



“Advocacy” and the Charities Act

Organisations established for exclusively charitable purposes may carry out campaigning and political activities, *provided that they are a legitimate means of furthering their charitable purposes.*

However organisations established solely to pursue political purposes will not meet the charitable purpose test.

Can you have advocacy as a purpose and still qualify to register under the Charities Act?

Yes —

- if it is representational advocacy, *or*
- if it is political advocacy which is **ancillary** to your main charitable purpose.

No —

- if it is political advocacy and it is a main purpose of your organisation.

Is advocacy charitable or non-charitable?

The Commission believes that the Charities Act 2005 reflects the legal position developed in the courts (the common law).

In terms of the common law, courts have found some purposes that could be described as advocacy to be charitable and some to be non-charitable.

The term “advocacy” can be used to describe two types of purposes:

- personal and representational advocacy – for example, helping people access benefits as part of your charitable work

- political advocacy – for example, lobbying for a law change.

Personal and representational advocacy purposes that are part of an organisation’s charitable work have generally been found by the courts to be charitable.

Political advocacy – advocacy for political change, for a political party, for a law change or enforcement of a particular law has, however, been regarded by the courts as non-charitable.

The courts have taken this view because they felt they should not decide whether the views of a political party or a proposed law change was of “public benefit” (an essential part of all charitable purposes). They felt they should leave this decision to voters and to parliament.

If it’s unclear from your rules what type of advocacy you might be involved in, we will contact you when processing your application.

To help us process your application as efficiently as possible, you might want to provide some supplementary information with your application if you think you engage in advocacy. For example, you might want to consider including information that covers:

- who you are advocating for
- how you advocate for them – ie what you do when advocating
- who (or what organisations) you primarily direct your advocacy towards

While organisations established to pursue political purposes will not meet the charitable purpose test, organisations established for exclusively charitable purposes may carry out campaigning and political activities, provided that the activities pursued are a legitimate means of furthering those purposes.

What do we mean by "ancillary"?

Section 5 (4) of the Charities Act 2005 says that:

... a non-charitable purpose is ancillary to a charitable purpose ... if the non-charitable purpose is—

- a) ancillary, secondary, subordinate, or incidental to a charitable purpose...; and
- b) not an independent purpose ...
(abridged).

Will engaging in political advocacy activities prevent registration?

In making a decision about registration, the Commission will look at your current and proposed activities. If these include political advocacy activities, such as lobbying for a law change, we would weigh up whether this is an activity aimed at furthering your charitable purposes, or whether it might indicate that you have a political purpose, and may contact you.

How will the Commission assess advocacy?

The Charities Commission applies section 5 of the Charities Act to assess the charitable nature of every purpose, including advocacy. We assess every application individually.

Public benefit

In addition to fulfilling at least one of these categories of charitable purpose:

- advancement of education
- advancement of religion
- relief of poverty
- other benefit to the community

the purpose of your organisation must be directed towards the public benefit. This means that it must be for a benefit that is clearly identified and defined, and must be available to a sufficient section of the public.

Further information

For more information about the Charities Commission or registration under the Charities Act, please browse 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, the name of your organisation and your contact details to info@charities.govt.nz