

CHARITIES
SERVICES

Ngā Rātonga Kaupapa Atawhai



Registration

Is your organisation considering
registering as a charity?

INTERNAL AFFAIRS



Te Tari Taiwhenua

New Zealand Government

Supporting charities

— *in New Zealand* —
for stronger communities

Disclaimer

This information is intended to be a guide and to provide a summary of useful information relating to registering a charity in New Zealand. The Department of Internal Affairs makes every reasonable effort to offer accurate and current information. However, we do not accept any liability in respect of a party's reliance on the material in this resource.

The information presented in this resource is not business, tax or legal advice and should not be construed as such. Readers are advised to take specific advice from qualified professionals, including independent legal advice, when considering registering as a charity.

Please note for the purposes of this resource the term 'Registered Charity' is used throughout, to mean 'registered charitable entity' in accordance with the Charities Act 2005.

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Wellington City Mission

New Zealand charities sector at a glance

As at 1 June 2014:

\$48.9

— billion total asset base —

27,000+

— registered charities —

180,000

— full-time paid staff —

\$16.8

— billion per annum gross income —

400,000

— volunteers —

Nau mai, haere mai. Welcome

Deciding to become a Registered Charity creates opportunities and obligations for an organisation. This resource aims to help you understand what these opportunities and obligations are.

Calling your organisation a Registered Charity is a privilege that only those charities that have met, and continue to meet, the criteria of being registered are allowed to have.

By choosing to apply to register with Charities Services, your organisation will be subject to both the benefits and obligations of a Registered Charity.

This resource provides a summary of the steps to registration with Charities Services. It's important to understand that the obligations and responsibilities of registering as a charity can sometimes exceed the benefits and opportunities. Understanding the bigger picture can help you in this decision.

It also:

- ensures everyone in your organisation knows what is required
- ensures your organisation complies with all of the requirements of the Charities Act 2005
- limits risks and establishes good precedents
- helps identify what resources you will need, and
- assists your organisation to be successful long-term.

At Charities Services, we understand there is a lot to consider when deciding to register as a charity. All the information and resources referred to are available on the Charities Services website:

www.charities.govt.nz

You can also email or phone us on:

info@charities.govt.nz

0508 242 748 (0508 CHARITIES)

The role of Charities Services

Charities Services, Ngā Rātonga Kaupapa Atawhai is part of the Department of Internal Affairs, and is legislated by the Charities Act 2005. Our role is to promote public trust and confidence in the charitable sector and to encourage and promote the effective use of charitable resources.

We do this by registering and monitoring charities and processing Annual Returns. We also encourage good governance and management practices by providing educational support, advice and materials.

Charities Services maintains the Charities Register, which contains more than 27,000 registered charities. The Charities Register is the public record of registered charities that operate under the rules of the Charities Act 2005.

Charities Services works closely with the Department of Internal Affairs' nationwide team of Community Operations Advisors and staff from other government agencies, such as Inland Revenue and the Ministry of Business, Innovation and Employment. We also provide advice to Government and other stakeholders in the wider not-for-profit sector, and publish relevant data and research to build understanding, trust and confidence in the charitable sector.

An independent three person Charities Registration Board meets regularly to apply the law and make decisions about the charitable status of organisations.

Benefits and obligations of being a Registered Charity

Benefits

If you're thinking of applying to register as a charity, it's likely that you've already identified some benefits.

Being a Registered Charity means:

- 1 You can call yourself a registered charitable entity. It's an offence to even imply that you are a registered charitable entity if you are not registered under the Charities Act 2005.
- 2 You are eligible for exemptions from income tax on all or some of your income, as well as being entitled to other tax benefits. You may also be eligible for donee organisation status* – contact Inland Revenue for more information on this.
- 3 You can apply to funders who only fund Registered Charities.
- 4 Supporters, stakeholders and funders can find detailed information about your organisation on the Charities Register.
- 5 Your registration number can be displayed on promotional and identification material to provide proof of your registered charitable status to prospective donors and funders.
- 6 You will enjoy improved public trust and confidence as information about your activities and the way you use your resources is available on the Charities Register.
- 7 Your representatives can attend Charities Services' annual meetings and access education and training events and forums.

Obligations

Being a Registered Charity brings with it some obligations. As a Registered Charity you must:

- 1 Operate in accordance with New Zealand charities law.
- 2 Carry out activities to advance exclusively charitable purposes as per the legal definition (see the section on charitable purpose).
- 3 Operate in accordance with your organisation's rules.
- 4 Ensure your organisation provides only public (and not private) benefit.
- 5 Provide your registration number to any member of the public who asks for it.
- 6 Maintain updated and accurate information about your organisation on the Charities Register, including providing a copy of your most recent annual accounts (via the Annual Return).
- 7 Notify Charities Services of any changes to your organisation.
- 8 Provide any information about your organisation requested by Charities Services (under Section 51 of the Charities Act 2005).
- 9 Accept that your organisation's information will be published and publicly available on the Charities Register (unless there is a compelling public interest reason not to do so).

* People can claim a tax credit when donating to a donee organisations.

The Charities Register

All registered charities in New Zealand appear on the Charities Register – an online, searchable, public database that is free to use. The register includes information about each charity’s sector, purposes, activities, and their Annual Return. It is a charity’s responsibility to make sure this information is correct, up to date and provided to Charities Services.

You can view the Charities Register on our website:

www.charities.govt.nz

If you’re thinking of setting up a new charity or applying to register your organisation, a useful first step is to check whether there are any other charities already doing what you are doing.

To find out about existing charities, search the Charities Register on our website. Learning about existing charities can be helpful in determining what your proposed charity should look like.

For new charities, it’s also valuable to search online, and talk with community leaders to establish whether there is a clear need for your proposed charity.

Last year, there were more than 1.3 million visits to the Charities Register search page. This is because a variety of people use the Register to find general and financial information about charities.

Public

To check the registration or details of a charity they are interested in supporting, make comparisons between charities and obtain statistics.

Funders

To check the activities or details of a charity that has applied for funding.

Local and central government

To better understand trends within the sector and to see where and how communities are responding to particular issues.

Other charities

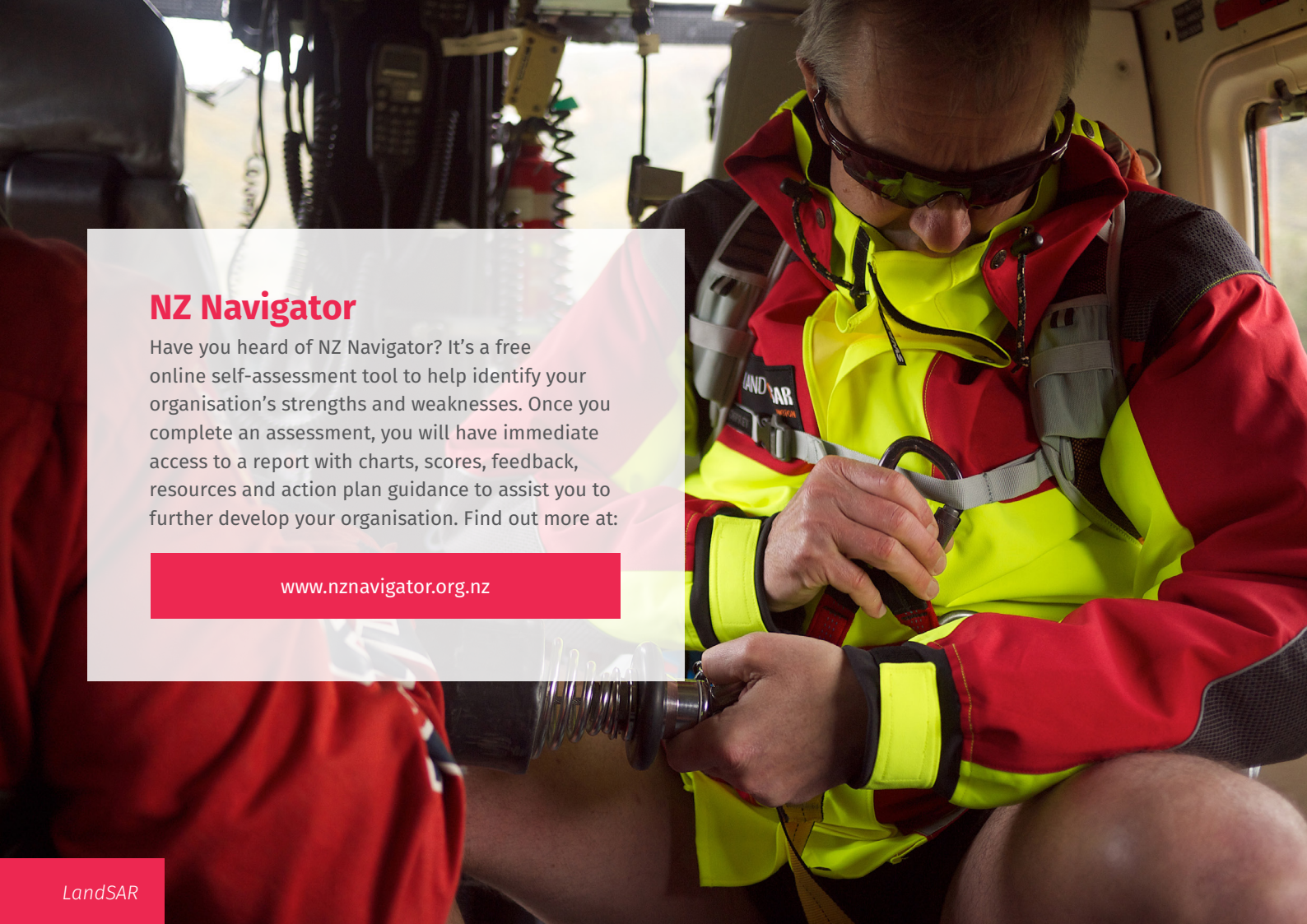
To make contact with other charities doing similar work.

Charities Services

To monitor charities to ensure they remain qualified for registration.

Media

To find information for articles and charities’ contact details.



NZ Navigator

Have you heard of NZ Navigator? It's a free online self-assessment tool to help identify your organisation's strengths and weaknesses. Once you complete an assessment, you will have immediate access to a report with charts, scores, feedback, resources and action plan guidance to assist you to further develop your organisation. Find out more at:

www.nznavigator.org.nz

LandSAR

Geared for success

Regardless of size, income, area of activity or background, there are some key characteristics that effective registered charities demonstrate:

Clear purpose and direction

Effective registered charities are clear about the characteristics and needs of their beneficiaries, their charitable purpose(s) and vision; they use this knowledge to guide decision making and activity. All such information should be included in a charity's formal rules document.

Strong governance

Effective registered charities are run by a clearly identifiable group who make all the significant decisions for the charity. They have the right

balance of skills and experience, and understand their own and the charity's responsibilities and obligations. This group are responsible for ensuring that the charity carries out its work to achieve its charitable purposes.

The right people for its activities

An effective charity ensures that its people have the right qualities and competence to manage and support the delivery of its services.

Is sound and prudent

An effective charity clearly operates in line with its rules document, can identify the financial and other resources needed to achieve its purposes, and can obtain, control, and manage those resources to achieve the best possible value from them.

The Todd Foundation

The Todd Foundation is a Registered Charity and philanthropic organisation based in Wellington, New Zealand.

The Foundation provides funding to New Zealand organisations that contribute towards their vision of *‘inclusive communities where all families, children and young people can thrive and contribute.’*

“As a funder with a national focus, we come into contact with a very broad range of charitable organisations. The one thing we can’t stress enough to organisations thinking of becoming a Registered Charity is to be clear about your vision for change, and fully consider the best way to achieve it”.

“Listen and learn from as wide a range of people as possible; your family, friends, funders and existing organisations who already work in your community or field. The most important people to talk with are those in the community you are seeking to help – think about how you plan to involve them in the governance and management of your organisation, or in the planning and delivery of your activities. We think the challenge from disability activists to do ‘nothing about us, without us’ is an excellent touchstone for charitable organisations working in any sector”.

“All funders have different criteria and priorities for what they fund. We look for organisations whose goals are well aligned with ours, and whose passion is matched with detailed thought and planning. Talk, research, ask questions, ask for help and advice, and adapt what you do based on what you’re learning. That’s how we try to work as a funder, and what we’d recommend to any organisation committed to making a positive difference.”



The heart of charity – charitable purpose

If you decide to apply to register as a charity, you will hear a lot about a legal concept called ‘charitable purpose’. This is a complex legal concept embedded in section 5(1) of the Charities Act 2005. It has evolved through 400 years of case law, since the Statute of Charitable Uses came into force in England in 1601. Judges’ decisions continue to shape the meaning of ‘charitable purpose’ in New Zealand.

Many organisations have worthy goals, but Charities Services can only register an organisation when we are confident that it has exclusively charitable purposes and is for the public benefit.

The legal definition of ‘charitable purpose’ is quite different from what may be commonly understood by the public.

The charitable purposes set out in your rules or governing document, and the activities you intend to carry out, are extremely important and will always be assessed against the legal meaning of ‘charitable purpose’ in section 5(1) of the Charities Act 2005 and case law. It’s important you understand the categories of charitable purpose and what each of them mean.

The Charities Act 2005 5(1) states that ‘charitable purpose’ must fall under one or more categories:

- 1 The relief of poverty
- 2 The advancement of education
- 3 The advancement of religion
- 4 Other purposes beneficial to the community. This particular category requires that you show an objective benefit to a sufficient section of the general public. We will evaluate whether the purpose and benefit in question is charitable or not – based on case law.

Activities

When assessing applications, Charities Services looks at the current and proposed activities of the organisation to determine whether they advance an exclusively charitable purpose.

Benefit to the public

A charity’s purpose and all its activities must provide benefits to the public or a sufficient section of the public, not just to an individual, organisation or closed group.

Ancillary or incidental objectives

A charity can have a non-charitable purpose, for example; running social events or running a business, as long as it is secondary or incidental to pursuing its main charitable purpose. In making a decision about whether a non-charitable purpose is ancillary, we examine whether your non-charitable purposes and activities are necessary to carry out your charitable purpose, and how much of the non-charitable activity you are involved in. For example; a business may be registered as a charity if all its profits are directed to its charitable purposes and the other requirements of registering are met.

Political purposes and activities

Many not-for-profit organisations try to influence change by raising awareness of a societal issue or trying to change local or national laws. Sometimes this can be treated as charitable. The law in this area is evolving.

More information about 'Political purposes' is available on our website.

Some particular types of organisations

Marae

A marae has a charitable purpose if:

- the physical structure of the marae is on Māori reservation land; and
- the funds of the marae are used only for administering and maintaining the land and the marae's physical structure, or for other charitable purposes; and
- it advances benefits for the public.

Sporting clubs and groups

Sporting organisations can qualify for registration as charities if the promotion of sport is the means by which a charitable purpose is pursued, for example the 'advancement of education' or 'promotion of health'. They must also advance benefits for a significant section of the public, not primarily for an elite few sports people.

More information about 'Charitable purpose' is available on our website.

Not charitable – Examples

Examples where applying entities would **not** be registered.

- 1 A commercial orchard wanted to donate half their profits to a local children's hospital and give the other half to private shareholders.**

They would have to donate 100% of profits or keep remaining profit within the organisation for future charitable work.

- 2 A group that is set up to lobby for peace by ending all wars.**

Not charitable because the group cannot establish a public benefit in "ending all wars".

- 3 A school class want to set up a fund to help their classmate get cancer treatment in America.**

They would have to help a substantial number of people, not just their classmate.

- 4 A professional sporting body wants to set up a fund to help it compete at the Olympics.**

A professional sporting body is not charitable.

Tip: Go to the Charities Services website to see 'Decisions' explaining why particular entities have been declined registration. Reading the decisions can help you understand how your purposes must be charitable and for the public benefit.



Emerge



Charitable purpose and your rules

‘Rules’ are the documents that set out your purposes, what you do and how you operate. For example, they may be your trust deed, constitution or charter. When you apply for registration, we read your rules and consider your activities to identify whether you have a ‘charitable purpose’.

To be considered for registration as a charitable organisation, you must send us a copy of your signed rules, including any amendments, with your application form.

While we don’t require any specific wording in your rules, we must be satisfied that your organisation:

- has a legal name that is not misleading or offensive and
- has exclusively charitable purposes that fall within one of the four purposes set out in section 5(1) of the Charities Act 2005 and which provide a public benefit and

- is not for the private benefit or profit of an individual and
- restricts distributions on winding up, so they only go to charitable purposes and
- is a trust, society or institution (i.e. one person acting in their personal capacity cannot be a Registered Charity).

You can find more information about rules and examples of wording in the ‘Rules and the Charities Act’ section of our website.

Challenge 2000

Challenge 2000 is a Registered Charity that works with hundreds of young people and families in education and youth development programmes around the greater Wellington area and in Hawke's Bay. The organisation has grown over the last 25 years to employ more than 25 staff and has broadened its service base to include a range of Government contracts, as well as community-based initiatives.

"After 38 years in the charitable sector, I find one of the saddest things is the number of organisations that start off with a passionate buzz and crash after three or four years – leaving a gap."

"Before you get started you need to do a careful analysis of what you are trying to achieve, and ensure you get broad community support. It's important to clarify the level of support and commitment to be in it for the long haul. It's quite challenging trying to survive to achieve the outcomes intended. We always keep coming back to our vision, to keep us true to our charitable origins."

"When we assess the benefits of being a Registered Charity, from our perspective it is the tax advantages for Challenge 2000 and for those people and entities who donate toward our work, and the transparency and accountability that offers assurance for potential funders and other supporters."



Bridget Roche (Director), Kitty McKinley (Founder)



Officers

To be registered, organisations must certify that each of their officers is qualified as an officer under the Charities Act 2005.

When you apply to register your organisation, you must send us an Officer certification form for each officer, to certify that the officer is qualified in terms of the Act.

The Charities Act 2005 may define officers differently to the way your rules define them.

If your organisation is a trust, your officers are all your current trustees (including any custodian trustee) and no one else.

If your organisation is not a trust, your officers are all the members of your highest governing body and all people in a position to have significant influence over the management or administration of the charity. An officer may be a person or a body corporate (for example, a company).

If you do not have trustees, a board, or governing body, your officers are all the people in a position to have significant influence over your management or administration. In some cases, such as a co-operative, the officers may be all the members.

Note: Check your rules to see if they specify how many trustees or governing body members you must have. For example if they specify five trustees you must certify five trustees.

Officer qualification

Officers need to certify to Charities Services that they fit the criteria that qualify them to be officers. There are a range of factors that may prevent someone from being qualified as an officer under the Charities Act 2005, for example, if they are under 16 years old, an undischarged bankrupt, or have been convicted for a crime involving dishonesty. Check out the 'Officer certification' section on our website for further information.



Volunteer Wellington

Annual Returns

All charities registered with Charities Services must file an Annual Return. The Annual Return includes a completed form, a copy of your financial statements, and the appropriate fee, if applicable.

The Annual Return form asks for information about:

- the sectors your charity operates in
- activities it is involved in
- who benefits from those activities
- your geographical area of operation
- the people in your charity
- your balance sheet position
- your income and expenditure

Charities Services publishes this information on the Charities Register as part of our commitment to promoting public trust and confidence. Annual Returns must be filed within six months of your balance date. Failure to file Annual Returns is one of the main reasons that registered charities are deregistered.

Are you in a good position to register?

Check your readiness by answering yes or no to the questions below.

Questions

- 1 Have you done research including searching the **Charities Register** to find examples of what similar organisations look like? (p4)*

Y N

- 2 Can you answer what the **benefits** and **obligations** of becoming a Registered Charity mean for your organisation? (p3)

Y N

- 3 Can you demonstrate that the purposes of your organisation fit with the legal definition of **charitable purpose**? (p7)

Y N

- 4 Can you demonstrate how your **activities** advance your charitable purposes? (p7)

Y N

- 5 Does your **rules document** set out your organisation's purposes, what you do, and how it operates? (p10)

Y N

- 6 Do you know who your **officers** are, or will be, and whether they are qualified to be an officer? (p12)

Y N

- 7 Are you able to ensure adequate **financial management** of your organisation to comply with filing your Annual Return? (p13)

Y N

- 8 Does your organisation have the right people to ensure strong **governance** and **management**? (p5)*

Y N

- 9 Have you identified your organisation's **strengths** and **weaknesses**? We recommend www.nznavigator.org.nz. (p5)*

Y N

*Highly recommended, but not a requirement for registration.

If you answered 'yes' to **all** of the questions above, then you're in a good position to be taking the next steps to apply to become a Registered Charity.

10 steps to registration

The registration application process is summarised below:

The Organisation

- 1 Decides that registering as a charity is best for them (research, legal advice, investigating alternatives etc.)
- 2 Writes or checks signed rules, including charitable purpose
- 3 Ensures officers meet the criteria
- 4 Prepares detailed information including charitable purpose, funding sources, activities and benefits
- 5 Completes an application form and Officer Certification forms for all officers (forms are available from our website or by phoning us)
- 6 Submits the application form and accompanying documents to Charities Services.

Charities Services

- 7 Reviews the application, looking closely at the rules document, the purposes and activities
- 8 May contact the applicant for more information
- 9 Considers whether the organisation meets the requirements. If your organisation does not meet the requirements, Charities Services writes to give you an opportunity to respond before a final decision is made
- 10 Provides organisations who meet the registration criteria with a unique charity number and adds their details to the Charities Register – now you'll officially be a Registered Charity – congratulations!

Contacts and Resources

Charities Services

Freephone (Within New Zealand).....	0508 CHARITIES (0508 242 748)
Calling from outside New Zealand	+64 4 495 7200
Website.....	www.charities.govt.nz
Email.....	info@charities.govt.nz
Postal Address	PO Box 30112 Lower Hutt 5040

Wellington City Mission

Fee Summary*

Application to register.....	\$0.00
Notifying Charities Services of changes.....	\$0.00
Completing Annual Return (if total gross income is under \$10,000).....	\$0.00
Completing Annual Return (via online).....	\$51.11
Completing Annual Return (via printed forms).....	\$76.67

*As at 01 May 2014

Other organisations that can help

Inland Revenue

Provides support on the tax benefits and obligations for registered charities.

www.ird.govt.nz

Citizens Advice Bureau

Provides information and advice to help people.

www.cab.org.nz

Community Law

Provides free legal help throughout New Zealand, including online guidance on preparing rules documents.

www.communitylaw.org.nz

Funding Information Service

Provides a hub of resourcing information for communities all over New Zealand.

www.fis.org.nz

Department of Internal Affairs

Community Advisory Services

Provides advice, information, support and resources to assist the development of resilient and prosperous communities, hapū and iwi.

[www.communitymatters.govt.nz/
Working-with-communities](http://www.communitymatters.govt.nz/Working-with-communities)

Companies Office New Zealand

The government agency responsible for the administration of corporate body registers.

www.business.govt.nz/companies
www.societies.govt.nz

Philanthropy New Zealand

Provides thought leadership and practical help for everyone with an interest in giving.

www.philanthropy.org.nz

Online Resources

NZ Navigator

A resource to help your organisation identify its strengths and weaknesses.

www.nznavigator.org.nz

CommunityNet Aotearoa

An information sharing resource for NZ community and voluntary groups.

www.community.net.nz

Community Matters

An online resource helping NZ build strong communities.

www.communitymatters.govt.nz

The Community Law Manual

Includes a chapter about Community Organisations and the Law.

[www.communitylaw.org.nz/
community-law-manual](http://www.communitylaw.org.nz/community-law-manual)

Charities Services information in other languages

Like to speak to us in your own language? Call 0508 242 748 to speak to a Language Line interpreter.

E hiahia ana koe ki te kōrero i roto i tōu ake reo? Waea mai ki 0508 242 748 ki te kōrero ki tētahi kaiwhakamāori ā-waha o Language Line.

E te fia talanoa mai ia matou i lau lava gagana? Vili le 0508 242 748 e te talanoa i se faaliliu upu i le laina mo isi gagana (Language Line).

‘Oku’ ke fie lea mai kiate kimautilu ‘i he lea faka-Tonga? Telefoni ki he 0508 242 748 ke ke lea ki ha tokotaha fakatonulea ‘i he laine ki he lea fakamatakali’ (Language Line).

希望用您的母语和我们交谈吗？请致电 0508 242 748，用您的母语和语言热线的翻译人员交谈。

¿Le gustaría hablar con nosotros en su propio idioma? Llame al 0508 242 748 para hablar con un intérprete del servicio Language Line.

ご自分の母国語でお話したい方は、Language Line (0508 242 748) までお電話ください。通訳がご利用頂けます。

저희에게 모국어로 말하고 싶으세요? 랭귀지 라인 통역사를 이용하시려면 0508 242 748 로 전화해 주세요.

Você gostaria de falar conosco em sua língua? Ligue para 0508 242 748 e solicite um intérprete da Language Line.





Still have questions?

All of the topics in this resource are covered in more detail on our website. A wealth of information is freely available to you as you decide on your next steps.

We look forward to hearing from you.

