



Central Queensland Community Legal Centre Inc Submission to the Senate Legal and Constitutional Affairs Committee on Access to Justice

INTRODUCTION

The Central Queensland Community Legal Centre Inc. (CQCLC) appreciates the opportunity to provide a submission to the Senate Legal and Constitutional Affairs Committee for the inquiry into the "Access to Justice". This submission aims to respond to and makes particular reference to the following as they relate to the Central Queensland Region;

- The ability of people to access legal representation;
- The adequacy of legal aid; and
- The adequacy of funding and resource arrangements for community legal centres.

This submission by the CQCLC is based on some preliminary results from a current study of the client data base and the relevant demographic statistics relating to the use of community legal services in Central Queensland

BACKGROUND

Who we are

The Central Queensland Community Legal Centre Inc. (CQCLC) is a free service dedicated to providing informed legal advice to disadvantaged members of the Centre's community. CQCLC operates on a pre-emptive basis undertaking community legal education seminars, campaigning for social justice by way of law reforms and policy reform work. We operate on a social inclusion basis and we consider this to be an important factor in providing access to justice. CQCLC is run as an independent, non-profit organisation funded by grants made to it by the State and Federal Government, donations from the general public and from membership fees. CQCLC operates as a member of the National Association of Community Legal Centres (NACLC) and as such is supportive of their policies on the provision of community legal services.

Our areas

The CQCLC's established services areas are the Statistical Divisions of Fitzroy and Central West. These account for 5.2% of Qld's population and represent a population of 211 947 current at June 30, 2006. Included in these Statistical Divisions are the Statistical Local

Areas highlighted by the 2006 Census SEIFA as being in the first deciles of disadvantage in the state of Queensland¹. These are Mount Morgan, Woorabinda and Boulia.

Mount Morgan has also been labelled as Queensland's State Local Area with the highest unemployment rate of 22.3% for the September Quarter 2005². Mount Morgan was further included in the Dropping off the Edge Report³ as being within the top 20 of the most disadvantaged Local Council's or Shire regions in Queensland.

ACCESS TO LEGAL REPRESENTATION

Legal Need at the Local Level

There have been numerous studies that have aimed at finding the link between disadvantaged areas and the need for legal assistance. There is considerable literature that links socio-economic demographics of an area with the need for corresponding services. In particular, for those who live in high socially disadvantaged areas, the need for those services is more pronounced.

It was after the publication of the Review of the Commonwealth Community Legal Services Program March 2008⁴, which analysed the legal need at the statistical local area level, that it became apparent that the CQCLC required a more detailed demographic breakdown of its client base at a suburb level to see whether the relevant target groups were being effectively serviced. This meant analysing the suburb and pre-amalgamation local government area to better understand the socio-economic profile of the CQCLC's clients.

From the preliminary results of its current research, the CQCLC has noted that the more disadvantaged the area the more likely it is for people to seek the assistance of the CQCLC's legal services. CQCLC's statistics for the period 2004 to 2008 show that a large proportion of its clients are from areas that are more disadvantaged. By using the SEIFA⁵ Census 2006 data and measuring by way of the Index of Relative Socio-Economic Disadvantage, it was found that in a five year period, **90%** of the CQCLC clients were from suburbs that have a decile index from one to five in the State of Queensland, with one being the most relative disadvantaged and ten being the least.

Further CQCLC's statistics show that of the total number of clients who recorded their demographics, 73% recorded their income as being within the low range, 24% recorded as

¹ Australian Bureau of Statistics (2006) *Information Paper: An Introduction to Socio-Economic Indexes for Areas (SEIFA)*, Cat. No. 2039.0, Australian Government, Canberra.

² Queensland Regional Statistical Information System (2005) URL: <http://www.treasury.qld.gov.au/services/stats/grsis.shtml>

³ Vinson, (2007) Dropping off the edge report, URL: <http://www.australiandisadvantage.org.au/>

⁴ Attorney General's Report (2008), *Review of the Commonwealth Community Legal Services Program March 2008*, Australian Government, Canberra.

⁵ SEIFA, draws on Census data (2006) and uses four summary measures. Each index is a summary of the various aspects of the socio-economic conditions in a particular area, and is known to provide a solid grounding in order to measure various aspects of economic and social factors that have been accepted as being indicators of disadvantage.

being in the medium range and only 2.17% recorded as being in the high range. Clearly the CQCLC is servicing those who fall within the definition of being relatively disadvantaged. This is consistent with the findings of the Review of the Commonwealth Community Legal Services Program March 2008 which found that Community Legal Centres are “providing services to clients who are significantly disadvantaged⁶”. The report further noted that 58% of clients were receiving income support, 82% had an income of \$26,000 or less per annum, and 9% recorded a disability⁷.

A Survey of Legal Needs

However, what comes into question is whether there is an ‘unmet’ legal need of people who are yet to reach such services. National Legal Aid puts it this way:

“[T]here is a level of need which is not known and not met and which is likely to go well beyond the applications to Legal Aid Commissions for legal assistance...”⁸.

It is argued that there exists an ‘unmet’ legal need that cannot be measured by the use of legal services, as the relative disadvantaged people with potential legal problems do not have the means to avail themselves of the services.

The problems people encounter involve a ‘cluster’ of problems which can extend far beyond a legal issue. It has been said “one cannot sensibly separate the legal from the social”⁹. Further that “[w]hen people face legal problems, most do not go directly to a lawyer for assistance”¹⁰. It is submitted that in order to gain an accurate account of ‘access to justice’, both the social and legal needs should be measured. CQCLC operates within such a co-operative service delivery framework¹¹, and would find a wider approach very useful in evaluating the needs of local areas. The co-ordination of the provision of services should include social, legal and other support services easily accessible by people within their community. This would be likely to improve the effectiveness of their delivery. The Regional Legal Assistance Forum run by Legal Aid Queensland is an example of process designed to evaluate local needs whilst taking into account the many non legal services whereby clients often present first with their legal problems. Within the requirements of client confidentiality, it would also allow for

⁶ Attorney General’s Report (2008), *Review of the Commonwealth Community Legal Services Program March 2008*, Australian Government, Canberra, p 6.

⁷ Attorney General’s Report (2008), *Review of the Commonwealth Community Legal Services Program March 2008*, Australian Government, Canberra, p 6.

⁸ National Legal Aid Submission to the Senate Inquiry into Legal Aid and Access to Justice, (2003) *Submission 81*, p.8

⁹ Legal Aid Queensland (2008) *Legal Needs Study; An overview to inform the LAQ strategic planning process*, p 19

¹⁰ Clarke & Forell (2007), *Pathways to justice: the role of non-legal services*, Law and Justice foundation NSW, 1 June, 2007.

¹¹ Attorney General’s Report (2008), *Review of the Commonwealth Community Legal Services Program March 2008*, Australian Government, Canberra, p 8.

comprehensive data sets to become available so that data can be shared and utilised for delivery of services within the community.

It is evident that where there are areas of high disadvantage, the services within that community need a collaborative approach to work together to access the individuals who require help. No individual service alone can target the multi-levelled problems that exist for people who live in areas of high disadvantage. A holistic approach between **all** services, both social and legal, and both Commonwealth and State funded, needs to be established.

Recommendation: The Commonwealth should commission and fund a body to carry out an access to justice survey at a local level that targets clients who are accessing both social and legal services regardless of how these services are funded. This will ensure an accurate account of the social and legal needs of the community.

ADEQUACY OF LEGAL ASSISTANCE

Coverage of Civil Law

From 2006 to 2007 the Community Legal Services Information System recorded 62% of community legal centres activities being civil law based¹², with the main problem areas involving credit and debt and employment issues. CQCLC's statistics show that 48% of the activities in a five year period were of a civil nature. Of these activities 460¹³ were referred to a private solicitor.

It is important to consider the provision of civil law services in a recent historical context. Legal Aid's Civil Law Branch was a provider of civil law services, however, the Branch had massive budget cuts in 1997. Since then it has had to operate on minimal resources. This means that disadvantaged civil law litigants who cannot afford private representation have been unable to access any kind of legal representation for Magistrates or District court hearings. In particular, we make reference to the fact that no civil law Legal Aid solicitor is in place for the Statistical Divisions of Fitzroy and Central West. It has also been stated that the outlook for the next five years does not see any change.

This lack of adequate civil law services, with the nation in the midst of an unprecedented economic downturn and the consequent loss of jobs in the Fitzroy and Central West statistical Divisions, has put considerable strain on the resources of the CQCLC. Without a change in government policy towards the provision of civil litigation, there is a daunting future outlook for many potential civil law litigants who cannot afford their own legal representation. The

¹² Attorney General's Report (2008), *Review of the Commonwealth Community Legal Services Program March 2008*, Australian Government, Canberra, p 18

¹³ This includes information requests and where an advice session was given and then the client referred.

CQCLC agrees with The Law Council of Australia in that “the provision of legal aid for civil law matters will remove a substantial barrier to access to justice”¹⁴.

The CQCLC supports the restoration of a national civil legal aid program and recommends the Commonwealth to reinstate a budget which allows for same to occur.

Recommendation: The Commonwealth should increase funds to ensure civil law representation is available to disadvantaged people

RESOURCING LEGAL SERVICES

Recruitment and retention of legal practitioners to Rural, Regional and Remote Areas

There appears to be a considerable shortage of legal professionals and this figure is estimated to decrease¹⁵. Government initiatives are recommended in order to attract legal practitioners to rural, regional and remote areas of Australia. CQCLC has encountered similar problems stemming from a local community level. Recent meetings between community service providers focussed on the real difficulty in trying to firstly recruit and then retain legal professionals within the community. This problem in professional recruitment continues even though funding has been allocated to these services leaving these services under staffed. CQCLC supports the National Association of Community Legal Centres new project to identify and support Practical Legal Training Students for Work Experience Placements in CLC's in Rural, Remote and Regional Australia¹⁶. CQCLC agrees with the incentive approach of the Law Council Australia¹⁷. One of the incentives that is recommended by the Law Council Australia is the HECS repayment scheme as an incentive to attract lawyers to work in rural and regional areas of Australia. The CQCLC agrees that something similar to the medical scheme to reimburse participants 1/5th of their HECS-HELP fees for each year of service in a designated rural and remote area should be seriously considered¹⁸.

Recommendation: The Commonwealth Government to establish incentives for legal practitioners to work in rural, regional and remote Australia.

CONCLUSION

From the perspective of a provider of legal services to disadvantaged persons, there is a need for an integrated approach to the provision of legal services and a greater interaction with other community service providers at the local level.

¹⁴ Australian Law Council (2009) *Legal Aid and Access to Justice Funding submission for 2009/2010*. Canberra

¹⁵ TNS Social Research, (2006) *Study of the Participation of Private Legal Practitioners in the Provision of Legal Aid Services in Australia*, and Urbis Keys Young, *The Solicitors of New South Wales in 2015 – Final Report*, The Law Society of New South Wales.

¹⁶ National Association of Community Legal Centres, (2009) URL: <http://www.lawgraduatesrrrclc.com.au/index.html>

¹⁷ Australian Law Council (2009) *Legal Aid and Access to Justice Funding submission for 2009/2010*. Canberra.

¹⁸ Australian Law Council (2009) *Legal Aid and Access to Justice Funding submission for 2009/2010*. Canberra.

However, it is necessary for further research to be conducted to examine the underlying need for such legal and related services in rural, regional and remote areas at a localised level.

There would also appear to be a need for some extension of legal services to cover civil matters, particularly in the current adverse economic climate.

It is also difficult to recruit and retain lawyers in regional, rural and remote areas, and there needs to be some additional incentives to attract law graduates to these areas, possibly on professional practice development basis.

Current times are tough for all but they are even tougher for disadvantaged people in our society, and particularly for the ranks of the unemployed. Legal services are an essential element in our society and we would put it to the committee that now is the time for urgent action to address the legal needs of the disadvantaged in our community.