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Ethical Fundraising in the arts, culture and heritage sectors

arts fundraising & philanthropy

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Arts Fundraising & Philanthropy Enquiries Programme

Between 2021 and 2024, Arts Fundraising & Philanthropy has delivered a series of enquiries in relation to challenging areas of arts, culture and heritage fundraising, with a view to informing future policy and research. Each enquiry is made up of eight fundraisers working in arts, culture and heritage organisations, who have worked alongside the wider Arts Fundraising & Philanthropy team to explore a topic of national significance. The output is a short publication outlining policy ideas and suggestions for key funders where all participants will be co-authors and credited for their participation. The publications will be disseminated to a wide range of stakeholders including Arts Council England and may be used to inform discussion at Arts Fundraising & Philanthropy events and related training courses.

With thanks to our Ethics Enquiry group for their support and insight :

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Jack Charlesworth: Associate Director, Outset Contemporary Art Fund

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Introduction

Our day to day news is littered with questions over ethics. We care deeply about the rights and wrongs of particular situations and it can seem that ethical issues impact the arts, culture and heritage sectors more than most.

Because art deals so often with values, identity and interpreting our place in the world, there is a demand to ensure that the money that funds cultural work is 'clean'. We want art to be judged on its own merit and not on brand association. The fact that much of our work has high visibility in publicly accessible buildings, also makes us fair game for criticism.

Most often, we consider ethics in relation to fundraising and where we draw money from, but of course when we start to consider it – ethics is far more than that within cultural organisations, it's about the work we make, how we make it, who it represents and reaches, how we invest, our fundraising, social and commercial endeavours.

So, when we care so much, it seems to be deeply problematic that we often sweep the questions of ethics under the carpet in our organisations, underplaying the risk. As such, we often seem to be on the back foot, stumbling into ethical crises whilst terrified of being 'outed' in the media,

by lobby groups or by our own artists for the funding associations that we take on.

In 2022, Arts Fundraising & Philanthropy set up a new enquiry to focus on this complex issue, led by eight arts fundraisers. The recommendations on pages 18 and 19 grow out of some of the enquiry groups' reflections and are suggested to provide support to the cultural sector in navigating ethical fundraising.

Michelle Wright,
**Programme Director,
Arts Fundraising & Philanthropy**

Ethical Fundraising in context in the arts, culture and heritage sectors

Competing agendas

It can be difficult to define the word ethics – often we talk about 'someone's ethics', i.e. the moral principles about right and wrong behaviour which they personally believe in. This is perhaps the first area where we run into difficulties in the cultural sector.

Firstly, we don't have a clear understanding of the history of ethical fundraising within the cultural sector to understand where we have come from and what it means in our present context. There are many historical examples of cultural activity supported by associations that we might find difficult now, for example, support from the tobacco industry for music and dance organisations in the 1960s and 1970s. Understanding the path that cultural organisations have undertaken historically in relation to ethics will help us paint a detailed picture of where we stand at present.

Secondly, as individuals working in the cultural sector, many of us are values-led, with firmly seated views about what is appropriate or not. Yet the sector as a whole doesn't have a baseline that gives us a joined up working protocol for how to deal with ethics. This often means that ethical decisions within organisations are taken based on the views of an individual, as opposed to being joined up across an organisation to include organisational values, culture and the views of all stakeholders.

This lack of organisational connectivity across the area of ethics is often what can lead to an ethical crisis, where an individual cultural organisation governed by a Board isn't consistent or comfortable in answering questions on ethics, which in turn makes the organisation particularly vulnerable to media and lobby group pressure.

Of course, as the cultural sector emerges from the Covid-19 pandemic, the issue of ethics is only one part of many competing

agendas in our somewhat exhausted and depleted cultural organisations. However, the unpicking of the ethical mountains linked to colonialism means that we are perhaps getting more comfortable asking difficult questions such as: *who has the money, how did they get it and how did they distribute it?*

The fire for joined up conversations about ethics burns strongly but without sector-wide drivers for change and mechanisms to arrive at an organisational or sector stance, as opposed to an individualised one, it can be challenging to get these issues heard and considered amongst other important agendas.

Leadership from funders

One of the roots of ethical problems in the cultural sector lies with the funding system. For instance, an organisation can make relatively easy judgements about whether to accept money from an oil firm or not, but it becomes more difficult when we consider the historical origin of money.

An obvious example is the Sackler Trust, a foundation that historically received its funding from the sale of opiates that led to wide-spread user addiction. For many artists and creatives, this historical association makes the Trust's current funding for the arts untenable, perceiving it as 'art washing'[1] and there is huge pressure on several organisations to remove such associations. Others argue that the potential for the funding to 'do good' in the current context shouldn't be given up too easily. From a practical viewpoint, they'd rather see that money invested in the cultural sector, than lost to non-artistic causes, despite its negative historical provenance.

The application of statutory money is often even more complex to unpack. Money that comes from Treasury via Arts Council England seems intrinsically 'safe' but the same pot of money from the Home Office liked to the Prevent Agenda, is at odds with many of our values – yet the source is the same, the British tax payer.

Additionally, many sources of funding are not relational – we fill out a form to access the funding and therefore there is no imperative to consider ethics unless your organisation is in a position with the time and money to establish ethics committees and policies. Some funders are seeking to change this, such as the Foyle Foundation, which now asks applicants to detail whether they have an ethical fundraising policy in place. However, such an ask of funding applicants seems rare.

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1. The use of art and artists in a positive way to distract from or legitimise negative actions by an individual, organisation, country, or government

The difficulty with establishing detailed ethical fundraising policies is that it is often the privilege of large organisations (that are publicly funded), where there is resource available to ensure beneficiaries, communities, staff and trustees are aligned on ethical agendas. For most small organisations, the fundraising driver is to secure the money for survival, meaning that there is no time to stop and think about exactly where the money is coming from. Trustees must also respond to revised guidance from the Charity Commission on accepting, refusing and returning donations which outlines how individual organisations should balance decisions and when donations must legally be refused or returned.

Of course, many funders struggle with issues of ethics themselves.

The majority of grant making foundations are set up as private institutions linked to public purpose. This can sometimes mean that it can be difficult to balance their private character with their public obligations, yet many are under significant scrutiny.

As such, some change is happening, for example, the Ford Foundation's decision in 2021 to end further investment in fossil fuels and seek out additional climate-friendly investments. But ultimately these are individual choices for private institutions.

The concern for many funders is that they don't have their 'own house in order' around ethical issues and therefore could face unwelcome challenge on their investment decisions and similar.

This leads to many applying an arms-length principle of only considering ethics when an organisation that they fund gets into reputational difficulty. This can lead to isolation for the funded organisation that finds itself under attack from its audiences, the media and lobby groups for its ethical choices, with no allyship or forthcoming support from its regular funders.

Lack of an accountable body

Sector-wide, there seems to be little understanding that ethical issues fall to trustees and the leaders of organisations. This is not helped by limited visible support in the form of briefings or awareness raising on the issue from key regulators such as the Charity Commission.

Likewise, the Fundraising Regulator promotes and supports a culture of ethical fundraising, protecting the interests of donors – with some guidance on accepting, refusing and returning donations.

Similarly, the Institute of Fundraising provides helpful guidance to its members, but its brief is limited to the ethical issues around fundraising, not wider organisational areas.

There are sources of information and advice specific to the arts sector, for example, Arts Council England's A Practical Guide to Lawful Fundraising and Cause4's ethical fundraising policy templates.

However, the lack of an accountable body on ethics is a problem, as without one body or group holding the agenda, it is impossible for cultural organisations to know where to turn to for advice.

Who's in charge?

Likewise, within our organisations, it is often unclear who is responsible for ethical decision making and the agenda rarely joins up across different parts of a cultural organisation's operations.

For example, an organisation might have a good gift acceptance policy that rules out raising money from a certain corporate sponsor but then its earned income policy says that it is acceptable to have the same corporate in the building hiring one of its spaces. Conflicts and mixed messages abound. Better governance oversight is needed.

To meet Charity Commission and Fundraising Regulator due diligence compliance for donors, donations and partners, trustees are required to first assess the potential scale of risk and allocate adequate time/ resources, in light of this.

The Charity Commission outlines that an organisation should undertake reasonable due diligence of donors, to ensure that they don't hold views or are involved in activities that might be incompatible with an organisation's remit and damage its reputation. And here, in terms of donations, an organisation should ensure that any gift is safe to

accept and is in the best interests of the charity.

With all the responsibilities that Trustees have, implementing these 'know your donor' obligations is another area of particular awareness that Boards are required to have as part of their legal duties under charity law. Ideally, Ethics should be considered as a key risk area for charitable boards and considered within organisational risk registers. Placing ethics squarely as part of an organisational risk assessment may enhance the time and attention given to this area by Boards. Indeed, sometimes tensions exist between Board and Executive in interpreting

an organisation's ethics policy and risk registers can be a helpful mechanism to resolve conflicts within organisations.

Secondly, due diligence needs to be undertaken by trustees so that they are reasonably assured of the provenance of the funds given to the charity; confident that they know the people and organisations that the charity works with; and are able to identify and manage associated risks. Trustees and CEOs may delegate authority for this work, but the responsibility for getting it right remains theirs.

The 'know your donor' principles

reach across donors, beneficiaries and partnerships, meaning that trustees are expected to take reasonable steps to ensure that they:

> Know who they are dealing with
> That they understand and verify where the risks are high
> Know what the organisation's or individual's business is and can be assured it is appropriate for the charity to be involved with
> Know what a donor's specific business is with the charity and have confidence they will deliver what the donor wants them to
> Are alert to any unusual or suspicious activities, conduct or requests

Of course, this again leads to a higher level of compliance within larger organisations that have a greater ability to meet this requirement and invest in appropriate search and resource data for due diligence.

Research will include finding out about the financial health and reputational risk of an association with a funder or donor, as well as ensuring congruence with an organisation's conflicts of interest policies.

Such due diligence is problematic for smaller organisations without the time or financial resource to undertake such research that

can build an evidence base for trustees to consider.

There is also the issue of needing to keep research information about companies up to date once a gift has been secured. Ethics is a fast moving area and previously safe bets can emerge into crises if an organisation is caught on the back foot without adequate knowledge. For example, the National Gallery's long-standing sponsorship with Credit Suisse became a difficult association overnight when allegations of money laundering by the bank and similar emerged.

For even the most well-resourced cultural organisations, being able to build adequate intelligence to monitor such situations is likely to be beyond reach.

Additionally, another area emerging strongly is new sources of income to cultural organisations such as cryptocurrency, blockchain or digitally encrypted currency. The cultural sector needs adequate guidance to make suitable decisions in accepting gifts in these areas too, where traditional forms of due diligence may be unavailable or unattainable for organisations.
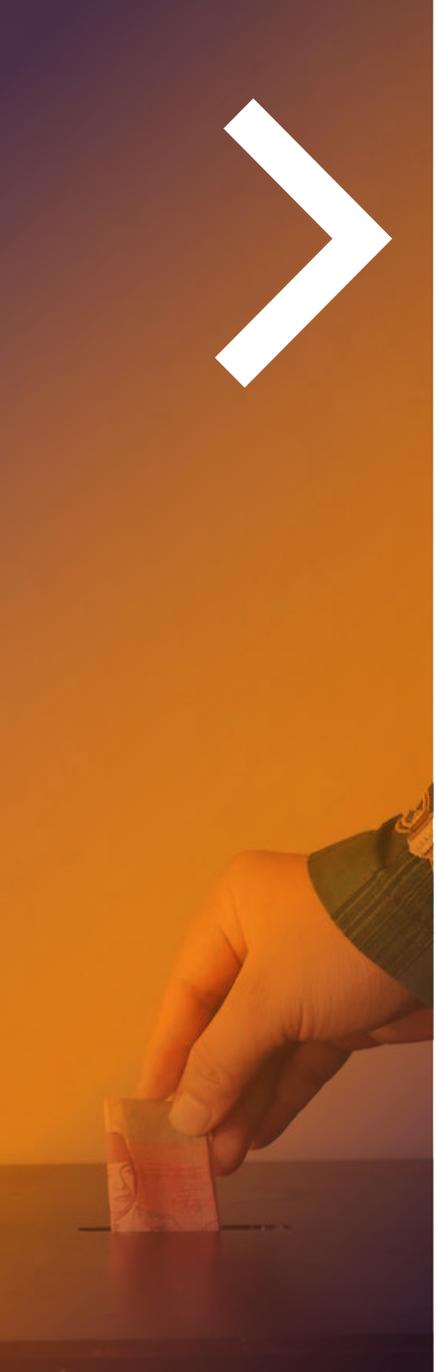
Investing charitable funds

Similarly, the area of investment of charitable funds is now crying out for more accountability in relation to ethics. The guidance, Charities and investment matters a guide for trustees (CC14) *"sets out the legal and good practice framework for the investment of charity funds"* and covers financial investment, the key steps in making financial investments, programme related investment and mixed motive investments.

This area can prove a headache for charity trustees, who are left trying to balance reputational matters against the best financial returns, within a level of risk which the charity deems to be acceptable. This in future will mean upskilling trustee knowledge on the best approach towards ensuring more ethical ESG[2] investments for their individual charity and cause.

The key duty of a trustee is to act in the best interests of the charity's beneficiaries. As such, and as observed, ESG investing and the financial duties of trustees may or may not be aligned. Feelings run high in the area of ethics. Trustees can therefore not shirk their responsibilities when it comes to developing a risk register in the area of ethics, which includes investment policies alongside an ethical fundraising policy.

2. Environmental, social, and governance (ESG) criteria are a set of standards for a company's behaviour used by socially conscious investors to screen potential investments.

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Peer support and allyship

A lack of an ethical baseline for the cultural sector and consistent approaches to dealing with issues of ethics often means that we don't see much support provided to peer organisations when they run into difficulties.

Some might feel relief that the spotlight is on another organisation and we see little evidence of the leaders of cultural organisations publicly supporting the ethical position of another.

Given the strong influence of arts leaders in society, this lack of allyship seems a shame. If leaders could work together to find common ground in the area of ethical fundraising, much good could be achieved.

Additionally, whilst some good peer support networks for fundraisers exist, this perhaps exacerbates the problems. Without clearly defined processes about how to develop an organisational wide stance on ethics, there is a follower culture, where organisations tend to mimic the ethical fundraising policies of other organisations. Of course, this can lead to little fresh thinking and the potential to repeat mistakes.

Finally, there is no obvious safe space for cultural organisations to discuss, explore and debate issues of ethics and also very limited sector support for sole fundraisers or those operating within small teams.

Ethics is going to cost us

Of course, the real elephant in the room in relation to ethics, is that adopting an ethical decision-making framework is going to remove access to some funding sources. Every door that the cultural sector closes to raising money makes the sustainability of the sector and its work and people more difficult.

Right now, there are no rewards for 'doing the right thing' – funders are not patting an organisation on the back if it decides not to take the money from an oil company and our fundraisers are not seeing decreased targets to allow them to embrace a 'cleaner' fundraising strategy.

Whilst the majority of the sector wants to make the right ethical choices in pursuit of income, there is also a need to be pragmatic to ensure that as wide a range of funders as possible continue to support the arts.

An example can be seen in the case of the Whitney Museum of American Art and the cancellation of the Collective Actions exhibition. This followed a backlash from artists who discovered that their work had been acquired by the Whitney without their knowledge, in sales in which pieces were donated or sold at a discount to benefit racial justice organisations.

For this organisation, doing the right thing was to 'commit to a year of action – of mobilisation and introspection'. The key challenge from its artists was for the Museum to detail its plans about how it would "*navigate this charged political moment without relying on the unpaid labour of black, Indigenous and People of Colour artists and communities*".

This example raises the question of cost - firstly, can the cultural sector do the right thing ethically and ride out the initial inevitable falls in income and secondly, will our audiences and funders support us to do so?

Against many competing agendas, providing the space and confidence for those working in the cultural sector to speak up and speak out is limited. Organisations such as BLACK* Artists on the Move advocate moving away from a sector approach of competition to pave the way for collaboration. In the area of ethical fundraising, it is surely finding such a coherent collective approach that will forge a path that is pragmatic and that will ultimately achieve change.

〉 Recommendations

The Arts Fundraising & Philanthropy ethics enquiry makes suggestions in six areas to provide support to the cultural sector in navigating ethical fundraising.

6

01. ALIGNMENT WITH ETHICALLY-BASED FUNDING SECTORS

> To future-proof the cultural sector's income by exploring central investment in the cultural sector from ethically aligned sectors, such as B-Corps, Fairtrade, renewable energy and the like, that could in time replace more traditional sources of income.

02. ETHICAL FUNDRAISING POLICIES AND GUIDANCE

> To develop research into the history of ethics in arts fundraising, which can provide a baseline of understanding about why we have arrived at our current position and what it means for the future.

> To develop a toolkit to support organisations to develop an ethical fundraising policy based on organisational values that can be adapted for a wide range of size of organisations. The toolkit will support the Boards of cultural organisations to make better decisions in relation to ethics. It will link ethics with risk and will raise awareness of the leadership role for trustees in the area of ethics, applying the 'know your donor' principles and responsibilities in relation to ethical investment and risk.

> To provide guidance to the cultural sector on how to undertake due diligence in new areas such as receiving gifts in cryptocurrency.

03. FUNDERS AND ETHICS

> To bring funders together in a series of roundtables to explore ethical issues in relation to fundraising and how to explore support for their funded organisations.

> To encourage funders to ask for evidence of ethical policies from their funded organisations to encourage cultural organisations and their leaders to invest time and consideration in this area.

04. DUE DILIGENCE SUPPORT

> To develop a framework for due diligence in relation to raising funding from funders and donors, supporting cultural organisations of different sizes in how to undertake such research and sharing case studies of effective practice.

> To explore low cost or free access to key databases such as Xapien for cultural organisations, democratising access to effective research in the area of due diligence.

05. NETWORKING AND PEER SUPPORT

> To develop a light touch 'whatsapp' style information site in relation to ethical fundraising to encourage the sharing of information around ethical issues with appropriate curation.

> To develop seminars and events in 'safe' curated fora to encourage communities of interest to share information, to explore competing views and to develop capacity, confidence and allyship in the area of ethics.

06. CONVENING CONVERSATIONS TO SUPPORT THE LEADERS OF CULTURAL ORGANISATIONS TO NAVIGATE THE AREA OF ETHICS

> To develop accountability around this agenda for leaders of cultural organisations, by opening up discussions, sharing and pooling information and providing peer to peer support when issues of ethics arise.

For more information:

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