

INDIVIDUAL SUBMISSION RECEIVED FROM MEMBERS IN REGARD TO PROPOSED CONSTITUTION FOR NEW ZEALAND FAMILY AND FOSTER CARE ASSOCIATION (operating as Fostering Kids NZ)

1. 4.2 "support emotional and tangible"

Please provide a definition of "emotional" and "tangible" that has the meaning within this proposition. Also provide explanation as to what the scope of "support emotional and tangible" would mean within this provision.

Collins Dictionary: Emotional means concerned with emotions and feelings.

Tangible means ..it is clear enough or definite enough to be easily seen.

What we are saying is that our support will include supporting caregiver's wellbeing whether they need someone to listen to how they are feeling or whether we need to be seen supporting them such as attending meetings or making inquiries on their behalf etc,

2. 4.4 "Treaty of Waitangi"

I observe that this point now has its own position within the proposed constitution. Previously it was mentioned.

We have reviewed this clause and it now reads: "We recognise the unique place of Tangata whenua as first people of this land, and will honour our obligations under Te Tiriti o Waitangi.

3. 6.4a "local foster care association"

This term has been completely omitted from the previous 2011 constitution meaning that "an association is no longer qualifies as a member". I/We disagree with this as it prevents individual members from choosing to voice their comments collectively through an association on matters at governance level. We believe in the interests of individual members and support that the option for members remains as status quo. Associations play an integral role in the organisation of Fostering Kids and by all means should remain active members.

The term Association is now referred to as Support Group and may be an associate member under clause 6.4(a). Support Groups will be able to support Remits. All voting is proposed to be for individual members as we work toward giving choice back to each member.

4. 7.1 "Legal entity"

Please provide definition of "legal entity". Without a definition this point is vague.

We will add to definitions under clause 2.0 the Cambridge English Dictionary definition – a company or organisation that can enter into contracts.

7.2 "Board may decline an application for membership"

Please provide process for "approval" and "decline". There must be a clear and transparent process and this point in its current condition does not meet these requirements of fairness.

The process and guidelines for declining an application will be clearly defined in the Governance Charter in line with the existing Constitution.

5. 9.0 ".....or discipline matters"

The term "discipline matters" has been omitted from the line "Termination" in the draft proposal. In fact, all of 8.0 of the 2011 constitution has been omitted. The provision of this clause enables the protection of members and beneficiaries to the organisation. These matters should be clear and transparent and based on a fairness, due diligence, and reason.

The term discipline in relation to members is not something we feel comfortable with. The Board does not consider discipline to be their role. Termination is addressed under Clause 9.0. However, it seems there is a clause that has been accidentally missed in the proposed Constitution that should read:

9.2 The CEO shall terminate membership of any person or organisation if, in the opinion of the CEO, there is reason to believe that the member has acted or been party to conduct, contrary to the rules or Objectives of the Federation or has acted so, as to bring the Federation into disrepute.

Then 9.2 "A decision made under Rule 9.2... may be appealed to the Board..... Would change to 9.3.

6. 16.0 "Mediation and Arbitration"

This clause in the 2011 constitution has been completely omitted from the draft proposal. Mediation and Arbitration is an avenue of dispute resolution that is standard provisions in the law of New Zealand. By removing this clause, you are denying any avenues for resolution.

While there is no legal requirement for this clause and to our knowledge this has never been used to date, we do agree that something needs to be added in regard to Mediation and Arbitration. However, the existing clause relates to employment situations and not Constitutions so we have asked the Legal firm that put the Constitution together for us to recommend an appropriate Clause.

7. 14.2 "Goods or services"

Please provide definition of the terms "goods" or "services". Please provide decision criteria of approval or denial of said business. In its current state, this clause is vague, unclear and open to interpretation whereby providing no protection from fraudulent or unlawful competitive advantage.

This clause is exactly as required by the Charities Commission. We don't agree that it provides no protection from fraudulent or unlawful competition. All activity will still be strictly guided through the Charter and Policies/Procedures.

8. 15.4 "Quorum 20 members"

This clause proposes a change from 2011 constitution which stated that "more than half" of members to form a quorum. This provides an efficient and reflective representation of members.

The current clause requires half of the Associations to form a quorum and was introduced when we had only 13 Associations. We now have in excess of 30 active Support Groups/Associations (growing quickly) and over 5,200 Individual members. Requiring half of these present, is not possible and we wanted to ensure that our AGM's would proceed even in the years we don't have Conference. We are providing several locations across NZ and we have a YouTube link for all members to link in either individually or in groups. Proxy and Postal Votes are also available so we are satisfied we can make the AGMs very accessible. However it is not reasonable to expect our members to travel to attend the AGM. We have proposed lifting a quorum to 30 Members with voting rights.

9. 17.1 "Special General Meeting"

This clause proposes a change from 2011 constitution whereby any member could put forward a request for a SGM without a criteria. The proposal terms state, "or by at least 5% of members with voting rights" in order to call a SGM. This does not provide a mechanism to seek immediate assistance and rather causes a disadvantage to members by using a criteria model to call a SGM. SGM are special by virtue of its nature and intent. Therefore, these meanings are to be represented fairly in any constitution.

The suggestion that any member can call a special general meeting is not reasonable. Our current constitution requires 10% of members to call an SGM and we are proposing reducing this to 5%. Also, please note members are able to apply for immediate assistance by completing our Request for Advocacy form. This was introduced some time ago to provide faster access to advocacy for our members without having to wait for AGM.

10. 17.1 "Deputy Chairperson"

These terms have been ADDED as a proposal for the new constitution. The 2011 constitution states "the Chairperson". The objectives and the role of the Chairperson promotes leadership in the area of guiding the Board. As such, the Chairperson is the correct person to continue to be the sole recipient of SGM notifications.

It seems you may have misunderstood this clause. It does not refer to receipt of members request but provides that the Chair and Deputy Chair together can call a SGM. This is the same as our existing Constitution.

11. 19.0 "Alterations to the Constitution"

The 2011 constitution has this clause at 15.0. "provided that 2/3 majority of qualifying members or their proxy at the time support the amendment".

This clause proposes "no majority". This clause does not provide members with voting/decision making rights. A

Members do have voting rights under this constitution as Alterations to the Constitution shall be at AGM or SGM. Under s18.3 this would require a majority vote. Also please note for your information the existing Constitution requires 2/3 majority of qualifying members **present**. The word present was missed in the original document and following legal advice the Board replaced it. I am sure you would agree it is not reasonable to expect thousands of people to attend an AGM or SGM.