Principled procurement – getting the balance right

The Charity Commission this week published revised guidance on ‘conflicts of interest’ for charity trustees to improve their understanding about this governance issue and clarify what is expected of charities and trustees.

Determining ‘conflict of interest’ is a particularly hot topic for Treasurers and an issue that was discussed extensively at our latest Honorary Treasurers Forum debate which looked at ‘Principled Procurement’.

Denise Fellows, CEO of the Honorary Treasurers Forum, chaired the debate and was joined by panellists Kate Sayer, Partner at Sayer Vincent and Selman Ansari, a lawyer from Bates Wells Braithwaite, who specialises in public and regulatory law.

The debate looked at what constitutes ‘principled procurement,’ including how to set procurement policies, how to spot conflicts of interest and how treasurers can ensure good procurement. The panellists also looked at the challenges boards face when they make procurement and investment decisions in terms of balancing the need to make money with upholding the values and ethics.

Attendees were shown real life examples of procurement problems faced by voluntary organisations to kick off the debate

The first case was taken from a Third sector news item concerning a charity that had removed its CEO for breach of trust.   The board concluded the CEO had, “failed to abide by the related-party transaction policy”.

The second case focused on the Church of England’s Wonga row. Justin Welby, Archbishop of Canterbury, told BBC Radio 4 that he wanted to drive payday loan companies out of business - only to discover the Church of England has an £80,000 investment in Wonga.

The cases prompted a number of interesting questions, including:

- How can trustees spot something is going wrong and when should they step in?
- How can a board of trustees realistically vet every supplier and should you vet them all?
- What procedures need to be in place to ensure good procurement?
- What constitutes a ‘conflict of interest’?
- What is the right balance between the need to maximise return on investments for a charity and justifying an ethical policy?

There was a big discussion about how trustees can deal with dominant CEOs and the panelists stressed that this was the ‘art of trusteeship’ and that it is the trustees’ duty to be able to probe and question CEOs - no matter how dominant they appear to be.

Kate Sayer addressed the procurement issue first, stating that is it best practice for all charities to have a procurement policy in place to reduce risk and foster a culture of best practice.

A good procurement policy should involve anyone with authority for making procurement decisions – from board members to the executive team - and the processes must be communicated clearly to everyone. Ultimately, it is the trustees' responsibility to ensure clear processes are in place, as they are accountable.

There also needs to be a clearer understanding of what constitutes a conflict of interest as well as a process for vetting all suppliers. Procurement fraud is endemic in every sector and can go undetected for some time – a register of interest can help reduce risk.

Kate Sayer explained that while it isn't a legal requirement to vet every supplier, guidance from the Charity Commission says it is good practice to have a 'register of interest,' which discloses relevant information about related parties.

What this means is that charities don't need to disclose information about all their shareholdings, however, if senior staff and board members have a 'controlling interest' in a company – say a 20% stake, then this information must be disclosed. She added that it is a disciplinary matter and that everyone with buying authoring in the charity needs to declare their interests. They are responsible for informing the auditors. The buck stops with the board.

It was argued that it was impossible to check every supplier. However, as someone pointed out, it is easy today to do quick internet checks on most companies.

We were also reminded that the most common fraud in charities was 'fake supplier fraud' – when someone working in finance sets up a bogus supplier and sends money out of the charity – underlining the importance of making checks.

The panellists said that to reduce the risk of fraud and reputational damage, charities must improve processes for investment, appointing suppliers and procurement

The selection criteria should also look at whether suppliers fit well with the organisation's values and ethics – something which might have helped the Church of England.

The panellists also discussed the dilemma for charities in terms of making investment decisions that met with the charities' ethical policy and delivered a good return as some of the control is relinquished when fund managers get involved. The ethical policy therefore needs to be very clear and carefully thought through. Was it possible or appropriate to make investment decisions which were based on the objectives of the charity?

The 'take home' message was that having robust processes in place will help reduce risk and could help prevent problems in the future, which could involve a huge amount of resources and time and financial pain to sort out.

Further reading:

Sayer Vincent has produced some guidance on related parties which can be downloaded at www.sayervincent.co.uk

The Charity Commission's latest guidance on 'conflict of interest' published this week can be accessed here: **http://www.charitycommission.gov.uk//news/revised-conflicts-of-interest-guidance-**

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