Civil society (pillar 12)

Summary

This pillar report summarises themes from informant interviews and desk research across the community and voluntary sector, Māori, and Pasifika. The scope of this pillar report is wide; many organisations and individuals are active in civil society organisations (CSOs). A wide variety of organisations contributed, but it has not been possible to cover them all – sporting, religious, and professional associations are not included.

There is a note on the methodology used in this pillar report at the beginning of Chapter 5. There is a favourable legal environment for CSOs in New Zealand and most have sufficient funding and other resources, including volunteers, to operate, albeit on a short-term planning horizon. Improvements could be made by confirming the suite of training available to CSOs across all disciplines, establishing formal qualifications in civil society activities and management (including training and qualifications on CSOs), and progressively in government funding contracts.

CSOs enjoy high legal independence. Many feel well established and report no constraints on their independence. For some, however, independence is limited by political relationships and funding uncertainty. Standards for clarity should be adopted in government funding contracts for service types (for example, advocacy) and multi-year funding should be considered and valued.

Transparency in CSOs varies widely, and it can be difficult for the public to tell in whose interests a CSO is operating (community, government, or business) and to respond appropriately. Public information on CSOs should include information on who benefits from the organisation's activities and overhead rates (that is, how much of a donated dollar gets to front-line services).

By extending the scope of public information to cover all CSOs, not only those that are registered charities, and by promoting a code of conduct for the disclosure of information to the public by all CSOs, CSOs would become more transparent. This could be achieved by making disclosure a requirement for charitable status and not-for-profit tax treatment.

CSOs take on advocacy and public watchdog roles; some are set up explicitly for these roles. Many are actively engaged in policy reform initiatives, although (apart from TINZ) there is little focus on anti-corruption in view of perceived low levels of corruption in New Zealand. Government policy-making processes need to be clarified to ensure timely and well-resourced input from CSOs. Earlier input would generate better results and put less pressure on formal consultation at the end of the process to capture issues and problems.

Other actions that could be considered as a result of the findings of this report include acknowledging CSOs' charitable and advocacy work in their own right, separate from service delivery. Accounting and reporting requirements and tax status for this work should be clarified.

A publicly available annual report should be required of all community organisations that carry out public fundraising (above a given minimum donation dollar value to ensure the measure passes a cost benefit test) and are not registered charities. This report should include minimum requirements such as the organisation's purpose, members and beneficiaries, activities, and audit results.

There should be a coordinated single government environment scan for CSOs that wish to apply for contracts.

Government should commit funds to increasing information technology capacity in CSOs to assist their service role as well as their communication with funders.

Community and voluntary organisations can flourish in New Zealand, and there is high public participation. They are characteristically flexible and independent. CSOs are significant in holding the government to account over a wide range of its activities.

Transparency is variable with some organisations providing a high level of disclosure about their activities and others much less. Because New Zealanders are not well informed about what information they should expect from their civil society organisations, it would be valuable to clarify what they should disclose to the public and/or their members to assist in assuring their integrity, and then inform the public accordingly. Chapter 6 recommends on these issues.

There is merit in using CSOs more effectively as vehicles for integrity and civics education and training, both in their own organisations and at least indirectly for wider civil society and to meet the need for education about the role of CSOs and what should be expected of them. That would enhance their ability to engage effectively with government in policy development consultations.

Figure 13: Civil society scores
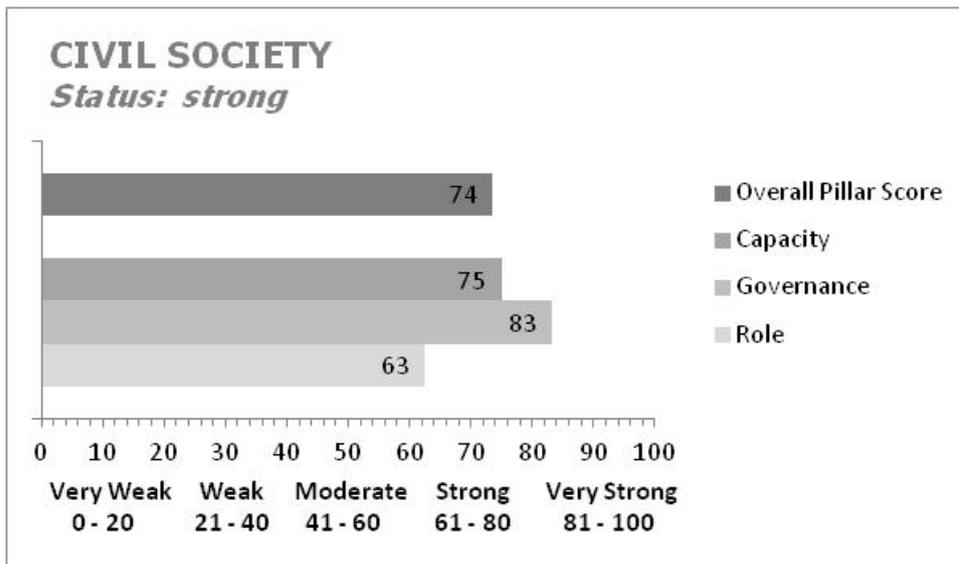
Source: Transparency International New Zealand, 25 October 2013.

Structure and organisation

The term "civil society" is in not in general use in New Zealand, and it is hard for citizens to understand and engage with the concept. People in the street are unlikely to respond to a question such as "How is civil society progressing in New Zealand?", but would talk energetically about their involvement with their local sports group, club, community initiative, religious group or other community activities they know about and value. Talking about community groups, interests, and activities is more accessible.

CSOs play an important and complex role in New Zealand society. They cover a wide variety of activities from community connection and social profit to service delivery to advocacy and direct challenge to government and business. They represent New Zealanders across all non-government and non-business aspects of society – community, cultural, sport, faith, education, interest groups, philanthropy, community development, and specific-issue lobby groups – and are the glue holding society together. In 2005, there were 97,000 not-for-profit institutions of which 45 per cent were concerned with culture, sports, or recreation; 11.6 per cent with social services, 10.2 per cent with religion, 7.8 per cent with development and housing; and 7.6 per cent with education and research. The remainder covered health, environment, trades unions, business and professional associations, law, advocacy, and politics.[969]

New Zealanders are very active in their communities because of smaller populations, fewer degrees of separation, and a strong cultural and pioneering history where voluntary assistance is expected as part of society. Volunteering is estimated to be worth 2.3 per cent of gross domestic product (NZ$4.8 billion per year) to the New Zealand economy.[970] Some communities rely on local CSOs such as local social service agencies for their survival.[971] The emergence of social enterprise is bringing new enthusiasm, technology, and financial support to these activities.

Māori society has strong expectations based on the Treaty of Waitangi. Māori have shared expectations, as well as diverse perspectives across tribal areas and rural and urban groupings, about the nature of society and how components within communities should be functioning to ensure society is meeting the needs of the people. The general expectations and definitions of civil society in the context of the Treaty principles, including partnership and active protection (of taonga)[972] are a work in progress by both Treaty partners.

Pasifika communities are well engaged in many areas of civil society, contributing to wider society while also retaining some independence in their association, which benefits their maintenance of identity. Pasifika leaders are active in politics, academia, social services, education, ethnic and language issues, and churches.

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[969] Statistics New Zealand, "Counting non-profit institutions in New Zealand 2005". www.stats.govt.nz/browse_for_stats/people_and_communities/Households/Non-ProfitInstitutionsSatelliteAccount_HOTP2005/Commentary.aspx

[970] Office for the Community and Voluntary Sector, *Key Facts*; Statistics New Zealand.

[971] For example, Wesley Community Action, Cannons Creek, Porirua, runs budgeting services, food banks, and a community garden and promotes relationship skills.

[972] State Services Commission, *All about the Treaty* (Wellington: State Services Commission, 2005). www.nzhistory.net.nz/files/documents/All_about_the_Treaty.pdf

Many CSOs such as the Association of Non-Governmental Organisations of Aotearoa consider that separation from government and business influence is critical for their success, while others rely on service funding from government or donations from business to do their work.

International literature and experience confirm that increased social engagement and cohesion drives growth in CSOs. "Just as current roles of civil society actors vary widely in the turbulent present, across and within the unique contexts of countries and cultures, the future roles of civil society will be diverse and multiple. However, individual factors such as technological change, demographic shifts, environmental pressures and political and economic uncertainty, as well as the demands of multi-stakeholder models strongly suggest that the roles that civil society plays will gain in importance".[973] CSOs can be the bulwark of local, regional, and national political stability; can build community assets and resilience; can provide a community mandate to government processes; and can be trusted means for the delivery of a variety of social services as well as advocating for social and political change.

There is no significant national debate on whether New Zealand is providing an enabling environment for CSOs (for example, in terms of legal, governance, funding, and disclosure requirements). New Zealanders like and value the work of CSOs, and want them to continue. New Zealanders generally have a passion for contribution, but are less interested (even passive) in checking whether the best arrangements are in place to enable these organisations. They seem to take the view the current systems work adequately and will just continue to work.

12.1.1 Resources (law)

To what extent does the legal framework provide an environment conducive to civil society?

Score: 4

The legal framework is generally sound.

The soundness of the legal framework was confirmed by those interviewed and by New Zealand's 87 per cent ranking at the top of the Civicus Enabling Environment Index 2013.[974] There are areas of concern around definition and disclosure. Addressing these areas would improve the medium and long-term performance of the framework.

Those interviewed found the legal environment largely enabling for CSO formation and development and accepted the various legal requirements as necessary safeguards.

The fundamental legal protection for freedom of association, expression, and assembly is the New Zealand Bill of Rights Act 1990. The legal framework for CSOs is provided by law through statutes such as the Charities Act 2005, Incorporated Societies Act 1908, and Income Tax Act 2007. In addition, there are contractual requirements from funders and sector best practice requirements such as adhering to codes of conduct or

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[973] World Economic Forum, *The Future Role of Civil Society,* World Scenario Series, January 2013.

[974] CIVICUS, "CIVICUS 2013: Enabling Environment Index". civicus.org/what-we-do-126/2013-05-06-10-38-39

practice. Many CSOs operate across a wide variety of community activities, so they must comply with a wide variety of organisational and sector requirements.

The Charities Commission, now the Department of Internal Affairs – Charities Services,[975] completed several reviews in recent years and made changes to improve the framework within which CSOs operate, including promoting the enactment of the Charities Act 2005, developing financial reporting standards, researching the characteristics of charities in New Zealand, promoting tax changes, and clarifying audit requirements. While those interviewed respected the results of these activities in some administrative improvements and clarity around reporting, they raised issues relating directly to transparency and integrity, which have not been addressed. These issues are described in the relevant sections of this pillar report.

CSOs can be structured in a variety of legal ways (significantly as incorporated societies), and there is little that prevents them from doing the work they are set up to do as long as their objects relate to social and community benefits. The Law Commission is reviewing trust structures and may recommend new structures.[976] The commission has also recommended updating the Incorporated Societies Act 1908.[977]

However, a problem with the Charities Act 2005 is that it denies the benefits of registration as a charity to those organisations with a main purpose of advocacy.[978] The purpose may have been to exclude organisations fronting (or advocating) on behalf of industry and business, but the National Council of Women was de-registered in 2010 for stating that advocacy was its primary purpose and then reinstated in 2013 when it described more significant purposes such as community education.[979] Legislative change to exclude advocacy by charities was considered and abandoned during the development of the Charities Act and again in 2012. Debate remains live in this area.

There are no legal limits or disclosure requirements on administration overheads as a percentage of donations. It is reasonable for the donating public to expect that a high proportion of their donation would be used for the purpose stated (that is, to provide services) and not be used up in administration costs. It would be possible to regulate for limits on registered charities' overheads as a proportion of donated funds.

Government contracting, which is a major source of income for many CSOs, can be complex with different requirements between government agencies, particularly for accreditation, monitoring, and auditing. The combination of requirements is often excessive for the amounts involved and results in extra demands on community organisations' limited resources. Respondents felt strongly that if registration

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[975] The Charities Commission was disestablished and its functions transferred to the Department of Internal Affairs, taking effect from 1 July 2012. Since most of the information in this pillar report refers to the previous administration of charities, the former name has been retained where relevant.

[976] Law Commission, *Review of the Law of Trusts: A Trusts Act for New Zealand*, NZLC R130 (Wellington: Law Commission, 2013) was tabled in Parliament on 11 September 2013. www.lawcom.govt.nz/project/review-law-trusts

[977] Law Commission, *A New Act for Incorporated Societies* NZLC R129 (Wellington: Law Commission, 2013).

[978] Charities Act 2005, section 5.

[979] Interview with Dr Judy Whitcombe, New Zealand Federation of Graduate Women (Wellington), Zonta (Mana), and National Council of Women (Wellington), March 2013.

processes and standards could be improved for community organisations and then relied on to streamline contracting, more value would be generated from government funding. An integrated contract has long been an objective of many community organisations.

The above issues generate mixed service and charity business models for most community organisations. Service activity often subsidises representation or advocacy activity, and funders often fund community organisations at lower rates and for shorter terms than they fund commercial providers (relying on the organisation gaining donations to bridge the gap). This situation creates very unclear and short-term operating conditions, resulting in lower medium-term value from a given funding stream. Faced with these uncertainties, community organisations are less likely to put effort and investment into arrangements with medium-term beneficial results (for example, internal efficiencies, collaborations, alliances, and mergers) to help them build sustainable business.

12.1.2 Resources (practice)

To what extent do CSOs have adequate financial and human resources to function and operate effectively?

Score: 3

In practice, there are problems with the clarity of funding arrangements, the definition of advocacy and service activities, and the influence of funding agencies over CSO activities.

CSOs obtain resources from different sources – government, private funders, business, and the public. It is relatively easy for these organisations to appeal to the public through requests for donations and street-collection days. The administration costs of gaining these funds differ widely between organisations and can be a high proportion of funds collected (see the administration overhead point above). Funding sources can be multi-layered, depending on which part of the CSO is being funded, and funding can be from multiple sources for the same service.

Some CSOs raise concerns that the issues they deal with are intergenerational such as violence, gambling, abuse, and lack of adequate housing and require long-term interventions, but the CSOs' reliance on yearly funding cycles puts extreme pressures on limited resources with a requirement to constantly fund-raise.

Short-term funding is a particular problem for CSOs that need to employ and train staff. "We need well-trained, well-qualified people, especially for our field staff, who work under very little supervision. Even if we can get staff who are well qualified, it may take up to six months for them to be fully effective in their role. But because we only get government funding on an annual basis we can only offer them year-to-year contracts. It is almost impossible to get good staff under such conditions."[980]

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[980] Interview with Raewyn Fox, Chief Executive, New Zealand Federation of Family Community Budgeting Services, 21 August 2013.

For some CSOs, independence from government funding is a core principle, particularly those involved in social change and new social entrepreneurship models. These organisations have seen the restrictions placed on advocacy and innovation that can result from significant government funding, so have decided to avoid this funding source, even if it limits their funding options.

CSOs that rely on government funding can become important allies to government agencies involved in social change. Examples include the areas of family violence, compulsory seat-belt use, and immunisation campaigns, and in new social entrepreneurship models such as young enterprise schemes, youth parliament, and climate change issues. These organisations state that service provision is their primary activity and advocacy is a secondary activity. Therefore, they are not restricted from receiving funding from central and local government for their activities.

For many CSOs, government funding is supplemented by strong relationships with companies, local businesses, and philanthropic organisations. Some CSOs, however, will not apply for pub charity funds, which may arise from gambling, or accept sponsorship from agencies associated with the alcohol industry.

While most CSOs consulted certainly say they are under-funded, this may simply reflect their desire to carry out additional activities valued by their community. Most organisations confirm that they have sufficient funding to operate in their current situation, albeit on a short-term planning horizon. Many small CSOs, especially diaspora groups in the international sector, however, closed when their prospects for funding disappeared in 2008 with the absorption of NZAID into the Ministry of Foreign Affairs and Trade and the replacement of the KOHA/Partnerships for International Community Development Scheme with another funding scheme with more stringent accessibility conditions.[981]

Community organisations often rely on volunteers and dedicated employees who are prepared to work at lower rates of pay than they would receive elsewhere. Generally, organisations report no difficulty in attracting enthusiastic people knowledgeable about the cause, but say that attracting business skills can be difficult, including at board level. This, plus the short-term funding environment deliver organisational structures and processes that are less effective and efficient than they might otherwise be, resulting in reduced output from available resources.

Several government agencies offer training and mentoring resources to build CSO capability (the Charities Commission; Te Puni Kōkiri (the Ministry of Māori Development); and the Ministries of Social Development, Health, and Education), as well as the Institute of Directors (governance), businesses (through community work days), and philanthropic organisations. Government also delivers a workforce development agenda of training and support to CSO service providers through the Department of Internal Affairs; the Ministries of Health and Justice; Child, Youth and Family (which is a service of the Ministry of Social Development); and district health

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[981] Banks, G., Murray, W., Overton, J. and Scheyvens, R. (2012), Paddling on One Side of the Canoe? The changing nature of New Zealand's development assistance Programme. *Development Policy Review*, 30: 2010, pp.169–186. doi: 10.1111/j.1467-7679.2012.00570.x

boards. Even the Electoral Commission provides funding to CSOs to meet common objectives,[982] especially where the government relationships with local communities are weak. Some major philanthropic organisations provide training, information, advice, and support to their client CSOs to assist their development and achieve positive outcomes. Some banks provide practical support to CSOs, which can generate more funding for CSOs.

Use of technology is improving but still lags behind government and business. Administration systems are typically labour intensive (not automated) and high cost for low volumes, with a risk of lost intellectual property and institutional knowledge when staff leave. Community organisations have much to gain from modern information technology, because it allows more effective dispersed membership activity, creates efficiencies in administration processes, and permits new areas of activity and innovations to be introduced in a sustainable way. It also assists communication with funders.

Some CSOs duplicate services and activities in their regions and local communities. And some CSOs are overly burdened by multiple reporting requirements to multiple funders. Government is slowly addressing these issues by considering improved funding models – with input and advice from CSOs – where multi-agency funding would be pooled and service tendering and contracting processes would be more transparent and streamlined across various government agencies. Whānau Ora is an example of such a model,[983] combining resources from multiple agencies and establishing national models for commissioning CSO delivery of services that meet specific whānau (extended family) needs.

Improved models are long overdue and would significantly increase the value CSOs could generate from a given level of resources. Flow-on effects would include CSOs clustering services into networks and combining administration functions. Fragmentation in government funding contracts is a major impediment to this goal.

CSOs find that it can be difficult to attract employees and volunteers. While some CSOs pay expenses, many volunteers are not reimbursed. People accepting a voluntary or partially paid role with a community organisation are providing a donation to that organisation. It is noted that donations of money to registered charities attract a tax rebate while donations of time do not and many of those interviewed would like to see a tax rebate for voluntary time. Many government departments regularly complete environmental scans of the CSO sector to plan for future investments and supports. The Ministry of Foreign Affairs and Trade, for example, has an extensive registration process for eligibility for its Partnerships Fund. These scans are usually conducted by individual departments whereas many CSOs provide services for multiple government agencies, so have to participate in multiple similar exercises, taking time from their core business.

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[982] Electoral Commission, "Resources and learning". www.elections.org.nz/resources-learning

[983] Whānau Ora is an inclusive interagency approach to providing health and social services to build the capacity of all New Zealand families in need. It empowers whānau as a whole rather than focusing separately on individual family members and their problems: Te Puni Kōkiri, "Whānau Ora". www.tpk.govt.nz/en/in-focus/whanau-ora [accessed 14 October 2013].

12.1.3 Independence (law)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of CSOs?

Score: 5

Legal safeguards exist, and there are no significant or immediate concerns.

CSOs enjoy high legal independence through several legal safeguards.

- Human rights law allows New Zealanders to form and engage in groups regardless of political ideology, religion, or objectives.[984]

- The law on trusts requires trustees to make decisions independently, and incorporated societies have constitutions or rules that require them to act in the interest of their members (through the stated objects of the society).

Government intervention is limited by law to legitimate areas of national security, public order, public health, and the protection of the rights of others.[985]

- The Charities Commission can investigate whether a registered charity is acting in line with its objects and has the power to de-register a charity.

- There are no regulations stipulating government membership of community organisation boards.

- There are no regulations allowing for mandatory government attendance at community organisation meetings.

- Consultation and tendering requirements for government agencies [986] ensure processes for awarding contracts are carried out according to best practice. Complaints about poor practice on the part of government agencies (including influence from external parties) can be made, in which case they are investigated by the relevant government agency. There is also the right to complain to the Ombudsman.

Those consulted report no other issues or actions relating directly to legal safeguards.

12.1.4 Independence (practice)

To what extent can civil society function without undue external interference?

Score: 4

Civil society is generally independent in practice, with improved performance possible through better disclosure of influence and the clarification of funding arrangements to enhance the public's knowledge of civil society and CSOs' ability to act independently in practice.

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[984] New Zealand Bill of Rights Act 1990.

[985] Human Rights Act 1993.

[986] See Bill Paterson, *Integrity Plus 2013: New Zealand National Integrity System Assessment – Public procurement*, supplementary paper 4 (Wellington: Transparency International New Zealand, 2013). www.transparency.org.nz/docs/2013/Supplementary-Paper-4-Public-Procurement.pdf

On a practical level, most of those consulted felt their organisation enjoyed a high level of independence, and that they could build necessary relationships on their own terms. Many community organisations reported that they were able to engage with other organisations in the community, government, and business as they needed to deliver their role. Many felt quite well established and did not report any constraints on their independence.

For some, however, independence is limited by political relationships and funding uncertainty, as noted above. A funder (whether government or business) can influence the activity of a community organisation in non-transparent ways.

Government service contracts can include contractual terms requiring the provider not to contradict or criticise government policy in that contract area or not to speak publicly about it. A community organisation may decide not to comment or to limit its comments for political reasons, including uncertainty around future funding and the need to compete effectively for scarce government funds. These factors can limit a community organisation's ability to represent and advocate for its members and to hold the government to account – a core role of CSOs.

Businesses or private interests may support organisations that understand their views and interests with the expectation that the organisation will help influence public opinion and gain them commercial advantage. They may fund an organisation directly to represent their interests, engage on their behalf, and advocate for them with government and the public to put their businesses or industry in a more positive light. These organisations play an important role representing their industries (for example, Federated Farmers of New Zealand, the New Zealand Forest Owners Association, Aquaculture New Zealand, and the Researched Medicines Industry Association) or providing services (for example, the Aged Residential Care Association, IHC,[987] the Paediatric Society of New Zealand, and the Disability Services Network). These organisations may claim to act in the public interest, publish good research, and even seek public donations.

It can be difficult for the public to tell in whose interests a CSO is operating (community, government, or business) and to respond appropriately. It can be difficult to differentiate between advocates for industry, business, or government and organisations that clearly represent the interests of a community group (such as Diabetes New Zealand, the Disabled Persons Assembly, the Association of Blind Citizens, Women's Refuge, and Transparency International). Effectively, the lack of transparency in the arrangements creates the potential for external interference in the operation of the more genuine CSOs or for self-imposed limitations.

CSOs must maintain their work and reputation across a broad range of stakeholders, including the public. They guard their brand and services against being associated with undue external influence. The variety of mechanisms to ensure this includes transparent appointment processes and strong governance and management processes.

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[987] IHC is the organisation formerly known as the Intellectually Handicapped Children's Parents' Association and New Zealand Society for the Intellectually Handicapped.

12.2.1 Transparency (practice)

To what extent is there transparency in CSOs?

Score: 4

Transparency is generally good with improved performance possible through better education of CSOs and citizens to help them interpret the available information, for example, from financial reports. This would increase public expectations about their operations, reduce variability in performance across CSOs, and identify poor-performing CSOs that should close.

There are some legal safeguards relating to transparency. The Charities Commission has supported or promoted regulatory changes to improve transparency in the operation of charities and other CSOs, including the External Reporting Board's programme of setting financial reporting standards for registered charities.[988] The Law Commission has recommended that these standards also apply to incorporated societies. The Fair Trading Act 1986 now requires third-party organisations that raise funds on behalf of charities to disclose the remuneration they receive for the service they provide to the charity.[989]

The Charities Act 2005 allows for information on the register of charities to be restricted if it is in the public interest to do so (such as for the protection of individual privacy).[990] The criteria are available on the Charities Commission website and include the right to challenge the decision. Those consulted felt satisfied with this process.

Disclosure requirements for non-registered community organisations are minimal, covering the basic legislative reporting requirements for their legal form, and do not reflect the wider interest that the public has in these organisations.

The Official Information Act 1982 assists the public to find information about government dealings with community organisations. Community organisations are not subject to the Official Information Act, but the government agencies with which they deal have disclosure obligations (unless information can be withheld under Official Information Act provisions, perhaps because it is commercial sensitive or would impede the provision of free and frank advice), and may be required to disclose information about their dealings with the organisations.

CSOs are subject to the Privacy Act 1993 and must release personal information about individuals to those individuals on request (unless withholding provisions apply).

Comment from consultations focused on how to ensure that the public had clear information about the many CSOs in order to make informed decisions when dealing with CSOs. There is a case for providing CSOs with education on best practice disclosure for organisations of their type and size, such as an easy check-list or self-

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[988] The External Reporting Board is an independent Crown entity established under section 22 of the Financial Reporting Act 1993 and subject to the Crown Entities Act 2004.

[989] Fair Trading Act 1986 s28(a)

[990] Charities Act 2005, section 25.

assessment process and links to education advice through the websites of the Charities Commission, Institute of Directors, and Ministry of Social Development.

Those consulted described a wide variety of activity and engagement approaches with their communities of interest. This is understandable given the large number of organisations operating across civil society activities. Common approaches involve the use of annual general meetings, strategic plans, audited accounts and financial reports, appointment processes, customer and client surveys, public gatherings and events, and clinical and service audits. The internet has significantly increased public access to information about individual CSOs. The public can access a substantial amount of information from CSOs because their nature as community organisations is built on principles of openness and transparency. The media also plays a significant role through its reporting activity and through specialised outlets and blogs that take watchdog roles on specific social issues.

Communities can be the strongest critics of their CSOs. They can require a CSO to review its overall agenda and processes in response to a new issue or event. The growing awareness of the effects of climate change, especially on small Pacific nations, and requests from their communities for assistance require organisations such as Oxfam New Zealand and Caritas to be ready to adapt plans and respond to such emergencies. The CSO needs to be flexible and dynamic in its approach to remain relevant to its community and supporters.

Parliamentary process offers several ways to profile and investigate concerns about undue influence – through a local member of Parliament, opposition parties, and the media attention such issues can attract.

Some registered charities maintain a high level of transparency with most reporting that they disclose more than legally required – "everything" is available to members, usually through annual reports with audited accounts. Incorporated societies with an active membership also generally report that they have very open and transparent processes as demanded by their members (irrespective of whether they are a registered charity). The pattern is one of regular newsletters, updates, and web content with members active in raising issues and expecting the organisation to respond quickly.

When seeking donations and public support, any organisation can present itself as a charity, whether registered with the Charities Commission or not. Unregistered charities face no requirement to disclose their use of funds. This raises transparency and credibility concerns.

Sporting clubs, independent schools, and faith-based organisations seem to be generally less transparent with a small number of active officers at the core of the organisation and the wider membership uninvolved. Sometimes, this is a result of smaller size and resources, but often it is simply a lack of discipline or knowledge or a desire to avoid questions (and the time required to answer them). The risk of inefficiency, tax problems, fraud, and poor accounting is still real for these organisations. Publicised examples include a religious organisation making large profits from donations from its congregation but not using them for charitable purposes, and a sports club spending a surplus on "investigatory" trips for club officials to international sporting events.

New Zealanders are largely under-informed about the levels of transparency and disclosure they should expect from their community organisations and even what disclosure to expect from registered charities. While some organisations provide a high level of information, greater public understanding of what to expect would create greater "pull" or demand for best practice disclosure and transparency. This is particularly relevant for sports clubs and faith-based organisations.

CSOs representing disadvantaged groups point out that many government agencies and many community organisations are uninformed about human rights requirements or ignore them. While attention is paid to equal employment opportunities and language requirements, attention to human rights overall is patchy. Examples for people with disabilities include access to sites, employment, interpreters, and the use of sign language. It would be helpful to define disclosure requirements on a CSO's performance against human rights legislation. Such disclosure could be graduated from self-reporting to more direct requirements where problems are found or self-reporting fails.

12.2.2 Accountability (practice)

To what extent are CSOs answerable to their constituencies?

Score: 4

CSOs are generally answerable to their constituencies with improved performance possible through better education of CSOs on good governance.

Information and training are available for CSOs to lift their capability and performance, but uptake is largely voluntary. Formal requirements (either legal requirements or strong industry standards) would improve governance performance.

Those consulted identified governance documents (constitution, rules, and memoranda) as the main form of accountability to constituents. Generally, organisations feel very accountable due to high transparency and a high or very high level of engagement with and challenge from their members.

These highly connected community organisations often exceed legal requirements. However, there is still a need for educating community organisations on the value of good governance, external input, and training and board evaluation.

Interviewees said the Department of Internal Affairs - Charities Service provides good guidance about "strengthening your charity" and covering the qualities of an effective charity in terms of governance, board composition, income, financial management, communications and information technology, human resources, planning, and evaluation.

New social media technology is enabling community organisations to engage more and at lower cost with their members and supporters. There is faster access to media, faster generation of views, and faster response to issues. Process improvements continue to refine this engagement and increase its effectiveness.

Community organisations that are not incorporated societies or registered charities often have very low levels of accountability to their constituencies. Examples include independent schools, churches, and business associations, which do not report financial and performance information, preferring to keep it private. Legal structures, such as some forms of trust, intended for private organisations require very little transparency about their purpose, members or beneficiaries, performance, or financial audit information. It is not always easy to distinguish between a semi-private organisation of this kind presenting as a CSO and a fully accountable CSO.

Those consulted described mixed results when asked about external membership of their boards and external review of board and organisation performance. Most reported that monitoring reviews by their funder provided some useful information, but were focused on monitoring a particular contract rather than overall board or organisational performance. Some organisations have no external input, satisfied that their diverse membership provides all the critique they need. Others who could benefit from external input (see above on attracting business skills) may be prevented from doing so by internal politics or the belief that only members can fill board roles. Some organisations have active external input and review as well as board governance training and performance assessments.

12.2.3 Integrity (practice)

To what extent is the integrity of CSOs ensured in practice?

Score: 5

CSOs generally display high integrity in practice with no significant or immediate concerns identified. There is a wide variety of CSOs and some concerns that smaller CSOs are limited in delivering on their integrity aspirations by factors such as limited resourcing and governance capability.

All respondents reported that integrity was of prime importance to them, their organisations, and their members. Community organisations with high engagement reported that membership trust and confidence and a wider public profile were paramount, and any issues around integrity were swiftly attended to. The quality of governance and management had a direct impact on delivering and maintaining a high integrity organisation.

As with all businesses, there have been occasional cases of fraud in CSOs. The manager of a women's refuge, for example, was convicted in 2013 of stealing NZ$100,000 from refuge funds.[991] There is no evidence of corruption or bribery in CSOs, even in the area of sport where problems in Australia prompted the Crown to conduct an investigation (now nearly complete) into corruption, crime, and doping.[992]

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[991] Kirsty Johnston and Rob Kidd, "No jail for Refuge manager who stole $100k", *Stuff*, 1 October 2013. www.stuff.co.nz/auckland/local-news/western-leader/9226290/no-jail-for-Refuge-Manager-who-stole-100k

[992] Simon Plumb, "Crown's probe into dope, corruption nears end", *Stuff*, 13 October 2013. ww.stuff.co.nz/sport/other-sports/9277518/Crowns-probe-into-dope-corruption-nears-end [accessed 13 October 2013].

Most CSOs rely on their constitution or rules to define their objectives and way of working, and several had a code of conduct for their membership and regularly reviewed compliance with the code. The New Zealand Red Cross, for example, adheres to the Code of Conduct of the International Committee of the Red Cross. Other CSOs working in international disaster relief also follow this code.[993] The use of codes of conduct seems to be a growing trend, possibly enabled by the useful guidelines and training on offer from the Charities Commission and other agencies (noted above). All reported active complaints processes, some through normal membership engagement and about half through formal complaints processes. Small and unregistered CSOs that do not have constitutions or rules, however, are less likely to adhere to codes of conduct.

Integrity also comes from credible (fast, informed, and forward-looking) responses to issues, enabled by social media technology. How a community organisation uses social media has a significant and increasing impact on the public's (especially young people's) views of an organisation's integrity. A recent forum at Victoria University of Wellington advertised through social media to promote women in politics attracted over 100 people, and the forum's Facebook page promoting causes such as preventing violence against women attracts wide interest.

Other community organisations and organisations seeking to "look like" community organisations in order to to influence public opinion for their stakeholders and funders are likely to allow the public to make positive assumptions about their integrity and public purpose by suppressing information to the contrary. As noted above, there is public benefit in tightening disclosure requirements for these organisations and tightening definitions around community or charity, service provider, and industry or business lobby group.

12.3.1 Hold government accountable

To what extent is civil society active and effective in holding government to account?

Score: 4

Civil society is active and effective in holding government to account with few significant or immediate concerns identified. There have been some significant successes. Overall, New Zealand CSOs are very capable in raising and promoting issues with the public to hold government to account. A range of mechanisms is available and CSOs are relatively free to utilise them.

CSOs take on advocacy and public watchdog roles, and some are set up explicitly for that purpose. Representing groups in the community and advocating for them are core activities in civil society. Lobby groups working for business or the narrow interests of a few individuals are outside civil society, so it should be easy for the public to identify them.

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[993] www.ndrf.org.nz

New Zealanders are proud of their ability to challenge the government through the usual political processes or through more overt public efforts such as marches, petitions, and public debate. New Zealand's political process is very open to this and generally responsive.

There are many examples of community organisations influencing government; in fact, a strong history of this in New Zealand. Notable campaigns have involved women's suffrage, Māori land, nuclear-free policies and legislation, the Springbok Tour 1981 (anti-apartheid action), women's rights, smoke free New Zealand, gay and lesbian rights, whistle-blower legislation, the introduction of mixed member proportional representation, the UN Convention of the Rights of Persons with Disabilities, Sign language as an official New Zealand language, and same-sex marriage. Recent challenges to the government have occurred on asset sales, a minimum or living wage, and charter schools. Pasifika have campaigned for a Pacific language framework and early childhood education.

Citizens can access independent commissioners or ombudsmen responsible for protecting their rights and dealing with queries from the public in the areas of human rights, privacy, health and disability, children, judicial conduct, environment, banking, and insurance. Citizens can also access the Office of the Ombudsman with complaints about central and local government agencies, requests for official information that have been refused or ignored by government agencies, and whistle-blowing.

Recent examples where concerns raised by the public were not addressed quickly enough included paedophiles in schools, an Accident Compensation Corporation security breach, and the Ministry of Education pay system (Novopay). These issues have generated considerable political heat and pressure on the government to address such issues and act more quickly in future.

Technology enables community organisations to drive more and more public engagement, debate, and comment. This poses a challenge to government to keep up to date and fully utilise new technology.

There are complex issues about the role of media – whether commercial media models are reducing the standard of investigative journalism and making it harder to raise public debate. These issues are addressed in the media pillar report.

12.3.2 Policy reform

To what extent is civil society actively engaged in policy reform initiatives on anti-corruption?

Score: 3

Government engagement with CSOs appears haphazard and often late or non-existent. Greater clarity is needed about how government gains high-value CSO input into policy development.

The main anti-corruption focus comes from TINZ, which is very active. In addition to conducting this NIS assessment, it monitors and comments on government activity, especially in relation to progress towards adopting international best practice, has

developed an anti-corruption training programme in conjunction with the SFO and actively recruits members and allies in the public and private sector. It also holds regular public forums, seminars and workshops, works closely with the other five TI chapters in the Pacific, and has a strategy to work in partnership with the public sector, civil society organisations and business to strengthen integrity systems.[994]

There is less general focus on anti-corruption in New Zealand, because the country considers itself to enjoy low levels of corruption. Although there is therefore little civil society activity that is directly linked to anti-corruption policy, it is likely that any such activities would face the same problems as other attempts to participate in government policy reform.

CSOs are involved in policy activity when the opportunity arises – either they are asked to participate in policy development or they respond to formal consultation processes. Given the variety of community organisations and interests, some are very engaged in policy processes while others only become interested if there is an issue of specific interest to them. The result is a variety of examples of engagement across all aspects of government activity.

Organisations with representative or advocacy roles for their members, such as disabled peoples organisations consulted, report that it is often hard to gain involvement and input early in policy processes. They believe government could better use their intimate knowledge of the subject-matter and their members' views at an earlier stage, resulting in better policy advice and lower costs. As these organisations build up their credibility through more-effective online functionality, increased transparency on issues, and faster responses, they are likely to demand greater and earlier input into policy processes.

Input is improving for disabled peoples organisations following acknowledgement in the UN Convention on the Rights of Persons with Disabilities (which New Zealand ratified in 2008) that they have a partnership role with government in policy development, service design, decision making, and reviews of effectiveness.[995] The purpose is to ensure that "lived experience" informs policy development from the outset. This is a new and innovative approach, and New Zealanders were closely involved in developing the convention (for example, Don Mackay chaired the Ad Hoc Committee to draft the convention). This approach places community organisations representing (and advocating for) people with disabilities at the centre of policy development. This is a significant challenge for government, requiring new approaches to community engagement and use of modern technology.

The key issue is ensuring community organisations are resourced to provide effective input into policy processes and that this input occurs at early stages. All of the actions listed earlier in this report will assist this, particularly actions to clarify the funding of representation and advocacy services as distinct from service delivery.

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[994] www.transparency.org.nz

[995] UN Convention on the Rights of Persons with Disabilities: Article 4.3.

Clear government process and timing, with early involvement from representative groups in policy development is key. Often government agencies use tight timeframes and the need for confidentiality as reasons to avoid early input from representative groups, thereby missing the opportunity for highly informed input early in the process. These groups are then disadvantaged by trying to redress poorly defined policy late in the process or, worse, through formal consultation processes. Government would gain significant value from designing ways to gain early input from highly informed representative groups.

12.4.1 Treaty of Waitangi

The Treaty of Waitangi can be understood to create obligations of partnership, respect and participation. What do the institutions that make up the civil society sector do to partner with Māori, to respect and affirm Māori rights to make decisions and to enhance Māori participation in their field of activity? In particular, where civil society institutions have legal rights and obligations in this respect given to them by the Crown, how well do they honour them, including any Treaty obligations passed on by the Crown?

Civil society generally gives effect to the spirit and principles of the Treaty of Waitangi. There is large variation across CSOs given their diversity. Continued effort by Māori and government to define the status of the Treaty and set performance standards for government organisations will, in turn, provide greater clarity for CSOs. Education remains a key first step to increasing overall community awareness and attention to Treaty partnership in the direction and progress of Aotearoa (New Zealand).

There is no overall legal requirement for community organisations to observe the Treaty and its principles of partnership, respect, and participation, but there are requirements within specific legislation. Organisations established by Māori and those focused on Māori issues will obviously have tikanga Māori at their core, and many other community organisations see incorporation of Treaty principles and tikanga as essential to their integrity and credibility within the community. Treaty principles are accessible, but organisations need to create shared understanding with iwi and Māori generally as relevant to the community of interest.

There are views within Māori society that the principles of the Treaty[996] are a set of themes that, while valuable, can take the emphasis away from the core of the Treaty contained in its articles. The articles were signed up and agreed to by Māori and the Crown in 1840, and it is the articles that define the relationship that should exist between Māori and the Crown. The reduction of the Treaty articles to a set of principles occurred because the State Services Commission was required to define the application of the articles to other government agencies. The current complexities of the constitutional debate about the place of the Treaty and differing Māori views on the Treaty mean it is difficult to describe what community organisations should do to appropriately reflect Treaty principles and tikanga in their work. Most Māori advocate for their rights as tangata whenua who have a sense of obligation to all who live in Aotearoa.

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[996] State Services Commission, 2005.

The Human Rights Commission reports survey results showing low levels of public awareness about the Treaty – only 55 per cent of New Zealanders considered the Treaty New Zealand's founding document, and only 25 per cent rating the Māori–Crown relationship as healthy.[997] The commission is working actively to make Treaty status and principles more accessible to New Zealanders mainly to raise the base level of awareness.

To increase the level of integrity in the debate about a better understanding of the Treaty, an approach needs to be centred on strong education initiatives and, as a first step, focused on why it is important to engage in a culturally appropriate manner. Such an approach would look at how relationships could be enhanced to build the sustainable relationships required to lift overall understanding across the population, and create a more fertile base for further improvement.

More and more community organisations are taking account of local tikanga when forming, choosing a relevant organisation name, and defining their kaupapa. These organisations may not incorporate Treaty principles into their work, but many will recognise and practice Māori greeting protocols (waiata, mihi, pōwhiri) and te reo Māori (language) in their signage and websites. Māori is one of two official New Zealand languages (the other being New Zealand Sign Language). Interestingly, English is not an official language, but a convention due to its wide use. Several organisations reported that they had, or were introducing, tikanga workshops for staff and members. Almost all stated that their efforts to learn and practise tikanga Māori were increasing each year, and a few indicated attention to assisting staff to develop te reo Māori and use it in their organisation.

Education should be provided for CSOs on minimum and proficient levels of achievement in attending to Treaty principles and tikanga Māori, including self-assessment tools. Consideration could be given to including these requirements in the information on registered charities that the Department of Internal Affairs – Charities Service holds. CSOs that work in this area could provide Treaty education.

Many government funding contracts contain requirements for providers to incorporate Treaty principles into their work, to make their information available in te reo Māori, and to ensure staff are trained in tikanga Māori.

Māori are active in providing volunteer workers throughout New Zealand society including marae activities, the Māori Woman's Welfare League, sports clubs, youth groups, justice organisations, Māori wardens, and others. Māori identification with their traditional area (tūrangawaewae) as well as with whānau, hapū, and iwi is a strong driver of this volunteerism. Volunteering and political involvement at all levels involves Māori in the growth and development of Aotearoa New Zealand.

Special occasions such as Waitangi Day and the annual event at Ratana Pa provide opportunities for ordinary citizens, predominantly Māori in these cases, to present their views on issues of the day directly to politicians.

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[997] *UMR survey results: The Treaty Relationship in 2011*. Human Rights Commission.

References

Banks, G., W. Murray, J. Overton, and R. Scheyvens, "Paddling on one side of the canoe? The changing nature of New Zealand's development assistance programme" *Development Policy Review* 30, 2010, p. 169. doi: 10.1111/j.1467-7679.2012.00570.x

CIVICUS, "CIVICUS 2013: Enabling Environment Index". civicus.org/what-we-do-126/2013-05-06-10-38-39

Electoral Commission, "Resources and learning". www.elections.org.nz/resources-learning

Johnston, Kirsty, and Rob Kidd, "No jail for Refuge manager who stole $100k", *Stuff*, 1 October 2013. www.stuff.co.nz/auckland/local-news/western-leader/9226290/no-jail-for-Refuge-Manager-who-stole-100k

Law Commission, *A New Act for Incorporated Societies* NZLC R129 (Wellington: Law Commission, 2013).

Law Commission, *Review of the Law of Trusts: A Trusts Act for New Zealand* NZLC R130 (Wellington: Law Commission, 2013). www.lawcom.govt.nz/project/review-law-trusts

Plumb, Simon, "Crown's probe into dope, corruption nears end", *Stuff*, 13 October 2013. ww.stuff.co.nz/sport/other-sports/9277518/Crowns-probe-into-dope-corruption-nears-end [accessed 13 October 2013].

State Services Commission, *All about the Treaty* (Wellington: State Services Commission, 2005). www.nzhistory,net.nz/files/documents/All_about_the_Treaty.pdf

Statistics New Zealand, "Counting non-profit institutions in New Zealand 2005". www.stats.govt.nz/browse_for_stats/people_and_communities/Households/Non-ProfitInstitutionsSatelliteAccount_HOTP2005/Commentary.aspx

Statistics New Zealand, "Gender and unpaid work: Findings from the Time Use Survey", 2001. www.stats.govt.nz/browse_for_stats/people_and_communities/time_use/gender-and-unpaid-work.aspx

Te Puni Kōkiri, "Whānau Ora". www.tpk.govt.nz/en/in-focus/whanau-ora [accessed 14 October 2013].

UMR Survey Results: The Treaty relationship in 2011. Human Rights Commission.

World Economic Forum, *The Future Role of Civil Society,* World Scenario Series, January 2013.