The term fundraising is used across a broad range of activities within the sector. Whether it’s online sponsorship, monthly payroll or other forms of monthly/repeat giving, or holding events to raise funds: there are risks within each that will vary by charity.

Some charities also have Local Groups, Friends of, Branches and a myriad of other titles that represent parts of the charity potentially one step removed from the centre. This results in there being less control and potentially less understanding about risk management at a local level – which can come back to ‘bite’ the charity as a whole.

Whichever term you use given that fundraising income for the top 100 fundraising charities rose to £9.5bn in the year to March 2015 according to ‘Top 100 Fundraising Charities Spotlight’ published by Charity Financials, and the Institute of Fundraising estimates that 28.4m people give to charity in a typical month: this is clearly a vitally important area for the sector.

In addition, following a media campaign alleging that the sector (often using professional fundraising private companies rather than the charities own staff) targeted vulnerable members of public and a subsequent series of complaints from the public made to the then fundraising regulator concerning only a handful of charities, the whole landscape of fundraising as well as its regulation within the sector has changed.

This bulletin considers the turmoil, the current state of regulation, and how risk management could and can help charities protect their reputation and assets. We also consider the operational risk management of events and look at what insurance solutions are available.
Where is regulation going and what impact will this have on the sector?

Much has been written about the cases flagged by the national press and media and we are not here to repeat these. Rather it is clear that perception about the sector has been changed as a result of this and certain practices in parts of the sector had potentially fallen out of synch with the way charities themselves like to engage with their supporters.

What does this mean for charities?

Apart from the dispute over who will fund the regulator the seismic shift in fundraising regulation sits mainly around the future requirement for the public to have to ‘opt-in’ in order to be contacted by charities seeking to raise funds. This will cut charities off from millions of potential and existing donors who have not opted in – as historically no one needed to do that.

The cost to contact each donor for them to opt in is significant if a charity decides to go down this route. And it doesn’t stop there as donor information must not be kept longer than is necessary. This means that the ‘opt in’ will become out of date and need to be reasserted. And The Fundraising Regulator’s published consultation (August 2016) proposes that donors will have to renew their registration every two years. This may also increase the cost and process burden on charities.

British Red Cross has been upfront in declaring that this change will require them to make savings of around £10m p.a. over the next three years, RNLI £36m over five years, and others have commented that by limiting contact the sector will face losing hundreds of millions of potential supporters and their associated income. Savings will involve redundancies, marketing retrenchment and restructuring generally. Digital strategies are being examined and the hope is that there may be an alternative and smarter way to raise funds without falling foul of the new regulations.

The regulator published further information in June 2016 indicating that the proposal is for an eight tiered payment levy depending on size of income and ranging from £10,000 p.a. for charities with an annual fundraising spend of over £20m, to £250 for charities spending between £100,000 and £500,000 p.a. And in August 2016 the regulator was considering a ‘two tier pricing structure’ for smaller organisations that spend less than £100,000 on fundraising annually. However, the knock on effect of this review is to suggest that the largest charities will now need to stump up £15,000 p.a. as opposed to the original £10,000 p.a.

Who will fund the fundraising regulator (yes there is some irony here is there not?) remains a matter for clarification but in July 2016, representatives of small and medium charities made their feelings clear with the Smaller Charities Coalition calling for the final levy to be “more proportional” and recommending that smaller charities should be charged just 0.03% of income rather than the 0.17% on the table.

Meanwhile in Scotland the Scottish Council for Voluntary Organisations (SCVO) has recommended that the Fundraising Standards Board should not be replaced by a new regulator and that fundraising in Scotland should continue to be self-regulated.

*‘opt in’ is defined within the Data Protection Act as “any freely given specific and informed indication of his wishes by which the data subject signifies his agreement to personal data relating to him being processed”
And for trustees in particular?

In the wake of the regulatory changes the Charity Commission recently reissued CC20 “Charity fundraising: a guide to trustee duties”. This guidance makes it clear that trustees are legally responsible for a charity’s fundraising and helpfully summarises a trustee’s responsibilities for fundraising under ‘6 principles at a glance’:

1. Plan effectively: agree, set and monitor your charity’s overall approach to fundraising, taking into account risks, values ad relationships with donors and the wider public, as well as income needs and expectation.
2. Supervise fundraisers: make sure that you have systems in place to oversee fundraising – including where a charity works with third party commercial partners.
3. Protect your charity’s reputation, money and other assets: consider the impact of fundraising on donors, supporters and the public, making sure that the charity receives all money which it is entitled to and take steps to reduce the risks of loss or fraud.
4. Identify and ensure compliance with fundraising laws and regulations: these include data protection law, licensing, and working with commercial partners amongst others, as well as the new rules in the Charities (Protection and Social Investment) Act 2016 which affect some charities that raise money. It is also up to trustees to ensure that the organisation has sufficient information and appropriate advice to ensure fundraising complies with all relevant legal rules.
5. Identify and follow any recognised standards: these are in the Code of Fundraising Practice which outlines legal rules and standards designed to ensure fundraising is open, honest and respectful.
6. Be open and accountable: comply with any relevant statutory accounting and reporting requirements on fundraising and use reporting to demonstrate that your charity is well run and effective. You need to explain fundraising work to members of the public, as well as your donors and supporters.

How can risk management help?

There is some debate about whether what has happened is from a risk perspective a ‘Black Swan’ incident that is as significant in its impact to charities as the financial crash was to the banking sector in 2008. Doubtless this debate amongst those involved in risk management for charities will continue for some time and the actual financial impact will not be seen for another 6-18 months either.

That said a structured way of considering risk should have enabled charities to identify, assess, evaluate and manage risks surrounding fundraising to some extent. This process may also have provided for contingency plans to be established.

A charity that incorporated risk management into its planning and performance processes may well have had Fundraising identified as a significant risk to the organization (if something goes wrong – even if not specifically the enormous change in regulatory requirements).

And even now it’s not too late to view this new landscape through a risk telescope using the standard ISO31000 process shown below.
How can insurance help?

Of course, you can’t insure against the additional cost of fundraising in the light of the revised regulations although if your trustees were to be sued for alleged wrong doing over a fundraising matter the Trustee Indemnity insurance policy may respond, subject as always to the individual policy terms, conditions and exceptions.

And when it comes to individual fundraising events insurance can certainly help to protect assets and earnings, as well as the individual costs involved in putting on an event. One question that we often receive from our clients is whether a central charity should be insuring the events put on by a local or in other way affiliated fundraising group that it has little or no control over.

The Institute of Fundraising’s original Code of Practice issued 13th November 2012 identifies the key differences between volunteers working ‘on behalf of’ a charity and those that work ‘in aid of’ a charity. In summary those acting with authority to represent the charity are acting ‘on behalf of’, whilst others are raising funds ‘in aid of’ the charity. Sometimes though it is not easy to determine, it is important as the legal liability for an incident may rest with the charity, or not!

A charity’s Public Liability insurance policy is underwritten on the basis that the charity has a legal liability to the claimant. This means that only ‘on behalf of’ fundraising is included automatically.

There is another area for a charity to consider as well though – do you want to include insurance for those raising funds ‘on behalf of’ your charity? If there is a lack of control, knowledge and understanding about what the group is doing and how it is assessing the risks, then you might not want to cover the exposures under your own corporate insurance policy.

If you do want to include these groups then very often you need to provide insurers with details of numbers of groups, numbers of volunteers within the groups (on average), types and numbers of events etc. etc. This is important as underwriters will calculate premium based on such risk information and the Insurance Act 2015 increases the duty a client owes to the insurer under ‘fair presentation’ to what he knows or ought to know.

Lack of disclosure can lead to issues if a claim occurs. Insurers do have the right to impose additional premiums and terms after the claim when the circumstances come to light.

We urge you to think about this now and take action. Please do bear in mind that by accepting and insuring such groups within the charity’s insurance programme, you are accepting that if a claim occurs this will sit on your insurance programme and may affect future premiums.

If you have a large number of groups, say more than 15, you might consider setting up a Local Groups Insurance programme. This is an effective way of ensuring adequate insurance cover and limits are purchased in a cost effective manner, but removing the exposure from the main charity. We have set up a handful of these for charity clients who have taken this view and in some cases the main charity has opted to pay the insurance premium.
And how should you manage fundraising events?

It's always good to plan your events across the course of a year or at least six months and when you're doing that to consider the purpose of the event. Some events are not made to generate revenue but rather to raise awareness of the charity and its aims, whilst others have a clear purpose to generate more (preferably much more) income than the cost of staging the event.

Part of this review should include consideration of the risks involved in putting on the event such as:

- Will it cost more than we will raise in funds?
- Are there sufficient risks to make us reconsider holding the event?
- Are we suitably resourced and connected to put this event on successfully?

After all there have been some quite shocking accidents and incidents arising out of fundraising events so a little bit of thought upfront could help you assess the risk before getting underway with the event planning.

If you decide to proceed then the planning should be proportionate to the scale of the event and the degree of risk involved. A simple fete or garden party in a local village will doubtless be planned very differently to a mass participation sport based event, such as a 10k run around Manchester involving hundreds of runners.

It is important to ensure that someone on the organizing committee takes responsibility for safety matters. The Health & Safety Executive (HSE) recommends for organisations with five or more employees this should be driven by the health and safety policy. And the HSE website offers some excellent advice on how to plan an event safely, consider your emergency plans, and even provides a checklist for planning an event which we've set out below:

- Have you decided who will help you with your duties?
- Is there a clear understanding within the organizing team of who will be responsible for safety matters?
- Have you risk assessed your event and prepared a safety plan?
- Did you involve your workers during the planning of the event?
- Did you liaise with other agencies as necessary?
- Have you gathered and assessed relevant information to help you determine whether you have selected suitable and competent contractors?
- Have you provided the right workplace facilities?
- Have you planned for incidents and emergencies?

As the event organiser you are responsible for the overall safety at the event so you need to make sure that as far as reasonably practicable, people setting up, breaking down and attending the event are not exposed to risks to their health and safety. This is a great way of figuring out how engaged a central charity is to its local groups. After all if you are unaware of a Local Group event would you really want to be responsible for it?

Once again the HSE website is a mine of information highlighting that as event organiser your duties include:

- Having health and safety arrangements in place to control risks
- Ensuring cooperation and proper coordination of work activities
- Providing employees and others with relevant information on any risks to their health and safety
- Ensuring the competence of staff to undertake their role safely – and this should include someone being the Competent health and safety person for the organisation (i.e. being trained, qualified and experienced in health and safety exposures and controls)
- Monitoring health and safety compliance
- Reviewing your health and safety arrangements

Management and monitoring of the event once it's started is important and a good opportunity for the person responsible for health and safety to check control measures are working and being followed by all involved in the event. Of course, if the event is on a larger scale you will need more people to share the monitoring role.
What if it all goes wrong?

Although careful planning will help to minimise the severity and likelihood of a risk occurring sometimes things happen anyway! As event organiser you must have plans in place to respond to emergencies – although once again this should be proportionate to the scale of the event and the potential risk exposures.

This may sound daunting but gathering your resources to explore what could go wrong in a structured way is probably the simplest way to identify and assess risk. You could easily use the ISO31000 standard on page 3 to work through the risks to the success of the event. You will need to have an Emergency Plan to:

- Take people out of danger
- Summon emergency services and assist them when they arrive
- Support anyone who is injured, and everyone else too
- Protect your property

Your staff and volunteers also need to know what the procedure is if an emergency occurs – you might like to define what an emergency is as well to avoid debate and delay. The procedures should include raising the alarm (who to and how), how to inform and manage the event visitors, who will call emergency services and when, as well as evacuation procedures and traffic management (to avoid holding up emergency vehicles).

If you are organising a large event it might be an idea to undertake a test of your emergency plan just to see if it needs improvement or amendment. Again the HSE website has stacks of information on topic areas to assess.


What about Event Insurance?

A charity’s general Employers’ and Public/Products Liability policy sections should include cover for events as something lots of charities do. It’s best to check with your insurance broker or direct insurance company (if no broker is used) that events are known to be within your business description. If yes then this ticks your legal liability to third parties and as an employer, up to the limit of indemnity and subject to the individual section terms and conditions.

If it’s an unusual circumstance for you to stage an event then you can purchase liability insurance separately as part of an Events Insurance programme. This can be for a single event or on an annual basis if you are going to have multiple events.

However, probably the reason most charities might buy Events Insurance is for the cancellation and abandonment protection. Cancelling an event is an organiser’s worse nightmare and reasons for cancellation can be as varied as ill health, unconnected emergency events such as a bomb or fire, travel disruption, riots and of course the British weather! This insurance helps to protect the financial investment made to stage the event, as well as additional costs incurred to ensure the event goes ahead – for example, finding an alternative location/venue, moving the date to a sunnier day, or contacting the attendees to tell them about the change.

Be careful with cancellation due to adverse weather conditions though – there are conditions and exclusions that mean the insurance may not pay out in every situation where you might think it ought to, and you must be a certain number of days away from the event when you set the cover up.

Another example of what can go wrong is bad weather puts people off venturing out to your event despite the fact your event is indoors with some policies you need a reduced attendance cover extension in order to recover the associated reduced income.

Property involved at the event can also be insured under an Events Insurance – where you own the property or need to hire it in specifically for the event.

And of course, there are some things a policy just won’t help you with. Such as the blog lodged by Maricar Jagger (PR Officer at the University of Portsmouth at the time) who joked that ‘sometimes success can become a problem. The first time we sold out an event, we didn’t know how to cope with the additional demand. We thought “Hey, all the seats are filled, we are happy!” but later she explains “People get very upset quickly. It turned ugly, near punch-up, as they vent their frustration on our staff and each other. It was stressful.” Maricar was kindly sharing her experience and suggesting that going forward events are planned and monitored more carefully and suggests you should “Let them know if you are having a problem and trying to find a solution. They will love you more for your
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WOULD YOU LIKE TO TALK?

For more information on how you can consider risk management – whether strategic, operational or just for a single event, as well as for an insurance quotation, please call us on:

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