

Mixing charity and politics

When is a charity a charity?

To be registered as a charity an organisation must be charitable. That seems self-evident, but what is charitable is not so clear.

In a significant decision for the charitable sector, the Supreme Court allowed Greenpeace's appeal against the Court of Appeal's decision that a political purpose cannot be a charitable purpose.

The Supreme Court found that, instead of political advocacy being excluded outright, assessing whether advocacy or promotion of a cause or law reform is for the public benefit depends on:

■ The end that is advocated.

■ The means promoted to achieve that end.

■ The manner in which the cause is promoted.

The Supreme Court noted that where a charity promotes an abstract idea such as "peace" or "nuclear disarmament", the focus must be on how that idea is to be furthered.

That means considering the context of public participation in processes and human rights values, rather than whether the



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ALAN KNOWSLEY

RAINEY COLLINS LAWYERS

idea itself has broad public support.

The Supreme Court also noted that charities law should be responsive to changing circumstances of society, not fixed rigidly in the past.

So what does this mean for your charity?

While the case is rightly regarded as a victory for Greenpeace, charities still need to take care if they engage in advocacy work.

The Supreme Court found that it would be difficult to show that promoting an idea is itself charitable.

Therefore, if your organisation focuses on advocacy, you should

aim to demonstrate to Charities Services that the end you are promoting, or the means you are using to promote your end, are charitable.

The Supreme Court has confirmed that to do this you should compare your ends and means with purposes that have already been recognised as "charitable".

For example, if your organisation aims to relieve the poverty of disadvantaged women by promoting their voice in society, that may be regarded as charitable.

Organisations that are already registered charities also need to continue to take care not to jeopardise their charitable status if they engage in political advocacy.

It may be sensible for the organisation to adopt policies around the type of advocacy activities it will and will not engage in.

Charities should be careful before they advocate on matters that might be considered "private" benefits – for example, advocating pay

rises for the members of a particular profession.

They should also take care before they publicly endorse a particular Member of Parliament (in their newsletter, for example).

■ Column courtesy of Rainey Collins Lawyers, phone 0800 733 484.

If you have an inquiry you would like discussed in this column, email Alan at aknowsley@rainey-collins.co.nz.

ORCHESTRA WELLINGTON
BABY POPS
Abracadabra
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Saturday 21 February, 3pm
Sacred Heart College, Lower Hutt
Sunday 22 February, 3pm