The pop-up policy

Paying trustees is a recurring policy issue for the charity sector says **Jay Kennedy**

Rather like the Whac-a-Mole arcade game, the issue of paying charity trustees continues to pop up at regular intervals in charity policy debates, to be bopped on the head by organisations such as the Directory of Social Change (DSC) and many others, only to pop up again in some other context.

For ordinary charities struggling with the daily challenges of just staying afloat, the periodic popping and head-bopping may seem mostly like a diversionary exercise in policy gaming. The vast majority of charities are not in a position to pay trustees and don't want to. But an influential minority of mainly larger organisations drive the debate on.

Despite the theatrics, this is an important issue. Trustees of charities should absolutely not be paid for performing their duties as trustees.

Position of principle

Fundamentally, this position is one of principle: the essential characteristic of the voluntary sector is its voluntary nature, and voluntary trusteeship is an important cornerstone of this. It matters that charities are governed by people who volunteer their time and are motivated by their care for the cause. Even if charities employ staff, those people serve at the behest of trustees who have no financial self-interest in the organisation. This is an important distinction between other governance roles in the private or public sectors; one which is part of what defines an organisation as a charity.

Most recently, the issue has popped up in a recommendation from Lord Hodgson's report on his review of the Charities Act 2006, *Trusted and Independent*. In a recommendation which shocked most of those who were paying attention, Lord Hodgson proposed that charities with income of more than £1m per annum be given authority to pay their trustees if they wish.

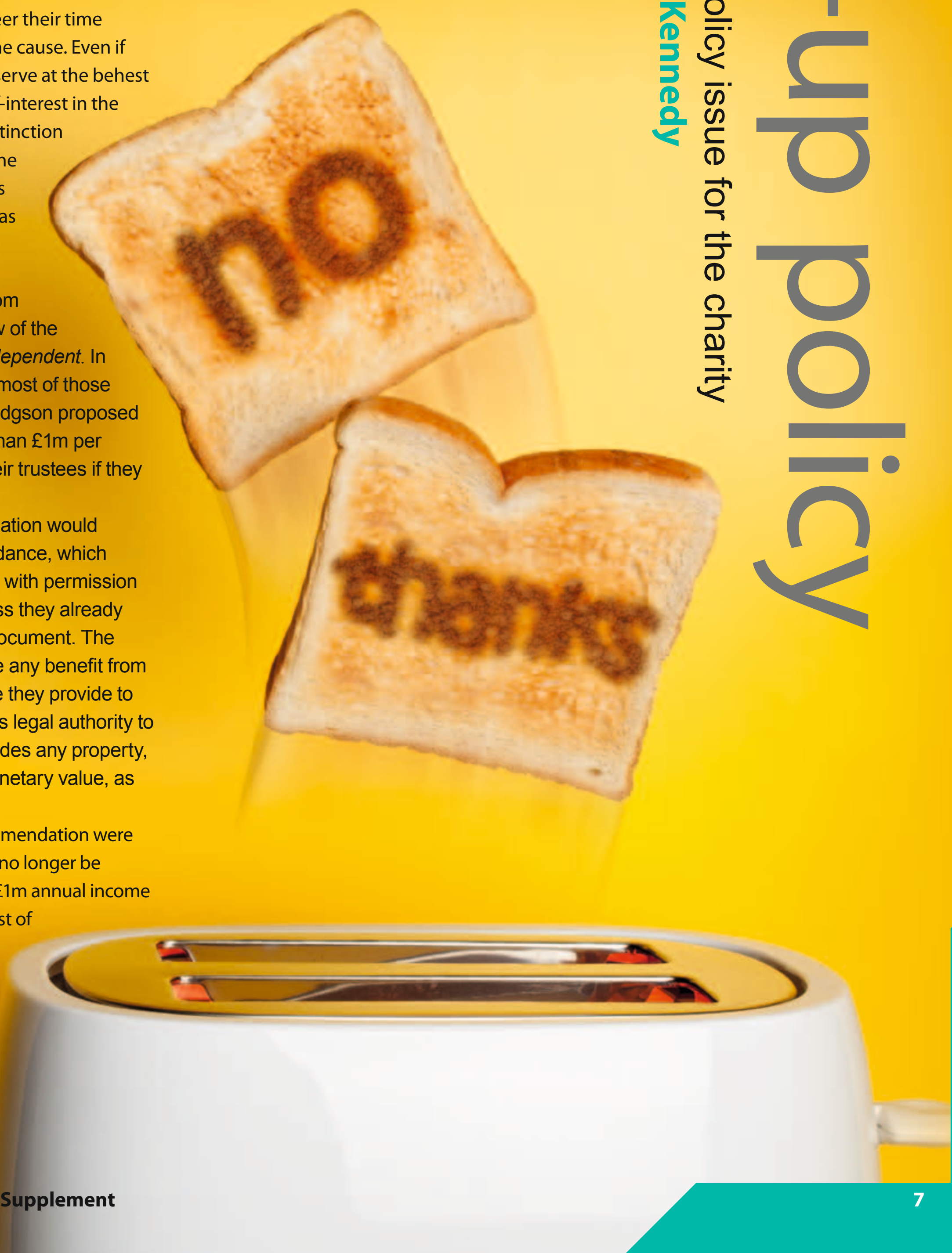
If implemented, this recommendation would change current regulations and guidance, which allows charities to pay trustees only with permission from the Charity Commission, unless they already have the power in their governing document. The law states: "Trustees cannot receive any benefit from their charity in return for any service they provide to the charity unless they have express legal authority to do so (ie permission). 'Benefit' includes any property, goods or services which have a monetary value, as well as money."

In theory, if Lord Hodgson's recommendation were taken forward, this permission would no longer be required for organisations above the £1m annual income level—this would likely take away most of the requests to the Commission to allow payment, as larger charities are normally the ones who wish to pay (and can afford to pay).

Lord Hodgson's recommendation is made against the backdrop of drastic cuts to the Charity Commission's budget—and hence a perceived need to reduce its regulatory responsibilities wherever possible—and a government which is in favour of deregulation generally, almost for its own sake, charities included. Allowing big charities the option to pay trustees if they want ticks both the boxes.

Arguments in favour & against

There are of course a number of arguments in favour of paying trustees. Paying trustees is often put forward as a solution to recruitment difficulties, lack of board diversity, the need to attract certain skills, and improving standards of governance generally. But there is very little evidence about the impact of payment, and what there is doesn't indicate that it improves these problems. An oft-cited Urban Institute study of not-for-profit boards in the US concluded that paying board members did not improve board engagement, or recruitment for skills or diversity. While payment did have some modest effect on attendance at meetings, it had negative associations with board



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involvement in fundraising, community relations, and educating the public about the organisation's mission.

On the other hand, there is significant evidence of low support for the practice across the charitable sector, or indeed among the public. Even evidence from the charity chief executives' organisation Acevo—the strongest proponent of greater liberalisation of existing regulations—shows little support from their own members. Their own evidence submitted in the wake of Lord Hodgson's report concluded that just under 25% of members surveyed could "envisage" their charity taking up the power to pay trustees over the next five years. Public polling commissioned for Lord Hodgson's review reported that 61% felt trustees should not be paid, except for their expenses. The evidence is out of tune with the debate—and with Lord Hodgson's recommendation.

DSC recognises that there are numerous challenges to how individual organisations govern themselves effectively—but paying trustees is not the solution.

A holistic approach

DSC believes that a holistic approach to the problems faced by trustees is required, one which develops solutions that maintain the voluntary status of trustees. Greater access to training and development for trustees is crucial. The idea that paying trustees in itself will solve governance problems is flawed, as it seems mainly based on an unfounded belief that payment inherently makes people more competent and dedicated, which will therefore translate into improvements in governance. If that were the case, then why have volunteers or a voluntary sector at all?

There are also many practical problems with paying trustees even a limited bursary. It diverts financial resources from other activities, without any guarantee of improved performance or greater commitment. In fact, it could have the opposite effect—turning off those who wish to contribute their energy and skills voluntarily, while attracting people whose main motivations are primarily financial. If a paid board is faced with the need to make staff redundancies, would they choose to forego their own wages and positions to avoid sacking the staff, so the service for beneficiaries could continue?

Payment of trustees can also muddle the boundaries between trustees and executive positions. Paying trustees could introduce an employer/employee relationship into the mix, which only blurs these boundaries further. Normally a CEO is line-managed by the chair; but if the chair is paid then who is in charge? It opens up conflicts of interest.

Legitimate expenses

Although DSC is against paying trustees for performing their role it is important to note that it is entirely legitimate and appropriate for trustees to be reimbursed for legitimate expenses, just like any other volunteer. This might even include in some circumstances lost wages. If trustees are hugely out of pocket—effectively donating not just time and knowledge but money—this can be a significant obstacle to them performing their role effectively and to recruitment.

The need to increase the diversity of boards is perhaps the most salient argument in favour of paying trustees, but still one we reject. In order to increase diversity, organisations should explore how they could accommodate the needs of certain types of trustees without resorting to giving them a paid role—such as reimbursement for childcare expenses for those with childcare responsibilities, for example. Obviously there is a balance to be struck between the need to facilitate trusteeship and the myriad other financial demands on charities. But trustees always have the option not to claim expenses or to donate them back to the charity if they so wish.

What next?

So what will happen to Lord Hodgson's recommendation? The Office for Civil Society in the Cabinet Office is considering the report and feedback from the charity sector, but as yet has made no formal comment. However, immediately after the publication of *Trusted and Independent*, the National Council for Voluntary Organisations, the National Association of Councils for Voluntary Service, the Institute of Fundraising, DSC, the Small Charities Coalition, Community Matters and Volunteering England wrote jointly to Minister for Civil Society Nick Hurd to give the trustee payment recommendation a strong whack on the head. Ranged against them in support is mainly Acevo—which has a formidable track record in lobbying politicians and Whitehall officials.

It's anybody's guess what will happen next—but one thing is fairly certain, the game is not yet over. This mole is probably going to continue popping up out of its hole for some time to come…

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