'controllers' and 'processors'. The definitions of these are much the same as under the DPA: the controller says how personal data is processed and the processor processes data on the controller's behalf. Charities will continue to be data controllers: examples of data processors might be a fulfilment agency, a market research company or a payroll company. Anyone currently subject to the DPA is likely to also be subject to the GDPR.[5]

The GDPR places specific new legal obligations on processors: for example, they are required to maintain records of personal data and processing activities and will have significantly more legal liability if they are responsible for a breach. All breaches of data protection under the GDPR must be reported to the authorities

Donors rightly expect charities to use their funds prudently, not least when it comes to expenditure on fundraising. This means – and has always meant – making appropriate asks of donors: which, in turn, means understanding something of donors' propensity and capacity to give.

within 72 hours, and it is also important to note that the increased level of obligation for data processors does not correspond to any reduction in responsibilities for data controllers.[5]

Like the DPA, the GDPR applies to 'personal data'. Generally speaking, information that falls within the scope of the DPA will also fall within the scope of the GDPR. However, the GDPR's definition is more detailed than that provided by the DPA. Under the GDPR, online information such as an IP address can be personal data, in order to help restore online privacy to individuals. This broader definition of personal data reflects changes in the way businesses collect and process data.

As with DPA, charities will be required to process individual data "lawfully, fairly and in a transparent manner".[6] Under the GDPR, a significant additional responsibility is the obligation for organisations to document decisions around data processing and show how these ensure compliance with the directive's 'principles' (i.e. its requirements). This is referred to as the accountability principle. Charities will be required to consider, develop and record systematic policies and procedures in relation to processing data.[6]

Consent and other lawful grounds for processing data

One of the most challenging aspects of the new legislation for charities will be the more stringent requirements relating to consent from individuals to process data, where charities are using consent as the lawful basis for processing data. Under the GDPR, consent must be:

- freely given: it must be separate from other terms and conditions, and charities will be required to provide straightforward ways for people to withdraw consent at a later point
- specific: if organisations intend to make any data available to processors (third parties such as telemarketing companies or even Google Analytics) they will need to secure explicit consent to do this
- informed: if a person doesn't understand what an organisation doing with their data, the organisation can't argue that the individual has consented to it
- unambiguous.

Organisations will need to ask people to take some form

of clear affirmative action such as actively selecting a tick box. A positive opt-in is needed: consent "cannot be inferred from silence, pre-ticked boxes or inactivity". Organisations will need to be able to verify that consent has been given. Consent has to be verifiable, and individuals generally have more rights where the organisations rely on consent to process their data.

Tim Turner, a former policy manager at the ICO has produced a guide, Fundraising and data protection: a survival guide for the uninitiated, which outlines some of the implications of data protection legislation, including GDPR, for charities (Turner 2017). The guide pulls no punches. For instance in reference to consent, Turner states: "Previous support is not consent. A donation I give you today is not consent for something tomorrow" (ibid, p7). Charities using consent must decide how frequently they need to ask donors to reconfirm their consent. However, charities will not have to automatically refresh all existing DPA consents in preparation for the GDPR if the consents secured already meet the requirements of the GDPR.

It is important to note that consent is not the only lawful basis for processing data. Another legal basis for processing data is "necessary for the purposes of legitimate interests pursued by the controller or a third party, except where such interests are overridden by the interests, rights or freedoms of the data subject".[7] While the question of what constitutes legitimate interest is a complex one, organisations don't need consent to send direct marketing by post or make calls to numbers not registered with the telephone preference service, provided they can satisfy the legitimate interest condition.[8]

A charity's legitimate interest in furthering their cause does not supersede the rights of the individual. The reasonable expectations of the individual regarding how their data will be used must be taken into account. Under GDPR an individual's choice to say "no" is paramount. It is worth noting that individuals generally have more rights where an organisation uses consent as the lawful basis for processing their data. It is also important to be aware that personal data in the public domain is still personal data, and data protection applies to it.

Even where consent is not used as the legal basis, organisations must continue to be open and transparent with data subjects about what they are doing with their data. Under GDPR, it will not be sufficient to say "click here

to read our privacy policy". Charities will need to explain clearly why they are collecting personal data and how they intend to use it.

Other legal bases for processing data without explicit consent include the fulfilment of a contract with the individual or compliance with a legal obligation.

Rights of individuals under GDPR

The GDPR establishes some new rights for individuals and reinforces some of their existing rights under the DPA. The rights of individuals under the GDPR include:

- The right to be informed: this corresponds to an obligation for organisations to provide information about how organisations process their data, generally through a clear and prominent privacy notice.
- The right of access to their personal data: under the GDPR, organisations can no longer charge individuals to view their records, as allowed for by the DPA, unless requests are clearly unfounded and excessive. Organisations should respond immediately and with a minimum delay of one month.
- The organisation is obliged to rectify a record where an error is identified: furthermore the individual has the 'right to be forgotten' – have data or their entire record deleted – if the organisation cannot provide a compelling reason for keeping it.

These rights and the shorter timescales for charities implementing them may require charities to adapt their processes.

Working with volunteers

Turner reminds us that volunteers are not different to employees in terms of their responsibilities under GDPR; charities must provide appropriate training to equip volunteers and staff to protect data. "There is no volunteer exemption. Using volunteers is a choice you have made, and you are responsible for ensuring that you manage the risks adequately." (Turner 2017, p7.) If a charity contracts out any work to an agency, the charity is responsible for what they do, unless they steal the charity's data or otherwise use it for their own purposes.

Implications

For some, understanding and responding to the GDPR represents an onerous responsibility in the context of existing data protection legislation, charity law and best practice guidance. While larger charities with diverse teams may be in a strong position to appoint an individual or team to take forward those organisations' action plans for GDPR compliance, smaller charities may feel overwhelmed.

Furthermore, as the recent fines awarded against 13 charities show, many charities have some way to go before they are compliant with existing DPA legislation, let alone the GDPR. Having said this, the GDPR should not be seen as a revolution in data protection legislation: its principles are to a large extent informed by the requirements of existing data protection legislation.

The fines awarded, while relatively small, have had a powerful psychological impact. Some fundraisers have been shocked to learn that some of the practices that they regarded as business-as-normal were, in fact, illegal, because charities were failing to notify data subjects how their data was being processed. For some, this has led to a re-evaluation of what constitutes ethical practice. However, misinformation is rife, with a sometimes hostile press adding to the confusion. A misunderstanding of the GDPR and the recent fines have led some to believe that practices such as wealth screening are, in themselves, illegal: failing to understand that the key issue is one of being open and transparent with data subjects about these practices.

Donors rightly expect charities to use their funds prudently, not least when it comes to expenditure on fundraising. This means – and has always meant – making appropriate asks of donors: which, in turn, means understanding something of donors' propensity and capacity to give. Profiling of existing and prospective donors, then, is necessary for the responsible use of charitable funds on fundraising. Existing and pending data protection requires that charities are open about these processes. When it comes to existing donors, decisions about how to go about this should be relatively straightforward. However, it is still unclear when and how charities should inform prospective donors that they have started to draw together some information on them.

Conclusion

It may be that some organisations will continue to allow for some element of risk in the ways they read and implement the GDPR – at least until such time that the ICO explicitly spell out that certain practices are not acceptable.

Others may welcome the legislation as an opportunity to revisit their procedures and demonstrate their openness in relation to the data they process, to ensure continued support of donors. However charities decide to enact to the legislation, the entire sector (along with every other data processor in the EU) will need to give prompt, careful and systematic consideration to its response.

Scotland has a higher proportion of smaller charities than England or Wales. In many cases these smaller charities employ no paid staff. Twenty-thousand organisations within the sector are grassroots community groups, most of which are volunteer-led. According to NCVO, a larger percentage of registered charities in Scotland have an income of less than £100,000 in comparison with those in England and Wales (NCVO 2016). Smaller charities in particular may have little experience in professionalised fundraising.

However, the ICO has made it clear that all organisations are required to comply with data protection legislation, regardless of their size, experience, or skills. They may not be able to easily identify resources, or time to ensuring GDPR compliance. The Scottish charity sector, then, may find implementation of GDPR particularly burdensome. ◖

Recommendations

1 Charities that have not started to review systems to ensure that they are compliant with GDPR still have time – they are encouraged to start planning as soon as possible. A good starting point for this would be to review the ICO's suggested 12 step programme for preparing for the GDPR (ICO 2017). While this maybe a particular challenge for smaller charities, which predominate in Scotland, they will not be exempt.

2 Recommendations include ensuring awareness at senior levels within the organisations that GDPR is coming into force, documenting the data that the charity holds and how it processes this data, and – in particular – who the charity shares it with.

3 If they haven't already, charities should nominate an individual or a committee to take responsibility for ensuring compliance with data protection. One of their first jobs should be to identify the lawful basis for processing activity in the GDPR, and document this.

4 Organisations should review their privacy notices (for instance in email signatures) and put a plan in place to ensure that these are compliant. These should clarify the lawful bases for processing data.

5 Other key areas to review and ensure GDPR compliance are:
- Procedures to ensure that donors and other data subjects have the rights afforded them under the GDPR
- Subject Access Request procedures taking into account new timescales and information
- Processes and standards for seeking, recording and managing consent to process data
- Procedures to detect a data breach.

6 Ensuring compliance with existing data protection legislations as well as GDPR will be a challenge for charities across the UK. Support and guidance from SCVO and other CVS might be particularly valued among Scotland's smaller charities.

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Notes

1 http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679&from=EN

2 The independent regulatory office dealing with the Data Protection Act 1998 (DPA) and the Privacy and Electronic Communications Regulations 2003 across the UK, it also has responsibility for GDPR.

3 https://www.wired-gov.net/wg/news.nsf/articles/ICO +investigation+reveals+how+charities +have+been+exploiting supporters+07122016152000 ?open and https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2017/04/ico-fines-eleven-more-charities/

4 https://ico.org.uk/about-the-ico/what-we-do/

5 https://ico.org.uk/about-the-ico/what-we-do/ and https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/

6 https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/principles/

7 https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/legitimate-interests/what-is-the-legitimate-interests-basis//

8 However, under (PECR) charities do need consent to send email or SMS direct marketing, regardless of any legitimate interest.

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Rogare – The Fundraising Think Tank CIC is a community interest
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Associate Members

Rogare is supported in its work by a number of
Associate Members – partners to the fundraising
sector that share our critical fundraising ethos.
Our Associate Members are:

Ask Direct
Creative agency (Ireland)

Bluefrog
Creative agency (UK)

Stephen Thomas
Full-service fundraising
agency (Canada)

Ethicall
Telephone fundraising
agency (UK)