Charities Act 2005 Review: Terms of Reference

On 16 May 2018, the Cabinet Social Wellbeing Committee:

1. noted that the charitable sector plays an important role in, and makes a significant contribution to, New Zealand society;

2. noted that the Charities Act 2005 is a key piece of legislation for the charitable sector;

3. noted that the Charities Act 2005 seeks to promote public trust and confidence in the charitable sector through fundamental aspects like registration and deregistration of charities;

4. noted that while the fundamentals of the Charities Act 2005 are sound, it is now over 10 years old and it is timely to review the Act;

5. agreed to review the Charities Act 2005 to ensure it is effective and fit for purpose, with sufficient flexibility for today’s charitable sector;

6. noted that targeted stakeholders were consulted on the draft terms of reference for the review;

7. noted that the stakeholders had strong and diverse views on the draft terms of reference, and any review of the Charities Act 2005 is likely to generate wide debate that extends beyond the charitable sector;

8. noted that the attached terms of reference take account of feedback received during targeted consultation, while seeking to ensure the review can be achieved this parliamentary term;

9. agreed that the scope of the review cover substantive issues with the Act, but not first principles;

10. agreed to include within scope:

10.1 consideration of whether any additional purposes of the Act are necessary;

10.2 matters relating to the regulatory framework;

10.3 matters relating to registration and deregistration of charities;

10.4 matters relating to the obligations of registered charities; and
10.5 links to other legislation;

11 agreed to exclude from scope:

11.1 the definition of ‘charitable purpose’;

11.2 tax exemptions that result from registration under the Act;

11.3 regulation of the broader not-for-profit sector; and

11.4 contracting arrangements for government services;

12 noted that the scope set out in the terms of reference, attached to the submission under SWC-18-SUB-0058, for the review reflect paragraphs 9 to 11 above;

13 noted that while tax exemptions sit outside scope of this review, any interim findings of the Tax Working Group relevant to charities would be considered as part of this review;

14 noted that during the review officials will work closely with the regulator (currently, the independent Charities Registration Board, and Charities Services within the Department of Internal Affairs), a Core Reference Group, and other government officials (including those supporting the Tax Working Group);

15 noted that strong engagement with the charitable sector will be important to the review’s success;

16 noted that the Minister for the Community and Voluntary Sector will publicly announce the beginning of the review and the terms of reference;

17 noted that the Minister for the Community and Voluntary Sector intends to publish the paper under SWC-18-SUB-0058 and related Cabinet decisions online, subject to consideration of any deletions that would be justified if the information had been requested under the Official Information Act 1982.

Gerrard Carter
Committee Secretary

Present:
Rt Hon Jacinda Ardern
Hon Kelvin Davis
Hon Grant Robertson (part of item)
Hon Andrew Little
Hon Carmel Sepuloni (Chair)
Hon David Clark
Hon Nanaia Mahuta
Hon Iain Lees-Galloway
Hon Damien O’Connor
Hon Tracey Martin
Hon Peeni Henare
Hon Willie Jackson
Hon Aupito William Sio
Hon Julie Anne Genter
Jan Logie, MP

Officials present from:
Office of the Prime Minister
Office of the Chair
Officials Committee for SWC

Hard-copy distribution:
Minister for the Community and Voluntary Sector