

Thank you for agreeing to participate in this survey.

**This survey is being conducted by Dave Henderson and Sue Barker, with support from a consortium of philanthropic trusts. Dave and Sue are both members of the Core Reference Group for the review of the Charities Act 2005. However, this research is being undertaken independently, in their private capacities, with a view to gathering empirical evidence to feed into the review.**

**Why is your time and voice important?**

**This is the first time since 2005 that the Charities Act has been reviewed. Charities and the community sector need to be heard. This survey and the community consultation meetings scheduled for March/April 2019, provide the channels to speak up!**

**This 20-minute (approximate) survey gives you voice. We have tried to make it as brief as possible. The form allows you to step away, and when you re-enter, you will be brought back to the previous question. There are a number of open responses to allow you to express your full opinion and feedback.**

Key risk areas of the review, as identified by the researchers, include:

*Scope* – this is a comprehensive review, but it is not the full first principles review that was originally promised. There is a risk that the review could result in Charities Services increasing their regulatory powers and charging charities to do that. It is vitally important that everyone with an interest in charities gets involved with the review so as to create the best framework of charity law for New Zealand that we can

*Timing* – the Minister wants to have the review completed within this term of Government, which means the timeframe to carry out this important work is very tight.

*Appeals* – providing for better access to justice for charities is perhaps the single most important change that could be made, but there is a risk that changes that are needed are not made; it is also possible that unhelpful changes could be made that make the position worse – we need to make sure that does not happen.

*Structure of the agency administering the Act* – one of the biggest issues raised by submitters on the original Charities Bill was what type of agency would administer the new law. Originally a Charities Commission was established, recognising the importance and independence of the charitable sector, consistently with the vision and principles expressed in the Statement of Government Intentions for an Improved Community-Government relationship: “An independent and vibrant community sector is essential to a healthy civil society. Government and the community sector depend on each other to achieve shared goals of social participation, social equity and strengthened communities”. It is Labour Party policy to consult with the community and voluntary sector on whether the 2012 disestablishment of the Charities Commission and transfer of functions to the Department of Internal Affairs has resulted in effectiveness and improved services and information for the sector. This review is an opportunity to consider what would be the best structure for the agency administering the Charities Act.

*Officers* – one of the DIA’s “top 5 issues” is a potential widening of the criteria that would disqualify a person from being an officer of a charitable entity. The necessity to allow for rehabilitation and redemption was one of the biggest issues raised by submitters on the original Charities Bill. It is important to have your say.

*Businesses* – charities should be able to run businesses to raise funds for their charitable purposes, provided those funds are always destined for charitable purposes. However, there is a risk that charities’ ability to run businesses may be restricted by the review. For example, the terms of reference for the review include: “the extent to which businesses that solely raise funds for registered charities can register under the Act”. (Note also the latest tax bill and the Tax Working Group report)

**There are many other issues – it is important to have your say**

**Further background:**

The Charities Act 2005 was introduced to provide a registration, reporting and monitoring regime for New Zealand's charities. Registration is voluntary; charities that are not registered are still able to call themselves a charity and to gather funds from the public. However, registered charitable status confers a number of tax, funding and reputational privileges. The charitable sector originally supported the regime on the basis that it would allow "bad" charities to be "weeded out", so that the public could have trust and confidence in those that remained.

It is important to note that the Review being conducted by government is not looking at all parts of the Charities Act 2005, only certain components. We need to collect data from the community to specifically address the sections of the Act that are being reviewed, and the questions have largely been designed around those key areas.

There are many other aspects of the Act that we and you may feel need to be addressed. The last question on this survey asks for your opinion on other aspects that need to be addressed.

If you would like to receive an invitation to the seminar series about the review, scheduled for March/April 2019, please enter your email address at the end of the survey.

## Independent Community Consultation To Inform The Review Of The Charities Act (2005)

### About your organisation

**1. Which applies to your group or organisation**

- |   |  |
|---|--|
| <input type="checkbox"/> Unincorporated group   | <input type="checkbox"/> Māori trust board   |
| <input type="checkbox"/> Society incorporated under the Charitable Trusts Act 1957                | <input type="checkbox"/> Māori incorporation   |
| <input type="checkbox"/> Society incorporated under the Incorporated Societies Act 1908           | <input type="checkbox"/> Trust established under Te Ture Whenua Māori Act 1993/Māori Land Act 1993 |
| <input type="checkbox"/> Industrial and provident society   | <input type="checkbox"/> Marae   |
| <input type="checkbox"/> Agricultural and pastoral society  | <input type="checkbox"/> Community Trust   |
| <input type="checkbox"/> Society incorporated under other legislation                             | <input type="checkbox"/> Charitable company  |
| <input type="checkbox"/> Charitable trust board incorporated under the Charitable Trusts Act 1957 | <input type="checkbox"/> Co-operative company  |
| <input type="checkbox"/> Charitable trust with corporate trustee                                  | <input type="checkbox"/> Entity incorporated under the Māori Fisheries Act 2004                    |
| <input type="checkbox"/> Charitable trust - other   | <input type="checkbox"/> Company - other   |
| <input type="checkbox"/> Other (please specify)   |  |

**2. What is your position in your group or organisation?**

- |   |  |
|---|--|
| <input type="checkbox"/> Trustee                | <input type="checkbox"/> Middle Management |
| <input type="checkbox"/> CEO/Director           | <input type="checkbox"/> Operations Level  |
| <input type="checkbox"/> Senior Manager         | <input type="checkbox"/> Volunteer         |
| <input type="checkbox"/> Other (please specify) |  |

3. How many paid staff are in your group or organisation

All volunteers

16- 35 paid staff

1-5 paid staff

more than 36 paid staff

6-15 paid staff

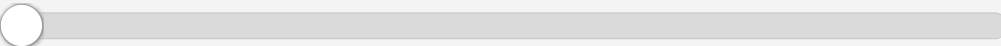
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What are your thoughts on the Charities Act 2005.

We would like to know what you think

4. How much do you know about the Charities Act 2005

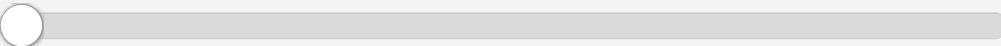
0 (never heard of it) 10 (fully informed)



5. The Charities Act has as one of its purposes "to promote public trust and confidence in the charitable sector".

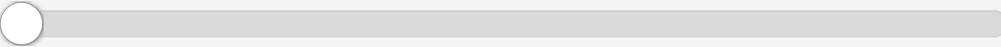
Do you believe that the level of public trust and confidence in the charitable sector has an impact on your group or organisation?

0 (no impact) 10 (high impact)



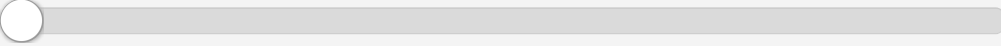
6. Do you believe that for your group or organisation the benefits of being a registered charitable organisation outweigh the costs?

0 (no benefit) 10 (high benefit)



7. On average, how frequently does your group or organisation have contact with Charities Services?

0 nil (no contact) moderate (once a year) 10 high (more than once per month)



\* 8. Is your group or organisation registered with Department of Internal Affairs (DIA) Charities Services as a charity?

Yes

No

## What are your thoughts on the Charities Act 2005.

\* 9. Has your group or organisation ever been registered as a charity?

Yes

No

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\* 10. Please explain why your group or organisation is not registered:

We have never applied for registration

Registration was refused

We withdrew our application

We have been deregistered

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### What are your thoughts on the Charities Act 2005.

\* 11. How satisfied were you with the process of applying for registration?

very dissatisfied      somewhat dissatisfied      neither satisfied nor dissatisfied      somewhat satisfied      very satisfied      don't know



Please briefly explain your response

\* 12. Please describe how being a registered charity impacts your ability to operate or gain funding.

\* 13. Which tier is applicable to your group or organisation's reporting obligations to DIA Charities Services?

Tier 1 (over \$30 million)

Tier 3 (under \$2 million)

Tier 2 (under \$30 million)

Tier 4 (under \$125,000)

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\* 14. If you have never applied for registration, please explain why not

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**What are your thoughts on the Charities Act 2005.**

\* 15. If the application was withdrawn, please explain why it was withdrawn

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**What are your thoughts on the Charities Act 2005.**

\* 16. If registration was refused, please explain why it was refused

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**What are your thoughts on the Charities Act 2005.**

\* 17. If the group or organisation has been deregistered, please explain why it has been deregistered

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**What are your thoughts on the Charities Act 2005.**

\* 18. How satisfied were you with the process of registration or deregistration?

very dissatisfied	somewhat dissatisfied	neither satisfied nor dissatisfied	somewhat satisfied	very satisfied
☆	☆	☆	☆	☆

Please briefly explain your response

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\* 19. Please describe how being or not being a registered charity impacts your ability to operate or gain funding.

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**Purposes of the Act**

The current purposes of the Charities Act are set out in section 3 in the following terms:

**Purpose**

The purpose of this Act is—

- (a) to promote public trust and confidence in the charitable sector:
- (b) to encourage and promote the effective use of charitable resources:
- (c) to provide for the registration of societies, institutions, and trustees of trusts as charitable entities:
- (d) to require charitable entities and certain other persons to comply with certain obligations:
- (e) to provide for the Board to make decisions about the registration and deregistration of charitable entities and to meet requirements imposed in relation to those functions:
- (f) to provide for the chief executive to carry out functions under this Act and to meet requirements imposed in relation to those functions.

20. Please describe your views on the purposes of the Charities Act 2005.

(e.g. are they helpful for charities?; Do they accurately reflect what you think should be the purposes of the Charities Act regime?; Do they encourage the right balance? Do they encourage DIA Charities Services to be too controlling of charities?)

21. Please describe any additional purposes of the Act that should be considered, which would be useful for the charity sector.

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**Roles and functions under the current Charities Act**

22. The following are roles and functions of the Charities Registration Board and the DIA - Charities Services, as laid out in the Charities Act. How important is each of these to your group or organisation?

	no opinion	not important	slightly important	important	fairly important	very important
Considering applications for registered charitable status	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Compiling and maintaining a register of charities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Deregistering charities for non-compliance, serious wrongdoing or because they "no longer qualify for registration"	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Monitoring charities and their activities to ensure that registered charities continue to be qualified for registration	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Inquiring into conduct that may be a breach of the Charities Act or serious wrongdoing	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Educating and assisting charities in relation to matters of good governance and management	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Processing annual returns submitted by charities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Stimulating and promoting research into any matter relating to charities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

23. Please select the three most relevant activities by Charities Services/the Charities Registration Board to your group or organisation.

<input type="checkbox"/>	<input type="checkbox"/>	Promote public trust and confidence in the charitable sector
<input type="checkbox"/>	<input type="checkbox"/>	Encourage and promote the effective use of charitable resources
<input type="checkbox"/>	<input type="checkbox"/>	Educate and assist charities in relation to matters of good governance and management
<input type="checkbox"/>	<input type="checkbox"/>	Compile and maintain the charities register
<input type="checkbox"/>	<input type="checkbox"/>	Receive and process annual returns submitted by registered charities
<input type="checkbox"/>	<input type="checkbox"/>	Monitor and promote compliance with the Charities Act 2005
<input type="checkbox"/>	<input type="checkbox"/>	Stimulate and promote research into any matter relating to charities

24. Apart from the roles and functions listed in the previous questions can you please describe others that are/or would be relevant to your group or organisation.

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**Powers of the government agency - currently Charities Services**



25. Please rate your agreement with the following statements

strongly disagree      disagree      not sure      agree      strongly agree

DIA Charities Services should have comprehensive powers to respond to serious wrongdoing as outlined in the Charities Act 2005

DIA Charities Services should have powers to respond to wrongdoing that is less than "serious wrongdoing" as outlined in the Charities Act 2005

DIA Charities Services should have authority to monitor charitable activities regardless of whether or not the charity is registered as a charitable entity.

In principle, it is for charities to determine how best to further their charitable purposes, not DIA Charities Services

DIA Charities Services should be accountable for the decisions it makes in relation to the Charities Act 2005

Charities Services should have authority to continue investigation of a charity even if the group voluntarily removes itself from the register while it is being investigated

26. Do you consider the process to appeal decisions of the DIA Charities Services and the Charities Registration Board including decisions over the interpretation of 'charitable purpose', to be

- Extremely fair
- Very fair
- Somewhat fair
- Unfair
- Extremely unfair

What things do you find fair or unfair? Please provide a brief summary

27. Would any of the following alternatives to deregistration under the Charities Act be useful?

- Interim sanctions
- Penalties after an entity is deregistered but before it is wound up
- Fines
- Other (please specify)

28. Can you please explain your response?

29. Would it be helpful for charities to be able to access an independent specialist Charity Tribunal, along the lines of the Taxation Review Authority?

- Yes
- No

30. Does being a registered charity influence your group or organisation's capacity to advocate for their causes and points of view?

not at all influential      slightly influential      moderately influential      very influential      extremely influential

☆ ☆ ☆ ☆ ☆

Please briefly explain your answer

31. How should the organisation that administers the Charities Act and the charities register be structured?

- As an Autonomous Crown Entity, as was the case with the Charities Commission
- In a Government Department, with registration decisions made by the Charities Registration Board, as currently
- As an Independent Crown Entity
- In a Government Department, with no Charities Registration Board
- As a Crown agent (the classification in the original Charities Bill that was rejected as too close to government)
- Other (please specify)

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32. How would you describe DIA – Charities Services in terms of

	needs improvement	below expectations	meets expectation	exceeds expectation	no opinion
Timeliness of decisions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Quality of resources, services and communication	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Providing accessible information	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Appropriateness of decision-making	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Proportionality of responses	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Accountability for decision-making	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Awareness of the impact of their decisions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

33. What do you think is the most appropriate source of funding for DIA Charities Services/the Charities Registration Board to administer the Charities Act 2005?

- Funded by fees charged to all charities
  Funded by fees charged to charities that raise more than 2 million from fundraising activities
  Funded by the Crown
  Funded by a mix of fees and the Crown

Don't know/ not sure

Other (please specify)

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### About the publicly-accessible charities register

34. How likely would you be to look for each of these types of information on the charities register ?

	not at all likely	not so likely	somewhat likely	very likely	extremely likely
Charity's legal name	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Charity's Number	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Contact details for the charity, including website address	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Charity's objectives (e.g. what the charity is aiming to achieve)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Annual returns and financial statements	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Registration status	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Other (please specify)

35. Do you agree the publicly-accessible charities register helps to enable greater public trust and confidence in charities in New Zealand.

strongly disagree	disagree	neutral/neither agree nor disagree	agree	strongly agree
☆	☆	☆	☆	☆

Please briefly explain your answer

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**Obligations of registered charities**

36. How aware are you about the obligations of registered charities under the Charities Act 2005

0 (not aware at all)	10 (fully aware)
<input type="radio"/>	<input type="text"/>

37. Rate your agreement with the following statements

	strongly agree	agree	neither agree nor disagree	disagree	strongly disagree
<p>In the future, the Statement of Service Performance reports will improve your organisation's internal governance and reporting</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>In the future, stakeholders, funders and the public will refer to the Statement of Service Performance when they make their funding decisions.</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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**Kia manawanui**

**You are almost finished the survey. Before you go...**

38. Please provide any other feedback you consider important to take action as part of the Charities Act 2005 review.

## Independent Community Consultation To Inform The Review Of The Charities Act (2005)

### Koutou oti

**Thank you you for participating in this survey. Your responses will be used to help review the how the Charities Act 2005 is working in practice and how it could be improved. Your views are important to us and your answers will be kept in the strictest confidence.**

39. If you would like more information please provide us with your contact information

Name

Email Address

Phone Number

Whakawhetai koe

## Thank you

We want to acknowledge and thank warmly those organisations that have supported this research project, enabling us to gather a community-based perspective the required changes to the Charities Act:

