



7 November 2005

S05.51

Submission to the Department of Internal Affairs – Comment on the Charities Commission Draft Registration Forms

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 39 nationally organised societies. It has 33 branches throughout the country attended by representatives of those societies and some 150 other societies. The Council's function is to serve women, the family and the community at local, national and international levels through research, study, discussion and action.

Due to time constraints precluding consultation with all members in this instance, a process that needs a six week lead time, this submission has been prepared by the Board of Management.

This submission will cover

- some general comments on the information requested
- specific comments on the individual forms and
- and take the opportunity to raise issues that NCWNZ feels will impact on its function.

General Comments

NCWNZ made two submissions to the proposed establishment of the Charities Commission, in June 2004 and March 2005. At the time members commented on the increasing amount of paperwork volunteers are required to attend to: this trend is one of the reasons people give for not seeking official positions in volunteers organisations; it is perceived as being more like work than an offer of assistance for a worthy cause.

The forms are reasonably straightforward although rather long. While a registration form may need to be so, Board members felt that the annual return forms do not need to include many of the questions currently therein. As well it is not clear precisely what information will be made available to the public.

There is a concern that the 'public benefit test' is not specified as to what it is and how it will be applied or measured.

Specific Comments

Draft Form No. 1. Application for Registration of a Charity

This draft appears to cover all aspects of a legal entity applying for Charitable status and gives a good choice of options.

Some concerns were raised however, about the following details:





Q 3: In the event that this is someone's personal address then they should have the option of it being kept confidential as in Q 9 and 10. One of our affiliated organisations which has been the subject of racial hate mail would certainly be asking, with justification, that their physical address not be published

Q9 & 10: It states that the information below will not be made available to the public but it is not clear whether this statement only relates to these questions or for the rest of the form from that point on.

Q11: This raises the issue of institutional historical knowledge being available to current officials in an organisation. If the answers to these questions were not known how would they find out? Will there be a 'how to' brochure to accompany these forms.

Q 20: Such a 'how to brochure' could include details of the 'public benefit test'.

Q 29 & 30: These questions at the end of the form are a request to withhold information, but it is not clear what information *is* intended to be published.

Draft Form No. 2. Application for Group Registration of Charities.

The issues raised for Draft Form 1 also apply to this form, as well as the following:

Q 7 & 8: The Board questions whether other umbrella (group) entities, say New Zealand Council of Social Services, (NZCOSS) et al. will experience the same challenges as NCWNZ in completing this part of the form. Much will depend on the interpretation of member charities and at what level of participation, national and/or local, each needs to be recognised on the form.

Q 20: It would be helpful if a 'how to' brochure as mooted above, could include precisely what is required in this section. While it seems to be a straightforward decision, members see cost implications in both options that could impact on the work of both the parent body if consolidated is chosen, and on individual branches if individual is ticked.

The Board is unsure whether the proposed **Clause 56D (b) (ii)** in the Charities Commission Bill re-draft has survived into the Act. This stated that the (Charity Commission) Register '*is not required to separately contain the information and documents referred to in that section in relation to the entities that form part of the single entity.*' Knowledge and expected practice in this regard would assist in answering **Q 20**.

Draft Form No. 3. Officer Declaration Form

Q 3: While this information may be useful for official checking purposes NCWNZ sees no useful purpose being served in having this information on the public register.

Q6 & 7: The Board fails to see the relevance of these two questions: the only relevant date is on page 4; any legal age concern is covered under Q 13 (b).

Q 6: It states that the information below will not be made available to the public but it is not clear whether this statement only relates to these questions or for the rest of the form from that point on.

Q 13: One member noted that these were very personal questions that would have been asked by an employer although a totally voluntary organisation may just be thankful to have a volunteer. The member suggested that the questions should include:

- Have you had a police check prior to being employed?

Including this question may have the effect of rendering some of the others unnecessary.



Page 4: Declaration by an Authorised Person. This section is unclear. Is this authorised person the one who originally signed Form 1 or 2? Or is this giving authority to the officer being declared to sign Forms 1 or 2? It is suggested that this section should describe the authorised person by giving options like CEO, Chair, President or their equivalent.

Draft Form 4. Change Form for an Individual Charity

NCNZ has no extra comment to make on this form.

Draft Form 5. Change form for a Group Charity

NCWZN found this to be a straight forward document, being an information up-date of any changes in status, new trustees or change in Trust Deed/Constitution.

Once again however, the application of the questions may cause difficulties for umbrella organisations until the interpretation of charities and at what level of participation, national or local, needs to be recognised on the form.

Draft Form 6. Annual Return for an Individual Charity

Q6-13 Charitable Rules

Members noted that it does not state that if the charity's charitable purpose has not changed then these questions can be omitted. They are a repeat of the questions about what the charity was formed for, that are on the initial registration form. If they are to be completed every year the question has to be asked why, as surely if they are different then the charity needs to complete a Change Form (Draft Forms 4 and 5). The financial information will be completed by a treasurer, who often is only interested in this part of the organisation, whereas these questions need to be completed by an office bearer or CEO who has a wider interest in the organisation. NCWZN recommends deleting these from this form.

Q14 Staff

The word 'employ' is used, but it is not stated clearly whether this covers paid and unpaid staff or even if volunteers are to be included.

Q 16: The information requested is appropriate and easily accessible from annual accounts. While NCWZN does not object to the request for a copy of annual accounts, it was suggested that possibly a summarised form could be acceptable, as is done for companies' office returns.

Draft Form 7. Annual Return for an Individual Charity

All the comments in Form 6 above apply also to this form, with the addition of the following:

Page 1. Please note,

Bullet point 3

The use of the word 'comprises' is questioned. It is assumed that this instruction is for a charity that comes under the umbrella of a group entity. We therefore suggest that clarity could be achieved by the use of the simple word 'is' instead of 'comprises'. If this interpretation is incorrect then obviously there needs to be a re-write of this section.

A **parent** entity of a group charity filing its own return where each charity in the group is filing separate annual returns, does not appear to be an option. The note at the end of Part A only mentions collecting the forms of the affiliated charities but still does not mention the parent entity completing Part C.



Again the added challenge of interpreting the questions may cause difficulties for umbrella organisations until the interpretation of affiliated charities and at what level of participation, national or local, needs to be recognised on the form.

NCWNZ related comments.

The Board is unsure how its current structure can fit the expectations of the Commission's reporting processes. The main issue is one of interpretation.

NCWNZ is an umbrella organisation.

At a national level it comprises representatives of its nationwide branches and representatives of affiliated nationally organised societies. The Board asks if that fits the 'parent entity of a group charity' as noted in Draft Form 7, bullet note one? If so would NCWNZ, in presenting a consolidated annual return require each of the branches to supply their annual accounts - some of which will be unaudited, to NCWNZ's office for composite, i.e. consolidated presentation to the Commission? # (see below).

AND will each of those sovereign affiliated organisations need to supply their annual accounts to NCWNZ's office to be included in that composite presentation to the Commission even though they may have acted similarly on their own behalf. # (see below).

It appears from the note at the end of Form 7 A, that the parent entity simply has to collect and present, not merge all the accounts into one, so that is helpful.

If NCWNZ decided to ask each branch and affiliated society to furnish separate returns a similar situation applies. Membership at Branch level reflects the national membership as affiliated organisations send representatives to local meetings. Therefore each branch could be seen as an umbrella parent entity, a situation that begs the same questions as above (denoted by # above).

Then it is assumed the individual returns collected at branch level will have to be sent to National Office to be on-sent to the Charities Commission. A paper war is envisaged. The Board asks again: does proposed **Clause 56D (b) (ii)** in the Charities Commission Bill re-draft, if it survived, assist in diminishing this perceived nightmare that volunteers shy away from.

Similarly Draft Form 2 Q 7 & 8 present challenges as NCWNZ foresees much time being involved in researching the status of its affiliated organisations.

These questions are raised by way of information for your consideration and of course will be asked again when the matter of registration is being considered; that is of course unless an educational opportunity arises that will clarify and allay all concerns.

Conclusion

Generally the forms were seen as being straightforward and seeking appropriate information, with the exception of the age question, and some clarification of what the register will actually record in the publicly accessible format. NCWNZ understands that the Commission will focus on an educational role and that is to be applauded. It is felt that a brochure will certainly need to accompany these forms as organisations grapple with legislative expectations.

Thank you for the opportunity to participate in this review.

Christine Low
National President