

## **Charities Services**

### **Housing review**

#### **Information Sheet: Charitable Purpose and Housing**

This information sheet provides further information to registered charities that are part of Charities Services' review of housing providers on the scope of the review and when the provision of housing may be charitable.

#### **What will Charities Services be considering in the review?**

Charities Services will be looking at providers' stated purposes and activities. We will be considering things like:

- the stated purposes in the provider's rules document(s)
- who will be receiving housing assistance from the provider
- the details of the eligibility criteria for participants receiving housing from the provider (what are their needs and what is their ability to meet those needs)
- the provider's method of assessing eligibility
- how the provider will provide housing assistance to eligible participants
- whether the provider's activities confer a charitable public benefit

We will assess each housing provider on a case-by-case basis to determine whether or not that organisation's provision of housing assistance is charitable. There is no bright-line test, and each case will be assessed on its merits.

#### **What are the requirements for housing providers?**

To continue to qualify for registration under the Charities Act 2005, providers must meet all of the following criteria:

- be managed on a non-profit basis
- have charitable purposes (to meet this criteria the organisation must have exclusively charitable purposes, or any non-charitable purpose must be ancillary to a charitable purpose)
- activities must advance the provider's charitable purposes
- must not confer non-incidental private benefits
- must provide a benefit to a sufficient section of the public or relieve an identifiable charitable need.

#### **When can housing be a charitable purpose?**

Providing housing can advance a number of charitable purposes. Examples of housing purposes which may be charitable include providing:

- low cost rental accommodation to persons in need
- retirement accommodation
- women's refuges that provide temporary and emergency accommodation
- accommodation for the use of relatives of patients who are critically ill
- accommodation to clergy and nuns
- temporary accommodation to assist victims of disasters
- assistance to refugees while they integrate into a new society

- housing to meet a charitable need in a locality or community, such as a charitable need for regeneration of an area of social or economic deprivation
- housing in an area in need of essential workers (for example a rural area which cannot retain doctors, police, fire-fighters etc) where the housing is provided for people while they are in these roles
- an accommodation residence for students.

Examples of housing purposes which are considered to not be charitable include:

- providing housing to any person or to people on 'low to moderate income' as this would include people not in charitable need
- assisting people into affordable home ownership where rental accommodation or commuting is a reasonable alternative to meet people's accommodation needs.

A housing provider will not be considered a charity simply because it is beneficial to the community to have sufficient acceptable housing stock.

### **Is the provision of home ownership ever acceptable?**

The High Court in *Queenstown Lakes*<sup>1</sup> stated that housing is a basic right and need but home ownership is not. It is acceptable for charities to operate home ownership models; however, those providers must demonstrate that:

- there are no other reasonably available alternatives to home ownership, including renting or commuting, which will meet the needs of the participants
- any private benefits to the recipients are incidental to a charitable purpose and provided to someone in identified charitable need.

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<sup>1</sup> *Re Queenstown Lakes Community Housing Trust* [2011] 3 NZLR 502.