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Who is Socialink?

Socialink is a registered charity whose vision is for a resourced, skilled and cohesive ‘for-purpose’ sector enabling communities to flourish. Our purpose is to build the capability, confidence, sustainability and voice of community organisations in the western Bay of Plenty.

Submission on the Charities Amendment Bill 2022

Socialink supports the petition to withdraw the Bill and conduct a first principles review of the Charities Act. However, in the event that this does not occur Socialink has prepared the following submission and have supported Community Network Aotearoa and HuiE!’s submissions.

Purpose of the Charities Amendment Act 2022 legislation and regulations should be enabling and not be burdensome or unnecessarily controlling

The main thrust of this submission is that legislation governing Charities should support and enable them as much as possible, while retaining some sanctions and penalties against illegal or harmful practices.

Some provisions in the Amendment Bill will reduce the compliance burden on charities while others seem unnecessary and risk over-regulating and burdening the sector.

Why we believe charities should be encouraged and enabled

Charities reflect the essence of doing good things for and with others, a foundation on which a cohesive, tolerant and supportive society grows. They are a manifestation of ordinary people wanting to help improve or embellish the lives of people, communities, animals or nature in some way.

People establish a charity because they decide having a formally and legally recognised organisation will bring benefits in helping them achieve their purpose.

Charities reflect democratically engaged, purposive and hopeful communities and as such should be encouraged and supported.

The charity sector is already heavily regulated

Socialink has worked with community and iwi organisations for ten years, many of which are charities. Our observation is that for the most part, the charity sector is self-regulating in

the sense that many are good navigators of shifting funding, cultural and socio-political seas, attract donor and funding support and are efficient and successful in their work, whether through paid staff or volunteers.

Others will fall by the wayside, not fulfilling their dreams to the extent initially hoped for because of the time and effort involved, may voluntarily wind up, stay relatively moribund, or peter out.

It is right and important that there is legislation, regulatory requirements and sanctions such as deregistration to reduce scams, fraud or illegal/harmful purposes. The public, funders, recipients of services and so on need to be able to trust and rely on effective services.

However, arguably many charities are over regulated. Philanthropic and other funders have their own checks and balances on charities that are funded. In addition to Charities Services' reporting requirements, many charities' finances are annually audited or reviewed and are required to meet funder accountability requirements e.g. social service provider accreditation standards, regular audits from other government or other contracting agencies.

Some of the charitable sector regulations in the Bill appear to be largely motivated by risk adverse concerns which may hinder charities from achieving their purpose.

Somewhat ironically, as government departments that work with the social sector are committing to a more relational, high trust approach to social sector commissioning, this Bill is imposing additional regulatory oversight to the social sector.

More emphasis on education, information and assistance to improve functioning may be a more helpful way to support good charitable efforts, through local peak organisations like ourselves and other agencies including those provided by Charities Services and CommunityNet.

We recognise that there are provisions in the Bill intended to give some legal leverage for 'worst case scenarios' when a charity deliberately or consistently doesn't comply with requirements. However the vast majority of charities will not fall into this category and some amendments may cause more concern for them than is helpful or necessary to their operations.

Specific points on the Bill

Duty to review governance procedures.

- This section requires charities to review governance procedures annually and to identify if they are current, assist it to achieve its charitable purpose and comply with the Act.
- We do not consider this is necessary on an annual basis, is unenforceable and seems an intrusive requirement by the state.

Definition of officer "a person who is able to exercise significant influence over the management or administration of a charitable entity"

- This definition is difficult to understand as to whom it relates to.
- The ability of the Charities Board to disqualify an officer seems an over-reach.

Decisions on charity registration/deregistration and right of appeal for charities

- We believe charities should be given the option of appealing **all** decision under the Charities Act
- We support the decision to introduce the proposed Taxation and Charities Review Authority (TCRA) to reduce costs and allow charities to represent themselves:
- We support the requirement that the Board publish decisions on why they have declined registration or de-registered charities.

Financial reporting

- We support the enabling simpler financial reporting for small charities.

What we would like to see:

- A first principles review conducted by the Law Commission to enable an overview and discussion of the role and future of Charities in Aotearoa New Zealand, the relationship with Te Tiriti o Waitangi, the role of legislation and such bodies as the Charities Board and Registrar.
- It should review the important role of advocacy in the charitable sector.
- This should include broad and meaningful consultation with under-represented community groups including Māori, Pasifika and people from ethnic, migrant, former refugee background, disability and those digitally excluded.
- More emphasis and inclusion of Tiriti o Waitangi and Māori representation includes a Te Tiriti o Waitangi statement reaffirming the Crown's commitment to Te Tiriti o Waitangi and incorporating Te Ao Māori principles.

Oral Submission

Socialink would like to present in person or by zoom to the Select Committee. Thank you for the opportunity.

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