

# HEALTH PROMOTION CHARITIES

Response to the Exposure Draft of the  
Commissioner's Interpretation Statement

February 2015

**RESEARCH  
AUSTRALIA**

AN ALLIANCE FOR DISCOVERIES IN HEALTH



## ABOUT RESEARCH AUSTRALIA

Research Australia is an alliance of 160 members and supporters advocating for health and medical research in Australia. Research Australia's activities are funded by its members, donors and supporters from leading research organisations, academic institutions, philanthropy, community special interest groups, peak industry bodies, biotechnology and pharmaceutical companies, small businesses and corporate Australia. It reflects the views of its diverse membership and represents the interests of the broader community.

Research Australia's mission is to make health and medical research a higher priority for the nation. We have four goals that support this mission:

- A society that is well informed and values the benefits of health and medical research.
- Greater investment in health and medical research from all sources.
- Ensure Australia captures the benefits of health and medical research.
- Promote Australia's global position in health and medical research.

### **Elizabeth Foley**

CEO & Managing Director

02 9295 8547

[elizabeth.foley@researchaustralia.org](mailto:elizabeth.foley@researchaustralia.org)

[www.researchaustralia.org](http://www.researchaustralia.org)

384 Victoria Street Darlinghurst NSW 2010

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# HEALTH PROMOTION CHARITIES

## RESPONSE TO THE EXPOSURE DRAFT OF THE COMMISSIONER'S INTERPRETATION STATEMENT

### INTRODUCTION

Research Australia welcomes the consultation on the exposure draft of the *Commissioner's Interpretation Statement: Health Promotion Charities*.

Many of Research Australia's members in the health and medical research community and many of our members who raise funds for health and medical research are Health Promotion Charities (HPCs). The Commissioner's Interpretation Statement will provide useful information to existing and future potential HPCs about what an HPC is and eligibility for registration as an HPC. While generally in agreement with the Draft Interpretation Statement, Research Australia has some specific comments on individual paragraphs. These are provided below.

## SPECIFIC COMMENTS

### Paragraph 3.2

Part 3 of the Interpretation Statement deals with the requirement for a registered HPC to also meet the eligibility criteria to be registered as a Charity. Paragraph 3.1 sets out the eligibility requirements for registration as a charity. It is followed by paragraph 3.2:

*3.2. While it must have a charitable purpose, the ACNC does not consider that the purpose (or purposes) need necessarily be the advancement of health. For example, a charity that is for the advancement of education may focus its main educational activity on promoting safe sex in order to prevent sexually transmitted disease.*

It is unclear why a reference has been made to the advancement of health and to the advancement of education or how this paragraph is to be interpreted in relation to HPCs. The advancement of health is referred to in item 1 of the table at section 25-5, and advancing education at item 2 whereas item 13 of the table specifically refers to an 'Institution whose principal activity is to promote the prevention or the control of diseases in human beings'.

The footnote to the table makes it clear that 'an entity commonly known as a health promotion charity' could be registered under item 13, implying that it does not necessarily have to be so. And subsection 25-5(4) states that an entity may be able to be registered under more than one of the items in the table.

Is the example of the charity providing sex education to prevent sexually transmitted disease provided as an example of a Health Promotion Charity- i.e its activity is promoting the prevention of disease? Or is it being provided as an example of a charity with the purpose of advancing education? Is it perhaps intended as an example of how an organisation can be registered under more than one item in the table- in this case items 2 and 13? Further elaboration on this paragraph and the point it is making would be useful.

### Diseases in Human Beings

Paragraphs 6.1 to 6.6 are a discussion of the term 'disease'. Research Australia welcomes the statement that the ACNC will be guided by the Australian Institute of Health and Welfare (AIHW) and the World Health Organisation (WHO) 'on any existing, new or emerging definition of disease.' With this in mind, Research Australia questions the reference at paragraph 6.3 to the definition of disease contained in the Oxford Concise Medical Dictionary which excludes 'physical injury'. This conflicts with the definition of disease and the use of the term by both the AIHW and the WHO which broadly include injury when referring to disease.

For example, the Glossary to the AIHW's *Australia's Health 2014* provides the following definitions (but not a definition of injury):

**disease:** *A physical or mental disturbance involving symptoms (such as pain or feeling unwell), dysfunction or tissue damage, especially if these symptoms and signs form a recognisable clinical pattern.*

**external cause:** *The term used in disease classification to refer to an event or circumstance in a person's external environment that is regarded as a cause of injury or poisoning.<sup>1</sup>*

<sup>1</sup> AIHW, *Australia's Health 2014*, Glossary, available at <http://www.aihw.gov.au/australias-health/2014/glossary>

The same document also contains the following paragraph:

*Non-communicable (largely chronic) diseases accounted for about 85% of the total burden of disease in Australasia in 2010, while injuries accounted for 10%. Communicable, maternal, neonatal and nutritional disorders accounted for 5%.<sup>2</sup>*

Clearly the AIHW includes injury as a type of disease.

The WHO is responsible for publishing the International Classification of Diseases, currently in its tenth iteration. It is available online and can be searched. Many injuries are included in the classification of diseases.<sup>3</sup>

Research Australia submits that the 'disease' should not be defined to exclude 'injury' and that to do so is inconsistent with the way in which these terms are used and defined by both the AIHW and the WHO. To do so would also create some obvious incongruities which cannot be intended by Parliament. Why, for example would Parliament want to include research into the treatment of malaria but exclude research into the treatment of acquired brain injury or spinal cord injury? The only answer can be that it did not intend to do so.

Research Australia further submits that the reference to the Oxford Concise Medical Dictionary in paragraph 6.3 should be deleted as it creates the false impression that an organisation involved in research into the causes and prevention of injuries cannot be an HPC because it is not engaged in research into 'disease'.

## Paragraph 7.1

The meaning of paragraph 7.1 (reproduced below) is also unclear:

*7.1. It is important that the principal activity is to 'promote the prevention or control' of diseases. It is clear that the use of the word 'promote' may capture a different category of charities than those that engage directly in activities to prevent or control diseases (such as research into the prevention of certain types of cancer).*

Is research into cancer being provided as an example of an HPC engaging directly in activities to prevent or control diseases, or is it being provided as an example of an entity that is engaging indirectly? The following paragraphs make no further mention of research and do not, therefore provide no further clarification of this point.

Research Australia submits that Paragraph 7.1 should be reworded so as to make it clear whether research is considered to be directly or indirectly engaged in preventing or controlling diseases.

Research Australia notes that the category of Health Promotion Charity was originally inserted into the taxation legislation to provide a category of charity that was distinct from a Public Benevolent Institution which had the purpose of alleviating suffering, through for example, treating patients. In this context, undertaking research would appear to be direct engagement in preventing or controlling diseases, and exactly the type of activity for which the category of HPC was created.

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<sup>2</sup> Ibid, Part 4.1, Burden of Disease available at <http://www.aihw.gov.au/australias-health/2014/ill-health/ - t1>

<sup>3</sup> <http://www.who.int/classifications/icd/en/>

## CONCLUSION

Research Australia is pleased to have the opportunity to make this submission. We believe that Interpretation Statement has the potential to provide useful guidance to the sector but that in its current form some of the paragraphs are unclear and/or confusing.

We look forward to the final version of the Interpretation Statement and are happy to provide further information in relation to any aspect of this submission.

**RESEARCH AUSTRALIA LIMITED**

384 Victoria Street Darlinghurst NSW 2010

**T** +61 2 9295 8546 **ABN** 28 095 324 379

[www.researchaustralia.org](http://www.researchaustralia.org)