TERMS OF REFERENCE FOR THE REVIEW OF THE PUBLIC LENDING RIGHT

Purpose
The Department of Internal Affairs (the Department) wishes to undertake a first-principles review of the intent, scope and operations of the Public Lending Right scheme (PLR). The review will provide options for creating a fit-for-purpose scheme that balances the recognition of New Zealand authors’ creative work with the interests of New Zealand libraries and their users.

Context
The PLR provides New Zealand authors with annual payments in recognition of the fact that their books are available for use in New Zealand libraries. The PLR fund is $2 million per annum. Annual payments are made to authors based on the number of works held in New Zealand libraries.

The PLR is governed by the Public Lending Right for New Zealand Authors Act 2008 (the Act) and the Public Lending Right for New Zealand Authors Regulations 2008 (the Regulations). The PLR has been administered by the National Library of New Zealand since 2009 (and since 2011 under delegation from the Chief Executive of the Department).

The Department has received advice from the Public Lending Right Advisory Group (the Advisory Group) and feedback from New Zealand authors on a number of issues associated with the PLR including:

1. The primary policy intent of the PLR is unclear, making it difficult to reconcile decisions made under the Regulations with potentially competing outcomes and interests such as:
   - compensating New Zealand authors for their works being made available to readers free of charge;
   - conferring recognition on New Zealand authors whose works are held in New Zealand libraries;
   - supplementing the revenue of living contemporary New Zealand authors; and
   - encouraging emerging New Zealand writers in their literary careers.

2. The total funding level for the PLR has not been reviewed by Cabinet since its inception in 2008. The legislation does not provide for regular CPI adjusted increases.

3. Difficulties associated with the prescriptiveness of the regulations, such as:
   - the complexity of the registration requirements;
   - the number of copies of books (by a New Zealand author) that must be held in New Zealand libraries to qualify for payment;
   - the methodology used to ascertain the number of copies held by libraries; and

1 For the purposes of the Public Lending Right for New Zealand Authors Act 2008, a New Zealand library means “a library in New Zealand that makes its books available for use in New Zealand” (Section 8(a)).
the difficulty interpreting the definition of a book for the purposes of counting the number of copies held by libraries.

- The PLR applies only to printed bound books despite the presence of e-books and audiobooks increasing in New Zealand libraries.\(^2\)
- School libraries are currently excluded from the PLR.
- As a private library, the Blind Foundation’s library is currently excluded from the PLR.

The results of the review will provide the Department with a basis for seeking a decision from the Minister of Internal Affairs about options for improving the PLR. These could include changes to the PLR Regulations and corresponding amendments to the Act.

Scope of work

The review will involve analysing and creating a snapshot of the PLR as it is currently administered, identifying issues and developing options for its improvement. Targeted consultation with key stakeholders will inform the analysis. The substantive policy and operational topics, and areas of inquiry, that lie within the scope of the review can be summarised as follows:

- What are the main contextual changes since 2008 within the PLR’s current operating environment?
- To what extent is the purpose of the Act and its associated Regulations clear and fit-for-purpose given changes in relevant operating environments? What should the PLR’s purpose be?
- What do key stakeholders consider to be the PLR’s main existing issues (including those identified above)?
- To what extent are the intended outcomes of the PLR clear and in what ways could the current eligibility criteria and funding formula be modified in order to better support these outcomes?

Exclusions from review scope

The following matters lie outside of the scope of the review:

- A comparative desktop review examining PLR in other jurisdictions (this will be undertaken by the Department);
- An extensive public consultation about possible legislative amendments (this may follow if significant changes are proposed and supported by Ministers);
- Options for implementing an Educational Lending Right (this would first require a change to the Act); and

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\(^2\) Mandy Hager: "Lobbying to improve writers’ incomes", Newsroom, 15 October 2019.
### Deliverables and timeframe

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<th>Phase</th>
<th>Timing</th>
<th>Review activities</th>
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| One   | 13 January – 10 February 2020 | Develop draft terms of reference and consultation plan for review by the Department, National Library and the Advisory Group  
Revise and finalise terms of reference and consultation plan  
Publicly announce review |
| Two   | 11 February – 15 May 2020 | Indicative consultation period 17 March to 24 April 2020  
Draft issues paper for review by the Department, National Library and the Advisory Group  
Finalise issues paper |
| Three | 1 May – 1 June 2020 | Test draft options to change the PLR with the Advisory Group  
Hold sense-making session with the Department and National Library to test options  
Develop draft options analysis report for review by the Department and National Library  
Finalise options analysis report |