

27 January 2015

Australian Charities and Not-for-profits Commission
GPO Box 5108
MELBOURNE VIC 3001

By Post and Email: CIS@acnc.gov.au

Dear Commissioner

Exposure Draft – Commissioner’s Interpretation Statement: Health Promotion Charities

Queensland Law Society (**the Society**) welcomes the ACNC’s call for comments on the Exposure Draft of the Commissioner’s Interpretation Statement regarding Health Promotion Charities (**CIS**).

This submission has been prepared with input from the Society’s Not-for-Profit Committee (**Committee**).

The publication of this CIS is welcome.

As an overall comment, the CIS seems to be written in a way that presumes knowledge of the law. Consideration might be given to how this might be better reworded, taking into account an identified audience including charities and the public. In some cases, more information would be helpful, either by cross referencing to other material, or by more detailed explanations. For example, in paragraph 4 what behaviour is considered “activity”? Perhaps other already published material (eg. TR 2004/8) could be cross referenced.

It seems to us that it could be clearer that the institution must have both a charitable purpose and health promotion as its main activity, and to this end, perhaps sections 3 and 5 need to be at least cross referenced or more ideally, immediately follow one another.

The statement in (the second sentence) in paragraph 5.2 is confusing and needs further explanation or deletion. If it is retained, could an example be given of how an activity which takes the majority of the charities’ time and resources may not be its main activity?

In relation to clause 6.6, we submit that it should not be a requirement that an applicant identify the disease which is to be prevented or controlled. This is not required by the legislation. It is submitted that the ACNC ought to interpret the provisions in a less restrictive way to enable a medical condition, for example a disease not yet identified, to qualify.

We suggest that clause 7.1 could be clearer in meaning. For example, could it say:

"The use of the word 'promote' may capture a different category of charities including those that engage directly in activities to prevent or control diseases (such as research into the prevention of certain types of cancer)."

It would be helpful if the CIS included reference to the Commissioner's attitude to the following examples:

- 1 pregnancy is not considered a disease but a disease suffered during pregnancy would qualify;
- 2 activity aimed at preventing alcohol and drug abuse is HP activity;
- 3 activity which is aimed at preventing or controlling behaviour rather than disease is not HP activity (e.g. tuition about driving safely);
- 4 disability.

It would be helpful if the CIS included reference to the information and / or documents that a new organisation might need to provide to the ACNC to satisfy the criteria, since in start-up phase when most of these applications are made, an organisation's only activity is planning.

We would be pleased to liaise with you further. Please contact Julia Connelly, Policy Solicitor at J.Connelly@qls.com.au or on 07 3842 5884 for further inquiries.

Yours faithfully


Michael Fitzgerald
President