Governance During Covid-19

The VCSE Mental Health Sector
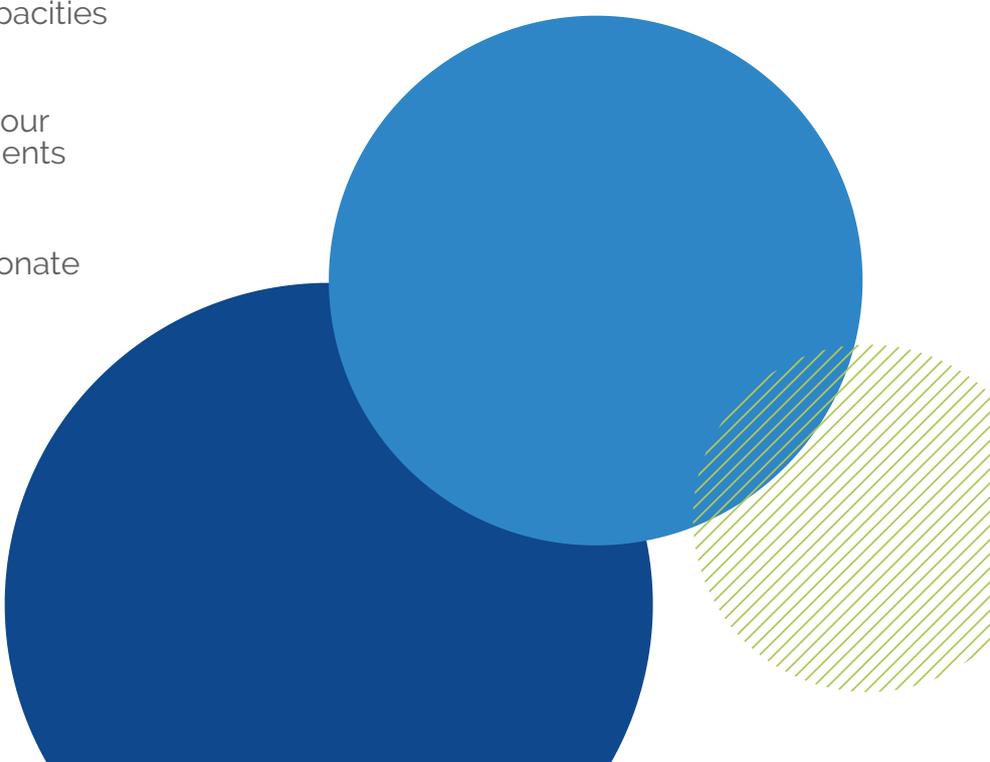
A Joint Programme from the Association of Mental Health Providers and Good Governance Institute

June 2021

TABLE OF CONTENTS

Introduction

The last year has brought with it many challenges for organisations working in the voluntary, community and social enterprise (VCSE) sector and constituted as charities. These organisations have continued to deliver essential mental health and wellbeing services to people in crisis - for both those whose mental illness or poor mental health pre-dated the COVID-19 pandemic and for people whose need for support has arisen during or as a result of it. The pandemic has highlighted more than ever the critical role of the VCSE sector in supporting people and communities, keeping them safe and well, and in responding to the health needs exacerbated or generated by the it; not as substitutes to statutory services but as partners.

Impact on demand

Since March 2020, the VCSE mental health sector has faced significant challenges in delivering services, which have been intensified by the effects of the lockdowns and tier systems. From the first few weeks of the pandemic, some VCSE providers experienced an unprecedented rise in demand for their services, for example crisis support and culturally appropriate helplines. This increase in demand has continued across the sector, and is expected to continue for the foreseeable future.

The impact of the pandemic on mental health is broad, including the reported risk of mortal injury, especially to frontline health and social care providers. Many people with pre-existing severe mental illness have experienced a worsening of their conditions during the pandemic, because of reduced access to services and/or community support. It is vital that service providers working in the community are supported so they can continue to deliver life-saving services to the people who need them the most.

With the NHS and social care systems facing unprecedented demands and impact on capacity, particularly during the third wave of the pandemic, the value of the VCSE sector, as a frontline response to the health and social care needs, became more evident. Indeed, we have seen many new grassroots organisations and VCSE-led initiatives established to meet these needs.

In some cases it was left entirely to VCSE organisations to provide services essential to preserve life. For example, during the first lockdown, food deliveries were required for newly-housed street homeless people to prevent the spread of COVID-19, as well as for those forced to shield without family to provide support. In some areas, there were no pre-existing organisations in place to undertake these deliveries and across the country, it was VCSE organisations that responded to keep people safe and provide food and nutrition. As we emerge from the current phase of the pandemic, the expertise and experience that lies within the charity sector will continue to be much needed and relied upon.

Impact on funding

Charities and voluntary groups were already over-stretched and many smaller organisations already struggling. COVID-19-related challenges were exacerbated by years of austerity. (1) On-going cuts by local authorities, together with below-inflation increases in payments for work commissioned by the NHS to mental health and substance misuse services left parts of the sector poorly prepared to respond to the immediate impact of the pandemic.

Nevertheless others were able to adapt their service model and coped well, despite the external environment being extremely volatile. These difficulties were compounded by poor and frequently opaque official advice and guidance in the first year of the pandemic. Since March 2020, many providers, particularly those who do not possess diverse funding streams or who rely on unrestricted fundraising, have lost further critical sources of income. Many were reliant on cafés, shops, face-to-face fundraising, events, and other trading activities to raise vital funds to deliver services. In Hastings, for example, The Association's member, the Seaview wellbeing centre has routinely had to match-fund its essential services by as much as 50% following local authority cuts. A recent report from Demos suggests that 83% of charities now forecast a decline in their income over the next 12 months, and 69% think it will take more than a year to return to pre-crisis income levels. (2)

(1) https://www.kingsfund.org.uk/projects/verdict/how-serious-are-pressures-social-care
(2) https://www.civilsociety.co.uk/news/charity-sector-voices-disappointment-at-budget-2021.html

Impact on staff and ways of working

Beyond funding, many organisations had to adapt swiftly to change their delivery model from face-to-face to digital and telephone support. It was notable that many VCSE organisations chose to continue to deliver services face to face as they were not confident that the alternatives kept service users safe and well. The flexibility of the VCSE sector has therefore proved to be a considerable public asset in these challenging times.

For example, as a result of continued restrictions, staff at The Association's member organisation Choice Support have worked closely with families and commissioners to maintain service delivery and secure additional funding to expand some mental health services. The funding has enabled them to respond to increases in demand for their crisis service. By using a blended offer of digital and face to face the organisation has been able to expand its reach to support more people, day and night.

> COVID-19 exposed pre-existing fissures in governance arrangements in the charity sector."

For organisations in the VCSE sector providing mental health and wellbeing services on the frontline, many staff found themselves working longer days, while being exposed to different and, in many instances, more significant risks. The main tension to arise from this for VCSE providers was how to care for people being supported without putting staff at risk. The word 'unprecedented' was used a lot as boards grappled with balancing the risks to staff and people being supported.

Inevitably, VCSE organisations sought strategic guidance and advice from their boards of trustees. In some cases the support required was not available, with many boards lacking the experience and expertise to provide the necessary support to enable them to make these finely-judged decisions with dispatch.

Some larger organisations were prepared, using existing resilience and business continuity plans to cope with the pandemic. These were able to be flexed to give more certainty in how responses were rolled out. However there is now a strong sense from a significant number of The Association's members that the nature of the public health crisis created by the pandemic has highlighted the weakness of existing governance arrangements for them. Fundamentally there is a need to overhaul the competencies and knowledge required for effective governance of mental health and wellbeing charities.

The diverse nature and levels of capability within the governance of the VCSE mental health sector resulted in significant differences to 'risk appetite' within organisations. Nonetheless, the pandemic demonstrated the ability of VCSE service providers and their staff to adapt swiftly and respond quickly to risk; in many instances, this was down to shared risk-taking and a trust that the frontline staff knew what they were doing and were confident in their knowledge and skill sets.

For example, the advice to work remotely proved challenging for organisations that have the provision of direct access services as their raison d'être. So, for Seaview, staff contacts via the borough council worked remotely immediately, while day centres continued to provide direct access services such as food/medical deliveries. Similarly, in September 2020 all night shelters were not authorised to open for the winter because of the risk of COVID-19 (which was very low when the announcement was made). At the time, the risk from dying from cold or exposure was actually higher.

The effectiveness of good social care, particularly in supporting people with mental illness or poor mental health, is premised on its implicit recognition that one size does not fit all where risk is concerned, and so, its service models vary accordingly. Good governance therefore supports shared risk-taking that is centred around the person and with this in place it is easier to have more robust conversations with councils and other commissioners of services.

Impact on pre-existing inequalities

It is axiomatic that good governance is crucial to the running of any organisation. The events of 2020 have demonstrated the importance of a strong board of trustees to steer organisations, not just through the pandemic, but also through the much-needed conversations around health and racial inequalities. For some boards these were well-trodden areas of focus, but for all boards the disproportionate impact of COVID-19 on people who are socially and economically disadvantaged and in our most socially excluded communities - including those racially discriminated against - presented new challenges.

> Despite all the trustees being volunteers, they bring an enormous range of experience and empathy to their roles."

The challenge for boards: Board competencies and capacities

The pandemic has brought into sharp focus many of the assumptions about the skills and competencies required for the effective governance of charities operating in the mental health and wellbeing sector, and wider health and social care systems. Many charity boards have representation from trustees with commercial experience who may have the governance knowledge and the strategic vision but lack detailed operational experience particular to the charity sector and, in some instances, requisite knowledge of mental health and learning disability issues. With these knowledge deficits, such trustees cannot be expected to offer effective support or appropriate challenge.

Equally important to skills and competencies are knowledge and experience to fulfil the role of a trustee, make informed decisions, and govern a charity well. During the pandemic, feedback from The Association's members highlighted the imperative that trustees should possess a shared set of values, as well as good governance skills such as financial or business experience.

In organisations where some of the senior team and board were ex-practitioners there was a greater trust in operational teams. During the pandemic Choice Support continued to run the Great Places to Work survey, which measures how employees feel about their own individual impact through their work, their pride in the work of their team, and their pride in the organisation overall. It found that scores had improved, including trust and leadership by 6% each.

In other organisations, however, people reported what they judged to be a lack of appropriate oversight by their boards and were effectively left to deliver services that were safe in the face of an extremely volatile external environment.

> We recruited more trustees with lived experience to really add reality to board discussions."

Building on this imperative, many charities are now keen also to appoint people with lived experience of the issues and communities they represent. The lived experience of mental health support provides a valuable insight and brings a perspective to the decision-making process that otherwise might not be there. Vitally, there needs to be recognition that the skills, knowledge, and experience a charity needs from its board of trustees will change over time as the charity, its services, and the context in which it operates evolve.

Increasing diversity in our governance arrangements

The Charity Governance Code, which provides the basis for ensuring charitable organisations develop high standards of governance, was most recently updated in December 2020, following a thorough consultation with the sector. The refresh of the code focused on two main principles: integrity and diversity, now re-labelled as equality, diversity and inclusion (EDI).

The global focus on the murder of George Floyd and the protests that followed highlighted the scale of racism across the world. This had a knock-on effect in the UK, prompting organisations and individuals to reflect on their own roles and responsibilities around equality, diversity, and inclusion and significantly, around anti-racism. With this came an intensified desire to diversify boards and teams to ensure fair representation and inclusion of racialised communities.

At present, it is acknowledged that most boards are not as diverse as they should be – whether in terms of gender, race, age, or any other protected characteristic. This also means they are unlikely to reflect the communities they serve. Research shows that charity boards are more likely to be filled by men than women, with fewer younger people applying for roles. Only 8% of charity trustees are from racialised communities but these communities represent 14% of the population. (3)

The lack of diversity on charity boards should be a cause of concern for the sector. Indeed, evidence shows that a wide range of backgrounds and experiences is key for boards, to broaden their thinking and to respond to challenges. Without this, it is unlikely that charities will be able to function fully effectively.

Effective and proportionate governance

COVID-19 has revealed both strengths and weaknesses in governance across the sector. It has provided opportunities for boards to be flexible and supportive while discharging their legal duties and for executive teams to be more autonomous where possible and drive change where urgently needed. Organisations that have been able to continue operating successfully and respond to the challenges effectively had the flexibility to do so and, for this to be possible, a positive relationship between the chair and the CEO is essential.

Lean, flexible and fit for purpose governance arrangements have been beneficial during the pandemic, allowing organisations to take decisions quickly and for boards to be involved only where appropriate.

(3) https://knowhow.ncvo.org.uk/governance/improving-your-governance-practice/trustee-diversity/how-to-increase-diversity-among-trustees

That said, decisions taken – for instance, substantive changes to operational models or access to services – will need to be subject to appropriate review and scrutiny as we move out of the current phase of the pandemic, rather than simply becoming the default mode. Similarly, boards will also want to be mindful that any decisions taken during the last year should have been appropriately documented and must be able to stand up to external scrutiny.

There is also a need to strike a balance between a focus on the current climate while looking ahead and planning for the long-term. For this to happen, there needs to be clear distinction between that which requires board engagement and that which is the responsibility of the executive team. Relationships and structures need to be in place to ensure the board remains focused on the strategic landscape as well as immediate operational matters. There also needs to be an understanding and recognition that not all organisations are able to plan in the long-term at a time of such uncertainty.

There is some mismatch between what trustees think is needed and what staff think is needed."

Digital approach

Like all organisations, those in the mental health sector had to adapt rapidly to continue operating as the first lockdown came into effect and what many expected to be a short-term measure slowly became the 'new normal'. Working remotely and digitally meant that all meetings moved online and while the continuous, and sometimes back-to-back, virtual meetings led to 'Zoom fatigue' for many, holding meetings virtually also offered an opportunity for boards to be more efficient and effective.

In particular, this meant that board members with other jobs have been able to participate more easily than when they may have had to leave work early or travel to a different city to attend in person.

This development may also, with allied development support, help shift the age profile of trustees and make it more feasible for younger people with work commitments to become involved in charity governance.

Governance was from the Victorian times and couldn't keep up with the pace of change in the digital."

Beside considering which online platform best suits meeting formats, there is also a need to acknowledge any accessibility issues that might impact some trustees and make the necessary adjustments to ensure board meetings continue to be as inclusive as they would have been in a physical environment. Although it may not be possible to meet all needs, such as making hard copies of board papers available for trustees, it is important to ensure that all trustees have the necessary information before the meeting to fulfil their roles.

In addition to smooth, efficient meetings, the role of the chair is crucial – to be aware of and engage all those present in a meeting. With the loss of the ability to assess body language in a physical setting, the chair must look for and respond to alternative signals, ensure all trustees remain involved and active in discussion, and are able to participate as much as possible. To prepare, the chair may prefer to have individual discussions or correspondence with trustees before meetings to gain feedback, hear concerns and/or make notes of points to raise. The use of sub-groups also proved invaluable for this reason.

Our board of trustees instigated remote weekly check-ins so that staff could feel that they were supported as new dilemmas surfaced (and they did)."

Executive Team mental health

The leadership experience during the pandemic for many of The Association's members has highlighted the need to support the mental health and wellbeing of executive teams. It is the responsibility of boards to ensure that this is not compromised as organisations continue to work in pressurised environments, deliver on their strategic objectives, and face a great deal of uncertainty in all aspects of work and life. This may mean that trustees are more flexible in terms of their expectations of reporting and the level of detailed information that is required, that they offer their support between meetings, both on a professional and personal level, recognise the challenges facing organisations and staff, acknowledge the work being done in the current circumstances, and remain strategic in their governing role. The pandemic confirmed the importance and value of facilitated peer support amongst senior staff across organisations. This proved invaluable in sharing best practice and lessons learned, as well as providing access to wellbeing support.

SPOTLIGHT

Seaview, an open access health and wellbeing centre for homeless people in St Leonards on Sea, East Sussex:

"As a board of trustees, we have been unambiguous that the charity's response to COVID-19 must, at all times, prioritise the wellbeing and safety of our staff and service users. We have been clear that a 'conventional' strategic planning approach has limited utility at present, as we support and help guide our chief officer and his team to navigate the charity during the crisis. We have adjusted our expectations in terms of reporting etc. accordingly and focused our energies on the assistance the executive team has indicated it needs. On reflection, crisis management is only possible if you have done the hard work beforehand. If you know what your core values and principles are as a board of trustees, this makes urgent decision-making relatively straightforward; you already know your red lines and non-negotiables."

Oversight, regulation, and legislative reform

The roles and responsibilities of the two national bodies, the Charity Commission and Care Quality Commission, in overseeing and regulating the VCSE mental health and wellbeing sector has been the focus of interest and considerable reflection for many of The Association's members during the pandemic.

With the Charity Commission, some have questioned whether the breadth of its role allows it to have sufficiently detailed understanding of the complex operational contexts of the mental health and wellbeing sector to enable it to provide requisite regulatory support.

Some have suggested that Charity Commission may not be the best placed regulator of the charities working for and in the public sector. These organisations tend to be larger, and registered also with a range of other, more appropriate regulators including the Care Quality Commission; Companies House; Health and Safety Executive; the Fundraising Regulation Board; Local Area Safeguarding Boards and a plethora of commissioning bodies who also require extensive outcome and quality data.

One approach is that these types of charities could become usefully 'exempt', as is the case for Higher Education and Further Education institutions, student unions, independent private schools, and many of the large national museums and galleries. The current Charity Act (2006) exempts them from Charity Commission oversight because it is recognised that they are governed by an alternative 'Principal Regulator'. Charity law has only been amended four times since 1601. The new bill, in development now, presents an opportunity to reflect on the learning from the past 15 months in relation to charity regulation and oversight.

At the same time this would free up the Charity Commission to focus on those smaller, less well-established organisations, some of whom have sprung up in response to the needs of the past 15 months.

A review of the Charity Commission's role in relation to mental health and wellbeing charities would be particularly timely given proposed changes to the way Care Quality Commission regulates and inspects the sector. CQC say they want to empower services to help themselves. They aspire to collaborate and strengthen relationships with services, with the people supported; and partners across the health and social care sector.

The emphasis of these changes suggests that they will offer more effective engagement with providers, with a clear focus on the person and their family at the centre.

Yet there is a risk that they will remain aspirational unless significant work is invested in supporting CQC inspectors to understand these changes in practice. There is a fine balance to be drawn in the CQC's aspirations to collaborate and partner, whilst at the same time, regulate. Crucially, a balance is required between the collaborative narrative and new relationships and the changes in the way inspections are carried out. As we move towards a new approach that looks at the systems in which we provide services, there is likely to be a requirement to produce data – which could be another financial burden that providers will need to take on.

The start of 2021 was accompanied by two Government White Papers with significant implications for the commissioning and delivery of mental health and related services - the Health and Social Care White Paper and the Reforming the Mental Health Act White Paper.

The Reforming the Mental Health Act White Paper was designed to give the individual more power in decision-making about their care. This presented an opportunity for the VCSE mental health sector to consider and align with a new direction for mental health care in the UK. The focus on respecting the patients' voice, empowering individuals to shape their own care and treatment, and commentary about the disparities in how the existing act affects people from racialised communities, aligns with the aforementioned approach to leadership of the VCSE sector.

While these documents represent current government thinking, it is important to recognise that further amendments are likely before there is any change in legislation. At present, there is less of a guaranteed mechanism to involve the mental health VCSE sector in the Health and Social Care White Paper so there is work to be done to ensure that mental health and wellbeing charities are adequately represented within system and place-based governance structures.

Collaboration within the VCSE mental health sector is essential if it is to engage effectively with, and influence the new health and social care system. This will help ensure equal access to high quality, inclusive services, and support. The focus of the sector must be on reducing competitive and predatory behaviours, to collaborate and share best practise in the interests of people and communities who need these services. There are significant health and wellbeing gains for the most excluded members of society (including people discriminated against on the grounds of race) to be achieved from this.

The Health and Social Care White Paper states that "the NHS and local authorities will be given a duty to collaborate with each other." So, the VCSE mental health sector could call for a statutory duty to be included in collaboration to deliver the best results.

Oversight and regulation

The role of the Charity Commission (and other regulators like the CQC) needs reviewing to fit the new operating environment and strategic contexts. It must be able to respond to the needs of the VCSE mental health sector to support its ability to remain viable and meet the requirements of people who need its help and services. Trustees have felt pulled in many directions and have had very little guidance on governance in a pandemic other than the initial changes to meetings that came out in the first wave. In the new world there needs to be a lot more flexibility that is reflected in the rules and practice around governance. In fact, some regulators have been conspicuous by their absence during the pandemic – and some organisations found this to be helpful rather than a problem.

Restoration, adaptation and recovery

Restoration, adaptation and recovery following COVID-19 is not going to be a simple task. Learning shows that a mixed group of trustees – some with lived experience, others with key business experience – are likely to bring the best results for a board. A focus should be to find the mix of trustees needed for your board and look at innovative ways to approach this.

To encourage more diversity at board level, VCSE organisations should start at a grassroots level. As well as engaging with the communities they serve to find representation, they should also consider the way they approach advertising roles and their interview processes. One member of The Association said they did not recognise their own skills and lived experience would complement a VCSE board until it was suggested to them. Being proactive and having conversations beyond standard adverts could alter the make-up of a board.

Strategic planning

It is vitally important that the strategic work remains within focus, even during a crisis. A ratio of 2:3 operational to strategic may be helpful to ensure that organisations remain, as far as possible, sighted on the future and their ability to continue to meet the needs of people and communities that they serve and support. This will also assist with readiness to respond to any funding and other opportunities which may become available as we move through the pandemic, and society adapts to it and its impact and consequences.

Recommendations

COVID-19

Boards should allocate some dedicated time to think about and consider the impact of COVID-19 - personally and professionally. What initiatives and ways of working do we want to keep? For the charity Seaview, the pandemic highlighted a digital divide for staff, between those who were comfortable working remotely off of the server and those client-facing staff who did not use any technology apart from their phones. Going forward, many organisations will be using a blended approach and mixed model of service delivery - face to face as well as digital. COVID-19 has exacerbated pre-existing digital and other inequalities in many ways and when we think about 'building back better', we need to consider all the different elements that have a role in our lives.

Legislative reform

Both White Papers and the proposals for vertically integrated health and social care systems have significant implications for the VCSE mental health and wellbeing sector, its sustainability and as such the people and communities it serves and supports. The sector should work as a collective to get as far ahead as possible of the formal legislation before it comes into force in April 2022.

The Health and Social Care White Paper does not have a specific anchor for the VCSE sector, but there are opportunities to be involved and engaged with advisory boards; the sector should engage with this as a collective swiftly.

The Mental Health Act White Paper presents an opportunity to think about and shift key narratives for mental health policy and significantly in relation to race equality. The sector must embrace these shifts, and acknowledge that it needs to address racial discrimination in the demand for, design of, and access to the services it provides and act a collective to deliver them.