

38 HOPE STREET
SOUTH BRISBANE
QLD 4101

Submission to the Board of Taxation

Charities Definition

1. Introduction

QCHC is a peak organisation representing 280 community housing organisations in Queensland.

QCHC is an ITEC. Most of our members are ITEC's and PBI's as they directly relieve poverty by providing housing services to low income people and others with special needs.

2. Main Recommendations

Core Definition:

We do not support adding 'altruism' to the core definition.

'Altruism' means different things to different people in different circumstances and adds confusion that will be good for lawyers, perhaps, but not for Charities.

A courtroom argument over what purpose and activities are 'altruistic' and to what extent, [in addition to whether they are Charitable in a broader sense] doesn't seem to add very much to workability.

While the aim of such a term is to help clarify the meaning of 'charitable', in our view keeping the test simple, and allowing the Courts discretion in assessing Charitable purpose facilitates flexibility in a changing world.

Disqualifying Purpose & Unlawful Conduct

What a minefield!

We recommend removing this clause.

This approach will add substantially to complexity, and the monitoring and enforcement of such provisions may add to administrative costs.

Charities are already subject to the law and face penalties for breaches in the law, including incorporations law.

What is the purpose of duplicating and adding to the penalty system already available?

If the aim of these additional requirements was to identify serious breaches of law that should disqualify and organisation from being a charity, because it has undertaken activities which 'betray the public trust or abuse the public purse', then it might be a valid purpose.

If this was felt necessary, those particular breaches should be specified and a clear system built around them.

The current proposal is too wide and leaves too many questions unanswered. This makes it unworkable.

For example: -

- Who is monitoring breaches at a State & Commonwealth level
- States have different laws, thereby opening up inconsistencies in the disqualification of Charity [within a *national* scheme].
- As drafted, the proposal does not indicate, that an organisation has been found 'guilty'
- Which parts of an Charity is disqualified and how will this be decided
- How long will a Charity by disqualified and how is this to be decided
- Will there be an appeals mechanism or will Charities be required to go to Court if they believe they have been unjustly disqualified.
- What about activities undertaken by individuals within an organisation, or by members of a Board without the authority of the Board or Members

Dominant Purpose & Disqualifying Purpose [Advocacy]

We recommend removing 'attempting to change the law or government policy'

The debate over whether to disqualify bodies that 'attempt to change the law or government policy' confuses *'ends with means'*.

For example the dominant purpose of organisations such as ACOSS is to work for an Australia free from poverty. Like many peak bodies public policy advocacy is a central 'tool' to progress this aim.

What is a purpose and what are the means or 'tools' to achieve that purpose?

This clause will add confusion to the current position and add to the complexity of administration.

In addition, it is ironic, that this clause has been inserted in an environment where Commonwealth and State Governments fund community welfare peaks for the specific purpose of providing advice to them, particularly policy advice. This is recognised by Governments as adding to the public good, and has never, until now, been seen as inconsistent with charitable purpose.

This long Australian tradition is part of the fabric of civil society and one that enjoys the support of the community and our business partners who contribute to charitable bodies like ACOSS.

In a complex environment, many more charitable organisations are forming peaks and / or networks to identify ways to improve the economic and social outcomes for their clients. These organisations reflect a developmental trend within social welfare sectors that seek to address the causes of poverty & disadvantage as well as alleviate the 'symptoms'.

However this trend has deep historical roots in chartable activity. Good public policy outcomes have long emerged from the charitable sector, including public health, education

and housing outcomes that would not have occurred if the current proposal was enforced in the 18th, 19th and 20th Centuries.

Such a proposal will lead to two undesirable behaviours. First an attempt to ‘disguise’ advocacy, and that has implications for an open society. Second a potential ‘stagnation’ of genuine public policy debate as those charities that are close to the ‘problem’ are unable to use their peak bodies to advocate change.

Definition:

Add: ‘Advancement of Housing’

250,000 people are in ‘housing stress’. [Berry & Hall 2001]

Households in the bottom 20% of incomes spend on average 64% of the income on housing costs [Winter & Donald 2001]

On any given night in 1999, 105,304 people were homeless. [ABS]

These are arguments for including in the definitions the ‘*Advancement of Housing*’

While in the past housing has come under general poverty definitions, it is clear that it has distinctive features that are analagous to advancement in health & education.

Like these, it is a universal human need. Indeed without decent shelter, it is hard for people to enjoy good health, access education or contribute to the economic and social well being of the country.

Like health, there are aspects of education and prevention, and like the environment generally, the built environment as many aspects of public good associated with it.

Poverty and housing are obviously well connected, but people also face problems beyond ‘poverty’. For example, people with disabilities may not be able to access appropriate housing and indigenous people may be discriminated against in trying to access private rental accommodation. In addition cultural factors impact on housing opportunities and provision.

Therefore putting housing as a sub set of poverty or ‘community welfare’ devalues its central role in the public good.

In the charitable housing field are services providing housing, supporting vulnerable people in housing, assisting homeless people, providing assistance to prevent housing problems, providing adaptations etc.

Private / Community Partnerships

Improve the flexibility and responsiveness of Charities Law by recognising and facilitating Charity/Business Partnerships.

The Government has supported and promoted community/business partnerships.

The world of charities is changing to reflect the change in the ‘post war settlement’ and the move towards a more liberal economic environment where social services are delivered in a pluralist setting.

Leading businesses are adopting ‘triple bottom line’ accounting and the theory around community / private partnerships is increasingly turning into practice.

Many charities are working hard to take advantage of this new environment, to bring private sector resources [and / or expertise] to bear on many of our most significant social problems.

Charities law must be flexible enough to enable these partnership arrangements while minimising any potential for abuse, or the confusion in the public mind around the 'good' that comes from public taxation treatment of charities.

In our view this can be achieved through good accounting practice in tracking the inputs of both the community and private partner and demonstrating the outcome.

For example a Housing Charity puts in some land, a private developer finances and builds 50 units on the land, 25 units then belong to the Charity for rent to low income people. The Charity can track its value of input tax credits and FBT arrangement, while the developer meets standard business taxation treatment.

A Charities Commission

We support the establishment of an independent statutory Charities Commission.

A Charities Commission would help achieve improved transparency for Charities and be an agent for good practice. It would also assist the ATO to avoid any potential or perceived conflict of interest in its revenue collecting role.

Mike Myers

QCHC Executive Director

29th September 2003