

30 April 2009



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

Email:

Dear Senator Crossin and Committee members,

### **Inquiry into Access to Justice**

The Women's Legal Centre (ACT & Region) thanks the Senate Standing Committee on Legal and Constitutional Affairs for the opportunity to make a submission on Access to Justice in Australia.

The Women's Legal Centre (ACT and Region) Inc (the Centre), is a Community Legal Centre accredited by the National Association of Community Legal Centres. The Centre has been operating successfully in Canberra since 1996. Its objectives are to:

- provide accessible, timely and accurate information, advice and assistance on legal and related matters to women in the ACT and region;
- raise awareness in the community about the law and the legal system as it affects women;
- and
- identify and challenge barriers to women's access to justice.

The Centre enjoys an excellent reputation in the Canberra community. It has a well

established and highly regarded management committee and is able to attract and retain high calibre staff. Acting from this stable and well-functioning structure, the Centre delivers a high quality legal service to women in the ACT and region.

The mainstay of the Centre's work is providing legal advice and assistance to women about individual matters. The Centre does this by operating an advice line each day; seeing clients face-to-face; and operating an evening advice service on Tuesday evenings where clients are given appointments with specialist volunteer solicitors. The Centre also undertakes law reform work on a range of matters that are important to women in the Canberra region. Locally, the Women's Legal Centre collaborates with the ACT Department of Justice and Community Safety, Legal Aid and other community partners on issues such as reform of Domestic Violence and the roll-out of the new Sexual Assault Reform Program. On a national level, we engage with the peak body 'Women's Legal Services Australia' (WLSA), which represents Women's Legal Services in each State and Territory. WLSA undertakes lobbying on family law, domestic violence and discrimination issues. This work includes preparing submissions to federal inquiries, meeting with Members of Parliament and the Attorney-General's Department, and networking with legal and non-legal services to voice the concerns of our client group. Given that all CLC clients face economic, social and/or cultural disadvantage, peak CLC bodies such as WLSA play a crucial role in ensuring that the voices of the marginalised are heard by Government and the broader community.

The Centre is also involved in the important work of community education. Each year the Centre runs 'Law Support', a training programme designed to assist non-lawyers who work with people engaged in family law and domestic violence issues. In addition, the Centre runs a 'Women and Justice Forum' each year, which is designed to raise awareness about legal issues facing women in our local community. Over the years, forum topics have included women and superannuation, changes to the family law legislation, Indigenous access to justice and restorative justice in cases of domestic violence.

The Centre currently has six staff members – two full time solicitors, one part-time solicitor, a coordinator, an Indigenous liaison officer and a part-time office manager.

## **Access to Justice in the ACT**

The Women's Legal Centre has had an opportunity to read the draft submission of the National Association of Community Legal Centres (NACLC) to this Inquiry. The Centre endorses that submission. In particular, the Centre notes the recommendations made by the Senate Committee in its report *Inquiry into Legal Aid and Access to Justice* tabled on 8 June 2004 ('the Committee's 2004 Report'). The NACLC notes that the problems recognised by the Senate Committee in that Report have become more pronounced and profound since that Report was tabled. The Women's Legal Centre's experience supports this view.

In addition to the endorsing the NACLC submission, the Women's Legal Centre wishes to make comment on three specific areas, these are:

- The inadequacy of current levels of funding for Legal Aid services across the country and in particular, for Legal Aid services in the ACT;
- the inadequacy of appropriately-targeted legal services for Indigenous women in the ACT and in the region; and
- the inadequacy of funding for the Women's Legal Centre to be able to conduct its business.

There can be no doubt that the second two points – the inadequacy of appropriate targeted legal services for Indigenous women and the inadequacy of funding for the Centre – are very much affected by the first area – that is, the inadequacy of current levels of funding for Legal Aid services. If Legal Aid services were appropriately funded, access to justice would be markedly improved for many Australians.

### **The Inadequacy of Legal Aid Funding**

It is well documented that Legal Aid services in Australia are underfunded. The Committee's 2004 Report noted that Commonwealth funding dropped steadily from 1996 to 2000 and that the four year funding package introduced in 2000 resulted, in real terms, in funding falling to below the level which it was at in 1996.<sup>1</sup> The draft NACLC submission states that the funding provided is 'even more inadequate as it has not kept pace with the increased costs of

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<sup>1</sup> Final Report *Legal Aid and Access to Justice*, Legal and Constitutional Committee, 8 June 2004, at 2.13.

running existing services and that the need for services has increased.’

Because of the significant under-funding of Legal Aid services, the means tests for people seeking assistance from those services is particularly strict. As a result, the gap between those who meet the Legal Aid means test and those who can afford to pay a private lawyer continues to grow.<sup>2</sup> Likewise, as a result of funding restrictions, Legal Aid is required to prioritise provision of legal services in matters of the most critical nature. For example, Legal Aid is generally prioritised for those who are accused of criminal offences and who are unable to afford a defence lawyer. Legal Aid funding for family law matters is primarily directed to matters involving children. Grants of aid for matters involving property or child support are much more limited. Restrictions on Legal Aid funding impact women to a much greater degree than men, as men are less likely to be the primary care-giver and more likely to retain a higher income-earning capacity through the marriage and after separation.<sup>3</sup> For this reason, they are less likely to need or qualify for Legal Aid in order to exercise their legal rights.

At its most fundamental, the effect of this is that Australians who are financially disadvantaged but do not qualify for Legal Aid and cannot afford a lawyer, often go without legal assistance. Such individuals have little or no meaningful access to our legal system. Australians in this situation are often not aware of their rights and entitlements, and have extremely limited capacity when it comes to enforcing them. The effect of this access-to-justice barrier is particularly significant because Australians who are unable to afford to pay for legal services are often Australia’s most disadvantaged citizens – Indigenous people, poor migrants and refugees, women – particularly after relationship breakdown, mentally ill people and disabled people.

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2 Final Report *Legal Aid and Access to Justice*, Legal and Constitutional Committee, 8 June 2004, which refers to R Hunter, J Giddings & A Chrzanowski, *Legal Aid and Self-Representation in the Family Court of Australia*, Social Legal Research Centre, School of Law, Griffith University, May 2003, at 2.56

3 J Giddings, ‘*Women and Legal Aid*’ in J Giddings (ed) *Legal Aid in Victoria: at the Crossroads Again*, Fitzroy Legal Centre, Melbourne 1998, 123.

Legal Aid funding priorities have a particularly negative impact on women given that the areas which are given preference by Legal Aid tend to privilege men over women.<sup>4</sup> Legal Aid preferences people who have been accused of serious criminal offences, and these people are mostly men.<sup>5</sup> The victims of these crimes may be women but the Legal Aid budget does not necessarily extend to providing legal assistance for victims of crime. Likewise, it is well documented that women are often financially disadvantaged in marital breakdown, sometimes because of lesser earning capacity, and sometimes due to a decision to raise children at the expense of paid employment.<sup>6</sup> Unless these women qualify under the strict means and merits tests, the Legal Aid budget simply does not allow for these women to receive appropriate legal assistance. There are many women who fall into the gap between those who are ineligible for Legal Aid and those who have the capacity to pay for private legal services. Some of the Centre's case studies include the following:

- The Centre assisted in a matter where the only significant property was a car worth about \$15,000, in the possession of the husband. The wife had primary care of the 4 young children and substantial debts in her name arising from the marriage. Legal Aid was denied on a cost/benefit basis, because of the small asset pool. The woman desperately needed a reliable car and could not afford to purchase a replacement. The husband did not need the car to travel to and from work. Unfortunately, the Centre's limited funding did not enable us to represent the woman in proceedings to have the car returned but the woman received assistance to represent herself in proceedings which were ultimately successful.
- A woman approached the Centre for assistance regarding contact arrangements for her two children. The woman had agreed to drive her two young children to Wagga every second weekend for three days so the father could spend time with them. She had a young baby from a new relationship who also had to travel with her because she was breastfeeding and her new partner worked shift work on weekends. The travel was tiring and stressful for the whole family. The woman initially stayed in Wagga with

4 Final Report *Legal Aid and Access to Justice*, Legal and Constitutional Committee, 8 June 2004, which notes the argument that women are systemically disadvantaged by the fact that Legal Aid is strongly biased towards the criminal law at 4.3 and 4.18.

5 Final Report *Legal Aid and Access to Justice*, Legal and Constitutional Committee, 8 June 2004 at 4.17

6 Final Report *Legal Aid and Access to Justice*, Legal and Constitutional Committee, 8 June 2004, particularly referencing J Giddings, 'Women and Legal Aid' in J Giddings (ed) *Legal Aid in Victoria: at the Crossroads Again*, Fitzroy Legal Centre, Melbourne 1998, 123 at 4.5

friends but this was difficult with a young baby who had unpredictable sleep patterns and she frequently had to pay for a motel. The father would not share any of the travel or travel expenses. The woman had agreed to the arrangement, and to undertaking all the travel, to enable her to move back to Canberra to be with her new partner and be closer to her parents who assisted with childcare. The agreement had been documented in a Consent Order. The woman wanted to apply to vary the Order so that the husband would travel to Canberra to see the children every second weekend. Aid was refused on the basis that the Orders had only been made within the last 12 months, so she did not have good prospects of success.

- A 55 year old woman had been refused aid for property settlement because she was going to receive funds from the sale of the jointly-owned home. She had suffered ill health for many years and was only able to work part-time and thought it likely in the near future that she would not be able to work at all. As a result of her patchy part-time work history, she had accumulated little superannuation. Her husband was earning a reasonably high income, had significant superannuation, was 49 years old and was in good health. He refused to agree to anything other than a 50/50 split of all the property, including superannuation. The advice was that a 70/30 split was appropriate. To litigate the matter would have wiped out any gains the client would have otherwise made from a 70/30 split and because of her health and the trauma of the separation was unable to conduct the matter on her own. The woman was essentially forced to agree to a 50/50 split.

It is the Centre's anecdotal experience that increasingly fewer solicitors in private practice offer representation on a deferred payment basis, that is, an arrangement where the client pays the solicitor's fees at the end of the matter, out of their proportion of the property settlement. Instead, women who cannot afford to pay their solicitor's fees upfront are increasingly offered 'litigation funding' where funds are borrowed from an independent credit provider at a high interest rate. These arrangements frequently decimate the amount the women would otherwise have received from the property settlement on a final basis.

## 2006 Amendments to the Family Law Act

The Committee is no doubt aware that unfair outcomes relating to family breakdown, property settlement and decisions about children which cannot be redressed by access to the legal system can have a profound effect on people's lives. The Committee's 2004 Report noted that women are particularly affected by a lack of Legal Aid funding in family law matters. There were a number of submissions in relation to that Report which noted that since 1997, the reduction of Commonwealth Legal Aid funds for family law matters has had a serious impact on the rights of adults and children who are the victims of domestic violence.

<sup>7</sup> In addition, access to justice is especially difficult for Indigenous women, women from culturally and linguistically diverse backgrounds and women with disabilities.

The Centre's experience is that these difficulties have not been relieved since 2004; on the contrary, they are now more significant. The changes to the child support scheme's formula, as well as the 2006 reforms in relation to children, have deepened the impact of limited Legal Aid funding for family law matters. This impact is particularly highlighted in two areas:

1. The 2006 amendments to the *Family Law Act 1975* established a presumption of equal shared parental responsibility, which triggers a consideration of whether children should spend equal time with each parent. This presumption and misunderstandings regarding its application have increased the importance of women obtaining clear, reliable and comprehensive legal advice in a supportive and trustworthy environment. Women and men are now mandated to attend family dispute resolution (FDR) to seek to resolve their issues, unless particular exceptions apply.<sup>8</sup> It is imperative that women have the option of accessing legal advice prior to participating in FDR to ensure that they are aware of their legal rights and obligations, and specifically, whether they have the option of seeking an exception to participating in FDR. This is particularly the case for women who have been subjected to domestic violence. Further, many women who contact the Centre are operating on the incorrect assumption that the *Family Law Act* now says that both parents get '50/50 time'. The strength of this incorrect community myth further highlights the need for women to understand that the best interests of the child will always be the court's paramount

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<sup>7</sup> Final Report *Legal Aid and Access to Justice*, Legal and Constitutional Committee, 8 June 2004, at 4.2

<sup>8</sup> See *Family Law Act 1975* (Cth) s60I

consideration, and that each parent has the ability to negotiate an arrangement that will best suit the individual circumstances of their individual child or children. In this context, legal advice plays an important role of helping the parties to ‘reality check’ what kinds of arrangements will be in their child’s best interests, drawing the parties away from a focus on numbers and percentages, towards thinking about what kind of arrangement will be workable in the long term. In this sense, legal advice often contributes to the sustainability and workability of agreements reached during FDR. In the Centre’s opinion, women who have not had the option of receiving legal advice prior to FDR are disadvantaged in negotiating parenting plans or consent orders. In some cases, particularly where there is a power imbalance between the parties, agreements reached without the benefit of legal advice are highly likely to reflect the wishes of the more powerful party, rather than the child’s best interests.

2. Following the 2006 amendments, the *Family Law Act 1975* (Cth) now includes a punitive costs provisions in circumstances where a party is proven to have made a false allegation about family violence. Regardless of how frequently these types of costs orders are being made in the courts, the very presence of the provision leads to a reluctance in women to raise allegations of domestic violence. Where a woman is weighing up whether or not to disclose details of domestic violence, her decision-making process will necessarily be impacted by the risk of such an order being made against her, particularly where she is concerned that she will not be able to “prove” the truth of their allegations due to a lack of corroborative evidence. It is particularly important for women who experience family violence to have access to legal advice about their individual circumstances and the likely impact of any history of domestic violence upon (a) the appropriateness of entering into the FDR process and (b) the arrangements that would be in children’s best interests. The work of the Centre in these areas has become increasingly important to ensure that some of the region’s most vulnerable citizens – including Indigenous women experiencing domestic violence – are not isolated from the justice system.<sup>9</sup>

The Centre offers a valuable service to women in the ACT region by attempting to fill the gap that is created where Legal Aid is unable to assist people in real legal need, and they cannot

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<sup>9</sup> See comments made below about the need for an indigenous women’s service in the ACT region.



afford a private practitioner. The Centre offers assistance to women in a range of circumstances including those who:

- need initial legal advice before attending FDR;
- need to formalise agreements reached during FDR as parenting plans or consent orders;
- need assistance in ongoing family law matters (including financial matters);
- need help as victims of crime, and/or
- are dealing with employment or discrimination matters.

### **Indigenous Women's Law Support Project**

The Centre currently operates an Indigenous Women's Law Support Project which is specifically designed to promote access to justice for Indigenous women in the ACT and region. The project funds an Indigenous liaison officer to link the Centre's services to the Indigenous community, provide community education and work with other community organisations to promote access to justice for Indigenous women. During the last 3 years, the number of Indigenous women accessing the Centre has more than doubled. However, despite its successes, the initial, non-recurrent funding grant for the project runs out in July 2009 and the Centre is struggling to find ongoing funding.

The Indigenous Women's Law Support Project began in 2005 as a joint venture with the ACT's Aboriginal Justice Centre. The Project was based on extensive consultations which highlighted the high level of unmet legal need in Canberra's Indigenous community, especially amongst women. The Centre's consultations showed that there was a significant need in the community for basic legal information, as well as legal advice and representation. This need was going unmet. Overall, the consultations showed that barriers to Indigenous women accessing the Centre's services included:

- a general distrust of the Australian legal system which, for so long, has been used in an authoritarian way as a tool to oppress Indigenous people and Indigenous culture;
- a lack of knowledge about community services, including the Women's Legal Centre, and the lack of a community relationships with Centre staff; and
- practical difficulties with phone credit, transport and child-care which prevent would-be clients attending appointments or accessing telephone advice services.

The results of the consultations were later supported by the findings of the *Circles of Support Report* of the ACT Council of Social Services and the Aboriginal Justice Centre. That report found that Indigenous women are the most legally disadvantaged group in Australia.<sup>10</sup> The Committee's 2004 Report also clearly reflected the above issues as barriers to justice for Indigenous women.<sup>11</sup>

Other research also highlights the fact that the legal problems of Indigenous women are often complex:

Aboriginal women's contact with the justice system does not involve only their direct contact with the police, the judiciary or prisons. Their contact must also be counted in terms of being the wives, mothers and sisters of the prodigious number of Aboriginal prisoners and as victims of homicide, assault and rape crimes at levels unheard of in the rest of Australia.<sup>12</sup>

The ACT has the highest proportion of Aboriginal and Torres Strait Islander victims of physical violence in Australia.<sup>13</sup> More than 33% (one in three) reported physical violence or threats in the last year compared to 24% (one in four) nationally.<sup>14</sup> Family breakdown is much higher in the Aboriginal and Torres Strait Islander community than for the rest of the Canberra community. By the age of five, less than half of Canberra's Aboriginal and Torres Strait Islander children live with both parents.<sup>15</sup> By the age of 10-14, slightly over 40% live with both their parents. The number of Indigenous children involved with Care and Protection Services is about seven times higher than for non-Indigenous children.<sup>16</sup>

These statistics demonstrate some of the complexities of the social and legal situation of

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10 ACT Council of Social Services and the Aboriginal Justice Centre *Circles of Support: towards Indigenous Justice: Prevention, Diversion and Rehabilitation*, July 2008 at 25.

11 Final Report *Legal Aid and Access to Justice*, Legal and Constitutional Committee, 8 June 2004, at 5.100

12 Payne, S. "Aboriginal Women and the Law" in P.W. Easta and S. McKillop (eds) *Women and the Law* (AIC Conference Proceedings, No 16, Canberra 1993) at 65

13 Chief Minister's Department, ACT Government, *A Social and Cultural Profile of Aboriginal and Torres Strait Islander People in Canberra*, August 2004 at 65. Available at: [http://www.cmd.act.gov.au/\\_\\_\\_data/assets/pdf\\_file/0018/1872/social\\_cultural.pdf](http://www.cmd.act.gov.au/___data/assets/pdf_file/0018/1872/social_cultural.pdf)

14 Ibid.

15 Above note 13 at 19.

16 Above note 13 at 17, 19 and 65.

Indigenous women in the ACT. By commencing the Indigenous Women’s Law Support Project, the Centre sought to address the fact that local Indigenous women need access to legal advice and education in order to address the complex cycles of abuse, poverty and under-privilege which they face. Without such access, high levels of disengagement and disadvantage will remain. Because of the high levels of violence and family separation, the Centre has focused specifically on ensuring that local Indigenous women can obtain quality legal advice and information in relation to family law and domestic violence matters.

In the Centre’s view, the mere ‘availability’ of legal services to the general population is insufficient to provide access to justice for Indigenous people. Indigenous women need specific, targeted legal services from a source which they trust. For example, the ACT’s recent *Circles of Support Report* found that Indigenous people require specialised support to access law and justice services, and are more likely to ‘open up and have a yarn’ with an Indigenous worker than a non-Indigenous worker.<sup>17</sup>

Further, issues of disadvantage are likely to impact upon the appropriate model of service delivery in terms of legal advice and assistance. For example, lack of literacy may mean that communication by mail is not appropriate.<sup>18</sup> Further, in the Centre’s experience, the legal problems of Indigenous clients are more likely to be complex and inter-related with other social and family issues. Clients in these kinds of complex situations do not fit easily within the conventional ‘matter-based’ Legal Aid funding model, where clients require separate grants of aid—and potentially, separate solicitors—for each element of their situation. For example, a woman may need to apply for three separate grants of Legal Aid for assistance with obtaining a Domestic Violence Order, negotiating a property settlement with her ex-partner and applying for Victim’s compensation related to the Domestic Violence. In these circumstances, a holistic approach to the issues which allows the client to work intensively with a solicitor whom they trust, and includes drawing in other community supports, is most likely to provide a sustainable resolution.

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<sup>17</sup> ACT Council of Social Services and the ACT Aboriginal Justice Centre *Circles of Support: towards Indigenous Justice: Prevention, Diversion and Rehabilitation*, July 2008 at 12.

<sup>18</sup> See: Cunneen, C & Schwartz, M *Funding Aboriginal and Torres Strait Islander Legal Services: Issues of Equity and Access* (2008) 32 Crim LJ 38 at 43.

The desirability of a flexible service model, delivered by solicitors who have a relationship with the local Indigenous community, is clearly demonstrated by the experience of the Centre in running the Project over the past three years. This flexible model also increases access to community members who may otherwise never take the first step of engaging with a legal service. For example, in November 2007, the Centre's Indigenous Liaison Officer and a Centre solicitor performed a home-visit to an Indigenous women who could not leave her own home as she is the full-time carer of her elderly disabled relative. During the home visit, several other family members and friends came to the house to seek advice. The solicitor ended up providing four Indigenous women with advice about six different matters, in addition to referring three men to the Aboriginal Legal Service. It is unlikely that these clients would have otherwise accessed legal assistance.

By way of further example, the Centre was recently able to assist a number of Indigenous women to make claims to the Queensland government for compensation due to their experiences as part of the stolen generation. The scheme offered no payment for legal advice for Level 2 payment claims, which required submissions and supporting documentation to establish the harm claimed. Without the support of the Centre, these women would not have been able to exercise their legal right to financial compensation.

The Centre's project clearly has resource limitations. However, in the Centre's submission, the work carried out by our Indigenous liaison officer and Centre staff is an enormous improvement on the complete lack of specific legal services available to Indigenous women in the ACT. The demand met by the project, and the increasing number of Indigenous clients seeking the Centre's assistance clearly demonstrates the need for such a service in the ACT community.

As noted above, the number of Indigenous women accessing the Centre has more than doubled during the life of the Project. At the commencement of the Project, the Centre's Indigenous clients averaged about 2% of our 1100 clients per year. It is apparent that before the introduction of the Project, a large number of Indigenous women were not seeking legal advice from other service providers. Indigenous clients contacting the Centre have pointed out that the local Aboriginal Legal Service (ALS) is of limited assistance to many Indigenous women, largely because the ALS focuses on the defence of Indigenous people charged with

criminal offences. Further, these clients are also often the victims of violent offences perpetrated by ALS clients, and are therefore ‘conflicted out’ of receiving ALS assistance.

The information and statistics set out above clearly indicate that in addition to the ‘usual’ barriers experienced by disadvantaged women who need Legal Aid (discussed above), Indigenous women face access-to-justice barriers that are specific to their social and cultural circumstances.<sup>19</sup>

In the Centre’s submission, the ACT region requires a specific, targeted Indigenous women’s legal service. The Centre’s Indigenous Women’s Law Support Project has begun the groundwork for such a centre. However, the project itself is now under threat due to funding constraints. Unfortunately, if the Centre cannot secure ongoing funding for the Project, it is likely that this newly-established, well-functioning link between Indigenous women and the ACT justice system and will be lost, along with the community’s trust and confidence. Accordingly, from the Centre’s perspective, finding appropriate funding is a serious question of access to justice for Indigenous Australians.

### **The Centre’s Funding Position**

Like many other Community Legal Centres (CLCs) around the country, the Women’s Legal Centre (ACT & Region) is significantly under-funded in relation to the services it provides to the local community. Details regarding the value for money that CLCs provide to Federal, State and Local Governments is outlined in detail in the draft NACLCLC submission to this inquiry. However, our Centre would like to highlight the issue of staff remuneration in the context of operating our small community legal centre and the Indigenous Women’s Law Support Project. Our staff, like staff in legal centres across the country, are very significantly underpaid.<sup>20</sup> This is particularly problematic in Canberra, where competition for competent and committed employees is often fierce.

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<sup>19</sup> Final Report *Legal Aid and Access to Justice*, Legal and Constitutional Committee, 8 June 2004, at 5.118

<sup>20</sup> See the draft submission of the National Association of Community Legal Centres to the Committee, where it is noted that the Community Legal Centres pay 29%-38% below the comparators. See also the National Association of Community Legal Centre commissioned report entitled *Remuneration Recommendations*, October 2006, esp page 10

For the 2008-2009 financial year, the Centre was able to offer staff bonus monthly payments, so that their overall remuneration packages were level with salaries paid by the ACT Government. The comparable ACT government salaries are notably lower than Commonwealth government salaries, in particular, salaries paid by the Commonwealth Attorney-General's Department. They are also notably lower than the private sector and lower than salaries paid by Legal Aid.<sup>21</sup>

The reason that the Centre was able to (in effect) raise staff salaries (by way of a fortnightly bonus payment over the course of the 2008-2009 financial year) was because of to the Federal Government's one off funding payment to Community Legal Centres made in April 2008. Unless appropriate ongoing funding is forthcoming, the Centre will have to revert to its existing base salaries for staff. These salaries are becoming increasingly unworkable and unfair.

For example, in April 2008, the Centre's Principal Solicitor (usually held by an expert family lawyer with more than 10 years post-admission experience) was paid \$54,853 per annum (with approximately \$7,000 available in salary sacrificing entitlements). An equivalent lawyer at the ACT government (at Level 8, Paypoint 4) was paid approximately \$67,158. An equivalent lawyer at the Commonwealth Attorney-General's Department (a Principal Legal Officer) was paid over \$100,000.<sup>22</sup>

Other staff at the Centre are likewise underpaid and approximations of the differences in salaries are contained in this table, which was prepared by the Women's Legal Centre in April 2008:

<b>Position</b>	<b>Current Amt</b>	<b>12% on costs</b>	<b>Appropriate Amt</b>	<b>12% on costs</b>
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21 See the submission of the National Association of Community Legal Centres to the Committee, where it is noted that the Australian Legal Assistance Forum will soon be writing to the Australian government referring to salary parity and portability of leave for Legal Aid providers. They will refer to research showing that differences in salaries between the State Legal Aid Commissions and the Aboriginal Legal Services across the country were in the order of 25% on average and were in one state at least as high as 48%.

22 These figures are concomitant with the figures at the table on page 10 of the National Association of Community Legal Centre commissioned report entitled *Remuneration Recommendations*, October 2006.

Principal Solicitor	54,853	6,582	67,158	8,058
Solicitor	51,475	6,177	62,290	7,474
Coordinator	53,727	6,447	58,659	7,039
Office Manager	42,128	5,055	45,165	5,419
Indigenous Liaison Officer	44,203	5,304	51,334	6,160

Figures above based on the following information about full time positions, as at April 2008:

<b>Current position</b>	<b>Level &amp; Paypoint</b>	<b>ACT Govt Rates</b>
Principal solicitor	Level 7 Paypoint 2	level 8 Paypoint 4
Solicitor	Level 6 Paypoint 4	level 8 Paypoint 1
Coordinator	Level 7 Paypoint 1	level 7 Paypoint 1
Office manager	Level 4 Paypoint 3	level 4 Paypoint 3
Indigenous Liaison Officer	Level 5 Paypoint 2	level 6 Paypoint 1

Note also that staff at the Centre have access to salary sacrificing options, which increases their salaries by up to approximately \$7,000 per annum.

These figures are conservative. They do not purport to represent the kind of money that the Centre's staff could attract on an open market. Rather, these figures indicate the type of salary that ACT government departments are prepared to pay for officers of equivalent experience to the Centre's staff. Note also that the salaries paid by the ACT government are well below what the Commonwealth government is prepared to pay.

This is important because, as the NACLC points out in its draft submission, 'it is not appropriate for the Australian or State governments to rely on the self sacrifice of community sector workers to achieve the outcomes the Australian Government asserts are essential to its social inclusion program and a fair and just society.'

Moreover, the disparity in funding is becoming a real problem in terms of the service that the

Centre is able to deliver. The Centre has been lucky in attracting exceptionally high calibre of staff to work at the Centre. However, recruitment is almost always by word-of-mouth and due to the outstanding reputation of the Centre in the Canberra region. The Centre's experience is that advertising in the press for positions with the Centre sometimes fails to elicit a single response.

This situation is unsustainable. The Centre simple cannot continue to lower salaries (in real terms) and expect to be able to attract and retain quality staff. At some point, the Centre will be forced to make the decision to employ less staff, and this will have a profound effect on the services that the Centre will be able to deliver. This is because the Centre is built on the reputation and commitment of its staff. Without those staff, the Centre could not fulfil its objectives.

### **Summary**

The Women's Legal Centre thanks the Senate Standing Committee for the opportunity to make a submission on this very important topic. If you would like to discuss any aspect of this submission, please contact Rhonda Payget, at the Women's Legal Centre in Canberra on (02) 6257 4377 or [rpayget@womenslegalact.org](mailto:rpayget@womenslegalact.org).

Yours Sincerely,

*signed*

Rhonda Payget

Solicitor

Women's Legal Centre (ACT & Region)

PO Box 1726

Canberra City

ACT 2601

Ph: (02) 6257 4377

Fax: 902) 6257 0848