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**Community and Public Sector Union**

Alistair Waters – Deputy National President

Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

14 December 2015

Dear Committee Secretary

### **Inquiry into the Courts Administration Legislation Amendment Bill 2015**

The Community and Public Sector Union (CPSU) is an active and progressive union committed to promoting a modern, efficient and responsive public sector delivering quality services and quality jobs. We represent around 60,000 members in the Australian Public Service (APS), other areas of Commonwealth Government employment, ACT Public Service, NT Public Service, ABC, SBS and the CSIRO.

As the major union representing employees in the Federal Court and Family and Federal Circuit Court the CPSU welcomes the opportunity to make a submission to this inquiry into the Courts Administration Legislation Amendment Bill 2015.

The CPSU has concerns about the plan to merge the courts into a single administrative entity from 1 July 2016, proposed in the 2015-16 Budget.<sup>1</sup> Our concerns relate to funding for the Courts and employment terms and conditions.

#### Funding for the Courts

The proposal appears to be focused on restructuring the Courts to reduce costs rather than addressing the bigger challenge, the funding crisis facing our Courts. By 2017–18, funding for the Courts and tribunals will be approximately 91 per cent of 2009–10 funding.<sup>2</sup>

The Federal Circuit Court and Family Court of Australia (hereafter FCFCC) have been struggling with inadequate funding for some time now, with the Government agreeing the agency can run at a loss for the next two financial years. While the Courts received

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<sup>1</sup> Australian Government, 2015-16 Budget Paper No. 2: Budget Measures - Part 2: Expense Measures - Attorney-General's, 12 May 2015, [http://www.budget.gov.au/2015-16/content/bp2/html/bp2\\_expense-05.htm](http://www.budget.gov.au/2015-16/content/bp2/html/bp2_expense-05.htm)

<sup>2</sup> Michele Brennan and Tyler Fox, Budget Review 2015-16: Federal courts and tribunal funding, Parliamentary Library, [http://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/BudgetReview201516/Courts](http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/BudgetReview201516/Courts)

\$22.5 million in additional funding over four years in the 2015-16 Budget, the Courts face a blowout in expenses of \$75 million by 2017-18.<sup>3</sup>

Federal Circuit Court Chief Judge John Pascoe has recently highlighted the extent of the funding shortfall, saying he is seriously considering taking judges out of one of the country's busiest Courts at Parramatta in Sydney's west and another in Wollongong. He has also pointed to the extra family law caseload in regional areas has been being driven by ice addiction.<sup>4</sup>

Furthermore, the appointment of a Federal Circuit Court judge in Rockhampton, without providing additional funding, will add more strains on the Courts as they will have to cover the costs for a fit out and it is up to the Court to come up with resources to support the additional judge.<sup>5</sup>

The CPSU understands that a report commissioned from KPMG recommended additional funding for the Courts. This report was not publicly released and a second report was commissioned from Ernst and Young to support agency consolidation. The CPSU has been informed that this Ernst and Young report states that \$9 million over the next few years could be saved by merging the Courts and cutting jobs. These calculations, however, have overlooked administrative figures and as a result, there would need to be even more job losses, further reducing the quality of services for the community.

Rather than focusing on restructuring the Courts, the Government needs to address the chronic funding shortfall and provide proper levels of resourcing to the Courts.

#### Employment terms and conditions

It is important that all staff across the Courts are treated fairly and equitably, and have access to the same working conditions as their colleagues.

It is likely the merger may result in amalgamated services staff, such as Corporate Services staff, facing relocation or redundancy. FCFCC corporate staffs are based in Canberra and Federal Court corporate staff are based in the various registries across the country, with the primary office in Sydney. Further job losses have been identified as a possibility in future phases of any merger of the Courts. Employees are concerned differing redundancy provisions under the two separate enterprise agreements could mean some employees would be targeted.

The CPSU seeks an amendment to Bill that would ensure all staff be employed under the Federal Court Enterprise Agreement.

This change does not affect the Courts capacity to operate or proceed with the merger. This change provides all employees rights to be employed under one set of terms and conditions.

The CPSU welcomes further opportunities to provide supplementary information on any matter of interest to the Inquiry. In particular the CPSU requests the opportunity to personally address the inquiry as CPSU members have not yet had an adequate opportunity to provide constructive feedback on the draft legislation.

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<sup>3</sup> Nicole Berkovic, Federal courts face funding 'black hole': reforms needed to fix \$75m blowout, says KPMG report, The Australian, 29 August 2014, <http://www.theaustralian.com.au/business/legal-affairs/federal-courts-face-funding-black-hole-reforms-needed-to-fix-75m-blowout-says-kpmg-report/news-story/6e04a53022839979c56e0ca76bbaee0a>

<sup>4</sup> Community and Public Sector Union, Courts merger will not address funding crisis, 3 December 2015 <http://www.cpsu.org.au/content/courts-merger-will-not-address-funding-crisis>

<sup>5</sup> Jessica Lodge, Rockhampton gets permanent Federal Circuit Court judge in move tipped to ease family law wait times, ABC News, 16 November 2015, <http://www.abc.net.au/news/2015-11-16/rockhampton-gets-permanent-federal-circuit-court-judge/6943584>

If the Committee requires further information from the CPSU in relation to the matters raised in this submission please contact Kristin van Barneveld via email  
or .

Yours sincerely

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Deputy National President