

Bender, Michelle

From: Natalie Ross [Natalie_Ross@fcl.fl.asn.au]
Sent: Thursday, 9 October 2003 10:38 AM
To: taxboard@treasury.gov.au
Subject: Charities consultation

Dear Sir/Madam

I received a telephone message that you could not open the attachment containing our submission. I apologise for the delay in replying. I have reproduced the submission below.

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30 September 2003

Consultation on the Definition of a Charity
The Board of taxation
C/- The Treasury
Langton Cres
PARKES ACT 2600

Dear Sir/Madam

Re: Consultation on the Definition of a Charity

Thank you for the invitation to make a submission to the Consultation on the Definition of a Charity.

Inner City Legal Centre has been operating since 1980 and is located in Darlinghurst in the inner city area of Sydney. The centre is staffed by a full time and a part time solicitor, a part time coordinator, and a part time bookkeeper and a large group of volunteer solicitors and law students. The centre is funded through the Community Legal centres funding program administered by the Legal Aid Commission of NSW. Our office accommodation is subsidised by South Sydney Council, although the extent of the subsidy is now uncertain as a result of council boundary changes.

The Centre gives initial advice to residents and workers in the inner Sydney area and also provides advice, where appropriate to people from the northern areas of Sydney, as there is no legal centre servicing those areas. We also provide advice and representation to gay, lesbian and transgender people beyond these geographic boundaries. While the inner city area of Sydney has become increasingly affluent, it is still characterised by a high population of homeless and transient people many of whom have a mental illness or a drug or alcohol addiction. There is also substantial public housing in Woolloomooloo, Surry Hill and the Rocks

within our catchment area.

The Centre opens from Monday to Friday, including evening advice services on Tuesdays and Wednesdays staffed by volunteer solicitors on a rostered basis. The Wednesday evening advice service is run in conjunction with the Gay and Lesbian Legal Rights Service, and advice is also provided in the area of family law and employment law. On Tuesday evenings advice is provided in the areas of minor criminal and traffic matters, credit and debt, motor vehicle accidents, consumer complaints, compensation, and wills and estates.

Much of the Centre's casework is one-off legal advice and referral. Some clients will need no more than initial advice Others are commonly referred for additional assistance from specialist legal centres, the Legal Aid Commission (including Prisoners and Mental Health Advocacy Service), Chamber Magistrates or private practitioners. The Centre provides ongoing representation in discrimination, unfair dismissals, victims compensation, some criminal matters and some civil matters.

Like other community legal centres, in addition to providing legal advice and representation we also provide community legal education and undertake policy and law reform work. All areas of our work are interrelated : it is the experience we gain from our direct contact with clients that provides the basis for our policy and law reform advocacy, and illustrates the demand for plain English legal information for members of the public.

We support the submissions made to the Consultation by the National Association of Community Legal Centres, the Combined Community Legal Centres Group (NSW), and the Australian Council of Social Services. In addition, we would like to make the following brief comments in relation to the Board's terms of reference:

We believe that the Draft Charities Bill 2003 is potentially unworkable in attempting to limit the amount or sort of advocacy that charities, including community legal centres, may undertake without losing their charitable status. The Bill potentially means that community legal centres would not longer be able to advocate anything which could be defined as a "political cause". It is unclear how tests such as "dominant", "ancillary" or "incidental" purposes will be applied. This means that we may not know from day-to-day whether particular activities would jeopardise our charitable status.

The restriction on advocacy in the definition of a charity seems to deny the reality that systemic solutions will often be more effective than individual ones, and that the most efficient use of the limited resources of most charitable organisations is to work on prevention rather than cure in relation to social problems.

Legal centres already have substantial accountability and reporting requirements to comply with. With the Bill in its current form we can see the potential for further administration work, such as:
Recording and defining all activities conducted by the centre
providing logs of staff activities over periods of time
providing details of client statistics in particular matters
obtaining legal advice
answering any specific questions asked by the decision-maker.

We are concerned with the definition of government body contained the Charities Bill. Defining a government body to include a body controlled by the Commonwealth, State or Territory Governments may draw in organisations such as ours which receive funding from government. We would like to see the definition of government body clarified to make it clear that entities which receive all or the majority of their funding from the Government are not excluded from the definition of “charity”.

As a charity this centre is entitled to:
income tax exemption
refund of GST imputation credits

On a state level, as a charity we are also entitled to a variety of benefits including stamp duty exemption for insurance and property transactions such as commercial leases.

Charitable status assists this centre in our efforts to get the maximum amount of service provision for our clients from our resources.

The bill does not deal directly with PBI status. The PBI status currently enjoyed by this centre is of the greatest assistance in stretching our resources. All staff are paid a salary package involving a fringe benefit component, and as a PBI no fringe benefits tax is payable. The loss of PBI status would have an immediate impact on services offered by the centre, leading to loss of staff hours and reduction in capacity to support and supervise volunteers. We believe that charitable and PBI status should be dealt with together in a consistent manner.

Yours faithfully
INNER CITY LEGAL CENTRE

Natalie Ross
Solicitor