



17 May 2019

S19.08

## **Submission to the Department of Internal Affairs on Modernising the Charities Act 2005**

### **Introduction**

- 0.1. The National Council of Women of New Zealand, Te Kaunihera Wāhine o Aotearoa (NCWNZ) is an umbrella group representing over 200 organisations affiliated at either national level or to one of our 15 branches. In addition, about 450 people are individual members. Collectively our reach is over 450,000, with many of our membership organisations representing all genders. NCWNZ's vision is a gender equal New Zealand, and research shows we will be better off socially and economically if we are gender equal. Through research, discussion and action, NCWNZ in partnership with others, seeks to realise its vision of gender equality because it is a basic human right. This submission has been prepared by the NCWNZ (Consumer Affairs) Standing Committee and the Parliamentary Watch Committee, after consultation with the membership of NCWNZ.
- 0.2. Whilst NCWNZ appreciates the additional time to contribute on this important issue, it was disappointing to find out by a third party that the consultation period had been extended. This oversight suggests a need for improved communication with citizens and stakeholders, particularly those who have registered an interest in this topic. NCWNZ recommends that to ensure maximum awareness in future, key stakeholders are kept informed of developments and changes.

### **1. Executive Summary**

- 1.1. The role of women is significant in charities – as volunteers, employees and as recipients of the benefits of charity. According to Statistics New Zealand, women account for 60% of volunteered hours. <sup>1</sup> The discussion document opens with statistics relating to the 27,000 registered charities in New Zealand, and specifically refers to the financial value of charities (spending \$17b and holding assets of \$58b). In responding to the submission documents, members noted that the role of women in charities is omitted.
- 1.2. Members of NCWNZ recognise the value of being a registered charity and see this as a valuable mechanism to give credibility and to convey trust to the public. NCWNZ recognises the merits of

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<sup>1</sup> <https://www.stats.govt.nz/news/part-time-workers-most-likely-to-lend-a-hand>

being exempt from income tax and also the benefit of being able to issue receipts to donors which can then be used to claim a tax rebate.

- 1.3. NCWNZ is acutely aware of its status as a registered charity and the impact of deregistration had on NCWNZ in terms of the time taken to address and appeal de-registration. This resulted in a loss of volunteer hours and the impact on the organisation's ability to continue its core work.
- 1.4. NCWNZ members are in support of an independent body overseeing Charities and being able to operate independent of government intervention, and note any future governance body should reflect the make-up of those charities in terms of gender, ethnicity, and region.

## **2. Current and Future Focus**

### **Benefits:**

- 2.1. NCWNZ members responding to this submission all commented that the status awarded to a charity brings significant public recognition, trust and confidence in the services that the charity provides. Being publicly accountable enables NCWNZ to operate within a clearly defined structure with clear accountability and responsibility. Great value is seen in being a registered charity and that this provides a direct relationship with the public through reports and financial returns.
- 2.2. The financial benefits of being a registered charity are also very highly valued by NCWNZ members, and continuation of the Income Tax exempt status is seen as an important mechanism to allow work and services to continue without depleting financial resources. Additionally, being able to provide a tax receipt for donations enables donors to claim a rebate, which has the potential to allow for larger donations and for more funds to be provided into other charitable areas. The tax status enables our organisation to encourage and grow our membership, and we strongly endorse the continuation of this practice.

### **Challenges:**

- 2.3. NCWNZ notes the absence of reference to gender and women in the discussion document. NCWNZ is an organisation for women, run by women, and yet the role of women in the volunteer sector has been ignored in this submission document. The lack of recognition of the amount of time spent by women in paid and unpaid volunteer work suggests that there is more work to be done in terms of addressing this issue in the charities sector.
- 2.4. Inequities in pay can result in many women not having the discretionary funds to donate to charities yet women are the majority of paid and unpaid volunteers.
- 2.5. NCWNZ is concerned about the time and skills required of volunteers in order to meet the compliance and audit requirements, in terms of financial and annual reporting. Whilst these requirements may not be too onerous, the skills and experience of office holders to perform these activities can be very varied.

- 2.6. NCWNZ is unsure that a widely known and accepted definition exists of what a charity actually is. Whilst the purpose of NCWNZ is clear, there are a number of charities where it is difficult to see how they all operate in an environment where there are multiple providers, with similar aims and purposes which are in competition with each other.

### **3. Obligations of Charities**

- 3.1. NCWNZ members understand and value the obligations of their own organisation, and also that of being an officially registered charity. NCWNZ accepts and fully endorse the requirement to be transparent and accountable to its membership and the wider public and to adhere to the ongoing reporting mechanisms to meet the legislative and regulatory requirements as established by a national agency and policy. Being open to public scrutiny is important to not only to be seen as a credible and important charity in the sector promoting the rights of women, but also in terms of the availability of the annual report and financial documentation.
- 3.2. NCWNZ recognises that charities need to be able to understand what is expected of them in terms of reporting, and that office holders have the skills, integrity and experience to perform their duties. Police vetting may be a way to ensure integrity and character standards of Office Holders.
- 3.3. Money laundering and fraud are potential risks to those groups where capacity and resources might be light in terms of financial oversight and number of volunteers. The implementation of the requirement for a reconciliation of receipts is required to minimise risk should be considered.
- 3.4. NCWNZ is aware there are a number of charities operating with similar purposes and another of the difficulty in comparing charities such as NCWNZ with those which are related to sports, for example.
- 3.5. NCWNZ is aware that different charities require different levels of assistance and support to adhere with necessary legislation and processes. Therefore, the perception of the provision of adequate and timely Charities Service support in terms of seminars, webinars, and person to person advice varies across entities. The smaller organisations are seen to be more vulnerable in terms of meeting regulatory requirements if office holders are not sufficiently skilled or experienced.
- 3.6. Access to an appointed legal advisor to adjudicate on issues to avoid both the time and cost associated with court proceedings may be helpful.

### **4. Role of Regulator**

- 4.1. NCWNZ fully appreciates that the monitoring process is required in order to maintain registration and therefore it is also expected that the Charities Board have clearly defined functions which are fair, equitable, objective, and easy to understand. As such NCWNZ believes the Board needs to be able to communicate effectively to all charities, so that the measurable objectives of a charity are clearly understood and adhered to.

- 4.2. NCWNZ believes the membership of the Board needs to have appropriate skills, knowledge and experience and that the nomination and election of members be transparent and equitable. It is also important that Board members reflect a true cross section of society in terms of gender, ethnicity and region. An appropriate number of Board members is also important for good governance.
- 4.3. NCWNZ recommends the remuneration of Board members be carefully considered.
- 4.4. NCWNZ strongly believes the role of the Board be independent from Government. This is particularly relevant to a charity such as NCWNZ where the objective of the charity is to advocate for the rights of women, and this is through challenging structures and processes including the Government.
- 4.5. The potential to have a Charities Ombudsman may assist to ensure that there is an independent and impartial monitoring process. Another stated that the expectations of the Board are too great for a membership of only three.
- 4.6. In relation to appeals, again, NCWNZ would call for the establishment of an independent tribunal as any perceived conflict of interest would undermine public confidence in not only the Charities Board at a government level, but also those charities within communities. As an organisation which has appealed deregistration successfully, NCWNZ is well positioned to comment on the time and effort required to create a case for re-registration. These impacts are of considerable concern for smaller charities with fewer financial resources and lower memberships making them most vulnerable as potentially unable to respond to deregistration. The financial cost should not be a barrier to raising an appeal.

## 5. Advocacy

- 5.1. NCWNZ exists to advocate for gender equality and the for rights of women and therefore considers that charities like NCWNZ are vital to society as they have membership mandate to hold government and regional bodies to account. Being able to challenge law, process and practice is an important mechanism to ensure that New Zealand society is equitable and fair.
- 5.2. NCWNZ members place a very high value on the role of NCWNZ and its ability to respond to Government legislation and proposed changes such as to the Charities Act. It is important NCWNZ can critique and challenge ideas without fear of losing funding or registration.
- 5.3. There appears to be insufficient information on the proposed option to look to the Australian model for NCWNZ to form an informed view of the benefits of such an option. However regardless of models followed, NCWNZ believes emphasis must be on being apolitical and independent with the ability to adjudicate fairly.

## 6. General comments

- 6.1. In addition to the comments on the specific areas above NCWNZ would make further comments as outlined below.

- 6.2. NCWNZ supported the Law Society's suggestion that a wide-ranging and thorough review of Charities be considered by an autonomous and independent body.
- 6.3. The value of a specialist interest group being formed to review and consider the models in Australia and the United Kingdom is recommended to enable New Zealand to develop a model based on best practice.
- 6.4. NCWNZ supports a movement away from the Charities Board being embedded in the Department of Internal Affairs and as such away from the influence of Government.

## 7. Conclusion

- 7.1. NCWNZ places a high value on being a registered charity and the merits of registration as a mechanism to hold to account those who have received monies from public, local and national organisations in order to further the purpose.
- 7.2. There is also recognised value of being exempt from income tax, which results in funds being able to be directed specifically to work which meets the aims of the organisation, and also the importance of being able to provide receipts in order for donors to be able to receive a tax rebate.
- 7.3. Perhaps, more acutely than many other charities, NCWNZ is aware of value of registration because of the time, resources, expertise and finances required to appeal their own de-registration. For this reason, the role of the Charities Board, the processes of registration, and that of de-registration and appeals are areas where members wish to see greater transparency and accountability.
- 7.4. Whilst NCWNZ appreciates the opportunity to participate in this important consultation, the absence of reference to women and gender in the discussion document is disappointing.



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