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Do Charities need to be Regulated?



Navigating the Regulatory Straits between Scylla & Charbydis

- “Those who seek to regulate charities must walk the fine line . . . and avoid both damaging interference and damaging neglect”

(Wells, 2006)

A grayscale background image of a signpost. The top sign is a black arrow pointing left with the word 'Promotion' in white. The bottom sign is a black arrow pointing right with the word 'Prevention' in white. The signpost is set against a cloudy sky.

1. **Functionality**

Is charity so dysfunctional that State intervention required despite cost?

2. **Transparency**

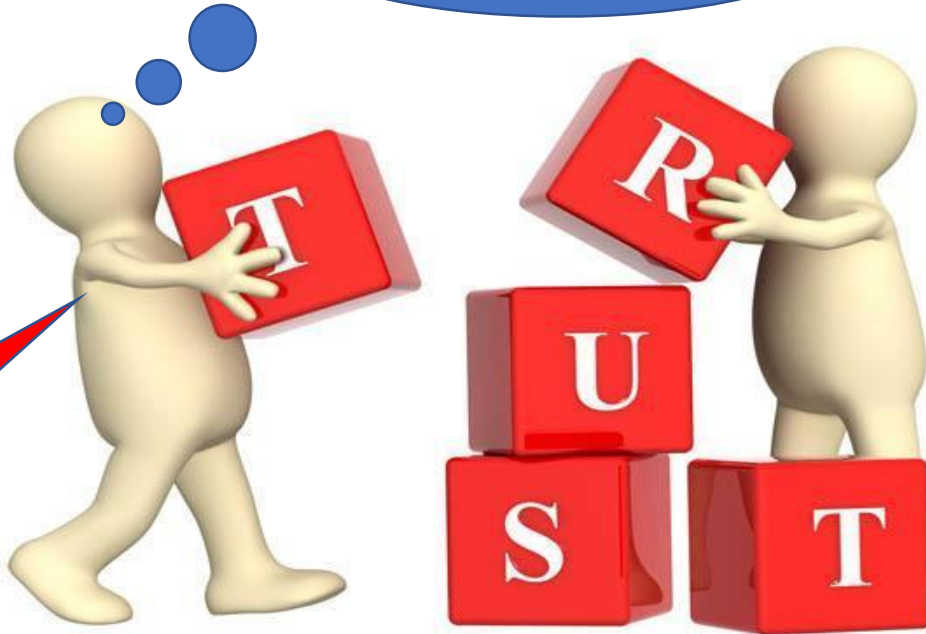
Does public have enough information and understanding of the organisation to make their own autonomous decisions around participation?

3. **Honesty**

Is charity misrepresenting itself or its activities to the public to obtain support?

Regulation overseeing that charities have:

- *Clear Purpose & Direction;
- *Strong Governance;
- *The right people for the right activities;
- *Sound & Prudent Management. (NZCS, *Geared for Success*)



Registration Gateway
to
Charitable
Status

Annual Returns and
Financial Statements
provide accountability

“Neither the fact that foundations and other charities have public purposes nor the fact that they are subject to the Attorney General’s *parens patriae* power supports a claim that these organizations must serve the same ends as those of government or that government may unduly intrude in their governance and other decisions.”

“Private parties have the authority to determine the charitable purposes that particular foundations and other charities pursue.”

“The state’s authority to regulate and supervise charities does not grant the state directive power over foundations or other charities or transform their assets into property of the state or the general public.”

Brody & Tyler, *How Public Is Private Philanthropy? Separating Reality from Myth* (2009)



“Effective regulation assures the public that there is a mechanism in place by which government can compel compliance with a set of standards *that we as a society are agreed should be observed* by the entities that are the subject of the regulation”



Regulations

Compliance

Marion Fremont Smith, 1995



Te Tari Taiwhenua Internal Affairs



Issues on the Table

Modernising the Charities Act 2005

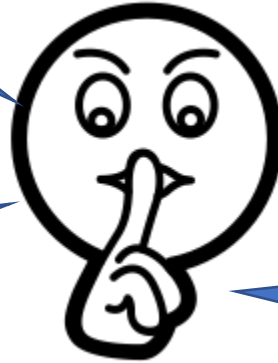
Contracting arrangements for government services.

Operational matters

The definition of 'charitable purpose'

Tax exemptions for registered charities

Regulation of the broader not-for-profit sector



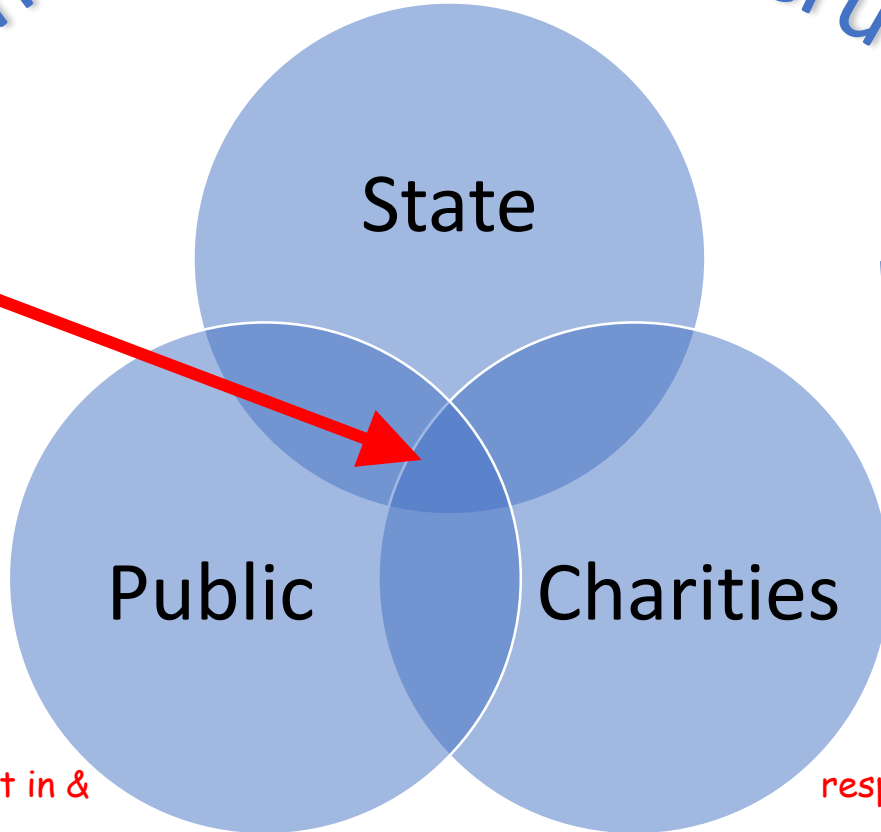
Issues not up for Debate during Consultation

The triumvirate of scrutiny

*Private Goods &
State Goods for
Public Benefit*

*Protection of Charitable
Assets and Beneficiaries*

*Protection/Integrity
of Charitable Status*



We all have a shared interest in &

responsibility for good stewardship!