

What mischief does this legislation seek to cure?

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In the first reading of the bill which heralded the new Charities Commission it was asked in Parliament “What mischief does this legislation seek to cure?” Dr Wayne Mapp continued his speech to assert that, in fact, there was nothing whatsoever which suggested there is substantial scandal in the charity sectorⁱ.

However, since the review of charity financial reporting issues (‘Charities Alert’) in this journal in 1999ⁱⁱ, there has been a continuing steady level of problems associated with defalcation and other dishonest practices in charities. It is the objective of this article to identify and analyse some commonalities in these ongoing problems. In contrast to the assurances given in Parliament, it would appear that a key objective behind the new Charities Commission is that its monitoring capabilities will lessen the likelihood of dishonest practices in this sector.

Fundraising kickbacks: this is not a problem specific to New Zealand. One frequent recurring issue when charities come ‘under the microscope’ is the amount of funds raised which are paid to the fundraiser. For example, in Scotlandⁱⁱⁱ, Breast Cancer Research had its assets frozen by the Courts after it was determined that £5 million of the £13.2 million was paid to a commercial fundraiser^{iv}.

Closer to home, an investigation into the New Zealand Child Flight Charitable Trust - the sister organisation of the Auckland Rescue Helicopter Trust, found that at least \$375,000 of charity money had been channelled over two years to Auckland’s Palace Tavern. Millions of dollars of pokie machine profits, meant to help run helicopter rescue operations, were returned by these Trusts over five years, to five Auckland pubs linked to the gaming machine charity “Goldtimes Foundation”. Each month a grant would come in from Goldtimes, and half the money would be sent back to the source pub: the Birdcage, Strand and Palace Taverns in central Auckland and Casino Bar and Goldies Casino in Otahuhu^v.

Administration and other costs: the amount of fundraising used for administration costs also remains contentious. One important part of the process by which charities legitimise their activities is the transparency of the percentage of their funds raised used for administration. For example, in the early stages of competition in the 1970s between CORSO (an indigenous New Zealand charity) and international agencies such as World Vision and Oxfam, CORSO had sought to compare its efficiency in distributing aid with that of Oxfam. It promoted itself as by-passing the international bureaucracies due to its exclusive New Zealand nature; and in its 1990 Appeal, expenses were \$13,231 (16.2%) against \$81,569 income^{vi}. This was compared with Oxfam’s target to hold expenses to 30% of income.

In the USA there was a significant negative publicity attached to the pronouncements from the Red Cross in the wake of 9/11 fundraising, when Red Cross announced that a 'comfortable' amount of the donations would go to upgrading its office machines and also 'to be set aside for future terrorist attacks'^{vii}. The negative reaction to this announcement was such that the policy was reversed, and the chief Director resigned. At the other end of the scale, but with the same problem of operational costs taking precedence over other uses of funds, it was recently disclosed that the Rotorua PHO Te Kupenga A Kahu (a not-for-profit organisation) was insolvent, and questions were raised over the amount spent on operational costs, instead of disbursement to medical practices^{viii}.

Fraud -- the ripple effect: another issue is when investigators uncover further dishonest practices once the first one is discovered. One example was the case of the Community Outsource Trust, the charity coordinated by a hip-hop artist. In addition to the controversy over the \$26,000 grant for a hip-hop tour, the manager was found guilty of two charges of fraud, totalling \$1050. The manager had previously been convicted of theft by misappropriation ten years previously. Another example was the extensive investigation into the defrauding of funds from the Pipi Trust, which involved an ongoing series of frauds totalling over \$1,000,000. Grant manipulation also occurred when Frank Burgess stole \$1.07 million after making 188 applications to the New Zealand Community Trust. The funds were claimed to be used for the Women's Golf Open competition, and some other sports activities. He also stripped sports organisations by banking rent cheques and forging signatures to his own ends.

The issue of the transparency and use of funds held in trust for specified purposes has raised problems recently in New Zealand. There was a debate in 2003 concerning whether or not private trusts are accountable, as with funds raised in the wake of a murder in the Wairarapa^{ix}. The funds were to assist the Burrow family with their costs during the search, and their future needs. Barbara Harragan, representing the Featherston ward on the South Wairarapa District Council, said the amount raised should be public knowledge. "It's public money, set up for the public. I can't see any reason why it shouldn't be made public". A related issue arose after the most recent Hero parades, the last held in Auckland in February 2001. It appeared that very little of the funds collected during the street parade for HIV/AIDS research had, in fact, gone to its intended use. Of the 87 unsecured creditors in 1989, only the Inland Revenue was paid in full. The trust was aiming for a fresh start in 2001 but the lack of transparent practices has harmed its reputation, and any future resurgence of the parade to the earlier grandiose scale seems unlikely.

It was the objective of this article to identify commonalities in some more recent problem areas of charity accountability. It is hoped the increased level of monitoring undertaken for the purposes of meeting regulatory requirements of the new Charities Commission will, in fact, also reduce the occurrence of such defalcation. Members of the Institute are at the front line of this activity, and have a key role in both prevention and correction of such practices.

ⁱ Dr Wayne Mapp, speech to the House, 30 March 2004.

ⁱⁱ "Charities Alert", Baskerville, R. F., 1999, *Chartered Accountants Journal* 78(8): 27 – 30.

ⁱⁱⁱ Although the UK SORP provides guidance for charities in the United Kingdom, the new Charities Bill will have effect in England and Wales only. Charities operating within Scotland are not regulated

by the Charities Commission (and never have been). What regulation there was came from the Inland Revenue and this is being replaced by the new Scottish Charity Regulator.

^{iv} “Crackdown on charity fundraising”, *The Guardian*, June 11th 2003.

^v “Rescue trusts paid six-figures for phantom ads”, *Stuff*, Auckland, Sept 7th 2002.

^{vi} Issue 42 of *Overview*, the CORSO internal magazine, as described in “Stakeholder Divergence and Institutional Extinction in the Not-for-profit Sector: the CORSO story” 2005, David Sutton *et al* (ref. to author of this article for further information).

^{vii} “Where do your charity dollars go?” Page 2, *The People*, March 2002.

^{viii} “Misuse of funding sees small PHO falter”. *New Zealand Doctor* 26th January, 2005.

^{ix} “Coral fund kept secret”, Katterns, T., 2003, *The Dominion Post*, 21st October 2003.