

Productivity Commission Submission
Access to Justice Arrangements

Launceston Community Legal Centre

Background to the Launceston Community Legal Centre

The Launceston Community Legal Centre Inc. (the 'LCLC') is a not-for-profit incorporated association that provides free, non-means tested, legal advice and assistance to members of the Northern Tasmania community. The LCLC is part of the Tasmanian Community Legal Centre (CLCTas) network, as well as the National Association of Community Legal Centres (NACLC). The LCLC consists of a small team of dedicated solicitors, volunteers and administrative staff.

Through funding, both State and Federal, the LCLC provides a number of services to some of the North's most disadvantaged and vulnerable individuals. These services include;

- Family Law advice
- Welfare rights advice and representation
- Employment Law advice and representation
- General Law advice
- Disability discrimination legal advice and representation
- Legal literacy assistance
- A free drop-in legal Clinic every Wednesday night

The LCLC provides a weekly outreach service to regional areas such as St Helens, Exeter, Beaconsfield, Campbell Town, Fingal, Scottsdale, George Town and Deloraine. Solicitors at the LCLC are also active in Community Legal Education, providing talks and information sessions to different communities and organisations on a variety of legal issues.

The LCLC prides itself on providing quality legal advice, free of charge, to those in need.

Comment on Draft Recommendation 21.3

Means and Asset Testing

Of major concern to the LCLC, as raised in the Productivity Commission's Draft Report, is the possible restriction of access to community legal centres (CLCs) through means and assets testing.

Adopting the means and assets tests modeled on the Legal Aid Commissions (LACs) system would result in clients potentially being precluded from service at the LCLC if they were ineligible for a health care card or owned their own home. Many of the clients that currently attend the LCLC are working, or have assets that would preclude them from qualifying for a Centrelink health care card or benefit. However, these clients could

be deemed, for want of a better word, 'working poor'. Whilst they may have assets, they are often unrealisable. Although working, their financial obligations (e.g. mortgage repayments, rent, groceries, children's expenses etc) would remove any reasonable option for them to pay for private legal advice. The LCLC often provides assistance to clients who do not satisfy the LAC's means and asset test.

Not satisfying the LAC's means and asset test does not necessarily equate to being able to afford private legal advice. Private legal advice is expensive, and the reality is that most Australians could not afford to see a private solicitor if the need arose. In some situations, especially in a small regional area such as Northern Tasmania, many private firms could be conflicted out of assisting, even though the client may have the means to pay for their services. It is also the case that a private firm will not assist a client if the amount at stake is low, the matter is deemed trivial or has little merit. At least these clients, currently, can get a free one-off appointment with the LCLC for these issues to be explained to them, and crucial assistance still provided.

The LCLC client profile is diverse. The majority of the clients seen by the LCLC are already in receipt of a health care card or Centrelink benefit (as indicated by having a 'low income'). However, a substantial number of clients are on a 'medium' level of income, which typically means they are employed. This would generally preclude them from qualifying for a health care card or Centrelink benefit. Due to a lack of specificity in the data recording it is also likely a number of clients in the 'low' income bracket may also be refused service if a means test was introduced. These clients may be working (in low income employment) and have minimal assets. As such, the numbers contained below in Figure 1 may not adequately reflect the true income levels of some clients.

Figure 1.

	Low Income	Medium Income	High Income	TOTAL
2010-2011	794	149	10	965
2011-2012	939	200	18	1174
2012-2013	1042	213	16	1299

As can be seen from the above figure, a *minimum* of 606 clients would have been excluded from the LCLC's service over a period of three years had a means test been imposed.

It is also relevant to note that a large number of the LCLC's clients are over the age of 55. Figure 2 breaks down the significant number of older members of the community to whom the LCLC provides assistance. Many of these clients, especially those 65 years and older, would be on a 'low' income from the Age Pension, but would typically have significant assets, such as the family home. These clients would be unable to access the LCLC's services should a means and assets test be imposed.

Figure 2.

	50-64 years old	65 & over	Total Percentage of Clients seen
2010-2011	263	114	39%
2011-2012	349	151	43%
2012-2013	389	188	44%

The below case studies illustrate a selection of clients that would have been precluded from service at the LCLC with the application of a means and assets test. While they are individual clients and situations, they represent a broad spectrum of the clients and issues seen by the LCLC on a regular basis.

Please note that all identifying data in the case studies has been changed to preserve clients' confidentiality.

Case Study 1.

Employment Law

Freddie approached the LCLC after she stated she had been unfairly dismissed from her workplace. The major legal issue with Freddie's claim was that she has passed the 21 day time limit for making an application to the Fair Work Commission (FWC). The reason for Freddie being out of time was that she had been hospitalised for a significant mental health issue. By the time she was released, the 21 days had passed.

Freddie, until her dismissal, had been earning a decent income, and owned a home which was mortgaged. At the time she approached the LCLC she would not have been eligible for a Centrelink benefit or health care card.

The LCLC's employment law solicitor was able to successfully appeal the exceeded time limitation, which means Freddie could proceed with her unfair dismissal application. It is highly unlikely that Freddie would have been able to successfully appeal this limitation herself with no assistance from the LCLC.

Case Study 2.

Family Law

Alana had been in a violent, long-term relationship. She recently separated from her partner, and attended the LCLC for advice on property matters. At this time Alana stated she was frightened of her ex-partner and needed assistance. Alana stated that her partner was wealthy, and the home they shared was worth approx. \$600,000. However, she had no access to these assets.

From her appointment at the LCLC Alana was provided with advice on family law property matters, as well as options relating to her safety. The LCLC provided Alana with a number of referrals, including for a private solicitor. Alana was well prepared by the LCLC for the legal process ahead, and also what to expect when dealing with a private solicitor.

Alana, with a large amount of assets *technically* in her name, would have been precluded from the LCLC under a means and assets test.

Case Study 3.

Disability Discrimination

Will has a diagnosed learning disability. The disability affects his ability to comprehend information, and he learns through repetition. He had been employed with a sales firm since 2006. In 2011 the sales firm introduced a new operating system. As a result all staff were required to be retrained. The sales firm only provided staff with a one-day training course to become accustomed to the new system. Due to Will's disability he was unable to learn all aspects of the new operating system. He experienced performance issues. These performance issues ultimately led to Will's dismissal in mid 2013.

Will attended the LCLC with his issue. He was now in financial hardship and at risk of losing his home. The dismissal had jeopardised his prospects of finding new employment. Will did not want to go back to the sales firm, but instead wanted compensation and an employment reference, among other things.

With the LCLC's assistance a disability discrimination complaint was lodged through the Australian Human Rights Commission. There was a conciliation, at which Will was represented by an LCLC solicitor, and the matter was successfully settled. This settlement helped Will's financial situation and ability to find future employment.

Had a means and assets test been applied Will would have been turned away from the LCLC. Instead he was assisted, successfully, and is now in a better position to find employment.

The majority of the LCLC's clients receive a 45-minute appointment for one-off advice with a solicitor. Even a short appointment can make a significant difference in the trajectory of a legal issue and the welfare of the parties involved. A 45-minute appointment with one of the LCLC's solicitors can, usually, determine whether a client should persist with a legal issue, refrain from taking further action, and if further action is needed how to proceed properly. Offering this service to all people saves everyone time and money. The Courts and Tribunals will have less meritless matters before them and better informed and knowledgeable self-represented parties. This ensures a smoother Court or Tribunal process (if needed in the first place) for all involved.

Many LCLC clients present with legal and social comorbidities. They can be facing financial issues, mental and physical health issues and various other legal problems. The LCLC not only assists with a client's legal problem, but can offer warm referrals to other service providers. This holistic approach aims to strengthen and help the client in all aspects of their lives.

The LCLC acknowledges and respects the decisions of other CLCs to means and asset test their clients before providing access to service. However, the LCLC staff and board members believe that it is in the best interests of the local community and principles of access to justice that it remains the prerogative of the particular CLC to introduce such measures. The LCLC believes that if such a restriction were introduced in Northern Tasmania it would have a devastating impact on many individuals, families and community groups. It should also be noted that imposing a means and assets test would deflect valuable and precious resources from the LCLC. Time and money would be needed to process this kind of test and would further reduce the number of clients able to be assisted.

The LCLC believes that its services are of benefit to all members of the Northern Tasmanian community. The restriction of access to service would be devastating, not only to those particular clients but other potential parties involved in the issue, service providers, local, State and Federal government departments, Courts and Tribunals.

It is the LCLC's recommendation to the Commission that CLCs are not forced to impose means and assets testing.