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What is QPILCH

The Queensland Public Interest Law Clearing House Incorporated (QPILCH) assesses applications for legal assistance in public interest cases for referral to member law firms and barristers who act for free or at reduced fee. For details of our referral criteria and procedures, see the QPILCH website at www.qpilch.org.au. QPILCH also provides an opportunity to marshal the resources of private firms, government, corporate lawyers, university law schools and the community sector in advancing the public interest, and through targeted projects, assisting those who are the most disadvantaged and marginalised.

Membership

We have pleasure in announcing new QPILCH members. New barrister members include **Nicholas Andreatidis, Dr Gillian Dempsey, Michael Wilson, Dan O'Gorman, Gary Coveney** and **Carla Klease**. New firm members are **Macrossans Lawyers** and **Corrs Chambers Westgarth**. **Bond University Law School** has joined as a new associate member. We thank all these new members for their support and look forward to a rewarding involvement.

Value of legal services skyrockets

QPILCH has reached a significant milestone. In the 2003-04 financial year, member firms and barristers have contributed over \$1M in pro bono legal services to Queensland. Firms participating in the Homeless Persons' Legal Clinic have contributed almost \$700,000 with two firms still outstanding in advising the value of their services for the year. In undertaking general referral work, firms and barristers have contributed work worth almost \$300,000, again with a number of firms yet to provide their details. Referrals in immigration law have not yet been costed. It is

likely that the final tally will far exceed the \$1million mark. This is a terrific contribution by the profession, through a service that has been operating for just over 2.5 years. Our members are to be congratulated for this commitment and contribution to the provision of legal services to those in need in Queensland.

New consumer law service

The Attorney-General and Minister for Justice, the Hon Rod Welford MP launched our new service for consumers on 9 July 2004. The Consumer Law Advice Clinic (CLAC) is a free legal service provided by a partnership of the TC Beirne School of Law, Clayton Utz and QPILCH. The service assists people facing a crisis in credit, debt and related legal problems, including consumer credit (including personal loans, housing loans, linked credit, and credit cards); debt collection; guarantees; bankruptcy; third party securities for business lending, and insurance.

The aim of the Clinic is to provide extended minor assistance, a current gap in legal services in consumer law matters.

Senior law students from the University of Queensland, under the supervision of experienced Clayton Utz solicitor Linda Macpherson, provide oral and written advice and assistance in completing documents such as letters and forms so that disadvantaged people can respond as far as possible to the financial pressures they are experiencing.

The students have had a day of training at Clayton Utz to prepare them for the clinic. Last Thursday 12 August 2004 was the first official day of the clinic. The students worked in teams to take instructions and prepare the appropriate advice for clients.

The clinic operates every Thursday during semester. People in need of assistance should telephone QPILCH on 3012 9773 to arrange an appointment for telephone advice.

Contact Linda Macpherson – consumer@qpilch.org.au.

RAILS

While the project has been extremely busy over the last few months, it has also been frustrated by the slow progress of immigration department decision making. So far eight Tribunal cases have been prepared by RAILS volunteer lawyers, and three decisions handed down – all successful! The lawyers have been excited and enthused by the work, and all have reported finding it a challenging but rewarding experience.

To facilitate case preparation, the project coordinator, Nitra Kidson, together with a student volunteer, Alana Ebert, developed a database of Refugee Review Tribunal decisions for Afghan TPV holders. The database allows us to profile particular aspects of a case and immediately locate relevant decisions. It also makes trends in decision making highly visible. It has proved enormously useful for Tribunal case preparation, and is being shared enthusiastically with twelve other community based legal services around Australia.

The database proved so effective and popular that, on the basis of it, RAILS successfully obtained a small grant of funding from the Don Chipp Foundation to develop a Federal and High Court database of refugee jurisprudence. This funding will enable us to employ a separate project worker for this mammoth task. Once completed, the database will be made available to non-profit refugee legal services on a national basis.

We are also pleased to advise that we sought and obtained an additional grant of funds from the Queensland Law Society Grants Committee which will enable us to continue the employment of the RAILS Project coordinator until the end of December 2005.

Successful overturn of deportation order - *WAHU v Minister for Immigration & Multicultural & Indigenous Affairs* [2004] FCA 897

In a test case conducted in the Federal Court, QPILCH member barrister Daryl Rangiah, instructed by John Cockburn from Gilshenan & Luton (who accepted the referral on a pro bono basis), was successful in having a criminal deportation order set aside on the basis that the Minister had impliedly revoked the order.

The applicant was a New Zealander who had lived in Australia as a permanent resident for 44 years. After being convicted of criminal offences, a deportation order was issued against him in March 2000. However, the Minister's delegate wrote to the applicant in September 2001 advising him that, following a recent High Court decision, the deportation order was invalid and "*no further action will be taken to effect your deportation*". More than two years later, in March 2004, the applicant received a letter from the immigration department advising him that, in light of a more recent ruling of the High Court, the deportation order would now be enforced and the applicant had 14 days to leave Australia.

Justice Dowsett of the Federal Court held that s.206 of the *Migration Act 1958* contemplated revocation of a deportation order even if it did not expressly provide for it, and that the September 2001 letter from the immigration department evidenced that a decision had been made to revoke the order.

Over the last few months, the RAILS project has received several applications involving similar cases and we know of at least five persons in Brisbane alone who were affected by this action.

STOP PRESS

The Minister for Immigration and Multi-Cultural Affairs has lodged an appeal to the full Federal Court against the decision of Dowsett J in Wahu.

STOP PRESS

QPILCH's RAILS project has had a great success recently in providing expert immigration support to Legal Aid Queensland in a case where it represented an unaccompanied minor in his efforts to resist removal from Australia. The 15 year old British national came to Australia when he was eleven on a tourist visa with his father. After overstaying the visa, he lived an itinerant lifestyle until being abandoned by his father, aged 13, in a caravan park. The child lived on the streets for a period before coming to the attention of the then Department of Families which obtained a child protection order and placed him with foster parents.

When the Department of Immigration and Multicultural and Indigenous Affairs were notified about the child, it took steps to return him to the UK. The child, however, had no family or other connections in the UK. Rather, he had spent his adolescent years in Australia and had made strong connections and formed nurturing relationships with his foster family and the broader school, work and sporting community with whom he had become involved. The boy requested that the Minister use her discretionary power to allow him to remain permanently in Australia. The Minister decided to do so, and spoke with the young person personally via video-conference to let him know of her decision. The relief and the joy that this decision brought this young person is immeasurable.

Contact Nitra Kidson – rails@cpilch.org.au

HPLC

As reported to members recently, the Senate Legal and Constitutional Committee tabled a substantial report entitled 'Legal Aid and Access to Justice'. The Senate Committee acknowledged the invaluable work done by pro bono service providers and particularly commended the HPLC programs in Queensland, NSW and

Victoria. Congratulations to our HPLC firms for their valued and recognised contribution to issues affecting the homeless. A full copy of the report can be accessed at:

http://www.aph.gov.au/senate/committee/legcon_ctte/legalaidjustice/report.pdf

Success Stories

All of the Homeless Persons Legal Clinics have continued to be busy with both regular and new clients attending over the past few months.

In a recent matter, one of our clients pleaded not guilty in the Magistrates Court and successfully defended a charge under the *Liquor Act*. In an unusual turn of events the complainant was ordered to pay our client's costs. We have referred another client to the Plaintiff Lawyers Association to assist in a claim he wishes to bring against tobacco companies.

QPILCH and QUT joint brochures

QPILCH and QUT have successfully published the following 3 brochures, with more to follow.

1. Dealing with police: arrest, charge and caution;
2. Dealing with police on the street; and
3. Dealing with fines.

These are simple yet informative brochures which will be distributed to member firms and agencies and made available at all of the clinics.

Contact Sara Finch – hplc@qpilch.org.au

Did you know?

The ABS recently estimated that private lawyers in Australia conducted 692,000 hours of pro bono legal services annually. However, this amounts to just 23 hours annually for each solicitor. The figures suggest that a solicitor in practice outside a capital city will undertake twice the pro bono work of city colleagues and that solicitors in firms with one principal average 36.2 pro bono hours compared with 22.7 hours in firms with 2-9 partners and 15.9 hours for firms with 10 or more. (Hillard, David Towards a voluntary minimum pro bono target in *Law Society Journal* 63, February 2004).

Rights forum and homelessness policy project

QPILCH has been fortunate to receive a grant from the Queensland Law Society's Grants Committee to support a policy position around the Homeless Persons Legal Clinic. The project involves expansion of the homeless persons' legal clinics outside Brisbane to Cairns, Townsville, Rockhampton, Toowoomba and the Gold Coast, and the preparation of submissions on laws that adversely impact on the homeless.

In addition to economic and social difficulties the homeless confront a large amount of systemic discrimination. This comes from both unfair and outdated legislation and unfair 'discretionary' application of these laws by the police.

The project will focus on specific research tasks which deal with discrete issues of law reform and policy direction, including:

- public order offences
- reform of the interaction between fines, imprisonment and other penalties
- diversionary practices for 'vulnerable persons' at both arrest and sentencing stages, and
- issues concerning access to public housing.

QPILCH is a member of the Rights in Public Space Action Group (RIPS). Successive HPLC coordinators have been active in RIPS. This group contains members from a diverse range of community organisations that are all committed to pursuing reform of the current regulation of public space.

There is significant current public support for the repeal or significant reform of the *Vagrants Gaming and Other Offences Act 1931*. This hopelessly outdated legislation designed originally to deal with pressures arising from the Great Depression is currently the main focus of RIPS reform efforts. The Legislative Intolerance forum, hosted by RIPS and held in the Banco Court on 8 June 2004 has played a key role in raising the profile of these issues. If you are interested in assisting in any way please contact Michael Carey, coordinator of the project.

Contact Michael Carey – homelesspolicy@qpilch.org.au

New Bond University Administrative Law Clinic

In partnership with Bond University Law School, QPILCH will be starting an Administrative Law Clinic in September. Six students from Bond, under the supervision of Bond academic and Women's Legal Service solicitor Suellan Walker-Munro, will give advice and assistance in administrative law matters. The Hon Paul de Jersey AC, Chief Justice of Queensland, will launch the new clinic on 16 October 2004.

Did you know?

Australian Law Reform Commission Report 75 notes that Australian corporations claimed \$700M legal costs deductions each year amounting to a loss of tax revenue of around \$250M. This can be contrasted with total Commonwealth funding of legal aid and community legal services in 2000-01 of \$102M.

Gubbay, Ingrid "Do companies and commercial matters have too much access to justice", Paper presented to Caxton Legal Centre's Access to Justice Conference, 12 October 2001.

Vacant positions at QPILCH

We are currently advertising two new temporary part-time positions at QPILCH for the coordinators of our new projects – the Rural Regional and Remote Pro Bono Services Project and Legal Referral Coordination Project. Information on these projects is provided below. Contact us on 07 3012 9773 or contact@qpilch.org.au if you are interested in applying for these positions.

Contribute to our strategic planning

Given QPILCH's recent successes and new projects, it is useful to do a stocktake on matters such as:

- managing volunteers;
- mechanisms for continuity of secondments;
- what direct casework role there might be for QPILCH;
- how QPILCH ought to promote itself.

The board has agreed that it is timely to undertake a strategic planning process and has decided to hold a planning meeting of three hours duration from 4pm to 7pm on a week day sometime after the AGM in October. General QPILCH membership will be invited to participate. If you are interested, please let Tony Woodyatt know at contact@qpilch.org.au so we can keep you informed.

Human rights and privacy materials

PIAC has produced a series of fact sheets on human rights issues. The kit is informative and useful and is available at www.piac.asn.au in PDF format.

New information about privacy rights in multilingual format is now accessible from the website of the Federal Privacy Commissioner at www.privacy.gov.au.

Students

A new group of volunteer students has now commenced at QPILCH for second semester. Last semester, students from UQ, QUT and Bond provided invaluable assistance with case assessment and research work. We thank all the students who volunteered for their valued assistance.

The fourth Griffith "Public Interest Lawyering" course finished in late May. Again this course was very successful, and we thank the students involved who maintained the high level of contribution as previous clinics.

We again hosted a student from the QUT Intern program in first semester. We thank student Sam Orr for his hard work and commitment.

For the first time, we hosted a student from the Griffith University PLT program. Student, now solicitor Mandy Easter made an invaluable contribution in her three week full-time placement at QPILCH.

New planning service

Under the EDO umbrella, a group of professional planners has established CPAC – the Community Planning Advocacy Centre - to research public interest planning issues and to support community groups in South-East Queensland. The group seeks financial support for this important venture.

Secondments

McCullough Robertson secondee Michael Carey ended his secondment at the end of June. Michael followed Rochelle Spedding from Allens as the general assessment secondee. To date we have not been successful in filling the general assessment position.

Sara Finch has replaced Mandy Stevens as the coordinator of the HPLC. Sara will coordinate the clinics until early January 2005.

As mentioned above, Linda Macpherson, a senior solicitor from Clayton Utz has commenced as the coordinator of the Consumer Law Advice Clinic. Linda is seconded until the end of December 2004.

We thank member firms and their staff for this continuing assistance without which QPILCH could not provide the level of support to the community which it does.

Did you know?

"In our world of six billion people, one billion owns 80% of global wealth, while another one billion struggle to survive on a dollar a day. We are spending \$1000 billion a year on defence. We talk about free trade and we've got \$300 to \$350 billion being spent, in one form or another, on agricultural subsidies or tariffs; we're spending some \$50 billion on development... This is madness... [W]e [the World Bank] have gotten it tremendously wrong when addressing the question of poverty, development and its importance."

James Wolfensohn, World Bank President, in *The Big Issue* 200, April 2004.

New coordination of referral services project

With the assistance of a grant from the Grants Committee of the Queensland Law Society we are about to start a new project aimed at developing a coordinated approach to pro bono referral services in Queensland.

This project aims to bring together pro bono referral services offered by QPILCH, the Bar Association and the Queensland Law Society – a one-stop shop for people who cannot afford a private solicitor and cannot access other formal legal services.

The proposal is drawn from the successful Victorian experience. The grant will be used to develop the concept by trialling its various aspects and liaising with

partners, government and community agencies with a view to implementing it by July 2005.

Contact Tony Woodyatt – contact@qpilch.org.au

New RRR project

With the kind assistance of a grant from the Grants Committee of the Queensland Law Society, QPILCH will soon employ a solicitor to implement a new Rural, Regional and Remote Outreach Project.

The project will trial partnerships between law firms in two rural/regional areas with city firms to assist with local pro bono needs. This part of the project will involve the development of processes and protocols for ensuring that the interests of all parties assisting rural applicants in public interest pro bono work are recognised and protected.

Contact Tony Woodyatt – contact@qpilch.org.au

Legal Aid Congress 2004

Legal Aid Queensland will host the Legal Aid Congress 2004 from 18-19 November 2004 at the Hilton Hotel, Brisbane. Of particular relevance to lawyers interested in public interest and pro bono issues, the congress will explore cooperative models to expand access to justice and civil justice issues.

For more information, see www.legalaid.qld.gov.au/congress2004 or contact LAQ at congress@legalaid.qld.gov.au.

Subscription and feedback

To subscribe (free) or unsubscribe to “In the Public Interest”, the newsletter of the Queensland Public Interest Law Clearing House Incorporated, or for more information about any item in this newsletter, please send an e-mail to contact@qpilch.org.au or contact us by phone or fax (see below).

<p>Firms Allens Arthur Robinson, Ash Solicitors, Bain Gasteen, Blake Dawson Waldron, Brian Bartley and Associates, Clayton Utz, Corrs Chambers Westgarth, Deacons, Freehills, Hunt & Hunt, Macrossans Lawyers, Mallesons Stephen Jaques, McCullough Robertson, McInnes Wilson, Minter Ellison, MurphySchmidt, Phillips Fox, Quinn and Scattini, Shine Roche McGowan, Walkers Solicitors (Toowoomba) Barristers Nicholas Andreatidis, Franc Asis, John Bond SC, Jacoba Brasch, Gary Coveney, Jean Dalton, Dr Gillian Dempsey, Eric Howell, Stephen Keim, Liam Kelly, Carla Klease, Peter Lyons QC, Ross Mack, Damien O'Brien, Dan O'Gorman, Darryl Rangiah, Hugh Scott-Mackenzie, David Thomae, Michael Wilson Specified members Bar Association of Queensland Inc, Legal Aid Queensland, Queensland Association of Independent Legal Services Inc, Queensland Law Society Incorporated Associate members BDO Kendalls, Chartered Accountants, Bond University Law School, Griffith University Law School, Queensland University of Technology Law School, TC Beirne School of Law (UQ) Government legal unit members Australian Competition and Consumer Commission Corporate legal unit members Energex Limited</p>
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