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Ms Sophie Dunstone
Committee Secretary
Senate Legal & Constitutional Affairs Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

By email: legcon.sen@aph.gov.au

Dear Ms Dunstone

Crime Legislation Amendment (Unexplained Wealth and Other Measures) Bill 2014

Thank you for the opportunity to comment on the Crimes Legislation Amendment (Unexplained Wealth and Other Measures) Bill 2014.

The effect of the Bill is to divert people who wish to contest unexplained wealth proceedings into the legal aid scheme, as the Bill prevents a person's restrained assets from being used to cover their legal expenses. This will see an increase in applications for aid for proceedings that are usually strongly contested and involve protracted litigation with sizeable payments to legal representatives and forensic experts.

The National Partnership Agreement on Legal Assistance Services (NPA) currently lists these proceedings as a Commonwealth priority for legal aid funding. Very few proceedings have been funded in Victoria by VLA, presumably because persons involved have had access to their own resources. The effect of the Bill will most likely mean that these persons will now be eligible on financial grounds and having been declared a Commonwealth priority matter, applications if made, will generally be approved. VLA will become the funder of these proceedings and may be able to exert some control over the cost and nature of the litigation and perhaps that is what is intended.

It is true that legal aid commissions can be reimbursed for the cost of these cases, but a case must be finalised and a bill of costs provided (per s293 of the *Proceeds of Crime Act 2002*) before reimbursement occurs. As cases can run for many years, significant sums of money can be spent along the way before reimbursement can be sought.

Our experience of analogous matters in the state jurisdiction is that this is a specialist area of litigation that would ordinarily require persons to be briefed from the independent Bar.

If the intention of the Bill is to contain litigation, then directing persons exposed to unexplained wealth proceedings (who are currently financing their own legal proceedings) into the taxpayer funded legal aid scheme may not have the effect that is intended. It would certainly expose legal aid

commissions to greater administrative burden as they take up more of a role in claims and cost management of these matters, for a class of client who VLA would not typically consider to be a priority client.

If you would like to discuss any of the above matters further, please contact Tilda Hum, Policy & Executive Officer to discuss

Yours faithfully

BEVAN WARNER
Managing Director