



ASYLUM SEEKERS CENTRE (INC)

38 Nobbs Street
Surry Hills NSW 2010

Tel: (02) 9361 5606

Fax: (02) 9331 6670

e-mail: asc_inc@bigpond.net.au

ABN: 47 164 509 475

CHARITIES BILL 2003:
ASYLUM SEEKERS CENTRE Incorporated
SUBMISSION TO TREASURERS TERMS OF REFERENCE

The Asylum Seekers Centre (ASC) was established in September 1993 to assist refugee applicants (asylum seekers) who are resident in the community in Australia while waiting for the government to decide on their cases. The Centre functions as a house of hospitality and offers a range of services to those who are unable to access service elsewhere. It is also a referral base for asylum seekers and is active in advocacy and public education on refugee issues. The services include English classes, health care program, job skills classes and practical assistance, typing and computer classes, hospitality by way of lunches.

Three areas of concern for ASC

This submission has three main concerns regarding the Workability of the Definition:

1. **Section 6 - Dominant purpose**
2. **Section 7 - Public Benefit.**
3. **Section 8 - Disqualifying Purposes.**

Section 6 – Dominant Purpose

This lacks clarity

Section 7 – Public Benefit (1a and 1c) and (2)

A purpose...for the public benefit is if and only if it is aimed at achieving a universal or common good and is directed to the benefit of the general community.

- The client group represented by the Asylum Seekers Centre is rarely considered within the idea of ‘universal or common good’. Asylum seekers are a minority group, who are given negative implications. It is possible the definition would exclude them from the meaning of ‘general community’. Thereby excluding this organization from being recognized as a public benevolent institution.
- The subjectivity is a grave concern: Who will measure if the public benefit is for the common good or is directed at the general community.
- (2) The numbers seen at the Asylum Seekers Centre could be assessed as “numerically negligible” however, many organizations funded by the Government are restricted from assisting and advocating for this group in the community. Many agencies, including Government, refer asylum seeker clients to our Centre.



ASYLUM SEEKERS CENTRE (INC)

38 Nobbs Street
Surry Hills NSW 2010

Tel: (02) 9361 5606

Fax: (02) 9331 6670

e-mail: asc_inc@bigpond.net.au

ABN: 47 164 509 475

FURTHER: While the Charities Bill 2003 is stated to enable clarity in the definition of a charity, in its present state, the problems associated with the Bill have hidden consequences that are potentially ruinous to this charitable organization.

- The Asylum Seekers Centre relies entirely on donations from the public to enable its work. Without status as a charity, our organisation cannot get recognized as a Deductible Gift Recipient (DGR) (NSW State Legislation).

Section 8 – Disqualifying Purposes (1)

- *Disqualifying purpose, “unlawful”* is only fleetingly addressed in this submission. This lacks clarity. Concern: with the introduction of anti terrorism legislation both State and Federal, it may be that a person has committed an unlawful act without due course to justice and proof of innocence. Who will have committed the offence to disqualify the charity? Will it be only salaried staff of the charity? Clarity required.

Section 8 – Disqualifying Purposes (2) (a & c)

(a) the purpose of advocating a cause.

(c) the purpose of attempting to change the law or government policy.

- It is evident in the material below that “advocating acause” is a necessary part of everyday work at the Asylum Seekers Centre.

Asylum seeker children are not able to enter school unless they pay international student rates. Many asylum seekers do not have permission to work, nor access to Centrelink benefits. To pay international fees in such cases is impossible. Families have sought our assistance when their child has been 10 months out of education. It is the role of the Centre to advocate and enable children to attend school while the parents are in the refugee process. Community based agencies funded by Government are not allowed to assist asylum seekers.

- Our work involves advocacy, as often our clients are not in a position to represent themselves for a number of reasons: absence of effective English proficiency; lack of knowledge about the refugee process in Australia; lack of networks to know where to turn. Many are survivors of torture and therefore are extremely fearful.

The Asylum Seekers Centre is often referred clients from Department of Immigration and Multicultural Affairs (DIMIA), Education Department, Hospitals and other government departments. Usually the specific task that is requested is to advocate for assistance or cause for that asylum seeker.

- We are fearful of the implicit ethical nature of the measurability of advocacy work. This necessarily raises the question of who will determine if a charity engages in advocacy work that is more than ancillary or incidental?
- The Centre is invited to be a member of community consultations with arms of government (DIMIA / RRT) and our role on these committees is to represent our client group.



ASYLUM SEEKERS CENTRE (INC)

38 Nobbs Street
Surry Hills NSW 2010

Tel: (02) 9361 5606

Fax: (02) 9331 6670

e-mail: asc_inc@bigpond.net.au

ABN: 47 164 509 475

- Advocacy is not always adversarial. There is no distinction.
- There is a possibility of a charity losing its Public Benevolent Institution (PBI) status if its activities are attempting to change government policy. Regarding this point and the Centre's advocacy work to change policy please acknowledge the example provided below regarding children's rights to education.
- There are times when advocacy may be attempting to highlight hidden consequences of policy. And therefore attempting to inform and influence policy change. An example is given below regarding children's rights to education:

Case study:

The Department of Education ruling states the children of refugee applicants on a bridging visa are not fee exempt. The people we see are in desperate financial situations. Many have no permission to work, no access to Medicare and are not entitled to benefits. When parents attempt to enroll children in school, they are told fees will be in excess of \$4,000 per child, per year. Unable to afford this amount, parents are turned away with no knowledge of how they can obtain schooling for their children. These children of refugee applicants are being treated as 'international students' and turned away from schools when parents cannot afford to pay fees. The effect is discriminatory to children of refugee applicants on bridging visas.

Advocacy by the Centre has brought some small changes to the process. For example, asylum seeker families with no permission to work need evidence of this for Department of Education to consider exemption of school fees. DIMIA has now drawn up a letter, which identifies families and their rights. This letter is considered by the Department of Education to be credible evidence and they can therefore look at possible exemption of fees.

Our recommendation: Fundamental change to Section 8

- to increase clarity in S8(2)(a)

- to remove S8(2)(c)

In summary:

The administrative burden seems to have increased.

The definition lacks clarity, certainty and transparency

Sylvia Winton

Co-ordinator

September 29, 2003