
CHARITIES & TAX
EXAMINING THE
FOUNDATIONS OF HOW AND
WHY WE EMPOWER CHARITIES
TO HAVE POSITIVE IMPACT

STEVEN MOE & CRAIG FISHER

ParryField
Lawyers



To the heart of what matters.

The nonprofit or civil society sector remains the invisible subcontinent on the social landscape of most countries, poorly understood by policymakers and the public at large, often encumbered by legal limitations, and inadequately utilised as a mechanism for addressing public problems.

Dr Lester Salamon

'Putting the Civil Society Sector on the Economic Map of the World' Published in 2010

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INTRODUCTION

An audio version of this briefing paper has been released as episode 428 of Seeds Podcast which is on all podcasting apps or at www.theseeds.nz



About Parry Field Lawyers

We are one of New Zealand's leading law firms supporting purpose led and mission focused organisations that range from charities to companies, entrepreneurs and impact investors as well as those with hybrid structures that combine approaches.

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***"I believe the basic attribute of mankind is to look after one another."** Professor Fred Hollows*

We all bring conceptions of how systems operate based on our past and what we have seen, been taught and what we believe. Seldom are we given the opportunity to step back from preconceptions and take a macro perspective on important issues. That is what this paper is all about.

For many years the underpinnings of a functioning Society have involved charity. It is often charities that are the final backstop. They look after those who for whatever reason cannot look after themselves, and for whom government or others in society have failed to look after. Whether that be people or the planet. Charities hold a very important role in supporting and giving voice to the voiceless. They provide education opportunities and enhance our understanding of culture and the arts as well.

In this paper we want to consider the role of charities in Aotearoa New Zealand and consider their funding streams and their future, in light of potential changes to introduce taxes on business income.

While a lot of heat is generated by this topic it is important to note that while some have suggested it, there does not appear to be an intention that all Charities should pay tax on all income. It appears that tax exemptions for business related income of Charities will be looked at. This should alleviate the concerns of many in the Charitable sector. Yet it is also a timely reminder to consider as a society what we support and why and how.

The government messaging about change may not have been as clear as it could have been, leading to confusion over what the focus is.

It has also sparked discussion and opened up the door for people to cite outliers as the norm and reinforce a negative and inaccurate narrative about Charities overall. This is not helpful for the charities who are doing amazing work and we hope this paper addresses that.

There is a lot of emotion involved in the question of Charities and their tax position. We want to unpack the issues and lay them out so we can all objectively review them and have a sensible discussion about the topic. We will do this by considering as many angles on this topic as possible. In our view, *taxing charitable business would discourage innovative thinking and reduce the sustainability and self sufficiency of charities with negligible benefits.*

If you find this helpful, we suggest reading our 2020 collaboration *"A Framework for thinking about Change"*, which highlights the 7 hard questions we think all charities should ask.

We will be holding an online gathering to discuss this paper and you can sign up to attend that [here](#).

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Starting with 'Thanks'

We'd like to exercise our author's licence and right up front say a huge and heartfelt thank you to all the charities in Aotearoa New Zealand.

To all those unsung heroes who generously do the mahi. To all the generous Kiwis who support in a myriad of other ways including via their financial assistance of charities. To all those who provide services and support for this sector.

Our society, our environment, our culture and our health as a nation is better for all that charities do. Yes, there is always more to do and that is sad. But the aggregate impact of our charitable sector is vital glue that helps make our country what it is and helps indicate who we will become.

The Charitable Sector

Let's set the scene - there are many charities out there who are doing good, and we see them on a daily basis. Not all are "registered" charities - there are about 29,000 or so of those who are on the charities register which is overseen by DIA Charities Services.

But there are many others not on that list. In fact IRD in their March 2024 report to the Minister on the charitable sector ([here](#)) released under an OIA request noted that there are approximately 90,000 NFPs (not-for-profit entities) in Inland Revenue's system.

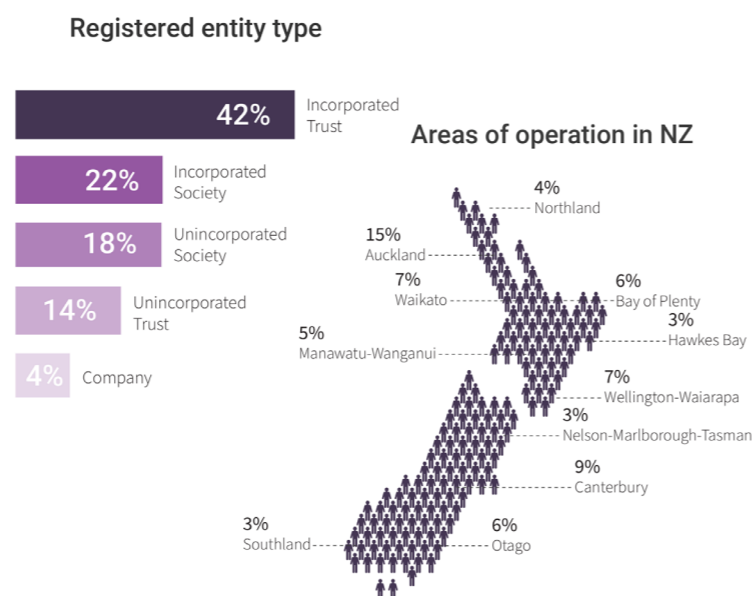
These include:

- the 29,000 tax-exempt charities.
- 20,000 tax-exempt amateur sports bodies.
- 28,000 NFPs that are not tax exempt of which about 24,000 have net income below a \$1,000 deduction threshold available for NFPs, so do not file returns or pay tax.

The Tax Working Group provided a summary in February 2019 of the positive role charities play:

"Charities and non-profit organisations make important contributions to the wellbeing of New Zealand. The activities of these organisations enhance the social, human and natural capital of New Zealand. In turn, the Government supports the work of charities by offering tax exemptions for charity income and tax benefits for donations to charities."

Charities Services included this diagram in their recent annual report (note that companies make up only 4% of the total registered charities):



Source: Page 13 of the Charities Services Annual Review [here](#)

The role of Charities by numbers and stories

BY NUMBERS...

In its latest [annual report here](#) Charities Services notes the following statistics:

- There are 29,000 registered charities.
- There are around 121,000 individual officers.
- More than 100,000 people work full-time in the charitable sector, making up around 4% of the workforce in New Zealand.
- people volunteer approximately 1.4 million hours each week.
- The largest charities in the sector make up only 1% of all registered charities but account for over half of the sector's annual expenditure (approximately \$25.3 billion).
- Most charities are small and rely heavily on volunteers, with around one-third of charities with annual income under \$10,000.

Numbers can be deceptive though (says the accountant!). The numbers do not describe the important diversity of the sector. Our charitable sector consists of a wonderful mix of charities by reference to nature, size, type, structure, scope, operating approach, and resourcing.

Hence, we are always wary of "throwing a blanket over all charities" as many do when they consider or speak on this sector. If you have met one charity, then you have met one charity.

In our experience, failure to appropriately consider this diversity is a fast track to adverse unintended consequences.

BY STORIES...

We are not going to overdo this part with more statistics. Instead, we ask for you to imagine your own situation and place. Likely you are involved in one or some of the following and yourself can fill in the blank about the work of the local school PTA, sports club, religious group, youth charity, food bank, homeless shelter, social housing, food rescue, animal welfare, ambulance provision, mental health initiative, environmental group and so on. One of the authors has now had 426 hour long conversations with inspiring people for [Seeds Podcast](#) and many times it is about the amazing charities and initiatives people are involved in.

The point is clear - charities play a vital role in our communities and step in to provide services and support that Government does not. Unfortunately, this narrative can be switched quickly when there is an aberration and the 0.01% of charities who have something negative happen get highlighted as the norm. So we need to tell more and more good stories of positive impact to outweigh the unusual negative examples.

It's also perhaps worth noting that it is in our Kiwi DNA to be humble about charitable involvement. Yet we know through interacting with many in the sector just how much great mahi does get quietly done out there. It really is the glue that helps hold a functioning society together. Perhaps this positive attribute of being humble also serves to hurt the sector as many others may not appreciate how much good mahi does go on every day?

We need to celebrate and talk about the good that they do in our society - why not choose someone inspirational or a charity doing good work and do a post about how they have impacted you. Go on, shout out someone or a group and spread the word about their 'why'.

What Charities do: The anchor of Charitable Purposes

Our current accepted views of charity traces its origins back to the 1601 Statute of Elizabeth, which was interpreted in the judgment of Lord Macnaghten in the Pemsel case to identify four 'heads' of charity. The definitions of what is charitable are based on being in one of these categories:

- the relief of poverty;
- the advancement of education;
- the advancement of religion; and
- other purposes beneficial to the community

That last one is not as wide as it sounds – usually it is paired with one of the others. These categories have been in place for a long time and in our view there is no need to revisit them (a topic for another paper).

Some charities might do the mahi/work themselves and some might fund the work of other charities by grants or donations to them.

The point of this is just because there is something “nice” being done it is not necessarily charitable at law. It is a rigorous process to become accepted as a registered charity. This provides a safeguard for ensuring that charities operate within an agreed framework and there are appropriate checks and balances to ensure they are remaining charitable.

It may be that those regulatory checks and balances need an adjustment to address the very small percentage of situations where things go wrong, if this is indeed the main concern. This would be a better focus than concentrating on taxing charities. This should go hand in hand with allocating enough funding to allow Charities Services to have a dual role – first in its regulatory function and second, to be even more active in promoting the sector in positive ways and educating people about how they should operate in charities.

One of the biggest challenges we find when talking about charity is that what is considered charitable can mean different things to different people often based on their backgrounds and life experiences. This can strongly influence perceptions.

As a result, we observe that sometimes when people have issues with charities and/or the treatment of them, what they are actually concerned with is what is considered a charitable purpose at law.

Take the advancement of religion for example. It is at law clearly considered a charitable purpose. Yet if you were raised in a secular family with no exposure to the benefits of religion then you may struggle to see why a religious organisation should receive the benefits of charitable status. However, religious charities do more than many might expect – offering youth programmes, counselling, helping the elderly, providing service opportunities and support through the loss of family members or friends, and fostering a sense of community. For those interested in this topic, the recent *Faith in Action* report is worth a look.

The question of whether business income of charities should be taxed is not about, and importantly, should not be confused with, the separate and more fundamental question of whether advancing religion should continue to be considered charitable at law in 2025. That is an entirely different and much more fundamental question.

The exemptions they are granted

"In this world nothing can be said to be certain, except death and taxes."

Benjamin Franklin, 1789

The Government supports the work of charities in a few different ways, with one of the most important being the granting of registered charity status. This status confirms that a charity has met the rigorous application process to be considered charitable at law. It then becomes listed on the very thorough Charities Register. This is possibly one of the Government's best publicly available and searchable databases.

This helps pour sunshine on registered charities and ensures a standard of transparency which assists with accountability. While many of the public may never access this register, the fact that a registered charity has had to attain and then maintain the Charities Services registration requirements provides general comfort to the public that a registered charity's status is validly charitable.

However, one of the other main differences, and more of the topic that inspired this paper is the Government, on behalf of the general public, granting charities a tax exemption on passive income and business income and the possibility of being a 'tax donee organisation'. Being considered a donee organisation allows those who donate to the charity to receive back 1/3 of what they gave (incentivising the initial and further donations to the charity).

This means no tax flows to Government on donations a charity receives or on any income it derives from the charity's passive investments, or the active investments, efforts, and risk taking of running a business. That latter point is the one that we will consider more in this paper.

Philosophy of why we do this

"Unfortunately it will only be when they are gone that we will truly understand the positive impact of Charities on society, socially, economically and environmentally. Let's hope we don't have to find out that way."

Israel Cooper

One way of looking at this is that the Government by granting registered charitable status, and hence these exemptions, is just being an administrator for the general public (the “collective us”) and saving them the time and administration of doing their own due diligence in assessing every charitable good cause. The Government also funds the regulation of registered charities to ensure they are playing by the rules.

Ultimately any Government is supposed to be an expression of the “collective us”, albeit the choice of Government only comes around once every 3 years. Hence sometimes the collective us needs to speak up when Governments act in ways that many in the public disagree with.

As regards tax, charities are not taking advantage of a loophole. They are granted these tax exemptions in recognition of the positive work they do in the community for the good of all.

No matter what the flavour of the Government of the day, it is fair to say that governments want the outcomes of what charities do. Governments want these services to be provided as they assist a well-functioning society.

Charities that are close to the issues, often run by passionate committed individuals, many of whom are either partially or in some cases completely volunteering their time, also tend to be very effective and efficient at helping address the issue. Especially in comparison to direct Government intervention attempts to address the same issues which often prove to be more expensive and less effective.

If the charities did not exist, then there generally would be even louder calls on the Government to provide and/or fund those services. Hence by supporting charities with some tax exemptions, as well as assisting public trust and confidence via appropriate regulation, a Government should actually be achieving a great value result. Both financially as well as in terms of addressing the issue at hand.

It is not fair to compare a charity with a company because it is extremely difficult for a charity to go out and raise money from investors. In other words, there is limited access to capital and so the tax exemptions help offset that deficiency in the charitable model.

Additionally, charities often struggle to compete for attracting and retaining the human capital they need to run their operations as For-Profit competitors tend to be able to pay more.

At a philosophical level it is important to remember that tax is imposed on individuals or companies by reference to their private gain where they are getting wealthier. This is different to a charity which is set up to benefit a class of people who need help – that is, for public benefit. So there is not 'lost' tax as funds that flow to a charity from business must ultimately go towards the public benefit rather than increasing an individual's wealth.

In that sense it is not a 'concession' granted, because there is no personal gain, which is normally what tax is focussed on. If there are occasional issues with this it is about the levers to ensure the rules are followed rather than moving to tax business income of charitable entities.

Just because a charity receives tax exemptions does not mean that the funds it has raised are Government funds. They were donated to advance a particular purpose with governance in place to ensure that happens so it should not be for Government to say how and when those funds are used.

One other point here is that some commentary has made reference to a large untaxed profit by charities, but the information used to calculate that was not accurate. As Dr John Godfrey pointed out *in a blog post*:

We must hope the Minister's thinking is not based on a ludicrous Radio New Zealand (RNZ) report on Charities' \$2 billion in untaxed profits. The reporter reached that figure by subtracting the charity expenditure from the charity income disclosed in the latest Charity Services annual report. Overlooked from that crude analysis is how much of that \$2 billion represents non-cash items such as charities' reserves, income received for future year expenditures, and other provisions none of which would be subject to income tax.

Increasingly there is a shift to professionalise those who serve in governance of Charities. This can be *seen in recent changes* such as expanding the definition of who is an Officer of a charity as well as spelling out the duties of Officers in the new Incorporated Societies Act 2022.

Amendments to the Charities Act also mean that those in governance need to confirm that their rules are fit for purpose (our view is this extends to policies not just Constitutions and Trust Deeds). So, we are asking more of those in governance and should let them consider and try different funding sources, in order to better advance charitable purposes.

Funding sources – traditional and new

"Never depend on a single income. Make an investment to create a second source." Warren Buffett

A charity's primary purpose is their charitable purpose.

Charities do not exist with the core focus of income generation and profit seeking that commercial entities do. However, as fundamental as the concept of gravity, a charity cannot exist and be effective unless it has a sustainable income source or sources. While they do not exist for profit, all charities need sustainable income sources to operate.

Traditionally charities have been established by caring individuals or groups largely focused on the issue the charity exists to address rather than the mechanics of running a sustainable enterprise. As such many traditional charities have heavily relied on the charity of others for their operational funding.

Over time some charities have become sophisticated at how they successfully appeal for funding. This gives them a little more security of funding. However, many have not. No matter how sophisticated in approach, an appeal for funding remains an appeal to the largesse of others.

There are certain funding sources for charities which it is possible to categorise. In our view these move from an Oliver Twist "please, can I have some more" traditional approach to newer ways of approaching this such as impact investing or creation of businesses. Put at a high level we suggest there are the following sources of funding:

- private individual donors,
- philanthropic grants from trusts, foundations, and occasionally business,
- government (or private) contracts for service,
- interest and earnings on investments (could be shares in another business), and
- business operations.

Interestingly only the last one provides a charity with a high degree of self-control as an income source yet also comes with higher risk.

Each of these funding streams has unique pros and cons. Some of these include:

Appealing to private individual donors requires good communications and fundraising systems. Having a large base of individual small regular donors can provide some protection from rapid changes in funding.

But it is a funding stream highly sensitive to the quality of the communication and systems, as well as the state of the economy and personal finances, and topics de jour.

Philanthropic grants can provide larger amounts of funding from a smaller number of targets which can sometimes mean less effort to secure. But this funding source commonly suffers from the "all eggs in one basket" risk – when the grant funder decides to cease funding and/or fund something else then the impact on the recipient charity can be immediate and extreme.

Government contracts tend to be subject to politics of the day and the state of the government's finances. They also suffer sometimes from stifling, and at times frankly uneconomic, levels of bureaucracy regarding applying, performance, and accountability requirements. Added to this occasionally is the challenge of not being fully funded to provide a required service on the expectation that the charity will be able to raise some other funds somewhere else. A common gripe of charities is receiving funding for direct services but with no appreciation or funding of the indirect costs that are still required to operate the charity in order to be able to provide direct services.

To earn income from investments, one must firstly have investments! This commonly raises an ethical dilemma for charities regarding how much of their financial resources should be used for charitable purposes today compared to reserved for future generations? To earn significant income, charities also need a significant amount of capital locked away in these investments. Then there is the issue of how much investment risk is prudent to accept for a charity? And on top of all this is the performance of the economy which will in turn impact any returns on investments. Charities also don't benefit from any imputation credits as a for-profit investor would i.e. share dividends paid with tax already deducted as they have no income tax to offset this deduction against.

Operating a business involves all of the operational and market risk of providing a commercial product or service.

Operating a business also requires initial capital investment and ongoing working capital to be funded by the charity. As has already been noted, unlike commercial entities, charities are unable to easily raise capital from the markets as private companies can. However, operating a business does enable significant direct control over this income generation source and results will generally be determined by the skills applied.

Business income – Passive vs Active

Business income can be seen to fall into two main types; passive or active.

The most common form of passive investment for those charities fortunate enough to have funds to invest would be an investment by a charity into financial products such as bonds, equities and term deposits via a fund managing entity. For-profit fund managers fall over themselves to attract this investing business. These investments are usually of a conservative risk appetite due to charity governing body's concerns over protecting their financial capital.

Albeit, as we have previously mentioned, depending on how the investments are undertaken, charities investing in shares may be disadvantaged by not being able to get the benefit of tax paid dividends as they have no income tax to offset it against.

There is a long history of these types of passive investments in financial products and it appears accepted and non-contentious.

Active investment in contrast is direct investments in establishing or purchasing and then running a business directly.

Oddly attitudes towards active investment appear much more contentious and largely appear to be fuelled by an argument of threats to competition by for-profit competitors. We explain more about this later in this paper.

From a policy and principle basis we are perplexed as to the different attitudes towards passive and active business income.

Innovation and sustainability

"Necessity...the mother of invention."

Plato

A principle question for our country is: Do we want our charity sector to be innovative, self-reliant, and able to fully focus on positive impact? Or do we seek to impose a very traditional paternalistic old school view of charity on them for ever more?

No matter what the flavour of Government, all profess to want to encourage innovation and self-sustaining solutions for the achievement of better results. In our experience, they understandably, would prefer others to pay for this.

Governments being bureaucracies at heart are not known for their innovation. Nor for brutal efficiency demanded by necessity.

Charities being resource poor but led by passionate committed individuals often achieve outsized positive impact. Amazing results achieved on what looks like the "sniff of an oily rag" as grandma used to say. But in being resource poor they also usually operate with a pervading existential risk – especially when their funding is reliant on the charity of others and hence outside their control.

Relying on the charity of others also commonly reinforces a deficit mentality which in turn can stifle innovation. Innovation is key to discovering new and better ways to achieve positive outcomes.

Yet, despite this and having constrained funding, charities can and do achieve some incredibly positive impacts – remarkable given the challenges they face. Their strong focus on a compelling purpose drives effort, and inspires commitment.

Sustainability of funding is key.

Throughout history business has been a major deliverer of innovation and advancement. The capitalist pursuit of profit has fostered invention, innovation, and the often brutally efficient delivery of products and services to market, all driven by a motive to maximise profit.

Sadly though, sometimes the brutal efficiency and focus of businesses to maximise profit has resulted in collateral damage and issues subsequently requiring addressing by governments or charities.

In our experience, some of the best performing and hence most positively impactful charities have managed to get the best of both worlds. The efficiency and focus of a commercial business approach married with the heart of a charitable purpose.

In our view there are two types of situations where business income is relevant to charities. The first is where a charity comes up with a business idea that directly advances its charitable purposes. The second is where it invests in an unrelated business to derive income then applies the surplus from that to fund its charitable purpose.

The first type has the benefit of directly, or sometimes indirectly, addressing the issue for which it exists to address while at the same time providing funds for other interventions to deliver on its charitable purpose.

Consider the example of a waste minimisation charity that exists to reduce waste, educate and encourage waste minimisation, recycling and other related interventions that runs an opportunity shop selling recycled or rescued products. Any surplus it makes from operating its shop helps fund other non-funded initiatives and innovations the charity delivers. It also provides the added leverage of being a valuable use for what would otherwise be costly waste to dispose of, and to provide education.

While in theory this situation sounds ideal, commonly these types of businesses are not always economically viable on a standalone financial analysis. In many cases they are in effect subsidised by other activities of the charity. As such they are often only justified only if there are sufficient other direct leverage benefits for achieving the charity's overall charitable purpose.

On a standalone financial basis many such charitable businesses at best make a breakeven or a small operating surplus. As such the income tax "lost" to the Government via this charitable exemption could in fact be minimal.

The second type of charitable business operation tends to be the result of charities that have seriously grappled with the challenges of sustainable funding and options open to them. From a pure economic analysis these charities have determined that developing and/or purchasing, and then operating a standalone business is the best use of their capital and resources.

Ownership and funding are from the charity, and all profits (although generally termed surpluses in the charity world) including any reinvestment needed for continued business operating health, are ultimately directed to the charitable purpose. While never without risk, and not to underestimate the challenges of being in the market with For Profit businesses, this gives charities operating businesses the most control over their future income flow.

This approach also generally fosters innovation.

It does seem somewhat perplexing to the authors that recent announcements to consider the taxing of charity business income are coming from a government that is investing in a new social investment agency. This agency's stated aims include a focus on outcomes, supporting social system innovations to deliver better and to work with local community providers. Yet any changes to the taxing of charity business income is likely to impede innovation and weaken some of the very local community providers the agency intends to work with.

To echo how we started this section – a key question for our country is; Do we want our charity sector to be innovative, self-reliant, and able to fully focus on positive impact? Or do we seek to impose a very traditional paternalistic old school view of charity on them for ever more?

The pandoras box of taxing charities income

So, lets trace how we got here.

The idea of introducing tax on business income for charities has been brewing for a number of years.

Most recently we can trace it to the Tax Working Group report that was released in February 2019 where there was a section in their recommendations for further consideration. It is really what kick started the policy review and where we are at now 6 years later. The initial briefing paper *in chapter 16* had more details but the final report mentioned these points, reproduced in full below.

Our view is that any change will open up the pandoras box and could lead to additional future changes and on balance it is better not to go down that road.

Statements in Tax Working Group Paper on business income (2019)

38. The Group received many submissions regarding the treatment of business income for charities and whether the tax exemption for charitable business income confers an unfair advantage on the trading operations of charities.

39. The Group considers that the underlying issue is more about the extent to which charities are distributing or applying the surpluses from their activities for the benefit of the charitable purpose. If a charitable business regularly distributes its funds to its head charity, or provides services connected with its charitable purposes, it will not accumulate capital faster than a taxpaying business.

40. The question, then, is whether the broader policy settings for charities are encouraging appropriate levels of distribution. The Group recommends the Government periodically review the charitable sector's use of what would otherwise be tax revenue, to verify that the intended social outcomes are actually being achieved.

41. In this regard, the Group notes that other countries, such as Canada, have introduced regimes where all registered charities are required to spend a minimum amount each year on their own charitable activities or on gifts to qualified donees (for example, other charities).

The Competition argument explained

Competition can be fierce in the for profit ecosystem. The main argument from competing for-profit businesses appears to be that because a charitable business does not pay tax that it will undercut competitors. We have not seen any studies that show this.

In Australia when this was looked into in the *Henry report* in 2009 they concluded at page 209:

"In relation to pricing, NFP organisations, like for-profit organisations, will seek to maximise their profits in support of their philanthropic activities. Accordingly, it appears that the income tax exemption does not provide an incentive for NFP organisations to undercut the prices of their for-profit competitors; rather, NFP organisations follow the same pricing policies as their competitors to maximise their profits."

Sanitarium, a business 100% owned by the Seventh Day Adventist Church, is possibly the most commonly cited example of being able to operate unfairly as it doesn't pay income tax whereas its for-profit competitors do.

These authors have no relationship or involvement with Sanitarium but hear this example so often that we thought it interesting to explore further. Albeit, we note that this is just one situation and don't wish to put all charitable businesses in the same basket.

We are unaware of any studies into competition and pricing in the breakfast foods sector in New Zealand. Unscientifically we haven't observed any extraordinary price differences on the supermarket shelves. It doesn't appear that Sanitarium products are the highest price or the lowest - in other words not undercutting competitors or overcharging consumers.

While Sanitarium is commonly given to us as an example of unfair advantage, frustratingly there never appears to be any substantive detail provided to support this claim.

To assist readers to think about this competition argument more deeply we make the following observations:

- Sanitarium's financial results are required to be disclosed publicly annually as part of its Charities Register filing. This is unlike most (all?) of their non-charitable competitors. The disclosure is part of the overall Seventh Day Adventist charity's group reporting. In our experience, for-profit businesses vigorously resist suggestions of disclosure of their own financial results as this would be "commercially sensitive".
- As a registered charity of scale their annual financial statements are also required to be independently audited to assure readers of their reliability. This is not the case with most of their for-profit competitors unless they are publicly listed companies.
- While Sanitarium does not pay income tax, they do pay payroll tax for all their employees as well as GST on all their business activity. In the author's experience unlike income tax which can vary significantly from year to year, these two other forms of taxation are much more consistent and often significantly exceed any income taxation.
- As a business Sanitarium appears to be generous donors of their product towards food poverty schemes. From their 2024 annual financial statements: "Sanitarium supported the community directly through the donation of 9.5 million serves of healthy food in 2024, compared to 8.2 million in 2023." Additionally, this information has been independently verified as due to its size the charity is required by legislation to be audited each year.
- One of the author's children have every year participated in the Weetbix "Tryathlon" where thousands of children across the country are given a chance to try swimming, running and cycling - no placings or winners, everyone "Trys" and all who finish get a medal and encouragement to a healthy exercise filled lifestyle. Since 1992 when it began more than 450,000 children have been part of it.
- Another initiative is Kickstart Breakfast: "KickStart Breakfast is available to all primary, intermediate and secondary schools and operates in over 1400 schools, serving over 195,000 breakfasts each school week". 70 million breakfasts have been served in the last 15 years.

- As a registered charity that is also a company Sanitarium is subject to a greater degree of regulatory oversight than a for-profit company. i.e. the same as any other company as well as the oversight of the charities regulator.

Accumulation

As noted above by the Tax Working Group paper, concerns have been expressed by the levels of accumulations of funds by some charities. Importantly this only relates to a relatively small proportion of the registered charity population.

Most charities we talk to would love to have the “problem” of accumulating funds!

As noted previously, charities have a financial sustainability challenge. If their funding is predominantly dependent on the charity of others, then they always face a potentially existential sustainability risk. One solution to this is to accumulate some funds to cover for that “rainy day”, and ideally to also earn some operating income from. However, in doing so charities tread a number of tightropes between:

- spending on charitable purpose today vs creating a fund to be able to continue to operate and deliver on charitable purpose into the future; and
- Being “seen” as poor and needing charitable funding vs being seen as having funds accumulated and therefore not needing funding.

Some other countries enforce requirements for certain charities to spend down a certain percentage of their capital accumulations each year. However, given the huge variety in charities, as well as the varieties in their chosen theories of change (i.e. their operating philosophy and approach), putting a generic blanket over the whole sector is likely to cause significant unintended consequences.

While mooted for possible legislation change in NZ in the most recent update of the Charities legislation, we think a sensible pragmatic result was landed upon in requiring improved disclosure and hence increased transparency and voluntary accountability.

The recent change is that new annual return forms for charities ask large charities to explain why they are accumulating funds.

In its annual report Charities Services says: “By specifying their reasons, charities can show they are using their funds wisely, not just storing money without a clear plan. Previously, charities only reported the amount saved. This change helps reassure donors and the public that funds are managed responsibly and support the charity’s mission.”

In line with the adage that “sunlight is the best disinfectant” we think this is a sensible approach. A well-functioning and well-led charity should be able to clearly explain why it exists, the scope and scale of the need, and how it operates to meet that need. This will allow those that support it to form their own informed view regarding their ongoing support.

It also should allow the charities regulator to more easily monitor this area for any concerns. However, this does assume that the charities regulator is appropriately resourced to actually perform a critical review for the ongoing trust and confidence in the sector.

A footnote on accumulations and perceptions. We find it interesting that charities seeking to build charitable reserves (i.e. funds to passively invest) is a reasonably well accepted traditional governance strategy. Yet, the reality of a prudent investment portfolio is that the capital to be invested needs to be of considerable scale to actually generate any significant income that can then be used to fund operations.

A WORD ON WORDS

We are starting a movement and you are welcome to join us – why do we talk about the “*Not for profit*” sector. That starts with a negative word, and is in relation to profit, as if that is what was the most important thing. Instead we prefer “*For purpose*” and you are welcome to join our movement to use that terminology too. More on this is [here](#)

Genuine Consultation

To go fast, go alone - to go far, go together. African proverb

Most charities are busy delivering on their charitable purpose. As a generalisation they are usually heads down trying to use their limited resources in the most efficient and effective way to create the biggest impact. Unlike large for profit corporate interests, they do not generally have the capacity nor employ the specialist capabilities to closely monitor and strategically lobby on matters that may impact their sector. Again, and unlike large for profit corporate interests, charities do not generally choose to apply their limited resources to funding co-ordinated sector advocacy groups. As a result, the potential for unintended adverse consequences of rushed legislation or regulation changes in the charitable sector is perhaps greater.

A less consultative approach might be faster, but we suggest it would be a fast track to complexity and cost. Not to mention unintended consequences.

New Zealand’s tax system when compared with many of its overseas counterparts is often considered elegant in its simplicity, and hence, and importantly, its efficiency.

You only have to compare the GST system of NZ to that of Australia to appreciate the benefits of simplicity. Our GST was introduced before Australia’s and our Labour Government of the time resisted the political calls for hosts of exemptions. As such it works well and is efficient. Australia didn’t follow New Zealand’s example, and their introduction was subject to considerable political influence which resulted in numerous exemptions. The result is complexity and additional costs on administration of which the Australian accounting profession are probably the only winners!

An accounting perspective (Craig)

As a former audit, assurance, ethical and professional standard setter for accountants both in NZ and representing NZ internationally, as well as being actively involved in the development of accounting standards, I can attest that New Zealand has high quality reporting standards in place.

We partake in the development of and adopt international best practice and also are unafraid to develop our own when international standards have been found wanting or deficient.

This includes having sector specific standards that more appropriately recognise the differences of for-profit and for-purpose entities. In this regard New Zealand has traditionally been a leader and innovator.

High quality reporting standards assist trust and confidence.

For charitable entities the standards of disclosure imposed are relatively high and their annual financial statements required to be publicly available - A point raised as costly and unfair by some charities! However, this follows the philosophy that NZ charitable and other public entities owe a duty of accountability to the general public for any public funding or exemptions granted to them and/or any public funding received.

In addition, the threshold for registered charities to be independently audited is relatively low. A mandatory audit is another impost on charities not shared by most for-profit entities. But again, this follows a principle of transparency and accountability to help maintain public trust and confidence in the charitable sector.

A significant New Zealand example of reporting innovation is the requirement for registered charities to now report on their Service Performance i.e. what they set out to achieve and what they have actually achieved. This reporting encompasses non-financial and financial reporting. In essence this type of reporting is seeking to help charities communicate their positive impact and in doing so continue to engender stakeholder support.

This reporting innovation recognises that unlike for-profit organisations, charitable entities exist with a primary purpose of delivering on their charitable objectives. Yet for years they had been required to report using standards more appropriate to for-profit entities which led to some unintended negative consequences.

From a financial perspective, we would be very interested in estimates of income tax “lost” from firms like Sanitarium as to my knowledge of auditing corporates often the GST and Payroll tax take exceeds income tax. Also, if Sanitarium wasn’t the one making weetbix, it would likely be by a foreign owned multinational and most of those entities in my experience profit shift to the very edge of the law via various transfer charges resulting in limited income tax impost.

From a commercial viewpoint, if increasing taxation revenue is the government’s primary issue then surely there are much greater targets in New Zealand such as grappling properly with taxation on capital gains? Both from a cost benefit analysis, as well as the not inconsiderable risk of expending of political capital perspective.

If the perceived bad behaviour of what is likely to be a very small number of charitable entities is the government’s primary issue, then surely the answer is to appropriately empower and appropriately resource the regulator to better investigate and take action.

A legal perspective (Steven)

In my view the legal safeguards around charities and their use of funds are sound. They come in the form of the purposes that the charities must advance. There cannot be private gain, instead funds must be used for the purpose – it is just a question of timing of when that happens.

Charities which are innovative and looking for sustainable funding streams may invest in companies, may start their own ventures, may collaborate with others in **impact investing** – all this should be encouraged. It leads to a healthier ecosystem and less reliance on Government to provide services to the most vulnerable.

I’d also like to see more of a focus on training and education for those in governance of charities – we assume by joining a board people will ‘download’ knowledge but they need resources. That is one reason I’ve been hosting the Institute of Directors podcast on governance called **Board Matters** (the latest season is about creating safe spaces in the Boardroom).

Company reform is also planned soon as the Companies Act 1993 needs a refresh. There are 731,000 registered companies but unlike charities we do not require any of them to state their purposes or mission (a Constitution is not compulsory). The social license to operate for companies should not be so freely given out and we should expect more of companies like we do from charities.

Reporting on impact

Reporting on impact is an increasing trend for charities and also across many types of reporting entities whether they be Government or for-purpose. This is logical as these organisations do not exist with a primary purpose of creating profit. Rather they exist for a purpose and hence their reporting should focus on how impactful they are in addressing that purpose.

Interestingly this trend is also happening in some areas in the for-profit sector as well, largely as a marketing initiative or way to shore up a for-profit company’s social licence to operate.

New Zealand has been world leading in requiring our registered charities to start to report on their impact via a Statement of Service Performance, i.e. what they set out to achieve and what they have achieved. The reporting requirements re mandatory but reasonably flexible recognising that there is a huge variety in charities, and they should have some flexibility in how they best tell their story in a way that best reflects them.

This reporting is in its early days but already it is helping some organisations better focus on impact, and by communicating to its stakeholders more clearly, engendering better stakeholder support.

Importantly, and in line with a principle of transparency, it also helps stakeholders better assess what a charity is delivering to allow them to make up their own minds as regards ongoing charitable support. This is in line with a relatively light hand approach to regulation putting the onus on the charity to report.

As is a common refrain in this sector: Sunlight is the best disinfectant.

A way forward

Messaging from the Government about potential taxing of charities to date has been brief and unspecific. This has caused fear, anxiety, and a fair amount of emotion within a sector that is generally under resourced for what it is trying to address.

► **Good clear communication along with appropriate consultation will go a long way to bringing the sector along with any eventual changes.**

The issue to be fixed has not been named. Is this a government revenue concern? Or is it an abuse of charitable status concern? Or is it something else? Without clear issue definition any solution is generally more like a shotgun rather than the precision of a .22 rifle.

► **Clear problem definition is essential to avoid adverse unintended consequences.**

Our current charities law and regulation is in many respects very sound. If there is a failure allowing a very small number of rogue charities to abuse this then the issue is probably more one of resourcing the existing regulator, or prioritisation of effort with their limited resources.

► **In our view Charities Services has been tasked with a lot but needs additional resources to properly fulfil its role and be a proactive enabler for registered charities and advocate for the sector.**

The brutal reality for Governments is that the less healthy the charitable sector then the more that falls directly on the Government. The Government’s ability and success at funding and delivering services directly in turn carries significant political implications.

► **If the Government truly wants to support a vibrant, healthy, and innovative charitable sector, then reducing their flexibility at achieving financial sustainability by taxing business income seems counter to this aim.**

Numerous documents and rhetoric from the current and past governments recognise and acknowledge the fact that community entities close to their communities are generally much more efficient at addressing issues than Government departments.

► **Supporting community entities to be successful, which includes policy settings to assist ensuring their financial sustainability, is a cost-effective solution for any Government.**

While the charity sector is without the financial resources and lobbying power of for-profit organisations, charities touch a huge proportion of the New Zealand public. This is an economically significant sector when one considers number of entities, number of people employed, number of people who volunteer, number of people and issues served, and the funds that flow through the sector for charitable purposes.

► **Support for charities should not be underestimated nor the potential political distraction that an aggrieved public outcry may generate.**

Resources

PAPERS

[Charting the Future: A Framework for Thinking about Change](#) by Craig Fisher and Steven Moe.

Dr Lester Salamon, 'Putting the Civil Society Sector on the Economic Map of the World' [PUTTING THE CIVIL SOCIETY SECTOR ON THE ECONOMIC MAP OF THE WORLD - Salamon - 2010 - Annals of Public and Cooperative Economics - Wiley Online Library](#)

["Laying Foundations for Reimagining Business"](#) book of essays by Steven Moe

[Legal Handbook for Charities](#) in New Zealand

[Not-for-Profit Cash Reserves](#) – NFP Insight - CA ANZ

Summary of [Charities Act changes](#)

[Impact Investing resources](#) including legal opinion on why Trustees should consider that more

JB Were Cause report: [JBWere NZ Cause Report 2021 » JBWere](#)

[Board Matters](#) governance podcast (the latest season is about creating safe spaces in the Boardroom).

RECENT POSTS ON THIS TOPIC (the comments are worth reading)

Steven Moe post on Charities and Consultation https://www.linkedin.com/posts/steven-moe-0b3b008a_charities-are-essential-yet-often-forgotten-activity-7274865844151590912-FJ28?utm_source=share&utm_medium=member_desktop

Sue Barker and 10 reasons <https://www.linkedin.com/pulse/ten-reasons-why-we-should-tax-business-income-charities-susan-barker-ixemc>

An article focussed on Sanitarium by Liam Hahir called Cereal killers: Why taxing charitable businesses is a recipe for cutting community services, not creating fairness. <https://thebluereview.substack.com/p/cereal-killers>

Dr John Godfrey blog post [The Taxman Cometh](#)

SOME RELEVANT FEEDBACK AND PERSPECTIVES FROM POSTS

These are responding to this post Steven Moe put on LinkedIn end of 2024:

Feels like a creeping negative narrative around Charities and the role they play - anyone else noticing that? Seems timely to share [this article](#) penned for Stuff during Covid as all true today. I know many of you tautoko/support this, but some reminders:

1. Charities are essential and provide services that support our communities
2. They are innovative and make do with little, and should be applauded for seeking income streams for sustainability so they can advance their purposes (and often such initiatives themselves advance the purposes too)
3. The message should be: Thank you Charities for all you do!
4. Any changes should have proper and meaningful consultation with the sector to ensure the focus is right and to avoid own goals (reduction of service offerings as less income available, so more costly govt input needed)
5. In a vacuum without detail on what tax changes might be it's supremely difficult to helpfully comment
6. Also, without details it builds distrust for all charities as negativity is given an open pass to comment on aberrations characterised as the norm, which is unhelpful to the 99.9% of charities that do so much good in a hurting world
7. It also opens a Pandora's box to start down a path of taxing businesses owned by charities where profits go towards advancing their purposes - even those in favour of some tax probably don't intend for local op shops owned by a charity to be included, but where is the line...

Am working on a paper probably for late January with the always insightful [Craig Fisher](#) outlining in much more detail the philosophical clashes and issues really going on here - if you'd like a copy when it's done (or to help review a draft) drop a comment below and will add you to the list.

And here is a simple idea: Could you take 30 seconds to share a positive story of a charity or person in one you admire, to counter negativity - or feel free to adapt this post to help spread the word?

Here are some comments which help provide different perspectives.

Laura Black: Generally, I'm of the view that legislating against a couple of outliers will always punish the mainstream with perverse incentives, and almost certainly won't work: by definition the large players able to indulge in bespoke arrangements to minimise tax exposure etc, will always be able to afford the folks who can find a loophole or an arrangement to their benefit. But the bureaucracy that legislation always seems to create will cost the rest of us in time and paperwork in ways that will generate no positive benefit, and risk considerable wastage.

John Godfrey: We, Aotearoa fail to have a mature informed discussion around charities partly because, in my view, unlike many other countries, we lack any tertiary education centre for charity and nonprofits research and education. As a result, even those of us who work in the sector are ill-prepared to explain and defend it.

We also lack a strong and united sector voice; hardly surprising given the heterogeneity of charities and nonprofits, which include the full range of organizational types from local sports groups to universities. These both being the case, it is extremely difficult to present a strong case against policy proposals which often draw on ill-informed populist criticisms.

An independent charity commission, such as exists in other countries such as the UK and Australia, would also be conducive to independent advice being given to government.

Sue McCabe: Just want to reinforce your point number 3 "The message should be: Thank you Charities for all you do!". And it's great to see a strong response to these Govt suggestions and looking forward to your paper. Sadly the sector isn't well resourced to undertake the time consuming reactive advocacy Govt after Govt requires of them year in and year out just to stay in the same place.

It would be cool if this scarce resource could instead be put to progressing opportunities for the sector to have even greater community impact, or even innovating!

Israel Cooper: Unfortunately it will only be when they are gone that we will truly understand the positive impact of Charities on society, socially, economically and environmentally. Let's hope we don't have to find out that way.

Angela Norton: Thanks Steven for these great reminders! I couldn't agree more. Every time I meet with member charities or those starting their journey with us, I'm deeply moved by the incredible work they're doing to support communities, both here at home and around the world. I'm also inspired by the everyday Kiwis and supporters who give their time, finances, and advocacy to champion these causes. Their contributions are so crucial—without their support, these organisations can't continue their mahi and create the positive change we all hope for.

Ryan Jones: I'd love to see your written paper when it's finished Steven. I think that there are many charities that truly deliver on their core purpose, however like all things, there may be some who, to quote Eric Hoffer, have degenerated into a racket also. Charities should be lean and efficient and deliver value and effectiveness to their given cause, and I think Charities Services should take a more active role in monitoring charities to ensure that they are delivering against their purpose and obligations.

Robyn Scott: We at the J R McKenzie Trust have the privilege of supporting many who work super hard every day to support those who may need a hand up / rather than judging people who might need a bit of a lift we should remember the old adage 'therefore by the grace of god go I' - we just never know when or someone we care about we might need a bit of a hand - 🙏🙏🙏 for all those many charities in NZ currently adding huge value to Aoteroa - for just how much have a peek at JBWere New Zealand various reports on value of the charitable sector and charitable giving. John Morrow

Kate Vennell: So many mixed messages at present. On the one hand seeking to reduce the size of the state and fill gaps with "social investment".

On the other pulling the rugs by sudden decisions to stop funding, and a left field proposal on tax changes. Strategically we have a golden opportunity to grow philanthropy with the wall of money flowing to the next generation. Let's nurture our charity sector.

Loudon Keir: Steven Moe when we started The Hāpai Access Card as a charitable business we were determined that we would strive not only to be self sufficient, but also to be able to distribute a surplus. While we are still somewhat off, we are generating an income of \$60k PA, and will break even in a couple more years, unless of course tax is applied. Being registered for GST, but being a manpower intensive business, means we already are net contributors to the tax coffers. We are grateful to Assura Software for financial support and free software, Microsoft Google and Canva for free software, and others for discounts, to Christchurch City Council for their provision of refurbished ex-council laptops and to Kilmarnock Enterprises for a low rent with access to meeting facilities. We are also thankful for Volunteering Canterbury and the volunteers that come via them. Plus we are thankful for our board who give their time and expertise. Wendy Alexander (She/Her), Karla Gunby, Nini Smith, Tim Jones - That B Corp Bloke, Shannil Varma, MBA, Bob Shearing, Bill McElhinney, Ruth Keating, CMIInstD, Mike Bourke. And lastly gratitude for the support of our Patron, Sir David Carter KNZM

Nives Botica Redmayne: it seems to me that desperate people do desperate things. Looking for every scrap of revenue (including taxing charities)? Only goodness knows why anyone would not be celebrating charities and assisting them in what they do given how much charities and their volunteers and private donors assist in making NZ a decent and (still) caring country/society.

Russell Garrett: Thanks Steven Moe for calling this out Couldn't agree more. Unless the good stories are shared, all we hear is the negativity (and there seems to be so much of that about, whatever the topic). There's a real risk of the baby going out with the bathwater here. The irony is of course that the government cut social services and expected charities to step in. Now it's beating up on charities. How to turn social need into revenue for tax cuts in two easy steps. Keen to support your paper.

Tim Hughes: I will look forward to reading your paper Steven. It almost seems Shakespearean (or is that Douglas Adams?) - bad news is the only thing that travels faster than the speed of light - , some real balance in the narrative would be great.

But yes: there is a gestalt around apparent abuse of tax free status, or outright fraud in a few charities getting air time out of all proportion. The "own goal" seems by far to be the most likely outcome, absent some thorough thinking. I'd love to see a good argument to the effect that investment in effective charities (even by government) is economically effective, not to mention, simply decent. It is certainly true.

Carl Sunderland: I think it was you Steven Moe who mentioned our previous Finance Minister's acknowledgement that this country relies on the generosity of strangers. But yet, no government has ever supported the sector. I use that quite a bit in my own writing. I'm on your mailing list and always interested in anything you and Craig Fisher produce. Looking forward to reading it.

Rob Campbell: I'm reserved and suspicious. There may be some misuse of "charitable" exemption. But in reality we need more businesses operating with charitable purpose.

Kim Harvey: So many of our fellow citizens would not eat if it weren't for our food banks and food rescue charities. I wish that they weren't needed because everyone had enough to thrive, but as our system currently does not support that, I am incredibly grateful for the organisations who support anyone who needs it.

Wendy Bremner: This is true. People who work in charitable organisations are predominantly there for a purpose, to make a difference, to give back. So many volunteer in governance roles, advisory roles and operational roles. The cost of doing business has increased for charities as much as other businesses and finding funding is more competitive. Think about charities who support us throughout our lives from those who focus on physical, mental, and spiritual health to those who focus on protection from abuse, support in a crisis, or supporting carers.

Those who help people who experience the worst time in their lives, people trying to become free of their addictions, helping vulnerable and marginalised individuals, those who teach us about arts and culture, those who want to help us have a healthy planet, those who care for animals and forests and so many more. We need to value the role of charities in our societies and support them not make it harder to exist.

Nathan P: It's the disconnect between old and new wealth, historically the privilege was tied with an obligation to society. Mysteriously even new wealth of the past century was brought to this realization. Currently, the extraordinarily wealthy boomers represent a boon to the wealth of charitable organizations. However, as new wealth increasingly flexes their influence on the scene, old habits are fast to perish. Issues with rising inequality and wealth concentration have compounded the decline in available resources. Charity faces increasing financial constraints in the coming decades. It's difficult to imagine the impact this will have on broader society.

Tom Brady: It is important that we don't allow it to become a money conversation. The desire to help and to fulfil the needs of others is deeply human. Charities are organisations responding to needs - usually needs of people who have fallen through the gaps. In today's world, their effectiveness is often 'measured' in terms of the money, yet that is incidental to the work and impact. With money involved, we are led to believe that only outside regulation can provide the trust that the money is being used well. However, the more we structure charities to look and act like the institutions that created gaps, the less effective they are likely to be.

Brian Lacey: 100% agree with your post and the commentary. Great fear of the oak tree being felled because of 2-3 perceived bad acorns. Looking forward to your paper.

Vicki-Anne Parker: As a founder of a small grass roots charity that has existed since 2019 with little to no external funding like places like lottery etc. We've been grateful to the likes of TC Transcontinental Packaging, Christchurch Casino, Christchurch City Council, Strathlachlan Women's Fund and some other small \$500 donors we would not exist.

We have had to think outside the square make items by our volunteers to sell at markets to fundraise as every man and his dog books in for the weekly sausage sizzles at bunnings and mitre 10 so you have to think of ways of generating enough income to survive. We have never had any paid staff to keep costs down. But we can't compete with the bigger charities with huge marketing budgets, celebrities fronting them etc. Yet some of us smaller charities are doing essential work eg smaller food banks, mine providing healing tote bags for youth aged 13 to 17 in the wider Canterbury area affected by sexual harm having a forensic medical at the Cambridge Clinic the same place adults do (Canterbury has the highest statistics for this). We do the hard yards, think of ways to generate income whilst it's currently under \$60k eventually I can see they will come after us to and at that stage how many of us will go.

Amanda Fraser-Jones: Running a charity in a sector that is often overlooked for funding as it's not human based is hard. If they make it any harder many of us will be forced to shut, which would be sad indeed. We run using innovative ideas for fundraising and begging for almost every cent. The majority of grants are unavailable to us, so we do what we can. Any surplus at the end of the year is for emergencies, which happen a lot in my industry.

Charities provide the services to those who need it, so unless the government plans on doing it themselves they need to give us support to keep doing what we do. I'm from [Chained Dog Rehabilitation & Rehoming NZ](#).

ABOUT THE AUTHORS

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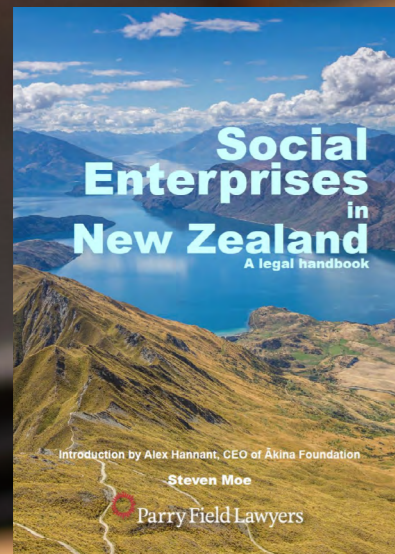
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