

Journal of the Public  
Interest Advocacy Centre

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PIAC BULLETIN

# PIAC

SETTLEMENT:  
Coles online  
to improve  
accessability

The true value of  
NSW electricity  
networks

PIAC Social justice  
dinner 2015

HPLS turns ten





Working for a fair, just & democratic society

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Cover: Graeme Innes, Gisele Mesnage and Michelle Cohen

Photo: Gemma Pearce



### CEO REPORT

It's easy to forget that the David and Goliath story has a gruesome ending: after felling Goliath with a stone from his famous slingshot, David wanders over to his prostrate foe and lops off his head

That ending works. It's satisfying; the villain is punished.

At PIAC, we know all about such struggles between the underdog and the powerful oppressor. Yet our experience of such struggles is often more prosaic, and also more subtle, interesting and complex.

In this edition of the PIAC Bulletin, we celebrate some of these struggles. But these aren't 'David and Goliath' stories – at least not in the conventional, clichéd sense.

PIAC gives slingshots and legal advice to Davids living outside the Valley of Elah. As a result, more often for a PIAC client, their objective is not to slay the powerful figure that is doing them wrong. It is to encourage, cajole and, if necessary, force the powerful figure to recognise their rights.

Recently, we celebrated reaching the amicable settlement of a dispute between the supermarket giant, Coles, and our client, Gisele Mesnage, who is blind. Gisele's aim was never to drive Coles into the dust, nor even to punish them. Instead, Gisele wanted Coles to improve the way it did business so that people like her could more easily buy Coles' groceries online.

Similarly, this edition of the Bulletin announces the launch of our new case to benefit over 350,000 Australians who are blind or have a vision impairment and want to access commercial television. Vision Australia, represented by PIAC, is



Edward Santow, PIAC Chief Executive

calling for the introduction of audio description, which would allow these people to enjoy some of the TV that the rest of us take for granted.

Audio description is simple and relatively inexpensive. It involves a description of some of the most important visual elements of a TV program, so that a person who is blind can know what's happening on screen. Most other countries that we compare ourselves to – the UK, US, New Zealand and elsewhere – have already had this service for years on a minimum proportion of broadcast content.

Again, the point of this action isn't to hurt commercial broadcasting, but to open it up to a significant proportion of the population.

And, through such work, perhaps we glimpse a world where the power imbalance between David and Goliath is evened to the extent that they can resolve their differences without recourse to slingshot or sword.

Edward Santow,  
PIAC Chief Executive Officer.

The Public Interest Advocacy Centre office is located on land traditionally owned by the Gadigal People of the Eora Nation. PIAC provides services across New South Wales and Australia, and we acknowledge the traditional owners and custodians of the lands on which we work as the first people of this country.

# Coles online to be more accessible: settlement

When Gisele Mesnage launched her case against Coles online last year, she said that all she wanted was to be able to shop online like everyone else.

Ms Mesnage relies on a screen-reader to use the internet and, like many people who are blind or have low vision, she has had problems using the Coles website to do her shopping on and off since 2008.

In 2013, Ms Mesnage lodged an application alleging unlawful disability discrimination in breach of the Disability Discrimination Act 1992 (Cth) in the Australian Human Rights Commission. After attempts at conciliation were unsuccessful, the matter was filed in the Federal Circuit Court in October 2014.

The case settled amicably in February 2015, with Coles agreeing to make improvements to its shopping website which will make it more accessible.

'This settlement is a victory

for equality. If you're blind, it is impossible to do your grocery shopping in a store without assistance. Accessible online grocery shopping is fundamental to allowing our client and other blind people to live independently,' said PIAC CEO, Edward Santow.

'Online grocery shopping is an essential service for people who are blind and vision impaired. People like Ms Mesnage can't simply visit a grocery store and browse for items like sighted people can,' said Julia Mansour, PIAC Senior Solicitor in charge of the case.

The issue clearly struck a chord. A Sydney Morning Herald article published shortly after the case was launched received more than 200,000 Facebook 'shares'.

'I am delighted that the case has settled with such a positive outcome,' said Ms Mesnage.

'Online shopping can be a great help for people living with disabilities, especially those who are blind or have low vision, saving time and transport costs and empowering them to do this ordinary domestic task, grocery shopping, on their own.'

'I congratulate Coles on taking this important step and call on other online shopping sites to follow suit.'

'I would also like to thank Bentham IMF, Australia's leading litigation funder, for backing my case as part of its pro bono program,' Ms Mesnage said.



From left: Graeme Innes, Gisele Mesnage and Michelle Cohen launch the case against Coles.



# Booking with a carer now easier with Virgin Australia

Virgin Australia has made it easier for people with a disability, who need to travel with a carer, to access lower airfares, following the resolution of a complaint to the Anti-Discrimination Board of NSW.

The complaint was made after PIAC's client, Jenny Brown, found that she was unable to take advantage of discount airfares when booking flights for her disabled son, because of Virgin Australia's requirement to submit the name of her son's companion carer at the time of booking.

'My son travels with a carer arranged by a nursing agency. We don't usually know their name more than two weeks in advance when the agency finalises their roster, so we have had to book at the last minute,' said Ms Brown.

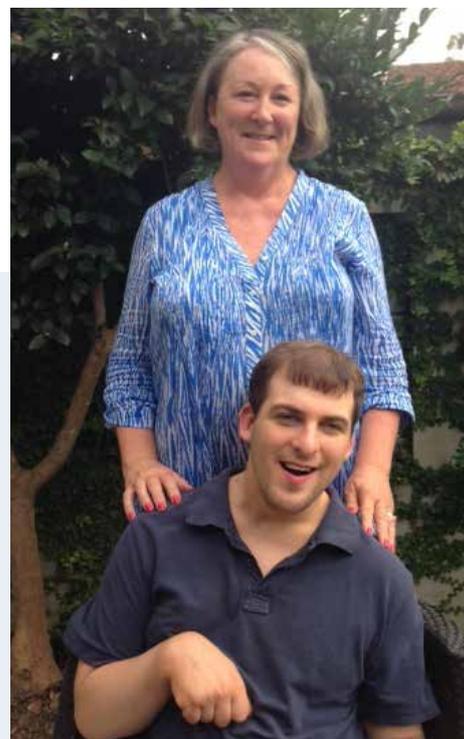
'Usually only expensive flights at the least popular, least convenient times are available.'

As a result of Ms Brown's complaint, the airline has reviewed and made changes to its policy so that people travelling with a carer can now make flight bookings by phone up to 331 days in advance at the internet discount rate, without the requirement to enter the carer's name at the time of booking.

The name of the carer can then be confirmed at any time up to 72 hours before the flight.

'This settlement means that my family and many thousands of people who need the assistance of a carer when travelling will have much better access to "early-bird" flights and specials,' Ms Brown said.

'We welcome the changes that Virgin Australia has made as they



Jenny Brown with son Ashley Brown.

make air travel more affordable and accessible for people with disabilities,' said Camilla Pandolfini, the PIAC Senior Solicitor in charge of the case.

'Travel is an essential service and this takes us one step closer to equality.'

## Focus on young lawyers – Rafael Aiolfi



Rafael Aiolfi does not shy away from a challenge. An outdoor enthusiast, Rafael recently completed the Oxfam Trailwalker event, in which participants must trek 100km in under 48 hours. Rafael and his team required only 34. When Rafael was presented with the chance to undertake a six-month secondment from law firm Minter Ellison to PIAC's strategic litigation team, he jumped at the opportunity.

Originally from Brazil, Rafael moved to Sydney in 2010. He completed a Juris Doctor at the University of Technology Sydney and was admitted as a lawyer in 2014.

As part of the strategic litigation team, Rafael has been working in the areas of disability discrimination and the wrongful arrest of young people. When asked to share his thoughts on this work, Rafael was quick to praise the clients PIAC represents and emphasise their role in contributing to social change.

'On a daily basis, I was impressed by the resilience of our clients and their selfless commitment to addressing social injustice,' said Rafael.

'Having such client exposure right at the beginning of my career as a lawyer has been an invaluable experience. The clients I worked with at PIAC challenged me to come up with new legal arguments in order to tackle systemic issues in our society. It is fair to say that our clients are our heroes.'

Coming from overseas, Rafael's time at PIAC helped him gain a greater understanding of some of the social problems present in Australia.

'I must admit that my knowledge about Australia was quite limited. In that sense, my secondment at PIAC became an eye-opening experience. I am leaving PIAC with a better understanding of the complex nature of Australian society,' he said.

Rafael went on to share his enthusiasm about public interest legal work. 'I would encourage law students and lawyers to explore public interest law opportunities. There are so many opportunities out there for people who want to use their legal skills to make a difference to disadvantaged people,' he said.

# Recent PIAC policy work

## Freedom of information under threat

In October 2014, radical changes were proposed to the federal freedom of information regime in the Freedom of Information (New Arrangements) Bill 2014.

Should the Bill pass, the Office of the Australian Information

Commissioner, an office only created in 2010, will be abolished. This will mean the loss of an independent champion of open government and a free avenue of appeal against government decisions to refuse access to open information.

PIAC provided briefings to the Senate Legal and Constitutional Affairs Committee, explaining how the Bill will negatively impact transparent and accountable government. The progress of the Bill stalled in the Senate in late 2014.

## Rights reassessed?

The 2014 Australian Human Rights Commission (AHRC) consultation on how 'rights and responsibilities' are protected will be followed by a review of statutory encroachment on 'traditional rights and freedoms' by the Australian Law Reform Commission (ALRC).

PIAC's submission to the AHRC focused on the need to better

protect rights and freedoms in areas including: anti-discrimination, conditions in detention, same-sex equality and freedom of information. PIAC also urged the AHRC to tread carefully when discussing 'responsibilities', a notion which has been used to argue for the restriction of human rights and freedoms in broader debate.

PIAC has made a submission to the ALRC inquiry. The ALRC will review when limitations on rights and freedoms can be justified, and identify where existing limitations are unjustified. The terms of reference include areas relevant to PIAC's work, including free speech, access to justice, freedom of religion and judicial review.

## Disability Inclusion

In November 2014, PIAC made a submission to the NSW Department of Family and Community Services consultation on the Draft Disability Inclusion Plan Discussion Paper. The Draft Plan, which is required under the Disability Inclusion Act 2014 (NSW), is part of the many reforms transforming disability services. PIAC recommended additional

focus areas to strengthen the Plan, including: the overarching need to combat discrimination; improving accessible transport; ensuring online accessibility and accessible media; and the significant problems faced by people with disability when it comes to affordable electricity.

In addition, the ALRC report on Equality, Capacity and Disability

in Commonwealth Laws was released in December 2014. PIAC provided a submission to the inquiry in 2013 and welcomed the central recommendation for a new Commonwealth model of supportive decision making, which would reflect the principles adopted in the Convention on the Rights of Persons with Disabilities.

## Caught on camera

Legislation passed by the NSW Parliament in 2014 will allow for body-worn video (BWV) to be rolled out across the NSW Police Force. The Surveillance Devices Amendment (Body-Worn Video) Act 2014 (NSW) will enable police officers to record their interaction with members of the public and use that video for the purposes of law enforcement, education and training or a purpose

prescribed by regulation.

Key operational detail will be contained in regulation and guidance. Based on our extensive legal casework involving policing and detention, PIAC is working with the NSW Government to ensure that appropriate safeguards guide the use of BWV so that it benefits both police officers and the communities they serve.



## Coroners Act review

PIAC made a submission to the NSW Attorney General's statutory review of the Coroners Act 2009 (NSW), based on recent experience

representing families of the deceased in coronial inquests. PIAC made a number of recommendations with the aim of strengthening the

2009 Act's role in identifying and promoting systemic changes to prevent avoidable deaths in the future.

# Down, right? The true value of the electricity networks

The New South Wales Government has committed to partially privatise, via leases, two of its three distribution network service providers and its transmission network service provider. The last two privatisation attempts failed. Perhaps it's third time lucky. By BRUCE MOUNTAIN

One of the critical elements of the sale – to all parties – will be the regulatory and market valuation of these businesses. Around two thirds of the charge for network services depends on the regulator's valuations. Electricity consumers would prefer a lower valuation.

Buyers will also be interested in the regulator's valuation since in Australia this has had a significant bearing on the amount investors will pay. Buyers would also prefer lower regulatory valuations as this reduces the regulatory risk of subsequent asset write-downs. The Government's interest in maximising sales proceeds should be obvious, and so they would prefer higher valuations.

Considering the conflicting interests and the high price NSW household consumers are currently paying for network services, PIAC asked us to examine the regulatory valuation at privatisation, and identify relevant issues.

The situation in NSW is striking. After the Victorian distributors were privatised fifteen years ago, their regulatory valuation per connection was about a quarter that of the NSW distributors today. When the British distributors were privatised, the imputed regulatory valuation per connection at privatisation was one seventh that of the NSW distributors today. In California – one of the most expensive states in the US to buy electricity – the privatised distributor asset values per capita are just one tenth those in New South Wales.

In considering the extraordinary regulatory valuations in NSW, it is also helpful to be mindful that at

the time of those privatisations the strength of the monopoly in electricity distribution was undisputed. Today, households in NSW can produce much of their own electricity from solar PV for less than the cost of distribution on the existing poles and wires, which is less than half the price of grid-supplied electricity.

The rise of distributed generation, ever-greater consumption efficiency, industrial decline and consumers' reaction to steep price rises, is resulting in sharply declining demand. The Australian Energy Market Operator now expects grid electricity sales in NSW this year to be about a quarter of what it thought they would be five years ago.

When the Victorian businesses were privatised, investors were willing to pay the Government twice as much as the total regulatory valuation. These buyers were betting on an investor-friendly regulatory environment. In the event, they were not wrong. But will investors make the same bet now, considering asset valuations that are so much higher, a declining market and a monopoly that is fraying at the edges from rapidly increasing distributed generation?

Perhaps not. Can anything be done about it?

We estimate that households in NSW whose electricity is delivered by the two distributors that the Government intends to sell, would now be paying around \$200 to \$300 less per year if they had spent capital, per connection, at the rate of the privatised Victorian distributors over the last thirteen years.



Bruce Mountain, Carbon + Energy Markets.  
Photo: Gemma Pearce.

Achieving this would mean a \$10bn asset write-down. Government would surely not give this a second thought, unless the buyers were willing to make up part or all of the shortfall through higher market valuations. However, our report contends buyers might think this way: a lower regulatory valuation before investors buy-in reduces the risk of write-downs after they become owners. Even though regulated revenues would be lower after a write-down, they would be more secure and buyers may pay more for security.

A devaluation of the regulated asset base prior to privatisation may therefore offer better outcomes for consumers, retailers, the future owners and the current owner, the NSW Government. Further examination of these ideas may pay dividends for everyone.

This is an edited extract of an opinion piece published in October 2014. Download the report, *Down, right? Privatisation and the regulatory valuation of electricity distribution network service providers in New South Wales: Evidence and issues*, at [www.piac.asn.au/publication/2014/12/down-right](http://www.piac.asn.au/publication/2014/12/down-right)

# Energy regulator rejects network price increases

In recent years, massive surges in the cost of electricity, driven largely by increases in charges by network companies, have led to increasing numbers of household disconnections.

A report released by the Australian Energy Regulator (AER) late last year found that 32,940 households were disconnected for non-payment in 2013-14, which equates to around 130 families per week day being cut-off by electricity retailers.

Just 22% of these customers were concession-card holders, meaning more and more households who would not have been considered 'at risk' in the past are losing their power supply.

The federal and state governments have responded by significantly reforming the way networks are regulated. There have also been changes to the laws governing appeals by networks to the Australian Competition Tribunal about regulatory decisions. All these reforms are intended to make network price regulation work more effectively in the long-term interest of consumers.

As part of this process, in November 2014, the Australian Energy Regulator (AER) made a Draft Revenue Determination for a number of energy networks, including the three NSW distribution network service providers (DNSPs). In its determination, the AER strongly rejected the revenue proposals that were submitted by the DNSPs and proposed cuts in the order of 30-40 per cent to the amount of money the needed to collect from their customers.

The AER also granted the DNSPs a weighted average cost of capital (WACC) of 7.15%, instead of the 8.83% the businesses had proposed. The WACC is the AER's estimate of the interest rate DNSPs will have to pay on money they borrow to build and maintain their network. These

funding costs are around half of a network's costs, and therefore 20-25% of the final retail bills customers pay.

Under the revenue provisionally determined by the AER, NSW consumers would see welcome decreases in their electricity bills. According to the AER, a household in Ausgrid's area with average usage will see their network charges decrease by \$189 a year. Customers in the Endeavour Energy area will see their bill for network charges drop by \$159 per year, and those in the rural and regional network area (served by Essential Energy) will see a reduction of \$346 per year. In all three cases, network prices remain steady for the three years following the price reduction in 2015-16 (see figure 1).

The AER's decisions in NSW have big implications for customers across the national energy market (Australia excluding WA and NT). Through these draft determinations, the AER signalled its intention to use benchmarking extensively to determine if a network is operating 'efficiently' compared to similar businesses.

It has also shown that it will set the WACC in a manner that is



PIAC senior policy officers, Gabrielle Kuiper and Oliver Derum.

consistent with the AER's own Rate of Return Guideline. It seems likely that the AER will continue this approach as it makes determinations in South Australia, Queensland, South Australia and Victoria during 2015.

In its submission to the Draft Report, PIAC was supportive of the AER's decisions but argued it could have gone further. PIAC also expressed concern about the regulatory process, which saw the three DNSPs submit proposals of around 44,000 pages for the AER and consumers to critique. Nonetheless, the AER has signalled a willingness to use its new powers to reject the spending proposals from NSW electricity networks.

The Final Determination is due to be published by 30 April 2015. You can find analysis of what it means for residential consumers on PIAC's website. [www.bit.ly/1K6Gar0](http://www.bit.ly/1K6Gar0)

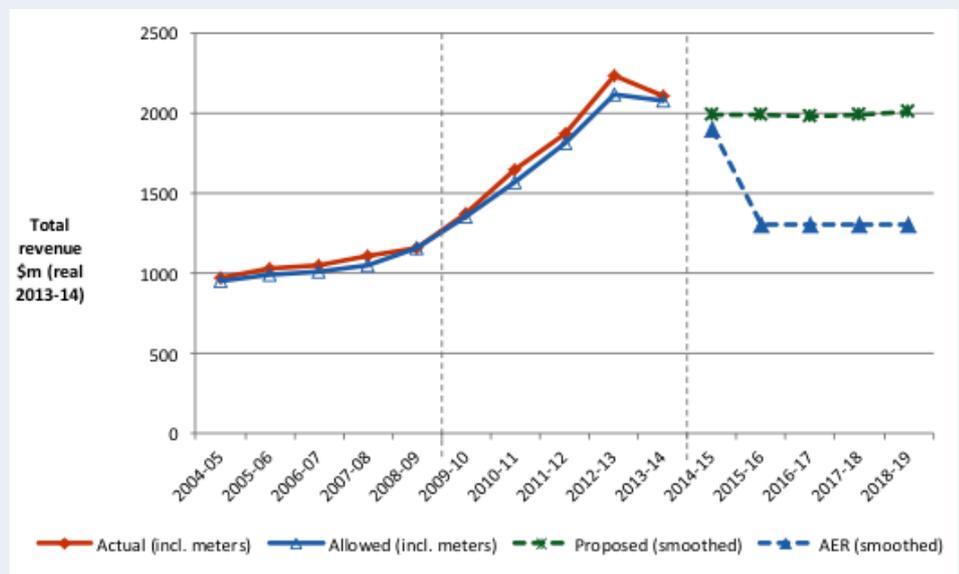


Figure 1: Ausgrid's proposed and allowed revenue and AER determination. Source: Overview, AER's Draft distribution determination 2015-16 to 2018-19.

# Homeless Persons' Legal Service turns ten

In November 2014, PIAC celebrated 10 years of the Homeless Persons' Legal Service (HPLS) with a vibrant exhibition of artworks by people who are currently homeless or have recent experience of being homeless.

The exhibition was launched by actor/director, Leah Purcell, and was attended by an array of artists, service providers, lawyers, StreetCare members and HPLS and PIAC staff, past and present.

The 10th anniversary has also been an opportunity for us to reflect on the ideals that have defined HPLS, including access to justice, pro bono partnerships, systemic change and consumer participation. Through each of these activities we seek to achieve social justice and promote a diverse and inclusive community.



Top: Opening night at Gauge Gallery, Glebe. Bottom left: Leah Purcell, Lou Schetzer. Right: Mary Sullivan, Roslyn Cook.

## Access to justice through pro bono partnerships

HPLS has its origins in a 2003 research project by PIAC and the Public Interest Law Clearing House NSW (now Justice Connect). The project analysed homelessness in NSW, focusing on the most common legal issues faced by people experiencing homelessness, and potential strategies to address their high levels of unmet legal need. As a result of this research, PIAC and PILCH developed a model for a legal service targeted to this client group, and HPLS was launched on 18 May 2004.

HPLS originally comprised a partnership between five host agencies and six founding law firm. A sixth clinic was launched on HPLS's first anniversary on 18 May 2005.

Over the next 8 years, five further clinics have joined our roster, and we now operate at 11 locations, with 11 partner firms. Our newest clinic at the Mission Australia Centre, staffed by Maddocks, was launched in February 2014. Today, our roster of some 400 volunteer lawyers assist about 900 clients per year with around 2000 legal matters, and our service continues to grow, with new clinics in Mt Druitt, Marrickville and Newcastle slated to commence in 2015.

## Systemic change

HPLS has also been a strong advocate for systemic change. Our law reform and policy practice, headed by Senior Policy Officer Lou Schetzer, has been at the forefront of homelessness research in NSW. Our most recent report has addressed housing and mental illness, titled

## 'Somewhere Over The Rainbow'

This year we are starting a new project to examine the experiences and particular unmet legal needs of women who experience homelessness, including single women and women with young children.

## Consumer empowerment

StreetCare, our Consumer Advisory Committee, has also been a key part of our work. Founded in 2009, StreetCare facilitates consumer engagement at the highest levels of NSW policy making. With a membership of nine individuals who have experienced homelessness, StreetCare members play a key role in our research and are represented at the NSW Premier's Council and the Social Housing Tenants Advisory Committee and other forums.

# Social justice dinner celebrates PIAC supporters and successes

Over 200 of PIAC's supporters attended the PIAC Social Justice Dinner at the Museum of Contemporary Art in February, making it a great success.



The social justice dinner is one of PIAC's major annual fundraising events. Photos: Gemma Pearce

We came close to reaching our fundraising target of \$100,000, which will be used to fund our legal, policy and advocacy work and provide legal assistance to some of the most vulnerable members of our society.

The Chaser's Craig Reucassel and Chas Licciardello were very witty hosts and Graeme Innes AM gave an inspiring speech, focussing on the benefits of an inclusive society.

'We won't have a fully functioning community until we accept all its members,' Mr Innes said. He also stressed the importance of PIAC's work and everyone's responsibility to be an advocate for equality, quoting Lieutenant General David Morrison's powerful statement, 'the standards you walk past are the standards you accept.'

PIAC CEO, Edward Santow, spoke of PIAC's current work to combat discrimination on the ground of mental health in the provision of insurance. The systemic problem is that many people, because of their actual or perceived mental illness, are having insurance claims wrongly rejected, or being offered insurance that is more expensive or being denied cover altogether. This is sometimes only because the person has seen a counsellor for a short period.

'We're running a number of cases for people who are suffering unfair discrimination. I'm confident that not only will we win, but that in one of these cases, we'll establish a precedent that will stop this appalling discrimination,' said Edward Santow. 'But we can't do it alone. Now, more than ever, we are in need of philanthropic generosity to do the work that will achieve justice for our clients, as well as force the broader change needed to make Australia truly the country of the fair go.' If you weren't able to make the dinner, it's not too late to donate. Contributions over \$2 are tax deductible.

# Indigenous Justice Program: policing and unlawful detention

The Indigenous Justice Program (IJP) currently has a major focus on strategic litigation in relation to police powers, with the aim of reducing the over-representation of Aboriginal and Torres Strait Islander people in detention. PIAC has 28 individual matters regarding the unlawful detention of, or unlawful use of force against, Aboriginal people by the NSW Police.

The IJP, which is made possible through generous support from law firm Allens, recently settled a case involving an Aboriginal minor who, as a condition of his bail, was required to comply with an 8pm curfew unless in the company of his parents.

One evening the family had an early dinner at a local restaurant to celebrate a sibling's birthday and were home by 8pm. Police, conducting a bail compliance check, knocked on the family's front door at midnight, and no-one answered. The next morning, our client and his

mother both told the police that they had been home, asleep, and had not heard the police knocking.

The juvenile was arrested and taken to the local police station and then to the local Children's Court. His mother testified as to the previous night's events and the magistrate dismissed the matter.

PIAC's claim on behalf of the young person sought compensation for false imprisonment, assault and battery. The matter settled late last year.

PIAC recently commenced proceedings in another case where our client alleges that a probationary constable issued an unlawful move-on direction to a group of young people, including our client, on the basis that 'they had no reason to be in the area'. The claim alleges that a move-on direction cannot lawfully be given for this reason.

The police arrested our client for breach of the move-on direction

sometime later while he was walking home. The civil claim alleges that this was an unlawful arrest for two reasons. First, he claims he had a 'reasonable excuse' for being in that location. Secondly, he claims he was not engaging in any unlawful behavior.

Our client was arrested, taken into custody and held overnight before being granted bail the next day. The charge was withdrawn immediately prior to the hearing.

PIAC's claim on behalf of the young person seeks compensation for unlawful imprisonment, assault, battery and breach of statutory duty.

As well as enforcing young Aboriginal clients' legal rights, this and the IJP's other casework seeks to achieve systemic reform of both the operational approach to policing and bail in NSW.

For more information on the Indigenous Justice Program visit our website [www.piac.asn.au](http://www.piac.asn.au).

## Focus on young lawyers – Karina Marlow

Allens Indigenous winter intern and secondee to PIAC, Karina Marlowe, said her greatest challenge at PIAC was to wrap her head around 'all the amazing and varied work that PIAC does'.

Karina was placed primarily in the Indigenous Justice Program (IJP). While she worked mainly on policy projects, Karina also engaged with the court system and the wider community. Supported by the staff at PIAC, she was able to build on her understanding of facets of the legal system that have a particular impact on Aboriginal and Torres Strait Islander Australians.

According to Karina, a lack of empowerment and engagement continues to be the greatest issue facing indigenous communities.

'I think PIAC plays a really important role in addressing the legal issues surrounding Indigenous Australians that are beyond the scope of the criminal law,' Karina said.

'I would highly recommend that other law students get involved with PIAC, if they have the opportunity.

'More generally, people can donate to PIAC or support the causes PIAC fights for such as freedom from discrimination and justice for Indigenous Australians,' said Karina.

Karina is currently completing a semester of her law degree abroad at Oxford-Brookes University in the United Kingdom.



# TV audio description discrimination cases launched

Vision Australia has lodged complaints in the Australian Human Rights Commission against Channels Seven, Nine, Ten, SBS and Foxtel, calling for an audio description service that will make television more accessible to people who are blind or have low vision.

PIAC represents Vision Australia in these complaints.

Audio description is a second audio track that can be turned on and off. It describes the important visual elements of a television program – such as actions, scene changes, gestures and facial expressions – that a person who is blind or has low vision can't see.

The complaints state that by failing to make their television broadcasting service accessible for people who are blind or have low vision, these broadcasters have engaged in indirect discrimination.

Vision Australia is asking for a minimum of 14 hours of audio described content per week on each channel named in the complaint.

Blind Citizens Australia has already lodged complaints on behalf of 31 people who are blind or vision impaired against the ABC. These are currently before the Australian Human Rights Commission.

'Australia lags behind the rest of the world in providing audio description. Countries such as the UK, the US, Ireland, Germany, Spain and New Zealand already provide audio description on free view or subscription television,' said Edward

Santow, PIAC's CEO.

'For comparison, the UK's Channel 4 offers audio description on 20% of their programs - which works out at more than 33 hours per week.'

'In the same way as captioning has facilitated media access for people who are deaf, audio description has the potential to significantly improve access to Australia's cultural life for the 350,000 Australians who are blind or have low vision.'

'The technology and accessible content exists, and it has already been successfully trialled on the ABC in 2012, so we are calling on the other Australian broadcasters to take this important, permanent step towards equality now,' said Mr Santow.

Scan the QR code to see an example of how audio description is used in *The Hunger Games*.



## Sri Lanka: International Crimes Evidence Project

In March 2014, the United Nations Human Rights Council mandated that the United Nations Office of the High Commissioner for Human Rights (OHCHR) undertake an investigation into allegations of war-time atrocities and on-going human rights violations in Sri Lanka. The purpose of the investigation is to promote accountability and reconciliation. The report of the investigation was originally supposed to be released prior to the March 2015 Human Rights Council meeting..

During the period of the OHCHR investigation, PIAC continued its work meeting with witnesses and victims of the conflict to draft statements and collect other important evidence. PIAC, as well as other civil society groups, used their knowledge of, and

evidence relating to, the Sri Lankan conflict to assist the UN with its work.

The mandate of the investigation was recently extended due to a major change in the political landscape in Sri Lanka. In early January 2015, long-time President Mahinda Rajapaksa was defeated by Maithripala Sirisena. Following this very significant political shift, the new Sri Lankan President has indicated that the government intends to work collaboratively with the OHCHR in its investigation.

The decision to extend the mandate of the investigation was not made lightly. The High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, stated in a press release on 16 February, 2015, 'This has been a difficult decision... given the

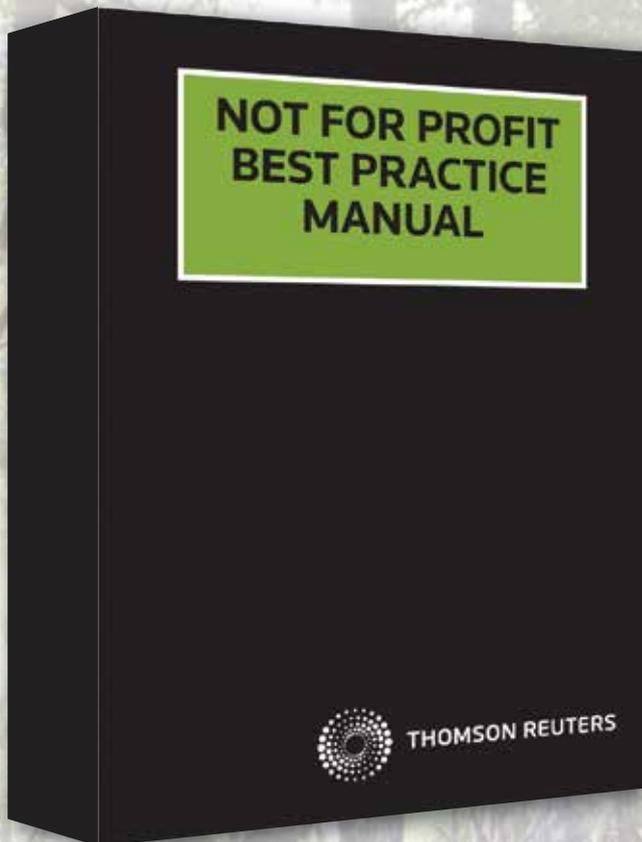
changing context in Sri Lanka, and the possibility that important new information may emerge which will strengthen the report.'

A strong report by the OHCHR, coupled with a new government that has stated it is committed to genuine and lasting peace, provides real prospects for reconciliation and lasting peace in Sri Lanka. There have been many discussions on the possibility of various transitional justice measures being implemented including prosecutions and/ or a Truth Commission.

The documentation of evidentiary material by PIAC's International Crimes Evidence Project will be of significant value to any future, legitimate mechanisms that are established.

# NOT FOR PROFIT BEST PRACTICE MANUAL

Paul Armarego, Vince Sharma, Jonathan Casson, Derek Mortimer,  
Darren Fittler, Louise Steer, Alison Choy Flannigan



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**THOMSON REUTERS**

# Police misuse of tasers – case update

In late 2013, PIAC was retained by Einpyw Amom, who was tasered by NSW Police while handcuffed and lying face-down on the ground after falling on the stairs at Blacktown railway station. He was only 17 years old.

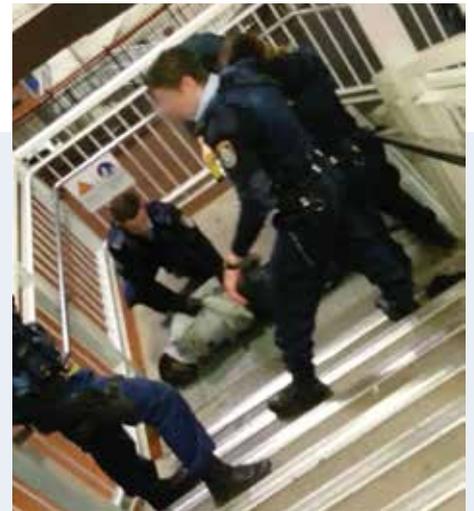
The matter was the subject of widespread media attention. Closed Circuit Television (CCTV) and mobile phone footage, which was shown on ABC television's 7:30 program, shows Mr Amom lying motionless after his fall and while being dragged down a flight of stairs by the police. He was then restrained by six officers and tasered several times.

The Police failed to seek medical attention for Mr Amom and did not contact his mother to inform her that he was in custody.

Mr Amom was charged with four offences following his arrest and

found not guilty on all charges, except for the offence of failure to comply with a lawful direction, to which he pleaded guilty. The Magistrate found that the initial arrest was unlawful and therefore his continued detention by police also had no legal justification. PIAC believes that his subsequent five-night detention in a juvenile justice facility, was also unlawful.

The incident, which raises serious questions about how the police are using tasers, was the subject of an investigation by the Police Integrity Commission and the Police's North West Metropolitan Taser Review Committee. It follows a report by the NSW Ombudsman into the death of Brazilian student Roberto Laudisio Curti, who died after being repeatedly tasered by the police. The report found that NSW Police must



Einpyw Amom was tasered while lying face-down, handcuffed, restrained and surrounded by several police.

improve their training, policies and accountability in the use of tasers.

Police misuse of tasers is an area of strategic work for PIAC.

PIAC will represent Mr Amom in upcoming civil proceedings against the NSW Police and Juvenile Justice NSW.

## Focus on young lawyers — Leah Grolman



As a longstanding supporter of our work, King & Wood Mallesons has provided lawyers on secondment to PIAC for four years. Leah Grolman recently completed a six-month secondment at PIAC.

Joining PIAC's strategic litigation team, Leah worked on the false imprisonment of young people and discrimination against people with disability. Leah also contributed to the International Crimes Evidence Project, investigating alleged breaches of humanitarian law and war crimes in the latter stages of the Sri Lankan Civil War.

A University Medallist in Law at the University of New South Wales, Leah was admitted to legal practice in 2014. Prior to her time at PIAC, Leah had some experience working on public interest litigation through pro bono work at KWM. Leah recently took some time to discuss her experiences at PIAC, and some of the things she learnt while working with PIAC's strategic litigation team.

'Public interest litigation works a bit differently from ordinary litigation in the sense that lawyers expect these cases to raise novel legal issues, deal with an important issue in the community, or both,' said Leah.

'I saw in action, more clearly than ever before that the law does not always produce justice. That proposition is true regardless of whether litigation is in the public interest; its consequences seem much harsher when the situation involves persons experiencing disadvantage.'

Leah also discussed some of the benefits of getting involved in public interest litigation as a young lawyer.

'I would recommend that young lawyers thinking about whether to get involved in a piece of public [interest] litigation go for it. Funding constraints also mean that junior lawyers usually take on a greater level of responsibility in running matters and, as a result, [it provides] a way to get experience, training and intellectual stimulation that they would not otherwise get until much later in their career.'

# Homelessness: an opinion based on perspective

Everybody's hell is different. For some people its punishment for sins. For others, it's a deep pool of self-doubt and loneliness.

(Unknown)



Scan the QR code to read Damien's article in Parity

First impressions last, an adage poetic in its simplicity. The impressions of which I am more familiar are definitive and enduring if nothing else. Losers, waste of space, failure, scum, pathetic and financial drain are but a few of the favoured impressions given bold presentation through various forms of media.

As emotive opinions for those of my ilk, such impassioned perspective gives me pause to consider how an entire community can earn this intense and often (to my perspective) an almost compulsive ire. Nevertheless, these are long-held impressions that have followed the homeless community since the dawn of society.

I find it ironic that homelessness predates social intolerance on an historic, if not biblical, plane but I cannot set aside a potential concept that homeless individuals are frequently being viewed to spring full grown with varying degrees of physical and psychological complications while little thought

is given to any mitigating circumstances resulting in their current standard of living.

For instance, my life on the streets began at the age of seven. The choice to sleep rough was simply due to the abusive nature of my home environment. Even at such an age I believed wholeheartedly that life on the street would not only be safer but that it would also be an environment that afforded me the freedom to defend myself and fight back.

At the very least, this was an action I could assume mentally if not always physically. Under the parameters of "The Definition of Homelessness" (Mackenzie & Chamberlain, 1992) this would not be my first experience of homelessness and now 33 years later, I have not yet had my last.

By DAMIEN SAKEY, StreetCare

This is an extract from an article published in 2014. StreetCare is PIAC's consumer advisory committee on homelessness.

## Focus on young lawyers – Eliza Ginnivan

A secondee from the Australian Government Solicitor, Eliza Ginnivan, is currently working at PIAC as a solicitor in the Homeless Persons' Legal Service (HPLS). Eliza is part of the team that oversees the work of 400 lawyers who work in clinics across Sydney to deliver legal assistance to people who are homeless or at risk of homelessness.

Eliza has previously worked in Papua New Guinea as part of the Australian Youth Ambassadors for Development program. In Port Moresby, she provided support to Papua New Guinea's fragile judiciary and local lawyers.

'Sadly, providing equitable access to justice is a challenge in both Papua New Guinea and Australia,' Eliza said.

'The difference is that when



disadvantaged Australians engage with the legal system, they have the benefit of Legal Aid, statutory compensation schemes and a strong rule of law.

'But even here HPLS clients might postpone seeking access to justice

because they don't know that they have a legal problem, or they have to contend with more pressing matters, such as finding a safe place to sleep.'

'I find working with HPLS very rewarding because the comparatively little time and resources you put in [for HPLS' clients] can result in such significant changes for the better.

'PIAC's work in this area is especially important, because it contends with the immediate legal needs of disadvantaged Australians, whilst working for broader systemic changes,' Eliza added.

HPLS provides free legal advice to people who are homeless or at risk of homelessness at free legal clinics throughout Sydney. Visit our website for times and locations.

# My time at PIAC: court, research and golden guitars

**M**y time at PIAC was entirely different to the prior four years of my law degree spent in lecture theatres and seminar rooms.

Although I still had a desk, agendas for meetings started appearing on that desk, and suddenly, I was in the middle of an open-plan office surrounded by PIAC staff. I researched media articles on the recent change of government in Sri Lanka one day and reviewed large black folders to find evidence for an upcoming case the next.

Not only did I increase my understanding of Sri Lankan politics, but I also gained an appreciation for the varied work PIAC is involved in. Searching through court documents and leaf-after-leaf of Department of Corrective Services papers really brought aspects of the social justice course, which had previously been theoretical, to life.

I understood first-hand how annoying redactions in freedom of information grants can be and I got a greater insight into the workings of the prison system. Another task involved examining various manuals and guidelines in order to prepare a written piece regarding prisoner's

medical rights. What was particularly exciting about all of the assignments was that they were directly related to real, live matters.

It was also great to step outside the office to attend the Downing Centre District Court to observe a matter involving a client from the Homeless Persons' Legal Service. It was the longest matter I had ever been to and the first I had seen which involved a homeless client. It was a worthwhile yet confronting experience.

From a purely legal perspective, it was interesting to see evidence law, which I had studied the previous semester, in action during direct examination and cross examination. However, it also became clear that legal troubles typically were not our client's most pressing issues. The evidence he gave highlighted what had been discussed in the teaching component of the course: the simultaneous danger and familiarity of the streets.

The hearing also revealed the practical difficulties inherent in dealing with homeless clients; it took some discussion before the location of the police station to which our client was to report could be decided

upon. It was anyone's guess as to where he would be living in a year's time.

Witnessing the quick summary of this man's life during his sentencing reinforced how important it was that his rights were protected. It was rewarding to see the impact the legal representation provided by PIAC could make to one individual.

The brief summary of my experience would be that it was extremely diverse and quite unexpected. If someone were to ask what kind of work is involved in a placement at PIAC, it would not be a simple, succinct answer. What I would, perhaps, say is that amongst other things, one could expect to do legal research, write summaries and memos, attend meetings, go to Court and the HPLS clinic, sift through evidence and, if you happen to be around for a fundraising function, even pick up gold guitars signed by AC/DC.

By HANNAH PALOS

Hannah Palos is a Sydney University Law student who completed a two-week placement with PIAC as part of the Social Justice Clinical Summer Course.

Social Justice Clinical Summer Course students from Sydney University





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