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25 June 2009

Committee Secretary
Senate Standing Committee on Legal and Constitutional Affairs
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Sir/Madam,

**Parliament of Australia Senate Inquiry into Access to Justice
Submission to the Senate Legal and Constitutional Committee**

Please find enclosed a submission by Disability Advocacy NSW Inc. (DA). DA thanks the Senate Standing Committee on Legal and Constitutional Affairs for receiving this late submission to the 2009 Inquiry into Access to Justice.

DA is an incorporated association which has been functioning since 1994 and provides individual advocacy support for people with a disability in the Hunter, Mid North Coast and New England regions of NSW. DA has offices in Newcastle and Tamworth and three smaller outreach offices in Coffs Harbour, Port Macquarie and Armidale.

When DA extended its advocacy service to the Mid North Coast in 2007 it quickly became aware of the fact that there is no accessible Community Legal Centre in the region. This has been an ongoing issue for our service due to the fact that a large proportion of the advocacy work undertaken by DA involves legal issues which require the advocate to link the client with affordable legal advice.

DA has been instrumental in forming a group called the "Mid North Coast Community Legal Centre Project" to advocate for the establishment of a local community legal centre. A legal needs analysis of the Mid North Coast, partly funded by the Law and Justice Foundation of NSW, will be released later this year. Already our research clearly demonstrates the high levels of social and economic disadvantage of this region and how these communities are continually unable to access affordable legal representation.

DA understands that the terms of reference for the new inquiry into Access to Justice require the committee to have particular reference to:

- a) the ability of people to access legal representation;
- b) the adequacy of legal aid;
- c) the cost of delivering justice;

- d) measures to reduce the length and complexity of litigation and improve efficiency;
- e) alternative means of delivering justice;
- f) the adequacy of funding and resource arrangements for community legal centres; and
- g) the ability of Indigenous people to access justice.

This submission specifically addresses clause (a) in relation to access to legal representation for the disadvantaged communities living on the Mid North Coast of NSW.

Catherine Peek, Mid North Coast Regional Coordinator and Mark Grierson, Chief Executive Officer, would be prepared to answer any questions about this submission and would be pleased to attend the Inquiry.

Sincerely,

Catherine Peek
Mid North Coast Regional Coordinator
Disability Advocacy NSW Inc.

Parliament of Australia Senate Inquiry into Access to Justice

Submission to the Senate Legal and Constitutional Committee

June 2009

EXECUTIVE SUMMARY

- The Mid North Coast is recognised as a region with high levels of economic and social disadvantage.
- In the NSW Community Legal Centres Funding Program report the Mid North Coast was identified as one of six key geographic areas where clients had limited access to legal services.
- While there are three Community Legal Centres covering areas of rural NSW surrounding the Mid North Coast, these centres can only assist a limited number of people from the MNC due to remoteness, resource constraints and a focus on their main catchment areas.
- The Mid North Coast Community Legal Centre Project is currently researching a Legal Needs Analysis for the region. This will be completed by November 2009.
- To ensure that people living on the Mid North Coast have more equal access to legal representation the government should provide funding to establish a community legal centre to service this area. It is not appropriate or sustainable for CLCs established in metropolitan centres a significant distance from the Mid North Coast to provide this service.

Recommendation

That the Commonwealth Attorney-General consider, in conjunction with his NSW counterpart, the establishment of a Mid North Coast Community Legal Centre.

INTRODUCTION

The Mid North Coast (MNC) is one of the fastest growing regions in the north-east of the state of NSW stretching from Seal Rocks (275 km north of Sydney) as far north as Woolgoolga, (562 km north of Sydney). It is a region with high levels of economic and social disadvantage. The inability of the MNC community to access adequate legal assistance is further exacerbating this disadvantage.

In the NSW Community Legal Centres Funding Program report completed in June 2006 the MNC (around Port Macquarie and Kempsey) was identified as one of six key geographic areas where clients had limited access to legal services.¹

While there are three Community Legal Centres (CLCs) covering areas of rural NSW surrounding the MNC, these centres are all in other geographical regions. The closest community legal centres to Port Macquarie are in Newcastle (Hunter CLC at 245 kms, or 3 ½ hours drive), Armidale (North and Northwest CLC at 228 kms or 3 hours drive) and Lismore (Northern Rivers CLC at 366 kms or 5 hours drive). While these centres assist a small number of people from the MNC region their work is limited by resource constraints and a focus on their main catchment areas. Additionally, any assistance provided is limited to telephone advice and inconsistent outreach which means that many of the people who most need affordable legal assistance are unable to obtain it. The lack of a MNC CLC means that for many people on the MNC, including those with complex and disadvantaged needs, there is no access to justice.

Anecdotal evidence and research by the Law and Justice Foundation indicate that there are even less affordable legal services available in rural and regional areas than elsewhere² and this is certainly reflected in the MNC region. In DA's experience the ability of persons living in rural, regional and remote parts of NSW (like the MNC) to access legal representation is considerably poorer than persons living in metropolitan areas. Anecdotal evidence collected on the MNC suggests that this is because:

1. There is limited access to Legal Aid and CLC services on the MNC. There are many disadvantaged people who need legal representation but do not meet the criteria for obtaining a grant of legal aid and do not have the resources to pay for a private solicitor;
2. Fewer private lawyers operating on the MNC participate in pro bono programs (including undertaking Legal Aid work);
3. The cost of travel to metropolitan centres to access affordable legal services can be prohibitive for some clients who require legal assistance but cannot access it in their local area especially considering services and infrastructure in many parts of the MNC remain inadequate and public transport is limited;
4. In regional communities on the MNC, due to smaller numbers of lawyers in practice, there is a greater likelihood that any lawyers willing to act on a pro bono basis will have a conflict of interest in acting for the client seeking pro bono assistance, as they, or their firm have often already advised other parties to the dispute;
5. The time and costs of travel to many areas of the MNC for private lawyers based in metropolitan areas who are willing to undertake pro bono is a very significant disincentive to undertake pro bono referrals for this area. This also applies to Legal Aid and CLCs traveling to provide legal assistance.

¹ Review of the NSW Community Legal Centres Funding Program: Final Report, Legal Aid Commission of NSW, June 2006, p.125.

² Karras, M, E McCarron, A Gray & S Ardasinski 2006, On the edge of justice: the legal needs of people with a mental illness in NSW, Law and Justice Foundation of NSW, Sydney, 2006, p.110.

6. While telephone advice lines are invaluable ways of providing advice to some people having difficulty accessing legal assistance face-to-face, but for people with certain cognitive disabilities, mental illness, language barriers or with poor educational levels the process of communicating with lawyers and other services over the phone is daunting. Rather than use these telephone advice lines many clients who live in rural or remote areas will avoid getting legal advice at all.

To ensure that people living on the MNC have equal access to justice and are able to realise their rights the government should provide funding to establish a community legal centre to service this area. It is not appropriate or sustainable for CLCs established in metropolitan centres a significant distance from the MNC to provide this service.

MAP OF MID NORTH COAST, NSW



MID NORTH COAST COMMUNITY LEGAL CENTRE (MNC CLC) PROJECT

For many years local community members and professionals have been concerned about access to affordable legal representation for the disadvantaged communities living on the MNC. In late 2005 a group of interested people, including local solicitors, local government representatives, community service providers and community members met to discuss the possibility of working towards obtaining ongoing funding to establish a CLC on the MNC. DA coordinated a new push for the group to re-form in early 2008. Once the first meeting occurred, the MNC CLC Project Group was re-formed drawing on a wide range services, representing many of the groups identified as having high needs as well as the geographical spread of the MNC. The number of community services and individuals committed to support the MNC CLC Project is an indication of the perceived need for a CLC on the MNC.

The MNC CLC Project group made an application to the Law and Justice Foundation of NSW and obtained a small grant to prepare a Legal Needs Analysis (LNA) which would require the collection and analysis of statistical data from across the MNC region. The MNC CLC Project group was successful

in this application and has been collating data relating to the legal needs of the people on the MNC. The LNA will aim to:

1. Inform the people of the MNC about CLCs, assess local legal need as well as providing a detailed analysis of the foreseen sustainability of providing continued access to legal and related information through the establishment of a CLC;
2. To evaluate the need for a CLC on the MNC using the data collected in the LNA; and
3. If a need exists for such a centre, to use the LNA to demonstrate this need to the Commonwealth and State governments and to seek recurrent funding as a matter of priority.

The LNA will be completed and launched in November 2009. Though the analysis is only completed in draft form, the conclusions that can be drawn are strikingly clear: the MNC has a population with high levels of socio-economic disadvantage where communities are struggling to gain access to equal access to affordable legal representation. The demand for free, easily accessible legal representation, community legal education and legal outreach services to target disadvantaged communities has been made clear through extensive research and consultation for the LNA.

SOCIO-ECONOMIC DISADVANTAGE – MID NORTH COAST PROFILE

Professor Tony Vinson has undertaken a number of studies of the geographic distribution of social disadvantage and in 2007 he published a national study of the distribution of disadvantage called *Dropping off the Edge: the distribution of disadvantage in Australia*. Professor Vinson includes the following as the main indicators of social disadvantage:³

SOCIAL DISTRESS: low family income, rental stress, home purchase stress, lone person households.
HEALTH: low birth-weight, childhood injuries, immunisation, disability / sickness support, life expectancy, psychiatric patients: hospital / community, suicide.
COMMUNITY SAFETY: child maltreatment, criminal convictions, imprisonment, domestic violence.
ECONOMIC: unskilled workers, unemployment, long-term unemployment, dependency ratio, low mean taxable income, and limited computer use / internet access.
EDUCATION: non-attendance at preschool, incomplete education, early school leaving, post-schooling qualifications.
COMMUNITY ENGAGEMENT

The MNC has nine postcodes ranked in the top six bands of social disadvantage in NSW.

Disadvantage rankings in NSW - Band 1 being most disadvantaged⁴
BAND 1: Bonalbo (2469), Brewarrina (2839), Kempsey (2440) , Lightning Ridge (2834), Tingha (2369), Windale (2306)
BAND 2: Bowraville (2449) , Casino (2470), Deepwater (2371), Menindee (2879), Urunga (2455) , Wellington (2820)
BAND 3: Armatree (2831), Coraki (2471), Harrington (2427), Nambucca Heads (2448) , Tweed Heads (2485), Walgett (2832)
BAND 4: Forster (2428) , Kurri Kurri (2327), Toukley (2263), Weston (2326), Woodenbong (2476), Wilcannia (2836)

³ Vinson, T, Unequal in life: the distribution of social disadvantage in Victoria and New South Wales, Ignatius Centre, Jesuit Social Services, Richard, NSW, 1999.

⁴ Vinson, T, Dropping off the Edge: the distribution of disadvantage in Australia, University of Sydney, commissioned by Catholic Social Services Australia and Jesuit Social Services, 2007.

BAND 5: Boggabilla (2409), Claymore (2559), Koorawatha (2807), Lake Cargelligo (2672), **South West Rocks (2431)**, Tenterfield (2372)

BAND 6: Ashford (2361), Bourke (2840), Broken Hill (2880), **Diamond Head (2443)**, Iluka (2466), Inverell (2360), Mt. Druitt (2770), **Sawtell (2452)**, **Taree (2430)**, Warrawong (2502)

The Relative Socio-economic Indicators for Areas (SEIFA) describes the socio-economic character of an area. It is derived from census information on attributes such as low income, low educational attainment, high unemployment and jobs in relatively unskilled occupations. Based on 2006 census information, two of the eight LGAs on the MNC (Nambucca and Kempsey) ranked in the top ten most disadvantaged areas in NSW in terms of relative socio-economic indicators.

A variety of sociodemographic groups have been identified in the literature as being relatively more vulnerable to suffering disadvantage. These groups include women, young people, older people, Indigenous people, people from a non-English speaking or different cultural background, people with a disability, people with low or no income, people with low education or literacy, people living in institutions (e.g. prisons, juvenile correction centres, immigration detention centres, nursing homes) and homosexual and transgender individuals.⁵ Considering these sociodemographic groups, the MNC has: areas with high concentrations of Aboriginal and Torres Strait Islander people⁶; the statistical division with the second highest number of people over the age of 65 in Australia⁷; high percentage of people with some form of disability⁸; and a median weekly individual income that is significantly under the Australian average.⁹

CONCLUSION

While DA does not dispute that there is a need for CLCs across Australia to be better funded, we share the view with the MNC CLC Project group that the disadvantaged communities of the MNC should not be asked to wait for this to occur in order to have local access to affordable legal representation. This can only be achieved by support from the State and Federal governments to establish a CLC on the MNC as a matter of urgency.

Recommendation

That the Commonwealth Attorney-General consider, in conjunction with his NSW counterpart, the establishment of a Mid North Coast Community Legal Centre.

⁵ Schetzer, L, Mullins J & Buonamano, R, Access to justice and legal needs: a project to identify legal needs and barriers for disadvantaged people in NSW – background paper, Law and Justice Foundation of NSW, Sydney, 2002.

⁶ Aboriginal and Torres Strait Islanders make up 9.5% of the Kempsey Shire population, 5.9% of the Nambucca Shire population and 4.2% of the Greater Taree population.

⁷ Australian Bureau of Statistics, Population Aged 65 and over, Statistical Divisions, Australia, 30 June 2007. The five statistical divisions with the highest proportions of people aged 65 years or over in June 2007 were in regional areas: Yorke and Lower North (SA) (20.7%), Mid-North Coast (NSW) (19.5%), Wimmera (Vic) (19.4%), East Gippsland (Vic) (18.2%) and Far West (NSW) (17.8%).

⁸ 5.7% of the population on the MNC has a need for assistance with core activities compared to 4.4% in NSW: Australian Bureau of Statistics, 2006 Census of Population and Housing.

⁹ The median weekly individual income for persons aged 15 years and over on the MNC was \$344, compared with \$466 in Australia: Australian Bureau of Statistics, 2006 Census Quickstats: Mid North Coast.