



ILLAWARRA LEGAL CENTRE INC

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**The Secretariat
Senate Legal and Constitutional Committee
Room S1.61, Parliament House
Canberra ACT 2600**

Dear Committee Members

Re: Inquiry into Current Legal Aid and Justice Arrangements

Thank you for the opportunity to address the Reference Committee's inquiry on current legal aid and justice arrangements. Please find some brief comments from the Illawarra Legal Centre below.

Background

The Illawarra Legal Centre is a community legal centre based in Wollongong on the south coast of NSW. The Centre receives funding from the Commonwealth and State Governments to provide free legal and related welfare services to people in the Illawarra region who experience social and/ or economic disadvantage. The Centre was established in 1985, and is managed by a voluntary Management Committee comprised of private solicitors, academics, community workers and community members. Illawarra Legal Centre has the following services: General Law; Child Support; Welfare Rights; Financial Counselling; Tenants' Service; and Children's Court Assistance Scheme.

A) Performance of Current Arrangements in Achieving National Equity and Uniform Access to Justice Across Australia

NSW Legal Aid

The Illawarra Legal Centre congratulates the NSW Legal Aid Commission for establishing a new Family Law Service in Nowra. The Illawarra Legal Centre provided a visiting Family Law Service to Nowra for many years through the late 80's and early 90's, and could never come close to meeting the extreme client demand for such a service. It was always more appropriate for Legal Aid to be providing these services in- house for such a disadvantaged region with high levels of family violence and child abuse.

The establishment of the Civil Law section at the Wollongong Legal Aid office in 1996 was also a progressive move by NSW Legal Aid. The Illawarra Legal Centre has found over the years that it has

been important for the Centre to be able to refer matters (and work jointly) such as rent control issues (eg older people living in poverty with lifelong tenancies), and cases where there are several jurisdictions coming into play.

Case Study

In the long established industrial suburbs of Wollongong, small pockets of rent control tenants are found in old, often dilapidated rental properties. Many of these tenants are aged, have disabilities and few support contacts and are poor. The substandard repair of their premises makes them even more vulnerable to health and security problems.

Following initial inquiries to determine the likelihood that the premises have a fair rent determination in existence, the matters are regularly referred to the local LAC.

The local court jurisdiction deals decisively if the matter is one where there is an attempt to evict the protected tenant. The LAC solicitors have successfully acted to protect security of tenure.

In the case where there is a serious failure to do basic and essential repairs, LAC solicitors have successfully negotiated agreements for repairs when the tenant is subject to rent control.

In a series of rent control cases in one area, local LAC solicitors successfully challenged rent increases and the landlord agreed to comply with the early fair rent determinations.

It should be noted that the LAC is one of the few services with workers that possess skills and knowledge of the old Landlord and Tenant Act of 1948. Private legal practitioners do not have such experience and have limited contact with such a vulnerable group of tenants within the community

Rural, Regional and Remote Coverage

It is the view of the Illawarra Legal Centre that more funding is required to meet demand for legal services in rural, regional and remote areas of NSW. For many years, the Illawarra Legal Centre was the only free general legal service available from southern Sydney to the Victorian border and up into the Southern Highlands. The establishment more recently of Shoalcoast Legal Service in Nowra, and Legal Aid Family Law Services in Nowra has eased the demand somewhat, but still leaves large geographical areas uncovered- particularly the Southern Highlands and lower south coast regions. These areas are isolated from major urban centres, and do not have private solicitors who are willing to undertake legal aid work.

It is the experience of this Centre that telecommunications solutions alone do not meet the need for legal assistance. Telecommunications services cannot undertake preventative legal work (eg community legal education) and do not provide a visible presence in the community to establish trust and cooperative relationships with other human service organisations. They do not replace face to face contact with clients who for a variety of reasons do not or cannot use the telephone (these clients are more likely to experience disadvantage generally).

This Centre also supports the view that communities must be consulted about the types of services they require prior to services being established. It is the view of this Centre that the establishment of Legal Aid offices and Aboriginal Legal Services are foundational to the meeting of legal need in isolated and rural communities. The establishment of community legal centres without these other foundational services leads to an overwhelming demand on generally small community organisations who do not have the resources, back up, personnel or expertise to address the demand.

Interpreter Services

The Illawarra Legal Centre is continually frustrated in its efforts to provide services to clients who do not speak English. The Illawarra is traditionally an area with high numbers of people from non- English speaking countries. We have populations of older people who have lived and worked in the area for many, many years, who still require interpreter assistance, especially for more complicated matters such as legal assistance. We have more recent arrivals who need assistance with settlement issues, and people experiencing family breakdown, who need independent legal advice and require an interpreter.

The Centre finds that it is very difficult to book a free face to face interpreter from the Commonwealth Translating and Interpreting Service, largely due to a "quota" system being filled weeks in advance. We often rely on the telephone interpreter- which makes the interpreting of written documents very difficult. We cannot access the NSW Community Relations Commission interpreters for Commonwealth matters, and cannot access free interpreters from either the State or Commonwealth services for after hours interpreting. Most of the Centre's face to face appointments are outside normal hours (because they are staffed voluntarily by private solicitors)- meaning that no clients who need interpreters are able to access this after hours service.

B) Implications of Current Arrangements in Particular Types of Matters

Social Security Matters

This Centre is aware that the lack of expert legal assistance for social security matters has a detrimental effect on clients. When a Centrelink client approaches a legal aid solicitor with a summons alleging they have committed an offence against the social security legislation, they are often advised of the benefits of an early guilty plea. They seem to generally enter a plea according to the advice they receive.

In social security law, the elements of an offence are less precise than in other aspects of law and a successful prosecution will often hinge on whether they 'knowingly' or 'recklessly' made a false statement or representation.

A Centrelink client however could benefit from proceeding with an administrative review first as if successful, the likelihood of criminal charges will be diminished. Administrative review tribunals have a wealth of experience dealing with complex factual and legal questions relating to social security law. Courts in which social security prosecutions are conducted don't have this experience, neither do the legal aid solicitors advising clients in relation to prosecution matters.

Thank you again for the opportunity to make these brief points.

Yours sincerely,



Jane Cipants
Coordinator