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Mr Warren Mundy
Presiding Commissioner,
Access to Justice Arrangements
Productivity Commission
LB2 Collins Street East
Melbourne Vic 8003

Dear Mr Mundy,

Thank you for the opportunity to lodge a submission on behalf of the Mid-North Coast Community Legal Centre (MNCCLC). MNCCLC is a regional community legal centre funded to give free legal services to people living in the local government areas of Port Macquarie-Hastings, Greater Taree and Kempsey Shire.

The Mid North Coast of NSW is an area of high unemployment and low educational attainment levels, with a significant Aboriginal population and a high proportion of people with disabilities. Public transport in regional areas is inadequate and infrequent, and so any opportunity to resolve matters through a flexible dispute resolution system that does not involve the courts is of great benefit to our clients.

Mid North Coast Community Legal Centre endorses in full the submission of the National Association of Community Legal Centres (NACLCL). As a community legal centre in a regional area, we would also like to add some case examples to highlight answers to the following questions from the Commission's Issues Paper, within a context specific to our region.

Part 5: What groups are particularly disadvantaged in accessing civil justice and what is the nature of this disadvantage?

Complex needs

People with complex needs in regional areas find it particularly difficult to access civil justice. The nature of their circumstances frequently includes non-legal issues such as homelessness, mental illness, family violence and poverty. This complexity makes gaining a resolution through the civil justice system much harder, as the instability caused by each of these issues exacerbates the resolution of the problem. Lack of non-legal services and supports in regional areas makes demand for what is available very strong, and it is not uncommon to find that a client's response to lengthy waiting lists is to disengage from any support at all.



Case Study: Lucy

Lucy* is a single mother. Her employer had released her from employment around a year before she came to us. Lucy had been unable to find further employment. Her only income was Centrelink, she was living in unstable accommodation with her two young boys aged 5 and 7, had just left an abusive relationship and was receiving assistance from a women's support service. Lucy came to us with a number of debts totalling over \$25,000.00. Many of the debts she was facing were accrued in her name by her former partner. Another legal issue was that she had bought a motor vehicle through her partner but had not been able to transfer the ownership into her name.. In acting for her, MNCCLC solicitors were able to complete the transfer ownership of the vehicle into Lucy's name, so that she had a secure form of transport. We also were able to provide her effective referrals to assist her with debts arising out of a tenancy agreement. Each of the remaining debts was dealt with on a case by case basis; some by complaint to the relevant industry ombudsman and some by making a financial hardship application to the creditors.. MNCCLC was successfully able to negotiate the waiver of some debts, the partial waiver of others and successfully negotiate payment plans which would allow Lucy to repay the debts without having to file for bankruptcy or go to court.

Health and Literacy

Education and health issues complicate the resolution of many seemingly simple problems in regional areas. For people who face medical treatment for chronic health conditions, the poor accessibility of medical services puts additional pressure on their financial circumstances, and may develop into legal issues which are hard to manage if their education has been poor.

Case Study: Roger

Roger* is an older man with low literacy who had worked all his life in agricultural labouring jobs. Since moving to the area to retire, he'd faced some medical issues that he addressed by buying a car on credit (as public transport was poor and community transport in high demand) to access medical services. He paid for the expenses related to the car purchase on his credit card. His total liability was \$11 900. As a result of his medical situation, his age and his literacy, he was not able to re-enter the workforce and was not able to make payments towards the either the car finance or credit card debts. Roger came to MNCCLC when he received a letter of demand from one of his creditors seeking payment, which he could not read well but realised was serious. Roger felt at the time that his only option was to go to court over the situation and was looking for help. Before any court proceedings were commenced, MNCCLC was able to negotiate on his behalf with both creditors, securing a waiver of both debts in consideration of his circumstances and avoiding a lengthy debt recovery process

Age and dependence on family

Elderly people in regional areas face specific problems associated with dependence on their family or carers. Where legal problems arise in the context of their domestic relationships, older people may accept abuse, or the burden of the problem, in order to maintain a roof over their heads.

Case Study: Maryann

Maryann* is an Aboriginal lady with limited mobility who lives out of town with her extended family, in a house where the telephone and internet accounts are in her name. Unfortunately her extended family had been using these services and run up a large debt to the communication provider. Maryann relied on her family for personal care assistance and was reluctant to confront them about the debt, however was not able to afford to pay the debt herself. When Maryann received an overdue account notice, MNCCLC were able to assist her to take her matter to the Telephone Industry Ombudsman and organise a financial hardship application to settle the debt without

recourse to the courts. MNCCLC suggested that the social worker involved in supporting Maryann link her to the NSW Community Justice Centre's Indigenous service to get mediation assistance with family members to prevent this from reoccurring.

People with Disabilities

People with disabilities also frequently find access to civil justice very difficult. Where a person has an intellectual disability, they may find themselves manipulated or taken advantage of, and the person may rely on other people to find services that are available to support them. In regional areas, public legal services are few and far between, so access to free advice can be very hard to find.

Case Study: Susie

Susie is a woman with an intellectual disability who has been employed at a local restaurant. She had some medical issues which required a temporary adjustment to her work duties, however the employer was instead reducing her work hours. At the same time, Susie reported that other staff had been bullying her because of her disability. Susie's family brought her to MNCCLC and our solicitor was able to act on Susie's behalf by contacting the employer, highlighting both the employer's work obligations and disability discrimination issues that may be at play. Susie's employer reinstated the hours without need for recourse to Fair Work Australia or the Federal Court, and took steps to eliminate the bullying behaviour of other staff.

People with mental illness

Mental illness is a complicating factor for many legal problems, and regional areas are home to many sufferers. For some, their condition may mean that accessing legal services in the first place is very difficult. For many, support systems such as counselling, medical treatment or carer support may not be easily accessible as they are often delivered at a regional hub – which in Peter's case (below) was over 50 km away.

Case Study: Peter

Peter* is an Aboriginal man who developed depression following recent trauma in his life. He became the primary care giver for his grandchildren, and he had fallen substantially behind in his mortgage repayments. He had applied for financial hardship provisions with the bank but this had been denied. Peter was feeling overwhelmed and unable to see a way through his situation. Although he had received notices from the bank about his arrears, he had not yet received a statement of claim from the court. Peter was referred to us by Law Access (NSW Regional Law Hotline), and a MNCCLC solicitor was able to negotiate with the bank on his behalf to obtain relief from interest payments for a short period, while he sought further help from a financial counsellor that MNCCLC referred him to. Peter's matter is ongoing, but it has been diverted from the court system in a manner that will give him space to decide whether to sell the house or not.

Each of the situations above illustrate not only legal need for civil law matters for people who cannot afford a private lawyer, but also the complexities that arise for disadvantaged people when living in regional areas where a small pool of services, employers and health treatments is made harder to access by inadequate public transport.

Part 7: The Commission invites comment on strategies for the avoidance and early resolution of civil disputes. What evidence is there of the benefits and costs of these approaches and strategies?

Currently, MNCCLC is providing targeted “community legal education” (CLE) to two main groups. As part of our strategic approach to addressing indigenous disadvantage, we co-ordinate a comprehensive CLE program to indigenous young people at risk of becoming involved with the criminal justice system. The intention of this CLE is to assist young indigenous people to understand their civil law needs, to help them identify which services are available to assist them, and to link them with service providers before issues actually arise so that early resolution of the problem can take place. This CLE series is presented fortnightly to the same group of people throughout the year, and invites service providers from other key agencies (including Family Violence Prevention, NSW Dept Fair Trading, Tenancy services and Family Law services) to participate. One key advantage of this program is in assisting disadvantaged young people to identify their civil law issues as legal issues, and to cement relationships that help them know who to contact if they need assistance. This is fundamental to early resolution, and avoids the common scenario of an anxious person attending a clinic appointment with a number of unopened envelopes from another party using the court system to pursue them.

The other targeted CLE program which MNCCLC runs is to older people, as the Mid North Coast is a popular retirement destination. This CLE program highlights the documents and decisions a person should make in preparation for a time when they may not have capacity to make their own decisions. These CLE sessions frequently result in appointments made for disadvantaged clients to make Powers of Attorney or Enduring Guardianship, ensuring their choices are clearly identifiable and negating the need to use Tribunal services to determine a course of action if capacity issues arise in their lives.

Both these programs offer an opportunity to disadvantaged people to address potential legal problems before they arise. The benefits flow both to the people attending the education program, and to the savings made to the public purse by not requiring involvement in court or tribunal systems to obtain satisfaction.

Mid North Coast CLC is grateful for the opportunity to provide input into the Productivity Commission Inquiry, and trust that the experiences shared above are useful for the Commission’s deliberations, particularly where looking at the perspective of Australians in regional areas.

Yours Faithfully

Mid North Coast Community Legal Centre

Nassim Arrage
Principal Solicitor

** All names have been changed to protect the identity of our clients*