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Senate Select Committee into the Abbott Government's Commission of Audit
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Senators,

Submission to the Senate Select Committee into the Abbott Government's Commission of Audit

We welcome the opportunity to provide a submission to the Senate Select Committee into the Abbott Government's Commission of Audit and provide this submission in response to Terms of Reference a. and b.

1. About the Hunter Community Legal Centre

The Hunter Community Legal Centre (HCLC) was established in 1991 as an independent, not for profit, Community Legal Centre (CLC), funded by the State and Federal Attorneys General Departments. HCLC is one of 39 CLCs in New South Wales, and 200 nationally, which provide essential free legal advice and assistance services, and therefore equal access to justice, for disadvantaged and vulnerable people and groups in Australia.

The HCLC provides free legal advice and representation to disadvantaged people in the Newcastle and Hunter regions. It is based in Newcastle, and conducts free legal advice clinics at outreach locations in Cessnock, Raymond Terrace, Muswellbrook and Port Stephens. It provides free duty solicitor services for disadvantaged people in a number of courts in the Hunter region.

The HCLC also conducts a Community Legal Education (CLE) program for community groups and community sector workers on a range of legal matters, and engages in law reform projects to address inequalities in the legal system that impact adversely upon its clients.

Over 50% of the assistance provided by HCLC is through its Family Law Programs. These programs are all funded by the Federal Government. They provide a free duty solicitor service for self-represented litigants in the Newcastle Family Court and the Federal Circuit Court, as well as free legal advice by appointment in separation, divorce and parenting matters. The programs also provide free legal advice to parents undertaking family dispute resolution at the Newcastle and Taree Family Relationship Centres.

2. Statistics

The level of assistance provided by HCLC in the Hunter grew by more than 10% in the year ending June 2013. In that year HCLC provided information, advice, casework and court representation to a total of **2376** people in the Hunter region.

Court representation was provided by HCLC's Solicitors to clients of the Women's Domestic Violence Court Assistance Scheme at Belmont and Newcastle Local Court and to clients with intellectual disabilities referred by the Criminal Justice Support Network (CJSN). Court representation provided to clients of the CJSN accounted for approximately 40 % of all matters involving court representation undertaken by HCLC.

In the family law programs, over 144 clients were assisted at court, and 201 clients were provided with face to face legal advice and assistance with documents. An additional 154 clients, referred from the Family Relationship Centres in Newcastle and Taree, were assisted with face to face legal advice and (in some cases) legal representation in mediations.

3. Funding cuts announced by the Federal Attorney General in December 2013.

In December 2013 the Federal Government announced funding cuts of \$43.1m over four years to all free legal assistance services, including \$19.6m to the CLC sector nationally. These cuts are short sighted and demonstrate a failure to understand the social and economic value of the services provided by CLCs and their partners in the free legal assistance sector. They will have huge social and economic costs that will far out-weigh any savings made.

Studies into the cost-benefits of CLCs have shown that for every dollar spent on funding for CLCs, they return \$18 worth of benefit to society in reducing social and economic costs.

There already exists a significant shortfall in the availability of free legal assistance services for disadvantaged people in Australia. Nearly half-a-million people each year are turned away from free legal help across a range of areas of law and in specific geographic locations because of a lack of resources or capacity in the sector to deal with unmet legal needs. For example, at HCLC the number of people seeking advice on employment issues who are turned away has exceeded the number of people assisted because of a lack of staff available to provide employment law advice.

In the light of this established fact, any funding cuts will inevitably have an adverse impact on frontline service delivery and therefore the ability of the most disadvantaged and vulnerable members of our community to obtain equal access to justice. In short, it is impossible to see how frontline legal services will not be affected by these cuts.

4. Case studies

The following case studies are real matters dealt with by HCLC on a daily basis. The names of the clients have been changed to protect their confidentiality.

Case Study 1

Kate was a defendant in an Apprehended Personal Violence Order (APVO) and approached HCLC's Solicitor at Court for assistance. The Solicitor identified that Kate had a mental health issue and had also been charged with a number of offences. The Solicitor provided Kate with advice at court and sought an adjournment to allow a suitable report to be obtained from Kate's doctors in relation to her mental health issue. The Solicitor subsequently appeared for Kate on the next occasion and made an application that Kate's charge matters be dismissed pursuant to Section 32 of the Mental Health (Forensic Provision) Act 1990. The Magistrate accepted the Solicitors' submissions and the charge matters were dismissed.*

Case Study 2

Sally contacted HCLC after receiving a letter of demand from a financier in respect of a personal loan that Sally thought had been discharged more than six years ago. A Solicitor provided initial telephone advice to Sally. Sally contacted HCLC again a number of months later after having been served with a Statement of Claim. A Solicitor assisted Sally by drafting a Defence and representing her at Court. The matter was resolved with the financier discontinuing the proceedings and legal costs in the amount of \$1,665.88 being awarded against the financier.*

Case Study 3

Fiona was referred to HCLC by a community organisation. She was in urgent need of assistance. There were current proceedings before the then Federal Magistrates Court, in which Fiona was required to comply with Directions by the Court to file a Response to her ex-partner's property application. There was no parenting application before the Court. Fiona had applied for but been refused Legal Aid. Fiona had attempted to prepare and file documents herself, but the documents were refused by the Registry as they were not in the correct form. If Fiona did not file documents, there was a risk that the matter would proceed to an undefended hearing.

Fiona has six (6) children, some of whom have significant health problems. There was an extensive history of family violence against Fiona and her children. Her ex-partner had been convicted of several offences, including an assault on one of the children. There had been numerous FACS interventions and the children were removed from Fiona's care on several occasions due to the children being exposed and subjected to family violence. Following separation, Fiona and the children had remained in the former matrimonial home. Fiona was eager to retain the home to provide stability for the children.

HCLC provided initial urgent assistance to Fiona by drafting her Response, Affidavit and Financial Statement. Fiona's Response also included proposed parenting orders seeking sole parental responsibility for the children and orders that they spend no time with her ex-partner. The HCLC provided further assistance to Fiona on the next court date by representing her at court. The HCLC Solicitor assisted Fiona in negotiating orders for an independent valuation of the former matrimonial home and an Independent Children's Lawyer was appointed. The HCLC Solicitor also appealed the original refusal of Legal Aid and was ultimately successful in obtaining a grant of Legal Aid for her.

5. Conclusion

The funding cuts to free legal assistance services announced by the Federal Government in December 2013 will almost certainly put some or all of HCLC's frontline services at risk. At particular risk are programs which rely heavily on experienced or specialised solicitors (such as the duty solicitor services in the Local Court, the Federal Circuit Court and the Family Court) or which are by nature resource intensive (such as the outreach services). This will impact directly and adversely on women who are the victims of domestic violence and people with intellectual disabilities or mental health issues, such as those in the above case studies, as well as other disadvantaged people or groups such as those on low incomes or Centrelink payments, those with language or literacy problems, or those who live in poorly serviced areas of the Hunter.

Yours Sincerely,

Liz Pinnock
Managing Solicitor