# Non-Conformance with Regulatory Codes in the Non-Profit Sector: Accountability and the Discursive Coupling of Means and Ends

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**Abstract**

Means-ends decoupling has recently been suggested as one consequence of the problems organizations face in trying to comply with institutional rules in contexts of institutional complexity. Such decoupling is characterized by the adoption, implementation and scrutiny of particular codes of practice, which tend not to deliver the outcomes they were developed to produce. Recent scholarship focusing on this issue has suggested that such decoupling is a consequence of the trade-off organizations need to make between compliance and goal achievement most especially when the latter is difficult to evaluate. While recent scholarship has suggested that this tension might be mitigated by the activities of developers of compliance rules, in this article, we explore how actors internal to organizations, in this case, two charitable organizations, mitigate this tension via non-conformance with particular codes. We focus on how the process of accounting for non-conformance results in the discursive coupling of means and ends as actors creatively develop vocabularies of motive, which

respond to anticipated social criticism.

**Keywords**

accountability, decoupling, discourse, justification, means-ends decoupling, nonprofit governance, vocabularies of motive

Recent scholarly conversations regarding the notion of decoupling have raised some complex and taxing issues (Boxenbaum & Jonsson, 2008; Bromley & Powell, 2012; Haack & Schoeneborn, 2015; Wijen, 2014). As originally conceived by Meyer and Rowan (1977), decoupling represents a situation where, in order to both gain/maintain legitimacy and perform the organization's core task without too much disruption, organizations appear to adopt various legitimate "institutional rules" (e.g., policies, practices, rules and offices) but in practice, carry on with "business as usual." Decoupling, however, is achievable only if organizations are able to avoid scrutiny and inspection or if non-implementation of particular practices and rules is overlooked.

Recent debates have raised the question of whether, in the current "audit" era, decoupling in its traditional sense is actually feasible (Bromley & Powell, 2012; Wijen, 2014). Bromley and Powell (2012) argue that while policy/practice decoupling (where practices are adopted but not actually implemented) is becoming less prevalent, what we are increasingly seeing is means-ends decoupling. This represents a situation in which practices and policies are fully implemented and scrutinized, but do not achieve what they are supposed to achieve, due to the fact that conformance itself becomes the focus of organizational attention. Wijen (2014) has developed this line of thinking by arguing that regulated organizations demonstrate a trade-off between the two types of decoupling. In seeking to fully comply with institutional rules, they are less likely to engage in policy/practice decoupling, but because regulated organizations often operate in conditions of considerable complexity, they are also less likely to be able to meet the goals envisaged by rule developers and hence demonstrate means/ends decoupling. He suggests that rule developers must therefore find ways to mitigate this trade-off by paying greater attention to implementation contexts when rules are developed.

In this article we aim to build on this emergent literature on means-ends decoupling. Our core argument is that many regulated organizations are highly motivated to ensure that they (appear) to achieve the goals for which they are held accountable. However, because, as Wijen (2014) has argued, substantively implementing particular rules and practices may undermine this ambition, regulated organizations may not comply with those rules they perceive to be particularly obstructive. Given that organizations may be monitored in order to ensure that they are compliant, however, it is critical that actors are able to provide justifications for non-conformance that are likely to make sense and be acceptable to both internal and external audiences. Not being able to provide a convincing justification would constitute a legitimacy and reputational risk. Thus, the question we wish to address in this study is, how do actors in regulated organizations account for and justify their non-conformance with particular rules?

We suggest that actors justify non-conformance by building accounts in which means (non-conformance) and ends (the goals for which compliance rules hold them accountable) are creatively aligned, such that non-conformance appears justifiable, logical and rational. Utilizing qualitative data obtained from two charitable organizations in the UK that demonstrated non-conformance with particular governance codes, our study illustrates that, as Haack and Schoeneborn (2015) argue, means and ends cannot be understood as pre-given realities to which organizational actors orient themselves but are rather socially constructed and dynamically produced and transformed as actors engage in dialogue regarding their meaning and value (Palermo, Power, & Ashby, 2017). Our specific contribution lies in detailing the vocabularies of motive (Mills, 1940) actors mobilize to justify their actions. We argue that these vocabularies of motive provide insights into how organizational actors "organize social criticism" (Hoogenboom & Ossewaarde, 2005, p. 613) and hence reconcile competing rationality claims. As Mills (1940, p. 904) argues, "*the differing reasons men [sic] give for their actions are not themselves without reasons*." Hence, justifications need not only to make sense; they need also to anticipate how external audiences might evaluate organizational actions.

Our article is structured as follows. First we present an overview of recent debates on decoupling, moving on to discuss in some depth Wijen's (2014) recent contribution to this debate and from there, our point of departure. We then present some background context to our study – the nature, scope and influence of charity governance codes, before describing the genesis of the current study along with an account of our methodological approach. We then present our empirical findings before finishing with a discussion of their implications for theory on means/ends decoupling and non-profit governance.

**Decoupling in the Contemporary Era**

As originally described in Meyer and Rowan's (1977) seminal article, decoupling refers to how organizations resolve the tension between meeting efficiency goals and conforming to institutional rules. A key point here is that many of these rules have very little obvious utility for organizations in a technical sense but, due to the power of the "myths" that encourage their adoption, they are rendered rational and efficacious via the vocabularies of motive (socially acceptable justifications for action (Mills, 1940)) that organizational actors mobilize when accounting for their decisions to adopt such rules. For example, as Wijen (2014) argues, organizations are often motivated to adopt sustainability standards in the belief that this will improve their competitiveness via signaling that their products are more "equitable" or "clean." Likewise Charitable governance codes, the focus of this study are adopted because charitable organizations want to be seen by important external stakeholders to be discharging their accountability and behaving with impunity, a critical perception if they are to successfully obtain funding.

Early theorizing regarding organizational compliance with institutional rules suggested that actors that are party to their adoption would generally operate via a logic of good faith, whereby they do not require evidence that the adopted rules actually produce the outcomes claimed for them. This process is facilitated by rendering such outcomes ambiguous, vacuous or categorical rather than technical (Meyer & Rowan, 1977). However, a layer of complexity now applies to this process in that the logic of good faith and confidence that prevailed in the era prior to compliance rules (Ezzamel et al., 2007) is less efficacious in contexts where organizational actors need to demonstrate that they are *actually* implementing institutional rules in the manner stipulated and that the outcomes prescribed by institutionalized rules are indeed achieved.

Wijen (2014) identifies a number of methods that can be used by regulators and rule developers to induce organizations to comply with institutionalized rules, including setting unambiguous and universal rules or standards of practice; devising incentives and making use of monitoring and inspection to ensure that incentives are offered only to compliant organizations; and encouraging capacity building via specifying "best practices." While such procedures are more likely to produce compliance, the danger is that they may also undermine the very goals for which the compliance rules were developed. Wijen (2014) for example discusses how some sustainability standards categorically ban the use of child labor, which works to undermine the alleviation of poverty in communities which routinely rely on child labor to generate income. In short, compliance rules, because designed to be applied universally, may be insufficiently sensitive to implementation contexts, disabling actors from achieving the standards to which the compliance rules apply (Wijen, 2014). Thus while these methods of ensuring compliance prevent symbolic adoption or decoupling in its more traditional sense, they may inadvertently generate means/ends decoupling.

While the prescriptive nature of compliance rules coupled with the scrutiny and monitoring that accompanies them means that in the current era, organizations are less likely to engage in policy practice decoupling, recent research suggests that organizations may take alternative steps to avoid the problems of "substantive compliance" charted by Wijen (2014). A recent study by Heese, Krishnan, and Moers (2016), for instance shows that when highly regulated organizations are confronted with incompatible institutional demands, they will deliberately and strategically avoid conformance with those compliance rules that are perceived to interfere with the achievement of their core task. For example, they found that hospitals offering treatment to the poor would often engage in practices that were prohibited by regulations, such as tinkering with the coding of medical conditions so as to obtain more funding, but in doing so, were able to meet their fiscal requirements and hence survive.

Critically, this study illustrated that the power of the regulator to penalize this non-conformance was constrained by the fact that doing so was likely to result in negative consequences for the regulator itself – it too could face a loss of legitimacy should it be perceived to be too muscular in its approach to non-compliance. This study thus illustrates that non-compliance may be highly nuanced, and that actors may exercise a great deal of discretion in deciding how to conform to particular rules. Such decisions are likely based not only on what the rules imply for an organization's core purpose, or on actors' assessment of the likelihood of sanctions (Oliver, 1991), but also on a judicious assessment of what sanctions might mean for those imposing them.

Nonetheless, when organizational actors make decisions not to conform with particular institutional rules, no matter how rational, sensible, inconsequential or justifiable that decision might seem to some parties, actors nevertheless need to account for this non-conformance in ways that satisfy all the various constituents that comprise both their internal and external environments. As Meyer and Rowan (1977) argue, "organizations that omit environmentally legitimated elements of structure…lack acceptable legitimated *accounts* of their activities" (pp. 349-350, our emphasis). This is most especially the case for highly regulated organizations, such as charitable organizations, the focus of this study, whose activities and processes are subject to scrutiny and whose modes of conduct are made publically available via documentation submitted to the regulator.

Critically, for highly regulated organizations whose main outputs are "social goods", non-conformance with particular codes of conduct may raise questions regarding the integrity and impunity of the actors responsible for these outcomes. Those actors at the top of the organization, for instance, may be held particularly accountable for any non-conformance given that they need to be seen *not* to be acting in their own interests such as for personal gain. Indeed, Charitable governance codes are explicitly designed to ensure that members of the board behave "*in the best interests of their charity, managing its resources responsibly, which includes protecting and safeguarding its reputation*" (Charity Commission, 2016, p. section 2.3; The Code Founding Group, 2010, p. 12). Moreover, given that lower level actors may struggle with organizational hypocrisy generated by gaps between stated and actual practices, they too may feel incumbent to provide justifications for non-conformance to external audiences so as to reconcile any dissonance experienced (Fiss & Zajac, 2006). On the other hand, as Heese, Krishnan, and Moers' (2016) study illustrates, substantive conformance may itself become an accountable matter if it means an organization is unable to deliver its core goals. Thus whereas Suddaby (2010, p. 15) has argued that we need to understand "*why and how organizations adopt processes and structures for their meaning rather than their productive value*", we suggest that we also need to understand the converse to this question - why and how members of organizations that decide *not* to adopt particular processes and structures produce convincing accounts of the meaning of such actions.

To enable us to answer this question, we draw on Mills (1940), who argued that justifications for action in the contemporary era are rendered complicated by the fact that there are competing vocabularies of motive available to explain particular behaviors, which may be seen as more or less acceptable to particular audiences. Increased pressures for accountability mean that actors need to anticipate such variation when developing such vocabularies. Thus, for instance, Ezzamel and colleagues (2007) illustrate how staff in a secondary education establishment in the UK found it difficult to justify their actions without considering their broader implications. A head teacher believed that justifying the exclusion of a pupil could no longer rely on notions of "just deserts" for bad behavior, but needed instead to incorporate broader considerations relating to student equity. Accountability, in short, means that actors must not only be aware of how their actions are likely to be evaluated by the array of stakeholders to whom they are accountable, but they must also anticipate stakeholder evaluations by constructing vocabularies of motive that provide answers to the types of questions that may be raised with respect to such motives. In this study, we use these ideas to empirically examine non-conformance in the context of Charity Governance Codes and we ask, "How do organizational actors account for non-conformance with particular compliance rules?" Before presenting our empirical study, we first set the context for our study by discussing the role of governance codes in the Charitable Sector, indicating their criticality for the acquisition and maintenance of organizational legitimacy.

**Charity Governance Codes**

The media and public continue to place high importance on the societal role of charities, their ability to make a positive difference to the cause they are working for and ensuring a reasonable portion of funds reach the end cause (Morgan & Fletcher, 2013). In this sense, charities are subject to questions both of performance and value (Hirsch & Andrews, 1986) and effective governance is often held up as the primary conduit to discharge accountability. As such the Charity Commission – as the generic regulatory body for charities in England and Wales – plays a key role in encouraging charities to adopt 'good practice' in governance through issuing guidance, designed to be complimentary to other standards and codes

(Charity Commission, 2008, 2012a; NCVO, 2005; The Code Founding Group, 2010).

Charity governance codes act as legitimating structures because, like any compliance program, they "*signal alignment with the normative expectations of external audiences*" (MacLean & Benham, 2010) such as practitioners, academics and regulators who all contribute to shaping the systems of values, beliefs and rules that underlie the logic of governance models, standards and codes. Although such codes are not formally binding, they are often issued by committees which claim particular expertise and intend to explicitly describe so-called best practice which can act as a means to raise the acceptance of the code among various actors (Kerwer, 2005).

Conformance with these governance codes communicates important signals to key stakeholders, especially funders, who will want to be sure that any donations made to a particular charity will be used appropriately and ethically. Failure to show conformance with such codes, we argue, carries considerable risk for charities because of the increased emphasis on accountability in the charitable sector and the fact that charities have to make annual returns of their activities to the Charity Commission which are reviewed by the Commission and available to the public. For example in the UK, the collapse of the Charity "Kids Company" occurred due to allegations of financial mismanagement detected by external audiences (Sadique, 2016). Non-conformance thus needs to be adequately justified if a charitable organization wants to convince its audiences that this is not an unethical activity.

**Methods**

Our research question emerged from a qualitative study of non-profit governance, the nature of inter and intra-organizational relationships and their intersection with organizational sustainability. We did not, therefore, commence the study with the aim of examining the tensions these organizations experience between conformance with governance codes and achieving organizational outcomes. Rather, our question emerged as we engaged with the literature on the means-ends relationship within institutional scholarship and reflected on the non-conformance with particular governance codes illustrated by the two cases we discuss here[1]. Because the two cases, as we will go on to illustrate, demonstrated quite different responses in terms of the justifications offered, they present us with the opportunity to develop theory regarding the reasons for such differences.

In one case, this non-conformance was evident in the misalignment between the official accounts of organizational practices in documents submitted to the UK charity regulator – the Charity Commission – and the informal accounts of everyday practices narrated in the research interviews. In the other case, the organization had adopted an overt approach to non-conformance by securing special permission from the regulator to allow the same individual to act as CEO and Trustee – something that is normally precluded in UK governance codes and charity law. Yet, at the same time, this organization did not overtly report some of the more ethically questionable consequences of this dual role in documents submitted to the regulator. Thus in both cases, there was a gap between what was actually reported to the regulator with respect to governance and what seemed to be happening "on the ground." What is additionally notable about these cases is that all the actors we interviewed accounted for this non-conformance as an entirely rational response to the tension experienced between conformance and the achievement of the organization's social mission.

*Nature of Non-Conformance Illustrated in the Two Cases*

***Case A.*** Case A, as outlined in Table 1 is in essence a museum whose primary mission is to educate the public through the display of often historical artifacts, which represent the organization's primary expenditure alongside maintenance and development of the site. Due to increasing problems with maintaining the financial viability of the museum it was decided – under a new CEO (selected from the board of trustees) – to develop a wholly owned trading subsidiary in the early 1990s, which ran catering services for museum visitors, corporate clients and enthusiast clubs who hire the site for specific events. This, it was believed (and as we will go on to elaborate below) was the only feasible way to generate the income necessary for survival since, prior to the establishment of this subsidiary, the Museum had struggled to sustain itself on admission fees. The board decided that the 'honorary' CEO of the Museum should also head up the new trading subsidiary whilst also regaining his trustee status due to its "*anxiety that* [he] *had lost his* [previous] *trustee status*"; the "*precedent for this model*" had already been set by other large, well-established museums; the "*level of trust*" between him and other board members was very high; and this dual role represented "*a way of managing it* [the museum] *better*" due to the involvement of a board member in day to day operations (Interviewee A1 – see Table 2). Whilst UK legislation does not normally permit the payment of trustees, Case A secured special dispensation from the Charity Commission in this regard[2].

Neither the existence of the trading subsidiary nor the CEO's complex role as trustee and CEO (due to dispensation from the regulator) are issues of non-conformance in and of themselves. Nevertheless, the lack of formal procedures regarding delegated authority, the

CEO's participation in decisions regarding the trading subsidiary upon which his salary and livelihood depend, and the overshadowing of public good and social mission by trading and income goals demonstrated in formal documents (see below) would be considered issues of non-conformance with the detailed stipulations set out in multiple governance codes. We contrast the organization's practices against those supported by the code regimes to highlight multiple aspects of non-conformance in further detail below within our findings section.

***Case B**:* As also outlined in Table 1, Case B is concerned with fighting for the rights of people with disabilities through campaigning, training, and the provision of resources that help other bodies work inclusively with their target beneficiary group. In the public sphere, Case B conforms to what might be considered tenets of good practice in governance. In particular, publically available organizational documentation, including annual reports and returns to the charity commission, all paint a picture of an organization where the board is the ultimate authority, in full control of "*reviewing the charity's aims and objectives and planning its future activities*" (Case B, Annual Return).

Accounts of organizational life from both trustees and staff, however, suggest that this is surface conformity; 'daily life' within the organization has intentionally been managed – since the mid 1990s – to allow decision-making control to sit largely with employees. As we will go on to illustrate, this does not take place within some pre-defined, formalized delegated authority which is tightly monitored – as prescribed by the codes – but is endemic in 'the way things work around here' in relation to all areas of organizational life. More broadly, where governance codes privilege CEOs as the connectors between board and staff to enable provision of "*information, advice and feedback necessary to the board*" (NCVO, 2005, p. 12) and "*hold* [staff] *to account*" (The Code Founding Group, 2010, p. 19), Case B approaches accountability as a negotiated process of staff and trustees holding each other to account through a direct relationship. From the perspective of organizational actors, any other approach was seen to run counter to the social mission of the organization.

Table 1 provides a summary of the two organizations.

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*Data Sources*

Fieldwork with the two organizations outlined above, took place over a six-month period, incorporating 3 field visits and data was collected from three main sources:

***Interviews.*** Twelve in-depth interviews were undertaken with three categories of actors: board members (4 interviewees), CEOs (2 interviewees) and staff from various hierarchical levels (6 interviewees) (see Table 2). Small numbers of interviewees are typical of studies examining accountability processes (Dick & Collings, 2014). Early interviews were largely investigative and resulted in emergent themes that were pursued in subsequent interviews. Interviews were loosely (semi) structured around four foci:

- governance structures, processes and challenges
- the nature of relations between staff, volunteers and trustees
- the nature of inter-organizational relations and/or collaborative efforts
- how such relational dynamics affect decision-making and the setting and safeguarding of mission and values.

Interviews, which lasted between 50 and 120 minutes, were digitally recorded with the permission of the participant and fully transcribed, producing over 78,000 words of text.

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***Documents.*** Four categories of documentary information were consulted throughout the fieldwork period: business/strategic plans; annual reports and accounts (submitted to the Charity Commission); minutes of board meetings; and promotional material. This allowed the corroboration of interview material with formal textual sources. In total, our documentary data comprised approximately 478 pages of text.

***Observations.*** During field visits observations of general organizational life – for example work tasks, informal coffee breaks, interactions between staff members – were recorded in a field diary. One and a half days of general observation were undertaken at Case A and One day at Case B. Although these observations do not feature directly within this article, they provided useful contextual information to aid understanding and theoretical development.

*Data Analysis*

As is recommended with case study research (Eisenhardt, 1989), we undertook an in- depth comparative analysis of the differences and similarities between the formal, official accounts contained in organization documents with the internal everyday talk of organizational actors during interviews within and between both cases. We produced a narrative account of the particulars around the nature of non-conformance and how organizational actors accounted for it in each case.[3] Table 3 gives an overview of the gaps between governance code stipulations and formal accounts and how actors justified and accounted for such gaps.

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Our analytical process thus consisted of a series of steps, the first of which involved the coding of transcripts and documents for each organization. These codes comprised phrases, terms or descriptions (Miles & Huberman, 1984) all revolving around the nature and dynamics of governance non-conformance. Such descriptions included, for example, stories of the dangers that board/staff separation can represent to governance and accountability; narrations of how such dangers can be reduced through alternative governance practices; the importance of target beneficiary groups controlling the organization as a means of aligning social purposes and organizational practices; the criticality of a business approach to facilitating the achievement of charitable objectives; and how implementing alternative practices can be managed with respect to the perceptions of internal and external audiences. These formed our first level codes, which we constantly compared across documents and discussed possible conceptual patterns.

The second step of the analysis involved looking for codes across interviews and documents that could be grouped into higher-level themes. For example, comments on the dangers that board/staff separation can represent to governance and accountability and the importance of target beneficiary groups controlling the organization could be grouped under "moral imperative of democratic and participatory governance principles used as powerful tool to justify staff-led decision making", forming a set of first-order categories. Importantly, a key analytical task in this and all subsequent steps was to juxtapose the cases against each other enabling the search for similarities and differences.

The third step involved looking for links among first-order categories in order to develop theoretically distinct clusters through a recursive process. For example, categories containing instances of interviewees positioning governance codes as hampering or contradictory to the organization's financial viability, organizing model or social purpose were collapsed into a (second-order) theme called "discursively aligning means and ends."

The fourth step involved organizing these clusters into dimensions that eventually underpinned our theorizing. The first theme is "accounting for non-conformance"; the second is "reconciling competing rationality claims/anticipating social criticism." Our first order categories, second order themes and theoretical dimension (steps 2 through 4), and the links between them, are depicted in Figure 1.

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**Findings**

As illustrated above, we found instances of non-conformance in the governance of both organizations under consideration here but we also found that this did not attract external scrutiny nor did it appear to be in any sense impacting on the organizations' internal or external legitimacy. The prime reason for this, we would argue, is that non-conformance with particular governance codes was articulated as the most effective strategy to ensure coupling between means and ends – that is, it was felt by the actors we interviewed in each organization that strict adherence to prescriptions sanctified by particular governance codes would prevent the organization from achieving the very ends for which the governance codes purportedly held them accountable[2]. In the analysis below, we use the coding illustrated in Figure 1 to explicate this argument in detail.

*Activities Aimed at Managing Internal and External Appearances*

A major issue that confronts organizations that do not conform with regulations such as those enshrined in governance codes, is how this might be seen both from the perspective of external and internal audiences, especially when non-conformance is seen as an accountable matter. This is most especially the case with governance codes which, as already discussed are explicitly designed to increase organizational transparency and hence accountability. Moreover, given that charitable organizations have to report annually to the Charity Commission and in doing so provide details of their governance activities, the chances of detection of non-conformance are high because external audiences can access these reports and make judgments about the organization's legitimacy from the information provided. We found that actors in each organization adopted very different attitudes and approaches to dealing with managing internal and external impressions of their non-conformance:

***Case A.*** Actors in Case A adopted an overt, formal approach to the management of its external (and internal) appearance by exploiting a loophole in governance regulations. They made a case to the Charity Commission that the CEO should be paid as the CEO of the charity's trading subsidiary and to be simply regarded as an 'honorary' CEO of the charity.

On this basis, the Charity Commission granted special dispensation allowing the same individual to act as Trustee and CEO[2]. This structure effectively enabled Case A to legitimately allow the same individual to be responsible for non mission-related trading *and* charitable activities. The CEO justified this dual responsibility on the grounds that it facilitated decision making. In the extract immediately below, he discusses how his dual role facilitates viable decision making by the board of trustees due to his knowledge of the financial returns from the trading arm, which enables him to be more accountable for his own financial recommendations:

> *And by the end I was realizing that I was going to spend £57,000 - which we didn't have. Luckily we'd made quite a bit* [from the trading arm of the organization] *and I went back to the board and said, "Look I'd like you to make this decision* [regarding the spend of 57K]*." Otherwise, quite honestly, they would have gone on my decision about it, I'm sure. But I wanted them to approve it because had it gone wrong and we hadn't got the money we would have been in major debt you see.* [CEO Case A]

In addition, other internal actors discussed the criticality of the trading arm of the museum with respect to its role in enabling the survival of the charity:

> *Because there's very few grants out there, there's very few people who are actually giving money unless… you know, it's for sick children or animals, we tend to generate our own money and we've now come to the decision that if we want to do something we'll tend to generate the money to do it. The majority of the funding actually comes from the corporate business side…which has meant that we*

*can then promote and put that into other aspects of what we do…and okay, we do very much go towards the corporate side of it and we have to make money to survive. You know, we have the charity there as well and we do things to promote the charity side but unfortunately that doesn't bring the money in.*

(Staff member, Interviewee A2)

A notable element of this account is how the actor draws on the notion of funding problems for charities which is widely reported in the press and other media, to justify the commercial activities of the museum. Moreover, in drawing attention to the types of "causes" most likely to attract external funding, the staff member is nuancing funding problems by pointing out that some charities (like the museum) are more disadvantaged than others. Hence, far from representing two incompatible institutional demands (the necessity to produce the social good of the museum and the pursuit of commercial interests) (Greenwood et al., 2011), the two are weaved into a symbiotic relationship, necessitated by the particular funding liability facing a charity whose social good is perhaps perceived externally as less worthy than others. More pertinently, because the commercial interests pursued by the museum are constructed as imperative for its survival, the dual role of the CEO seems entirely reasonable. If the museum needs to make money to survive and hence fulfill its social mission, why would it make sense to replace the CEO with an independent actor who may not understand what is actually required when critical operational decisions need to be made? These different institutional demands (the need to generate profit versus the need to provide social goods), we suggest, are used as tools (Swidler, 1985) by actors to reduce the ambiguity of non-conformance and construct it as a moral response to enable the survival of the museum.

In addition to providing a justification for the dual role of the CEO, discursive efforts were also put into downplaying the potential conflicts generated by blurring the responsibilities of the two roles. This was achieved either by referring to the voluntary nature of the board's activities when the commercial subsidiary was initially set up:

> *We tried to make it that the Board of Trustees were effectively the management team. At the time nobody was being paid, it was a voluntary basis. We tried to keep away from the volunteer stream, though we do recognize that it is people's donation of their time, which has been fundamental to the success of the Museum.* (Trustee, Interviewee A4)

…or by downplaying the board role of the CEO who, in the extract below is positioned as an informer more than a decision maker, a position reinforced by the CEO's account of decision making illustrated above:

> *I think the Board level sets the policies in general terms and we have regular meetings at which the Director who is also a Trustee explains… gives an operational report and explains where the finances are going. Clearly day-to-day decisions are best taken by the management on the ground and that is what happens but the Director is very good in talking to us about all the major things. I personally have been over the years more involved than some Trustees because I've also had a management role working to the Director.* (Trustee, Interviewee A5)

Note that formal public accounts did not provide transparency on this matter within the 'Structure, Governance and Management' section of the annual return to the Charity Commission speaking of "*a pyramid management structure… headed by the Honorary Museum Director who is also a Trustee*" but making no mention of his position as paid director of the trading subsidiary. Within the staff handbook, he is referred to as the Museum Director with the 'honorary' status of the role removed.

In some ways then, the organization's practices accord with Charity Commission guidance which accepts "*a particular knowledge of the charity and its working environment*" as an "*advantage*" and thus justification for paying trustees for certain services (Charity Commission, 2012b, p. 15). Yet, at the same time the Charity Commission also states that trustees have a legal duty to "*act in* [their] *charity's best interests*" through "*deal*[ing] *with conflicts of interest*" (2012a, section 1.1) and that "*charity trustees who are also directors of the subsidiary have a conflict of interest*" (section 7.3). Notably, while Case A accounted for policies and procedures for health and safety, fire, equal opportunities, environment, disciplinaries, education and risk assessment within the staff handbook and annual return to the Charity Commission, there was nothing relating to conflicts of interest or delegated authority. In respect of the latter, the Charity Commission stipulates that "*trustees must always remain collectively responsible for all decisions that are made and actions that are taken with their authority*" and that "*high risk and unusual decisions should not be delegated*" (2012a, section 9.3).

During his interview, the CEO recounted a decision-making scenario regarding the acquisition of a particular artifact, where both principles were contravened. He started by pointing out the unusual nature of the decision in that the Museum "*doesn't normally buy* [type of artifact]" as they "*normally try and get them given or get grant aid.*" Wanting a quick decision, however, the CEO then described how he went to three fellow trustees, recommended and sought their agreement for buying the artifact based on "*a majority vote. So we went and got it and then announced it at the next trustees' meeting that we'd done that and said to the other three trustees, 'I know we didn't contact you but I trust you're happy with this'.*" Collectively, these findings show that despite dispensation from the regulator regarding the dual role of the CEO, the organization's practices were not in the spirit of other rules set by that same regulator. The moral ambiguity surrounding such activities is, we suggest that which motivated organizational actors to justify these activities in the ways we have illustrated (i.e., that these actions were in the interests of the museum, not the CEO).

***Case B.*** As already discussed, Case B demonstrates structural but not cultural conformance to institutionalized notions of good governance in that publically available organizational documentation, including annual reports and returns to the Charity Commission, paint the Board as the ultimate authority, "*exercising effective control*" (The Code Founding Group, 2010, p. 10) over strategic direction and decisions. The annual return to the Charity Commission, for example, states:

> *The trustees review the aims, objectives and activities of the charity each year. This report looks at what the charity has achieved and the outcomes of its work in the reporting period. The trustees report the success of each key activity and the benefits the charity has brought to those groups of people that it is set up to help. The review also helps the trustees ensure the charity's aims; objectives and activities remain focused on its stated purposes… In particular, the trustees consider how planned activities will contribute to the aims and objectives that have been set.*

What this formal, public account does not make clear is that the initial decision making and direction setting is to a large extent driven by staff such that is there is little cultural conformance demonstrated:

> *They [staff] do it* [make key decisions about the organization]. *We as a Board don't. I mean, recently we've been discussing the organization moving forward and we've kind of said, well, let the staff and volunteers decide. The Board will be involved later. And clearly if we felt it wasn't going in the direction that was…I mean, basically our job is to ensure that the organization stays within its mission statement… its charity mission brief. That's our role. If we felt they were going off doing something that wasn't within that then we'd be reeling it in but it's largely up to them to do it and… if we start dictating to them, that's when you'll get breakdown in relationships.* (Trustee, Interviewee B6)

In contrast to Case A, however, actors did not appear to feel obligated to account for this to the Charity Commission and did not seem to be concerned about what external audiences might make of this non-conformance. In fact, actors presented this as self-evidently logical, given the goals of the organization. The effectiveness of the rhetoric exhibited in the extract above stems from two discourses, one implicit and one explicit. The implicit discourse is that of "mindless rule following" which is often mobilized to criticize organizations whose actions are questionable from a "common sense" view point (Ball & Ball-King, 2013). This implicit discourse enables the trustee to construct the board as acting in a manner conducive to the needs of the beneficiaries and therefore as behaving with good sense and impunity. The explicit discourse is that of empowerment which is frequently used as a discursive device to counteract the once prevalent view that disabled individuals lack agency and require guardianship, perhaps most cogently exemplified by the ironic title of the UK's Radio 4 programmed about disability "Does he take sugar?" The mobilization of this discourse acts to render the codes prescribing [in this case disabled] staff as subordinate to the board (Charity Commission, 2012a; NCVO, 2005; The Code Founding Group, 2010) as not only inappropriate but even, in this particular context, offensive. Rather than representing a formalized and limited delegated authority with clear reporting procedures to enable the board to hold staff to account, which would display conformance to the codes, this way of being is endemic in all aspects of informal organizational life.

There is similar non-conformance to the prescription that communication between board and staff will take place "*through* [the board's] *relationship with the chief executive*" (NCVO, 2005, p. 12). In the extract below the CEO draws attention to the dangers that can proceed from this prescription:

> *The board of trustees appointed someone to be the director…. And basically what happened was she was really awful and the organization completely changed… it was the people with learning disabilities who were emptying the bins and she was going out to all these meetings and spending loads of money on taking taxis etc. What transpired was the workers were really unhappy…. So the board took action against that. But as a result of that, that has affected some of the ways in which we work now. Part of the job of a director is to get a strong board and then it's a problem because if you've got a director who's not very good and they don't have a board that's at all active, then they have more and more power and there's no one checking that power at all and that was one of the problems. And she didn't let the*

*workers have any contact with the board, ever, and she was very active in that…*

While the CEO's accounts of the director's misrepresentations to the board are not within the spirit of governance codes, board-staff relations which are conducted through the CEO as presented in the above account are arguably more aligned with code rules than the current arrangements described below:

> *When the trustees are having a board meeting, they come early and we meet over lunch and its open for us to discuss things with them. It wouldn't be a problem to say, "look I'm concerned about this or that." It makes the board less detached from the workers on the ground, because they're not sat up in this hierarchy. I don't feel like it's all going on and I'm not contributing… that out of control feeling... and decisions are just being made. I feel that if it came to it, I could walk in there [the board meeting] and say, "this isn't ok." I wouldn't feel frightened to do that or intimidated.* (Staff member, Interviewee B3)

Collectively, the excerpts above position accountability as a negotiated process between staff and trustees, with each party holding the other to account through direct interaction rather than being enacted as a one-way process through which trustees hold staff to account stipulated in code regimes (NCVO, 2005). Unlike Case A, then, the non-conformance that is illustrated in Case B is presented as a moral response to the contradiction generated by the governance codes themselves: the requirement for the exercise of effective control versus the proscription that the organization should, "*do what you and your co-trustees (and no one else) decide will best enable the charity to carry out its purposes*"

(Charity Commission, 2013, section 3).

As these accounts illustrate the differences in the discursive and non-discursive strategies used to manage external and internal appearances can be understood to be a consequence of how the nature of the non-conformance illustrated in each case influences the accountability imperative for the organization. In Case A, we would suggest, the dual role of the CEO could be interpreted and evaluated in a number of ways that could undermine the integrity and morality of the board. For example, the dual role of the CEO in Case A poses the very real danger that external and other internal stakeholders could rightly point to the fact that there is a direct conflict of interest between the board of the charity and the board of the trading subsidiary, which imbues this non-conformance with a large element of moral ambiguity. The overt co-opting of the Charity Commission into sanctioning the non-conformance illustrated in Case A reflects, we would argue, attempts to mitigate this ambiguity. Any attempt to conceal this dual role through symbolic conformance only, would constitute a huge reputational risk because it would suggest either that the organization has something to hide – or that the reasons for the dual role are dishonorable (e.g., that this is an opportunity for the CEO to acquire more power and personal financial benefit). As a consequence the necessity to account for the non-conformance illustrated in this case was extremely high. In contrast, the non-conformance in Case B is a far less accountable matter – who else, other than staff (and hence the very group whose welfare is central to the organization's goals) stands to benefit from this?

The level of accountability required as a consequence of non-conformance also explained differences in how actors in Case A and Case B justified this, as we now discuss. For actors in Case A, for example, the activities undertaken and the explanations offered to manage the external appearance of these practices were not, in themselves sufficient to mitigate the ambiguity of the accountability context. Actors had to put much discursive effort into producing a convincing and coherent justification for this non-conformance.

*The Discursive Alignment of Means and Ends*

Accountability is one of the most highly legitimated "myths" of an organization's activities in the contemporary era (Hallett, 2010), and is seen to be especially important and critical to organizational legitimacy in the non-profit sector (Coule, 2015). Given the strong relationship between rationalized notions of accountability and transparency (Sauder & Espeland, 2009), non-conformance is, in principle, highly risky. We found, however, that it was in fact the necessity for accountability which was mobilized as a core motivation for non-conformance. This may either illustrate the disciplinary power of the accountability discourse (Sauder & Espeland, 2009) or more pertinently, how accountability discourses can work as powerful discursive resources enabling actors to provide convincing and acceptable rationales, or vocabularies of motive (Mills, 1940) for their actions and activities (Ezzamel et al., 2007).

Within Case A, for instance, we found actors were very keen to downplay the role of the trading subsidiary within the organization's strategy, placing instead a strong emphasis on the social purpose of the organization and how the trading subsidiary of the charity existed largely to enable that purpose to be met.

> *The Museum has two very strict strings to the bow, and that is the history of [field of the museum] and the memorial. I think it's absolutely imperative that the memorial side is here because it gives the Museum a soul, it gives… it's not just a*

*museum of interesting things that [people] like. It's got a soul; it's got a reason for being here. And that's very useful and certainly very powerful. Because it almost gives us a moral obligation for being here rather than just collecting [artifacts], you see.* (Trustee, Interviewee A1)

*I've seen a document which sets out what the pioneers thought the Museum should become and certainly they hoped that it would become a professionally organized, financially viable Museum dedicated to educating the public.* (Trustee, Interviewee A5)

In these extracts we see the social mission of the museum thrashed out in some detail – it does not just exist to exhibit "interesting things that people like" but has an educational function; an outcome which, according to interviewee A5 is something that was always intended as the primary goal by the founders of the museum and is an outcome that needs preserving. Moreover, given that education is a public right, then it makes sense that the commercial activities of the museum are primarily intended to broaden the appeal of the museum beyond those groups who would traditionally visit such places.

*A true memorial is to teach and show people who have no connection with it, in order to keep the memory alive. So what we do, we diversify. And that's been my main driving force, is diversification and inclusion. And by inclusion, I mean, doing different things here… Bringing all these different groups in, doing more corporate business and attracting businesses totally outside the Museum and thereby a bit of the memorial rubs off on them.* (CEO - Interviewee A1)

Thus in these extracts we see the Museum's commercial activities brought into discursive alignment with the social mission of the museum which is constructed as providing an important public service (education), a mission that cannot be properly fulfilled unless the museum is able to attract visitors who would not be traditional consumers of such "goods." In this way, as Palermo and colleagues (2016) argue, the discursive alignment of these apparently incompatible institutional demands (the logic of commerce and the logic of social good), functions to co-produce the means and ends of the museum such that they are more closely coupled. Indeed, as discussed above, the dual role of the CEO, the non-disclosure that the trustee and honorary CEO of the museum was also paid as CEO of the trading subsidiary in formal, public accounts and removing the honorary status of the Museum Director role in the staff handbook, all act to obscure the boundaries of the charity and its trading subsidiary. Yet Charity Commission codes, despite encouraging trading subsidiaries as a way of generating funds towards achieving a charity's purpose (Charity Commission, 2008, 2012), state that "*the charity exists for charitable purposes, but the trading subsidiary exists to generate income; their aims and interest are different; you need to distinguish between them*" (Charity Commission, 2012a, section 7.3). In orienting to this as an accountable matter, the CEO appears to recognize the precariousness of the museum's position vis-à- vis its commercial activities and shows sensitivity to the potential legitimacy penalty this non-conformance may incur:

> *I have this conversation about how we operate and how you use volunteer workforces for the benefit of the Museum, not the other way round. And how you… you haven't to be frightened to say we are an attraction first, and, a museum*

*second. And they [other museums] say, 'Oh, no, it's sacrosanct, how can you say that?*

*I am aware that there's a wider audience out there with an opinion about what we do here…. But because we're a charity and an organization that has a wider view, yeah, I'm very much aware of what people think. I want to do the right thing for them. So, I want to be seen to be doing the right thing for the right reasons.*

Nevertheless, and despite the work undertaken in interviews to discursively align commercial activities with social mission, the goals and language used to articulate them in written accounts suggest that trading and income goals have eclipsed the mission of the museum. For example, one annual report states "*financial sustainability and growth*" as the "*principle business aim*" of the charity with no discursive attempt to connect this to the achievement of public benefit required of any charitable entity. Moreover, such reports and the staff handbook are peppered with terms such as "*executive management team*", "*business*", "*profitability*", "*efficiency*", "*corporate business*" and "*company*." The contradiction between these two accounting contexts could be explained by the fact that in the latter formal context, actors recognize that funding decisions are likely to made on the basis that the Charity can conduct itself in a "business like" manner, and hence the impression management tactics utilized in this context are aimed at signaling this competence to interested parties (Vasquez et al., 2017).

Actors from case B also work to bring the means and ends of the organization into discursive alignment. Key actors in this organization also place great importance on their social purpose and appear strongly driven by the principles of democracy and the protection of individual liberties and rights. Such ideological foundations are endemic in both the formal charitable objectives of the organization, which talk of helping a particular section of society "obtain their full rights and privileges", and its processes and practices:

> *The work is led by people with disabilities, so the way we do things [is different]. So like, people with disabilities do training of professionals - I don't. So I might set it up but they deliver the training and what we say to people with learning disabilities is, don't go from any… how you think training should be, but how* <u>*you*</u> *want to do training. ……….we don't just accept how things 'should' be, we're always trying to change things and that thing about the process is really important. So if we don't get the process right then the end result is never right.*
>
> (CEO, Interviewee B1)

> *I was first attracted to work here because it's a political organization and I believe in what they're doing towards rights for [the target beneficiary group]. I like the way it works 'cause it works differently from other organizations because it's empowering to people.* (Staff member, Interviewee B4)

In the quotes above, actors invoke the idea of means acquiring substantive value above the ends for which they were designed. When the CEO says "*we don't just accept how things "should be'*"" in order to produce the right end result, she is effectively drawing attention to the problem of means-ends *decoupling*, which can happen when organizations become more focused on following procedures to achieve particular goals than on the goals themselves. By differentiating between training processes as following a legitimized template (how training should be) versus a set of personal preferences (how you want to do training), the CEO is effectively arguing that the goals of the organization are not simply to provide training for disabled people but are focused on “changing things” which, as articulated by interviewee B3 is necessary if the organization is to ultimately have an “impact” on the faulty “system” in society. Hence, although as prescribed by governance codes, board-staff separation and formalized, limited and monitored delegated authority, are intended to render the board’s decision making independent and hence protect its moral and pecuniary integrity, in practice, these interviewees imply that its moral integrity can pass a litmus test only if the group intended to be the primary beneficiary of the charity’s activities lead and drive the most important strategic decisions:

> *[We are] an organization controlled by disabled people.* (CEO, Interviewee B1)

Again, here we see that that organization’s concern with following processes that produce impactful, not just socially useful or helpful ends, functions to render the organization’s non-conformance as responsive and innovative; responses which make sense for an organization that is trying to be “different” and “political.”

We suggest that where the rationale for non-conformance exploits the potential problems that substantive compliance can generate (Case B) actors will not be concerned about detection of such non-conformance, a proposition that has some empirical support from Heese and colleagues (2016). On the other hand, where the rationale for non-conformance remains open for interpretation (in Case A, pursuing a commercial activity could be seen to be trumping the social purpose of the organization and raises further questions regarding the dual role of the CEO) actors are likely to be especially sensitive to external appearances. In such instances, overt sanctioning of non-conformance from key external audiences (i.e., the regulator) appears the safer option for safeguarding organizational legitimacy. In both cases, actors argue that the non-conformance with particular governance codes serves to more tightly couple actual governance practices with the mission of the organization. Figure 2 provides a summary of our theory building and we explicate this in the discussion below.

Please insert Figure 2 about here

**Discussion**

In the current audit era (Power, 1997), it is apparent that many organizations, especially those operating in complex institutional environments whose outputs are difficult to evaluate, are experiencing a tension between demonstrating conformance with institutional rules and achieving the goals that are the ultimate and intended outcome of such rules (Wijen, 2014). In our study of two charitable organizations, we have argued that one way in which organizations themselves can deal with this tension is by non-conformance with particular rules that are perceived to be undermining their capacity to achieve their core mission. While this is by no means a new or original strategy for dealing with tensions between conformity with institutional rules and achievement of organizational goals, we have focused on how actors justify non-conformance in a context of high levels of regulation which renders non-conformance a potentially risky and highly accountable matter.

We have suggested that two key discursive tactics are mobilized by actors as they account for this non-conformance. First, where non-conformance may connote that the organization is placing the interests of individuals above the interests of the organization, actors put much work into producing vocabularies of motive that undermine this connotation. This is achieved by appealing to the idea that charitable organizations cannot survive without funding; that funding can be very difficult for particular charities to achieve; and that it is therefore critical that savvy financial management is enabled via commercial activities and especially competent actors, to ensure the survival of the "good cause" for which the charity is ordained. Second, where actors perceive that substantive conformance could undermine the goals for which the organization is held accountable, they may exploit public distaste for such regulation by providing vocabularies of motive that contrast the moral and social benefits of achieving "noble" ends with the essentially damaging consequences of complying with particular rules (means).

As a consequence newer and more sophisticated accounts of organizational rationality are produced via reflexive authority in which the ability of "leading actor(s) to combine the arguments and interests of everyone involved into a 'socially rational' outcome" (Hoogenboom & Ossewaarde, 2005, p. 614) becomes apparent. Thus in these accounts, means and ends are coupled by either smoothing over (apparently) incompatible institutional demands (Case A) (Heaphy, 2013) or exploiting and exposing the irrationality of institutional contradictions (Case B). In either case, an outcome of this process is that actors are able to produce an account which not only demonstrates that the organization is "doing the right thing" but is doing it in the interests of those groups for whom its social mission is paramount. This we suggest is a critically important process for understanding how actors work to provide valid "vocabularies of motive" for actions that are not sanctioned within particular codes of ethical conduct.

We further argued that to fully understand the extent to which organizational actors are motivated to account for non-conformance, it is important to incorporate the role of the accountability context, specifically, the extent to which the nature of the non-conformance carries connotations for the ethical conduct of actors at all levels in the organization. We have argued that where such conduct is exposed as ethically vulnerable (as in Case A), actors need to do more than simply provide rational and coherent accounts of their non-conformant activities; they need also to take steps to ensure that that this is sanctioned and approved by the relevant regulator. Conversely, where non-conformance actually works to enhance the ethical conduct of organizational actors, they do not appear to be worried about possible detection, perhaps because they are confident that the codes themselves and any overly muscular responses to code non-conformance from the regulator would be the targets of any external disapproval.

Finally, the fact that the non-conformance we observed in these organizations was sustained throughout the life-time of the study and to our knowledge, continues to the present day, is indicative that such non-conformance is not a temporary phenomenon though as the accounts of actors in Case B, illustrate, may change dependent upon who is in charge and how they interpret the governance codes.

*Theoretical Contributions*

Our primary contribution is to emerging theory on means-ends decoupling. Wijen (2014) has convincingly argued that this form of decoupling is now more likely to occur than policy practice decoupling, due to the power and reach of compliance rules. He argues that while such rules prevent symbolic adoption of institutional prescriptions, if followed to the letter they can prevent organizations from achieving the very goals for which they were designed. Our study suggests a somewhat different consequence of the implementation of compliance rules – greater not lesser focus on the relationship between means and ends. As organizations, especially those in the public and non-profit sector become ever more accountable and subject to surveillance, the salience of their actual purpose and mission (their ends) increases as actors have to work ever harder (via conformance with governance codes) to justify their costs, expenditure and fitness for funding awards and/or charitable donations (their means). This contingent and precarious existence means that actors are sensitive to the implementation of any practice that undermines their (perceived) ability to achieve their mission.

Compliance or conformance with institutional rules differs in its importance for the different audiences who have a stake or interest in the organization, and this appears to explain differences in how, or indeed whether organizations publically account for non-conformance. As our study illustrated, formal accounts of conformance as demonstrated in returns to the Charity Commission may "airbrush out" areas of non-conformance by rendering such activities opaque or ambiguous (as in Case A) or by simply not reporting such activities (Case B). Accounts of activities that are more likely to be consumed by potential funders, such as annual corporate reports, or by internal audiences (staff handbook) may emphasize particular activities (in Case A, commercial activities), or play down others (its governance and actual social mission), concerned chiefly with projecting an image of financial competence (Vasquez et al., 2017). However, in person-to-person interactions, especially where, as in this case, the audience (i.e., the research team) has "power of representation" (Kauffman, 1992) (that is, the capacity to present accounts of organizations in public documents such as journal articles) actors at all levels in the organization may show sensitivity to how non-conformance with governance codes could be read and dishonorable motives imputed, at least for actors in Case A. Here, for higher level actors such as trustees and CEOs, reconciling such potential social criticism would appear to be motivated by the threat to their identities as strategic and, crucially, ethical actors. Lower level actors also showed sensitivity to the potential accusation that the commercial arm of the museum was trumping its social purpose. Justifying the importance of commerce was perhaps one way of resolving the potential dissonance suggested by this sensitivity (Fiss & Zajac, 2006).

As our analysis illustrated, actors in both cases emphasized that it was in fact the pursuit and achievement of their social goals (their ends) that led them to avoid strict conformance with particular governance codes. Whether or not each organization was actually achieving the goals they claimed to be achieving is an open question and one that we do not believe is empirically resolvable: these are matters of perspective and interpretation, and suggest that the functionalist assumptions that characterize recent scholarship on decoupling may be flawed (Haack & Schoeneborn, 2015).

Hence, a further contribution of this study is to the emerging scholarship that has examined how the "tension that exists in relatively opaque fields between conformance with an institution's rules ('the letter') and achievement of the goals for which those rules were defined ('the spirit')" (Wijen, 2014, p304) is mitigated. Our focus on vocabularies of motive illustrates that rules may be rendered elastic by mobilizing justifications for action which undermine their rationality. In a context (e.g., the UK and the US) where organizations can face much criticism for following rules to the letter, especially where these appear to undermine an organization's ability to "get on with its job", justifications which work to expose these potential frailties within governance codes are convincing and compelling. We believe this illustrates how organizational actors are able to capitalize on the growing societal resistance to and distaste for regulation which is seen by some commentators to be one of the reasons behind the recent Brexit vote in the UK.

Finally, the study contributes to the literature on corporate governance which, though becoming increasingly theoretically sophisticated, has somewhat neglected the governance of non-profits (Cornforth, 2004, 2012). Morrison and Salipante (2007) specifically suggest that knowledge of governance practices to achieve broadened accountability to multiple and diverse stakeholder groups has lagged. Indeed, the narrow conception that reporting is and should be the central mechanism for discharging accountability and legitimizing non-profits continues to dominate (Conolly & Hyndman, 2013; Morgan & Fletcher, 2013; Schlesinger, Mitchell, & Gray, 2004). Our analysis has shown, however, that reporting may be, as Heese and colleagues (2016) suggest rather more political than has hitherto been theorized. The Charity Commission or any other regulator will have legitimacy concerns of its own that constrain how actors in those organizations might react to reports of non-conformance. Moreover, as our analysis reveals, actors from charitable organizations do not passively respond to the prescriptions embedded in governance codes, they actively seek to mold those codes to the context in which they are operating which at times, due to the potential ambiguities such actions produce, means that actors have to actively lobby (Oliver, 1991) and/or co-opt the regulator so that they can legitimately bend governance rules. In exploring why charities may not comply with governance principles yet continue to be legitimate in the eyes of both internal and external audiences, we have challenged the prevalent notion of non-profit accountability as a somewhat benign and straightforward governance function and recast it as a challenging, complex and political process.

*Areas for Future Research and Limitations*

One major limitation of this study is that we do not know how relevant external stakeholders actually evaluate the organizations that are the focus of this study. We have made a judgment that legitimacy following non-conformance was conferred on these organizations in light of the fact that senior organizational actors made no reference to any apparent legitimacy crises in their interviews with the researchers and due to their on-going existence. Moreover, the non-conformance we charted in these organizations appears to have been sustained overtime. Nonetheless, future studies examining the discursive efforts that are made to justify non-conformance with regulatory codes could look at how such accounts are received by relevant external audiences. This could potentially be done by examining the financial status of such organizations in the aftermath of non-conformance and/or by interviewing relevant external stakeholders regarding their views of particular non-conformant organizations, ideally on several occasions over a period of months or years to capture how information about these organizations moves into the public domain relatively slowly.

We have also not been able to differentiate between internal and external conferment of legitimacy due to not having data from relevant external stakeholders. Certainly, the accounts of the internal stakeholders we did interview are suggestive that the non-conformance with governance codes we have discussed in this study was accepted as the rational response suggested by those who made these decisions. Nonetheless, future research would do well to include a greater number of internal stakeholders than in this study; because it may well be that we have managed to interview only those individuals who did approve. Indeed we were told informally by actors in Case A that a number of dissenters who disapproved of the dual role of the CEO had been "removed" from the organization which, if true, is suggestive that securing approval for non-conformance from internal actors may not always be straightforward or guaranteed.

A further area for study is suggested by the fact that our findings are based on retrospective data in the form of interviews and documents. Hence we do not actually know how the governance practices that we commented on in this article evolved or stayed the same over time, or whether the performance of these organizations in terms of the achievement of their respective social missions, was perceived by internal and external actors to have changed in any way. While evaluating the performance of organizations operating in opaque institutional environments producing essentially social goods is extremely difficult (Greenwood et al., 2011; Wijen, 2014), interviews with multiple internal and external stakeholders would help improve the ecological validity of the study, while a longitudinal, design in which the same individuals were interviewed several times would mitigate the possible effects of various types of retrospective bias. This type of research we would suggest is critical if we are to detect whether public commitments to social missions of the type illustrated in this study operate to push organizational actors into "walking their talk" (Christensen, Morsing, & Thyssen, 2013; Haack, Schoeneborn, & Wickert, 2012) and/or sow the seeds of transformation in more material practices and routines (Ezzamel et al., 2007). Finally, we must address the extent to which the findings of this study are likely to generalize beyond the non-profit sector. We would suggest that charitable organizations exist in environments that are more institutional than technical (Meyer, Scott, and Deal, 1983) and occupy opaque fields (Wijen, 2014) in conditions of considerable institutional complexity (Kraatz & Block, 2008). As a consequence, the theoretical constructs we have applied to our cases would be most applicable to other organizations operating in similar environments. However, all organizations have legitimacy concerns and, increasingly, are under pressure to "do good" as well as "look good", a pressure that is intensified by compliance rules in many domains of activity (Haack et al., 2012). Thus, we suggest, it is likely that all organizations who in one way or another do not comply with regulations will be rendered accountable and hence, will be likely to demonstrate similar rhetorical activities to those explored here. Future research could usefully explore whether such work differs between those organizations that are situated on different points of the institutional/technical environment spectrum.

**Notes**

1. The data presented here constitutes part of a wider program of four case studies. The two cases discussed were chosen based on their potential to shed light on our area of theoretical interest in how internal organizational actors account for intentional failures to conform to governance codes and regulations.

2. The order sanctioning this move from the Charity Commission is not publically available. It was referred to only in our interviews. However, in essence, the CEO of Case A has 3 roles (trustee, honorary director of the charity (i.e., museum) and paid director/CEO of the trading subsidiary). There is therefore considerable ambiguity surrounding the sanctioning "order" referred to by interviewees in that the Charity Commission either agreed to the CEO acting as trustee and honorary CEO of the charity or as trustee and director of the subsidiary for which

he is paid. In either case, this would constitute a de-facto approval of the payment. The lack of transparency/declaration about this payment in public documentation (see below) reflects, we suggest, concerns with *public* perceptions.

3. We see the interview as an accountability context and we infer tension from moments in the dialogue where participants demonstrate sensitivity to particular issues by offering justifications for action which are not prompted or requested by the interviewer. The provision of unprompted justifications is widely accepted in micro-studies of language as demonstrating participant sensitivity to potential dispreferred readings of the participants' motives (Drew & Heritage, 1992; Speer, 2005).

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**Penny Dick** (BA, MSc, PhD, C.Psychol.) is Professor of Organizational Psychology in the Institute of Work Psychology at Sheffield University Management School. Her research interests include identity, resistance and power; the impact of family-friendly policies on organizations and individuals, and the role of institutional work in understanding processes of organizational stability and change. She has published in journals such as *Employment & Society*, *Human Relations*, *Journal of Management Studies*, *Journal of Organizational Behavior*, *Journal of Organizational and Occupational Psychology*, *Organization Studies*, and *Work*. She is Senior Associate Editor for the *Journal of Management Studies.*

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**Table 1.** Summary of Organizations.

| Case | Founding decade and mission | Level and profile of income | Number of Staff & volunteers / unionization | Number and recruitment of trustees | Scale of operation |
|---|---|---|---|---|---|
| A | Founded in 1980s to advance education of the pubic through provision of Museum and memorial. Core mission unchanged. | Approx. £500,000 87% earned<br>11.5% voluntary<br>0.5% investment<br>1% other | Approx. 15 employees; 135 volunteers<br>Non-unionized | 8 trustees appointed on basis of 'founder' status or profession/ skills Recruited through personal recommendation | Single site containing charity and trading subsidiary; national coverage |
| B | Founded in 1990s to work with client group to obtain full human rights and privileges through empowerment and self-advocacy. Core mission unchanged. | Approx. £500,000 31% earned<br>64% voluntary<br>0.5% investment<br>4.5% other | Approx. 20 employees; 10 volunteers<br>Non-unionized | 11 trustees<br>75% of board must have a disability or represent an organization for disabled people Recruited through organizational/ professional networks | Single site; national coverage |

**Table 2.** Summary of Interviewees.

| Case | Interviewee | Role |
|---|---|---|
| A | A1 | CEO and Trustee |
| | A2 | Staff member |
| | A3 | Staff member |
| | A4 | Trustee |
| | A5 | Trustee |
| B | B1 | CEO |
| | B2 | Staff member |
| | B3 | Staff member |
| | B4 | Staff member |
| | B5 | Volunteer |
| | B6 | Trustee |
| | B7 | Trustee |

**Table 3.** Stipulations of Charitable Governance Codes and Formal Accounts of Organizational Activities Relevant to these Codes and Actor Accounts of Non-Conformance.

| **Illustrative Charity Code Stipulations** | **Formal organizational account** | **Summary of non-Conformance from interview accounts** |
|---|---|---|
| ***Case A – Educational Museum*** | | |
| Separation of charity and trading subsidiaries:<br>"*The charity exists for charitable purposes, but the trading subsidiary exists to generate income; their aims and interest are different; you need to distinguish between them"* (Charity Commission, 2012a, section 7.3). | Annual returns to the Charity Commission identifies *"a pyramid management structure… headed by the Honorary Museum Director who is also a Trustee"* making no mention of his position as paid director of the trading subsidiary or the dispensation granted by the regulator in this regard (Structure, Governance and Management section). | Interviewees report the acquisition of special dispensation from the Charity Commission in order to permit one individual to be honorary trustee of the charity, a trustee of the charity and paid director of the trading subsidiary (see p. 11 and Note 2), thus dispelling the perception of non-conformance. |
| *"Where the board has agreed to establish a formally constituted subsidiary organization/s, it is clear about the rationale, benefits and risks of these arrangements. The formal relationship between the parent charity and each of its subsidiaries is clearly recorded and the parent reviews, at appropriate intervals, whether these arrangements continue to best serve the organization's charitable purposes."* (The Core Founding Group, 2010, p. 11) | Charity's annual report positions "*financial sustainability and growth*" as the "*principle business aim*" with no attempt to connect this to the achievement of public benefit required of any charitable entity.<br>Charity's staff handbook peppered with terms such as "*executive management team*", "*business*", "*profitability*", "*efficiency*", "*corporate business*" and "*company*." | The lack of formal procedures regarding delegated authority, the CEOs participation in decisions regarding the trading subsidiary upon which his salary and livelihood depends (a conflict of interest), and the prominence of trading and income goals in accounts relating to the parent charity contravene the detailed stipulations set out in the governance codes opposite. Interviewees spent considerable effort justifying the blurring of these roles based on enhancement of financial decision-making and accountability (pp. 17-18); and interweaving the commercial interests and social mission of the museum into a symbiotic relationship (pp. 18-19, 27-30). |
| Conflicts of Interest: | | |

| | | |
|---|---|---|
| *Trustees have a legal duty to "act in [their] charity's best interests" through "deal[ing] with conflicts of interest" (Charity Commission, 2012a, p. section 1.1), "[the charity] ensures its trustees understand that they must act only in the charity's interests and that any conflicts of interest are identified and managed (legal requirement)"* (Charity Commission, 2008, Hallmark 2); *"[trustees must] avoid putting themself in a position where their duty to the charity conflicts with your personal interests"* (Charity Commission, 2012a, section 2*)*and *"charity trustees who are also directors of the subsidiary have a conflict of interest"* (Charity Commission, 2012a: section | Annual returns and the staff handbook provide evidence of policies and procedures for health and safety, fire, equal opportunities, environment, disciplinaries, education and risk assessment with a total absence of anything related to conflicts of interest. | In constructing their accounts, interviewees put significant discursive efforts into downplaying potential conflict of interest that a dual roles may generate (pp. 19-20), in particular positioning the CEO as an informer more than a decision maker within the board context (p. 20) and, again, interweaving the commercial interests and social mission of the museum into a symbiotic relationship (pp. 18-19).<br><br>Nevertheless, the CEO's participation in decisions regarding the trading subsidiary upon which his salary depends is, by the codes' definition a conflict of interest. |
| <u>Delegation of Authority:</u><br><br>"*Trustees must always remain collectively responsible for all decisions that are made and actions that are taken with their authority*" and "*high risk and unusual decisions should not be delegated*" (Charity Commission, 2012a, section 9.3).<br><br>*"The board describes its 'delegations' framework in a document which provides sufficient detail and clear boundaries so that the delegations can be clearly understood and carried out. Systems are in place to monitor and oversee how delegations are exercised."* (The Code Founding Group, 2010, p. 15) | Annual returns to the Charity Commission and staff handbook provided no reference to policies and procedures in respect of delegated authority, despite evidence of such for health and safety, fire, equal opportunities, environment, disciplinaries, education and risk assessment. | CEO recounts a decision-making scenario where both principles set down by the Charity Commission were contravened; pointing out the unusual nature of the decision and that it was not taken collectively (see p. 21). |

| Case B – Rights Organisation | | |
|---|---|---|
| Decision Making and Control:<br><br>*"Every organization should be led and controlled by an effective Board of trustees which collectively ensures delivery of its objects, sets its strategic direction and upholds its values"* and *"Trustees have and must accept ultimate responsibility for directing the affairs of their organization"* (NCVO, 2005, p. 10)<br><br>"*The board makes sure that its decision-making processes are informed, rigorous and timely, and that effective delegation, control and risk-assessment, and management systems are set up and monitored.*" (The Code Founding Group, 2010, p. 14)<br><br>"*Do what you and your co-trustees (and no one else) decide will best enable the charity to carry out its purposes*" (Charity Commission, 2013, section 3). | Annual return to CC states *"The trustees review the aims, objectives and activities of the charity each year. This report looks at what the charity has achieved and the outcomes of its work in the reporting period. The trustees report the success of each key activity and the benefits the charity has brought to those groups of people that it is set up to help. The review also helps the trustees ensure the charity's aims, objectives and activities remain focused on its stated purposes… In particular, the trustees consider how planned activities will contribute to the aims and objectives that have been set.* | Trustee and CEO provide an account of the centrality of staff to decision-making and direction setting, stating that they do and should make all the key decisions, not the board (pp. 22-23, 31-32). A staff member describes their willingness to challenge board decisions in the event that it didn't feel 'ok' to them (p. 25). |
| Board-staff relationship conducted through CEO:<br><br>*"She or he (the CEO) should provide an effective link between Board and staff, informing and implementing the strategic decisions of the Board."* (NCVO, 2005, p. 11)<br><br>*"The board, through its relationship with the senior* | Organisational structure chart depicts distinct groupings with trustees at the apex of the organization, followed by the CEO and then the functional areas of work. Annual return to charity commission states: *"The Board meets approximately six times a year, and maintains an overview of the* | CEO expresses the dangers that can proceed from relationships between boards and staff based on CEO brokerage and how this has informed current practice in the organization (p. 24). This is reaffirmed by a staff member who describes the direct, two-way relationship between the |

| | | |
|---|---|---|
| *conditions in which the charity's staff are confident and enabled to provide the information, advice and feedback necessary to the board."* (The Code Founding Group, 2010, p. 11) | *running of the company and charity ensuring legal and financial compliance. In addition Trustees are involved in overseeing the strategic direction of the organization. The day to day running of the office is delegated to staff via the Director."* | and the trustees (p. 25), positioning accountability as a broad and negotiated process. |

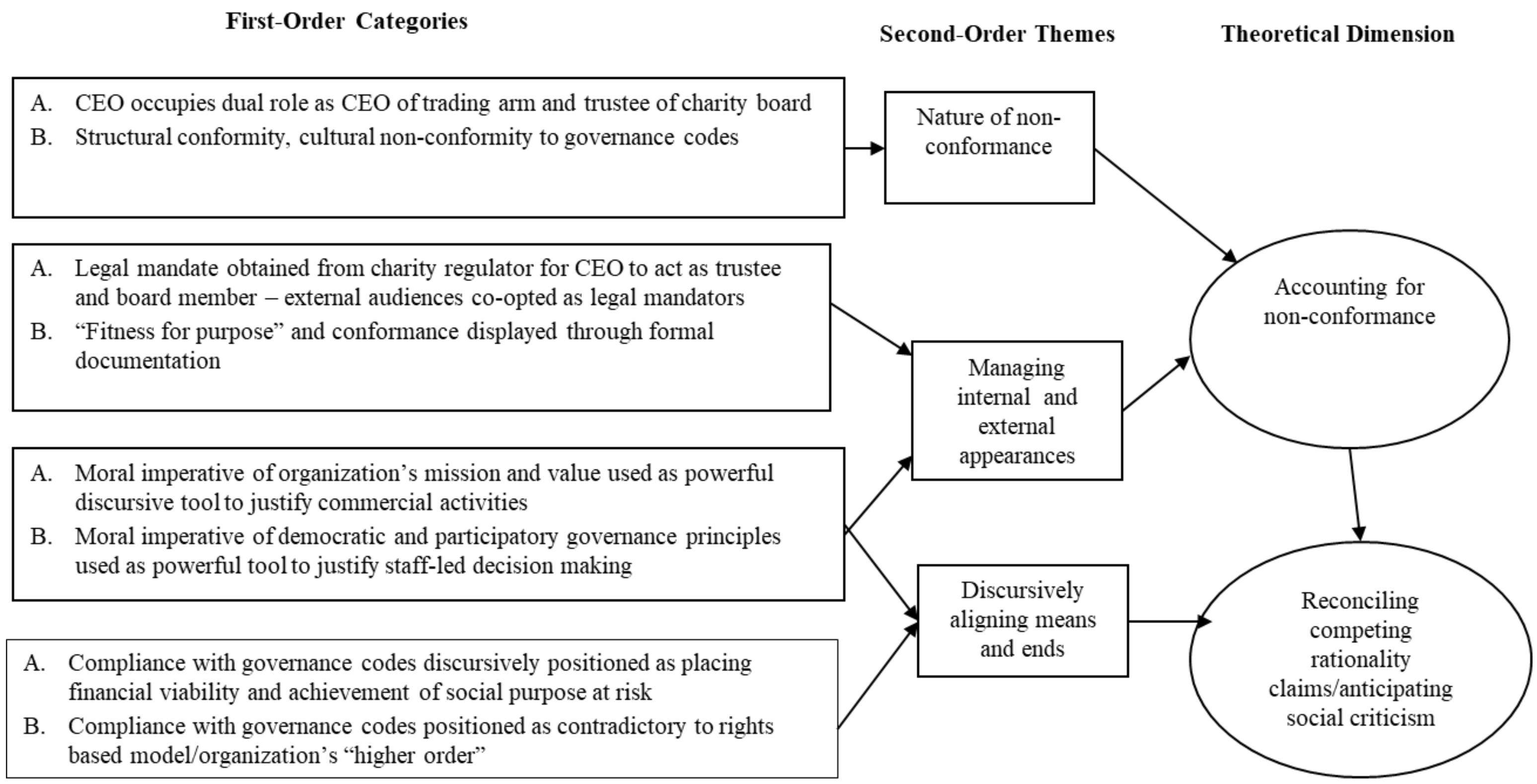


**Figure 1 – Data Structure**

**Figure 1.** Data Structure.

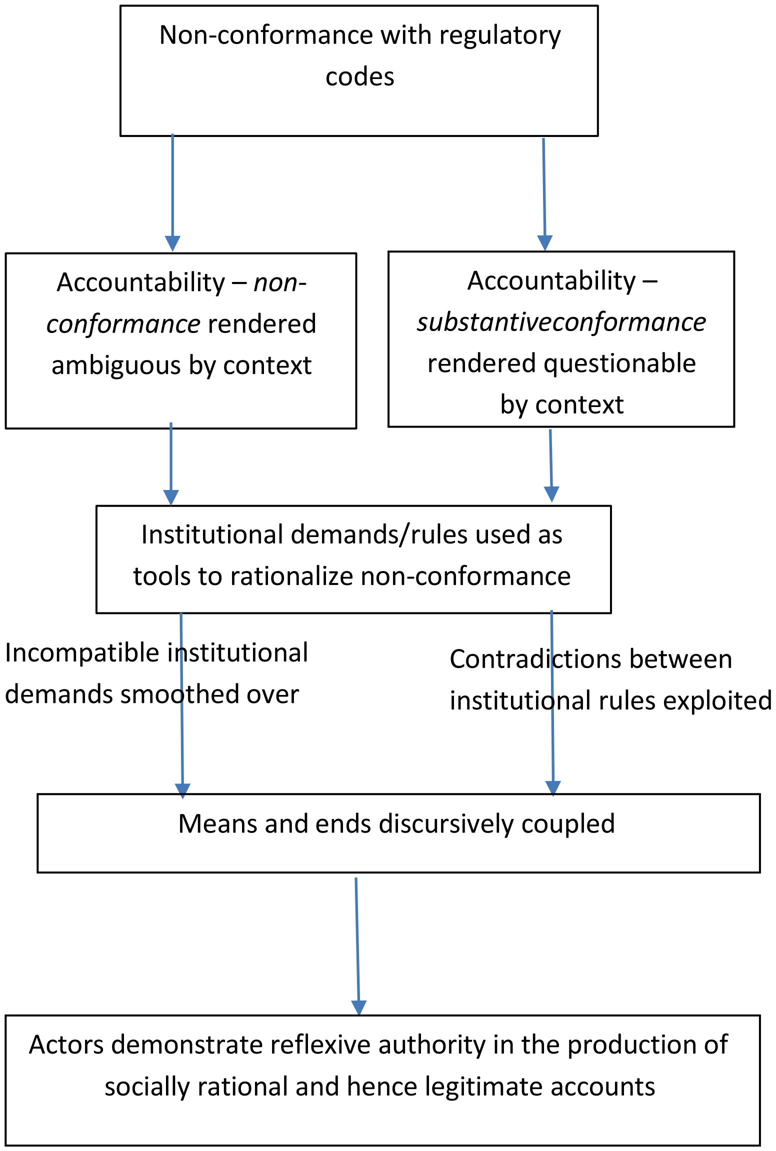


**Figure 2.** Non-Conformance, Accountability, and the Discursive Alignment of Means and Ends.