



Restricting public access to your information on the Charities Register

An organisation can ask for its information to be “restricted from public access” if it has reasons that “are in the public interest”.

Background

The Charities Act 2005 emphasises transparency and the availability of information about registered charities to “promote public trust and confidence in the charitable sector”.

Once your organisation has registered under the Charities Act, the Charities Register will contain a lot of information about it. The Register will be available to the public and they will be able to access it, and the information about your organisation, through our website www.charities.govt.nz or by phoning our free information line 0508 242 748. This will help the public understand your organisation and make informed choices about supporting it or using its services.

The Act requires information on the Register to be available to the public. However, it also allows the Commission to prevent the public from seeing information if it is in the “public interest” to do so. For example, there could be circumstances where it would be in the public interest not to show the name of an officer on the Register in order to protect his or her safety.

What information will the Register usually show?

Information shown on the Register will usually include your application for registration and all required documents. This includes your organisation’s name, address for service and registration number, as well as a copy of your rules (and any amendments) and the names of your officers.

When you file Annual Returns and make changes to your information, we will update the Register to show this new information including your financial statements.

What should you do if you don’t want the public to see certain information?

Section 25 of the Charities Act says that the Commission may restrict public access to information and documents on the register “if it considers it in the public interest to do so”. Restricted information will still be on the Register but members of the public won’t be able to access or see it.

If you have a reason that you think is in the “public interest”, you can

make a written request asking for your information to be restricted so the public cannot see it.

There is no special form or process to follow. Simply write a letter explaining:

- what information you would like restricted
- why you think it is in the public interest to have it restricted.

Include the letter with your application form or, if you are already registered, include it with the form you use to advise us of new information. Tick the box on the back of the form to show that you are making a written request for information to be restricted.

We will consider your request (on a case-by-case basis) and write to you to let you know our decision.

What happens if the Commission is not able to agree to your request?

If we cannot agree to your request, we will not put the information on the Register before talking to you about your options. These include: withdrawing the request or changing it so that only part of the information is requested to be restricted.

If you make the request at the same time as you apply to register, we will notify you before we register your organisation. If you don't wish to withdraw or change the request

your organisation can then decide if it still wishes to be registered.

If you make the request after we have already registered your organisation but we are unable to agree to it, your organisation will have to decide whether it wishes to:

- withdraw the request
- change the request
- ask to be deregistered.

What does the phrase “public interest” mean?

The Act does not define the phrase “public interest”. However, we use its plain meaning, keeping in mind the overall purpose of the Charities Act, which is “to promote public trust and confidence in the charitable sector”.

The following are some examples of public interests that may justify restrictions to information:

- ensuring a person’s safety
- protecting the health or safety of members of the public
- recognising the privacy of trustees, volunteers and settlors of private philanthropic charitable trusts to promote philanthropic giving
- reducing the risk of information being used for improper gain or advantage
- reducing the opportunity for disclosure of information that may unreasonably prejudice the commercial position of the

organisation or the person who supplied, or is the subject of, the information

- maintaining the law, including preventing, investigating, and detecting offences, and the right to a fair trial
- any other interest that, in view of all the circumstances of the case, would be considered by the Commission to be in the public interest.

If you are updating information that is currently restricted from public access, you must ask for it to remain restricted.

Tick the box on the back of the form you use to notify the change, to show you are making a written request for information to be restricted. Include a letter with the form explaining that you would like the restriction to be continued.

Your letter should explain:

- what information you would like restricted
- why you think it is in the “public interest” to have this information restricted.

The Commission will consider your request (on a case-by-case basis) and write to you to let you know its decision.

What if you change your mind and want information that is currently restricted from public access made publicly available?

Write a letter, asking us to cancel the restriction.

Is restricted information available under the Official Information Act?

Yes. Section 25 of the Charities Act does not limit the Official Information Act, so all information held on the Register (even though it is not publicly available) could be accessed under the Official Information Act. We consider requests made under the Official Information Act on a case-by-case basis, using the criteria under that Act.

Will Government have access to restricted information?

Yes. Legally, we must allow Government access. For example, Inland Revenue and Statistics New Zealand could still access your information even though it is not publicly available.

Summary

- The Charities Act aims to “promote public trust and confidence in the charitable sector”
- The Charities Register contains information that is available to the public
- The Act allows the Charities Commission to remove or leave out information from the Register if “it is in the public interest to do so”
- An organisation can ask for its information to be “restricted from public access” if it has reasons that “are in the public interest”
- There is no special form or process to follow – a letter is all that is required
- All requests for restriction will be considered on a case-by-case basis
- The Commission will advise its decision in writing
- The Official Information Act still applies.

Further information

For more information about the Charities Register or registration under the Charities Act, please visit www.charities.govt.nz.

You can also call the Charities Commission on our free information line – **0508 242 748**.

To get updates by email, please send your name, organisation and contact details to info@charities.govt.nz.

