

Your **VOICE** for the future



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Chairman's Report

POSITIVE STEPS TOWARDS A SAFER SOCIETY AND SAVING OUR NATION

Just over nine years ago a small group of citizens with a common purpose gathered in Napier, the common interest being their concern at the alarming increase in violent crime.

It was the unanimous opinion that criminal justice policies over recent years had paved the way for escalating violence and were largely responsible for the corrosion of modern society.

That initial meeting was the birth of the Sensible Sentencing Trust.

The media attention surrounding the birth of the organisation was followed by numerous calls from Victims wanting to share their knowledge or experience of and with the justice system.

From those initial contacts we were able to quickly ascertain that victims had no rights and no voice. Any victim brave enough to complain was quickly silenced by the establishment.

The Sensible Sentencing Trust has successfully united the voice of many Victims and is now bringing about a complete revamp of the justice process and the role of Victims within that process.

The current review of Victims Rights will continue the rebalancing and restructuring of what has become a totally deranged criminal- centred offender- friendly legal process.

The Sentencing and Parole Reform Bill currently being considered by Parliament is a vital piece of the jig-saw to remove repeat violent offenders either by a three-strike policy or the introduction of life sentences for murder and no parole for recidivist violent offenders.

Sensible Sentencing has also supported the introduction of discipline styled boot camps for youth offenders and container prisons to reduce the cost and luxury of modern day prisons. Both these concepts are now a reality.

Our success has caused some critics to be very hostile towards The Sensible Sentencing Trust, but none have yet offered any constructive alternative to the problem. Their simplistic solution is more money or more time!

The escalation in violent crime was caused by the weakening – or in some cases removal of – legislation to hold people accountable and responsible for their actions. This was quickly followed by deteriorating social and moral values.

To reverse the damage done by years of liberalisation it was essential to begin with justice reform.

While legislation is not a panacea there is no doubt that the role of legislation is to clearly define the boundaries and direction of society.

By exposing the folly of past policies Sensible Sentencing has upset many of the bureaucrats and legislators deeply entrenched in the bowels of the establishment in Wellington. But realistically all they needed to do was to look in the rearview mirror to see where N Z had come from and where it was heading.

Justice reform is paving the way for social restructuring and I would like to thank our many thousands of supporters and financial donors who have made the Sensible Sentencing experience possible.

Our job is only half done. The fight to build a better New Zealand is a long and costly one, but give us the tools and we will finish the task.

Your continued support is not only appreciated - it is essential.



VICTIMS RIGHTS HIGH ON THE AGENDA

REVIEW OF VICTIMS RIGHTS

The key proposals are:

Establish a Victims Services Centre as a central coordination and information point for the services available to support victims.

Develop a Code of Practice against which all criminal justice agencies can be held more accountable.

Establish a Victims of Crime Complaints Officer to improve the complaints process and assist in enforcing the Code of Practice.

Report to Parliament. All criminal justice sector agencies are to include in their Annual Report information about the use of their services by victims and any complaints received from victims.

Improve victims' role within the criminal justice process by providing for more communication between victims and prosecutors to ensure victims have the opportunity to be more involved in the case.

Provide further victim information to the court by giving victims the right to say more in their Victim Impact Statement.

Improve the Victim Notification System for victims of serious offences so victims can choose the level of notification they receive and control their level of involvement.

Clarify the rights of victims of child and youth offenders by ensuring the Victims Rights Act 2002 is more explicit as to how it applies to cases in the youth jurisdiction.

VICTIMS INFORMATION PROJECT

New information resources will increase the amount of information available to victims and are scheduled to be distributed 1st July 2010:

DVD to give victims clear information about the criminal justice system how it works, what help is available and how to access that help. Each chapter will outline and explain different steps in the journey through the system.

Three information pamphlets

1. Criminal court processes and support services available to victims of crime.
2. The criminal justice system specific to the needs of victims of sexual violence.
3. The criminal justice system specific to the needs of people affected by homicide.

The Sensible Sentencing Trust is heartened by the Government's proposals to address some of the concerns victims of crime have. The Trust has been actively promoting many of these issues and has been involved in the recent public consultation document.



The Trust believes that while these proposals will improve services for victims there is still more that needs to be done to strengthen the rights of victims within our criminal justice system.

The Victims Rights Act 2002 is an Act in principle only and is **not legally enforceable**. At present there are no consequences if anyone breaches this act and there is no avenue for victims to seek redress. The rights of victims should be enshrined in enforceable legislation to ensure they are given due care and respect and any breaches must result in consequences.

Murder victims' families should be given the right to have a legal representative and/or advocate in Court to defend the reputation of the deceased. The representative should have the right to address the Court and rebut any untruths told about the victim, which at present often go unchallenged. Victims should have equal standing to the accused and have the right to legal aid.

The Parole system needs an overhaul as hearings are held when everyone involved (except the victim) knows that the offender is unlikely to be released. This creates unnecessary stress and trauma on victims and a waste of valuable resources.

While the Sensible Sentencing Trust has had a major impact on achieving greater rights for victims of crime, the Trust continues to fight for those who have had their lives devastated by violent crime and for those victims who unfortunately will inevitably follow.

Wendy DeHler

WHY RESTORATIVE JUSTICE CONCERNS ME

Words by Kristine Johnston - Mother of Murder Victim Shannon McComb

Restorative justice in the New Zealand justice system in cases of murder concerns me because:

- The life of the victim can never be restored
- The lives of the victims' families can never be restored
- The opportunity for misuse and abuse is evident where restorative justice is offered pre-sentence.

Sec 8 Sentencing Act 2002

Principles of sentencing or otherwise dealing with offenders

In sentencing or otherwise dealing with an offender the court must take into account any outcomes of Restorative Justice processes that have occurred on that the court is satisfied are likely to occur, in relation to the particular case (including, without limitation, anything referred to in Section 10 (sec 8 (J)).

For the above reasons, only the offender can benefit from it and the act gives incentive for the appearance of remorse.

It is steeped in Christianity which promotes guilt and pressure for victims if they refuse to comply. Personal spiritual beliefs used in the judicial system **are prejudicial to the "offence" of the crime and the victim**. The Christian concept of forgiveness within Restorative Justice can cause such deep anguish for victims and the thought of forgiving the killers of my son is such a breach of my own ethics and values. Telling me to forgive transcribed into a devaluing of my son's life.

I am wary of the use of religion and culture as a reason to set an offender free or to lighten their sentence has nothing to do with why the offender is where he is in the first place. Some in power want to release killers early to satisfy their own desire of what they believe God intends. The result is often that the community is harmed further by violent offenders who know how to abuse that vehicle.

An example of this is Bailey Kurariki jnr and the headline that read **"Kurariki finds God and culture"**are unanimous in their view that he is very unlikely to reoffend on release."

We have a problem when victims are told by Parole board members they would feel better meeting the offender; or by

embracing forgiveness; or the offender gets upset not going home for Xmas. A judge should never be able to bully a victim into restorative justice and neither should those sitting on the parole board and nor should a victim be made to take part in this process or feel guilty because of legislation or religious beliefs.

It is an abuse of power when those in authority place their message and belief on to another who is affected by the crime in a way those in power could never possibly know or understand.

"Mixing Restorative justice with the crime of murder is like mixing oil and water".

A verse from a poem written by Kristine

Shannon was taken from me in the dead of the night

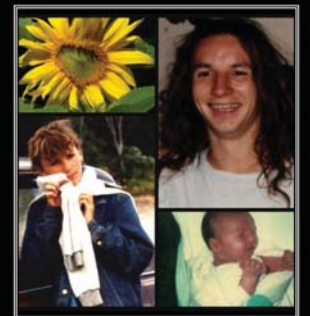
No remorse seen or shown as they made their flight

A death sentence and life sentences these killers handed out

No mercy given-sanctity of life these killers chose to flout.

The indescribable pain and grief that entered my soul

Has changed forever my space within my mother role



FROM LOVE COMES PRIDE, COMES PAIN, COMES MEMORIES, AND YES, COMES JOY
THE LIGHT IN HER EYES. SHANNON JOH MCCOMB

TRUST COMMENTS

The Trust is concerned that the Restorative Justice model used in New Zealand is offender focused rather than victim focused. Restorative Justice should not be legislated for or used other than as a rehabilitation tool. In New Zealand, Judges **must** take account of a Restorative Justice meeting prior to sentencing. Offenders often use the restorative justice process as a means of reducing their prison sentence. Until Restorative Justice meetings are held post sentence (not tied to sentencing) and meetings are victim initiated then restorative justice in New Zealand will remain offender biased. The Trust would like to see New Zealand adopt the NSW Restorative Justice model. Their Restorative Justice Unit is run under the NSW

Department of Corrective Services. **Applications for RJ meetings are only accepted once the offender has been sentenced.**

Meetings are considered along with rehabilitation programs and no report is submitted to the Parole Board as meetings make no difference when considering release. All those working in a voluntary or paid capacity with Restorative Justice must have a clean criminal record.

Until Restorative Justice in New Zealand is victim driven and not driven by legislation or the criminal fraternity, the Trust believes the true principles of Restorative Justice are being compromised.

TRIAL FOR MURDER OR CHARACTER ASSASSINATION AND REVICTIMISATION OF THE VICTIM... YOU DECIDE!

We were warned the trial would be terrible and to try and prepare for it but how do you prepare for the trial of your child's murderer? I didn't believe what they said anyway because after all, how could anything be worse than losing your child in a horrifically frenzied, extremely violent and brutal attack? We were about to find out.

Nicholas Hawker was originally charged with the murder and sexual violation of my daughter Vanessa. However during the time between the murder and the trial, the Crown Prosecutor decided to drop the sexual violation charge as he wanted to concentrate on the murder charge and because in New Zealand you serve a sentence concurrently therefore it did not matter; except it really mattered to me as Vanessa's Mother! He sexually assaulted her and there were no consequences for his actions, so in effect the sexual assault was a freebie! I made an appointment with the Crown Prosecutor and he and I debated this for an hour but in the end he said it was his decision and there was nothing more I could do about it! This was just the start!

Hawker physically murdered Vanessa and the Defence then systematically set out to destroy her through character assassination and innuendo and by using the defence of provocation in the attempt to get Hawker off on the lesser sentence of manslaughter (even though Vanessa had never met him till he attacked her). Never at any stage did we have any right of reply and neither were we able to refute any of what was said as we all know, it is the Crown/State prosecuting, not the family therefore we had no more rights than anyone else sitting in that courtroom watching and listening. Vanessa was just 15 years old and the Defence tried extremely hard to blacken her name and memory. Why is it the Defence could literally tear Vanessa's young life apart and infer anything they wanted, regardless of whether it was fact or not and yet Hawker's background was not allowed to be mentioned in case it should prejudice the outcome? How can a jury make an informed decision, yet not be in possession of all the facts?

In essence Vanessa was put on trial and it was a living hell. Nothing, but nothing could ever have prepared us for the horror, futility and further anguish it caused us. It was like losing Vanessa all over again. Having to go into that courtroom day after day knowing what was happening made me physically sick and filled me with abject horror, but we had no choice as we had to be there for our child.

All of this was done for the offender on legal aid. Where are the scales of justice?

After the trial I wrote to the Defence lawyer and one of the questions I asked him was *how he slept at night*. I never received a reply...

Hawker was eventually found guilty of murder and sentenced to mandatory life imprisonment. I thought, thank goodness he will be in prison for the rest of his life, only to then find out mandatory life imprisonment means you are eligible for parole after 10 years and so then began the process of going before the Parole Board.

And so it goes on.

Leigh Woodman

Thank you Leigh for sharing that gut wrenching story with our readers, I can assure you that we will do everything in our power to change this archaic system. The grief, the pain, the sense of loss and bewilderment after losing a child in any circumstances must be bad enough. But the public and officials need to understand that when a child is tragically murdered a whole new dimension of unexplainable emotions and reactions are now the reality of YOUR life sentence.

The violent destruction of a life is bad enough but our current offender friendly criminal justice process explodes that grief to a level that the average person could not comprehend. Government's primary duty should be to the well being of its people particularly those who have suffered a tragedy such as Leigh describes above. The needs of murder victim families should be met with care and compassion, not the cold hearted frigid reaction from New Zealand's current criminal justice process.

It is the least we can do for the families and friends of murder victims!



FORGET THE OFFENDER - THREE STRIKES IS FOR THE VICTIMS

The critics of the proposed three-strikes seem to have forgotten the victims that this legislation is designed to protect and prevent.

The last five decades of offender biased liberalism has fostered the emergence of a very violent and criminal culture. As violence soared officials reacted with the introduction of even more lenient anti-prison policies to further reduce the possibility of an offender going to prison, no matter how many crimes or violent the offending.

Three-Strikes is the beginning of putting the emphasis back on the safety of the community and putting the well-being and protection of future victims before that of the offender.

Crime is a choice and prison is entirely voluntary, three-strike legislation simply is just desserts for five decades of the criminal friendly excuse driven mentality!

Garth

Quotes from Corrections Minister Judith Collins Opinion in the Dominion 15/4/10

"The best way to reduce crime is undoubtedly to create a culture **where crime is not accepted** and where people have respect for others, their property and the **law**".

"The road to a third strike is a long one which involves clear warnings delivered by a judge about the consequences of further serious offending and considerable time in prison where it is hoped they will reflect on their actions".

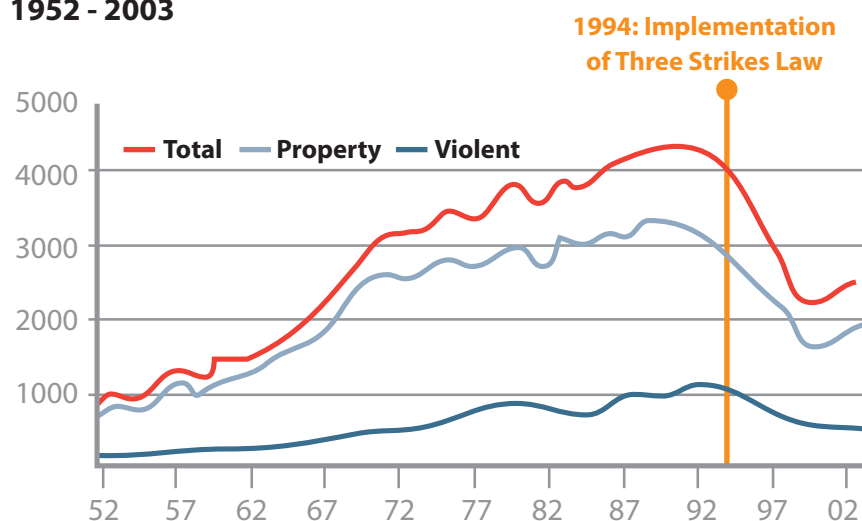
"By helping keep the worst repeat offenders behind bars for longer and deterring criminals from committing further crimes because of the escalating severity of sentences, the three strikes legislation will help make New Zealand a better, safer place."

"The point I would like to make is that none of the 41 qualifying offences for three strikes is relatively minor. All involve serious violence or sexual offending, and all have a maximum penalty of at least seven years in prison. Perhaps more importantly, they all have a long and profound impact on the lives of victims"

WHY PRISONS WORK

The Graph below gives a very good indication on how the Three strike law has worked for the state of California.

California Crime Rate - Per 100,00 Population 1952 - 2003



Source: Legislative Analyst's Office (LAO)

"Three strikes sends the clear message that repeat violent offending won't be tolerated. It is about making our homes, our businesses, and our communities safe again. An essential element of the Three Strikes policy is that it deliberately escalates the punishment for repeat violent offenders. Most offenders won't want to risk a second strike, and especially a third strike"

David Garrett

VICTIMS OF CRIME - POSITIVE CHANGE

August this year the Trust will take the Annual Victims Rights Conference to Wellington.

This year's Conference is being held in the Grand Hall in Parliament Buildings hosted by Cross-Party representatives and jointly sponsored by Red Raincoat Trust. It will include politicians, justice officials and those with an interest in the criminal justice system.

Last year's conference in Taupo focussed on the Court System and many Victims shared their horror stories on how the Court System had failed them.

It became very evident that the failures were indeed systemic and exposed many areas where Victims have no rights or they are ignored.

This year's Wellington conference will focus on bringing a positive change to the Court System.

CRIME DOESN'T PAY - YEAH RIGHT!

A National Crime and Safety Survey is completed every three years. 2003,2006,2009.

The 2009 Survey is due to be reported back this year, so we will use the 2006 survey.

That year, the Survey revealed that there were 2,753,000 offences committed against persons, or their household.

These figures do not include drug offences, Insurance fraud (estimated \$62 million), Shoplifting (estimated \$600 million), Drunken Driving, Street Disorder etc.

In that same year the Police Annual Report showed total recorded offences as 426,593 or 6.4% of offences reported in the National Crime and Safety Survey.

The Police Annual Report also tells us that they **resolved** 44.7% of the 426,593 offences they recorded, bringing the figure down to 190,687.

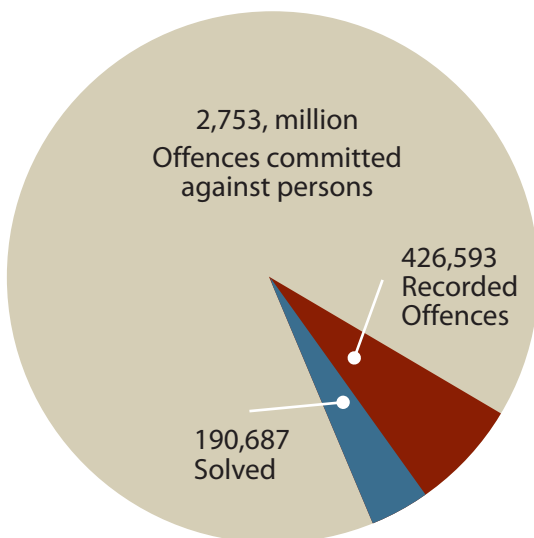
2,753,000 divided by 190,687 comes out a around 14.43% of offences being **resolved**.

Resolved does not mean successfully prosecuted. It includes, diversions and warnings.

Of all the cases that are prosecuted only around 62% are successful. This further reduces the number of offenders successfully called to account.

There is insufficient space for the graph below to truly replicate the above figures, but it does clearly depict why criminals are not deterred from a life of crime when the odds against getting caught are so good!

Alan Monk



Source: National Crime & Safety Survey 2007
- Police Annual Report 2006/07



JUDGE THIS!



Judge Raynor Asher

In the High Court on the 23rd March Justice Raynor Asher sentenced Hermanus Kriel to life with a minimum period of 11 ½ years for the murder and indecent assault of Liberty Templeman.

The Parents of Liberty are shattered her young killer has been given a minimum jail term of 11 ½ years.

"Can someone please explain to us why Libby's life is only worth 11 1/2 years," Libby's Mum Rebecca Templeman said.

Dominion Post 24/3/10



Judge Graham Lang

The Sentencing of the man who murdered Auckland liquor store owner Navtej Singh has been delayed because the killer wants to meet his victim's family to apologise!

Justice Graham Lang postponed sentencing of Anitelea Chan-Ke and five co-offenders after counsel of Kee (who pulled the trigger during the robbery) indicated he wished to attend a restorative justice conference with Singh's family.

A Singh's family spokesperson said the family was angry about the idea of a restorative justice meeting prior to sentencing - *"they think the boys are trying to get a lighter sentence"* and the family had no interest in sitting down with the killer at any stage. However they might consider meeting with the offenders' families **after sentencing**.

Sunday-Star times 25/4/10

The Trust was alarmed that the Judge had delayed sentencing. This is not what restorative justice was intended for. It's got no place pre-sentence and it hasn't got a place in murder cases. We are seeing a dangerous trend in this whole area.



Judge Roy Wade

A Senior judge has vowed to crack down on a crime wave of escalating violence which he says is sometimes *"little more than sheer sadism"*.

Manukau District Court Judge Roy Wade will add an extra year to the starting point for prison sentences for criminals who commit aggravated robberies on small business owners.

From Monday, that will mean five years in jail, instead of four-year guideline set by the Court of Appeal. Local Judges have the power to increase sentences to deal with a particular crime.

NZ Herald 21/11/09



Judge Lindsay Moore

A Napier woman convicted on a truancy charge in the Napier District Court pleaded guilty to one charge of failing to ensure her 14 year old daughter attended school. Judge Lindsay Moore had some parenting advice *"Bringing children into the world means you have got to take responsibility for them. You breed 'em, you gotta bring them up, that's the rule"*.

HB Today 9/12/09

IT'S MEMBERSHIP RENEWAL TIME

Enclosed is a yellow renewal form. We appreciate your annual donation as we are making a difference thanks to your ongoing support.

Your remittance TO: Sensible Sentencing Trust
P.O. Box 701, Napier
OR: Directly to Westpac 030698 0096242 00

A HUGE THANK YOU

Once again thank you to those members who have already renewed their membership and we welcome our new members.

It is a privilege to work on your behalf to bring about the much needed changes within our Justice system. We appreciate your support.

" We make a living by what we get, but we make a life by what we give" - Winston Churchill



SUSAN COUCH UPDATE

After 5 years of waiting and many appeals the Supreme Court has given Susan the right to sue the Corrections Department. The Supreme Court confirmed damages were available for negligence and damages arising out of personal injury should be covered.

Susan will now go back to the High Court to seek \$500,000 in damages. This should start sometime in the next 18 months.

The Trust would like to thank those of you who have supported us and Susan through the last 5 years..

ON OUR AGENDA

- Susan Couch Appeal
- Invited to have input into the Government's Victims' Information Project and the Review of Victims Rights.
- OSH Court Case (on going)
- Garth's 2 month South Island Tour.
- Launch of our Youth Division Christchurch.
- Speaker Training weekend - At Anne and Garth's home
- Annual Victims Conference - Wellington

WE'RE PROUD OF OUR HB FARMER!

If you've ever heard Garth speak you will hear him refer to himself as 'just a farmer from Hawke's Bay', and it always gets a laugh from the audience. It's not intended as a joke though as he genuinely thinks that's all he is. In fact it is this humility that endears him to so many thousands of Kiwis and has enabled him to build relationships and open all kinds of doors with so many people.

While many of us can only ever dream to achieve such an accolade, Garth can't understand what all the fuss is about, which makes this recognition even more significant.

Garth McVicar is a name that will go down in NZ history as a pioneer for victims rights; as his years of dedication impacts so many people now but it's effect will improve the lives of many generations to come. Garth - to us you are so much more than New Zealander of the year, you are our hero!

Louise Parsons



The Sensible Sentencing Trust would like to thank our many sponsors. With your help we are able to Advance Victims Rights.

A special thank you to **ACE Car Rentals** who sponsored Garth's travels around the South Island recently. They also sponsor a car when Garth is in Auckland and Wellington.

A big thank you from us all. We would encourage you to support those who support us.

A special thank you to Andy Lowe who sponsors our Annual Golf Tournament. This year's tournament has once again been a huge success.

A very special thanks to all our other sponsors. Your continued support gives us the courage to continue this journey towards better rights for Victims and to balance the scales of Justice.

SENSIBLE SENTENCING TRUST CHRISTCHURCH BRANCH

We meet on the 2nd Friday of every month at the WEA, Room 3, 59 Gloucester Street, Christchurch at 5.30pm.

Friday 11th June meeting our Guest Speaker is Professor Greg Newbold... Gold Coin donation. We would love to see you there.

Corinna McKenzie, SST Spokesperson Christchurch
Mobile: 027 254 8683.

GOLF TOURNAMENT FEBRUARY 2010

On February the 12th the Trust held its annual Charity Golf Tournament. Once again Andy Lowe generously gave us the use of the Hill Country Estate Golf Course and again this was a huge success. A special thanks to Brian Doyle our Golf Professional and Kelly Pigott who entertained us while the 'Golfers' and partners enjoyed BBQ venison and local wines. Thanks to Blair and Rick our wonderful auctioneers.

A special thanks to all participants and our sponsors. The overwhelming success of the day was thanks to all of you.

Because of the continued support we can now look forward to a Charity Golf Tournament in 2011. All proceeds go towards our annual "Victims Rights" Conference, this year to be held in Wellington in August.

Should you wish to donate items, enter or sponsor a team for the 2011 Golf Tournament please register your interest by emailing: louiseparsons@xtra.co.nz or anne@sst.org.nz.



Don't forget to check out our amazing website.

Thanks again Pete and your team of helpers, you do a wonderful job. www.sensibleentencing.org.nz

CHARITIES COMMISSION

The Charities Commission has declined the Sensible Sentencing Trust's application to register with the Charities Commission.

In summary, to qualify for registration with the Charities Commission the Trust must have a charitable purpose which is defined as:

- 1 The relief of poverty.
- 2 The advancement of education or religion.
- 3 Any other matter beneficial to the community.

The Commission did not feel that the Trust's operations were applicable in Points 1 and 2 and felt that the Trust's main thrusts for other matters beneficial to the community concerned lobbying Parliament and were therefore political in nature.

The Charities Commission has gone to great lengths to justify their decline of charitable status and our expert legal opinion indicates that an appeal would not be successful.

We believe the majority of the Trust's work is for the benefit of the community and will be meeting with the Commission to discuss these issues further and will keep members apprised of progress in this area.

Graham Pedler Trust Accountant

Our Members Have Their Say!

We encourage you to write to us.

We always look forward to hearing from you as you give us the inspiration to go on.

*"This is my donation refund from the I.R.D. as your work will benefit everybody in time, I feel you are the most deserving".
Auckland*

*"We do admire the job you are doing and trust you have plenty of people supporting you".
Nelson*

*"Thanks once again Garth for what you are doing the government may not appreciate it but we normal working taxpayers do".
Central Otago*

*"Thank you so much for your dedication, hard work and passion towards stopping our beautiful country, going 'down the gurgler".
Emailed*