

24 October 2019

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James Caine

By email to: fyi-request-11308-0024bf30@requests.fyi.org.nz

Tēnā koe James

Official Information Act 1982 request

Thank you for your email of 27 September 2019 to the Department of Internal Affairs (“the Department”) requesting information under the Official Information Act 1982 (“the Act”). Your request covered a range of matters relating to the role and function of Charities Services under the Charities Act 2005 (“the Charities Act”). We have grouped our responses to reflect the themes we see in your specific requests.

These themes are requests related to:

1. The structure and management of Charities Services;
2. The role and function of Charities Services; and
3. The compliance obligations of registered charities.

The Structure and management of Charities Services

1. Please provide an explanation of the structure of charities services and all of its roles and job titles and how many are in each job and how high the turnover has been in each job over the last seven years.

Charities Services, Ngā Ratonga Kaupapa Atawhai, is made up of two main business groups. The Engagement and Business Improvement Group supports Charities Services’ programme of stakeholder engagement, the development of resources, capability initiatives, customer support and system enhancements. The Regulatory Group has a number of functions, including inquiring into charities to ensure that they qualify for registration, and where appropriate, taking compliance action for breaches of the Charities Act 2005.

Appendix 1 to this response is a breakdown of the job titles and numbers of people in each role as at 30 September 2019.

The Department does not calculate turnover at the job level, therefore, we are refusing this part of your request under 18(g) of the Act as the information requested is not held by the Department.

2. Could you please explain how you choose the leader of charities (not sure what the title is but manager, commissioner or whatever whoever it is in charge of running charities services).

The General Manager Charities Services is determined via a recruitment process run by the Department. The Department's recruitment process includes advertising to enable suitably qualified people to apply, short-listing applicants for an interview and/or other selection assessments, determining the applicant that is best suited to the job, followed by reference checking.

3. Could you please also provide information about everyone who has held this role for the last seven years. That's their CVs, background experience and qualifications and their performance reviews while in the job and also performance reviews from before if they were in DIA before going to head charities.

The following people have been in the General Manager Charities Services job over the last seven years:

- Natasha Weight (current incumbent);
- Julia Wootton (secondment to cover a period of parental leave);
- Lesa Kalapu; and
- Brendon Ward.

The Department does not provide CVs, background experience, qualifications or performance review information about its employees. We are refusing this part of your request under section 9(2)(a) of the Act to protect the privacy of natural persons. We consider that withholding this information is not outweighed by other considerations which render it desirable, in the public interest, to make the information available.

4. Could you please also provide all of this same information for the overall DIA chief executives over the last seven years too.

Chief Executives in the Public Service are employed by the State Services Commission. This question was transferred to the State Services Commission in accordance with section 14(b)(i) and (ii) of the Official Information Act on 2 October 2019, and this transfer was advised to you on that date. The States Services Commission will respond to your request.

5. Could you please also provide any conflicts of interests that the manager/commissioner/whatever they are called has disclosed in the last seven years.

The current General Manager Charities Services has made seven conflict of interest declarations since December 2018. People previously in the position of General Manager Charities Services made three conflict of interest declarations between October 2013 and December 2018.

Your request includes seeking what are the actual conflicts of interest that the General Managers have disclosed. We are refusing this part of your request under section 9(2)(a) of the Act to protect the privacy of natural persons. We consider that withholding this information is not outweighed by other considerations which render it desirable, in the public interest, to make the information available.

6. Could you please explain how you prevent conflicts of interest from affecting whether a charity is registered or not.

We understand this request is focussed on situations where Charities Services' staff have a relationship with an organisation that either may be applying to be registered as a charity, or is already registered. This does create a conflict of interest for the Charities Services' staff member in relation to consideration of the entity's application or, after registration, any subsequent compliance activity.

Charities Services' employees are subject to the same conflicts of interest disclosure requirements that all employees of the Department have under their employment agreement. These disclosure requirements extend to an employee's relationship with any entity that may apply for registration under the Charities Act.

Charities Services runs a central register that employees are required to complete when they become aware of a conflict of interest or a potential conflict of interest. Managers discuss conflicts of interest with employees during their induction. Charities Services has a guide that supports employees to understand their obligations for identifying and managing conflicts of interest.

When a conflict of interest is identified the employee's manager will discuss and agree how the conflict will be managed. In most cases the employee will not be involved in any decisions about the organisation about which the conflict has been declared. This includes not being involved in decisions on whether the organisation is registered as a charity or not.

7.(a) I have also heard that you have rejected applications from charities that provide support services for people who suffer prejudice because of their unconventional (but entirely lawful) sexual preferences and that you did so in at least one case because the manager or commissioner (person in charge whatever that's called) rejected it because they themselves were part of that particular scene and was worried that might be found out if the charity was accepted and the media looked at it.

We are not aware of any application for registration under the Charities Act that has been refused on this basis. The Department is refusing this part of the request under section 18(g) of the Act as no information of the kind requested is held by the Department.

(b) Have you rejected applications from charities that provide support services for people who suffer prejudice because of their unconventional (but entirely lawful) sexual preferences?

Applications for registration under the Charities Act 2005 can only be approved, declined, or withdrawn. The Charities Act requires that if an entity has a charitable purpose and its activities support that purpose, and it provides a public benefit, the entity will be registered.

For example, if a purpose in a rules document involved providing support services for people who suffer prejudice of any kind, and those purposes were charitable in accordance with the requirements of the Charities Act, the entity would be registered.

The role and function of Charities Services

8. It is not clear how Charities Services promotes trust and confidence in the charities sector. Please provide an explanation of this in detail.

Charities Services, Ngā Ratonga Kaupapa Atawhai, administers the Charities Act under delegation from the Chief Executive. The Charities Act defines both the functions of Charities Services and the powers it can exercise to achieve the purposes of the Act. It also includes a purpose statement “to promote public trust and confidence in the charitable sector”. Given this Act establishes and mandates Charities Services’ activities, all Charities Services’ activities are to achieve the Act’s purpose to promote trust and confidence in the charitable sector.

Charities Services recently released its Annual Review for the 2018/2019 financial year. The Annual Review provides an overview of all of Charities Services’ activities, this document is publicly available and can be found here:

<http://charities.govt.nz/news-and-events/past-events/2019/>.

Charities Services has also conducted research on the drivers of public trust and confidence in the charitable sector.

This research has shown a number of reasons contribute to building overall trust and confidence in the charitable sector. The research also shows that there are two key drivers contributing to public trust and confidence, that Charities Services is directly involved in. These drivers are:

- transparency around the use of charitable funds. The Charities Act ensures this transparency by requiring all registered charities to report annually; and
- There being an independent regulator for charities, which is a core role for Charities Services and the Charities Registration Board.

The reports on this research can be found here:

<http://charities.govt.nz/charities-in-new-zealand/public-trust-and-confidence-in-charities/>

Compliance obligations of registered charities

9. Could you please explain how you ensure that charities registered with you are actually doing the charitable things that they say they are or doing charitable things at all.

Our functions as set out in the Charities Act include:

- Maintaining a publicly available register, that requires charities to report on activities so that the general public can see what they are doing. This transparency is contributing to better public understanding of what individual charities do; and
- Monitoring charitable entities and their activities to ensure that they continue to qualify for registration.

We have already referred you to Charities Services Annual Review. This review outlines Charities Service’s vision that our work “contributes to a well-governed, transparent and thriving charitable sector with strong public support”. To achieve this we focus on being a modern, responsive, risk-based regulator for the sector.

How we do this is detailed in our compliance approach, which outlines how Charities Services ensures registered charities’ activities progress their charitable purposes. This approach is available here:

<http://www.charities.govt.nz/assets/Charities-Services-Compliance-Approach-V1.0.pdf>

10 (a) Could you please provide the numbers of charities that send their reports to you and the number that are late or just dont send them.

The Act requires registered charities to file their annual returns within 6 months of the end of the financial year of the charity. The following table provides the total number of charities that have filed their annual returns, either on time or after the six month due date. The table relates to the charities’ due dates that fell within the 2017 and the 2018 annual years.

Year	Filing data
2017	27673
OnTime	12215
Overdue	15458
2018	27234
OnTime	14754
Overdue	12480

(b) Can you explain what you do about charities that dont file their annual returns or dont file on time.

Reminder notices are sent to a charity if it is late in filing its annual return. The Charities Act provides that a charity can be deregistered for persistent failure to meet its obligations under the Act.

Failure to file annual returns for two or more consecutive years is considered persistent failure and can result in deregistration. For persistent failure to file annual returns, in the:

- 2016/17 financial year, 625 charities were deregistered;
- 2017/18 financial year, 506 charities were deregistered; and
- 2018/19 financial year, 682 charities were deregistered.

11. Can you also give numbers for the last seven years of how many charities you have actually investigated to make sure that they actually are and what you have done when you found out they werent.

You were emailed on 8 August 2019 where we asked if you could clarify what information was being sought. In that email we advised that it is not clear what you are seeking when you ask 'how many charities have you actually investigated'?

The meaning of 'investigation' is very broad, and could include information on:

- communications arising after receipt of a complaint about a charity; and
- conducting a formal inquiry under the provisions of the Charities Act 2005.

We have had no substantive response to our email of 8 October 2019. We are refusing part of your request under section 18(f) of the Act, that the information requested cannot be made available without substantial collation or research, this refusal is for information on the number of investigations conducted before 1 July 2015. For the years between 1 July 2015 and 1 July 2019, we can advise for the:

- 2015/16 year, there were 235 complaints assessed, this involved elements of investigation;
- 2016/17 year, 185 complaints were assessed, this involved elements of investigation;
- 2017/18 year, 173 concerns addressed, with 12 investigations completed
- 2018/19 year, 192 concerns addressed, with 12 investigations completed.

Your request also asked “what have you done when found out they weren’t”? I refer you to the link provided earlier to Charities Service’s Compliance approach. As this approach emphasises:

“We target our resources and compliance activities on the harms that impact on public trust and confidence in the sector. This means that we decide what engagement and compliance approach to take depending on our assessment of the nature and level of risk relating to the particular issue.”

“Much of our work involves providing information, support and guidance to help charities meet the requirements of the Charities Act 2005.”

High level summaries of our recent investigations outcomes can be found in our Annual Review Reports, which are available here:

<http://charities.govt.nz/news-and-events/past-events/2019/>

<http://charities.govt.nz/news-and-events/past-events/2018-charities-services-annual-meeting/>

If you have any concerns about specific applications, registrations or deregistrations, please feel free to call me on 0508 242 748, or email me at info@charities.govt.nz.

You have the right to seek an investigation and review of our decision about your request by the Ombudsman pursuant to section 28(1) of the Act. The Office of the Ombudsman can be contacted by writing to PO Box 10-152, Wellington or by email to info@ombudsman.parliament.nz.

Ngā mihi



Stephen Reilly
Manager Regulatory, Charities Services

Appendix: Official Information Act Request: James Caine

DIA Reference 1920-0273

Table: The job titles and numbers of people in each role in Charities Services as at 30 September 2019:

Job title	Number of people
Analyst	5
Assistant Investigator	1
Capability Advisor	1
Capability Coordinator	1
Customer Support Officer	3
Design and Capability Advisor	3
General Manager Charities Services	1
Graduate Charities Regulator	1
Investigations Manager	1
Investigator	3
Manager Engagement and Business Improvement	1
Manager Regulatory	1
Personal Assistant	1
Principal Advisor	1
Regional Advisor Capability	1
Senior Accountant Regulatory	1
Senior Analyst	1
Senior Intelligence Analyst	1
Senior Investigator	2
Senior Registration Analyst	2
System and Business Improvement Analyst	1
Team Leader Capability	1
Team Leader Customer Support	1
Team Leader Registration	1

