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Not for Profit eNews

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Welcome to the latest edition of MHA Not for Profit eNews.

With Rishi Sunak announcing that the country will be going to the polls on 04 July 2024, we highlight in this edition of eNews the campaigning activities and relevant guidance that many charities will need to carefully consider between now and election day.

We also highlight two fundraising matters: the recommendations made by the Fundraising Regulator following its recent investigation into the Penny Appeal, and how they may be of use of other fundraising charities; an update from the Regulator ahead of its release of the new Code of Fundraising Practice in September 2025.

Finally, we summarise a recent research project conducted by Bayes Business School regarding the future of the charity Chair role, highlighting the current challenges and future considerations associated with recruiting, training and retaining a Chairperson.

As ever, if there are any points you wish to discuss further in this issue please do get in touch.

Best Regards,
MHA Not for Profit team

What Charities need to know ahead of the general election

With the announcement of a general election on 04 July 2024, many charities will be considering engaging with political parties insofar as it impacts their causes. Doing so is, however, not without its risks.

The Charity Commission's [Campaigning and political activity guidance for charities \(CC9\)](#) sets out several associated fundamental points, many of which are rooted in Charity law requirements:

- 1 Charities are organisations established for charitable purposes only, which are for the public benefit, and an organisation will not be charitable if its purposes are political.
- 2 However, campaigning and political activity can be legitimate and valuable activities for charities to undertake.
- 3 Political campaigning, or political activity, must only be undertaken by a charity in the context of supporting the delivery of its charitable purposes.
- 4 Charity trustees must ensure that political activity performed to support the charity's purpose is not, and does not become, the reason for the charity's existence.

- 5 Charities cannot exist for a political purpose, which is any purpose directed at furthering the interests of any political party.
- 6 In the political arena, a charity must stress its independence and ensure that any involvement it has with political parties is balanced.
- 7 A charity must not give support or funding to a political party, nor to a candidate or politician. However, a charity may give its support to specific policies advocated by political parties if it would help achieve its charitable purposes.
- 8 Trustees must not allow the charity to be used as a vehicle for the expression of the political views of any individual trustee or staff member

Upon the announcement of the election, the Charity Commission published a reminder of the existence of the above guidance, which is also summarised in one of the Commission's [5-minute guides](#), as well as the specific [Charities, Elections and Referendums](#) guidance applicable during the period between the announcement of an election and the date on which the election is held.

In acknowledgement that charities often face increased scrutiny from the media and public during general election campaigning, and are often seen to influence voter behaviour, the Commission also published [Campaigning and political activity: general election lessons learned](#) guidance.

This guidance, which is based on the Commission's insights and casework into campaigning and political activity, is arguably more practical than that detailed above, and addresses the eight key issues detailed below by posing key questions to the reader, a selection of which are also detailed below:

- 1 Supporting or criticising particular policies** – how will this activity further your charity's purposes?
- 2 Supporting or criticising a political party or a political candidate** – have you taken enough mitigating action to ensure that your political activity and campaigning is, and is seen to be, neutral of party politics?
- 3 Political activity and campaigning by a charity trustee or employees** – have you assessed the risks and potential conflict of interests for a charity employee or trustee running for election?
- 4 Use of charity premises** – have you made opportunities to hire the premises available to all political parties, and is this being treated as a normal commercial hire and are you charging the charity's usual rate?
- 5 Visits to charities by prospective candidates** – when hosting a public meeting or visit, have you invited representatives from as wide a political spectrum as possible (and at least from the mainstream parties)?
- 6 Mis/disinformation** – what steps can you put in place to ensure that your charity doesn't share inaccurate information?
- 7 Links with associated non-charitable organisations carrying our political activities and campaigning** – what steps have you taken to ensure there is a clear distinction between the charity and associated/linked non-charitable organisation?
- 8 Political candidates using information on charities in their campaigns** – if your charity's material has been used inappropriately by a political party without your consent, what mitigating actions can you take to manage the potential impact on your perceived political neutrality?



Following the announcement, Charity Commission chair, Orlando Fraiser, released an [article](#) on the Commission's website. He reminded charities of their responsibilities, and the Commission's associated guidance to help with decision making around political activity and campaigning:



As trustees and charity leaders, you may see this as a critical moment to speak up for the cause you serve, and that is legitimate and healthy for our country. As I've said many times, charity campaigning plays an important role in society and the law is clear about the right of charities to campaign in support of their purposes. The Commission is steadfast about that.

However, in order to maintain public confidence in your political campaigning, and trust in charities more broadly, it is crucial that you campaign in a way that is consistent with the legal framework."

Despite the numerous pieces of guidance and cautionary tone of the Commission's announcements, sector bodies, including the NCVO and the Charity Finance Group, have encouraged charities to '[campaign with confidence](#)', as reported in Civil Society.



Fundraising lessons following recent breach

Following three complaints over a 12-month period from long-term supporters, the Fundraising Regulator have recently concluded its [investigation](#) into poverty-relief charity Penny Appeal. The findings represent a useful reminder for all charities which fundraise.

The complaints made related to three main areas: donations made through a handful of specific appeals were not being utilised for the purposes intended, including the inaccurate recognition of donors' intentions and the reallocating of funds to other areas without the notification or consent of the donors; providing misleading information about the length of commitment when setting up monthly Direct Debits; poor complaints handling.

The Regulator investigated the four appeals in question, examining the Charity's website and website archives and reviewing language used in the appeals, and assessing the details provided on each appeal's webpage and the associated FAQs.

A series of Fundraising codes were found to have been breached, and a selection of the recommendations made are detailed below:

- 1** Fundraising material must make clear from the outset who benefits from donations.
- 2** 'Welcome packs' and any subsequent update material sent to donors must make sure it remains clear how their donations are being used.

- 3** Make it clear to donors that, due to the nature of charitable work within international development, there may come a time when the charity removes itself from sponsoring a project.
- 4** As donors are likely to have an emotional investment in a specific appeal, clear information should be provided when funds are to be reallocated (within the restrictions of the appeal).
- 5** Make it clear in fundraising literature when administration fees may be deducted by the charity or an appeal implementation partner.
- 6** Three of the complainants involved in this investigation had asked the Charity for refunds of their donation, which the Charity had previously refused. The Regulator recommended that the Charity's trustees consider whether to refund any of their donations and explain their considerations and decision to each complainant. A charity may wish to seek professional advice to assist them in reaching such a decision. If the trustees decide to make any payments to the complainants, depending on the rationale for their decision, they may need authorisation from the Charity Commission for England and Wales.

Penny Appeal has agreed to comply with all recommendations made by the Regulator.

Code of Fundraising Practice: paying fundraisers



A redrafted Code of Fundraising Practice is expected in 2025, but more recently the Fundraising Regulator has said it plans to clarify its requirements around how fundraisers are paid.

Currently, the Code of Fundraising Practice states that charities and third-party fundraisers should not use commission-based payments unless they have “explored and exhausted all other sources of fundraising investment”. If a charity uses payment-by results model, they are required to have approval over such payments. Alternatively, there should be a measure in place to ensure excessive payments are not allowed.

The Regulator’s Policy Manager, Conor Gibson, noted in an update in June that its committees have approved its proposals to make the code more focused on principles-based rules. This comes as a result of a [market-inquiry report](#) regarding the use of subcontracting in face-to-face fundraising, in which the Regulator concluded that performance-related pay “can be a success both financially and in regard to compliance”.

The latest draft of the Code has been completed by the Regulator, which is currently seeking legal advice ahead of a final public consultation which is scheduled for September 2024. We encourage charity leaders to keep an eye out and provide valuable feedback in September. Once the new Code is published, charities will have six months to update their processes.

Chair of the board: recruitment challenges

According to a new research project run by Bayes Business School's Centre for Charity Effectiveness, charities are facing recruitment challenges and need to better understand motivations of potential Chairpersons.

The research project, titled '[The Future Charity Chair: A research project](#)', took place between July 2023 and February 2024 and involved Bayes Business School interviewing 61 charity Chairs together with 23 representatives of organisations that support them. It focused around three main questions, and a selection of the key messages in response to these questions are detailed below:

1 How do charity Chairs see the future?

- Charity Chairs saw the future as increasingly volatile, complex and uncertain, with their focus being predominantly on the present and the near future, and on challenges rather than opportunities.
- Small and medium-sized charities tended to have a more pessimistic outlook.
- The impact of some of the more recent drivers of change and trends, such as the rise of social movements and networks and the use of artificial intelligence, was seen as largely unknown.

2 What will the role of charity Chair look like?

- **Role** – the role could be positioned as aspirational and as an exciting opportunity that people can work towards, as lending itself to a range of models of leadership that emphasise sharing power, inclusion and collaboration. These changes are achievable through more flexible ways of governing that are less landed on the shoulders of one person.

- **Skills and experience** – with charity Chairs finding themselves at the center of an increasingly complex web of relationships, relationship management and collaboration skills have become more vital than ever. It is essential charity Chairs are willing to learn.
- **Attributes and behaviours** – there is a long list of ideal attributes and behaviours of the future Chair, such as a steadfast commitment to the cause of the charity, but one person cannot embody all of them.

3 How will charity Chairs be recruited and supported?

- **Pipeline of Chairs**
 - Understanding motivations of potential Chairs, particularly younger generations, is crucial for recruitment and creating a 'pipeline' of future Chairs.
 - Barriers to engagement such as time pressures, level of responsibility (particularly concerns about liability) and lack of diversity on boards also need to be understood and addressed.
 - The ways forward identified are: prioritising equity, diversity and inclusion; promoting the role of Chair as aspirational and fulfilling and being clear about expectations; and preparing succession planning at an early stage.
- **Support needs for Chairs**
 - As well as board and practical skills, and leadership and governance knowledge, participants showed an appetite for more equity, diversity, and inclusion training.
 - Networking opportunities, peer learning, coaching, and mentoring.

The research's Steering Group made a list of recommendations which charities may wish to review when considering the role of its current and future Chair.

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