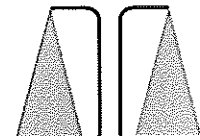


Our Ref: QM:NFP.feb2011

Reply to: Head Office
 Bentleigh Branch
 Cranbourne Branch
 Rosebud Branch

Your Ref:



Peninsula Community
Legal Centre Inc

25 February 2011

The Manager
Philanthropy and Exemptions Unit
Personal and Retirement Income Division
The Treasury
Langton Crescent
PARKES ACT 2600

By Email: NFPReform@treasury.gov.au

Dear Sir or Madam,

**RE: Scoping study for a national not-for-profit regulator
Consultation Paper January 2011**

Peninsula Community Legal Centre (PCLC) is a not-for-profit organisation that has been providing free legal services to its community for over 30 years, with a mission "To empower and support disadvantaged community members of the South East and Westernport Region to use the law and legal system to protect and advance their rights and broaden their awareness of their rights and responsibilities."

PCLC's staff and volunteers provide clients with free and accessible legal services, particularly the most disadvantaged and marginalised members of our community who may otherwise be unable to access legal assistance. PCLC's client's life circumstances can be severely affected by their legal problems and they are often not able to access other legal services. Being able to obtain free legal assistance can often help our clients move on with their lives and become active participants in their local communities.

PCLC also has a strong commitment to empowering the broader community through community development and community legal education activities, which are viewed as a core function of the Centre. The Legal Centre is viewed by the local community as its key legal resource, through organising and participating in forums about legal issues, providing customised workshops and reporting on policy issues that affect the community, including through local media. Across the community, PCLC endeavours to improve understanding of legal issues through its education activities, as well as supporting community groups and participating in relevant law reform activities.

In particular PCLC provides support to not-for-profit groups through provision of advice pertaining to legal structures; assistance in obtaining legal status through incorporation; and workshops to assist in understanding legal requirements, governance and taxation implications. PCLC is therefore well placed to have input into the development of a national NFP Regulatory system and supports the notion of an independent national NFP regulator.

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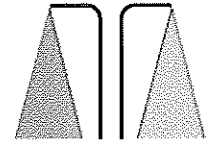
We gratefully acknowledge
the financial assistance of:

- Commonwealth Attorney-General's Department
- Department of Justice (Vic)
- Consumer Affairs Victoria
- Victoria Legal Aid
- City of Casey
- City of Glen Eira
- City of Kingston
- Frankston City Council
- Mornington Peninsula Shire

Donations over \$2.00
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Peninsula Community
Legal Centre Inc

Due to time constraints in the writing of this submission PCLC seeks to support the thrust of the scoping paper and provide a brief overview of the views of PCLC in relation to the goals and scope of national NFP regulation. PCLC is appreciative of the opportunity to provide feedback in relation to the regulation of a most important sector within the Australian community and is keen to participate in subsequent discussions concerning aspects of the Report and/or the development of initiatives to create national NFP regulation with the relevant Departments and other stakeholders.

Goals for National Regulation

PCLC agrees that the goals of national NFP regulation should promote good governance, transparency and accountability within the sector in order to advance the national NFP sector.

As an organization which provides assistance to the NFP sector, PCLC has identified through the various facets of PCLC's community engagement, that a number of NFPs have little understanding of their legal rights and obligations. Even where committee members may possess knowledge about their legal rights and obligations, amendments to the legislation governing NFPs have created additional knowledge gaps.

In addition to basic regulatory functions, an independent and national regulatory body could provide a range of support services for NFPs, effectively creating a centre of expertise for NFP organisations. Services such as auditing; legal advice; training; and taxation and financial advice could be provided at low or no cost for some organisations through the regulator. This would enable a NFP regulator to work with the sector to provide understanding and compliance with regulatory requirements, effectively creating a simple, transparent, flexible and certain regime which will enhance the sector as a whole.

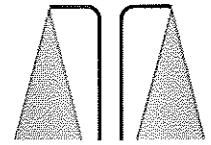
Scope of the National Regulator

Regulation of NFPs is a difficult task given the diverse group of entities encompassed by the sector which have a variety of legal forms. Forseeably, national regulation will result in less confusion for NFPs concerning their legal regulatory requirements, which in turn will free NFPs to concentrate on their service provision to the benefit of all Australians.

PCLC strongly believes that the new regulator must be a specialist regulator that is independent of government and adequately resourced. It is important that this not simply be a division of ASIC, as ASIC are clearly identified as a business regulator and are therefore not the appropriate body for determining concessional tax status. The underlying legal structure should be specific to the needs of NFP organisations so that accountability can be improved through consistent and appropriate reporting obligations.

As enunciated in the scoping paper, other countries such as England and New Zealand have recognised the importance of the not-for-profit sector and have established specialist regulators or charity commissions. Australia's NFP sector contributes \$43 billion to GDP per annum¹ and is a major player in the delivery of government services. The NFP sector should be given this support.

¹Australian Government, *Scoping study for a national not-for-profit regulator, Consultation Paper*, January 2011, p1



Peninsula Community
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Incorporated Associations

The majority of NFPs PCLC provides assistance to are incorporated associations. It is the experience of PCLC that whilst these organisations have the best of intentions in carrying out their goals, often their management, which is carried out on a voluntary basis, lacks knowledge as to regulatory and governance requirements. PCLC has held workshops in this regard for NFPs based within Mornington Peninsula Shire which have recently generated much interest. A single point of contact for regulation would greatly assist incorporated associations.

At present there are different legal requirements for incorporated associations based on their state of origin. There are obvious difficulties arising where incorporated associations operate beyond state boundaries. The different regulatory requirements can potentially lead to forum shopping, which may result in unscrupulous associations avoiding requirements to maintain proper accounting records and comply with appropriate standards of financial reporting. National regulation will remove these inconsistencies and provide uniform public disclosure obligations and financial record keeping. PCLC believes that it is imperative to have a nationally consistent approach based on a well thought-out public policy decision about the most appropriate disclosure regime for NFP organisations, in order to promote accountability and good governance.

PCLC thanks you for the opportunity to provide input and looks forward to involvement in the future stages in the development of the national NFP regulator.

Yours faithfully,

HELEN CONSTAS
CHIEF EXECUTIVE OFFICER
PENINSULA COMMUNITY LEGAL CENTRE INC.

Enc.0