



# Shoalcoast Community Legal Centre Inc

*Legal Advice & Advocacy*

ABN 85 989 128 796

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7 November 2013

Access to Justice Arrangements  
Productivity Commission  
LB2 Collins Street East  
Melbourne Vic 8003

By Email: [access.justice@pc.gov.au](mailto:access.justice@pc.gov.au)

Dear Commissioner,

## **INQUIRY INTO ACCESS TO JUSTICE ARRANGEMENTS**

Shoalcoast Community Legal Centre (Shoalcoast) is a generalist legal service and member of Community Legal Centres New South Wales as part of the National Association of Community Legal Centres.

We welcome the opportunity to contribute to the inquiry in an effort to increase access to justice for our community, significantly including those from a diverse range of disadvantaged backgrounds.

This submission outlines some of the strategies Shoalcoast uses to increase access to justice in our region in addition to our response to the issues in the discussion paper that we believe we have some expertise gained through our extensive experience delivering legal services to a large geographic area of diverse socio economic demographic.

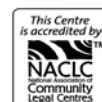
### ***Shoalcoast Background***

Shoalcoast have been operating since 1999. Over these years we have assisted many disadvantaged people to access both Shoalcoast and other legal services.

We deliver free and accessible legal services to residents of the South Coast and South East NSW communities within the Shoalhaven, Eurobodalla, Bega Valley, Bodalla, Cooma-Monaro, Snowy River, Palerang and Queanbeyan local government areas (Gilmore and Eden-Monaro Federal Electorates).

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Shoalcoast's mission is to provide an accessible professional legal service, responsive to the needs of those most disadvantaged and which promotes just and lasting solutions to legal and social issues in our community.

Shoalcoast is committed to equal access to justice and in particular in using our limited resources to reach out to communities to ensure people are aware of when they might have a legal issue encouraging early intervention by providing direct legal advice or information on how best to get assistance to address their specific issue.

We deliver our services through a range of options including telephone legal advice, and face to face appointments at our Nowra office and various outreach locations. We are now trialing the use of Skype to connect with more remote communities as part of our outreach schedule. We also deliver a range of community legal education opportunities throughout our region each year.

Shoalcoast believes that not having legal issues dealt with in a timely manner can have significant adverse effects ultimately impacting on the individuals contributions to society. In this way, not only is collective productivity of the community reduced but this consequently places greater pressure on limited and costly social support services.

### ***Shoalcoast provision of Legal Services***

We provide telephone legal advice through our Nowra office providing a 1800 free call number for people residing south of the Shoalhaven. Unfortunately, however this free call number does not apply to some calls, particularly for people using a mobile service. This in itself has been identified as being a key barrier to free legal services, as many disadvantaged people rely solely on a mobile telephone service. In an attempt to overcome this obstacle we have developed a policy of ringing people back when calling on a mobile. Based on the above barrier identification, Shoalcoast along with many other regional services actively participated in the lobbying undertaken by the ACCAN Fair Calls for Alls Campaign in 2011 to the Australian Communications and Media Authority (ACMA), encouraging the wider telecommunications industry to change revenue sharing arrangements for mobile calls to 1800, 1300 and 13 numbers to ensure they are affordable for all.

Shoalcoast also provides an extensive range of outreach face to face appointments within our region on a regular basis in partnership with communities and agencies, including Aboriginal and Torres Strait Islander communities (ATSI). These are a combination of drop in and appointment based arrangements depending on where we are attending. Our ATSI legal advice clinics are conducted on communities at Jerrinja (near Nowra), Wreck Bay and Wallaga Lake. These are all conducted on a drop in basis to allow people to approach our lawyers more informally. Our outreach locations are published on our website [www.shoalcoast.org.au](http://www.shoalcoast.org.au).

In the 2012/13 year Shoalcoast assisted 1,119 individual clients. Our statistics demonstrate our access strategies are assisting us to reach the most disadvantaged residents with the following groups represented by a percentage of our total clients in this period:

- Indigenous – 12%
- Sole Parents – 27%
- People Living on a Low or No Income (mainly Centrelink recipients) – 83%
- People with a Disability – 25%

Shoalcoast provides the following submissions addressing a number of the discussion points from our perspective of a Community Legal Centre drawing on our experience and knowledge gained over many years delivering free legal services in a large geographical regional area including remote ATSI communities isolated due to high levels of unemployment, lack of public transport and other social issues.

***What are the benefits to individuals and the community of an accessible civil dispute resolution system? How does a failure to provide adequate access to justice impact on individuals and the community more broadly?***

An accessible civil dispute resolution system provides significant flow on benefits for the community in terms of individual contribution to collective productivity and a reduction in individual reliance on resources provided by the community through assistance projects and government support services.

When individuals have ready access to a legal dispute resolution system they are more likely to seek out a resolution to their problem through this system, rather than ignore the problem resulting in its escalation. In this way we can see the benefits of proactive early intervention that has a flow on affect to the broader community in terms of productivity contribution.

Failure to provide adequate access to justice has the polar opposite negative affect. Individuals that do not have ready access to justice will anecdotally ignore their problems hoping they will go away or at least not get worse. Unfortunately for these groups of people an ‘untreated’ legal problem will inevitably get worse, with greater adverse effects for both the individual and the community at large.

As the problem escalates the impact on the individual becomes greater and the flow on affect is a reduction in the individual’s contribution to society in a more complex way than would have been the case had access to justice been readily available. The resultant adverse effects on the individual and the flow on reduction in contributions to the community are seen to be greater in regional and remote areas due to relative geographic isolation and limited social assistance resources.

***Case Study Example 1***

The client is living in the Bega Valley, relatively isolated due to the geographic location and the lack of public transport in the area. The client loses their job as a result of what the employer says in a downturn in the areas economy. The client is unable to maintain their living expenses on government benefits including being unable to maintain payments on their car loan and credit card.

They do not realise there may be a legal problem here and with no legal services other than private practitioners in the area they simply struggle by putting living expences on their credit card. To top things off they have received an electricity

Bill of \$900. This is almost double that of their regular bills. They simply accept that they must have used more electricity.

It is now some time since losing the job and they have no money left on the credit card, the electricity is about to be disconnected, and they have just received a final letter demanding payment for their car loan or it will be repossessed. The stress of this situation has caused much arguing in the relationship and the two young children are suffering as they witness their parent's relationship deteriorate. They have also witnessed some incidents of domestic violence; something that they have never witnessed prior to this.

As a result of a lack of access to legal services the individual is now at risk of family breakdown. They risk losing their means of transport in an isolated regional area and that will make it very difficult to re-enter the workforce. They are at risk of having the electricity disconnected making it impossible to provide essential living needs to the family and creating a risk that they may need to seek financial or other assistance from government services, particularly to provide for the needs of the children. They may soon even face the prospect of the children having to be placed into the care of the minister if things continue in this way. It won't be long before the landlord will be terminating the tenancy for rent arrears and they will need to access public housing or other emergency accommodation.

If access to justice was readily available this scenario could be remarkably different and the adverse effects on both the individual and the community could have been avoided or at least significantly reduced.

When the individual's employment was terminated they could have approached the local Community Legal Centre (CLC) that they pass all the time but have never needed to access. The CLC may have in the first instance been able to establish that the individual's termination was not a case of genuine redundancy and assisted them to achieve a remedy through industrial relations law that may have seen their position reinstated, or at least obtained compensation to enable them to avoid the financial hardship otherwise experienced.

If the termination was a case of genuine redundancy the CLC could assist with negotiating hardship variations to credit contracts and making inquiries to reduce the electricity bill, including a referral to the Energy and Water Ombudsman where necessary. The result would most likely be that the individual could then remain in possession of the transport that would enable them to access employment opportunities and get back 'on their feet' quickly as the hardship variation would prevent repossession of their transport. They could then be assisted to negotiate payments with the landlord to maintain their tenancy ensuring they can provide for the basic needs of their children avoiding the need to access the services of public housing and the threat of the resources of the Department of Community Services. The additional flow on affect being that the strain on the family relations is reduced, the children remain in the care of their parents, do not witness domestic violence making it less likely they will be perpetrators or victims in the future, and other support services that would otherwise need to be accessed remain available for others in need.

We believe the above scenario demonstrates the wide reaching benefits of having an easily accessible, local and visible CLC and the clear positive effects on the

productivity of the individual including the flow on beneficial effects to the community that far outweigh the cost of delivering these local services.

***What are the consequences of unmet legal need? For example, what are the social and economic impacts arising from problems that are either unresolved or escalate due to lack of access to legal assistance?***

The above example outlines some of the social and economic impacts resulting from unresolved legal problems that escalate due to a lack of access to legal assistance. The broad impact on resources and productivity can be identified from the above example as being increased reliance on public support services including public housing and community services, but also possible long term impacts as the children learn their behaviour and approaches to life situations largely by observing their parents. Additionally as the matters escalate as a result of a lack of accessible and affordable legal advice or assistance it becomes more likely the matter will need to be resolved in the civil courts clogging up an already overloaded court system with matters that could have been easily avoided with early intervention through access to a legal advice such as a local CLC. As a broad anecdotal generalisation it can be seen from the above scenarios that it is likely these adverse social and economic impacts will continue and magnify through the next generations of these families reducing their productive contribution to society further with each generation.

There are however broad more immediate impacts that significantly include a reduction in the health of those experiencing unresolved legal problems as a result of being unable to access legal services.

Adverse health problems have been found to be a related consequence of legal problems. Unresolved legal problems are associated with health problems both physical and mental health.<sup>1</sup>

Elizabeth Tobin Tyler identified a '*cycle of vulnerability*' that we can see in the examples above. A person loses their job or can't work; they can't pay rent and other bill; they get evicted and become homeless. All of these stressors result in a decline in both physical and mental health and have the resultant effect of reducing the individual's contribution to society. Now homeless and in poor health the cycle continues.<sup>2</sup>

### **Case Study Example 2**

An Aboriginal client in an isolated regional Aboriginal village receives a fine for a traffic offence in the mail but their cousin was actually driving at the time. Our client believes they do not have to pay the fine because they were not driving. However, as there are no free legal services in the area at the time, they simply do not pay and hope it just goes away. Roads and Maritime Services cancels their

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<sup>1</sup> See generally, Pleasence, P, Balmer, NJ, Buck, A, O'Grady, A & Genn, H 2004, '*Civil Law Problems and Morbidity*', Journal of Epidemiology and Community Health, vol.58; See also, Pleasence, P, Balmer, NJ & Buck, A 2008, '*The health cost of civil law problems: further evidence of links between civil law problems and morbidity and the consequential use of health services*', Journal of Empirical Legal Studies, vol. 5, no. 2; See also, Coumarelos, C, Wei, Z & Zhou, A 2006, *Justice made to measure: NSW Legal Needs Survey in disadvantaged areas*, Law and Justice Foundation of NSW, Sydney. (2012)

<sup>2</sup> See, Tobin Tyler E, *Poverty, Health and Law: Readings and Cases for Medical-Legal Partnership*, (Elizabeth Tobin Tyler et al. eds, Carolina Academic Press, 2011)

licence however the client has not received this notification as the mail often goes astray in the village. The client is then fined for unlicensed driving when on their way to work. This not only adds to the now large fines debt but it is now virtually impossible for them to maintain their casual work without a licence as there is no suitable public transport in the area. The client becomes depressed with the lack of work and the inability to travel to look for work or even go to town to get groceries. They are no longer eating properly, have lost interest in outdoor activities with friends and as such are not exercising and have start drinking every day. It won't be long before they will be facing homelessness as they cannot afford to keep paying the rent and are in a state of mental health where they really do not seem to care anymore. The risk of suicide has become real.

As a result of the decline in physical and mental wellbeing that can be traced back to the client not having access to timely free legal advice this Aboriginal client is now facing the risk of significant adverse health effects. Already in a group of society identified as at significantly higher risk of many chronic illnesses, this client is most likely to now have cause to access public health services including mental health services that they may have otherwise not immediately needed. Anecdotally, the ATSI client with increased alcohol consumption and in a state of depression is at increased risk of engaging in criminal conduct that will then have further wide reaching adverse effects on the individual, their family and the community as they consume the resources of the police, courts and prison systems.

If this client had access to a regular legal service they would be more likely to have approached the service for advice on the fact that they were wrongly issued a fine in the first instance. The solicitor could have easily resolved this mistake and had the fine re issued to the right person. Our client would then have been able to continue with casual work, retain his licence and avoid the individual negative effects and costs to society outlined above.

Even if the client was rightly issued the fines and only approached the legal service after the cancelation of their licence these issues could have been dealt with by way of addressing the fines through work and development orders that would allow the client to retain a licence and thereby their casual work. This would relieve pressure on the social services as the client does not need income support, and the causation factor for the health problems and likelihood of criminal conduct consuming further public resources is ostensibly avoided.

The above demonstrates that if the individual had been able to get their legal problem resolved by ready access to local legal services they may have avoided this 'cycle of vulnerability' and remain contributing productively to society rather than now becoming a consumer of public resources.

In a study conducted over 3 ½ years in the United Kingdom the economic impact of legal problems was found to be \$ 13 Billion dollars.<sup>3</sup>

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<sup>3</sup> See, Pleasence, P, Balmer, NJ & Buck, A 2008, '*The health cost of civil law problems: further evidence of links between civil law problems and morbidity and the consequential use of health services*', Journal of Empirical Legal Studies, vol. 5, no. 2; See also, Pleasence, P. (2006) '*Causes of Action: Civil Law and Social Justice*', Second Edition, Norwich : TSO.).

## **Conclusion**

Failure to access legal advice at the time an issue arises can cause both further legal problems and other stresses potentially having adverse health effects for the individual as outlined above. In light of this we believe that to achieve the most productive outcomes a legal service must be readily accessible to all including those from disadvantaged backgrounds that generally cannot afford private legal advice. We further believe that these accessible and affordable legal services must be located locally in regional and remote towns not only to be visible and accessible but to promote trust within the community they are servicing. This is of particular importance in areas servicing ATSI communities. As such we believe the establishment of additional regional Community Legal Centres and remote outreach offices is the most economically efficient and practically effective delivery of these services.

## **Recommendation**

1. Increased and ongoing funding directed toward CLC's including funding for the establishment of additional regional CLC's with satellite outreach offices in more remote areas including ATSI communities.

As demonstrated above the establishment of visible, accessible local legal services results in greater awareness and an associated increase in access of free legal services for the disadvantaged. Flowing from this is an increase in those having their legal problems resolved at an early stage preventing or reducing the adverse effect on the individual's productivity and consequent consumption of public resources.

We appreciate this opportunity to input to this inquiry and can be contacted for further comment if required on 4422 9529 or [info@shoalcoast.org.au](mailto:info@shoalcoast.org.au).

Yours sincerely  
**Shoalcoast Community Legal Centre**

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