

WE NEED BRAVE, IN-YOUR-FACE, HARD-HEADED GOVERNANCE

Kevin Carey, Chair, RNIB

Charities are under threat

The sector—and the country—has faced turbulent weather recently. But we also face a long-term deterioration in climate as charities—large ones in particular—face increasing opposition. We know that Labour regards charities as marginal, except for delivering public sector contracts. But the Conservatives have gone further. I genuinely think that when David Cameron launched 'The Big Society' he had in mind ladies of a certain age in flowery hats serving cream teas to ageing gentlefolk in market towns—and not large, professionalised organisations channelling vast resources towards the public good.

Big charities are now also the target of upper middle class, white, male, Brexit triumphalism—what Polly Toynbee calls libertarian anarchism¹. This group is in alliance with a right-wing press determined to get its own back on the 'politically correct'. They purport, like Donald Trump, to champion the overlooked white under-class. They will brook no opposition, characterising their critics as anti-democratic, or partaking in special pleading. They claim that they are fighting for the majority against the 'liberal establishment' when in reality they have been the new, plutocratic establishment for 30 years.

Major charities continue, thankfully, to be a bit of a nuisance. But under the guise of attacking excessive pay and bad fundraising practice, there's a concerted campaign to destroy the professionalised part of the sector. A government minister has said that charities should behave more ethically than businesses, the corollary of which is that businesses can behave less ethically than charities in competing for disposable income. This assumption about moral high ground is part of the Victorian legacy that hobbles us; we should be leaven, refusing to occupy moral high ground.

'There's a concerted campaign to destroy the professionalised part of the charity sector.'

In tandem with this we have falling public sector payment for charity services. That's not to mention the regulatory cost ratchet. Neither the Charity Commission, the NCVO nor ACEVO are fit for purpose. (We should scrap them all for a self-regulatory regime for major charities, leaving smaller ones to operate under generic tax, civil and criminal law).

Now is the time for fearless governance

All of this challenge means that we need brave, in-your-face, hard-headed governance. But currently our boards are just not up to this. Of course, if I gave RNIB £1 every time I heard a call for better charity governance I could stop sky-dives, Iceland treks and having luminous paint thrown at me. But, like most calls for civic virtue, such calls are a displacement activity, a diversionary tactic.

'Most charities don't fail because they lack a governance code. They do so because of trustee cowardice.'

¹ 'Brexiters call it useless red tape, but without it people die', in *The Guardian*, 20 June 2017.

That's because most charities don't fail because they lack a governance code, a risk register and a trustee handbook. They do so because of trustee cowardice. Assemble all the 360 degree appraisals, skills audits and Nolan Principles you like; they are redundant if nobody has the guts to say that the CEO is useless, the deficit is structural or, more widely, that the emperor has no clothes—and if there is one paramount reason for trusteeship it is this last.

We need to explode the outdated divisions between the board and the executive

In the commercial sector to describe non-executive directors as poodles would be a gross exaggeration of their leverage. But it is much worse in the charity sector. Charity law gives trustees all the responsibility and executive directors all the knowledge, power and capacity to obfuscate. This makes nonsense of any call to adopt good governance.

The Victorian dichotomy between amateur oversight and professional implementation may work for entities under £50k per year but it isn't working for those over £1m. And the bigger they are, the worse it is. As a ready reckoner, add up all the times your trustees have even amended an executive's proposal in the past year, let alone overturned one.

'The Victorian dichotomy between amateur oversight and professional implementation isn't working.'

There is this nostrum that needs exploding that trustees do strategy and the executive team does implementation. Most charity consumers wouldn't notice if a producer had a strategy, or completely failed to implement it; but they might just notice an implementation crash. At its worst, this nostrum gives space for executive directors to keep everything to themselves and fob off the board. And yet it's not bad strategy but implementation failure that ruins reputations.

That's why at RNIB we do not accept this split, and are working to bridge the breach between strategy and implementation. We have adopted unitary governance at secondary level (and are bracing ourselves for the unnecessarily complex and unpredictable process of applying to the Charity Commission for a unitary board). We have a comprehensive recruitment and appraisal process for this model. Admittedly, sometimes, getting the executive to comply with non-executive decisions has been difficult. Still, I think the default for the governance of major charities should be unitary. It helps avoid the farce of the executive team not telling and the non-executive board not knowing; the executive team doing all the crisis management and the non-executives turning up once a quarter to smile at a crisis averted or to pick up the pieces.

This is just one of the measures we've adopted in the name of better governance at RNIB: we have offered to sacrifice our brand and very existence in merger talks with another major blindness charity for the sake of both sets of largely overlapping customers; we've established that 75% of our board must be blind or partially sighted (which has not limited business experience both at board and executive level); we stood out against the demands of the new fundraising regulator as long as we could with negligible support from the sector. We are changing our culture away from a focus on process to a focus on product (though this is extremely difficult); and because our unitary board structure requires shorter, more frequent meetings, three of our trustees, including me, are allowed to be paid.

We must inject commercial-sector practices to ensure governance is fit for purpose

These changes to RNIB's board have been effective. Not all of them would be appropriate for every board. But there are a few things I would suggest across the board. As with the need for unitary boards, these are inspired

by the commercial sector. Because, for all the moral and functional weaknesses of the for-profit sector, I think the best way to improve the voluntary sector's governance systems is to inject business practice into it. Charities need to enable their consumers to benefit from the commercial tactics that have made the rich ever richer.

Commercial success is based on a few major factors: understanding consumers; generating emotional response; influencing governments and regulators; and increasing shareholder value. Ours should be precisely the same, substituting consumers for shareholders in the last point. For charities, this would mean making a few changes to make sure boards are fit for purpose:

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1. legally requiring trustees to show good reason for rejecting merger proposals;
2. devolving decisions on paying trustees to charities themselves in return for full disclosure;
3. getting commercial skills on board and ensuring they are brought to bear on practice and decisions; and
4. treating the people who use our services as consumers with prominence and power.

1. Legally requiring trustees to show good reason for rejecting merger proposals

Charity trustees are supposed to govern in the interests of consumers, not in their own private interest nor simply to preserve a charity for historical reasons. It's human nature to design systems that satisfy producers but it's a legal and commercial imperative to satisfy consumers. The problem is, turkeys won't vote for Christmas—and this is the overwhelming reason for rejected merger proposals in the sector. So the law needs to see that they behave in precisely the same way that commercial boards must when they are approached with a merger proposal. For commerce, the main motivation is to maximise shareholder interest. For charities it should, legally, be consumer interest.

2. Devolving decisions on paying trustees to charities in return for full disclosure

The issue of trustee remuneration is another piece of displacement activity. Apart from the rank hypocrisy of paid Charity Commissioners ruling that charities can't pay their trustees, there is no logical argument for a one size fits all rule. At root the problem is the sector's history of the 'great and the good' doling out benefits to the weak and the poor. And so charities are more heavily regulated than clearing banks when it comes to paying their board members. The rules are supposed to be something to do with protecting donors. But why should anybody who purchases goods under *caveat emptor* suddenly become a dolt when they become a charity donor?

'At root the problem is the sector's history of "the great and the good" doling out benefits to the weak and the poor.'

3. Getting commercial skills on board and ensuring they are brought to bear on practice and decisions

What characterises our current funding ecology is a shift from post-War social democratic consensus to the 'Big Bang' deregulation of the stock market. The aftermath of this change has progressively generated ever more turbulence, culminating in the almost completely unforeseen 2008 economic crash. Such events demonstrate why non-executive directors need to pool their knowledge of the world at large, to gather the skills needed to react to such a crisis and to grab the transient opportunities they bring. These skills are best found in customer-focused businesses and applying them is much more important than having an internally consistent strategy. The problem is that business people park their brains at charity boardroom doors because they are as ignorant of what we really do as we are what they really do. This is largely our own fault because we can't help believing our own pieties.

4. Seeing the people who use our services as consumers with prominence and power

I can't remember when I began to hear charities saying '*We put our customers at the heart of everything we do*' in an echo of commercial mission statements. But you don't 'put' customers anywhere; they're there to put you where they want you. In the private sector, consumer choice and power requires competition. Yet there's no evidence this works in the charity sector. The next best thing is cultural change from charities being about *good causes* to being about *good customer service*.

This is tough to generate, however, in organisations where many employees, passionate about the cause, work *at* charities rather than *for* them. I could, for example, say to my senior management that it should shift from thinking of itself as the government for blind people to the *retailer of choice* for blind people. The worst thing that will happen is that they agree with me, which leaves little room for an honest discussion on implementation. Like 'shy' Tories replying to pollsters, we all know what we *ought* to say.

'The purpose of charities is not to "involve" consumers any more than a major supermarket would.'

Despite these challenges I would not go so far as to propose that all boards involve consumers in governance. This is simply because not all beer drinkers make good brewers: because although it works for RNIB, it may not be appropriate for every charity. The purpose of charities is not to 'involve' consumers any more than a major supermarket would. The intensity of discussions about representation is in inverse proportion to customer satisfaction: if people are getting what they want, they will, quite understandably, not be all that interested in sitting on committees. If nobody wants to consume it, we shouldn't produce it. This, fundamentally, should be the attitude of boards: what do our consumers need and want?

It should be our consumers who decide whether we're needed, not other actors

The challenges that charities face are many and complex. But boards will not overcome modern problems with a Victorian structure and attitude. We are well past the age of deliberative righteousness and rationality. For as far ahead as we can see, the primary purpose of governance will be the survival of our sector and the causes it pursues. This will take all the ruthlessness and passion we can summon. The only people who can save us, who can justify our existence, are our consumers. We must shift from bureaucratic smugness to sharp-ended humility: doing so is neither a theoretical, nor a moral, imperative but a blessed necessity—one that will force us to do the right thing to survive.

'We must shift from bureaucratic smugness to sharp-ended humility.'

[This essay is part of a series on transformation from the boldest voices in the sector.](#)



About the author

Kevin Carey has been Chair of RNIB since 2009 and was Vice Chair 2000–2009 during which time he has been a radical commentator on the not-for-profit sector and its governance. He was a Member of the unitary Ofcom Content Board 2003–2006 and Chair of its Community Radio Panel.

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