



Community Foundations—a new way of thinking about charity, philanthropy and working with clients

A white paper between: Dentons Kensington Swan
and Community Foundations of New Zealand

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The New Zealand context

Charities have an essential function in our communities, delivering a range of social services that would be difficult to provide on a purely commercial or a state-run basis. Essentially, they fill the gaps in society (often by partnering with government) that are not already cared for by central or local government.

In New Zealand, charities are most commonly structured in one of four ways:

- As an incorporated society, under the Incorporated Societies' Act 1908;
- As a charitable trust, under the Charitable Trusts Act 1957;
- Under their own legislation or legal authority; and
- As an unincorporated society, club or group.

They must also meet at least one of the following four categories of "charitable purposes" which are set out in the Charities Act 2005:

- Relieving poverty;
- Advancing education;
- Advancing religion; and
- Other purposes beneficial to the community.

Groups that perform charitable work can derive significant benefits from being registered as a charity. The most notable of these is an exemption from tax on income earned by the charity and a deduction for donors from the assessable amount of their taxable income equal to the value of any donations made.

Over the past decade the New Zealand government has increased the level of regulation of charities by:

- Creating a register of charitable entities;
- Appointing a regulator outside of government (known as Charities Services);
- Imposing financial reporting requirements on all

registered charities;

- Stipulating strict tax implications for groups that lose charitable status; and
- Committing to regulatory reviews.

According to the 2021 NZ Cause report¹, in recent years there has been a deceleration of the number of new charities established and the total number of charities in New Zealand.

This deceleration is encouraging; fewer new entities are being established in circumstances where existing organisations already serve a particular cause and duplication and a lack of collaboration, which the sector had become known for, may be shifting.

It goes without saying that there are finite resources available to the charitable sector. Statistics show a decrease in the operating margins of organisations delivering on important causes, which is largely due to the high numbers of competing charities and the allocation and apportionment of resources as between them.² This begs questions as to how effective and efficient the charitable sector is in delivering the value it seeks to add to the society.

Corporate funding of the charitable sector is quite low in comparison with other countries and other sources of funding in New Zealand. A significant amount of funding in New Zealand comes from statutory trusts including Community Trusts and the energy, gaming and lottery sectors.³ However, most funding comes from a large number of people giving donations⁴.

1 The Cause Report 2021, JBWere.

2 Anuja Nadkarni "NZ's expanding \$60b not-for-profit sector may be set to shrink" Stuff (14 March 2017).

3 McLeod, above n 1, at 13.

4 JBWere and Phianthropy NZ 2018 Support Report.

Emerging themes

The greatest inter-generational transfer of wealth in human history is currently underway as the baby boomers are transferring their wealth to the next generation. This unprecedented intergenerational wealth transfer is estimated to be around \$150b⁵ across New Zealand over the next 20 years.

Many New Zealand families have enjoyed unprecedented inflation fueled growth in their net worth to the point where their resulting wealth sees surplus funds available for the fulfillment of philanthropic objectives. In the current environment individuals and families seem increasingly more likely than ever before to apply their human, social, and financial capital to charitable causes. This is timely at a time when social welfare systems are under increasing pressure from the effects of a global pandemic.

According to the NZ Support report 2018⁶ total giving in New Zealand was estimated to be around \$3.8b in 2018, with an annual growth rate of around 4.5%. Around 52% of all giving in New Zealand is by individuals (totalling around \$2b per annum).

Most personal giving is in the form of donations and bequests (the giving of assets through a persons will). Bequests make up the largest proportion of charitable gifts, and they are by far the largest single gifts to charity. A study by the Fundraising Institute of New Zealand (FINZ) found that around 5% of the public have already made provision for a gift in their Will to Charity with a further 21% likely to or considering doing so.⁷ Further, there has been a steady increase in the value of bequests over time, which is consistent with growing wealth levels and the increase in the number of annual deaths.⁸

The increase in the number of charities receiving bequests is often due to charities actively marketing personal bequests as a form of charitable giving; it's becoming a fundraising norm for charities to carry out campaigns to actively encourage people to leave a bequest or legacy in their will.⁹

Across the world, donors are getting more strategic with their giving and are seeking out enduring structures to manage their charitable giving.



⁵ Source: Philanthropy New Zealand.

⁶ JBWere and Philanthropy NZ 2018 Support Report.

⁷ Fundraising Institute of New Zealand "New Zealand's Willpower:" (press release, 9 February 2021).

⁸ JBWere and Philanthropy NZ 2018 Support Report.

⁹ See, as examples www.includeacharity.org.nz www.rememberacharity.org.uk

The growth of Community Foundations

Worldwide, we are seeing an increase in popularity of donor-advised funds and endowment funds as a way to achieve long-term charitable giving. A donor-advised fund (DAF) is a private fund administered by a third party and created for the purpose of managing charitable donations. An endowment fund is an investment fund managed by a foundation, that makes agreed withdrawals (or distributions) from invested capital.

While the idea of a DAF or an endowment fund is a relatively new donor concept in NZ, interest in this form of giving is growing at an increasing pace.

Community Foundations are a 100-year-old worldwide movement and the fastest growing form of philanthropy globally. Community Foundations offer numerous types of philanthropic services and grantmaking programs, including donor-advised funds and endowment funds.

There are 17 Community Foundations in New Zealand¹⁰ and over 1,800 Community Foundations worldwide. Community Foundations collectively pool individual endowment funds in local communities, and achieve economies of scale with their investments. This type of giving has been described as 'the fastest growing form of philanthropy in the world today'.

New Zealand's network of Community Foundations have seen recent rapid growth in endowment funds: 33% (from \$150m to \$200m) in the past financial year alone¹¹.

Community Foundations are recognized as being more cost-effective and versatile and they are certainly less administratively burdensome than creating a new charity.

Benefits offered by Community Foundations include:

- Taking care of compliance, administrative matters, investment and governance. Donors can be as involved as they want to be, with many enjoying focusing on giving and the benefits their gift will bring rather than the (often unwanted) details of governance and administration matters.
- Being an easier alternative to setting up a charitable trust whilst still being flexible enough to meet donors personal, and sometimes specific, philanthropic aspirations.
- Having very close connections with local charities and causes. As a result, Community Foundations are in a unique position to facilitate effective giving locally. They can play a key role in identifying and solving the problems pertaining in a particular community, creating confidence in the charitable sector that funds are being used effectively and local efforts are being streamlined.
- Achieving economies of scale and maximising returns to communities by resettling small local trust funds into one, independent local structure¹².
- As a not-for-profit entity itself, a local Community Foundation is built around a lean, transparent and cost recovery model so as to maximise the impact of every dollar given.

While a young movement in New Zealand that only really started around 2003¹³ with the establishment of the Acorn Foundation in Tauranga, Community Foundations across New Zealand today collectively have \$200m in funds under management and a conservatively estimated \$400m bequest pipeline, which is steadily growing as New Zealanders discover this form of giving and its benefits - not only for donors but for communities as a whole.

10 See <https://communityfoundations.org.nz/regions>

11 March 2020-March 2021- Source: Community Foundations of New Zealand

12 To date, over \$40m in existing charitable trust funds have been resettled into the long-term care of New Zealand's Community Foundations.

13 Nikau Foundation was established in 1991 as The Wellington Regional Community Foundation, however the spread of Community Foundations across NZ began in 2003 with the establishment of Acorn Foundation and support from The Tindall Foundation. Source: Community Foundations of NZ

Community Foundations and “Strategic Philanthropy”

The rise of Community Foundations also sees more donors able to access what we can call “strategic philanthropy”, as they are able to make contributions (and receive the associated tax benefits) up front, and they can advise distributions from their funds into the future. The costs associated with establishing a private charity previously made this kind of long-term giving feasible only for the wealthiest of philanthropists.

With the growing network of Community Foundations across NZ, strategic philanthropy has become more accessible to more donors than ever before.

A family-advised fund administered by a Community Foundation is an excellent way to pass on philanthropic values to future generations, without the administrative burden. Such a fund also allows donors to craft their philanthropic legacy to include family members who wish to be involved.

Role of the professional advisor

The role of professional advisors in providing specialist philanthropic advice, and how that can influence the level of charitable donations, should not be overlooked. It is critical that individuals looking to engage in philanthropy receive sound, expert advice on how to do so effectively and strategically. With the assistance of organisations like local Community Foundations, advisors are perfectly placed to help to ensure the charity sector works towards the efficiency necessary to ensure future sustainability.

Recent studies out of the USA¹⁴, Australia¹⁵ and the UK¹⁶ show that clients would like to have a philanthropic conversation in the beginning stages of their relationship with their professional adviser and would be more likely to leave a gift to a charity in their will if the option was more ‘top of mind’, and options presented, when planning their estate.

These studies show the crucial role professional advisers play in raising philanthropic possibilities and working with their clients to ensure they give in a meaningful and strategic manner.



¹⁴ US Trust and Philanthropic Initiative 2018.

¹⁵ 2018, Include A Charity, Australia.

¹⁶ Legacy Giving and Behavioural Insights Report 2016 – a collaborative project by the Behavioural Insights Team, through the University of Bristol.

Conclusion

Just as many of the great challenges of our time are too big to be tackled in isolation, so too can philanthropic efforts be collectivised for the common goods of our communities. There are significant benefits to be gained from the charitable sector moving steadily towards a more collaborative model, like that offered by local Community Foundations.

Furthermore, with the ever-increasing cost of compliance, the charitable sector must position itself towards sustainability and efficiency.

Professional advisors have a key role to play in the philanthropic advice they give, and should not underestimate how crucial their role actually is. Professional advisors should be encouraged to have these conversations with their clients now if we, as a nation, are to make the most of the unprecedented wealth transfer we see beginning to change hands.

If some of this immense wealth currently held by the baby boomers can be invested for the benefit of the charity sector, then tangible and measurable benefits to New Zealand society will inevitably follow.

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