**anglican legislation unit**

**REPORT OF THE ANGLICAN LEGISLATION UNIT AND APPLICATION FOR FUNDING (2020-2022)**

**TO THE GENERAL SYNOD / TE HĪNOTA WHĀNUI 2020**

**MISSION STATEMENT**

To serve the Church denominationally and represent it ecumenically on issues where legislation, regulation or compliance, including with regard to taxation or other financial matters, may impinge upon the furtherance of the work of Christian mission, and may impose extra tax or other costs upon the Church.

**OBJECTIVES**

In association with the InterChurch Bureau (ICB) to:

* **advocate** to central and local government on behalf of the churches, to ensure that the operations of the Church are taken into account;
* **convince** government to assess the Church for taxation (including income tax, rates and ACC levies) at the lowest justifiable level, whilst maintaining concessions gained;
* **ensure** that the Church is kept up to date with changes in government policy, regulation or common law affecting taxation and audit and financial reporting requirements.

To provide advice for Anglican Church managers on matters including: charitable status; the donations regime; tax treatment of clergy housing, allowances and honoraria; employment and privacy issues; health and safety; and property and heritage building management.

**STRATEGY**

The unit’s objectives will be achieved by:

* Rapid response by the Legislative Unit;
* Effective communication to the Church;
* Active co-operation with other churches;\*
* Advocating for the churches to government agencies and the Government of the day.

*\* The* Anglican *Legislation Unit plays a key role in coordinating the activities of the ICB*

**KEY ACTIVITIES**

**Taxation**

The ALU manager and ICB members are in regular contact with officials at Inland Revenue (IRD) and other government agencies in relation to a range of taxation matters. Senior officials attend ICB meetings as guest speakers and the ICB tax sub-committee meets with the IRD annually. Over the past year, the IRD has been surveying charities and other not-for-profit organisations (NFPs) to identify ways in which officials could service the sector better, and the ICB has sought to engage with the department on issues of particular interest to the churches.

The ICB will continue to monitor work on the Tax Working Group’s recommendations, which may have implications for the churches. For example, consideration may be given to the tax status of businesses operated by charities, particularly where the business is effectively a separate entity. (In overseas jurisdictions, such as the United States, such business entities must distribute a certain proportion of their profits or become liable to full tax.)

In relation to donee rebates, of some $300 million returned in rebates in the last financial year, $200 million was in the religious sector. The IRD has expressed interest in simplifying this process so that the rebates (where desired by the donee) can be returned directly to the charity concerned. There has been discussion on payroll giving and whether this could be promoted more effectively, given that uptake has been limited.

Other issues which have been raised with officials recently include:

* pooling of donations - an issue which particularly affects Pasifika communities where a single family member may claim the rebate for all donations made by an extended family, raising questions within IRD regarding the ratio of giving to apparent income; and
* donations to overseas programmes - some churches are now providing a tax donation receipt for these and the IRD has published a safe harbour statement with regard to charities sending money overseas.

**Accounting Standards**

The ICB is in close contact with the External Reporting Board (XRB) regarding financial management and reporting requirements affecting the churches. The most significant forthcoming change in compliance requirements is the introduction of Public Benefit Entity (PBE) Service Performance Reporting which will take effect from 01 January 2021. This standard is a measure for reporting on objectives (activities delivered and impact) rather than financial information. Performance reporting will require comparatives. This means that charitable entities should be gathering information during 2020, with decisions about what to measure taken at the start of the year to enable the relevant information to be tracked. XRB has developed guidance material and, once it has been approved, the ALU manager will circulate it within the Church and to ICB members. (A summary has already been distributed.) Auditors working with this new standard will want to see an entity’s methodology for selection of the information presented. A positive aspect of performance reporting is that it enables charities to ‘tell their story’, which is a powerful tool from a funding perspective as grant organisations value this type of non-financial information.

**Charitable Status**

The Manager of the ALU and two representatives of the ICB are members of the Sector User Group (SUG) which liaises with the Department of Internal Affairs (DIA) over its ongoing review of the *Charities Act* 2005. This enables the Church and the ICB to stay in close touch with developments on this important piece of legislative reform.

In late May, the ICB submitted a response to the Charities Act Review discussion paper ‘Modernising the Charities Act 2005’ and several member churches also made individual submissions. The principle thrust of the ICB submission was to request that consideration be given to extending the timeframe of the review in recognition of the breadth and depth of issues raised. The submission also expressed concern at the potential for the review to result in increased compliance costs, given that the discussion paper foreshadowed government interest in further extending regulation and/or monitoring into areas such as charities’ business activities, accumulated funds, and advocacy. Similar concerns were raised in a number of other charities’ submissions, and by advocates acting on behalf of the sector as a whole.

The Hon. Poto Williams, new Minister for the Community and Voluntary Sector (responsible for charities legislation), is taking a close interest in the review. Minister Williams, who has a strong background in the community sector including professional roles within church organisations, attended the ICB core group’s quarterly meeting in August 2019. She expressed awareness of the difficulties which some religious charities (particularly those with relatively limited financial means or experience in engaging with officialdom) encounter in meeting the requirements of the compliance regime.

Following evaluation of submissions by the DIA review team, the timeline for the review of the *Charities Act* was extended so that draft legislation was not released in November 2019 as originally planned. The ALU and ICB will continue to monitor developments and to engage with the review team via the SUG and other means.

**Rating of Church Property**

There is a key ongoing issue surrounding the rating of church property by local government. This matter was highlighted by the Auckland City Council’s review of its ratings policy, which sought to decide whether church property should be subject to full rates. As part of this process the council conducted a public consultation. Of the 900+ churches within the council’s bailiwick, some 200 made submissions. Including those from members of the general public, submissions received were broadly divided 50:50 as to whether church property should be subject to full rates.

Church representatives, including the ICB engaged closely with the Auckland City Council over this issue and found officials open to discussion. The council subsequently ratified and implemented a policy of rating neither church sanctuaries nor ancillary properties.

This is a positive outcome. However, the council’s policy could be subject to review every few years or as new councillors, mayor, or council officers are elected or appointed. The ICB has noted, for the record, that the churches do not accept the council’s stance that the only non-rateable property is the sanctuary itself and that ancillary buildings could be rated if the council so chose. The churches’ position remains that the exemption of ancillary properties is covered by national legislation.

The ICB continues to engage with the council and to advise churches in other parts of New Zealand, which in some instances have been paying full rates for several years, that they should seek advice as whether they are legally entitled to a refund.

**Health and Safety**

A project is underway to upgrade the ICB’s health and safety resources. There is a steady demand for access to these resources, which were developed three years ago in conjunction with an ICB H&S roadshow which proved popular around the country. Since then there have been some changes to legislation and a shift in approach from assessing success via a negative measurement (i.e. the absence of accidents), to a more mature approach based on the positive ethical responsibility of ensuring people are safe and healthy.

In order to update the ICB material to reflect changes in the law and in the overall approach to H&S matters a working group composed of coordinators from several churches has been established, supported by the ALU manager and the ICB chair. Once this work has been completed the new guidance and resources will be available from the ALU and via the ICB website. The ICB is also giving consideration to facilitating an annual or biennial church-based one-day H&S workshop. This would allow the dissemination of updates, and would promote networking and collegiality.

**Security Issues**

Since the terrorist attack on Christchurch mosques, church leaders have received many enquiries seeking advice on security. ICB members have been encouraged to share their initiatives and experiences with the group, via the ALU manager. Some members have sponsored staff and volunteers to attend security training under the auspices of the Manukau Institute of Technology (MIT). Others have formed security teams, and/or sought advice from the police. The ICB will continue to play a useful role in disseminating information about the various measures being taken, and raising awareness of the need to be more security conscious.

**Privacy**

A Bill to replace the *Privacy Act* 1993 will shortly become law and is expected to come into effect in September 2020. Its key purpose is to promote people's confidence that their personal information is secure and will be treated properly, particularly in light of the ease with which data can be stored, retrieved, and disclosed since the rise of the internet and the digital economy. The reforms introduced in the Bill promote early intervention and risk management by agencies (the name used for any organisation or person that handles personal information), rather than a reliance on people making complaints after a privacy breach has occurred.

This legislation has implications for the churches as it introduces reporting requirements under which agencies which become aware of a privacy breach posing a risk of harm must notify the people affected and the Privacy Commissioner. The Commissioner may then issue compliance notices to the agency. The ALU manager is in close touch with the office of the Privacy Commissioner and has invited a senior representative to attend an ICB meeting in late 2020 to discuss the new requirements with church representatives. Any guidance issued (for example in relation to the meaning of ‘risk of harm’) will be circulated within the Church and to ICB members.

**OTHER ONGOING MATTERS**

**Employment**

Developments in legislation, case law, and government policy which may affect church employment conditions are monitored, and ICB members are advised of matters of interest.

Some members, including the ACTS churches, have recently moved to employment contracts, as compared with the system under which ministers or pastors are called. This move was prompted by the recognition that where a significant difficulty arises the church might have to take a formal legal approach, and that the case law around the call process is somewhat outdated and might not carry weight. The ICB is monitoring this trend, and has obtained and shared copies of calling agreements, employment contracts, and volunteer agreements for members’ information.

The work of the Royal Commission into Abuse in Care has been added to the ICB’s standing agenda as member churches wish to cooperate in a positive and transparent manner with the inquiry, and see value in sharing experiences and developing policy to facilitate this.

**Heritage Buildings**

The ICB has ongoing contact with Heritage NZ to improve cooperation between the churches and government in relation to the management of heritage church buildings. Andrew Coleman, Chief Executive of Heritage NZ, is to address the ICB in June this year.

**Trustees**

The *Trusts Act* 2019, under which trustees face increased compliance requirements, will come into force on 30 January 2021 following an 18 month transition period. The ALU manager will monitor this and distribute any useful resources which become available.

**ADVISORY ROLE**

The ALU manager receives frequent requests for information or advice from within the Church and from ICB members. Most commonly raised questions relate to:

* Taxation
* Health and Safety
* Security
* Clergy housing
* Rating of church property
* Clergy allowances, honoraria and koha

**COMMENT**

The Anglican Legislation Unit is a successful operation because it can present a united Anglican voice to the Government and to government agencies. Moreover it enables individual dioceses or other Anglican Church units to collaborate, obtain information quickly and cheaply, and use that information to their advantage. Diocesan and nga Hui Amorangi Managers and other Anglican organisations cooperate regularly with the Legislation Unit. The unit circulates all material for dissemination through the Anglican Church via the General Secretary. On a limited basis it also deals directly with enquiries from ministry units.

There is excellent and vital cooperation amongst the ICB member Churches that would not be possible to the same extent without the leadership of the Legislation Unit. Many ICB member churches have a representative on the ICB who is authorised to speak and participate on that church’s behalf. The Anglican Church is currently represented by Tikanga Pakeha (Colleen Kaye and Sonia Maugham) and Tikanga Maori (Charles Hemana).

The Legislation Unit currently comprises Anglican Financial Care (AFC) staff member, Rachel Jaquiery, who has been manager of the Anglican Legislation Unit and coordinator of the InterChurch Bureau since November 2018. The AFC’s Paul Currie is the unit’s finance manager. External tax and charity consultant, Tim Steel, provides expertise on tax, GST and other financial matters.

**FUNDING REQUIREMENTS**

The work of the Anglican Legislation Unit requires funding to support:

* Legislative monitoring (draft legislation and related reports and governmental discussion documents);
* Regulatory and case law monitoring (local government rulings and reports, and relevant case law);
* Research and preparation of submissions (including obtaining legal and expert advice where required);
* Liaison with parliamentary committees and government agencies (meetings with officials, appearing before select committees, contact with Ministers and other Members of Parliament);
* Preparation of regular reports to General Synod Standing Committee, and updates to dioceses and nga Hui Amorangi;
* Development of advisory memorandums on tax and other matters particular to the Church;
* Response to requests for information and assistance from dioceses and Te Pihopatanga and to occasional non-chargeable individual queries on tax and regulatory matters;
* Providing up-dated mileage reimbursement allowance information to the Churches and dealing with subsequent inquiries;
* Working with the InterChurch Bureau (ICB), on some or all of the above;
* Coordination of the ICB including management of meetings, preparation of papers for discussion, minutes and follow-up actions;
* Purchase of tax manuals and other documents as required, and seminar/workshop costs.

**SOURCE AND APPLICATION OF FUNDS\***

*\*General Synod agreed in 2008 that it would commit to fully funding the Anglican Legislative Unit (then called the Anglican Tax Unit) which has since then continued to rely on funding from General Synod.*

Costs from 01 January 2017 to 31 December 2019:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  |  |  | **2019** |  | **2018** |  | **2017** |
|  |  |  |  |  |  |  |  |
|  |  |  | **$** |  | **$** |  | **$** |
| **Outgoings and costs** | |  |  |  |  |  |  |
| Anglican Tax Unit: charge for hours worked | |  | 9,513 |  | 7,463 |  | 1,846 |
| ICB: Anglican share of costs: | |  | 6,709 |  | 8,850 |  | 4,000 |
| Publications, Travel, Consultants & other costs | |  | 1,211 |  | 158 |  | 500 |
| **Total costs** |  |  | 17,433 |  | 16,471 |  | 6,346 |
|  |  |  |  |  |  |  |  |
| **Costs have been met as follows:** | |  |  |  |  |  |  |
| General Synod | - Contribution for Year |  | 17,450 |  | 15,750 |  | 9,000 |
|  | - Additional Funding |  | - |  | - |  | - |
| Pension Board Grants account | |  | - |  | - |  | - |
|  |  |  |  |  |  |  |  |
| **Total Funding** |  |  | 17,450 |  | 15,750 |  | 9,000 |
|  |  |  |  |  |  |  |  |
| **Surplus / (Deficit) for Year** | |  | 17 |  | (721) |  | 2,654 |
|  |  |  |  |  |  |  |  |
| Prior year surplus/(deficit) carried forward | |  | 2 |  | 723 |  | (1,931) |
|  |  |  |  |  |  |  |  |
| **Funding - over/(short)** | |  | 19 |  | 2 |  | 723 |

**EXPLANATORY NOTES**

**Estimation of Costs**

All funding requests are net of charges shared and recovered from non-Anglican Churches involved. Only the Anglican share of ICB costs (some 30% of the total) is included above. Time spent by Pension Board staff on behalf of the ICB is charged out to the other member churches on a cost allocation basis. ICB costs may also include any outside consultants or subject experts employed.

**InterChurch Bureau**

Membership of the ICB currently includes some 35 churches representing the majority of Christian denominations in New Zealand, with a further group of church-connected organisations. Within the full ICB, a core group of up to 25 church-appointed representatives meets three to four times each year.

Member churches operate under Terms of Reference that formalise the ICB’s mission, field of operations, and working structure. As well as tax and finance matters, the ICB monitors risk management and property issues of common concern to all member churches.

The Anglican Legislation Unit continues to contribute fully on behalf of the Anglican Church. Information gathering and submission writing on behalf of the ICB is undertaken by the unit, with input from ICB subject-matter experts. Legal expertise is obtained when required. Anglican Financial Care continues to be the clearing house for ICB financial transactions. The ALU reports quarterly to GSSC, and the ICB reports six monthly to the National Church Leaders.

**RECOMMENDATIONS**

Recommendations to the 2020 General Synod/te Hīnota Whānui:

1. That the General Synod receive the report of the Anglican Legislation Unit;
2. That the General Synod continue to fully fund the Anglican Legislation Unit.;
3. That the General Synod fund the Legislation Unit:

|  |  |  |
| --- | --- | --- |
| **2020** | **$22,000** | **+ GST** |
| **2021** | **$23,000** | **+ GST** |
| **2022** | **$24,000** | **+ GST** |

Rachel Jaquiery

**MANAGER**

14 February 2020