

**The Board of Taxation
Consultation on the Definition of a Charity**

**Comments from: Women's Health Victoria
GPO Box 1160K, Melbourne, 3001
Telephone: (03) 9662 3755
E-mail: whv@whv.org.au**

Contact: Rosemary Sexton

Women's Health Victoria is an independent state-wide women's health promotion, advocacy and health information service. The aim of health promotion is to prevent illness, disease and injury and promote independence, health and wellbeing through using a variety of interventions. Our work is largely in partnership with other organisations through whom we reach the maximum number of Victorian women, in particular women with limited or poor access to services.

Women's Health Victoria's (WHV) operates a clearinghouse focussed specifically on women's health information. This clearinghouse informs our advocacy on women's health issues and forms the basis for our work representing women, writing submissions and providing quality independent health information. We also operate a confidential health information telephone line, a women's health library and web site to ensure women have access to information that will assist them to make informed decisions about their health care. These services are utilised by individual women and other health and related organisations. We also work collaboratively with other women's health services, general health services, funding bodies and individual health professionals to ensure greater awareness of, and responsiveness to, women's health promotion needs within the health system.

Our Statement of Purposes:

To provide a state-wide women's health information service offered by women for the women of Victoria.

To identify and respond to the health issues of Victorian women and to inform health service providers, policy makers and resource allocators about these issues.

To work within a feminist philosophy and acknowledge women's health needs as they relate to the social context in which women live.

To be informed by, and encourage the validation of, women's experiences of health and ill-health.

To promote women's right to control our own bodies in every aspect of health care.

To provide information and educational resources which enhance women's power to act on health matters.

To initiate public debate on issues and practices which may have adverse implications for women's health.

To be accountable to the women of Victoria by encouraging participation in the service.

To provide quality services in the areas of information provision, education and training, research and resource development.

To ensure that the service is responsive to the needs of women who experience disadvantage and discrimination.

To work with other women's services and organisations at national, state and local levels to encourage co-operation and co-ordination in all areas of women's health service delivery.

To engage in charitable and/or benevolent activities which are consistent with these purposes.

To engage in any activity which is consistent with these purposes and which concerns women's health.

The comments in this submission arise from our experience in operating as a state-wide health promotion agency and have been forwarded in response to the invitation to comment on the exposure draft Charities Bill 2003.

Women's Health Victoria made a submission to the original Inquiry into the Definition of Charities and Related Organisations and has actively monitored the progress of recommendations arising from the Inquiry's report. This has included commenting to the Australian Taxation Office on the Draft Taxation Determination TD 2003/D14 in relation to Income Tax, Fringe Benefits Tax and Health Promotion Charities definition.

In response to the consultation process outlined in the guidelines we submit the following:

The workability of the definition of a charity proposed in the draft legislation

In relation to whether the draft legislative definition provides greater clarity and transparency for our organisation we are of the view that, in its present form, it does not.

This is due to the drafting of Clause 8- Disqualifying purposes Part (2) (c)- *the purpose of attempting to change the law or government policy.*

Our major funding body, the Victorian Department of Human Services, states in its 2002-2003 Community and Women's Health Program Guidelines the philosophy for the Women's Health Program as *"based on an understanding of health within a social context and recognises that:*

health factors are determined by a broad range of social, environmental and economic factors;

differences in health status and health outcomes are linked to a range of factors including gender, sexual orientation, socio-economic status, ethnicity and disability; and

health promotion, prevention, equity of access and strengthening the community and home based health system are necessary along with high quality treatment services"

The outcomes described above arise from the development of policy by government in consultation with its community. The role of organisations such as ours is to provide an avenue through which the evidence of women's experiences is advocated to effect change.

Inherent in the purpose and work of Women's Health Victoria is its advocacy for systemic change in the health system as it relates to the health and wellbeing of women in Victoria. This advocacy can take a number of forms and results are not often immediate. It is about making knowledge known to policy makers, the recognition that policy drives practice and the importance of effective implementation of policy.

An extract from the Ottawa Charter for Health Promotion (1986) states:

"Good health is a major resource for social, economic and personal development and an important dimension of quality of life. Political, economic, social, cultural, environmental, behavioural and biological factors can all favour or be harmful to it. Health promotion actions aims at making these conditions favourable through advocacy for health".

WHV's advocacy to improve women's health and wellbeing operates principally at two levels:

- with health service providers to improve the translation of research and evidence into health service practice

- with public policy makers (including government departments and politicians) to ensure healthy public policy for women.

Advocacy is achieved in a number of ways including:

- participation in external reference and policy groups or advisory committees
- presentations at conferences and with different community groups
- facilitation of public discussion
- publication of papers on key issues
- written or verbal submissions on health policy and clinical guidelines
- meetings with key decision makers or opinion leaders in relevant organisations.

There is evidence that our advocacy on behalf of women has made a difference over time and is reflected in our published annual reports, various Victorian state government program action plans and guidelines. Therefore the concerns we have in relation to Clause 8 (2) (c) are genuine in terms of the business of our organisation. There would need to be much greater clarification of what is the intention of this clause and the types of specific activities it is envisaged to disqualify.

It would be very difficult to quantify the exact proportion of our work that ultimately relates to this clause as it is inherent in our role as an independent state-wide health promotion agency. Consequently, there would be an increased administrative burden in ensuring we met the requirements of the Act, as well as an unnecessary threat to the charitable status of the organisation.

We strongly recommend that Clause 8 (2) (c) be removed, or at the very least redrafted to clarify its intent in relation to charities.

In regards to whether the draft legislative definition of a charity provides for sufficient flexibility for the changing needs of society, our response is that it does, to the extent of charitable purposes in Part 3, including the advancement of health, with 'advancement' as defined in the draft and explanatory memorandum. However there is clear evidence that government at all levels now recognises the importance of health promotion and prevention, and funds for primary care services have increased in recent years. Therefore we would recommend that within the definition of the advancement of health, there is a much greater focus on health promotion.

Whether the public benefit test in the exposure draft should also require the dominant purpose of a charitable entity to be altruistic, as recommended in the Inquiry Report.

With regard to WHV, the inclusion of altruism as defined-‘a voluntarily assumed obligation towards the wellbeing of others or the community generally’ – should not affect us negatively in being assessed as being for the public benefit. This is due to the organisation’s history, the principles on which it was founded, and its continued purpose for operating today.

We do believe however, that the inclusion of ‘altruism’ should not be a necessary test for the assessment of public benefit. Our primary reasons for this relate to changing interpretations of the definition that will inevitably arise upon application of legislation and regulations over time. Clarity and certainty are paramount for not-for-profit charitable sector organisations and a significant amount of time and resources are currently spent ensuring compliance with a wide range of legislation. Further uncertainty arising from the inclusion of new terms that are not properly defined at the outset, will not be of benefit to such organisations.

A further consideration relates to organisational structures, which tend to change over time for various reasons including legal, organisational and operational. There are charitable organisations that have evolved from small volunteer run organisations into incorporated multi-million dollar, multi-source funded organisations, where the “voluntary” capacity is from boards and committees and a small number of volunteers. We would agree with the statement contained in the Report of the Inquiry into the definition of Charities and Related Organisations that “the concept of altruism is sufficiently understood within the community”. Therefore, it is not necessary to include it as a public benefit test. If an outcome of the Board of Taxation’s report is that ‘altruism’ is to be included in the public benefit test, then it should be as an either/or in Clause 6 (1).

In conclusion, we welcome the opportunity to make this submission on what is a very important issue for this organisation whose purpose and business is health promotion and which seeks to continue this work confident of its status as a charitable institution within the Australian taxation system.