

Productivity Commission SUBMISSION COVER SHEET (not for publication)



Australian Government
Productivity Commission

Please complete and submit this form with your submission to:

Access to Justice
Productivity Commission
GPO Box 1428
Canberra City ACT 2601

OR

By facsimile (fax) to:
Pragya Giri (02) 6240 3399
By email: access.justice@pc.gov.au

Name (first name and surname): Gillian Wilks

If submitting on behalf of a company or organisation:

Name of organisation: Peninsula Community Legal Centre Inc.

Position in organisation: Acting Chief Executive Officer

Phone: 03 9783 3600

Mobile:

Email address: pclc@pclc.org.au

Street address: 441 Nepean Highway

Suburb/City: Frankston

State: VIC Postcode: 3199

Postal address: As above.

Suburb/City:

State:

Postcode:

Please note:

- Copyright in submissions resides with the author(s), not with the Productivity Commission.
- Following processing, public submissions will be placed on the Commission's website. **Submissions will remain on the Commission's website as public documents indefinitely.**
- As this is a public inquiry, 'in confidence' material can be accepted only under special circumstances. **You should contact the Commission before submitting this material.**
- For submissions made by individuals, only your name and the state or territory in which you reside will be published on the Commission's website. All other contact details will be removed from your submission.

Please indicate if your submission:

Is a public submission, it does NOT contain 'in confidence' material and can be placed on the Commission's website.

Contains SOME material supplied 'in confidence' (provided under separate cover and clearly marked IN CONFIDENCE).

The Draft and Final Reports will be available for viewing from the Commission's website – would you like to receive a hardcopy?

No (view online)

Yes (post)

Submission to Productivity Commission

Inquiry into Access to Justice
Arrangements: Response to Draft Report

21 May 2014



Peninsula Community
Legal Centre Inc

Introduction

Peninsula Community Legal Centre (**PCLC**) welcomes the opportunity to review and comment on the Productivity Commission Draft Report into Access to Justice Arrangements (**Draft Report**).

PCLC congratulates the Commission on its Draft Report which captures many important issues relating to access to justice for disadvantaged Australians - our area of focus - very well. In particular, we congratulate the Commission on recognising the significant economic and social benefits of investing in the legal assistance sector.

About Peninsula Community Legal Centre

Peninsula Community Legal Centre (PCLC) is an independent, not-for-profit organisation that has been providing free legal services to Melbourne's south-eastern communities since 1977. PCLC is one of the largest community legal centres in Australia, spanning a catchment of over 2,600 square kilometres, six local government areas and almost one million people, with a larger catchment area for some programs.

In addition to its general services, the Centre operates programs and services in family law, child support, family violence intervention orders, tenant and consumer advocacy and rooming house outreach.

As is typical of CLCs, PCLC provides legal information, advice, ongoing legal assistance and representation and undertakes community legal education, community development, law reform and legal policy activities.

Summary

We welcome clear statements in the Draft Report that:

- Rationales for the governments providing legal assistance include – ‘equity’ in terms of accessing the justice system; flow on benefits (economic and social) to the community; and addressing market failures (p.609).
- Unresolved civil legal problems can spiral without legal assistance and ‘not providing legal assistance in these instances is a false economy as the costs of unresolved problems are often shifted to other areas of government spending such as health care, housing and child protection’(p.28).
- Disadvantaged Australians are more susceptible to, and less equipped to deal with, legal disputes. Governments have a role in assisting these individuals. Numerous studies show that government funded legal assistance services generate net benefits to the community (p.2).
- Barriers faced by disadvantaged people are not just financial, and that even low cost remedies such as ombudsmen may prove inaccessible (p.28).
- CLCs play a key role in identifying and acting on systemic issues (p.622), that CLCs can ‘add an important and different voice to the sector’ (Victoria Legal Aid submission, p.623),

that advocacy can also be an efficient use of limited resources and that law reform and strategic advocacy should be a core activity of Legal Aid Commissions (**LACs**) and CLCs (p.625).

We urge the Commission to undertake more econometric work to capture the cost-effectiveness and cost benefits of investing in the legal assistance sector, and of the economic implications of some of the suggestions put forward by the Commission, including competitive tendering to allocate CLC funds.

As outlined in our first submission to this inquiry (sub. 28), the legal assistance sector is significantly underfunded. Although we are open to identifying and implementing potential improvements, we submit that **under-resourcing is the real issue facing the sector, rather than lack of efficiency in fund distribution or service delivery**. We note that funding for CLCs is a relatively small part of the funding for government funded legal assistance providers. In 2012-13 CLCs received \$67.6 million (p.575) out of the \$730 million in government funding provided to the sector in 2012-13 (p.29).

Recommendations

In order to further strengthen the Draft Report before it is finalised, PCLC recommends:

- Emphasising the capacity of CLCs to harness in-kind resources through volunteers and pro-bono contributions as a major benefit of CLCs on p.576 of the Draft report.
- Including a recommendation that duty lawyer schemes should be expanded, as part of a range of legal services, as recommended by previous inquiries (pp.446-447).
- Including a recommendation that further evaluation of duty lawyer services, as part of a range of legal services, is undertaken to develop the evidence-base for the impact of duty lawyer services in increasing access to justice and reducing costs to government.
- Including a recommendation that the Australian Government should significantly increase funding for the legal assistance sector to capture the significant social and economic benefits of sector investment.
- That, notwithstanding it could delay the publication of the final report, the Commission undertakes further econometric work to cost the savings of the preventative, early intervention, legal education, law reform and systemic advocacy work of CLCs, as well as the volunteer and pro bono contributions harnessed by the sector.

Including further research about the economic impact of the legal assistance sector in the final report will carry great weight and be very valuable to the sector in planning for future needs.

5.1 Understanding when problems have a legal dimension

Community legal education

PCLC welcomes references to and discussion of the economic benefits of community legal education (**CLE**) in the Draft Report in terms of preventing and minimising later costs. We recognise

that evaluating the effectiveness of community legal education is not straightforward. However, we urge the Commission to undertake further work to capture the economic value (in terms of cost savings to the community) of community legal education work, even if it can only be done by analysing some specific example projects.

PCLC suggests costing something like the following example:

Helping Kinship Carers Plan for Life's Unpredictable Events

The Mirabel Foundation is an Australian Children's Charity established in Victoria in 1998. It is the only organisation in Australia specifically addressing the needs of children who have been orphaned or abandoned due to parental drug use and who are now in the care of extended family (kinship care).

PCLC recently had the privilege of speaking with kinship carers from Mirabel about family law issues and other legal issues relating to wills, powers of attorney and guardianship of minor children in the care of extended family as a result of intervention by the Department of Human Services (DHS).

Following the talk, the Centre provided attendees with assistance in drafting Wills and Enduring Powers of Attorney, based on their special circumstances. By ensuring their estate planning affairs are in order, the attendees are able to provide for the children under their care in the future. Potential costs to government are also minimised.

This work was followed up by PCLC entering into a partnership with Permanent Care and Adoptive Families to hold a forum and produce a series of fact sheets addressing key legal issues for permanent care families. With a small grant from the Victoria Law Foundation and pro bono support from Russell Kennedy Lawyers, those fact sheets were launched at a forum on 30 April 2014, with the potential to positively impact on permanent care families across Victoria by helping them to recognise, address and in some cases prevent legal issues from arising.

PCLC welcomes the suggestion that the NACLCL Community Legal Education and Reform (CLEAR) database could be extended and used as a learning network with results from evaluations and pilot projects made available for the sector to draw on.

5.2 Information and advice for resolving disputes

In relation to Draft Recommendation 5.1, PCLC submits that benefits may flow from an improved, highly visible entry point or gateway for legal assistance and referral in each jurisdiction. However it is important that this does not become the sole point of entry, particularly for Australians experiencing disadvantage.

CLCs are an important source of information and advice for resolving disputes. CLCs are often the first point of contact for people with legal problems. They are visible (often in shop fronts), well-known organisations with strong connections to the local legal profession, other community organisations and partners. PCLC, like other CLCs, actively promotes its services to other organisations and the general public that those in need of free legal help know how to access us. In 2012-13, a third of our clients accessed us from their "general knowledge" of the Centre, having

been before, self-referred or been referred by family or a friend. It is vital for CLCs to remain highly accessible, with the ability to deal with the people who contact us directly.

We submit that any entry point or gateway needs to be equitable and efficient, and must

- Ensure that any information, advice and referrals provided are current and accurate.
- Not send disadvantaged and vulnerable clients on a referral 'merry-go-round.'
- If the entry point is provided by a service provider, ensure that a fair and transparent process is in place to allocate referrals between itself and other service providers.

PCLC already has an excellent working relationship with Victoria Legal Aid generally, as well as the Peninsula Regional Office of VLA, and both organisations cross-refer where conflicts of interest arise or the matter better fits within the work of the other organisation.

While there can be some benefits to centralised resource production (for example, PCLC uses Victoria Legal Aid, Victoria Law Foundation and other information brochures extensively to assist clients in understanding the law as well as distributing them at community legal education activities), CLCs also use their expertise in working with local communities to create local resources that are highly useful. It is important that this can continue to maximise the effectiveness of our work.

Past project: Family Violence Help Cards

PCLC worked with the Frankston and Mornington Peninsula Family Violence Network, with financial support from Frankston City Council and Mornington Peninsula Shire, to produce *Family Violence Help Cards*.

The cards, distributed by local police at family violence incidents and distributed through health and community agencies, listed local support services and contact details. The project group is currently reviewing the use of the cards given new resources that have become available, such as mobile phone applications.

20.1 Who are the main players?

CLCs work alongside the LACs

PCLC welcomes the description of the role of CLCs on page 576. However we would like to see some more emphasis on the way that generalist CLCs are embedded in their local communities. This is a great strength of CLCs, allowing them to respond to local needs and collaborate where possible with government, legal aid and other publicly funded legal assistance service providers, volunteers and pro bono contributors, the private legal profession, police, Courts and Tribunals, community services agencies and other community partners to ensure the best outcomes for our clients. The National Association of Community Legal Centres (**NACLC**) describes CLCs in the following way:

CLCs are located throughout Australia in urban, regional and remote locations. They are part of their communities and respond flexibly to the changing needs of those communities, offering creative, effective and targeted solutions to legal problems. CLCs also consult and

involve their communities in their operations and management, always striving to make their services accessible and appropriate, to listen to their communities about their understanding of their needs and the solutions they want. It is the relationship with their community that distinguishes CLCs from other legal services.¹

For example, in the 2012-13 financial year, PCLC worked closely with its local community, including participating in a range of networks:

- AAA Housing Committee (Mornington Peninsula Shire).
- Adolescent Violence in the Home Strategic Reference Group.
- Bethel House Service Providers Network.
- Booroondara Rooming House Network.
- Child Support Stakeholder Engagement Group.
- Frankston Bring Your Bills Day Committee.
- Court Users' Meetings (Frankston Magistrates' Court and Dandenong Family Law Courts).
- Cranbourne and District Community Services Group.
- Critical Linkages (Casey-Cardinia Family Violence Network).
- Dandenong Homeless Alliance.
- Frankston and Mornington Peninsula Family Violence Network.
- Family Relationship Services Reference Group Frankston and Mornington Peninsula.
- Local Connections to Work Community Partnership Group.
- Mornington Peninsula Combined Service Provider Network.
- Peninsula Community Development Network.
- Peninsula Housing Network.
- Rooming House Network.
- Inner Southern Emergency Relief Network.
- VCAT Residential Tenancies User Group Melbourne.

As a result of collaborating with other service providers, we are able to identify issues that may be common to a particular client group or local area, allowing early intervention and a holistic approach to issues. We are also able to contribute to better service delivery by local courts and tribunals and undertake joint projects, such as our recent *Law Week Forum for Seniors* – a collaboration between PCLC, Seniors Rights Victoria, Peninsula Advisory Committee for Elders, and Mornington Peninsula Shire and attended by over 100 seniors who learned about protecting themselves from elder abuse and other key legal issues. The third highest referral source for PCLC clients in 2012-13 was from other community organisations. The Centre also provided 62 legal information activities to community workers in 2012-13, to assist them in determining whether clients had legal problems and if so, how they might be addressed.

As discussed on p.599 of the Draft Report, the capacity of CLCs to harness in-kind resources through volunteers and pro-bono contributions is a major feature of CLCs. We would like to see this feature also explicitly referred to in this section of the Draft Report.

Additionally, avoiding conflicts of interest is a fundamental principle of the Australian legal system. PCLC would like to see explicit reference in this section to the role that CLCs play where LACs have to decline assistance to an individual because of a conflict of interest (and vice versa). In such a

¹ http://www.naclc.org.au/cb_pages/clcs.php

case, CLCs provide a different source of legal advice and/or representation in a way that is cost-effective to government. This also highlights the importance of having multiple providers of legal assistance services in any given area.

20.5 What do their service delivery models look like?

CLCs employ a diverse mix of service delivery models

We welcome the Commission's estimates (based on NACLC survey figures) on pages 589-590 that the net contribution of pro bono and volunteers across the CLCs in 2012 was nearly 480,000 hours per year – around 246 fulltime equivalent employees or around \$18.2 million at average weekly earnings, allowing for training and supervision of volunteers and pro bono practitioners.

We submit that the real value would actually be much higher. For example, according to the mycareer.com.au website, the average legal wage (including legal secretaries) is \$95,924 per annum. Based on a 38 hour week the hourly rate would equal \$48.54 per hour. PCLC has an estimated 77.25 volunteer hours per week, which would amount to \$3749.71 per week or \$194,985.18 per year. Using the NACLC survey figure of 480,000, this would amount to over \$23 million of value overall.

PCLC also receives significant pro bono support from its pro bono partner, Russell Kennedy (valued at \$67,385.75 in 2012-13), local firms and barristers and also from Victoria Legal Aid in the form of legal resources and continuing professional development training for staff and volunteers who hold a CLC only practising certificate.

We urge the Commission to further investigate and value the net contribution of pro bono support and volunteers across CLCs, as well as the likely impact on this volunteer and pro bono support, should changes be made to the CLC model (for example, relocating CLCs).

21.1 Are the right mix of services being provided?

Duty lawyer services

In our view, the right mix of services are being provided by the legal assistance sector.

PCLC would like to see the section on pages 617-18 of the Draft Report relating to 'Duty lawyer services' strengthened to highlight the benefits of duty lawyer services delivered by LACs and CLCs, both in terms of addressing the acute vulnerability of many self-represented litigants, improving systemic fairness and participation and in terms of economic efficiency by assisting the work of courts and tribunals. As the Draft Report notes, '[d]uty lawyer services' are a relatively cost-effective way to deliver legal advice' (p.617).

As part of our range of legal services, PCLC operates a duty lawyer service for Family Violence Intervention Orders at Frankston Magistrates' Court three days per week, a duty lawyer service at the Federal Circuit Court of Australia (Dandenong Family Law courts) five days per week and a duty advocate service at the Dandenong Victorian Civil and Administrative Tribunal two days per week.

Efficiency benefits of the CLC duty lawyer model include:

- Assisting the Court/Tribunal with the administration of justice by providing advice, casework and representation often in urgent, sensitive and stressful circumstances, which can facilitate resolution of matters, or narrowing of matters in dispute, and reduce demands on Court/Tribunal time and resources.
- Enabling both parties to a dispute to be advised and represented where a conflict of interest and/or excessive demand would otherwise prevent that. It is important that there is more than one legal assistance service in any area.
- Providing additional services such as the correction and witnessing of client prepared court documentation, and input through Court meetings and networks to improve Court services.
- Holistic approach to client's legal issues, which may include referring to other CLC services and accessing assistance from other community services (for example, PCLC's Family Violence Duty Lawyer may refer a client to PCLC's tenancy program which may then access community funding to help the client with a new bond).

We are concerned that the current drafting of this section of the Draft Report which refers to 'limited evidence on effectiveness of duty lawyers' (p.617) undersells the importance of these services.

PCLC would welcome the Commission making the following recommendations:

- That duty lawyer schemes should be expanded as part of a range of legal assistance services, as recommended by previous inquiries (pp.446-447).
- That further evaluation of duty lawyer services is undertaken to develop the evidence-base on the impact of duty lawyer services in increasing access to justice and reducing costs to government.

21.2 Is the balance right in terms of areas of law?

Civil law matters – the poor cousin in the family

PCLC welcomes the Commission's findings that:

- Not providing legal assistance for civil matters can be a false economy as the costs of unresolved legal problems are often shifted to other areas of government spending such as health care, housing and child protection' (p.631).
- "Areas of civil law identified by participants where legal assistance services are particularly thin include employment, housing, rights and consumer matters... Gaps in legal assistance for civil law matters means that Australia's most disadvantaged people may not get legal representation for these types of civil law matters (p.631).

DRAFT RECOMMENDATION 21.1

Commonwealth and state and territory government legal assistance funding for civil law matters should be determined and managed separately from the funding for criminal law matters to ensure that demand for criminal assistance does not affect the availability of funding for civil matters.

Information Request

The Commission seeks views on whether the above demarcation of funds would be sufficient to ensure that appropriate resources are directed towards non-criminal, non-family law matters.

Our response: Whilst welcoming the concept of ensuring that there is sufficient funding for civil law assistance, PCLC has concerns about how separate funding streams for civil and criminal law matters may be administered in practice. In the context of CLCs where we use a holistic approach to service delivery, we can often be required to address someone's criminal and civil and issues at the same time. PCLC is concerned that a funding structure may be created that is difficult and inefficient to administer, which would detract from our core work of delivering services.

21.3 Are legal assistance services in the right locations?

CLCs are located in areas that have been previously identified to have strong community need. Although demographics of an area change over time, CLCs have innovated in response to changing needs in their communities, developing branch offices, outreach services and specialising in areas of law that particularly affect their community, such as family violence. In our view, the historical connections, built over many years and involving much community trust and goodwill, need to be respected. We would urge caution in having an external body work out where CLCs are needed, particularly as there is evidence that CLCs have, and continue to, undertake legal needs analysis to ensure appropriate targeting of services (see 'Determining Legal Needs' section, below).

SEIFA

PCLC has concerns about the Australian Bureau of Statistics' *Socio-Economic Information for Areas (SEIFA)* Index of Relative Socio-Economic Disadvantage (**IRSED**) data being relied on as a sole measure for where legal assistance services should be targeted. From our experience, SEIFA data can actually mask areas of concentrated disadvantage.

For example, the Mornington Peninsula Shire's ranking is 1,022.5, which is a relatively high score indicating less disadvantage.² The Shire includes areas of high wealth such as Portsea, but also areas with much lower IRSED scores. We know that within those areas with lower scores, there are pockets of deeper disadvantage that need targeted assistance. Although a few years old now, a 2007 study found that parts of the Mornington Peninsula Shire were among Victoria's 'most disadvantaged' post codes, most notably Rosebud West and Hastings.³ Other studies, such as the LAW survey, further confirm that there are a variety of indicators of vulnerability to legal problems, including disability, lone parents, vulnerable housing, unemployment and indigenous status.

Determining legal needs

CLCs already conduct research and analysis to support the effective delivery of their legal services to ensure they are targeted at those with the greatest need. Evidence-based planning of services around disadvantage is part of the work that CLCs do to ensure that we fulfil the purposes of our organisations. For example, NACLC developed the *Legal Needs Assessment Framework* and its

² See <http://profile.id.com.au/mornington-peninsula/seifa-disadvantage>

³ Vinson, Tony, *Dropping off the Edge: The Distribution of Disadvantage in Australia*, Jesuit Social Services and Catholic Social Services Australia, 2007.

associated *Strategic Planning Toolkit* to help CLCs carry out evidence-based strategic planning⁴ and many CLCs have already undertaken this process.

CLCs also work collaboratively with other legal assistance providers and stakeholders in regions to share data and plan where legal services should be directed to avoid service gaps and duplication. For example, PCLC is currently working in partnership with Casey Cardinia Community Legal Service, Springvale Monash Legal Service, St Kilda Legal Service, Victoria Legal Aid (VLA) Peninsula Regional Office and VLA Westernport Office, as well as the VLA Civil Justice Division to collaboratively research and identify legal needs for the south-east region of Melbourne. This regional planning process is also being carried out in the Western region of Melbourne by other legal assistance providers. It is worth noting that the regional planning process we are participating in has reinforced that the CLC data system provided by the Attorney-General's Department is inadequate (See also '24.4 Improving data collection and evaluation' below).

Barriers to relocation

PCLC sees a number of barriers to physically relocating CLCs:

- CLCs are highly visible and well-known in their local community.
- Because of their historical links, and in recognition of the vital services CLCs provide to the community, some CLCs are provided with free or low-cost premises. For example, rental for PCLC's Bentleigh Branch office is reimbursed by the City of Glen Eira and our Pines Branch office is provided gratis by the City of Frankston.
- Relocation and establishment costs (including removalists, signage, information technology, phones, stationery replacement, updating websites, brochures, etc) are often required to be budgeted out of existing funds, impacting on service delivery.
- Some CLCs are placed so that they are easy to access by public transport.

21.4 Are assistance services targeting the right people?

Like many other CLCs, PCLC is a registered charity (Public Benevolent Institution) with Deductible Gift Recipient (DGR) Status. Our DGR status is contingent on the Centre continuing to fulfil our purposes which are to 'empower and support people who live work or study in the Catchment who are disadvantaged and vulnerable to address their legal needs.' In this way, we are legally required to ensure that our assistance services are targeting the right people. Assisting disadvantaged and vulnerable people is also our core philosophy.

While initial advice may be given to any client, regardless of income, who lives works or studies within the PCLC catchment area, ongoing case work (letters, negotiation, drafting documents, representation, etc) is targeted to those experiencing disadvantage. Under our *Advice and Casework Guidelines*, PCLC prioritises the cases of people with no or limited income in the provision of case work services. In practice, this means that casework is generally provided only for clients on no or low incomes. The Community Legal Services Information Scheme (CLISIS) definitions of income prescribed by the Commonwealth are:

⁴ For more information see http://www.naclc.org.au/cb_pages/legal_needs_assessment_framework.php

- **Low:** Under \$500 per week or \$26,000 per year
- **Medium:** Between \$500 & \$1,000 per week or \$26,000 & \$52,000 per year
- **High:** \$1,000 per week or over or \$52,000 per year or over

For example, in the 2013 calendar year, PCLC provided over 7,000 **advices** of which:

- Just over 80 per cent of clients were on no or low income.
- Around 16 per cent of clients were on a medium income.
- Less than 3 per cent of clients were on a high income.

In terms of ongoing casework services, those figures shift such that more clients on no or low incomes are assisted. Of the relatively small proportion of ongoing clients who had medium or high incomes, most were assisted at duty lawyer services at the Frankston Magistrates' Court (Intervention Order service) or Family Law Courts at Dandenong. If duty lawyer and duty advocate services are taken out, **ongoing casework** figures for the 2013 calendar year are:

- 89.5 per cent of clients were on no or low income.
- 9.5 per cent of clients were on a medium income.
- 1 per cent of clients were on a high income.

We note that a client on a medium income of \$500-\$1000 gross per week would, depending on the nature of the legal issue, be unlikely to afford a private lawyer in many instances, and may be subject to other disadvantages precluding self-representation or self-management of a legal problem, such as low literacy, language barriers, mental health issues, or the matter may involve intimate partner and/or family violence or urgent family law issues. Even a so-called 'high' income earner may struggle to afford a private lawyer, particularly if they have dependents or face other forms of vulnerability or disadvantage.

As outlined in our first submission to this Inquiry, the early intervention and preventative legal work that is a fundamental part of CLC operations plays an important role in reducing potential long-term costs to the whole community. In our view, it is vital that CLCs continue to offer initial advice and information to all of the community to prevent legal problems from escalating and causing individual and societal costs. This is an efficient use of resources, particularly given that a large proportion of our initial advices are provided by volunteers.

Whilst we consider it appropriate for ongoing casework services to be targeted towards clients experiencing disadvantage, it is vital that CLCs not be compelled to apply identical guidelines as LACs, and retain flexibility to assess vulnerability and disadvantage on a broader range of factors.

21.6 Does the distribution of funds need changing?

We note the Commission's statement that on p.656 that a new funding allocation model for Community Legal Services Funding (CLSP) funding is required to better reflect need.

We query whether there is any evidence that CLCs are not appropriately targeting their services, particularly given the existing accountability requirements imposed on CLCs regarding strategic planning, work plans and six monthly reporting.

DRAFT RECOMMENDATION 21.4

The Commonwealth Government should:

- discontinue the current historically- based Community Legal Services Program (CLSP) funding model
- employ the same model used to allocate legal aid commissions funds to allocate funding for the CLSP to state and territory jurisdictions
- divert the Commonwealth's CLSP funding contribution into the National Partnership Agreement on Legal Assistance Services and require state and territory governments to transparently allocate CLSP funds to identified areas of 'highest need' within their jurisdictions. Measures of need should be based on regular and systematic analyses in conjunction with consultation at the local level.

INFORMATION REQUEST 21.3

The Commission seeks feedback on how Community Legal Centre (CLC) funds should be distributed across providers while at the same time ensuring providers are of sufficient scale and the benefits of the historic community support of CLCs are not lost. Competitive tendering might be one possible method for allocating funds. The Commission seeks feedback on the costs and benefits of such a process and how they compare with the costs and benefits of alternative methods of allocating CLC funding.

Our response

Any CLC funding model must ensure that the historic community links of CLCs are not lost, while at the same time allowing new funding to address demonstrated unmet legal need.

In relation to the option of using the LAC funding allocation model to allocate CLSP funding to states and territories, which would then have responsibility for allocating the funds (pp.656-657), we agree that there would be a serious conflict of interest in the second approach that would see LACs decide how the funding envelope is distributed. We see this approach as unworkable and potentially damaging to longstanding collaborative relationships between LACs and CLCs.

PCLC does not support the use of competitive tendering to allocate CLSP funds, particularly where LACs and other potential providers are able to compete for that funding. Our concerns include:

- Potential damage to the current 'tried and tested' structure, services and effectiveness of CLCs.
- Competitive tendering will be damaging to long-standing collaborative relationships between CLCs, LACs and private practitioners that provide pro bono and volunteer services.
- Competitive tendering is extremely time-consuming and would be an inefficient use of expertise and resources, deflecting from service delivery.
- Conflict of interest issues can arise if there are too few service providers in a given area.

- Extra costs to government if another organisation or bureaucratic layer is formed to determine tenders. Again it would be inappropriate for LACs to determine successful tenders.

21.7 Is the quantum of funding adequate?

In short, the quantum of funding to the legal assistance sector is grossly inadequate.

As outlined in our earlier submission, the sector is significantly underfunded and cannot meet the huge legal need in our communities. This is the real issue facing the sector, rather than lack of efficiency in fund distribution or service delivery. We welcome recognition in the Draft Report that Australia is one of the lower funding nations of legal assistance services (on a per capita basis).

PCLC would be pleased to see a clear recommendation from the Commission that the quantum of funding to the legal assistance sector service should be substantially increased given the social and economic benefits of legal assistance services. This is particularly important in light of recent funding cuts to the sector announced by the Australian Government which will place further pressure on already stretched services.

We would welcome a recommendation such as:

- The Australian Government should significantly increase funding for the legal assistance sector to capture the significant social and economic benefits of sector investment.

24.4 Improving data collection and evaluation

PCLC agrees that there is a definite need to improve data collection systems. CLCs use the Community Legal Service Information System (**CLSIS**), which has longstanding deficiencies that make reporting and planning difficult. For example, producing reports is a convoluted process and definitions can be incompatible with those used by other legal assistance providers.

PCLC welcomes Draft Recommendation 24.3 and supports the LAW survey being undertaken on a regular basis at least every five years, with the results being made publicly available.

More information

PCLC would be pleased to provide further information to the Commission.

Please contact:

Jackie Galloway, Chief Executive Officer
Peninsula Community Legal Centre
T: 03 9783 3600
E: pclc@pclc.org.au.

This submission was prepared by Alison Laird, Volunteer Policy Worker, Peninsula Community Legal Centre, 21 May 2014.