

**Submission to the Board of Taxation Consultation
Process on the Definition of a Charity**

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Name and contact details of Victory Community Services

Victory Community Services is the welfare and community support outreach of the Assemblies of God denominated Taigum Community Church.

We operate in three locations:

Our Drop In Centre, Emergency Relief and Kommunity Kitchen operations are located in Nundah in Queensland.

Our Thrift Shop is located at Banyo in Queensland.

Our administration centre is located at Taigum in Queensland.

What is the dominant (main) purpose/s of your charitable organisation?

We aim to provide a holistic approach to the support of the disadvantaged in our community. Further detail is contained in Appendix 1.

Our Drop In Centre, Emergency Relief Centre and Kommunity Kitchen are based at Nundah in Queensland. They provide for the immediate material needs of our clients through the provision of food parcels, assistance with travel and prescriptions and the provision of lunches twice a week on Tuesdays and Thursdays. Our Thrift Shop at Banyo in Queensland operates to provide clothing for the needy in the community.

Our administration centre is based at Taigum in Queensland and serves as the base to provide educational programs to assist our clients with personal development, cooking, parenting, literacy, budgeting and other educational and support programs, and in so doing, provide our clients with the ability to break the welfare cycle and live more fulfilled lives.

Our concerns or issues relating to the workability of the legislative definition of a charity proposed in the exposure draft Charities Bill 2003

We would like to raise a number of concerns in relation to the exposure draft Charities Bill 2003.

The administration by the Commissioner of Taxation of the entities covered by the Bill

The use of the Australian Taxation Office to regulate the charities and not for profit industry is inconsistent with the reason for the existence of most, if not all, charities and not for profit organisations. The workability of the legislation is restricted through a lack of clarity as to how the Commissioner for Taxation would regulate charities.

The legislation allows a great deal of scope for the Commissioner to use his power to remove from an entity the benefits of being a charity or not for profit organisation. The purpose of the Australian Taxation Office is to maximise revenue, while the purpose of existence for most charities is an altruistic one of serving the greater good of the community. In fact, the Commissioner's recent difficulty in regulating the mass marketed investment schemes does not provide a great deal of comfort or clarity for charities or not for profits.

While the legislation is to be applauded for its attempt to bring greater clarity to the charity and not for profit industry, it in fact creates greater uncertainty.

The use of advocacy as a disqualifying purpose

The workability of the legislation is strongly restricted by the inclusion of advocacy as a disqualifying purpose. Many charities use advocacy as the major vehicle to achieve their aims and fulfil their purpose.

Let's look at an example of an entity that fits the definition of a charity. It is not for profit, has the dominant purpose of the advancement of the natural environment, has not engaged in conduct that constitutes a serious offence and is not a government body, a political party, individual, partnership or superannuation fund. As one of the major strategies to fulfil its purpose, however, the organisation actively campaigns and lobbies for changes to the law and changes in government policy. This legislation would bar that entity from its current tax exempt status and thus render it inoperable. It may be that this organisation would cease to exist because this legislation would make it many times more difficult, if not impossible for the organisation to exist.

The legislation is meant to bring certainty and clarity, not cause organisations involved in public benevolence to close their doors. Indeed the Government's own public views on volunteers and private philanthropy are at distinct odds with the legislation it now proposes to enact. Mr Costello's statement that "If at the end of the day the charitable sector says, "well, look just leave the law as it is, it's no skin off anybody's nose" (Sydney Morning Herald, 31 July 2003) is a falsity because the process is too far along now for it to be stopped. This legislation will be enacted in one form or another and its current form contains too many restrictions that would negatively impact the not for profit industry.

The lack of clarity within the legislation in relation to when an activity becomes more than ancillary or incidental

While the exposure draft and explanatory memorandum do provide some limited guidance in this area, the example is over simplified. In reality, some not for profit organisations operate with more complexity than that depicted. The legislation's workability, clarity and transparency are hindered by the lack of quantitative measures that would allow an organisation to know beyond all doubt when an activity becomes more than ancillary.

In the case of Victory Community Services, our risk exposure in this area is represented by our thrift shop. The uncertainty for us is contained in this question – while our thrift shop provides cheap clothes to the community in need it also functions as a revenue raiser so, when does the operation of a thrift shop become more than ancillary to the purposes that are for the public benefit. If, in a move of expansion, we were to open another thrift shop in a nearby suburb with the same objectives, that is to clothe the needy and to raise revenue for the organisation, would this constitute more than an incidental or ancillary purpose.

The disqualification which occurs when an entity has engaged in conduct that constitutes a serious offence

The legislation in its current form also creates questions in this area that impact on its workability, clarity and transparency. The legislation's intention is to penalise organisations that operate outside the law by revoking their tax free status. While this is to be applauded, some issues need to be addressed.

The legislation, as currently drafted appears to indicate that once an organisation has engaged in a serious offence, it can never be a charity. This would appear to be overly punitive and the legislation needs some further clarification.

For example, let's say a volunteer of a not for profit organisation is involved inadvertently in an act against the Worker's Compensation legislation of any State or Territory. The organisation would no longer be a charity and would lose its tax exempt status. That organisation would never be able to be a charity again. It is reasonable to assume that the organisation would cease activities, resulting in potential wastages of resources and compliance costs.

While the organisation could not be indicted, the individuals constituting its Board of Directors/Management could. Is it the legislation's intention to penalise any organisations with common memberships? To continue the example above, let's say the Board of Management was indicted, and let's say two of the members of that Board are members of other Boards of Management of not for profit organisations. Do the other organisations lose their tax status while the indicted members are on their Boards?

If it is not the intention of the legislation to permanently remove charity status from an organisation, then clarification is required on these issues:

- Once indicted, how long does an organisation lose its charitable status for?
- What restrictions would be placed on indicted individuals relative to their involvement in other charitable organisations
- What are the circumstances and compliance/regulatory protocols that would have to be satisfied for the organisation to regain its charity status.

The needs of society

The areas above indicate large weaknesses in the drafting of the legislation. The needs of society would not be met in the climate of uncertainty that would result from the enabling of this legislation in its current form. People would stop committing funds to not for profit organisations unless convinced that the organisation was a charity. This would create additional welfare demands on the State and Federal Governments.

Additional compliance costs

The explanatory memorandum indicates a cost of \$3 million per year. No explanation has been given as to how this has been calculated. No explanation has been given as to the additional human resources the Commissioner for Taxation would need to oversee the regulation of this legislation.

If the public benefit test were further strengthened by requiring the dominant purpose of a charitable entity to also be *altruistic*, would this affect your organisation? If so, how?

The Board considers that 'altruism' can be characterised as 'a voluntarily assumed obligation towards the wellbeing of others or the community generally', as presented in the *Report of the Inquiry into the Definition of Charities and Related Organisations*.

The inclusion of 'altruism' would have no effect on Victory Community Services Inc. Our purpose is already an altruistic one. Additionally, altruism already underlies the public benefit test contained in the explanatory memorandum.

APPENDIX 1

The following is adapted from the Taigum Community Church website <http://www.victorycs.org.au/victory/index.htm>

The Victory Centre is a project of Victory Community Services Inc., (a not-for-profit organisation) which is the Community Care ministry of Taigum Community Church

Our Vision

The vision of the Victory Centre is that it will be an accessible community facility, in which will be provided and offered a full range of integrated services which meet the physical, social, emotional and spiritual needs of people.

Our Mission

To provide Christ-centred care to meet the needs of the whole person, in the communities of north-east Brisbane, using integrated programs and services with caring, trained and supported personnel, in accessible community facilities (Victory Centres) and by promoting and encouraging individual caring.

Services

- Counselling Services are provided by qualified Counsellors, Social Workers and Psychologists (by appointment only)
- Drop-In Centre is manned by volunteers and operates 4 days per week. Tuesday - Friday
- Emergency Relief is available Tues - Fri 1000am - 3pm (It is advisable to ring first).
- Other group programs run are at various times as advertised.
- There is a seminar/training room available for community or private hire.

Community Services

We provide

- Listening Ears
- Caring Hearts
- Helping hands

(Counselling, emergency relief, life skills training, social support, recovery groups)

Give direction to the lost

In the hustle and bustle of modern life¹ many people have lost their way in life. Every road they take seems to lead nowhere. At the Victory Centre we aim, through our various programs, to help people get back on track again. One of the ways we do this is through Counselling and Psychology Services. We offer marital, crisis, family and individual counselling and therapy.

Feed the Hungry

Daily we are feeding more and more families. In these days of instant everything people are finding it hard to resist impulse buying and buying on credit. They then get themselves into financial disasters, and can't manage to support themselves or their families. Others find themselves suddenly out of work or are unable to work and find living on a diminished income very difficult. Others are in crisis situations. We not only provide food but also programs to teach people life skills such as nutritious cooking, literacy, parenting, and financial management.

Heal the broken hearted

Many people have come from violent, abusive backgrounds and just can't cope with the hurt and the shame of this. Through our Recovery and Support Groups we help people to rediscover their self worth and to face and deal with the hurts of the past, and to reach their potential. We also offer programs for youth and their parents including "Drug Proof your kids". individual counselling and therapy.

Comfort the Lonely

Many people today are living on their own and for some of these people their only companion is the TV and the radio, Some find it difficult to mix. We have volunteers who go and visit elderly people in their homes and become a "Friend for Life". Some of our volunteers also provide mentoring for young parents (single or partnered). The Drop-In Centre is a place where people can come and feel safe and know they can find someone to talk to who really cares. They can have a free cuppa, relax, listen to music, read or chat with others or our friendly staff.

Emergency Relief

The Victory Centre Emergency Relief program offers help to people experiencing difficulty in making ends meet.

The areas in which we can help are:

- The provision of food parcels.
- Very limited monetary (if funds permit) assistance for pharmaceutical prescriptions and travel expenses.
- When donations permit, furniture and clothing.
- Referrals to other organisations who may be able to help with accommodation, monetary assistance or other needs.
- Advocacy with creditors, or with government agencies such as Department of Housing or Centrelink.
- Community information
- Links to support networks

The Emergency Relief program has been set up to help in financial or domestic crisis. We aim to provide emergency assistance whilst at the same time offering and providing life skills training, such as budgeting, or counselling where appropriate to help with medium or long terms solutions to the causes of financial or domestic distress. In cases where our organisation is not able to help, we will refer people to another agency who can offer the needed help.

Who can access the service?

Anyone who can demonstrate a need. Supply of a pension card or health care card and another form of identification (with address) are required for food assistance.

Food parcels are available:

Tuesday to Friday 10am - 3pm (No appointment necessary but it is best if you phone first.)

Kommunity Kitchen

Tuesdays 12.30pm - 2.00pm

As well as offering food parcels, people who are in need of meals are welcome to come and join us in our Drop-In centre. These are provided each tuesday at 12.30pm. Free morning and afternoon teas are offered every Tuesday to Friday.

Counselling

Professional counselling is offered as part of our range of services which are aimed at meeting the whole needs of each person (physical, spiritual, emotional and social). The

counsellors in our Centre are all highly experienced and qualified. They are all self-employed professionals, working collaboratively. Counselling is available on Wednesdays, Thursdays and Fridays, and weekends and weeknights by appointment. As well as offering counselling, we are able to refer people to appropriate services in our Centre or in the local community which may help meet their needs.