

Privacy Commissioner's submission on the *Charities Amendment Bill*

Introduction

1. Thank you for the opportunity to submit on the Charities Amendment Bill (**the Bill**) which amends the Charities Act 2005.
2. The Privacy Act 2020 safeguards individuals' personal information by ensuring agencies who collect, retain, use, and disclose this information are complying with its protections. It also sets out my functions and one of those is to examine proposed legislation that may affect people's privacy. As such, I make the following submissions.

Purpose of the Bill

3. This Bill aims to make changes to support charities continuing contribution to the community, while aiming to promote transparency for the public. The Bill proposes to—
 - 3.1. simplify financial reporting for small charities;
 - 3.2. improve access to justice for charities in the appeals process;
 - 3.3. enhance regulatory decision-making requirements;
 - 3.4. clarify the role of officers and supporting governance of charities; and
 - 3.5. improve regulatory compliance and enforcement tools.
4. The new clause s 36C(3) will grant the Board the power to disqualify officers and publicise their decisions on a publicly accessible internet site. When publishing any information, agencies must consider any associated privacy risks to individuals. Publishing disqualification decisions may mean that personal information becomes publicly accessible which, in turn, may create risks around safety for some individuals.
5. Clarity on what personal information needs to be included when publishing decisions would be useful. For example, publishing any further details beyond a name like a phone number or address would appear to sit outside of the purpose, would be unnecessary and could create significant privacy risks for the individual. Minimising the information published to only what is required to fulfil the policy intent of the provision will minimise privacy risks.
6. A provision that recognises the potential privacy risks associated with registers is s 234(2) the Incorporated Societies Act 2022 (**annexed**). Under s 234(2) the

Registrar may on request from a society or an individual, or on the Registrar's own motion, prevent or restrict public access to any registral information relating to an individual–

- 6.1. if the Registrar considers that public access to that information would be likely to prejudice the privacy or personal safety of any person; or
 - 6.2. if they are a protected person in relation to a protection order under the Family Violence Act 2018 or a person for whose benefit a suppression provision or order applies under any legislation.
7. I recommend a similar approach is considered here to give the Board the ability to prevent or restrict public access to any personal information contained in disqualification decisions if public access could prejudice the privacy or personal safety of an individual.
8. It would be useful to provide guidance to agencies on how they can use these provisions in an appropriate and privacy protective manner.

Conclusion

9. I do not seek to be heard on my submission but can appear if that would be of assistance.
10. Please contact [REDACTED] in the first instance if you want to discuss this matter further.



9 December 2022

Michael Webster – Privacy Commissioner

Annexure

234 Registrar may remove or omit information and may restrict public access

- (1) The Registrar may remove or omit from the register any information that relates to a society if the Registrar considers, in the public interest, that the information should not form part of the register.
- (2) The Registrar may, on a request from a society or an individual referred to in paragraph (b) or (c) or on the Registrar's own motion, prevent or restrict public access to any information that relates to—
 - (a) the society if the Registrar considers, in the public interest, that public access to that information should be prevented or restricted; or
 - (b) an individual if the Registrar considers that public access to that information would be likely to prejudice the privacy or personal safety of any person; or
 - (c) an individual if the individual is—
 - (i) a protected person in relation to a protection order under the Family Violence Act 2018; or
 - (ii) a person for whose benefit a suppression provision or order applies under any legislation.
- (3) For the purposes of subsection (2), the Registrar may prevent or restrict access subject to any terms and conditions that the Registrar thinks fit.
- (4) However, in the case of subsection (2)(c), the Registrar must ensure that those terms and conditions are consistent with the protection order or suppression provision or order.
- (5) This section does not limit the Official Information Act 1982.