
REPORT 2
(1215/11/IM)

EXEMPTION OF A COUNCIL CONTROLLED ORGANISATION FROM THE STATUTORY MONITORING REGIME

1. Purpose of Report

To seek Council approval to extend the exemption of a council controlled organisation from the statutory monitoring regime set out in the Local Government Act 2002.

2. Recommendations

Officers recommend that the Council:

1. *Receive the information.*
2. *Agree in accordance with the provisions of Section 7 of the Local Government Act 2002 to treat the Joe Aspell Trust as an exempted organisation for the purpose of compliance with Section 6(4)(i) of the same Act.*

3. Background

A council controlled organisation (CCO) is one in respect of which the City Council, either on its own or jointly with other local authorities, has the right directly or indirectly to appoint 50% or more of the trustees, directors or managers of the organisation.

Under this definition, the Joe Aspell Trust is deemed a CCO and would be subject to the prescribed monitoring regime set out in the Local Government Act 2002 (the Act).

However, Section 6(4)(i) of the Act provides that an organisation is not a CCO if it is exempted under Section 7. Section 7 allows the Council to exempt a small organisation for the purposes of Section 6(4)(i), after having taken account of:

- a) the nature and scope of the activities provided by the organisation, and
- b) the costs and benefits, if an exemption is granted, to the Council, the CCO and the community.

An exemption is required to be granted by resolution of the Council and must be reviewed every three years.

The benefits of exemption are:

For the entity

There will be no requirement:

- to produce an annual statement of corporate intent, incorporating measures by which the Council can assess the achievement of its objectives
- to submit to the Council a half yearly report on its operations
- to submit to the Council, and make available to the public, an annual report on its operations
- to submit its annual report for audit by an auditor appointed by the Auditor-General.

Being exempted from these requirements will relieve the Joe Aspell Trust of a significant additional administrative and cost burden.

For the Council

There will be no requirement to monitor the performance of the entity to evaluate its contribution to the achievement of the Council's desired aims and outcomes (which even if relevant is small); the Council's objectives for the entity (which have not been considered); and the desired results as set out in its statement of corporate intent (which have not been prepared). Under the Council's current arrangements, the entity would otherwise be required to report quarterly to the CCO Performance subcommittee.

On 29 August 2007, Council approved this exemption for a three year period. This has now expired. This paper seeks to extend this for a further three years to 30 June 2013.

Note that Hutt Minoh House Friendship Trust was also approved for exemption in 2007, however it is no longer a council controlled organisation as only three of seven of the board trustees are council appointees.

Hutt Minoh House Friendship Trust and Joe Aspell Trust will still be included in reporting on council organisations.

4. Discussion

The Joe Aspell Trust is a charitable trust that administers funds settled on Wellington City Council in 1990 from the estate of the late Joe Aspell (a former City Councillor) for the purpose of providing for "the care, benefit, maintenance, upbringing, education, advancement in life and general welfare of young people who reside in Wellington and who are socially disadvantaged". It is considered a CCO by virtue of the trust deed naming the Mayor for the time being as Chairperson of the Board of Trustees and requiring three of the remaining five trustees to be Wellington City Councillors, appointed by the Mayor.

The nature and scope of the Trust's activities are neither material nor significant in terms of contribution to the Council's strategic objectives or from a public profile viewpoint. For the year ended 31 December 2009, the Trust's total assets

were \$609,947 and interest income was \$41,992 against expenditure, principally donations, of \$62,516.

It was previously reported that the Auditor-General has indicated that he does not believe the Trust falls within the ambit of the audit regime he administers under the Public Finance Act 2001.

5. Conclusion

On the basis of the criteria set out in Section 7 of the Act, the Joe Aspell Trust continues to be an ideal candidate for exemption from the provisions of the CCO monitoring regime. It is appropriate that the Council resolves to treat it as an exempted organisation in compliance with Section 6(4)(i) of the Act.

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Supporting information

a) Strategic fit

Even as a Council Controlled Organisations, the Joe Aspell Trust does not contribute significantly to the City Council's strategic objectives.

b) Annual Plan reference

Not applicable.

c) Annual Plan and LTCCP implications

Not applicable.

d) Treaty of Waitangi implications

There are none.

e) Consultation

Not applicable.

f) Legal implications

There are none.