



Queensland Association of Independent Legal Services Inc

17 July 2014

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

Dear Commissioners

Questions on notice – Brisbane Hearings

Thank you for the opportunity to provide further information to your inquiry at the Brisbane hearings on 18 June 2014. With other community legal centre peak organisations, Queensland Association of Independent Legal Services Inc (**QAILS**) welcomes the Commission's work on investigating barriers to access for justice, and I hope our constructive discussions have assisted in that process.

At the hearing, I agreed to provide further information on a number of points. That information is set out below.

Funding cuts to Queensland community legal centres

As I noted, 11 community legal centres have been advised of the cancellation of their funding agreement with the Commonwealth. This funding was due to be provided until June 2017, but will be cancelled from June 2015. The affected services are:

- Townsville Community Legal Service
- South West Brisbane Community Legal Service
- Logan Youth and Family Service
- Welfare Rights Centre
- Suncoast Community Legal Service
- Pine Rivers Welfare Association
- Tenants Queensland (formerly the Tenants Union of Queensland)
- Taylor Street Community Legal Centre
- Aboriginal and Torres Strait Islander Women's Legal Services North Queensland
- Gold Coast Legal Service and the Citizens Advice Bureau
- Cairns Community Legal Centre

When these funding reductions were originally announced in December's Mid-Year Economic and Fiscal Outlook, the Commonwealth noted that 'the provision of frontline legal services will not be affected', as these funding reductions were focussed on policy reform and advocacy activities.

However, this decision **will** significantly affect front line services. These funds currently support significant frontline services, including:

- consumer law services in Cairns, helping people that have been the subject of predatory and unlawful business practices;
- specialist legal services for tenants who are facing eviction across Queensland;
- a specialist family law outreach service in Coomera;
- helping the Inala community access general legal help, from an organisation that recently had to relocate after its premises were condemned;
- family law services on the Sunshine Coast and in Townsville, helping people when their relationships end;
- state-wide advice and casework support for people who have disputes with Centrelink; and
- duty lawyer and outreach services at the Southport Magistrates' Court when it hears family violence applications.

While community legal centres are unsure which/how much of their services will have to cease, the cuts can only be to frontline services: that is what the monies are used for. There will be consequences for other community service providers as people continue to try and find help, as well as having an impact on the courts and government agencies.

Environmental Defenders Offices

In December 2013, both of the Environmental Defenders Offices (**EDOs**) in Queensland were advised that their funding agreements with the Commonwealth would be terminated.

Decisions on land use, planning, mining, environment and development affect everyone and are a matter of public interest to all Queenslanders. Vulnerable or remote communities, for example, confronted with pollution from a major mine, lack resources to understand their legal rights and obtain legal assistance, but are often most affected. Residents and landholders, including farmers and Traditional Owners with tenure or native title over a piece of country, have few avenues beyond EDOs to obtain legal assistance services on environmental, planning or mining law.

The specialist and experienced community legal centres Environmental Defenders Office (Qld) and Environmental Defenders Office of Northern Queensland (**EDO NQ**) had their funding cancelled by the Queensland Government in 2012 and by the Federal Government in December 2013. This defunding coincided with all levels of government implementing "green tape reduction" campaigns that drastically reduced legislative protection of the environment and restricted community opportunities for access and input to environmental decision-making. Without an informed community, with professional legal support from an EDO, being able to access information and comment on proposals likely to impact on their local environment and quality of life there is a high risk of poor planning or development decisions with negative environmental and social outcomes.

For 18 years EDO NQ has provided community groups and members of the public with a free environmental law legal service. As well as making submissions on over 300 law reform and policy changes and presenting 200 legal education projects, EDO NQ has assisted over 1,300 clients with 9,000 information advices; 4,170 legal advices and nearly 600 cases. These services have been provided to conservation groups, members of the public and landholders to protect the places they love, their health, and the wider natural environment.

At the EDO NQ, staffing levels dropped from five full-time staff in early 2014 to none, with only a part-time administrator and a temporary lawyer continuing the work of the organisation at the moment. The organisation will become heavily reliant on volunteers while they seek alternative funding, which will be difficult in the current financial environment. EDO NQ services the area from south of Mackay, across the breadth of Queensland, north to the Torres Strait and the border with Papua New Guinea. This huge area is several times the size of Victoria and contains three World Heritage Areas; including the Great Barrier Reef and Wet Tropics. The area is home to a vast range of ecosystems, including rainforest, reef, savannah, wetlands, woodlands and semi-arid areas.

Tenancy services

Until late 2013, a network of specialist (non-CLC) tenant advice services existed across Queensland to provide advice, advocacy and representation for residential tenants. Originally, 29 service sites were available for access to tenants, including three operated by Tenants Queensland (TQ). TQ played a key role in training and resourcing workers in the services.

Funding issues emerged for tenant advice services in July 2012. After a protracted campaign, funding ceased for the tenant advice program on December 31, 2013.

Until that time, the tenant advice program funded most of TQ's activities though a small percentage of TQ's income is derived from the Community Legal Service Program (CLSP) to operate as the only Queensland CLC specialising in residential tenancy matters for tenants.

Funding cessation for the tenancy advice program has resulted in a dramatic decline in availability of tenancy advice for Queensland tenants. Using its CLSP funding, TQ is currently dealing with a huge demand for tenancy advice and casework services. Between 1 January and 31 May 2014, 39,445 calls to its dedicated tenancy advice telephone line received a busy signal and an additional 5,883 went to an answer machine which does not take messages, demand increasing by 270% since the same time last year.

Over the same time 1022 advices have been provided (to 770 distinct clients) and there are 22 casework files currently open. In short, approximately 2.5% of calls attempting to access services are successful. Approximately one in six people seeking advice are at risk of homelessness.

TQ also has a series of factsheets for tenants, rooming accommodation residents and residents of manufactured homes on its website (www.tuq.org.au). TQ's 'helpdesk' service is accessible to workers (and volunteers) of community legal centres to assist in the delivering of tenancy advice to clients. Finally, TQ runs accredited and non-accredited training as well as professional development workshops on tenancy and related law, which are unfunded.

Use of paralegals

At the hearing, we discussed the use of trained paralegals to deliver some legal services, including specifically financial counsellors and tenancy advocates. We noted that there are some circumstances where legal or quasi-legal services can be provided by non-lawyers, and I agreed to provide further information about the regulatory situation.

Queensland's *Legal Profession Act 2007* prohibits a person from engaging in legal practice unless they are an Australian legal practitioner (s 24(1)), defined in s 6(1) as 'an Australian lawyer who holds a current local practising certificate or a current interstate practising certificate'. However, there are some qualifications in section 24, including legal practice engaged in under the authority of a law of Queensland or the Commonwealth (s 24(2)(a)) or work performed by a trustee company, or a person employed by a trustee company, in the course of preparing a will; or carrying out any other activities involving the administration of trusts, the estate of a living or deceased person or the affairs of a living person (s 24(2)(d)) or legal practice prescribed under a regulation (s 24(2)(e)). Ensuring that these provisions allow for community organisations in these specialist fields (including any expansion to the types of services that you might recommend) would balance consumer protections with access to appropriate, accessible advice.

NACLC benchmark for community legal centre funding

As you know, the *NACLC Principles for Commonwealth Community Legal Services Program (CCLSP) Funding 2013-2016* suggest that a minimum base funding level of \$626,357 is required for (generalist and specialist) community legal centres to meet NACLC's Strategic Service Delivery Model and operate efficiently, effectively and safely.

Of the 30 QAILS members who receive funding administered under the CLSP by Legal Aid Queensland (including Legal Practitioners Interest on Trust Account Fund (**LPITAF**) funding), only five centres exceed this minimum funding.

Yours sincerely,

James Farrell OAM
QAILS Director