



**Investing in the community: submission to the NSW  
Government review of legal assistance services to the  
NSW community**

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## **The Public Interest Advocacy Centre**

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit law and policy organisation. PIAC works for a fair, just and democratic society, empowering citizens, consumers and communities by taking strategic action on public interest issues.

PIAC identifies public interest issues and, where possible and appropriate, works co-operatively with other organisations to advocate for individuals and groups affected. PIAC seeks to:

- expose and redress unjust or unsafe practices, deficient laws or policies;
- promote accountable, transparent and responsive government;
- encourage, influence and inform public debate on issues affecting legal and democratic rights;
- promote the development of law that reflects the public interest;
- develop and assist community organisations with a public interest focus to pursue the interests of the communities they represent;
- develop models to respond to unmet legal need; and
- maintain an effective and sustainable organisation.

Established in July 1982 as an initiative of the (then) Law Foundation of New South Wales, with support from the (then) NSW Legal Aid Commission, PIAC was the first, and remains the only broadly based, public interest legal centre in Australia. Financial support for PIAC comes primarily from the NSW Public Purpose Fund and the Commonwealth and State Community Legal Services Program. PIAC also receives funding from Industry and Investment NSW for its work on energy and water, and from Allens Arthur Robinson for its Indigenous Justice Program. PIAC also generates income from project and case grants, seminars, consultancy fees, donations and recovery of costs in legal actions.

### **PIAC's general position**

PIAC welcomes the opportunity to make a submission to the NSW Attorney General's review of the delivery of legal assistance services to the NSW community (the Review). In relation to the adequacy of funding for community legal centres generally, PIAC endorses the submission made by CLCs NSW to the Review.

This submission by PIAC identifies the need for adequate funding to the non-government sector to manage effective partnerships with the private sector in delivering *pro bono* legal services to the community. The submission focuses on three particularly disadvantaged groups: people experiencing homelessness, people with a mental illness and Indigenous people. It also considers the significant advantages of multidisciplinary models to meet the legal needs of vulnerable and disadvantaged groups – and especially those with complex needs that go beyond the professional expertise of any one service provider.

### ***Pro bono* legal assistance**

In addressing these issues, this submission focuses on addressing the unmet legal needs of three groups who are particularly disadvantaged: people experiencing homelessness, people with mental illness, and Indigenous people. PIAC has considerable experience in providing services to, and advocating on behalf of, each of these three groups. Based on this experience, the submission provides advice in relation to providing legal assistance services to these groups.

In addition, this experience allows PIAC to draw broader lessons about the delivery of such

services to other disadvantaged people in NSW. In summary, those broader lessons are as follows.

First, PIAC supports *pro bono* legal assistance. This represents one of the finest traditions of the legal profession and one that undoubtedly improves access to justice for disadvantaged people and others who might not otherwise received legal advice and representation. Predominantly provided by private law firms, barristers and solicitors in sole practice, PIAC applauds the incremental extension of *pro bono* services such that they are now provided also by some lawyers who work for government agencies and also as legal counsel in corporations.

PIAC recognises that *pro bono* carries the added benefit of removing an impost that might otherwise fall to the public purse. However, PIAC believes that governments in all Australian jurisdictions must not become overly reliant on *pro bono* service provision, especially in relation to core or essential services. It is vitally important that such services remain available as of right. By their very nature, *pro bono* services can be removed at the sole discretion of the private service provider, and so governments must, at the very least, be prepared to step in where such services are removed.

Secondly, PIAC submits that greater resources need to be devoted to the coordination and management of *pro bono* legal assistance services. As well as working with many lawyers acting *pro bono* through programs such as the Homeless Persons' Legal Service and the Children in Detention Advocacy Project, PIAC has long been a crucial player in bridging the gap between private lawyers acting *pro bono* and the community sector. PIAC established, for example, the Public Interest Law Clearing House (PILCH) NSW in 1992, which is now an independent organisation, and PIAC remains integrally involved with the National Pro Bono Resource Centre.

This experience shows that there is considerable enthusiasm among practising lawyers to engage in *pro bono* work, but that this enthusiasm is not always harnessed as efficiently and productively as it should be. In order to get the most out of the *pro bono* services that are potentially available, a meaningful investment needs to be made into the following:

- *Coordination of services.* It is important to ensure that *pro bono* lawyers are deployed to where they are most needed. With the growth in availability of, and government and public reliance on, *pro bono* legal assistance, careful attention needs to be given to ensuring that these services are made available to respond to geographic, social and substantive need.
- *Support for pro bono lawyers.* Given that lawyers often act *pro bono* in areas outside of their usual practice, it is necessary to ensure that they are given appropriate support. It is especially important to provide appropriate induction, training and supervision for these lawyers to make sure that they provide adequate quality legal assistance and that they comply with relevant insurance requirements. Such support often can be provided only by lawyers based in the community sector (at community legal centres, at Legal Aid NSW etc).
- *Linking service provision to systemic change.* One challenge in relation to *pro bono* legal assistance is to go beyond 'band-aid' solutions. *Pro bono* tends to focus on the identified and immediate needs of disadvantaged people. Quite understandably from the perspective of *pro bono* service providers, less attention is given to drawing broader lessons for systemic advocacy – this is probably the combined effect of concentration of expertise, interest and resources among those providing *pro bono* legal assistance. For example, the Homeless Persons' Legal Service brings together 11 *pro bono* legal service providers – or approximately 200 solicitors. It falls to PIAC, in managing the Service, to draw links between the various experiences of these lawyers and then to use the data gleaned in advocacy to

address the systemic problems that apply more broadly within the homeless community. This is probably a natural consequence, and one that allows *pro bono* service providers and community organisations to draw on each other's respective strengths. However, this needs to be recognised by government and resourced accordingly.

Organisations that are based in the community sector have the expertise to promote the effective and efficient provision of *pro bono* legal assistance. However, in order to play this vital role, they need to be appropriately resourced. Such resourcing should be seen by government as an investment, in that it can unlock the significant potential of the private sector to assist in this area. The examples given in this submission draw heavily on PIAC's direct experience in working with *pro bono* service providers. However, PIAC's experience is far from unique: other community legal centres (and similar community organisations) face similar barriers in facilitating services for disadvantaged groups such as children in detention, people with a mental illness and asylum seekers.

### **Recommendation**

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1. *The NSW Government should work with non-government organisations to build and improve partnerships with the private sector for the delivery of pro bono legal assistance services to the community. This involves increased investment by the NSW Government in coordinating and supporting pro bono legal assistance, as well as linking this to systemic reform.*

## **Homeless people's access to legal advice and representation**

People experiencing homelessness often have an acute need for free legal services, but for a variety of reasons this need is not fully provided for. Part of the problem lies with the scale and breadth of the need, as well as difficulties in isolating legal from other related problems. Further, many free legal services are not specifically tailored to suit the needs of homeless people.

Most traditional services operate from their own stand-alone premises that are not visited by homeless people for any other purpose and may be difficult for homeless people to find. Many homeless people have pressing needs to attend to, such as finding accommodation and obtaining money, so they may have little time or motivation to see a lawyer. In these circumstances, their legal problems are often left unattended and can easily accumulate and compound.

A significant number of those experiencing homelessness also have addictions, mental illness or intellectual impairment and thus have difficulty remembering to attend appointments and court when required.

Finally, many homeless people have both legal and non-legal problems and may not be able to distinguish easily between the two, or even know that they have legal rights to assert. It has traditionally been difficult for them to obtain assistance to address their various issues at the one venue or in a way that promotes co-operation between those assisting them. It can also be hard to know where to find the appropriate help and how to arrange appointments with different services.

### **Homeless Persons' Legal Service outreach model**

The Homeless Persons' Legal Service (HPLS), referred to above, is a joint initiative of PIAC and the Public Interest Law Clearing House (PILCH). It involves direct legal service delivery and public policy research and development work, as well as capacity building for homeless people and the homelessness sector. PIAC takes full responsibility for managing and determining the

strategic direction of HPLS. PIAC supervises the provision of legal advice and assistance by PILCH members acting on a *pro bono* basis, and also takes on a number of the more complex matters itself. Drawing on this experience, PIAC also leads the policy development aspect of HPLS's work.

Since the establishment of HPLS in 2004, PIAC has received start-up and ongoing financial support from the state and federal governments, as well as the NSW Public Purpose Fund, to run the service.

The HPLS model has been developed to overcome some of the barriers faced by homeless people in accessing legal services and representation. HPLS's legal clinics are based at locations familiar and easily accessible to homeless people; that is, within agencies that already offer services and support to homeless people, such as casework, financial management, counselling and accommodation. Homeless people do not need to make appointments at the clinics and the length of time they can spend with the lawyer is not pre-set or limited.

HPLS currently operates ten legal clinics at welfare agencies in the greater Sydney area from which it provides legal advice and representation to people who are homeless or at risk of homelessness. The clinics are staffed by approximately 200 lawyers – as noted above, these lawyers are drawn from PILCH member firms, and they act *pro bono*.<sup>1</sup>

HPLS has a part-time Senior Solicitor (who takes primary responsibility for the day-to-day running of the service), a part-time Policy Officer and a part-time Administrative Assistant. It also has a Solicitor Advocate with specialist expertise in criminal law in order to directly assist the large numbers of homeless people seeking representation in minor criminal matters.

In mid-2007, Legal Aid NSW (as a member of PILCH) became a partner in HPLS, providing lawyers to staff the legal clinic located in Parramatta. This has led to another development separate to, but supported by, HPLS: the development of homeless outreach services by Legal Aid NSW in regional NSW. These new services are based on the HPLS model, making lawyers available on a regular basis in local agencies that provide services and support to homeless people. This Legal Aid homelessness service fills a gap that HPLS would have had significant challenges filling because of the difficulty of identifying private law firms with the capacity and resources to send lawyers to regional NSW to provide such services on a regular basis.

### **The role of the private sector in the provision of legal services to homeless people**

Maximising the role of the private sector in providing services to homeless people on a *pro bono* basis is very attractive from a cost-saving perspective. However, as set out above, governments cannot rely solely on the private sector to meet the unmet legal needs of homeless and vulnerable individuals.

Essential services should be provided to the most vulnerable members of our community as their right; they should not have to be reliant on charity or *pro bono* services to meet their basic needs.

The decision by Legal Aid NSW to provide lawyers to the Parramatta clinic of HPLS and then to develop its own regional dedicated outreach services is a good example of how a project harnessing *pro bono* resources can demonstrate an unmet legal need, and then develop creative

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<sup>1</sup> The following PILCH members provide lawyers on a *pro bono* basis to HPLS to provide legal services through the clinics: Allens Arthur Robinson, Baker & McKenzie, Corrs Chambers Westgarth, Dibbs Barker, HWL Ebsworth, Gilbert + Tobin, Henry Davis York, Legal Aid NSW, Minter Ellison, Norton Rose and Thomsons Lawyers.

and effective ways to meet that need. The result should not be that government then relies on this *pro bono* work (or, even worse, reduces funding for existing free legal services), but rather that government should work with relevant stakeholders to ensure that this need is met.

### **Commitment under *The Road Home***

The Federal Government's December 2008 White Paper, *The Road Home: a national approach to reducing homelessness*, recognised the lack of available legal services and representation for people who are homeless or at risk of homelessness. *The Road Home* highlighted the correlation between legal issues and a lack of access to legal advice and increased homelessness. It further indicated that, under the National Partnership on Homelessness, a commitment of additional government funding would allow the states and territories to expand legal services to clients at risk of homelessness with a focus on family law, domestic and family violence, credit and debt, and tenancy.<sup>2</sup>

### **Mapping the need for further legal services to increase access**

Even though the HPLS model has been successful in fulfilling an unmet need in the provision of legal advice and representation to people who are homeless or at risk of homelessness, it has equally demonstrated that a number of gaps still exist in the ability of people to access legal services.

The case load of the HPLS Solicitor Advocate was at (or beyond) capacity within 12 months of being established and demand for assistance in minor criminal matters continues to grow. This reveals that, while the Legal Aid Duty Solicitor plays an important role in access to justice, the model is not ideal to assist certain vulnerable and disadvantaged groups, like people who are homeless, and people with a mental illness, intellectual disability or cognitive impairment. The limited time offered for interviews, the lack of continuity of solicitor representation, the difficulties facing people with complex needs in prioritising and attending court, and the logistics of locating a duty solicitor in a busy court environment are all obstacles that prevent vulnerable and disadvantaged groups from obtaining the best possible outcome.

Given the effectiveness of this position and the continuing challenge in responding to the unmet need for legal advocacy support in the area of civil law, HPLS is working to achieve the resourcing needed to maintain the current Solicitor Advocate position in criminal law.

Through its work with the homeless community, HPLS has identified that many rough sleepers are still not able to access legal advice simply because they are unwilling or unable to access services that host the HPLS clinics. This may be for reasons including past experience with the host agency, conflict with other homeless people or fear for personal safety. Another, more simple reason is that many rough sleepers do not even recognise that some of the barriers that confront them daily, such as difficulties with government agencies caused by lack of identification, are legal problems and could quite easily be resolved with appropriate legal assistance. HPLS considers that there should be no reasonable excuse to deny rough sleepers access to legal advice and representation; however, there are currently insufficient resources adequately to address this unmet need.

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<sup>2</sup> Australian Government, *The Road Home: The Australian Government White Paper on Homelessness* (2008)  
<<http://www.fahcsia.gov.au/sa/housing/progserv/homelessness/whitepaper/Pages/default.aspx>> at 21 October 2011.

The expansion of legal services needs to go further than just rough sleepers. According to the 2006 Census, women make up 44% of the homeless population in Australia, yet there is a dearth of targeted legal services for women. It is HPLS's experience that women generally do not access mainstream homeless services. If a woman is leaving a domestic or family violence situation, she is generally more likely to access a specialised service. This service may not be able to provide legal assistance beyond the immediate family law or apprehended violence order issues. Unfortunately, her legal situation is usually far more complex and involves issues such as tenancy (for example, where the lease is held in joint names) and debt (for example, where bank loans are in joint names). These situations often involve renegotiating contracts and, if not resolved in a timely manner, can escalate into difficult legal problems.

HPLS has attempted to expand its outreach legal advice service by arranging appointments to meet women who are homeless or at risk of homelessness in a place where they feel safe and which is accessible to them.

All of these initiatives challenge the traditional approach to providing legal services – that is, where the client attends an office or community legal centre at an appointed time to speak with a solicitor. Instead, these initiatives aim to achieve better access to legal advice and ongoing representation for people who are homeless or at risk of homelessness.

### **Harnessing the private sector: need for investment in partnerships between non-government and private sectors**

HPLS is co-ordinated, supervised and managed by PIAC primarily through the HPLS Senior Solicitor and PIAC's Principal Solicitor. PIAC's Principal Solicitor has supervisory responsibility for all legal work undertaken by the approximately 200 lawyers acting pro bono, and they are covered by PIAC's Professional Indemnity Insurance.

PIAC's Principal Solicitor and HPLS Senior Solicitor share the tasks of:

- checking all advice given by HPLS lawyers at the clinics;
- checking monthly status reports which outline the status of each open case file; and
- conducting file reviews with each participating HPLS firm once every two months – this involves checking each firm's open HPLS files in order to ensure that the substantive advice provided to clients is accurate, that there are no unreasonable delays in providing assistance to the client and that the files comply with requirements such as conflict checking, providing clients with retainer letters etc.

PIAC's administrative staff open and close files, enter client information from forms provided by the firms onto PIAC's database, assist with conducting conflict of interest checks and generally support the service.

PIAC provides HPLS lawyers with significant training, supervision and support to ensure that their advice is accurate and their communication skills are adequately tailored to the needs of homeless clients. Lawyers do not always have extensive experience or expertise in dealing with people with complex needs, mental illness or those who have suffered from significant trauma, or the expertise required to assist in the types of matters that HPLS clients present with.

All of this goes to show the significant resources required effectively to manage and coordinate a service such as HPLS. The most significant impediment to the expansion – or scalability – of such services is almost certainly the lack of resources to carry out this management and coordination work. In order to harness the *pro bono* resources of private law firms in this

partnership, adequate funds are required for PIAC's role. At present, funding provided by the Public Purpose Fund does not cover PIAC's costs in managing HPLS.

### **Recommendation**

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2. *The NSW Government should strengthen its commitment to overcoming the barriers faced by homeless people in accessing legal services by allocating additional resources to services, such as the Homeless Persons' Legal Service, that are designed to meet the needs of this group of disadvantaged people.*

## **Access to legal services by people with a mental illness**

PIAC has taken a leadership role in addressing barriers to justice for people with mental health issues, who are among the most disadvantaged members of the community. The many complex and interrelated problems that these individuals face are not adequately resolved by current legal, health and community welfare systems in NSW, resulting in their over-representation in rates of unemployment, poverty, homelessness, incarceration and morbidity.

### **The Mental Health Legal Services project**

The Mental Health Legal Services Project (MHLSP) commenced in January 2008 with a grant from Legal Aid NSW. Following an initial 12 month research phase, PIAC received funding through the Public Purpose Fund to establish a two year Mental Health Legal Services Project trialling four pilot projects. Those pilots were designed to increase access to justice for four chronically disadvantaged groups in the community: young homeless people who are mentally ill, refugee survivors of torture and trauma, people from non-English speaking backgrounds with a disability who are mentally ill, and Indigenous men who have experienced trauma.

The pilots funded new positions in existing services and programs to provide enhanced multi-disciplinary care and support for clients of the host services. These services had previously identified gaps in their capacity to support the needs of clients with mental health issues. A training strategy was also developed with modules for legal and other professionals and for people with mental health issues.

A fundamental premise of the MHLSP was that much of the excess contact with the justice system is potentially avoidable through appropriate and timely intervention.

The MHLSP pilots, implemented from mid-2009 through to mid-2011, were the following:

1. A youth social worker in Shopfront Youth Legal Centre in Darlinghurst provided case management and care co-ordination for the vulnerable young clients who are homeless or at risk of homelessness. The social worker role was also to increase the referral networks and early intervention potential of Shopfront.
2. A lawyer at the NSW Service for the Treatment and Rehabilitation of Torture and Trauma Survivors (STARTTS) at Carramar provided legal information, casework and referral of clients identified as having legal problems. The objective was also to improve STARTTS's ability to engage in early intervention for clients with legal problems, and to increase the number of organisations to which STARTTS could refer clients for legal assistance.
3. A lawyer at the Multi-cultural Disability Advocacy Association (MDAA) in Harris Park and its service outlets provided legal information, casework and referral of clients with mental health issues. It also aimed to increase early intervention for clients with legal problems, and to increase the number of organisations to which MDAA could refer clients for legal

assistance.

4. An Indigenous mental health specialist worked with PIAC as the Indigenous Men's Access to Justice (IMAJ) worker, with the objective of improving access to justice for Indigenous men. The project worked in collaboration with the Gamarada Men's Healing Program to identify men and boys at risk and connect them with appropriate legal, health and community services. The aim was also to increase awareness and understanding of other service providers about mental health issues for Indigenous men through networking, training and education.

An independent evaluation was commissioned at the outset of the project with an "action research methodology". This approach was selected so that knowledge gained from reflective evaluation and review processes during the project could be used to develop and improve the project throughout its implementation. The evaluation was undertaken by WestWood Spice, human services consultants, and was implemented between mid-2009 and May 2011. The final evaluation report, *Better Outcomes, Better Lives: PIAC Mental Health Legal Services Project Evaluation, Final Report*<sup>3</sup>, was published in October 2011. PIAC would be pleased to provide the Department with a copy of the Report upon request.

Clients of the MHLSP pilots benefited greatly and in multiple ways from the enhanced access to multidisciplinary support from the MHLSP in a trusted service setting. There were positive gains in a range of areas for clients including legal, psychosocial, health, economic and practical matters. Client benefits included, for instance, obtaining a positive resolution to legal disputes or problems; gaining improved knowledge of legal services, rights and processes; individually pursuing matters with enhanced confidence and capacity; having improved psychosocial status and overall well-being.

For many MHLSP clients there was significantly improved interaction with the justice system and there were instances of incarceration being avoided and referrals made to diversionary programs. There were also broader socio-economic benefits such as improved housing and financial status, uptake of education and employment as well as increased access to a wider range of services and support.

The project established the value and importance of providing multidisciplinary services for people with mental health issues. This enabled greater responsiveness to their complex and inter-related needs and reduced service fragmentation.

### ***Recommendation***

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3. *In view of the benefits of multidisciplinary service models for the provision of legal assistance services for people with mental health issues, the NSW Government should prioritise this mode of service delivery.*

## **Legal assistance services to Indigenous people**

The unique and complex nature of Indigenous disadvantage in our society means that there is a vital need for accessible and quality legal services targeted to meet their specific legal needs.

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<sup>3</sup> WestWood Spice, *Better Outcomes, Better Lives: PIAC Mental Health Legal Services Project Evaluation, Final Report*, October 2011.

## Legal needs

There is an acute legal need for increasing access to civil law services for Indigenous people in NSW. PIAC often gets enquiries from Indigenous people seeking assistance in civil law matters. Civil law cases make up the majority of the ongoing casework handled by the Indigenous Justice Program at PIAC. However, PIAC is not a generalist legal aid service provider. PIAC provides legal assistance and representation to Indigenous people in matters that are of broader *public interest* – that is, in matters the significance of which goes beyond the individual client involved. Much of PIAC's work representing Indigenous people and communities involves addressing the legal needs of those who have suffered discrimination and the consequences of unjust, unsafe or deficient laws, practices and policies. As such, the scope of matters in which PIAC provides assistance is limited and PIAC often has to refer Indigenous people seeking legal assistance to other legal services.

There is a concerning disparity between the funding allocated to Aboriginal and Torres Strait Islander Legal Services (ATSILS) compared to Legal Aid Commissions (LACs), the mainstream, statutory legal aid service providers.<sup>4</sup> LACs operate on a significantly greater budget than ATSILS yet the day-to-day workload of ATSILS lawyers is significantly higher than that of LAC lawyers. Indeed, one of the critical challenges ATSILS and other providers of legal services to Indigenous people face is the inadequacy of funding and resources to enable the provision of vital, accessible and quality legal services to Indigenous people. The NSW Government should take responsibility for ensuring that legal aid service providers are adequately funded to provide essential legal services to Indigenous people and address the problem of unmet legal needs.

## Geographical Barriers

Geographical remoteness presents significant barriers to accessing justice for Indigenous people. As at 30 June 2006, 43% of Indigenous people were living in regional areas and a further 25% in remote or very remote areas.<sup>5</sup> The challenge of accessing essential legal services is even greater in regional areas where the services are either not available or difficult to access because of infrequent service delivery or distance. There is little capacity for the private sector to expand its *pro bono* services to regional and remote communities. Further, the ability of legal services such as ATSILS to retain experienced staff in regional and remote areas is a significant challenge for a variety of reasons including:

- uncompetitive salaries compared to LACs and private legal practices;
- extremely large workloads and lack of time to adequately deal with the work;
- lack of support and appropriate supervision of junior lawyers; and
- lack of potential career progression within the ATSILS.<sup>6</sup>

Legal outreach programs co-ordinated by LACs and efforts by the NSW Legal Assistance Forum's Working Group on Civil Law Services for Indigenous people in NSW to provide community legal education and increase awareness about the legal services available to assist people in regional and remote areas with their legal needs are important measures designed to deliver legal services to Indigenous people in their communities and thus enable them access. There is a need, however, to address the systemic issues that create barriers to accessing justice such as addressing long-term funding problems and ensuring legal services operating in

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<sup>4</sup> C Cunneen and M Shwartz, *Funding Aboriginal and Torres Strait Islander Legal Services, Issues of Equity and Access* (2008) 32 *Crim LJ* 38 at 39.

<sup>5</sup> Australian Bureau of Statistics, *The Health and Welfare of Aboriginal and Torres Strait Islander Peoples* (2008) 5.

<sup>6</sup> Above n3, 48.

regional and remote areas are well supported and adequately resourced to cater for the needs of their clients.

### **Recommendations**

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4. *The NSW Government should rectify the funding disparity between Aboriginal and Torres Strait Islander Legal Services (ATSILS) and Legal Aid Commissions so that ATSILS can deliver quality criminal and civil law services to Indigenous people, including in regional and remote areas.*

### **Funding legal advice for claimants of government schemes**

PIAC considers that it is the responsibility of government, when it creates new legal or quasi-legal rights, to consider the impact that this will have on service providers and other stakeholders providing assistance to relevant client or applicant groups. For example, in NSW, as in some other states, the Government established an Aboriginal Trust Fund Repayment Scheme (ATFRS) to repay monies held in trust by the NSW Government from 1900 to 1968. No resources were allocated by the NSW Government to assist Indigenous people to make applications to ATFRS.

PIAC's Indigenous Justice Program (IJP), in partnership with PILCH, established a Stolen Wages Referral Scheme, by which PILCH member firms provide *pro bono* advice and representation to stolen wages claimants. Many hundreds of claimants were assisted by PIAC and PILCH. PIAC and PILCH received no funding to take on this project, which required an enormous allocation of resources.

In 2009, Legal Aid NSW agreed to provide some minor assistance to claimants, however their capacity was so limited that the large majority claimants received no assistance.

The NSW Government should have provided ongoing support and assistance to ATFRS claimants. This could have been achieved by paying a reasonable set fee to any lawyer representing an ATFRS claimant. This could have operated similarly to the set fee payable in NSW for legal practitioners assisting with Victim's Compensation matters.

Similarly, all governments should be mindful that people applying to various schemes and tribunals in many cases need assistance to do so or at least information about how to do so on their own. The creation of new legal or quasi-legal rights creates demand on service providers such as community legal centres that do not have capacity to take on additional workloads without additional resources.

### **Recommendation**

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5. *The NSW Government should identify the nature and extent of legal need created by the introduction of laws or policies creating legal or quasi-legal rights, and resource appropriate service providers to meet that need.*