

Queensland Law Society protects the welfare of the legal profession and community by highlighting current issues and proposing changes to prospective and existing legislation. As part of this role, the Society has identified eleven priority issues that our members have agreed are of immediate concern. These are presented below for consideration.

1. Adequate and sustainable legal assistance for disadvantaged persons in areas of State law where fundamental human rights are at stake.

- Adequate legal assistance means that legal aid should always be available for:
  - individuals who are at risk of serving a term of imprisonment of any duration
  - separate representatives for children in child protection matters
  - parents in child protection matters
  - representation in the guardianship jurisdiction
  - representation for individuals with mental health issues
  - the payment of interpreters.

it also means that regional differences in the availability of legal assistance are eliminated.

- Sustainable legal assistance requires:
  - Resilience building for the legal assistance sector “in response to specific events and natural disasters”
  - Increase in rates of pay for legal practitioners undertaking State legal aid assignments
  - Recurrent and reliable funding commitments to community legal centres that currently receive non-recurrent funding from the Legal Practitioners Interest on Trust Accounts Fund
  - Addressing unmet needs in civil law matters such as; consumer protection, debt management, tenancy, employment and other areas of civil law.

2. Better treatment of people suffering from mental health issues and impaired decision-making capacity in the criminal justice system (particularly in relation to summary offences). QLS is calling for:

- The implementation of processes and programs to identify mental health issues and impaired decision-making capacity in people accused of criminal offences at an early stage, including court diversion programs aimed at addressing the underlying causes of a person’s offending behaviour.
- Assistance for the accused and their family through court processes.
- Assistance for the accused and their family to access existing mental health services and treatment facilities in order to reduce rates of recidivism.

- Awareness raising of:
  - mental health issues in the community; and
  - the various processes within the criminal justice system to deal appropriately with people suffering from mental illness.

3. Increased funding and focusing of the criminal justice system on reducing recidivism and ensuring incarceration is a last resort. QLS is calling for:

- Increased funding for correctional facilities, including the provision of better support, improved access and more places in programs which will positively affect rates of recidivism or those ordered by the courts (for example, parole programs and criminogenic programs).
- Appropriate post-release support and funding for prisoners to ensure that they do not re-enter the criminal justice system.
- Increases in the use of alternative dispute resolution in the criminal jurisdiction.

4. Protecting and dealing appropriately with children and young people in the legal system. QLS is calling for:

- The removal of 17 year old offenders from Queensland’s adult correctional facilities and the placement of these young people within the jurisdiction of the *Youth Justice Act 1992*.
- The creation of practice directions, guidance documents and specialist professional development for magistrates about how to deal appropriately with children and young people.
- The appointment of more Children’s Court Magistrates.
- Improvements to the child protection system in Queensland:
  - the introduction of structure and predictability through revision of the Children’s Court rules
  - the publication of judgments.

5. Opportunities for Queensland lawyers to be involved in international trade delegations relating to Queensland.

- Queensland law firms have offices and clients in all of Queensland’s major trading partner countries.
- Delegations visiting Queensland and also Queensland State trade delegations to other jurisdictions would benefit from structured liaison and involvement of Queensland legal practitioners.

6. A commitment to provide Queenslanders the right to legal representation when they need it:

- Presently there are only very limited circumstances in which a party may receive legal representation in the Queensland Civil and Administrative Tribunal.

- QLS calls for:
    - amendments to section 43 of the *Queensland Civil and Administrative Tribunal Act 2009* to make legal representation a right for Queenslanders for any matter in excess of \$15,000 or that involves application of statute law or common law principles, i.e. in all guardianship matters
    - increased access for legal practitioners to their prisoner clients in correctional facilities
    - commitment to a review of legislation which restricts legal representation to any individual to ensure that Queenslanders are not being prejudiced or discriminated against in their dealings with Government agencies, tribunals or private companies with statutory rights and permits, such as compensation and access mediations for land owners in connection with gas resources or mining exploration.
7. Making a commitment to address elder abuse in Queensland.
- QLS together with the Public Advocate released an issues paper commenting on the lacunas in the Queensland law with respect to elder abuse and the lack of compensation an elderly person may apply for if injured.
  - Presently, elderly Queenslanders may not apply for exemplary, punitive or aggravated damages if they are injured as a result of intentional acts of neglect.
  - If elderly Queenslanders are injured and not in paid employment, they are limited to applying for general damages only (as they have no claim for economic loss).
  - Elderly Queenslanders are also limited to the amount of legal costs they can recover as a result of personal injury caused by neglect.
  - QLS recommends:
    - introducing stronger civil remedies for parties subject to elder abuse (as a result of intentional neglect)
    - raising awareness of elder abuse in the community
    - creating a dedicated unit within the Queensland Police Service to investigate and deal with reports of criminal acts of elder abuse.
8. Making a commitment to ensuring that Queenslanders have unrestricted access to common law actions in injury compensation schemes and fair compensation.
- Injured Queenslanders currently enjoy open access to fully funded, well run and sustainably accessible common law compensation schemes.
  - the QLS sees the continuing right to access the common law for compensation as one of the fundamental reasons for this success.
9. Committing to:
- Conducting a comprehensive review of residential property conveyancing legislation to implement a coordinated and consistent regime for vendor disclosure of information to buyers and also for the formation and termination of residential sales contracts:
    - QLS has long called for a compilation of vendor disclosure obligations to ensure that they are consistent and complementary. Currently there are more than 10 different Acts which place disclosure obligations on a vendor attempting to sell a real property.
  - Ensuring that any national electronic conveyancing system implemented in Queensland:
    - provides real benefits to Queensland consumers of conveyancing services
    - does not transfer additional liability to Queensland legal practitioners to benefit other system participants
    - does not disadvantage services currently relying upon grants from the public purpose Legal Practitioners Interest on Trust Accounts Fund.
10. A commitment to:
- actively engage and implement in Queensland reforms to achieve the nationally consistent approach to the imposition of personal criminal liability for directors and other corporate officers in circumstances of corporate fault agreed by all States at COAG as a part of the deregulation priorities in the Revised National Partnership to Deliver a Seamless National Economy.
  - Within the first 12 months following the election to introduce and pass in the Queensland Parliament amending legislation which at least matches in scope and breadth the New South Wales *Miscellaneous Acts Amendment (Directors' Liability) Bill 2011*, passed in May 2011.
11. A commitment to provide adequate resourcing for courts and tribunals throughout Queensland, including regional circuits and all support services required for full operation.

**For more information or further discussion:**

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