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## Unpacking the Sector's Pandemic-Induced HR Crisis

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*The charitable sector is responding rapidly to the expanding impact of the pandemic, in terms of outreach, operations, and advocacy. In the coming weeks, The Philanthropist will provide up-to-date coverage, as well as our usual reporting and commentary on other news of relevance to foundations, charities, and non-profits. [Read more of our COVID-19 coverage.](#)*

For charities and non-profits contending with the COVID-19 pandemic, the problem of layoffs has been a bit like the old question about pulling off the Band-Aid quickly or slowly.

Some organizations have done the former. Kelly Duffin, president and CEO of Goodwill, The Amity Group, knew layoffs were inevitable. COVID-19 forced the non-profit to shutter its thrift stores, a café and catering division, and business services, which has meant that 42 people are out of work, at least temporarily.

"I think the way we have tried to do it is to be guided by our values, so we tried to break it as compassionately as possible. It wasn't a surprise," said Duffin, whose operation serves Halton and Hamilton, and whose mandate includes greater access to employment. Still, she says, the layoffs in late March were "a bitter pill."

Others held on a bit longer. "We kept staff for another month hoping some kind of package would come," says Lidia Monaco, vice president of strategic initiatives at Toronto's The Neighbourhood Group.

Monaco's agency eventually had to temporarily lay off about 150 unionized workers, the bulk from childcare sites that were forced to close.

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The economic fallout caused by COVID-19 has forced Canada's non-profit sector to shed staff as agencies of all sizes struggle to pivot and stay operational, even as demand for social supports and front-line services have spiked.

Overall, the country's workforce shrank by one million jobs in March, or 5.3% overall, according to the [latest Statistics Canada Labour Force Survey](#). More than 413,000 Canadians were reportedly out of a job, bringing the unemployment rate up to 7.8% — “the largest one month increase since comparable data became available in 1976,” the agency reported.

In March, Imagine Canada projected that almost 200,000 jobs will be lost in the sector if social distancing is enforced for six months. According to a more recent Ontario Nonprofit Network (ONN) [survey](#), about a third of charities, non-profits, and non-profit cooperatives had to either reduce hours or lay off staff; four out of 10 were operating with “low financial reserves;” close to 20% had shut down or planned to; and almost one in five had just a month's revenue to keep them afloat. (The survey results were compiled from 483 responses gathered in late March and early April, with results published April 6.)

Beyond the numbers, the pandemic has also shone a spotlight on the lack of human resources and legal expertise within smaller organizations navigating the difficult process of maintaining core social values while laying off staff. “If we had an HR council focused on this right now that would be incredibly helpful,” says Cathy Taylor, the ONN's executive director.

Canada's former HR Council for the Nonprofit Sector, created in recognition of the need for sector-wide supports and data collection, lost funding about a decade after its creation and was disbanded. The June 2019 report of the Special Senate Committee on the Charitable Sector called for the resurrection of the council or a “similar body” to work with governments on a “human resources renewal plan” to improve equity.

Most small organizations could use help applying for funding and organizing layoffs without having to seek legal support as they adapt to providing digital services and covering significant operational costs like rent, Taylor says. “They are really facing a financial cliff and relief and support can't come fast enough . . . We know for sure the impact will be felt for the next full year, if not longer, and our concern is making sure organizations come out the other end.”

Federal funding has rolled out in waves, including wage subsidies and direct financial support for people who have lost work.

The Emergency Community Support Fund, announced by the federal government on April 21, promises \$350 million in new funds to support volunteers delivering groceries and medications, ensure transportation for the elderly and people with disabilities, and assist organizations scale up phone help lines and virtual services. Andrea Dicks, president of Community Foundations of Canada, describes the new money as an important component of a suite of funding tools needed to keep the sector afloat. “We don't know how much longer this will continue and that is probably part of the most difficult pieces of this experience.”

The sector is also lobbying for a larger pool of emergency stabilization funds that agencies can use to stay afloat. Imagine Canada is now [calling for a \\$7.2 billion](#) support package.

Taylor credits Ottawa with moving quickly and listening to sector concerns but adds that

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program details are changing almost daily. “The uncertainty for those who are making the decisions, the boards and the executive directors, as well as the staff, is so palpable.”

Monaco says shutting down The Neighbourhood Group’s childcare sites meant an abrupt loss of fees and now some parents are dropping their spots, which may mean a further decrease in revenue when they are back up and running.

The ensuing layoffs included a letter of understanding with the two unions that serve the merged agencies, which was organized in collaboration with in-house HR staff. Bumping for seniority was suspended and the organization is trying to bring back about 20 employees to deliver online programs, including a homework club.

Duffin says Goodwill is continuing to provide laid off staff with benefits: they have added a virtual doctor service and are assisting in accessing government funding.

The pandemic has also shown that many organizations have little financial buffer. Fundraisers have been cancelled over the past five weeks, which means cash flow is a big and growing issue. “The foundation of the charitable, non-profit sectors is not set up for prolonged revenue decline,” says Bruce MacDonald, president and CEO of Imagine Canada, noting that many charities have no assets and thus no access to loans or operating lines. “Organizations don’t have cash pools to draw from, so jobs are being affected immediately. There is not a lag time here.”

While the pressures are most keenly felt in small charities, larger ones aren’t immune. The Canadian Cancer Society (CCS), for example, has cancelled about 400 events nationwide through to July and is expecting that revenue for the year will be down as much as \$90 million, says CEO Andrea Seale. Current shortfalls translated into temporary layoffs of about one-third of CCS’s 900 staff country-wide. Seale, working with her HR team, is waiting to learn how much support is available through wage subsidy programs.

Funding shortfalls and layoffs have also impacted volunteer programs. For Seniors Services Society, a BC agency that helps seniors with housing, meal deliveries, and supports, it meant temporarily sending home 100 volunteers – all seniors themselves. The 10-person organization is temporarily down by four staff members, with some employees off for personal reasons, even though demand for its services have tripled. “There was no question for me to make sure that we could keep the staff whole through this,” says CEO Alison Silgado.

The group applied for supplemental unemployment funding in late March. It also worked with its benefits provider to ensure that, if staff personal time or layoffs were required, staff could continue to receive 95% of their existing salary and receive six months of benefits. “So, all those pieces were in place, staff knew that, so there was no fear.”

Silgado says the organization is still serving hot meals to hundreds of seniors thanks to community volunteers and corporate donations.

As the sector waits for federal stimulus to flow, some grassroots advocates and social justice experts warn that some agencies will be better positioned to access federal money than others – a dynamic that points to the need for more targeted financial programs and tougher accountability.

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Deena Ladd, a director with the Toronto non-profit advocacy group Workers' Action Centre, says that if the pandemic represents a new normal, some charities shouldn't go back to the old normal when the crisis ebbs. "You are seeing the exposure of all of the inequities . . . who is considered to be expendable or not." As the sector fights for recovery, she says, charities, non-profits, and foundations should take some time for introspection and reorganize to ensure that all agencies and workers have equal access to government funding.

Jennifer Robson, a Carleton University associate professor of political management, also points to the need for targeted funding to ensure equitable access for services like childcare, which, she says, cannot afford to "atrophy" over the coming months. "You need those childcare spaces for parents who have to go back to work," she said. "There are all of these services that are very much about protecting the welfare, and the wellbeing, and frankly the financial security, of a huge number of Canadians."

Ultimately, the question is whether smaller or more community-based charities will be able to access stimulus funds and thus re-hire staff so they can resume delivering services. Some charities, Robson says, have become incredibly financially sophisticated with fundraising. These groups will have an advantage when it comes to accessing monetary support, she adds, so the government needs to be more focused in directing support to less savvy or understaffed groups.

With more difficult conversations on the horizon, one thing organizations can do to help their workers is approach each step with compassion, an eye to collaboration, and a commitment to transparency. "You want to keep the focus on people, your culture, and your values," says Val Cambre, principal and CEO of Teal & Co., a boutique talent, strategy, and HR services consultancy.

While COVID-19 means sector leaders will face more "tough decisions," one way to ease anxiety is to take an individual approach, Cambre adds. That means understanding a worker's history and using these details to assist employees to access specific supports – a practice Cambre recommends for all conversations about employment. "Take a lens of respect and appreciation for what they have given."

Tracking the extent of the layoffs is also important. MacDonald says Imagine Canada will survey 4000 charitable and non-profit organizations across the country to collect more specific numbers on immediate and pending job losses.

Vantage Point, a Vancouver non-profit focused on collaboration and training, has also [set up webinars and primers](#) for board leaders, and is gathering data on layoffs across BC.

Meanwhile, Taylor acknowledges that, even if larger pools of funding are made available, that money won't be accessible right away. "Certainly, getting a program that size out of the gate will take time, so building on existing infrastructure is really important," she says.

But she has found hope in watching organizations pull together and share resources as they try to ensure they will be able to hire back laid-off staff and re-start operations. "If they don't survive and thrive, it is our communities that will suffer."

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## Legal Questions Related to COVID-19 Lay Offs

In response to questions provided by *The Philanthropist*, Soma Ray-Ellis, partner and chair of the employment and labour law group at Gardiner Roberts LLP, offered some insights into the differences between temporary layoffs and terminations.

### ***At this time, do temporary layoffs open any of these agencies up to potential legal issues? Why or why not?***

The general common law rule with layoffs is that unless an employee consents to the layoff, it is a termination, thereby entitling employees to a severance package. Therefore, these employers are exposed to wrongful dismissal lawsuits.

However, I don't believe that rule is likely to apply to many employers during the COVID-19 mandatory state of emergency. Employers who have been forced to shut down can argue that the contract of employment was frustrated or that the doctrine of impossibility should apply under the circumstances given there is no work, they are under a mandatory shut down order, and employers are not allowed to terminate employees for a COVID-19 related reason, thereby leaving them with very few options. Layoffs being the only real choice.

If those employers recall the laid off employees as soon as the state of emergency is lifted, they are not likely to be found to have terminated the employee, thereby not having to pay severance.

### ***Is there any way that smaller agencies with tight budgets can protect themselves if terminations are required, outside of hiring an experienced lawyer?***

Employers should have a clause in the employment contract allowing them to lay off the employee in accordance with the Employment Standards Act. And they should follow the requirements of the act: no more than 13 weeks of layoff without benefits or less than 35 weeks with benefits in a year. This would stop lawsuits as a result of layoffs.

### ***What about employees, if they are terminated what is the first resource they should try and access?***

Terminated employees should consult an employment counsel. Legal fees for loss of employment are 100% tax free. Consultations typically take an hour and are well worth the cost. In most instances, the consultation reveals that the employee is entitled to a lot more compensation.

*Note: The replies above are general in content and do not constitute legal advice.*