PIAC Bulletin

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PUBLIC INTEREST ADVOCACY CENTRE

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PIAC proposes Aboriginal trust fund repayment model

Robin Banks, *Director*

In the last Bulletin we reported on the apology by NSW Premier, The Hon Bob Carr, to Aboriginal people who had their wages and other entitlements held by the Aborigines Protection Board or its successor the Aborigines Welfare Board (the Board) between 1900 and 1969, and his in-principle support for a scheme to reimburse those monies. Since then PIAC has been active in considering how such a scheme might operate and what it needs to achieve to ensure a just outcome for Aboriginal people whose monies were held by the Board.

A panel, comprising Brian Gilligan, Terri Janke and Sam Jeffries, set up by the Government in June 2004, is to report to NSW Cabinet on the issues in relation to the repayment scheme and on a model for the scheme. The panel has been meeting with organisations and Aboriginal communities in NSW to gather their views on the scheme and the various issues that will affect its operation.

PIAC solicitors Shaz Rind and Alexis Goodstone, met with the panel in late June to discuss issues that PIAC has identified through its work with over 90 clients with possible claims. Following that meeting, PIAC identified the key principles it considers must be incorporated in a model for the scheme for the scheme to be effective and equitable.

In July 2004, PIAC joined the Indigenous Law Centre (ILC), Link-Up and Australians for Native Title and Reconciliation at a meeting attended by Aboriginal and other people concerned to discuss issues relevant to the development of a scheme. At that meeting, PIAC outlined the core principles it considered essential to the operation of a scheme, to ensure that these principles were sufficiently broad to address community concerns.

Following that meeting, PIAC finalised its statement of principles and proposed model. In early September 2004, PIAC's Director, Robin Banks, and Principal Solicitor, Simon Moran, met with the panel and other key stakeholders, including ILC, Link-Up and State Archives. At that meeting, PIAC gave a brief presentation on its submission to the panel, outlining the principles and proposed model. PIAC indicated its keenness to remain involved in discussions about the model for the scheme as it is concerned to ensure that Aboriginal people are provided with an effective and comprehensive means of being repaid the wages and entitlements withheld by the NSW Government for, in some cases, over a century.

PIAC's key principles

PIAC identified a number of principles, some of which are procedural, others substantive. These principles, in summary, are that:

- the Scheme must be independent of Government;
- the Scheme must be established under an Act of the NSW Parliament that provides for the independence of the administration of the Scheme from the Executive of the NSW Government;

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From the Director

This is my first Bulletin as the Director of the Public Interest Advocacy Centre. My appointment provides me with an exciting opportunity to make a contribution to achieving public interest outcomes in Australia and to further encourage the creative use of the diverse skills and experience that is represented within PIAC's staff, membership and management.

I have come to an organisation with a long and impressive history of identifying, pursuing and achieving public interest goals in an extraordinary range of areas. The profile it has developed through its work in the law and policy sectors have positioned it at the heart of law and policy debate in Australia.

PIAC's current work is focussed on issues in the areas of detention, administrative law, Indigenous civil justice, fair trade, human rights, access to and regulation of utilities, discrimination, access to justice, and community capacity building. A common thread woven through these areas is the need to maintain strong processes that ensure open and accountable representative government, and protection from abuse by the various Government and non-Government institutions that exercise formal and informal power in our community.

Related to this is a broad concern about the continuing threats, not only to the independence of the courts, but also to community respect for judicial process. Sir Anthony Mason, former Chief Justice of the High Court of Australia observed the need to be vigilant in relation to the rule of law when speaking at the celebration of 10 years of operation of the Public Interest Law Clearing House in Melbourne:

"In Australia, we take the rule of law for granted. We know that it differentiates our society from totalitarian and other régimes which are founded on oppression and terror. Yet we are slow to perceive the ways in which the rule of law is at risk of compromise or erosion when we take strong action to pursue other legitimate or important goals."

PIAC needs not only to identify the very real risk of compromise or erosion, but to speak out with a clear voice that enables the community to understand why this issue is important and engages the community as a driving force in the protection of the rule of law. PIAC has a central role to both leading and supporting the community to maintain the protections necessary to ensure a healthy and vital democracy, and in working with the community to enhance and expand the community's engagement with the core processes that form the fabric of our system of government.

My focus over the four months since my appointment has been to develop a more thorough understanding of PIAC's current commitments and how the organisation sees those commitments fitting into its broader public interest goals.

Clearly, as a national organisation PIAC must be able to justify those commitments and maintain its capacity to identify and pursue issues that are genuinely in the public interest. This highlights a question that must be kept at the forefront of PIAC's planning processes: how do we define and determine public interest? There is no single or simple answer. The 'public interest' will change over time, varying according to current economic circumstances, being affected by current law and policy frameworks. It is because of this dynamic that we must keep asking the question.

However, once public interest issues are identified we need to focus on what contribution we can make through our engagement with that issue and how we, as a law and policy centre, can best make that contribution. Often, our input will need to be woven together with the differing strengths of other organizations, to ensure a coherent and targeted strategy to achieve shared aims.

Too often those of us who are trained as legal advocates tend to look to litigation as the strategy of first choice. I strongly believe we need to resist that temptation and ensure that we use litigation as one of the various tools available to us as public interest advocates. We can do that by drawing on the capacity of staff, members and management to assess the range of advocacy tools at our disposal to achieve the outcomes we are seeking.

It is through a process of focussing on outcomes that we are more likely to identify the best tools to achieve success. One of my strengths is in working with others to identify the public interest outcomes that we are seeking to achieve in our work, and to analyse the benefits and detriments that are likely to flow from applying particular tools to achieving those outcomes. While I have already begun to work with staff in this way, a very real and exciting challenge for me in the coming months is to create the time and opportunities to weave it into PIAC's organisational planning.

PIAC needs to ensure that it continues to develop and maintain its capacity to be creative and resourceful in advocating in the public interest, including the capacity to make opportunistic interventions where these fit within the broader schema of PIAC's organisational goals.

I look forward to the opportunity to work with PIAC and its friends over the coming years to explore the ways in which we can create real and positive change in the public interest. I welcome input to that process from those who follow PIAC's work through this Bulletin.

PIAC's key principles

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- the Scheme should be proactive in undertaking research and investigation to determine who may have an entitlement to be paid, rather than requiring individuals to apply for a payment as this would rely on awareness of a potential entitlement;
- there should be a presumption in favour of finding that a debt is owed, with the onus on the NSW Government to provide evidence to discharge that onus;
- the monies held by the Board were and continue to be a debt owed to the individuals on whose behalf they were paid to the Board and discharge of this debt by the NSW Government should not be considered a reparation, but rather, simply repayment of that debt;
- the current value of the debt should be calculated to take account of inflation and interest accrued over the relevant period, and should be a factor in equitably recognising the loss of opportunity resulting for those people from whom money was withheld;
- there should be no cap on the funds available to the Scheme: it should determine the amount owed and that amount should be distributed to those entitled;
- the cost of administering the Scheme, and any costs arising through records searches, etc, should be borne by the Scheme and not impact on the funds available for distribution to people found to have an entitlement;
- because the money is a debt owed, where the person entitled to the money has passed away, that money becomes a debt to the person's estate and should be paid to that estate and, through the estate, to the person's lawful heirs;
- the Scheme's decisions should be capable of review under the *Administrative Decisions Tribunal Act 1997* (NSW);
- those directly entitled who, by reason of health or age, may not survive to receive a payment calculated under the Scheme, should be paid an up-front payment that reflects the likely minimum debt owed; such payments to be deducted from the final amount owed, but should not be repayable in the event that the final amount owed is less than the up-front payment;
- the emotional impact of the operation of the Scheme on Aboriginal people must be managed and minimised;
- Aboriginal people should be clearly advised of their rights under the Scheme and have access to free and independent assistance to understand the Scheme and those rights;
- the monies paid out should not be subject to income or other tax and should not impact on the income or other tax liability of the persons to whom monies are paid, or on any existing government entitlements such as pensions, benefits or allowances;
- any entitlements for which the person entitled or their heirs cannot be located should be used for the benefit of the Aboriginal community in NSW; and
- the Aboriginal community must have an opportunity to provide meaningful comment on the Scheme as it is intended to operate.

These principles are set out in greater detail in PIAC's submission.

The proposed model

PIAC has proposed a scheme that is based on an investigative rather than an application model. It would operate through seven stages to enable investigation and research to take place, individuals to make claims, and those individual claims to be investigated. In summary, the seven-stage model proposed is:

Stage 1: Research on entitlements by class of payments.

Stage 2: Research to identify potential members in each class of payments and an initial call for claims.

Stage 3: Review of claimants and class members and further investigation.

Stage 4: Calculation of entitlement amount by year.

Stage 5: Consideration of evidence of payments made.

Stage 6: Calculation of current value.

Stage 7: Identification of beneficiaries and payment.

The focus of the early stages is on investigating the types of payments that were made to the Board, the basis and amounts of those payments, as well as identifying those people who may have been eligible for any of those types of payment. The Scheme will also need to undertake investigation in relation to the descendants of those people who had an entitlement who have passed away.

Once eligibility for types of payments is established, the next stages of the Scheme would focus on determining the amount that should have been paid to the Board in relation to each of the eligible persons and when. Once a total entitlement is determined, then any valid payments made by the Board would be deduced, leaving a net amount of entitlements.

The final process under the proposed model is to determine the current value of the entitlement for each person and to make the payment to either the entitled person or to their heirs, where the person has passed away.

PIAC considers that it is important for the credibility of the Scheme that, once the panel has developed a model it considers appropriate, consultation be undertaken with Aboriginal communities and organisations on that actual model. This will enable Aboriginal people to consider the detailed operational issues that need to be addressed to ensure the model operates fairly and equitably and results in these debts being repaid without undue delay.

A copy of PIAC's submission is available on the website: www.piac.asn.au

Stateless people face detention for life

Alexis Goodstone, *Senior Solicitor*

A number of failed refugee applicants face detention for life as a result of the recent High Court decision in *Al-Kateb v Godwin* (2004) 78 ALJR 1099; [2004] HCA 37. In *Al-Kateb v Godwin*, the High Court determined that it is constitutional and lawful under the *Migration Act 1958* (Cth) (the Act) to keep a person in immigration detention indefinitely.

Mr Al-Kateb, a Palestinian asylum seeker, was born and spent most of his life in Kuwait. He arrived in Australia in December 2002 and was detained while his application for refugee status was determined. When his application was refused he asked to be removed from Australia back to Kuwait. However, attempts to obtain overseas' co-operation for his removal were unsuccessful. This meant—and the parties before the High Court agreed—that Mr Al-Kateb was effectively stateless.

Mr Al-Kateb's counsel argued that where a person's removal from Australia is not reasonably practicable, detention under the Act must come to an end. This was based on the principle that, as a matter of statutory construction, a court should not interpret legislation to abrogate human rights or freedoms unless it is made clear by the use of unambiguous statutory language that this was the intention of the legislature. Counsel for Mr Al-Kateb submitted that there is no such language in the Act. This argument had succeeded before a single judge of the Federal Court, and the Full Federal Court.

On appeal, the majority of the High Court found that even where a person's removal is not reasonably practicable, the Act requires them to be detained, despite the fact their detention would continue indefinitely.

Chief Justice Gleeson, and Justices Gummow and Kirby disagreed with the majority, finding that the proper interpretation of the Act did not allow for indefinite detention, as this would infringe fundamental human and common law rights. The minority found that without clear and unambiguous statutory language this cannot have been the intention of Parliament. They considered that the Act did not address the situation of indefinite detention, and read down the relevant section so as to require detention for only so long as removal is reasonably practicable.

Chief Justice Gleeson, in his minority judgment, stated at [21]:

"The possibility that a person regardless of personal circumstances, regardless of whether he or she is a danger to the community, and regardless of whether he or she might abscond, can be subjected to indefinite, and perhaps permanent, administrative detention is not one to be dealt with by implication."

The majority's decision signals a move away from interpreting legislation as far as possible in conformity with fundamental human rights and those international covenants that Australia has ratified. Freedom from arbitrary arrest or detention is a core common law right as well as a human right guaranteed in Article 9 of the *International Covenant on Civil and Political Rights*. The United Nations Human Rights Committee has defined arbitrariness not merely as being against the law, but also as including elements of inappropriateness, injustice and lack of predictability.

The majority's decision results in a situation where a person who has committed no crime, who has requested removal, and who is co-operating with the Government, could be detained for the rest of their life because they are effectively stateless and cannot be removed.

The need for legislative change

This decision affects a number of PIAC's clients who have been, like Mr Al-Kateb, seeking release from immigration detention. PIAC calls on the Federal Government to amend the Act to ensure that the High Court's interpretation in *Al-Kateb v Godwin* is overturned by legislation. In order to be effective, an amendment should provide that a person must be released from immigration detention where there is no real prospect of that person's removal from Australia in the reasonably foreseeable future, and this is not due to any lack of co-operation on the detainee's part.

The Immigration Minister's approach has been to review the files of those people affected by the decision, and to use her discretion, on a case-by-case basis, to determine whether these people should be detained or granted a substantive visa or a bridging visa until they can be removed.

Another concern is that the bridging visas being issued in some cases do not permit the visa holder to work, and the Government provides no financial support. These people become totally reliant on charities for all of their basic needs and are condemned to live in poverty, possibly indefinitely, until they can be removed from Australia.

The Minister's response fails to address the fundamental principle that the Act currently allows for the indefinite detention of people in immigration detention. This must be changed by an amendment to the Act. A person's freedom should not have to depend on the discretion of a Minister and should be subject to judicial review.

US may block USFTA amendments

Louise Southalan, *Fair Trade Campaigner*

In August 2004, legislation to implement the Australia-US Free Trade Agreement (USFTA) was passed by Australia's Federal Parliament. This came after ten days of intense media focus when Opposition Leader, Mark Latham, announced that the Australian Labor Party (ALP) would agree to the USFTA, but insist on amendments to the implementing legislation. The amendments related to two issues:

- "safeguarding" local content requirements in existing free-to-air media, but not for new forms of media; and
- penalising pharmaceutical companies that file spurious patent applications that would delay the entry of cheaper generic drugs onto the market.

The Prime Minister agreed immediately to the local content amendment, but described the pharmaceutical amendment as "unnecessary" and "dangerous". However, after several days of media focus on this issue, the Government agreed to pass both amendments.

Both Prime Minister Howard and the US Government have said that the US may demand that the amendments be changed or withdrawn before the US will finally sign off on the USFTA on 30 October 2004. With the Federal Election on 9 October, both the ALP and the Coalition could face a decision about whether to stand firm on the limited protection for access to affordable medicines provided by the amendments, or to concede to the interests of pharmaceutical companies. This issue reflects the broader concern about the extent of US influence over Australian law and policy-making that is central to the USFTA debate.

The ALP's amendments were clever politically, portraying the ALP as the defender of affordable medicines. Yet they failed to address the many other flaws in the USFTA identified by the report of the ALP Senators in the Senate Inquiry. That report admitted that the USFTA could result in higher medicine prices, less Australian content in new media, higher copyright costs, reductions in quarantine protection and manufacturing job losses. Despite these serious impacts, the report recommended implementation of the USFTA.

The capacity of the US to have influence over Australian law and policy is expanded under the USFTA through, for example:

- US government representation on working groups on Australia's medicine and quarantine policy;
- a process that allows US drug companies to seek reviews of decisions about which drugs are listed for subsidy under the Pharmaceutical Benefits Scheme;
- extension of copyright payments by 20 years, in line with US law;
- limits on government regulation of essential services if seen as burdensome for business; and
- a disputes process that allows the US government to bring before a trade tribunal a challenge to laws, regulations or policies made by any level of Australian government, on the grounds that these are not consistent with the USFTA.

The ALP had promised that if it won government it would take measures to deal with some of these concerns through legislative and policy changes. However, some of its proposed measures may not be legally effective, since the US Government can challenge laws or policies that are not consistent with the USFTA.

In response to the obvious question, "Is there any chance that the USFTA will not come into force?", PIAC observes that it is possible that the US will object to the ALP amendments, and refuse to agree to Australia's implementation of the USFTA unless the implementing legislation is changed. This would result in the pressure being re-applied on both Labor and the Coalition.

If the USFTA is implemented, the only remaining remedy is for an Australian government to use the termination clause to give six-months' notice to end the agreement. This is rarely done and would not be easy, as the agreement would be strongly supported by those sectors of business that will gain benefits from it.

The community campaign

PIAC has been active in the community campaign on the USFTA for nearly two years, getting involved when negotiations were announced. PIAC is a founder and active supporter of the Australian Fair Trade and Investment Network (AFTINET). AFTINET's campaign on the USFTA, involving 90 community groups, was a key factor in raising community and media awareness of the impacts of the USFTA.

The campaign included submissions to the Senate Inquiry, public meetings and rallies, letters to and meetings with members of parliament, media interviews, and letters to the editor. AFTINET organised a statement expressing serious concerns about the USFTA signed by a number of national organisations. AFTINET also delivered several thousand Avant Card postcards from all over Australia to the Leader of the Opposition, Mark Latham, and supplied background information for the ABC *Four Corners* program on the

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impact of the USFTA on access to medicines. The success of the campaign has been reflected in the widespread media coverage as politicians and commentators debated the merits of the USFTA and its impact on public policy, especially access to medicines and impact on Australian content in the media.

PIAC and AFTINET will continue to work on the USFTA campaign, through:

- monitoring and publicising the impacts of the USFTA;
- urging the ALP to stand by its pharmaceutical amendments if the US Government objects to them;
- pressing for safeguard measures where legally possible; and
- possibly campaigning for withdrawal from the USFTA if the US Government uses the dispute process to challenge Australian law or policy.

More broadly, the continuing fair trade campaign will focus on a more open and democratic process for negotiating future trade agreements, as supported by the USFTA Senate Inquiry and previous Senate inquiries. If Australia is to maintain the right to make laws in the public interest, trade agreements must be subject to proper scrutiny and debate, and social policies should be completely excluded from them.

For more information, visit www.aftinet.org.au or contact Louise Southalan at PIAC on louise@piac.asn.au

Indigenous Water Project

Elissa Freeman, *Policy Officer*

Access to clean water for domestic use is regarded as an essential service and a basic human right. While communities in the greater Sydney metropolitan area experience robust and transparent access to quality domestic water supply, rural and remote Indigenous communities often do not have the same experience, often as a result of reduced legislative and regulatory protections. PIAC has developed the Indigenous Water Project to explore this issue.

The project builds on the report of the Human Rights and Equal Opportunity Commission (HREOC), *Water: A report on the provision of Water and Sanitation in remote Aboriginal and Torres Strait Islander communities*. HREOC's initial report, released in 1994, surveyed ten remote Indigenous communities across Australia and explored broad questions of service provision to remote communities. HREOC conducted a further review of the same communities in 2001, publishing its *Review of the Water Report*. This review had a particular emphasis on the use of appropriate technologies. The Indigenous Water Project will consider the findings of HREOC's reports in light of the current framework for services to Indigenous communities in NSW.

Based on previous work, PIAC is aware that mainstream institutions and frameworks often fail to address the particular needs of rural and remote Indigenous communities. Over the coming months, PIAC will be investigating the nature of water services to rural and remote Indigenous communities in NSW. The project will seek to identify systemic issues in the supply of water for domestic use, and to determine whether these communities are experiencing equitable access to domestic water services. PIAC will be seeking to advocate for appropriate water services based on the issues identified through stakeholder and community consultation.

Shaz Rind from PIAC's Indigenous Justice Project and Elissa Freeman from PIAC's Utilities Consumer Advocacy Program will be consulting with communities, local government and Aboriginal land councils in the Moree, Pilliga and Tingha areas in the north western region of the State. These communities have been selected as providing some representation of the diversity in rural and remote Indigenous communities in NSW. They include Indigenous residents living within local government areas that are connected to town water supply, those living in areas outside town water supply, and communities living in Aboriginal land council land.

Allens Arthur Robinson will assist the project by providing legal advice on the current legislative framework and on consumer protections in the provision of water services to these communities.

For further information about this project please contact Elissa or Shaz at PIAC on 02 9299 7833 or by email to elissa@piac.asn.au or shaz@piac.asn.au

Integrity in local government elections

Simon Moran, *Principal Solicitor*

On 27 March 2004, the NSW Local Government elections were held. Throughout the State political parties and independent candidates vied for votes, producing advertising for the campaign period and to hand out on election day. Deals were negotiated between political parties and individual candidates, and preferences were allocated accordingly. By and large, the election was completed without controversy.

However, PIAC has received a number of requests for representation from individuals seeking to challenge the election of councillors on the basis that those councillors did not comply with certain requirements under *the Local Government Act 1993* (NSW) (the Act) or the *Local Government (Elections) Regulation 1998* (the Regulation).

Pursuant to section 329(1) of the Act:

"Any person may apply to the Administrative Decisions Tribunal for an order that a person be dismissed from civic office."

If the application is successful, the Administrative Decisions Tribunal (ADT) may order the dismissal of the person from civic office.

Examples of the types of breaches of the Act and the Regulation about which people sought advice from PIAC included: alleged misleading statements on vehicles relating to opposing candidates, alleged unregistered "How to Vote" cards, and alleged irregularities in vote recounts.

The relevant authorities in relation to section 329 of the Act—and similar provisions in other jurisdictions in Australia—have created a two-limb test. The first limb is that there is an irregularity in the manner in which the person has been elected. This is specifically set out in section 329(2)(a). The second limb of the test is that an irregularity must make the result of the election uncertain; see *Bourne v Murphy* (1996) 92 LGERA 329 at 358.

The decision in *Bourne v Murphy* has been followed in recent cases, most notably by Justice Bell in *Roberts v Jeffrey & Ors* [2003] NSWSC 163.

The question of whether the first limb is established is relatively straightforward as there are clear provisions regulating the conduct of elections. For example, Regulations 89 to 112 of the Regulation set out numerous offences in relation to the conduct of an election. These range from the arcane offence of "treating"—whereby a person solicits votes through the provision of meat, drink, entertainment, and horse or carriage hire—to misconduct by scrutineers within a polling place. Most relevant to the cases in which PIAC has advised is Regulation 109. This creates offences for publishing "How to Vote" cards or electoral advertisements containing misleading information. Complications may, of course, arise in the consideration of whether or not the information is misleading.

Applicants under section 329 generally face greater difficulty with the test's second-limb requirement that it be established that the irregularity has made the result of the election uncertain.

Applicants must provide evidence to establish the impact of the irregularity on individual voters. For example, if the alleged irregularity was an unregistered electoral advertisement, which included a misleading statement, the Applicant should obtain evidence from voters who saw the advertisement and who, as a result, changed their vote in a way that made the election result uncertain. Clearly the greater the number of people providing such evidence the better the prospects of the Applicant.

The ADT has not required an exact correlation between the number of votes required to make the election uncertain and the number of statements giving the above evidence. The ADT has adopted a pragmatic approach, concluding that where an inference can be drawn from the evidence that "not insignificant number of voters" saw the irregularity and were influenced by it then uncertainty can arise: *Jeffrey & Ors v Roberts* [2000] NSWADT 57 at [177].

Such a formulation of the test of uncertainty may arguably be the only rational test. The alternative of requiring an Applicant to obtain evidence from hundreds of voters who have been influenced would make the provision unusable. However, this formulation of uncertainty does lead to difficulty in advising clients, as it is difficult to anticipate how many statements will be sufficient to lead to the inference being drawn. That advice will invariably be influenced by the numbers of votes by which a candidate was successful, as this number clearly influences the ADT's consideration.

Unfortunately, the current formulation of the test presents dangers to the integrity of our electoral system. The requirement of uncertainty focuses attention on the numbers of votes by which a candidate was successful and away from the seriousness of the responsibility for and the intention behind the irregularity. Ostensibly, this means that where a candidate has an overwhelming victory, their election cannot be considered uncertain, no matter the seriousness of any irregularity committed by them. A preferred approach, which would reinforce the integrity of the conduct of elections, would be to focus on the irregularity itself.

PILCH News and Views

Staff Changes

In June 2004, the PILCH Board and staff welcomed Robin Banks as the new Director of PIAC and PILCH. Robin's appointment followed the resignation of Andrea Durbach.

The significant contribution that Andrea has made to the establishment and development of PILCH over a period of almost 13 years was acknowledged at a farewell function for Andrea held in June 2004.

Catherine Duff, PILCH Project Officer, completed her 12-month appointment with PILCH in mid-September. Our thanks to Catherine for her contribution to the project and communications work of PILCH.

Secondees

PILCH member firms have thrown their support behind the recent change to the PILCH secondment program by providing solicitors to work in PILCH for four, rather than three months. Minter Ellison secondee, Catherine Capelin, commenced her secondment in June 2004. Our thanks go to Catherine for her assistance and commitment to PILCH during her time with us.

Catherine wrote of her secondment:

"I have enjoyed my time as a PILCH secondee immensely. I have gained invaluable legal experience as well as the opportunity to work with some wonderful people from the community legal sector. I commend the secondment to all those solicitors interested in learning about public interest work, while at the same time developing their analytical and communication skills across many different areas of law. I have developed a greater appreciation of the contribution made by private law firms and the Bar to pro bono *legal practice and public interest related work."*

Secondees make a vital contribution to the assessment and referral work of PILCH, as well as across a range of PILCH activities. For further information about secondments contact Robin Banks or Sandra Stevenson.

Practising in the Public Interest

Now in its fifth year of operation, the PIAC/PILCH Practising in the Public Interest (PIPI) course continues to offer later-year law students from participating universities the opportunity to gain insights into and understanding of systems advocacy and public interest law. PILCH members provide a range of support for the course including hosting training, taking students on placement, and providing speakers. The training component of the PIPI Winter School, conducted for students from the University of Western Sydney and Macquarie University, was hosted by PILCH member firm, Coudert Brothers.

A student participating in the recent Winter School in evaluating the course wrote:

"I really cannot express how wonderful I thought this course was. I never knew how or where to focus my energies. This course was practical. It gave real strategies to effect social justice".

The next PIPI course will be held in February 2005.

Homelessness Project

The culmination of the joint PIAC/PILCH's Homelessness Project, the Homeless Persons' Legal Service (HPLS), commenced operations in June 2004 (see the article on page 12).

Emma Golledge, the new HPLS Co-ordinator, and Nya Fleron, the new HPLS Administrator, began work in early August. Lawyers from six PILCH member law firms are providing legal advice and information at five host welfare agencies. Feedback on the work of HPLS has been very encouraging.

There has been broad support across the PILCH membership for all aspects of this project. Particular mention needs to be made of the significant contribution made by Minter Ellison through the provision of solicitors on secondment over a 12-month period to work on the project. Our thanks to Minter Ellison secondee solicitors: Judith Levitan, Kristen Howden, Michelle Rabsch, and Lindsay Prehn, for their commitment, energy and assistance developing and implementing HPLS.

Information about HPLS, including clinic operating times and locations can be found at on the PIAC website. For further information, contact Emma Golledge at emma@piac.asn.au

PILCH Referrals

Highlights

A community group lobbying for the re-opening of a local high school was advised by **Patrick Griffin, barrister,** on the prospects of success of seeking an order for *certiorari.*

Dr Christopher Ward, barrister, 5th Floor Wentworth Chambers, provided advice to a national network of community organisations advocating on trade and investment in respect of the impact of the proposed Australia-US Free Trade Agreement on the Pharmaceutical Benefits Scheme.

Stephen Gageler SC, 11th Floor Wentworth Chambers, provided advice to a community legal centre on the prospects of success of an application to challenge the detention of a person born in PNG claiming Australian citizenship.

A peak non-profit organisation received advice from **Ebsworth & Ebsworth** in relation to the responsibility of funders to contribute to the winding-up costs of members affected by funding cuts.

James Renwick, barrister, 12th Floor Selborne/Wentworth Chambers, provided advice to a community legal centre on the potential implications of

certain provisions of the *Anti-Terrorism Bill 2004* (Cth) in relation to minors and Indigenous people.

Other Referrals

Other referrals were accepted by PIAC; Clayton Utz; Henry Davis York; Graham Jones Lawyers; Maddens Commercial Lawyers; Pricewaterhouse Coopers; Kate Sainsbury, barrister, 6th Floor Wentworth Chambers; Michael Windsor, barrister; Corrs Chambers Westgarth; Robert Sheldon, barrister, 10th Floor Selborne Chambers; Allens Arthur Robinson; Grant Carolan, barrister, Ground Floor Wentworth Chambers; Patrick Griffin, barrister; Robyn Druitt, barrister; Gilbert + Tobin; and Acuiti Legal.

Our thanks to all PILCH members for their ready acceptance of *pro bono* referrals, assisting clients with legal issues ranging across discrimination, human rights, administrative law, privacy, international law and conventions, management and governance issues, leases, workplace relations, funding, tax, native title, and intellectual property rights.

Carroll & O'Dea achieve speedy resolution for Aboriginal student

An Aboriginal student was attending a residential school at a teaching institution. The institution requested that she leave because she had obtained an AVO against another residential student. The student felt very aggrieved; as the innocent party she suffered the indignity of being forced to leave the institution and missed a significant part of her course.

The institution ultimately allowed the student's return but she felt strongly that, in future, similar situations should be handled in a better manner.

The student lodged a complaint of victimisation under section 50 of the *Anti-Discrimination Act 1977* (NSW) with the Anti-Discrimination Board. The matter was referred to the Administrative Decisions Tribunal. It was arguable, on legal grounds that no victimisation had taken place. Even though the legislation did not offer direct relief, the student felt that the situation called for redress.

At first instance the student was unsuccessful in mediating on her own account with the educational institution. Upon seeking the assistance of PILCH the matter was referred to Carroll & O'Dea. The injustice of the student's situation was subject to careful consideration and an offer was made to her by the institution prior to the second mediation.

The matter was resolved with the teaching institution agreeing to pay the expenses incurred by the student in being forced to leave the campus, and an amount for her pain and suffering; the student had suffered a great deal of embarrassment and loss of dignity. The institution also provided the student with a written apology, and undertook to seek assistance from an Aboriginal negotiator through the Anti-Discrimination Board to resolve similar situations.

The student was very happy with the outcome that PILCH and Carroll & O'Dea were able to achieve for her.

PIAC People

The past six months have seen some additions to the staff at PIAC. In August, we welcomed Emma Golledge, as Co-ordinator and Nya Fleron, as Administrator, of the newly-established Homeless Persons' Legal Service.

Emma has previously worked as the Tenancy Co-ordinator at Redfern Legal Centre, and as a Solicitor at the Intellectual Disability Rights Service. Emma has, for a number of years, been involved in the Boarders and Lodgers Campaign.

Nya has previously worked for a number of years as Program Associate with the Lawyer's Committee on Nuclear Policy in New York. In this role she was responsible for office management, computer and website maintenance and development, publications and research and writing.

As always, PILCH member firms have made an enormous contribution by seconding solicitors to PIAC and PILCH to assist with PILCH referrals and other projects. Catherine Capelin from Minter Ellison finished in October and was followed by Davyd Wong, a secondee from Henry Davis York.

PIAC's work is also enhanced by College of Law placements and other volunteers. In the past six months, Ryan Verzosa and Suzan Hanna, undertaking their College of Law placements, and Kristin Macintosh, a University of Sydney student doing a clinical studies course, have provided excellent support to the litigation team.

UCAP Report

PIAC's Utility Consumers' Advocacy Program (UCAP) is now in its seventh year and remains a unique model for consumer advocacy in Australia, both for its brief in covering three essential services—electricity, gas and water—and its role as a dedicated advocate for community groups and low-income consumers in NSW.

National energy advocacy

The creation of a new national regulator for the electricity and gas industries remains a work in progress as all stakeholders attempt to implement the 2003 decisions of the Australian Ministerial Council on Energy.

In mid-2004, the various government officials responsible for the process belatedly opted to initiate a broader process of negotiation with all sectors of the energy industries, including small-volume customers. Unfortunately, by this time some fundamental issues already had been decided, including the meaning of the "consumer benefits" that are supposed to flow from the new arrangements. The result is that some of the important ground rules for future consultation and participation have been decided in the absence of residential users who form the largest and most vulnerable group in the energy markets.

However, importantly, at their August 2004 meeting, the energy ministers agreed that the consultations be expanded to include the possibility of a new national body to represent the views of end-users in the electricity and gas industries. Many details of this proposal still need to be finalised, not least of which is the question of whether the new body should focus on the interests of residential and small business consumers. Another unresolved issue is how this body might support those advocacy groups that continue to deal with the issues at a state and territory level.

UCAP has been active in the debates and consultation processes around the new national regulatory arrangements. UCAP provides a useful model for a successful national body.

Licence enforcement

Making utility businesses accountable for the way they operate remains the responsibility of each State and Territory government. In most cases, the businesses have a range of obligations imposed on them through operating licences. The concern for UCAP and a number of community organisations is that some of the utility businesses may be in technical breach of their licences with resulting negative impacts on consumers. In some cases, the businesses may be contravening the spirit rather than the letter of their obligations.

The NSW Independent Pricing and Regulatory Tribunal (IPART) is the body responsible for enforcing compliance with operating licence conditions. IPART was due to release a protocol for its compliance activities in the second half of this year. PIAC intends to take up with IPART a range of licence compliance issues. It may be that better communication with the utility businesses will be just as crucial to improved performance as more assertive enforcement.

Consumer research

Too many decisions that affect the position of household users of essential services are made with too little information about those impacts. UCAP has sought to address some of this information deficit through a range of research activities. This includes commissioning research as well as participating in external research projects.

Two UCAP research projects were undertaken in the second half of 2004 with financial support from the NSW Government as part of UCAP's funding grant. The first of these was a large study of the effects on households of disconnection or restriction of supply of energy and water. The second was a detailed examination of water use by low-income households to see how much consumption by poor families is discretionary and thus likely to be responsive to price increases. This relied on data from an earlier IPART study of household usage.

UCAP was also on the steering group of a research project undertaken by the Institute of Sustainable Futures at the University of Technology, Sydney, and the Moreland Energy Foundation. This project aimed to gauge the attitudes and behaviour of households around energy and water conservation. The ground-breaking nature of this research was evidenced by the enthusiasm of two energy retailers to use the project to test new metering technology that is hoped to reduce peak demand for electricity.

Reference Group

PIAC is pleased to have its first Indigenous member of the UCAP Reference Group, Patty Morris. This group provides important input to the development by UCAP of its policy positions and advocacy to stakeholders such as utility businesses and regulators. Ms Morris has joined the Reference Group as representative of the Bourke Family Support Service.

Patty's participation is supported with funding from the Department of Energy, Utilities and Sustainability, which is keen to increase the representation of rural communities on the Reference Group.

The Reference Group also includes:

- NSW Council of Social Service;
- Australian Consumers Association;
- Council on the Ageing (NSW);
- Rural Women's Network;
- Park and Village Service;
- Combined Pensioners and Superannuants; and
- Institute for Sustainable Futures.

Litigation update

PIAC client, Gary Burns, is awaiting judgment from the Administrative Decisions Tribunal (ADT) in a high-profile case about alleged homosexual vilification in the media. The complaint concerned comments made on Radio 2UE by John Laws and Steve Price about a gay couple on the Channel 9 television program, *The Block*. Mr Burns alleged the comments incited hatred towards, serious contempt for, and severe ridicule of homosexuals on the grounds of their homosexuality, in contravention of the *Anti-Discrimination Act 1977* (NSW) (ADA). Mr Burns is seeking compensation and a public apology. Chris Ronalds of counsel appeared for Mr Burns at the ADT.

PIAC is representing the NSW Combined Community Legal Centres Group Inc (CCLCG) and Redfern Legal Centre who have been granted for leave to appear as *amici curiae* in *APLA & Ors v NSW Legal Services Commissioner & the State of NSW*. The Australian Plaintiff Lawyers' Association (APLA) is challenging the validity of regulations made pursuant to the *Legal Professions Act 1987* (NSW) that make it an offence of professional misconduct for a legal practitioner to publish advertisements that have a connection with personal injury. The CCLCG is concerned that the regulations significantly impede the work of its member community legal centres (CLCs), through preventing the solicitors working in CLCs from publicising their services. CLC solicitors provide legal advice and representation in a broad range of areas including discrimination, domestic violence and victims' compensation matters. All of these areas may have a connection with personal injury as defined. The case was heard by the High Court on 5 and 6 October 2004 and PIAC is awaiting a decision.

The primary issues in the case relate to the freedom of communication on political and governmental matters guaranteed by the Constitution, the infringement of Chapter 3 of the *Constitution*, and the freedom of interstate trade guaranteed by section 92 of the Constitution. John Basten QC, George Williams and Rachel Pepper have generously agreed to act as counsel on a *pro bono* basis.

PIAC is acting for Wendy Spencer who alleges that she has been discriminated against by her employer on the grounds of her carer responsibilities. For some years, our client has had significant responsibilities in caring for her elderly parents—who are in poor health—and her sister, who had a stroke in 1999. Initially, the employer accommodated these responsibilities, allowing our client to work her hours over four days. However, following a restructure the employer required her to revert to a five-day week. Our client alleges that this requirement is unreasonable, and that it was imposed on her without adequate consideration of the nature of her carer responsibilities.

The case will be heard by the ADT in November 2004. It is expected to be significant in relation to the provisions of the ADA concerning indirect discrimination on the ground of carer responsibilities, and the concept of "reasonableness" in those provisions. Ian Bourke of counsel providing assistance in the mediation before the Tribunal, and Amanda Tibbey of counsel is representing Ms Spencer at the hearing.

PIAC is acting in a disability discrimination case in relation to the provision of insurance. PIAC's client, Louise Maher, was diagnosed with cancer as a child. Following a course of treatment, she was considered to have made a full recovery, and has been symptom-free since 1993. In September 2002, Ms Maher applied for life insurance with Westpac Life Insurance Services. Instead of full cover, Westpac Life offered a policy that excluded incapacity caused by cancer.

Ms Maher commenced proceedings in the Federal Court of Australia, alleging the imposition of the exclusion clause constitutes unlawful discrimination in the provision of services on the ground of a previous disability, contrary to the *Disability Discrimination Act 1992* (Cth) (DDA). In its defence, Westpac Life is relying on section 46 of the DDA, which provides an exemption where discriminatory conduct is based on "actuarial or statistical data on which it is reasonable to rely". There is little judicial authority on this provision, so the case is likely to set important precedent on the obligations of insurance providers when assessing risk. Chris Ronalds, recently appointed Senior Counsel, is representing Ms Maher in the proceedings.

An interesting development in the case is our client's filing of a Notice of Motion seeking an Order pursuant to Order 62A of the *Federal Court Rules* that the Court limit the costs recoverable in relation to certain aspects of the proceedings. In PIAC's experience, many people with disability discrimination claims are reluctant to pursue their claims in the courts because of the risk of having to pay the respondent's costs if unsuccessful. These costs can be significant, particularly where the respondent organisation is represented by a major law firm and senior counsel, and calls expert witnesses in its defence. Faced with this risk, many applicants don't pursue their claims, despite having good prospects of success.

Recognising and valuing the individual: The Homeless Persons' Legal Service

Emma Golledge, *Co-ordinator, Homeless Persons' Legal Service*

"Nobody knows when their life is going to change." *Client of HPLS.*

The Homeless Persons' Legal Service (HPLS) is now operational, providing free legal services at clinics located in five welfare agencies that provide food, accommodation and services to homeless people or people at risk of homelessness. Four of the clinics operate in welfare agencies in the inner city of Sydney, with the fifth operating in Parramatta. The clinics are staffed by lawyers from six private law firms that are members of the Public Interest Law Clearing House.

There can be no doubt that homeless people and people living in insecure accommodation are extremely disadvantaged in dealing with legal processes and enforcing their rights. The combined effect of lack of access to free legal services, the constant demand of securing accommodation, and negative experiences with the law and lawyers, often result in homeless people having multiple legal problems, some dating back many years.

Despite these barriers, HPLS has already had some notable successes: it had one client's name removed from a tenancy black list that prevented him from finding housing, a client who had been unfairly dismissed was reinstated, and a woman wishing to see her grandchild was assisted in the Children's Court.

The experience of HPLS to date emphasises the complexity of the experience of being homeless, and the multiple barriers to moving out of homelessness. A common theme in that experience is that for many people homelessness has resulted from events that were, to a large extent, outside their control. Stories of sudden illness, the death of a loved one, the loss of a job, or other traumatic events, fill the narratives told to HPLS lawyers. The sense that these people's lives have changed in ways they had never imagined reveals that many homeless people are trying to grapple with the decline in their fortunes, and to deal with the inherent lack of independence, privacy and security that accompanies homelessness. Seen in this context, legal problems are tied to emotional displacement: clients are often trying to reclaim parts their life and search for ways toward independence; a "normal life", an end to the social isolation they feel.

Providing legal advice in this context is about recognising personal experience; clients seeking assistance from HPLS often express this as "wanting to get my life together" through engaging in wider legal and social processes. Tackling legal problems often symbolises the desire to "meet obligations", to assert rights, to enforce entitlement, to move toward a pathway out of homelessness.

This important aspect of the HPLS utilises the law to enable homeless people to engage in processes and systems from which they are inherently excluded; locked out by poverty and social stigma. Talking about the law with lawyers is not just about receiving legal advice, but is also about practising social inclusion. The dialogue between the lawyer and the client is a crucial part of the project, irrespective of the advice or legal prospects in each case. Access to the symbols of justice, and to the language of rights and obligations, provides a small window toward social inclusion. This contrasts sharply with the exclusion from "normal life" faced by most homeless people.

Having access to the language of the law validates the importance of the individual and their experience, and removes some of the invisibility and exclusion many homeless people experience. For HPLS lawyers the dialogue they have with the client allows an understanding of homelessness as a human individual experience that challenges stereotypes.

In conjunction with providing legal services to individuals, HPLS is also utilising client experiences to highlight areas where systemic issues indicate a need for law reform. Homeless people often face difficulty moving out of homelessness; these difficulties are sometimes due to legal processes and systems that disadvantage them due to their homelessness and poverty.

Attending a Court date, addressing a debt, or complying with parole conditions may be impossible in the face of housing instability. This can result in escalating legal problems that prevent a person moving out of homelessness. The visibility of homeless people in public areas also often results in higher rates of contact with the police and subsequent fines for behaviour that would be lawful in a person's home. Homeless people also suffer frequent infringements of their human rights, such as discrimination, invasions of privacy, lack of access to health services, inadequate housing and violence. A key aspect of the project is to articulate the need to reform to social and legal practices that prevent people moving out of homelessness and achieving protection of their basic human rights.

For more information contact Emma Golledge at emma@piac.asn.au

Policy Report

Protecting Human Rights Project

Since its launch in June, thousands of copies of PIAC's education kit, *Protecting Human Rights in Australia*, have been distributed across Australia. The kit is also available on PIAC's website.

PIAC is now developing partnerships with community organisations for Stage Two of the project, which involves community training across Australia of people who will then do training in their own communities on human rights protection in Australia.

The Uniting Church has recently provided a grant of $8,000 to assist with the development and production of training materials.

Contact Annie Pettitt for further information.

Anti-terrorism legislation

In June 2004, the Federal Government introduced further anti-terrorism legislation: Anti-terrorism Bill (No 2) 2004 and Anti-terrorism Bill (No 3) 2004. These Bills followed closely on the heels of the Anti-terrorism Bill (No 1) 2004, which was enacted on 30 June. PIAC had made a submission to the Senate Legal and Constitutional Legislation Committee in relation to the first Bill.

The Anti-terrorism Bill (No 2) was also referred to the Senate Committee and PIAC made a further submission raising the following concerns.

- The definition of "association" in the amendments proposed to create a new offence in the *Criminal Code Act 1995* of "associating with terrorist organisations". The definition failed to exclude some close family members, such as those related by marriage, aunts, uncles and cousins.
- The effect of these provisions when considered in light of the presumption against bail and minimum non-parole periods in relation to terrorism offences that were added to Anti-terrorism Bill (No 1) 2004 after the Senate Committee reported on that Bill.
- The amendment to the *Passport Act 1938* to grant certain authorities powers to demand and confiscate foreign travel documents where they believe that the person has committed particular offences either in Australia or overseas. PIAC argued that seizure of travel documents before an arrest warrant has been issued effectively presumes the person is guilty and imposes a penalty prior to arrest. PIAC recommended that, if passed, the Bill require judicial scrutiny prior to the seizure of travel documents.
- Amendments to the *Australian Security Intelligence Organisation Act 1979* to give authorities power to prevent people leaving Australia merely on request for the issue of an ASIO warrant.

These Bills were passed by the Federal Parliament in August.

PIAC's submissions can be found on the website.

Same-sex marriage legislation

In June, the Marriage Amendment Legislation Bill 2004 was referred to the Senate Legal and Constitutional Legislation Committee. PIAC and the National Association of Community Legal Centres (NACLC) made a joint submission opposing all the provisions of the Bill.

The Bill sought to enshrine in legislation discrimination against gay and lesbian couples by specifically excluding them from the right to marry. The Bill specified that marriage means "the union of a man and a woman to the exclusion of all others", and that same-sex marriages sanctioned in foreign countries would not be recognised in Australia. Before the Senate Committee completed its Inquiry these provisions were passed through the Federal Parliament in a separate Bill.

The other provisions in the Bill, which proposed to prohibit overseas adoption by same-sex couples, were not passed and lapsed following the announcement of the Federal election.

PIAC and NACLC's joint submission can be found on PIAC's website.

Productivity Commission Review of National Competition Policy

The Productivity Commission is conducting a ten-year Review of National Competition Policy, and its possible extension to additional areas such as social services and the labour market. PIAC's submission to the Commission emphasised the limitations and dangers of applying market economic theory designed for traded commodities to social services and human labour. The submission used evidence from the experience of PIAC's Utilities Consumer Advocacy Project and from the Productivity Commission's own study of the Job Network to argue that the inappropriate application of market principles to essential services can lead to higher costs and/or lower quality services for consumers.

The submission is on the PIAC website.

Fair Trade

US-Australia Free Trade Agreement

Between June and August, PIAC and other community organisations in the Australian Fair Trade and Investment Network (AFTINET) conducted a strong community education and political lobbying campaign as the legislation implementing the Australia-US Free Trade Agreement (USFTA) was debated in Federal Parliament. For a detailed report on this work, see the article on page 5.

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Training News

There has been a subtle, but important change to the PIAC training program.

PIAC has been a Registered Training Organisation since 1999. PIAC is now registered with the Vocational Education and Training Accreditation Board (VETAB) to issue the training qualification *Undertake Systems Advocacy*.

The *Undertake Systems Advocacy* unit of competence is nationally recognised and can provide opportunities to complete Certificate IV and Diploma level qualifications. Participants who are not studying for a qualification in this field can still receive formal recognition of their skills in the area of systems advocacy.

Participants can gain this formal recognition of their skills by completing an assessment, which consists of writing a report of an advocacy campaign with which they have been involved.

Of course, participants can still attend PIAC training without completing any assessment. Under these circumstances participants receive a certificate of attendance.

PIAC training – keeping up to date

At PIAC, we always try to bring you high-quality, affordable training. Over the past year we have continued to review and rewrite many parts of our training programs to ensure that they are up to date and relevant to people's advocacy training needs.

In 2003, PIAC completely reviewed the course materials for *Work the system: an introduction to advocacy*, updating materials and including new case studies. We also designed a session on *Being an Effective Community or Consumer Representative on Boards and Committees*. We also updated our Civics Train-the-Trainer materials about government and elections.

The review and updating process has continued in 2004, with a complete review and rewrite of PIAC's training programs on *Negotiation Skills* and *Media Skills*. Both these training modules now include role-play activities so participants have an immediate opportunity to practise the skills and strategies they are learning.

For the future, PIAC is planning a new advanced course for experienced advocates who want to know more about discrimination.

NCOSS emergency relief workers – training the front line

PIAC has recently completed a sixth training course for people who provide emergency relief services for people in financial crisis in NSW. The New South Wales Council of Social Services (NCOSS) runs a training project for emergency relief workers and has partnered with PIAC to deliver training on advocacy and lobbying.

Volunteers perform the majority of service provision in the emergency relief area in NSW. The work of these volunteers is very challenging to say the least. They often have their hands full dealing with the very practical needs that their clients present on a daily basis. The NCOSS project aims to enhance the capacity of emergency relief workers and ensure the highest possible quality of service for their clients.

PIAC's advocacy training recognises that, at times, emergency relief workers will come across issues that affect a number of their clients and indicate a need for systemic change. The training gives them the skills to advocate to change the system when it is needed. Some of the advocacy issues that emergency relief workers have identified are the lack of emergency accommodation for homeless people, particularly in regional areas, problems of accessing Centrelink services, and youth unemployment. Emergency relief services also often experience funding shortfalls, making it difficult to provide the level of service that is needed by their clients.

To date, PIAC Training Co-ordinator, Carolyn Grenville, has had the opportunity to conduct training with emergency relief workers in Sydney, Newcastle, Wyong, Byron Bay and Coffs Harbour.

2005 training

PIAC's training calendar for early 2005 will be announced in late January. If you would like to receive notification of our upcoming courses, please contact Katharine Slattery on 02 9299 7833. To join our mailing list, call PIAC, or send an e-mail with your details to piac@piac.asn.au

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WTO Trade in Services negotiations

AFTINET has produced a publication on the recent resumption of negotiations in the World Trade Organisation, especially negotiations on Trade in Services (GATS) that could affect essential services and social policies. The Federal Government will seek community submissions by December. The publication is on the AFTINET website www.aftinet.org.au

Proposed Australia China Free Trade Agreement

The Australian and Chinese governments have brought forward the deadline for completion of the feasibility study for a possible free trade agreement. AFTINET has made a submission expressing concern about human rights and labour rights in China and seeking comprehensive studies on the social and economic impact of such an agreement on both countries before a decision is made to commence negotiations. A public meeting on these issues will be held in November.

For more information, see www.aftinet.org.au

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