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The Commissioners  
Productivity Commission  
Canberra, ACT

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CRICOS Provider No. 00120C

Dear Commissioners,

**Re: 'Part One - Submission to the Productivity Commission's Inquiry into  
Access to Justice Arrangements'**

**Background**

1. This submission, Part One, will identify and attach through email and links, research and commentary on the legal aid system in Australia including issues pertaining to clients, community, legal aid commissions, and community legal centres that are relevant to the Issues Paper and its Terms of Reference and the questions/issues it seeks comment on.
2. Part Two of the submission will follow later and will also address specific questions of the Productivity Commission.
3. The author has written extensively on access to justice issues since the mid- 1990s in different professional capacities. In private practice and for community legal centres as a volunteer and in paid employment most recently being a Director of the West Heidelberg Community Legal Centre. She has worked for non-legal community agencies and held positions on their Boards, some of which service the most disadvantaged. She has also worked for a humanitarian organisation and run her own small business. She has also held academic positions which enabled her to combine client case work, policy and research as a clinical legal education supervising solicitor for seven and a half years and is now and academic at ANU also combining research, legal practice, education whilst she is still working directly with clients and community members in need of legal assistance. This experience enables her to write extensively on issues affecting access to justice both in her own right and in collaboration with others with an expertise in access to justice issues.

4. Rather than reinvent the wheel, Part One of this submission will identify existing material that will be of assistance in responding to the issues the Productivity Commission has identified and which are pertinent to the Terms of Reference. It contains the author's own work and those of others that she identifies as useful for this inquiry and the issues raised.
5. Most recently, the author has conducted research evaluations into effectiveness, efficiency and quality in legal service provision and effective approaches to solving legal problems and this has received international and national attention with recent presentations and workshops in Oxford, The Hague and Canada and published referred articles and conference papers on the topic. Agencies keen to discuss the approaches to measuring effectiveness, efficiency and quality have included the World Bank and Legal Aid Ontario and Law Clinics Ontario, the former Legal Services Research centre in the United Kingdom and University College London to name a few.
6. Where articles appear more than twice they are relevant to more than one heading in the Productivity Commission's Issues Paper. The symbol '\*' will denote articles that the author attaches to the submission's covering email (some articles require subscription and so are difficult to access otherwise). Some URLs are provided. In some cases articles are available on line, are not attachable or are in hard copy only. In these instances, references are provided to assist the Productivity Commission in tracking these down. **The reports, articles and papers** mentioned and listed in the paragraphs below are intended to **form part of this submission** so as to assist the Productivity Commission in having relevant information before it. Many are already in the public realm.

## 7. Chapter Two-Avenues of ADR and Importance of Access to Justice –

M Noone and A Tomsen, *Lawyers in Conflict: Australian Lawyers and Legal Aid*, The Federation Press, New South Wales, 2006.

C Coumarelos, D MacCourt, J People, H.M. McDonald, Z Wei, R Iriana and S Ramsey, 'Access to Justice and Legal Needs: Legal Australia Wide Survey Legal Need in Australia, Law and Justice Foundation of New South Wales, Sydney, August, 2012.

R McLachlan et al, 'Deep and Persistent Disadvantage', Productivity Commission Staff Working Paper, Productivity Commission, July 2013.

\*L Curran and M Noone, Submission to the Access to Justice, Senate Legal and Constitutional Inquiry, April 2009.  
[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal\\_and\\_Constitutional\\_Affairs/Completed%20inquiries/2008-10/access\\_to\\_justice/hearings/~media/wopapub/senate/senate/commttee/S12261\\_pdf.ashx](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Completed%20inquiries/2008-10/access_to_justice/hearings/~media/wopapub/senate/senate/commttee/S12261_pdf.ashx)

\*L Curran 'Community Legal Centres: a legitimate part of the landscape, Dissent, No 25, Summer 2007/2—8, pp 19 -21.

\*'I Can See Now there's Light at the End of the Tunnel' Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients, Legal Aid ACT, 2012  
[http://www.legalaidact.org.au/pdf/Light at the end of the Tunnel Legal Aid Services Quality and Outcomes.pdf](http://www.legalaidact.org.au/pdf/Light%20at%20the%20end%20of%20the%20Tunnel%20Legal%20Aid%20Services%20Quality%20and%20Outcomes.pdf).

\*L Curran, 'Solving Legal Problems: A strategic approach', March, 2013  
<http://www.law.anu.edu.au/legalworkshop-gdip/publications>

\*L Curran, 'Making the Legal System More Responsive to Community: A Report on the Impact of Victorian Community Legal Centre (CLC) Law Reform Initiatives', La Trobe University and the Reichstein Foundation, May 2007.

### **8. Chapter Three - Legal Needs**

\*L Curran and M Noone, 'Access to Justice: A new approach using human rights standards', *International Journal of the Legal Profession*, 2008, Vol 15 (3) pp. 195-229.

\*L Curran and M Noone, 'The Challenge of Defining Legal Need', *Journal of Law and Social Policy*, 2007, Vol 21 Spring, Ontario Canada, pp.63 -89.

C Coumarelos, D MacCourt, J People, H.M. McDonald, Z Wei, R Iriana and S Ramsey, 'Access to Justice and Legal Needs: Legal Australia Wide Survey Legal Need in Australia, Law and Justice Foundation of New South Wales, Sydney, August, 2012.

### **9. Chapter Four – Costs of Accessing Civil Justice –**

\*L Curran, 'Solving Legal Problems: A strategic approach', March, 2013  
<http://www.law.anu.edu.au/legalworkshop-gdip/publications>

\*L Curran, 'A Literature Review: examining the literature on how to measure the 'successful outcomes': quality, effectiveness and efficiency of Legal Assistance Services, Attorney General's Department, 2012.  
<http://www.ag.gov.au/LegalSystem/Legalaidprograms/Documents/Literature%20review%20of%20legal%20assistance%20by%20Dr%20Liz%20Curran.pdf>

### **10. Chapter Five - Exploring legal need, concern amongst particular groups –**

\*A Buck and L Curran, 'Delivery of Advice to Marginalised and Vulnerable group: The Need for Innovative Approaches, 2009, Vol 13(9) Public Space: The Journal of Law and Social Justice, 1-29.

\*L Curran, 'Ensuring Justice and Enhancing Human Rights: A Report on Improving Legal Aid Service Delivery to reach Vulnerable and Disadvantaged People, La Trobe University and the Victorian Law Foundation, 2007.

\*L Curran, 'A Literature Review: examining the literature on how to measure the 'successful outcomes': quality, effectiveness and efficiency of Legal Assistance Services, Attorney General's Department, 2012. This document explores literature on Legal Aid, Community Legal centres, Aboriginal and Torres Strait Islander Services and Family Violence services and the nature and issues for vulnerable and disadvantaged client groups.

<http://www.ag.gov.au/LegalSystem/Legalaidprograms/Documents/Literature%20review%20of%20legal%20assistance%20by%20Dr%20Liz%20Curran.pdf>

\*L Curran, 'The hurdles in accessing the legal system for the disadvantaged' *Dissent*, 42 Spring, 2013, 35-38.

\*L Curran, 'Relieving Some of the Legal Burdens on Clients: legal Aid services working alongside Psychologists and other health and social service professionals', *Australian Community Psychologist*, August 2008, Vol 20 (1), pp 47-56.

C Coumarelos, D MacCourt, J People, H.M. McDonald, Z Wei, R Iriana and S Ramsey, 'Access to Justice and Legal Needs: Legal Australia Wide Survey Legal Need in Australia, Law and Justice Foundation of New South Wales, Sydney, August, 2012.

\*L Curran 'Human Rights: making them relevant to the vulnerable and marginalised in Australia,' June 2008, Vol 33 (2), *Alternative Law Journal*, pp 70 -75.

A Buck, N Balmer and P Pleasence, 'Social Exclusion and Civil Law: Experience of Civil Justice Problems among Vulnerable Groups' (June 2005) 39(3) *Journal of Social Policy and Administration* 302, 318-320.

A Buck, P Pleasence, N Balmer, A O'Grady and H Genn, 'Lone-parents and Civil Law: An Experience of Problems and Advice-seeking Behaviour' (2004) 38(3) *Journal of Social Policy and Administration* 253-269.

C Cournarelos, Z Wei and A Zhou, *Justice Made to Measure: New South Wales Legal Needs Survey in Disadvantaged Areas*, New South Wales Law and Justice Foundation  
<<http://www.lawfoundation.net.au/report/survey2006>>

C Cunneen, 'Racism, Discrimination and the Over-representation of Indigenous People in the Criminal Justice System: Some Conceptual and Explanatory Issues', (Paper presented to the ANZSOC Conference, Wellington New Zealand) 9 February 2005.

S Forrell, E McCarron and L Schetzer, 'No have, no justice? The legal needs of homeless people in NSW, Law and Justice Foundation of NSW, Sydney, 2005.

## **11. Chapter Six – Avenues for improving civil justice-**

\*L Curran, 'Solving Legal Problems: A strategic approach', March, 2013  
<http://www.law.anu.edu.au/legalworkshop-gdlp/publications>

M Noone, 'Towards and Integrated Service Response to the link between Legal and Health Issues' Vol 15, *Journal of Primary Health*, 2009, 203-2011

\*M Noone and K Digney, "It's Hard to Open up to Strangers" 'Improving Access to Justice: The Key Features of an Integrated Legal Services Delivery Model', Research Report, Legal Services Board and La Trobe University, Melbourne, September 2010.

\*L Curran, 'Relieving Some of the Legal Burdens on Clients: legal Aid services working alongside Psychologists and other health and social service professionals', *Australian Community Psychologist*, August 2008, Vol 20 (1), pp 47-56.

L Curran, 'CLCs Lead on Law Reform', *Law Institute Journal*, Melbourne, April 2008.

R Moorhead and M Robinson, 'A Trouble Shared – legal problems clusters and advice agencies', DCA Research Series 8/06 Department of Constitutional Affairs, London, 2006.

\*L Curran, 'Making Connections: the Benefits of Working Holistically to Resolve People's Legal Problems,' 2005, Vol, 12 E Law - *Murdoch University Electronic Journal of Law*  
[http://www.murdoch.edu.au/elaw/issues/v12n1\\_2/Curran12\\_1.html](http://www.murdoch.edu.au/elaw/issues/v12n1_2/Curran12_1.html)

\*L Curran, 'Making the Legal System More Responsive to Community: A Report on the Impact of Victorian Community Legal Centre Law Reform Initiatives'. Research and Report (2007) funded by the Reichstein Foundation (\$6,800). ISBN 978 – 0-646-47603-2

\*L Curran, 'Ensuring Justice and Enhancing Justice: A Report on Improving Legal Aid Service Delivery to Reach Vulnerable and Disadvantaged People.' Research and report funded partly by the Victorian Law Foundation (2007) (Small Grant \$3000) ISBN 978-1-86446-585-3

## **12. Chapter Seven – Preventing Issues from evolving into bigger problems –**

\*L Curran, 'Relieving some of the legal burdens on clients: legal aid services working alongside psychologists and other health and social service professionals, Vol 20 (1) *The Australian Community Psychologist*, June 2008, 47-56.

\*L Curran and A Vernon, *Creating the Rights Spaces' – a conflict resolution course for socially excluded community members of the community*, West HCLS, 2010

L Curran 'Community Legal Centres Lead on Law Reform,' Vol 82, (4), *Law Institute Journal*, 2008, pp 62-65.

\*L Curran, 'Ensuring Justice and Enhancing Human Rights: A Report on Improving Legal Aid Service Delivery to reach Vulnerable and Disadvantaged People, La Trobe University and the Victorian Law Foundation, 2007.

C Coumarelos, D MacCourt, J People, H.M. McDonald, Z Wei, R Iriana and S Ramsey, 'Access to Justice and Legal Needs: Legal Australia Wide Survey Legal Need in Australia, Law and Justice Foundation of New South Wales, Sydney, August, 2012.

\*M Noone and K Digney, "It's Hard to Open up to Strangers" 'Improving Access to Justice: The Key Features of an Integrated Legal Services Delivery Model', Research Report, Legal Services Board and La Trobe University, September 2010.

\*L Curran, 'Making the Legal System More Responsive to Community: A Report on the Impact of Victorian Community Legal Centre (CLC) Law Reform Initiatives', La Trobe University and the Reichstein Foundation, May 2007.

### **13. Chapter Eight – effective matching of disputes and processes –**

R Hunter, J Giddings and A Chrzanowski, Legal Aid and Self Representation in the Family Court of Australia, Griffith University, May 2003,  
[http://www.nla.aust.net.au/res/File/PDFs/NLA\\_selfrep\\_FCA.pdf](http://www.nla.aust.net.au/res/File/PDFs/NLA_selfrep_FCA.pdf)

### **14. Chapter Nine – Using informal mechanisms to best effect –**

\*L Curran, 'Ensuring Justice and Enhancing Human Rights: A Report on Improving Legal Aid Service Delivery to reach Vulnerable and Disadvantaged People, La Trobe University and the Victorian Law Foundation, 2007.

J Giddings and M Roberston, 'Large Scale Map or the A-Z? The Place of Self Help Services in Legal Aid', Vol 30 (1) *Journal of Law and Society*, March 2003.

Vouchers – L Curran, 'Society's neediest in no position to brave rigours of private sector'  
The Australian, 25 October 2013

<http://www.theaustralian.com.au/archive/business/societys-neediest-in-no-position-to-brave-the-rigours-of-private-sector/story-e6frg97x-1226746266757>

### **15. Chapter Twelve – effective and responsive legal services**

\*L Curran, 'Making the Legal System More Responsive to Community: A Report on the Impact of Victorian Community Legal centre Law Reform Initiatives, West Heidelberg Community Legal service and the Reichstein Foundation, 2007

\*L Curran, 'Ensuring Justice and Enhancing Human Rights: A Report on Improving Legal Aid Service Delivery to reach Vulnerable and Disadvantaged People, La Trobe University and the Victorian Law Foundation, 2007.

## **16. Chapter Fourteen – Better measurement of performance and cost drivers**

\*L Curran, 'A Literature Review: examining the literature on how to measure the 'successful outcomes': quality, effectiveness and efficiency of Legal Assistance Services, Attorney General's Department, 2012.  
<http://www.ag.gov.au/LegalSystem/Legalaidprograms/Documents/Literature%20review%20of%20legal%20assistance%20by%20Dr%20Liz%20Curran.pdf>

\*A Crockett and L Curran, 'Legal Assistance Services Brief, Vol. 38 (1), Alternative Law Journal, 2013, 42 -44.

\*A Crockett and L Curran 'A Practical Methodology for Measuring the Quality and Outcomes and Legal Assistance Services' Vol 32 (1) *University of Tasmania Law Review*, October, 2013.

\* L Curran, 'Legal Review: Not all in the Statistics' Vol. 87 (7) Law Institute Journal, July 2013, 36 – 39.

\*'A Literature Review: examining the literature on how to measure the 'successful outcomes': quality, effectiveness and efficiency of Legal Assistance Services, Attorney General's Department, 2012. <http://www.ag.gov.au/Legalaid/.../Lit%20review%20%20FINAL.DOC>

\*'I Can See Now there's Light at the End of the Tunnel' Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients, Legal Aid ACT, 2012  
[http://www.legalaidact.org.au/pdf/Light at the end of the Tunnel Legal Aid Services Quality and Outcomes.pdf](http://www.legalaidact.org.au/pdf/Light%20at%20the%20end%20of%20the%20Tunnel%20Legal%20Aid%20Services%20Quality%20and%20Outcomes.pdf).

\*L Curran, 'Encouraging Good Practice in Measuring Effectiveness in the Legal Service Sector', May 2013 <http://www.law.anu.edu.au/legalworkshop-gdip/publications>  
<http://consumeraction.org.au/report-encouraging-good-practice-in-measuring-effectiveness-in-the-legal-service-sector/>

\*A Crockett and L Curran, Conference Paper International Legal Aid Group Conference, A Practical Model for Measuring Effectiveness., The Hague, June 2013.

'Overview of the UNDP's Approach to Measuring Capacity' Capacity Development Group, Bureau for Development Policy, United Nations Development Program, June 2010.

M Smith and A Patel, 'Using Monitoring Data: Examining Community Legal Advice Centres Delivery', Legal Services Commission, London, June 2010, 14.

A Trude and J Gibbs, 'Review of Quality Issues in Legal Advice: measuring and costing quality in asylum work', Lawyers Defending Human Rights, Refugee and Migrant Justice undertaken by the Information Centre About Asylum and Refugees and the Immigration Advisory Service, City University, London, March 2010.

\*L Curran, 'The Challenges of Measuring Outcomes – Examining quality, responsiveness and legal professionalism as a way forward', Legal Research Centre's International Research Conference, 2012, Rights and Wrongs: Developments in Access to Justice, Magdalen College, Oxford, United Kingdom, September, 2012.

Access to Justice Metrics: Envisioning Equal Justice, A Discussion Paper, The Canadian Bar Association, April 2013

A Ebrahim and V K Rangan, 'The Limits of Non Profit Impact: A Contingency Framework for Measuring Social Performance', Harvard Business School Working Paper, May 2010.

C Mowles, R Stacey and D Griffin, 'What Contribution Can Insights From the Complexity Sciences Make to the Theory and Practice of Development Management', *Journal of International Development*, Vol, 20 804-820, Copyright 2008, John Wiley & Sons Ltd.

J Z Kusek and R C Rist, *A Handbook for Development Practitioners: Ten Steps to a Results Based Monitoring and Evaluation System*, Washington, DC, the International Bank for Reconstruction and Development/The World Bank, 2004.

17. I hope this is of assistance and helps the Productivity Commission on issue that is so important in ensuring the rule of law, equality before the law and people's capacity to participate in a democratic society.

18. Please do not hesitate to contact me if you have any further queries. I look forward to meeting with the Commission as per discussions with your office and will aim to provide Part two of this submission shortly. Many thanks for the extension for Part Two.

Yours sincerely

Dr Liz Curran  
Senior Lecturer



The following attachments were submitted by Dr Curran along with the submission.

**Attachment 1 - (contains topic 1-7)**

1. Literature Review for the Legal Assistance National Partnership Review Jan 2012
2. Solving problems - a strategic approach Mar 2013
3. Relieving legal burden of clients - use of co-location and multi-disciplinary approaches June 2008
4. Access to justice - a new approach using human rights standards Nov 2008
5. A practical model for demonstrating and ensuring quality legal aid services 2013
6. Light at the end of the tunnel - ensuring quality service to clients 2012
7. Meaningful measurement and outcomes of legal aid services 2013

**Attachment 2 - (contains topic 8-14)**

8. Delivery of advice to marginalised and vulnerable groups - the need for innovative approaches 2009
9. Encouraging good practice in measuring effectiveness in the legal services sector 2013
10. Challenges of measuring outcomes - quality, responsiveness and legal professionalism 2012
11. Hurdles in accessing the legal system for the disadvantaged 2013
12. Legal review not all in the stats 2013
13. Ensuring justice and enhancing human rights Nov 2007
14. Access to justice metrics April 2013

**Attachment 3 - (contains topic 15-21)**

15. Making connections - the benefits of working holistically to resolve people's legal problems 2005
16. Towards an integrated service response to the link between legal and health issues 2009
17. The transformative potential of an integrated service model - a study of the West Heidelberg Community Legal Service
18. Making the legal system more responsive to community 2009
19. Human rights - making them relevant to the vulnerable and marginalised in Australia
20. Creating the Rights Spaces - civil participation and social inclusion - West Heidelberg CLC July 2010
21. The challenge of defining unmet legal need 2006