

Registration Decision: Western B O P Grey Power Association Incorporated

The facts

1. Western B O P Grey Power Association Incorporated (“the Applicant”) was incorporated under the *Incorporated Societies Act 1908* on 4 July 1986 under the name “Tauranga National Superannuitants Association Incorporated”. The Applicant changed its name to “Western B O P Grey Power Association Incorporated” on 14 June 1994.
2. The Applicant applied to be registered as a charitable entity on 23 March 2010.
3. The Applicant’s objects are set out in clause 2.3 of its constitution:

The Association is established for the following objects and purposes:-

- (a) *To advance, support and protect the welfare and well-being of aged persons both directly and in conjunction with other organisations or bodies with similar aims or purposes.*
- (b) *To protect the rights, security and dignity of superannuitants.*
- (c) *To affirm and ensure the statutory entitlement of every New Zealander to sufficient superannuation, health, and medical benefits, State provided or otherwise.*
- (d) *To meet the special needs and interest of all superannuitants by taking appropriate action on their behalf.*
- (e) *To better the lives of all superannuitants, particularly those persons resident in and about the Western Bay of Plenty, through service, advocacy, education, and investigation of problems affecting their well-being.*
- (f) *To retain membership of and to support the Federation.*
- (g) *To promote the widest possible identification of the Federation as the most appropriate and effective representation of the superannuitants and their rights and special concern.*
- (h) *To encourage and support persons to retain their self respect as well as involvement with the greater community as having values they can contribute and worth and experience therefore remaining useful citizens with the ability to contribute to the public good.*
- (i) *The objects above stated or implied herein shall not be prejudiced by the order in which they appear.*

4. The Applicant’s winding up provisions are outlined in clauses 12.3 and 12.4 of its constitution:

12.3 *Any surplus assets of the Association after payment of all costs, debts, and liabilities, shall subject to any trust effecting the same, be disposed of by distributing, giving or transferring them to somebody or bodies having objects similar to the Objects of the Association*

12.4 *The body or bodies in these Rules must prohibit the distribution of its or their income and property among its or their members to at least the same or greater an extent as is imposed on the Association under this Constitution. The body or bodies shall not be carried on for profit and shall have an approved tax exemption and will be within New Zealand.*

5. Clause 1.3 of the Applicant's constitution defines "Federation" as "the total organisation comprising the Grey Power New Zealand Federation Incorporated, Regions and Associations, whose objectives is the welfare of the elderly of New Zealand" and "Federation Constitution" as the "constitution of the Grey Power New Zealand Federation Incorporated".

6. In a letter dated 18 March 2010, sent to the Charities Commission ("the Commission") with its application, the Applicant states:

In submitting this application I would stress that the Western Bay of Plenty Grey Power Association's greatest emphasis is found in helping to keep it's members as useful citizens that maintain their own dignity, values and self-respect. Also recognising that they can make a contribution to society rather than relying on society to look after them and that they can still contribute to society and maintain their independence.

We often make the comparison with 'Age Concern' by stating that they provide for those that fall through the cracks. Our association endeavours to help people remain independent and provide for themselves so that they do not become dependent of social services.

In line with Age Concern (who are a registered charity) we do become involved with advocacy in representing the needs of older people to local bodies and to government. Age Concern currently plays a greater role in these areas than we do.

We would note with interest that Age Concern and WBOP Grey Power Assoc. have representatives on the same bodies.

Currently this association has over 1600 members and has a need for some funding of part-time professional staff to adequately provide this service to the public and our members. The fact that we are currently not a registered charity denies us access to most funding services.

7. The application was analysed by the Commission and on 29 March 2010, the Applicant was sent a notice that may lead to a decline on the basis that its purposes were not exclusively charitable and its winding up clause did not limit the distribution of surplus assets to charitable purposes. The notice also requested permission to amend the Applicant's name to "Western B O P Grey Power Association Incorporated".

8. The Applicant responded by letter on 8 April 2010 granting permission for the Commission to amend its name and stating that it proposed to amend its winding up clause to read:

12.3 *Any surplus assets of the Association after payment of all costs, debts and liabilities, shall be subject to any trust effecting the same, be disposed of by distributing, giving or transferring them to a charitable body or bodies having objects similar to the Objects of the Association.*

9. In relation to its purposes, the Applicant submitted that:

- a. *The website you refer to is the Grey Power Federation website and is not the Western BOP Grey Power website.*
- b. *Our Clause 2.3(e) – Uses the word ‘advocacy’ but in a broad sense.*
- c. *Our Clause 2.3(g) – This puts our involvement on any ‘political advocacy’ issues at arms length as it is simply the support of the Grey Power Federation and this is their primary function not ours.*
- d. *Our primary purpose is focused on the needs of our members and the objectives of encouraging and supporting their well being to effectively help them maintain their own self respect and dignity with an ability to remain useful citizens.*
- e. *We would, in this respect, again draw you attention to other organisations that could be seen to be involved in ‘political advocacy’...*

10. The Commission analysed the information provided and on 20 April 2010, sent the Applicant a second notice that may lead to a decline stating that the proposed amendment to clause 12.3 was sufficient to meet the requirements of the *Charities Act 2005* (“the Act”) in relation to winding up, but the Commission remained of the view that the Applicant’s purposes were not exclusively charitable.

11. The Applicant responded by letter on 28 May 2010 proposing to amend its purposes to read:

The Association is established for the following objects and purposes:-

- (a) *To advance, support and protect the welfare and well-being of aged persons both directly and in conjunction with other organisations or bodies with similar aims or purposes.*
- (b) *To protect the rights, security and dignity of superannuitants.*
- (c) *To affirm and ensure the entitlement of all members to sufficient superannuation, health and medical benefits, state provided or otherwise.*
- (d) *To meet the special needs and interest of all superannuitants by taking appropriate action on their behalf.*
- (e) *To better the lives of all superannuitants, particularly those persons resident in and about the Western Bay of Plenty, through service, advocacy (to the exclusion of advocacy of a political cause), education, and investigation of problems affecting their wellbeing.*
- (f) *To retain membership of and to support the Federation.*
- (g) *To promote the identification of the Federation as an appropriate and effective representation of the superannuitants and their rights and special concerns.*

- (h) *To encourage and support persons to retain their self respect as well as involvement with the greater community as having values they can contribute and worth and experience therefore remaining useful citizens with the ability to contribute to the public good.*
- (i) *The objects above stated or implied herein shall not be prejudiced by the order in which they appear.*

12. The Applicant also stated that it was involved in:

1. *Advising members on a range of matters pertaining to employment (and obtaining work); disputes, legal problems and how to go about taking steps to resolve them.*
2. *Advising on why some members should contact (for instance) WINZ, ACC or Tauranga City Council in order to obtain information they require.*
3. *Encouraging health and wellbeing by facilitating meetings addressed by a variety of health experts.*
4. *Publishing articles of general interest to members written by experts in their respective fields.*
5. *Facilitating shopping from home for members with restricted mobility.*
6. *Facilitating services to combat abuse of the elderly and prevention of neglect.*
7. *Advising on correct use of the SuperGold card.*
8. *Facilitating advice on Personal Medical Alarms.*
9. *Giving advice on health and welfare matters and directing members to an appropriate organisation.*
10. *Dealing with problems relating to overseas pensions by directing members to experts.*
11. *Advising on wills and trusts and how best to go about them.*
12. *Advising on how best to go about obtaining hearing aids.*
13. *Facilitating outings for the elderly*
14. *Directing members with animal problems to the SPCA.*
15. *Advising on how best to go about organising travel.*
16. *Directing members suffering hardship generally to relevant organisations.*
17. *Directing members to counselling facilities as relevant.*

Our AGM is on 29th June 2010 and it is intended that Western B O P Grey Power will become more active in the following areas:

- (a) *Health and Welfare: This will involve designated members attending meetings with the Tauranga Hospital Advisory Committee once a month, and reporting back.*
- (b) *Local Bodies: Including attending meetings of Tauranga City Council seniors that will meet monthly and reporting back.*
- (c) *Retirement Villages and Home Assistance: Two areas we need further education about.*

13. The Commission considered the information provided and on 22 June 2010, sent the Applicant a third notice that may lead to decline on the basis that the proposed amendments were not sufficient to render the purposes of the Applicant exclusively charitable. The notice stated that the activities of the Applicant as outlined in their letter of 28 May 2010 may be charitable.

14. On 30 July 2010 the Applicant responded by letter stating:

Noting the Commission's comments that proposed amendments to our clauses 2(c), 2(e) and 2(g) "still allow Western B O P Grey Power Association Incorporated to be involved in political advocacy", it would be helpful if the Commission would advise as to which of the clauses cause the most problems perhaps rating each clause on some scale. This would enable us to take third-party advice as to the best means of meeting the Commission's requirements. ...

With regard to section 13(1)(b)(i) it is our contention we meet this requirement and welcome the Commission's comments as to why we do not. A conclusion could be drawn that "political advocacy" is but one objection available to the Commission. Our organisation is proudly "apolitical" and we welcome observations as to how we are judged to have been involved in political advocacy and why we are presumed to become involved in same in the future.

Unfortunately it does seem clear our elderly members are being deprived of further charitable assistance owing to the evident intransigence shown by the Commission. Our association as stated above and in previous correspondence is apolitical and it will remain that way. Thus we would be grateful for a concise definition of the Commission's problem in respect of our application.

15. On 20 September 2010, the Commission wrote to the Applicant advising that the Commission's concerns in relation to the Applicant's stated purposes and activities were outlined in its letters of 29 March 2010 and 20 April 2010. The Applicant was advised that it is not possible for the Commission to rank clauses on a scale of more or less charitable, and that support for the Grey Power New Zealand Federation Incorporated, set out in the Applicant's purposes, indicates that the Applicant is supporting non-charitable organisations which undertake political advocacy. The letter also referred to, and included a copy of, a website article in which the Applicant's president referred to challenging government and acting as "a power against the government".

The issue

16. The Commission must consider whether the Applicant meets all of the essential requirements for registration under the *Charities Act 2005* ("the Act"). In this case the key issue for consideration is whether the Applicant is established and maintained exclusively for charitable purposes, as required by section 13(1)(b) of the Act. In particular:

(a) are all of the Applicant's purposes charitable?

- (b) if any of the Applicant's purposes are non-charitable, are those purposes ancillary to a charitable purpose?

The law on charitable purposes

The Charities Act 2005

17. Under section 13(1)(b)(i) of the Act, a society or institution must be established and maintained exclusively for charitable purposes.
18. Section 5(1) of the Act defines "charitable purpose" as including every charitable purpose whether it relates to the relief of poverty, the advancement of education, the advancement of religion or any other matter beneficial to the community. In addition, to be charitable at law, a purpose must be for the public benefit.¹ This means that the purpose must be directed at benefiting the public or a sufficient section of the public.
19. Section 5(3) of the Act provides that any non-charitable purpose must be ancillary to a charitable purpose.
20. Section 5(4) of the Act states a non-charitable purpose is ancillary to a charitable purpose of the trust, society or institution if the non-charitable purpose is:
- (a) ancillary, secondary, subordinate, or incidental to a charitable purpose of the trust, society or institution; and
 - (b) not an independent purpose of the trust, society or institution
21. In considering an application, section 18(3)(a) of the Act requires the Commission to have regard to:
- (i) the activities of the entity at the time at which the application was made; and
 - (ii) the proposed activities of the entity; and
 - (iii) any other information that it considers is relevant.

Political purposes

22. Political purposes have been defined as purposes directed at furthering the interests of any political party; or securing, or opposing, any change in the law or in the policy or decisions of central government, local authorities or other public bodies, whether in New Zealand or abroad.²
23. The rule that political purposes cannot be charitable was set out by Lord Parker of Waddington in *Bowman v Secular Society*.³

¹ See *Latimer v Commissioner of Inland Revenue* [2002] 3 NZLR 195.

² *Re Wilkinson* [1941] NZLR 1065, 1077.

³ [1917] AC 406.

... a trust for the attainment of political objects has always been held invalid, not because it is illegal, for everyone is at liberty to advocate or promote by any lawful means a change in the law, but because the Court has no means of judging whether a proposed change in the law will or will not be for the public benefit, and therefore cannot say that a gift to secure the change is a charitable gift.

24. In New Zealand the *Bowman* case has been applied by the Supreme Court in *Re Wilkinson (deceased)*,⁴ when deciding the charitable status of the League of Nations Union of New Zealand, and in *Knowles v Commissioner of Stamp Duties*,⁵ when deciding whether a temperance organisation was charitable.
25. In 1981, the New Zealand Court of Appeal applied *Bowman* in *Molloy v Commissioner of Inland Revenue*⁶ when considering whether a gift to the New Zealand Society for the Protection of the Unborn Child was tax deductible. In his decision, Somers J held that a political purpose included both advocating and opposing any change in the law. He also noted that to preclude recognition as a valid charity the political object must be more than an ancillary purpose, it must be the main or a main object.
26. In the United Kingdom the *Bowman* case has been applied in *National Anti-Vivisection Society v Inland Revenue Commissioners*⁷ and in *McGovern v Attorney-General*⁸, when the Court was considering the purposes of a trust established by Amnesty International. In the latter case, Slade J summarised his conclusions in relation to trusts for political purposes as:
- (1) *Even if it otherwise appears to fall within the spirit and intendment of the preamble to the Statute of Elizabeth, a trust for political purposes falling within the spirit of Lord Parker's pronouncement in Bowman's case can never be regarded as being for the public benefit in the manner in which the law regards as charitable.*
 - (2) *Trusts for political purposes falling within the spirit of this pronouncement include, inter alia, trusts of which a direct and principal purpose is either:*
 - (i) *to further the interests of a particular political party; or*
 - (ii) *to procure changes in the laws of this country; or*
 - (iii) *to procure changes in the laws of a foreign country; or*
 - (iv) *to procure a reversal of government policy or of particular decisions of governmental authorities in this country; or*
 - (v) *to procure a reversal of government policy or of particular decisions of governmental authorities in a foreign country.*⁹

⁴ [1941] NZLR 1065.

⁵ [1945] NZLR 522.

⁶ [1981] 1 NZLR 688.

⁷ [1948] AC 31.

⁸ [1982] 1 Ch 321.

⁹ [1982] 1 Ch 321, 340.

27. Two reasons for the principle that the Court will not regard as charitable a trust which has a main object of procuring an alteration of the law were cited by Slade J:

*first, the court will ordinarily have no sufficient means of judging as a matter of evidence whether the proposed change will or will not be for the public benefit. Secondly, even if the evidence suffices to enable it to form a prima facie opinion that a change in the law is desirable, it must still decide the case on the principle that the law is right as it stands, since to do otherwise would usurp the functions of the legislature.*¹⁰

28. The judge noted that the mere fact that political means were employed in furthering the non-political purposes of a trust would not necessarily render it non-charitable. *“If all the main objects of the trust are exclusively charitable, the mere fact that the trustees may have incidental powers to employ political means for their furtherance will not deprive them of their charitable status.”*¹¹

29. In New Zealand in *Re Collier (deceased)*¹² Hammond J upheld the principle that a trust with purposes of changing the law was not charitable, but also considered that a court could recognise an issue as worthy of debate even though the outcome of the debate could lead to a change in the law.

30. In coming to this conclusion, Hammond J criticised other decisions holding that political purposes were not charitable, especially in light of section 13 (freedom of thought, conscience, and religion) and section 14 (freedom of expression) of the *New Zealand Bill of Rights Act 1990*. Nevertheless, he wrote:

*I have to say that I have considerable sympathy for that viewpoint which holds that a Court does not have to enter into the debate at all; hence the inability of the Court to resolve the merits is irrelevant. ... In this Court at least, there is no warrant to change these well established principles – which rest on decisions of the highest authority – even though admirable objectives too often fall foul of them.*¹³

31. Finally, the Federal Court of Australia has recently held that an entity whose purposes and activities were aimed at influencing government to ensure foreign aid was delivered in a particular manner, did not have exclusively charitable purposes because of its political purposes.¹⁴ In reaching its decision the court stated:

Aid/Watch’s attempt to persuade the government (however indirectly) to its point of view necessarily involves criticism of, and an attempt to bring about change in, government activities and, in some cases, government policy. There can be little doubt that this is political

¹⁰ Ibid pp 336-7.

¹¹ Ibid p 343.

¹² [1998] 1 NZLR 81.

¹³ *Re Collier (deceased)* [1998] 1 NZLR 81, 90.

¹⁴ *Commissioner of Taxation v Aid/Watch Incorporated* [2009] FCAFC 128.

*activity and that behind this activity is a political purpose. Moreover the activity is Aid/Watch's main activity and the political purpose is its main purpose.*¹⁵ ...

We accept that, at one level Aid/Watch's efforts, are not in conflict with government policy. There was no suggestion that government is not concerned to deliver aid efficiently or with due regard to environmental concerns. Aid/Watch's concern however, is that the delivery of aid should conform to its view of the best way to achieve these objects. It does not take into account that government and its agencies inevitably have to make choices in determining where, how and how much aid is to be delivered.

*Undoubtedly some of these choices will involve factors with which Aid/Watch is concerned. Others, however, will involve domestic and foreign political considerations that do not concern Aid/Watch. Some of these factors may have very little to do with foreign aid or the manner of its delivery.*¹⁶

Charities Commission's analysis

32. The Commission considers that the purpose outlined in clause 2.3(i) is ancillary.
33. The Commission considers that the purposes outlined in clauses 2.3(a) to (h) do not show an intention to advance religion or advance education and do not come within "any other matter beneficial to the community". Accordingly, the Commission has considered whether these purposes come within the "relief of poverty" or whether these purposes enable the Applicant to be involved in political advocacy.

Relief of poverty

34. To be charitable under the relief of poverty, a purpose must:
- be directed at people who are poor, in need, aged or suffering genuine hardship, and
 - provide relief.
35. "Poverty" is interpreted broadly in law and a person does not have to be destitute to qualify as "poor".¹⁷ People who are in need, aged, or who are suffering genuine financial hardship from a temporary or long-term change in their circumstances are likely to qualify for assistance. Generally, this will include anyone who does not have access to the normal things of life which most people take for granted.¹⁸

¹⁵ *Commissioner of Taxation v Aid/Watch Incorporated* [2009] FCAFC 128, para 37.

¹⁶ *Commissioner of Taxation v Aid/Watch Incorporated* [2009] FCAFC 128, para 41.

¹⁷ *Re Bethel* (1971) 17 DLR (3d) 652 (Ont: CA); affirmed sub nom *Jones v Executive Officers of T Eaton & Co Ltd* (1973) 35 DLR (3d) 97 (SCC) referred to in *D V Bryant Trust Board v Hamilton City Council* [1997] 3 NZLR 342. See also *Re Pettit* [1988] 2 NZLR 513.

¹⁸ *Inland Revenue Commissioners v Baddeley* [1955] AC 572; [1955] 1 All ER 525, applied in *Re Pettit* [1988] 2 NZLR 513 and *Re Centrepont Community Growth Trust* [2000] 2 NZLR 325.

36. To provide “relief” the people who would benefit should have an identifiable need arising from their condition that requires alleviating and these people should have difficulty in alleviating that need from their own resources.¹⁹
37. Purposes that provide basic necessities, such as shelter and amenities have, where the beneficiaries of these necessities are recognised as being in need of them, been upheld as for the relief of poverty.²⁰ However, the courts will invalidate a gift the purpose of which extends beyond the relief of poverty.²¹
38. When considering whether providing a retirement village containing 32 housing units and associated amenities was charitable, the High Court in *D V Bryant Trust Board v Hamilton City Council* held that:

In my view when the concept of the village is properly understood, if it is seen to address the deepest kind of human needs, particularly of the aged. Modern governmental provision may not be generous by any standard other than a comparison with the almshouses of other centuries; although, in fairness, it does attempt to cover basic needs such as food, shelter, and medical care. But of course what we need just to survive, and what human beings need to flourish and to continue to grow (even in old age), are quite different things.

Many of the arguments today in the public sphere seem to be about what basic tangible needs persons are entitled to from the state. And the conservative reaction to the welfare state is nothing less than a view that even those needs do not necessarily make rights. It is not at all appropriate that a Court of law should enter a political debate. But this much at least can appropriately be said here: the needs of the aged for fraternity, belonging, respect, mutual activities, interaction, and security are surely a matter of the greatest moment both for the aged, and for society.²²

39. The purposes outlined in clauses 2.3(a) and (h) are:
- (a) *To advance, support and protect the welfare and well-being of aged persons both directly and in conjunction with other organisations or bodies with similar aims or purposes ...*
 - (h) *To encourage and support persons to retain their self respect as well as involvement with the greater community as having values they can contribute and worth and experience therefore remaining useful citizens with the ability to contribute to the public good.*

¹⁹ *Joseph Rowntree Memorial Trust Housing Association Ltd v Attorney-General* [1983] Ch 159; [1983] 1 All ER 288. See also *D V Bryant Trust Board v Hamilton City Council* [1997] 3 NZLR 342.

²⁰ *Flynn v Mamarika* (1996) 130 FLR 216 at 227-228 per Martin CJ.

²¹ *Re Gwyon* [1930] 1 Ch 255; *Re Pieper (deceased)* [1951] VLR 42 at 44 per Smith J and *Re Blyth* [1997] 2 Qd R 567 at 581 per Thomas J.

²² [1997] 3 NZLR 342 at 349.

40. The Commission considers that the purposes set out in clause 2.3(a) and (h) are likely to amount to relief of poverty by providing relief for the aged.
41. The purposes outlined in clauses 2.3(b) to 2.3(g) are:
- (b) *To protect the rights, security and dignity of superannuitants.*
 - (c) *To affirm and ensure the entitlement of every New Zealander to sufficient superannuation, health and medical benefits, State provided or otherwise.*
 - (d) *To meet the special needs and interest of all superannuitants by taking appropriate action on their behalf.*
 - (e) *To better the lives of all superannuitants, particularly those persons resident in and about the Western Bay of Plenty, through service, advocacy, education, and investigation of problems affecting their well-being.*
 - (f) *To retain membership of and to support the Federation.*
 - (g) *To promote the widest possible identification of the Federation as the most appropriate and effective representation of the superannuitants and their rights and special concerns.*
42. The Commission considers that while the purposes of the Applicant outlined in clauses 2.3(b), (c), (d), (e), (f) and (g) are aimed at superannuitants, these clauses are very broad in nature and would enable the Applicant to be involved primarily in political advocacy activities. For example, in order to “affirm and ensure the entitlement of every New Zealander to sufficient superannuation, health, and medical benefits” the Applicant would need to be involved in political advocacy against any changes to State funded pensions, health care or medical benefits for the elderly. Moreover, in order to “protect the rights security and dignity of superannuitants”, “meet the special needs and interests of all superannuitants by taking appropriate action on their behalf” and “better the lives of all superannuitants”, the Applicant may be involved in political activities.
43. We note that the activities outlined in the Applicant’s letter of 28 May 2010 do not appear to be political in nature. However, an article on “sunlive”²³ reports that Doug Wilson is the newly elected president of the Applicant and goes on to state:
- Doug Wilson says he will work hard over the next year to build Western Bay of Plenty Grey Power into an organisation that can challenge government on contentious issues that face the region’s elderly. ...*
- “I believe Grey Power can come back from the dead and be more of a power against the government”.*
44. The purposes outlined in clauses 2.3(f) and 3(g) refer to the “Federation”. The Commission has therefore undertaken further analysis of this organisation.

²³ <http://www.sunlive.co.nz/15836a1.page>, a news website for the Bay of Plenty, last accessed on 13 September 2010.

45. The Federation is defined in clause 1.3 of the Applicant's constitution as meaning "the total organisation comprising the Grey Power New Zealand Federation Incorporated, Regions and Associations, whose objectives is the welfare of the elderly of New Zealand".
46. The objects of the "Grey Power New Zealand Federation Incorporated" are:
- (a) *To advance, support and protect the welfare and well-being of aged persons in New Zealand, both directly or in conjunction with other organisations or bodies with similar aims or purposes.*
 - (b) *To promote and achieve the widest possible identification of the Federation in New Zealand as the most appropriate and effective representation of aged persons and their special concerns.*
 - (c) *To promote, establish and maintain links with organisations, sharing the values and beliefs of the Federation*
 - (d) *To uphold the status of the aged as important members of New Zealand society.*
 - (e) *To educate and inform organisations, institutions, other bodies, and the public for the purpose of bringing about a better understanding of the particular needs of the aged and the ability of the aged to contribute to the public good.*
 - (f) *To foster public participation in New Zealand's social policy through discussion, research and submissions.*
47. The website of "Grey Power New Zealand Federation Incorporated" outlines a number of its policies. The policy summaries state²⁴:

Grey Power Policy Summary

Superannuation

Superannuation to be a state tax funded scheme payable at the age of 65 years that allows the retired person an adequate income to live in reasonable comfort and dignity, and be able to participate fully in the community. That superannuation be accepted as an entitlement and non-means tested. This income should include a special provision to provide for the needs of the person living alone. A multi-party Superannuation Accord should secure the scheme but all the main parties will agree to is 65 as the age of entitlement.

Health

To protect and promote the health of New Zealanders through the public health system . We will strive to have a Parliamentary Accord on health that interprets the declared will of the majority of the citizens of New Zealand and not a system that reflects the aspirations of any current government or Ministry.

²⁴

<http://www.greypower.co.nz/contact-us/>, last accessed on the 30 September 2010.

Social Services

All persons in New Zealand should have access to, and be accurately informed of, all entitlements, initiatives or changes that affect them. Equal opportunity must exist in all areas of Social Services to ensure a fair and equitable standard of living for all.

Essential Services

Energy (electricity, gas, solid and liquid fuels) should be produced, delivered and used in the most effective ways possible and of a cost that it is affordable to the domestic consumer. Energy supplies should as far as possible be reliable and secure, and energy prices stable, undistorted and at a level that reflects their strategic importance to New Zealand. There should be established a consumer advocacy group funded by the Electricity Commission to be able to contest the unsubstantiated price rise from retailers.

Law and Order

To seek a fairer justice system encompassing all people in New Zealand and to strive to make people safe in their homes and on the streets. To have a sentencing regime which deprives the criminal of any rights except to be housed and fed.

50 Plus

To improve living standards, benefits and equal work opportunities for those aged 50-65

Privatisation

To ensure that there is no further privatization of water and public state assets and to resist any sales of SOEs.

48. The Commission considers that the above purposes and policies are aimed at changing legislation or government policies and therefore amount to political advocacy. Accordingly, the Commission is of the view that providing support to “the Federation” and “promoting the identification of the Federation as the most appropriate and effective representation of the superannuitants and their rights and special concerns” (the purposes in clauses 2.3(f) and (g)) will necessarily involve the Applicant in political activities.

Applicant’s Submissions

49. The Applicant has submitted that there are other organisations that could be seen to be involved in “political advocacy”.

50. The Commission takes a case-by-case approach to each application for registration as a charitable entity. The Commission considers the specific wording of each Applicant's rules document and has regard to the current and future activities of each applicant as required by section 18(3)(a) of the Act. The fact that other entities have been registered by the Commission has no bearing on the Applicant's eligibility for registration.

Conclusion

51. The Commission concludes that purposes outlined in clause 2.3(a) and (h) may be charitable but that the purposes outlined in clauses 2.3(b), (c), (d), (e), (f) and (g) enable the Applicant to be involved in non-charitable activities including political advocacy. The Commission also concludes that the Applicant's political activities are not ancillary to its charitable purposes.

Charities Commission's determination

52. The Commission determines that the Applicant has failed to meet an essential requirement for registration as a charitable entity in that it is not established and maintained exclusively for charitable purposes, as required by section 13(1)(b)(i) of the Act.

For the above reasons, the Commission declines the Applicant's application for registration as a charitable entity.

Signed for and on behalf of the Charities Commission

.....
Trevor Garrett
Chief Executive

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Date