

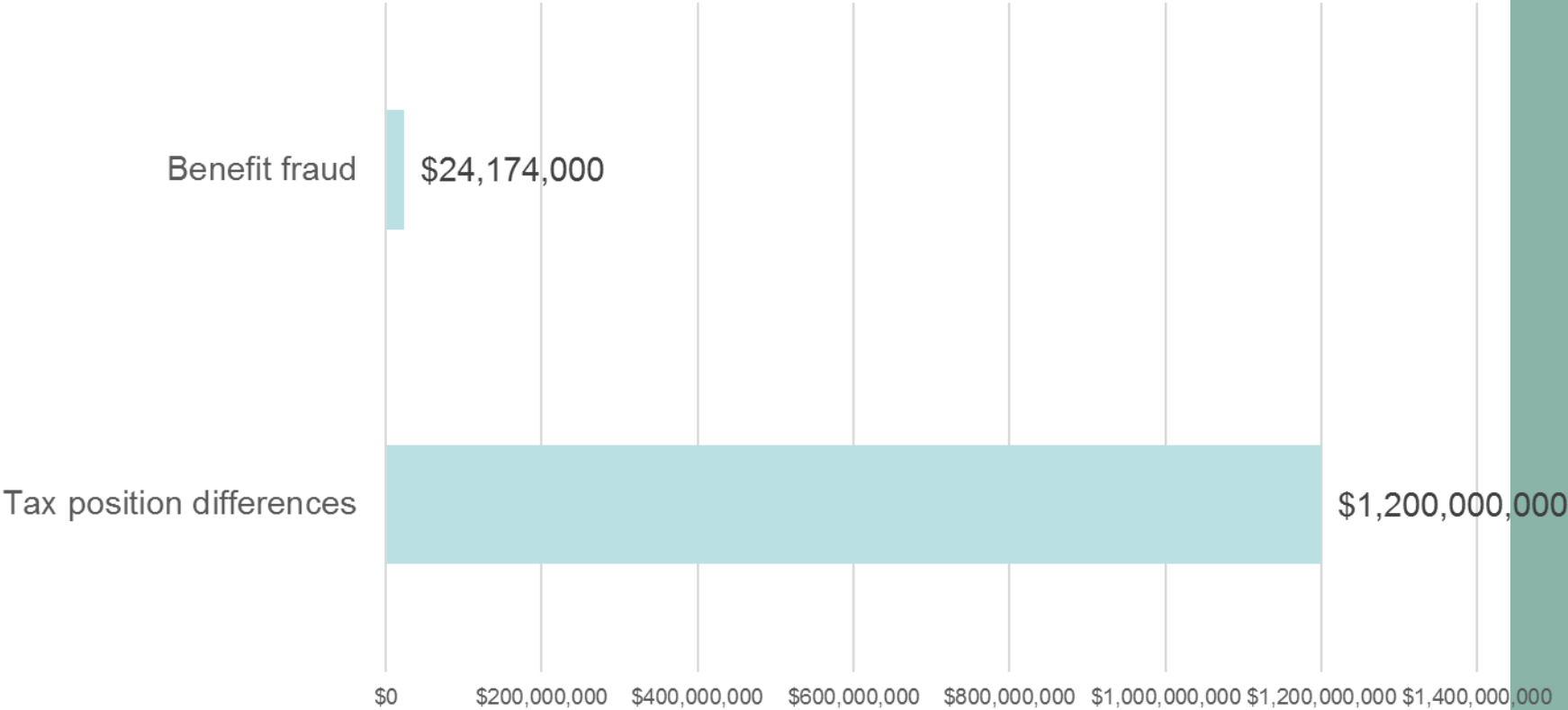
Governing the Poor in New Zealand

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Primary Issue

Ways in which we treat people who are receiving welfare benefits differently from other people

Benefit Fraud and Tax Evasion - The Size of the Issue (NZ\$ 2015/16)



Investigations & Prosecutions

- Investigations: approximately 5% of welfare beneficiaries per annum vs 0.01% of taxpayers
- Prosecutions: 600-900 per annum for welfare fraud vs 60-80 for tax evasion

Sentencing

- Over six years
- Average tax evasion \$229,471 – 18% received a prison sentence (all prosecutions)
- Average welfare fraud \$76,550 – 67% received a prison sentence (most serious cases)

Repayment?

- Tax: two cases – one in full, one \$5,000
- Welfare: *“Reparation order not sought: the Ministry will recover the full amount of the overpayment directly from the Defendant”*

Comparison

- 2006: Wayne Patterson - welfare fraud \$3.4 million – served over 10 years in prison
 - At the time the case was more than 10 times the value of the previous most serious welfare fraud case
 - All was repaid – Crown made substantial gain
- June 2015: Alex Sweeney – tax evasion and defrauding public organisation where he was CEO \$4.3 million – served 23 months in prison, no funds were repaid

Commentary

- Tax Judge: *‘your career is now devastated. You have given 33 years of selfless service to the law...[your solicitor] submits that you do not have a malicious bone in your body and, if anything, you are too eager to help others’*
- Fraud relating to GST refunds of \$250,000

- Tax Judge: *‘Your counsel said, well the Inland Revenue is not like a vulnerable person who is a member of a superannuation fund...it is a state enterprise’*
- GST Fraud \$1,400,000

- Welfare Fraud Judge: *‘You have defrauded all of us...this is serious offending. As a principle of sentencing it strikes at the heart of the system put in place by the community, paid for by the taxpayer, to provide sustenance and support for the disadvantaged. You, to coin a modern phrase “ripped the system off”. You have to be accountable for that and your conduct denounced and you deterred from acting in this way. A sentence must be imposed that will deter others like minded from acting in this way’.*
- Welfare fraud: Offending of \$30,501.

Tax debt vs welfare debt

- What happens when there is no crime?
- Tax debt – around \$6 billion
- Welfare debt – around \$1 billion

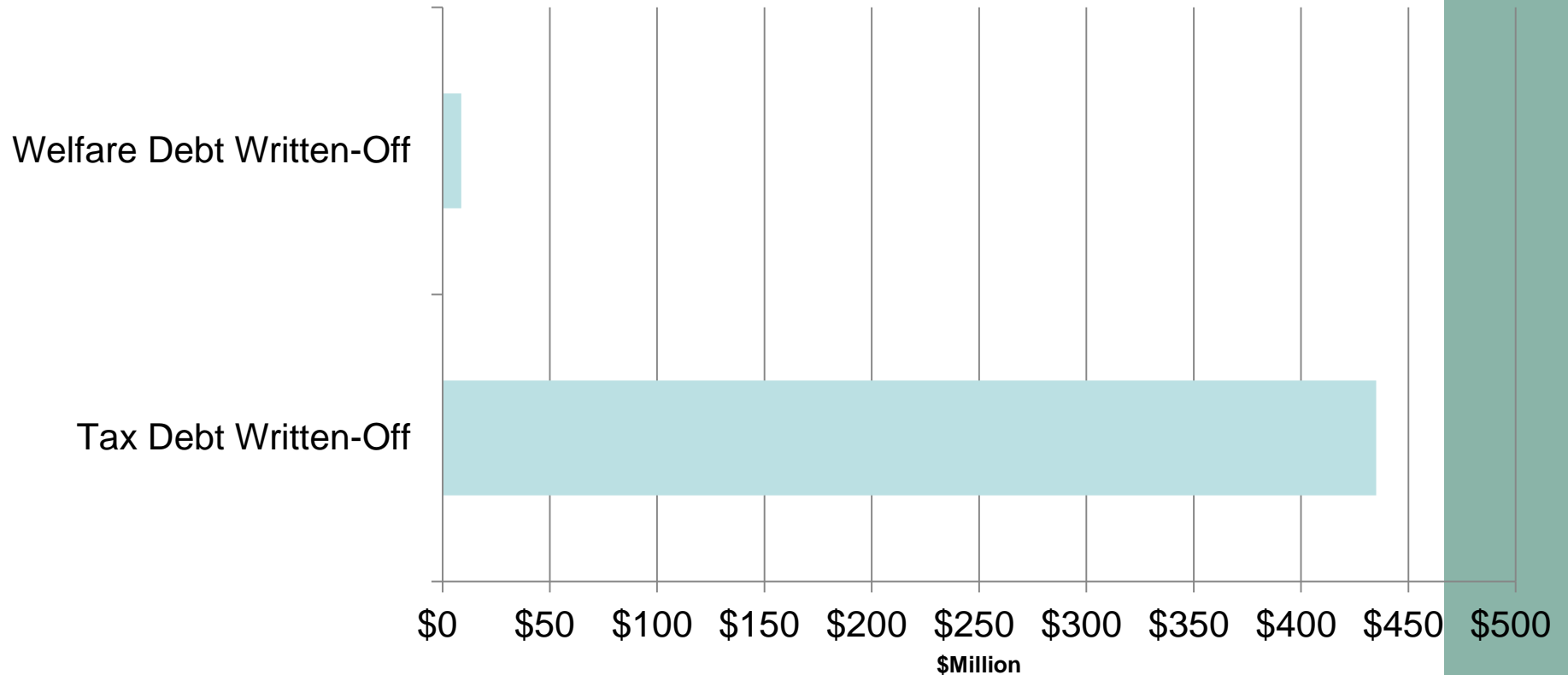
Debt Recovery Processes: Inland Revenue

- Payment by instalment
- Deduction notices
- Bankruptcy / no asset procedure
- Writing-off outstanding debt (\$435m 2012)
- Writing-off penalties and interest

Debt Recovery Processes: MSD

- Instalment arrangements (including deductions from NZ Superannuation)
- Deductions from current clients benefits
- Deduction notices
- *“All monies owed to the Crown are actively pursued and debts remain with each individual until all avenues to recover have been exhausted”*
- Writing-off outstanding debt (\$8.7M in 2011/12)

Debts written-off (2011-12)



Hardship: for tax

- Significant financial difficulties that arise where:
 - the taxpayer or their dependant has a serious illness;
 - the taxpayer would be unable to meet: minimum living expenses estimated according to normal community standards of cost and quality; the costs of medical treatment for an illness or injury of the taxpayer or their dependant; the cost of education for the taxpayer's dependants;
 - or other factors that the Commissioner thinks relevant

Hardship: for welfare

- “*negotiating realistic repayment rates with debtors so that significant hardship is not caused*”
- “*hardship does not necessarily preclude recovery*”
- In “*exceptional circumstances*” payment may be temporarily deferred until a person’s financial circumstance improves in order that significant hardship is not caused

- Cost of debt recovery: \$17/\$100 (welfare)
\$2.86/\$100 (tax)
- 92 per cent of MSD current clients with outstanding payments are repaying these with average payments of \$14.32 per week
- 88 per cent of former clients commence repayment within 12 months, with repayments averaging \$23.27 per week
- IRD: 13 per cent are paying by instalment

Other differences

- Asset seizures
 - Tax: no provisions that explicitly permit CIR to seize assets to assist with debt recovery
 - Welfare: in 2016 \$1.6 million through asset seizures and reparation orders

Other differences

- What is income?
- Different definitions of 'income' result in earnings that are not income for tax purposes, being income for benefit purposes

Beggar guilty of fraud for begging for food and shelter while on benefit

MARTY SHARPE AND MATT STEWART
Last updated 17:03, February 21 2017



FAIRFAX NZ

Frank Lovich was convicted by Judge Bridget Mackintosh in Hastings District Court on Monday.

Deduction notices

| Year Ended | Notices Issued – Tax | Notices Issued – Welfare |
|-------------------|-----------------------------|---------------------------------|
| 30 June 2011 | 64,025 | 20,275 |
| 30 June 2012 | 68,501 | 25,733 |
| 30 June 2013 | 57,395 | 33,425 |
| 30 June 2014 | 66,126 | 35,115 |
| 30 June 2015 | 73,013 | 36,269 |

A further issue...

- Amendments to the *Social Security Act 1964* in 2014
- Allows for:
 - Partners of people engaging in welfare fraud to be prosecuted for the crime
 - Partners of people engaging in welfare fraud to be jointly liable for the debt
- Where the partner 'knew, or ought to have known' of the fraud

- Around 300,000 people receiving a main welfare benefit
- 208 cases of relationship fraud in 2014 (0.07%)
- No 'positive act' required – departure from general principles of criminal law
- Symmetry of treatment: no attempt to hold partners of those who engage in other forms of financial offending similarly liable (e.g. tax evasion)

- Revenue negative (\$1.2M additional costs)
- As at August 2016, \$200K collected
- Changes result in no gain from an equity or economic perspective
- Precedent for targeting vulnerable groups in society for more punitive treatment in the justice system?

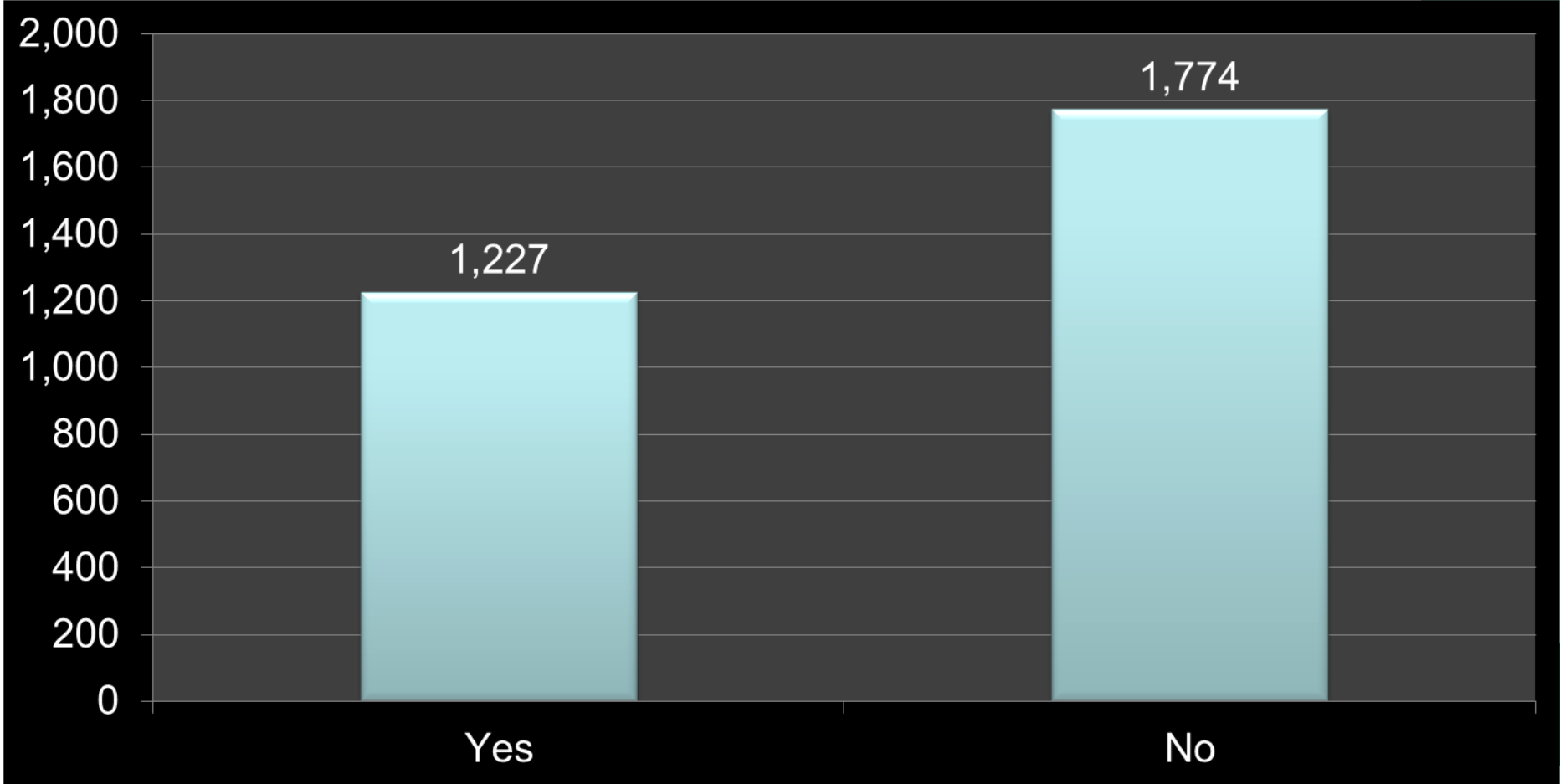
Explanations for these differences?

- Legislation
- 'Not Giving' vs. 'Taking'
- Status...?
- Is this what society wants?

Survey...

- Online survey (1,500 respondents in Australia and 1,500 respondents in NZ)
- Using FlyBuys database
- 80 questions including:
 - 17 questions on attitudes to tax evasion & welfare fraud

Do you perceive any differences in someone who commits welfare fraud and someone deliberately not paying tax?



- Are we treating people as equals?
- Blue-collar offence / offender is not an aggravating factor
- White-collar offence / offender is not a mitigating factor

To conclude

- The poor are an easy target for ‘reform’
- Not typically well networked and have few resources
- Workers have suffered from the demise of trade unions in NZ
- Non-workers are not typically viewed as worthy of public sympathy

Thank you

Questions / Comments?

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