Charity Regulation

Light-handed by necessity?

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Outline

- Why do charities form?

- Why regulate them?

- Who is regulated in New Zealand?

- How are these charities funded?

- A schema for change

Why do charities form?

- ## Market failure
  (Rose-Ackerman, 1986)

- ## Government failure
  (Weisbrod, 1988, 1989)

Draw funds from donors, government, sponsors…

- ## Contract failure
  (Ben-Ner, 1986)

Draw funds from members, sponsors…

- ## Other?

Why regulate charities (1)

- Idea of 'market' for charitable donations and need to operate effectively

  – Need to 'promote public trust and confidence in the charities sector' (Charities Act, 2005, s.10.1(a)).

  – And should: 'encourage and promote the effective use of charitable resources' (Charities Act, 2005, s.10.1(b)).

- Market notion leads to need to restrict entry and monitor miscreants

Why regulate charities (2)

- Market notion also leads to notion that information is necessary for accountability
  - E.g. annual return and charity information
- Late information may result in de-registration
- Poor information has previously been acceptable (Financial Reporting Bill may change that)

Carrying out regulation

- Deterrence and enforcement
  - Active monitoring and audit
  - De-registration
- Light handed compliance regime
  - Education (e.g. newsletters, information sheets, website, forums)
  - networking with stakeholders
- Cost-effectiveness tactics
  - Sampling
  - Responding to complaints

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Arguments against regulation

- Donors/funders don't check the information anyway

- Reporting is burdensome to charities

- Each segment of the 'market' (charities) is different and should be regulated differently
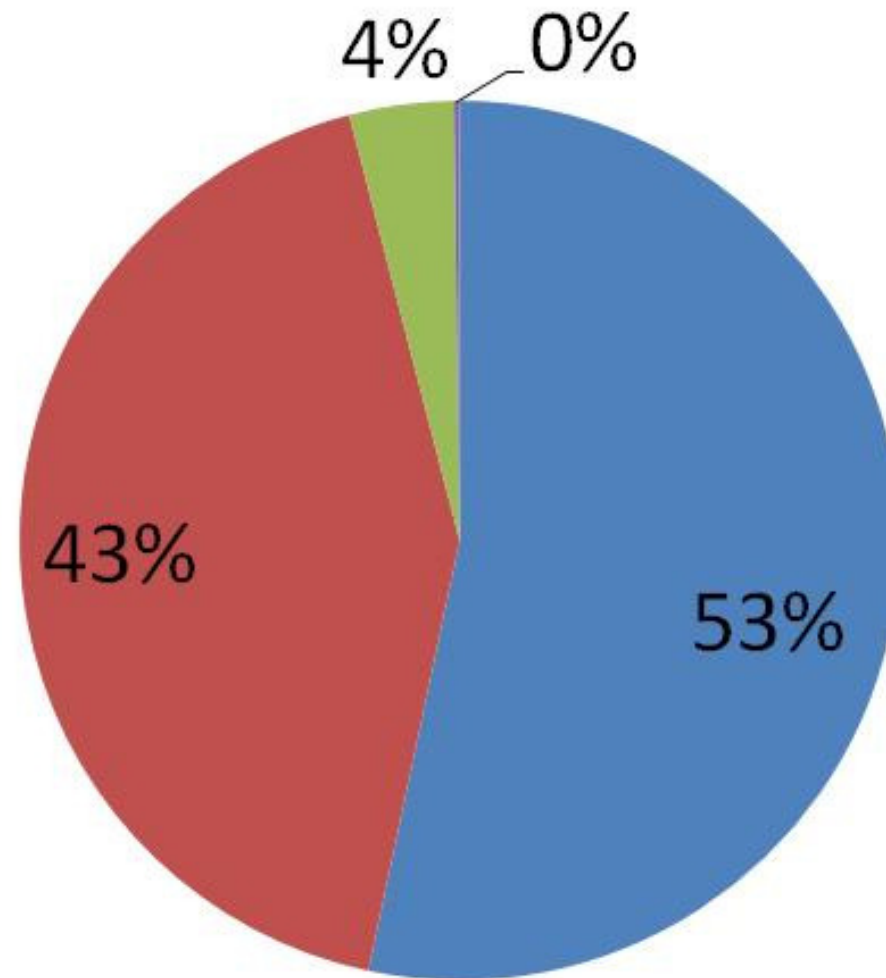
Expenditure

- < $40,000
- $40,000-$2m
- $2m - $30m
- > $30m

4% 0%

43%

53%

Income sources (from 16,478 returns)

- Government grants 34%
- Donations 7%
- Service provision 35%
- other 24%
- 41%
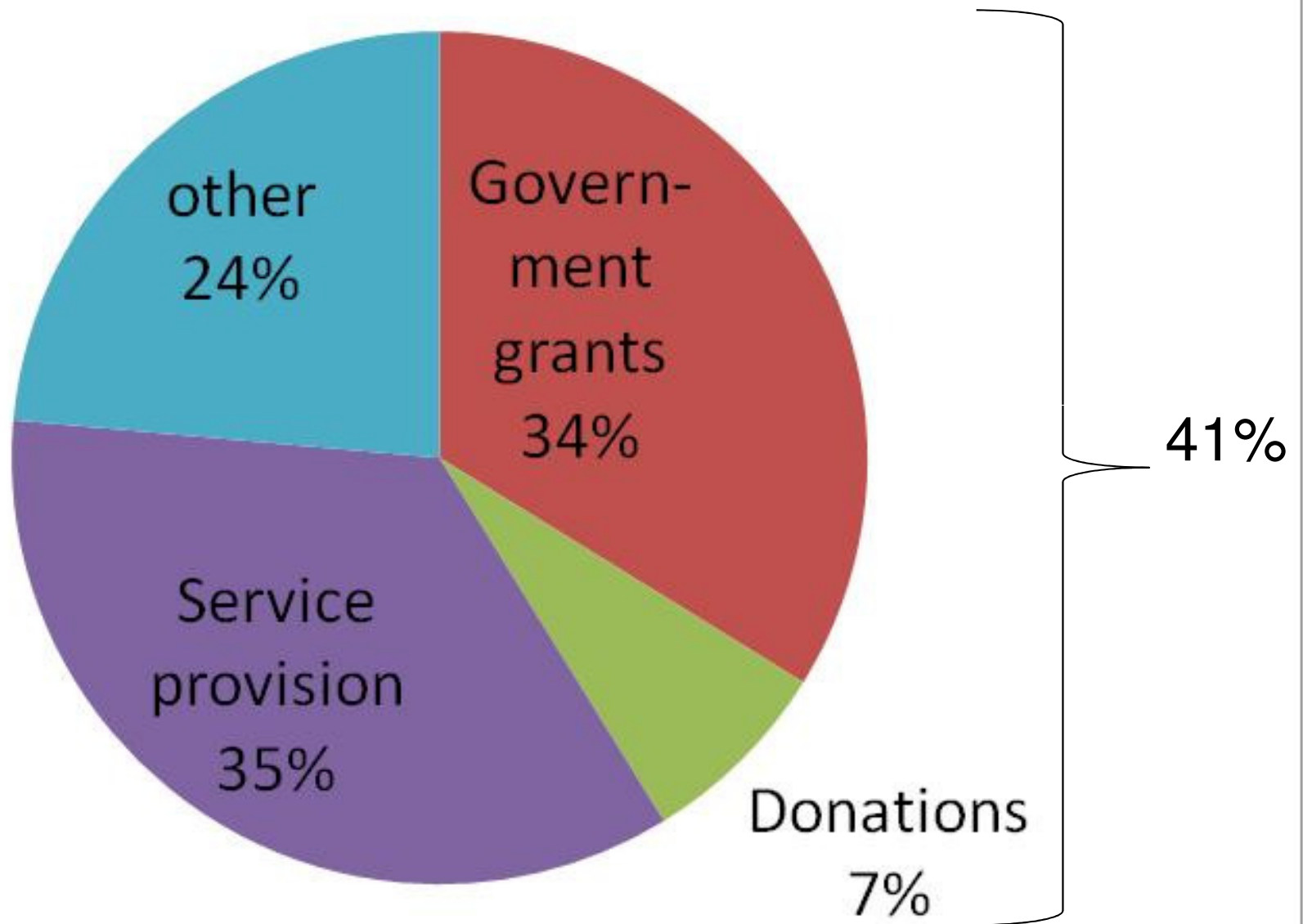
Dissecting the Charities register

- Data collected Nov 2011 and analysed through 2012 from 836 charities
  - Approximately half small (exp <$40k) and half medium (exp >40k, <2million)
  - Stratified random sample across sectors and activities
- Charities' summary pro-forma filings compared to underlying financial and narrative reports
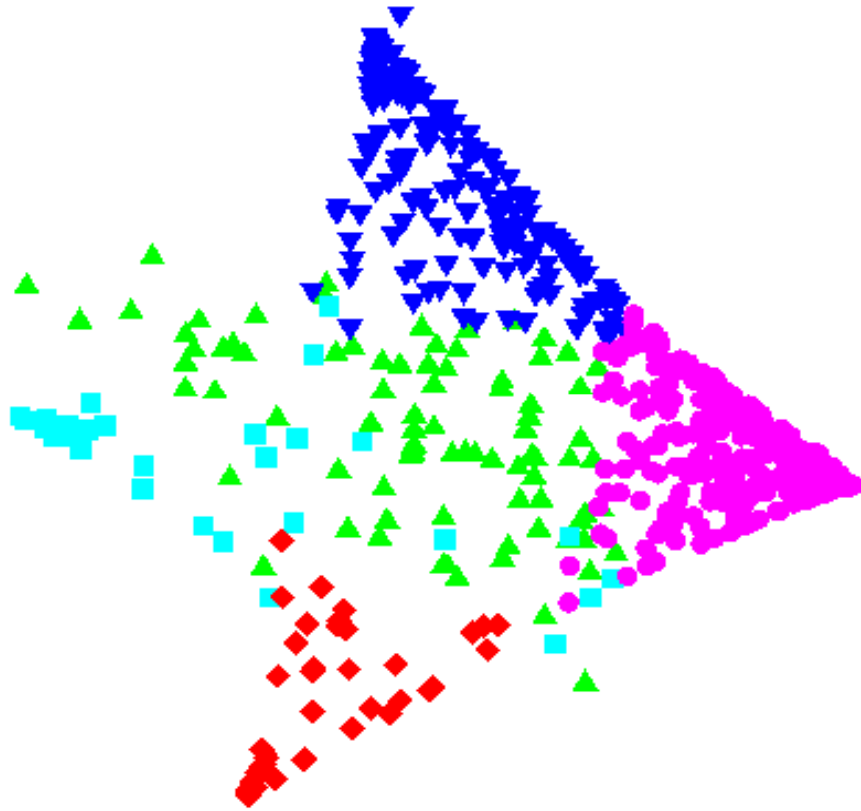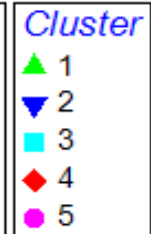- Final analysis compared to 2010 data set of 300 charities

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Charity taxonomy

How are charities funded?
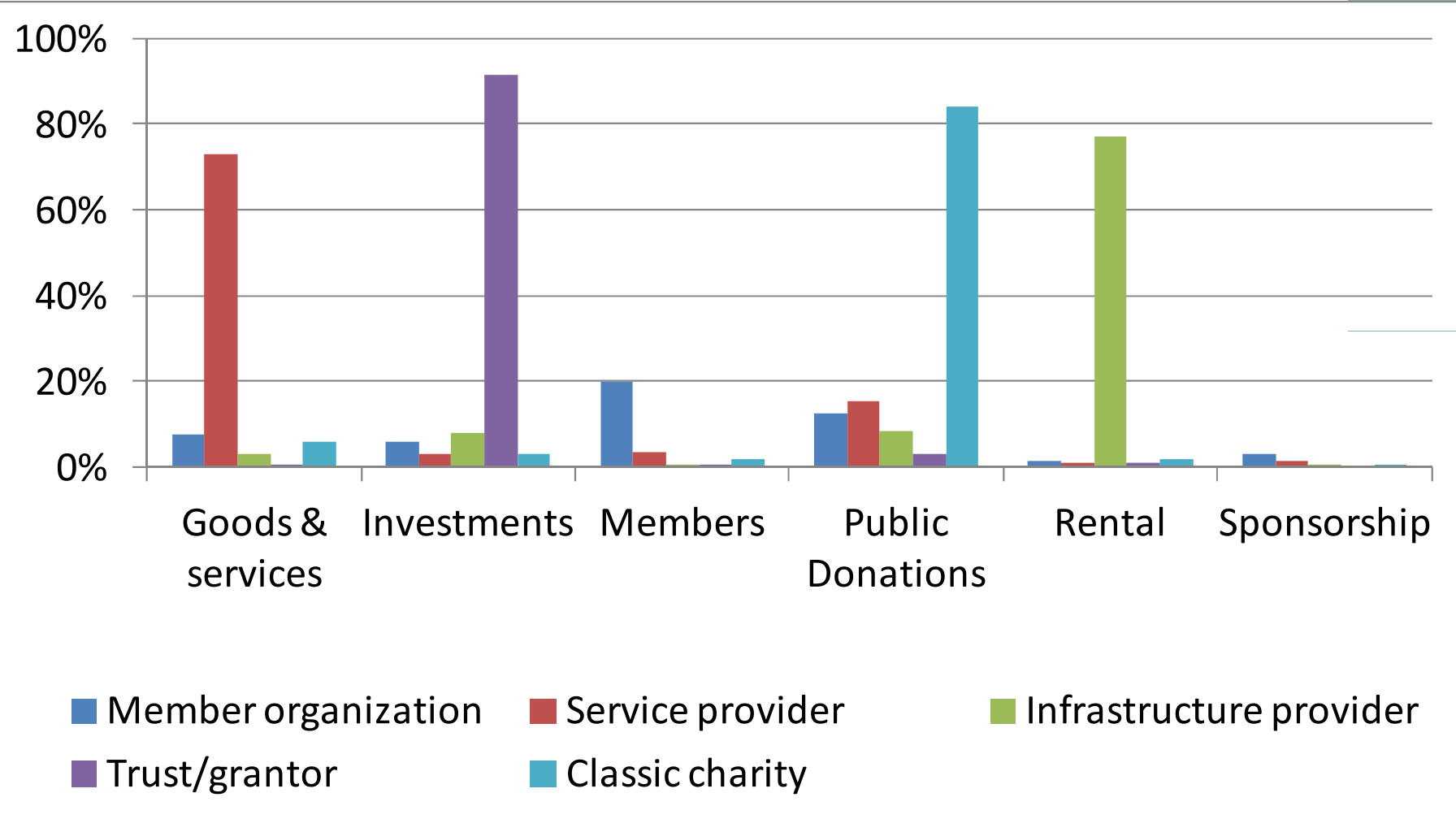
Infrastructure provider, 2.00%

Trust/grantor, 14.20%

Classic charity, 17.90%

Service provider, 33.45%

Member organization, 32.45%

51.35%
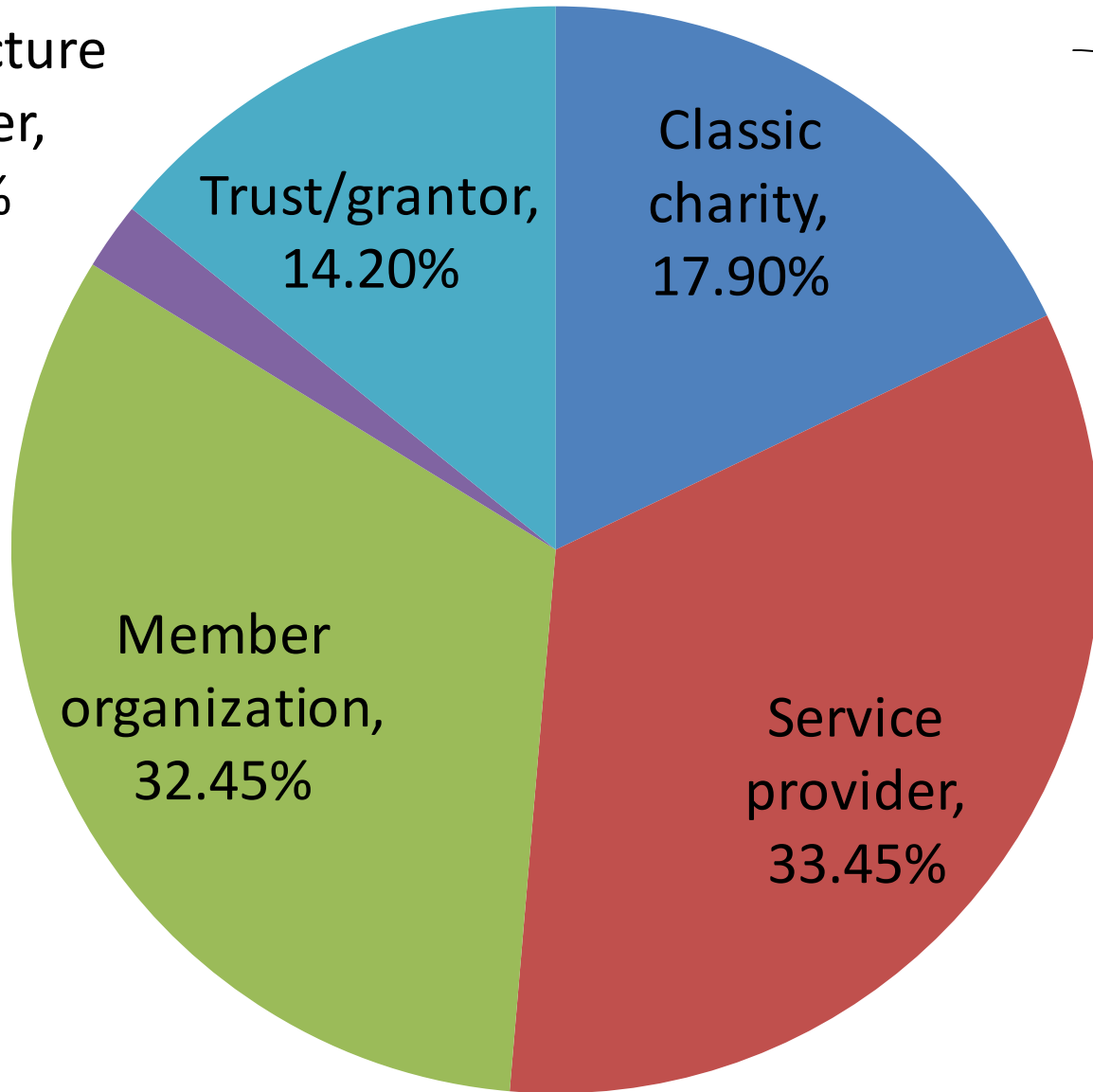
A schema for change?

Cluster	Main funder	Secondary funders	Type of regulation
1. Member organisation	Membership	Services, sponsors, investments, donations	Self regulation (member managers)
2. Service provider	Funders of goods and services	Donations, investments, members	Public regulation (government-funded services)
3. Infrastructure provider	Rental	Investments and donations	Self regulation (trustee/managers)
4. Trust/grantor	Investments	Donations and rental	Self regulation (trustee/managers)
5. Classic charity	Donations	Services, sponsors, investments, members, rental	Public regulation (public donations)

Conclusion

- Within a public interest based notion of charity regulation, available resources constrain effective regulation

- Enthusiasm for 'registered charities' has led to 'over registration'

- Charities that do not depend on public resources should be monitored by members and trustees