

1. **What is QPILCH**
2. **New members**
3. **New assessment secondees**
4. **Consumer Law Advice Clinic**
5. **Homeless Persons' Legal Clinic**
6. **RAILS**
7. **Funding application to the Queensland Attorney-General**
8. **New panel system**
9. **Professional development**
10. **QPILCH website**
11. **Administrative Law Clinic**
12. **Referrals**
13. **Homeless policy project**
14. **Our thanks**
15. **Students**
16. **RRR project**
17. **Subscription**

WHAT IS QPILCH

The Queensland Public Interest Law Clearing House Incorporated (QPILCH) assists people who cannot obtain legal aid or afford private legal services by providing targeted services or referring them to member firms or barristers in public interest cases. For details of our referral services, criteria and procedures, see the QPILCH website at www.qpilch.org.au. QPILCH draws on the resources of the wider legal profession - private firms, government, corporate lawyers, university law schools and the community sector – to assist those who are the most disadvantaged and marginalised.

NEW MEMBERS

We have pleasure in announcing new barrister members **Joshua Hanna**, **Christopher Crawford** and **George Kalimnios**, and four new firm members **Miller Harris**, **TressCox Lawyers**, **Nathan Lawyers** and **McPhee Lawyers**. Miller Harris is our second firm member outside Brisbane (after Walkers Solicitors of Toowoomba) and our first outside the South-East. McPhee Lawyers, a sole practice at New Farm and family law specialist is the first member to join our family law panel.

We thank all our new members for their support and look forward to a rewarding involvement.

NEW ASSESSMENT SECONDMENT

We are very pleased to announce that Deacons has seconded solicitor Emily Lucas for two days per week for three months to assist application assessment. This is a vital position for us because it enables QPILCH to assess applications for assistance in a timely way. Emily is also involved in supervising volunteer students

and overseeing the assessment process. We thank Deacons for seconding Emily at this crucial time in QPILCH's development.

We have experienced an upsurge in applications over the last year, alleviated only by the operation of the consumer and administrative law clinics which enable us to refer internally. Emily finishes her secondment on 8 November 2005, so we invite another firm member to fill the assessment position over the Christmas period. Please contact Tony Woodyatt on 3012 9773 or contact@qpilch.org.au if you are interested in discussing the assessment secondee position.

Contact Emily Lucas – assessment@qpilch.org.au

CONSUMER LAW ADVICE CLINIC

We are very fortunate that Clayton Utz has extended Linda Macpherson's secondment until December 2005. Linda has now been seconded since July 2004 and has firmly established the clinic as recognised by the Fair Trading Minister Margaret Keech's Award for Excellence in Consumer Protection at the inaugural Queensland Consumer Protection Awards ceremony at Parliament House on 13 April, 2005. Of the award to the Consumer Law Advice Clinic Mrs Keech said, "This Award recognises exceptional consumer protection, promotion, education or advocacy."

Linda is seconded to attend the clinic three days per week and six University of Queensland final year law students, as part of their clinical education elective, attend the clinic one day per week to provide free minor legal assistance to consumers, who do not qualify for legal aid and cannot afford private legal representation. Assistance is given for problems relating to consumer credit, bankruptcy, guarantees, door to door sales and repossession.

The clinic has assisted over one hundred consumers to date and most of those assisted have had their issues successfully dealt with. Some examples of assistance provided to consumers are:

- In response to a letter drafted for the client to the credit provider, the credit provider agreed to waive the amount owing on a line of credit for the client who had thought she had a personal loan and had been paying only the minimum payment every month for the last 20 years. The client in fact still owed the amount advanced, as she had been paying only interest since the credit was provided.
- Assistance with drafting an affidavit in defence of a summary judgment application for a self acting client in a Supreme Court action for recovery of possession of a motor vehicle. The client was successful in defending the application.
- Assistance with drafting and filing a defence to an action by a credit provider for recovery of possession of land. The credit provider had lent \$10,000 to the client as a short term business loan with interest at 15 % per month and had taken, as security for the loan, a mortgage over the family home, which was owned by the client and his wife. The client was unable to repay the loan and the credit provider is now claiming an amount of \$87,000. The wife was not a party to the loan contract and was not advised of the consequences of signing the mortgage. The filing of the defence has stopped the credit provider from obtaining judgment for recovery of possession of the family home and in the meantime, the client has been referred through QPILCH for legal representation.

We thank Clayton Utz for its generous support. Clayton Utz has indicated that it will not be able to continue the secondment in 2006. So that this important service and learning experience for UQ students will continue, we invite member firms to give strong consideration to taking up this opportunity from January 2006.

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

HOMELESS PERSONS' LEGAL CLINIC

We have three important pieces of news for the HPLC. We have obtained secure funding for 12 months, have employed a new HPLC coordinator, and have established a seventh clinic.

Government funding

QPILCH is very pleased to announce that the Queensland Minister for Communities, Disability Services and Seniors, the Hon Warren Pitt MP, has approved a non-recurrent grant for 2005-2006 to assist QPILCH's Homeless Persons' Legal Clinic. The funding will cover the employment of a full-time coordinator to oversee the operation of the seven HPLC clinics and a part-time policy officer to undertake research, prepare policy submissions and to assist in the development of clinics in Cairns, Townsville, Rockhampton, Toowoomba and the Gold Coast. We thank the Department of Communities for this great assistance.

New coordinator

Interviews for the HPLC coordinator position have taken place and we have appointed former Deacons solicitor Monica Taylor. Monica starts at QPILCH on 5 September 2005.

Michael Carey will continue as the homeless policy research coordinator until October.

New HPLC clinic

The HPLC Salvation Army Pindari Women's' Clinic in Spring Hill opened its doors on 11 August 2005 with the support of QPILCH member Phillips Fox. The Salvation Army Pindari Women's' Hostel is an 18 bed facility which provides emergency accommodation and support to women in crisis. The hostel is managed by Christine Tuohy and her capable staff. The new clinic will operate every second Wednesday from 12.00pm to 2.00pm.

The new clinic will primarily support the legal needs of the residents of the Pindari Women's' hostel and will offer continuing advice and assistance to residents as they move out of the hostel and attempt to re-engage with the community.

Thanks to Paul Baxter and Fran Copely from Phillips Fox for their hard work and support in getting the new clinic up and running and to Ashley Hill from Clayton Utz for participating in the HPLC induction training for Phillips Fox staff.

QPILCH looks forward to a long and productive relationship with the Pindari Women's' Hostel and sends its best wishes to the new HPLC volunteers at Phillips Fox.

HPLC CLE program

In April 2005 the Queensland Law Society's Continuing Professional Development Committee approved QPILCH's accreditation as an in-house course provider. This means that all HPLC CLEs now count towards fulfilling the CPD requirements for the volunteer lawyers who attend the CLE sessions.

Special thanks to all who have been involved in the program so far especially:

- Murphy Schmidt in April with speakers Anastasia Moody, Ben Wilcock, Kate Avery and Matthew Holmes who spoke about Superannuation and Total and Permanent Disablement Claims, Motor Vehicle Accident Claims, Personal Injuries and Workers Compensation Claims.
- Minter Ellison in May with guest speakers Rose Brown & Rebecca Peters from the Tenants' Union Queensland who took volunteers on a tour of the Residential Tenancies Act 1994 & the Residential Services Legislation 2002.
- McCullough Robertson in June with guest speaker Anne-Marie Rice of Carter Naughton Rice for her discussion of Domestic Violence Orders and related family law issues.
- McInnes Wilson in July and guest speakers Katie Greenwood from the Australian Red Cross, Sheryl Chappell from Mission Australia, Ted Cullen

from the Salvation Army Homeless Men's Service and Geoff Roberts from Ozcare who provided volunteers with an insight into the important work that our host agencies undertake in addressing the needs of the homeless.

Vanessa O'Donnell finishes as coordinator

The fifth coordinator for the HPLC and fourth seconded by Minter Ellison, Vanessa O'Donnell, finished her term on 11 August. Vanessa has again maintained the standard of dedication and commitment set from the start of the clinic. We thank Vanessa for her hard work and participation at QPILCH and Minter Ellison for their strong support for the program.

Contact Monica Taylor – hplc@qpilch.org.au

REFUGEE AND IMMIGRATION LEGAL SUPPORT (RAILS)

The project has been very busy with Refugee Review Tribunal cases as the immigration department initially started rejecting applications for further protection by Iraqi nationals. Considerable time was spent preparing new generic legal submissions and other material particular to Iraqi cases. We have also set up a new Iraqi database (identical to the Afghanistan database) to record and profile all published Tribunal decisions in Iraqi cases.

Just as we got rolling, however, the goalposts shifted again, although this time in favour of TPV holders. The negotiations which resulted from the proposed Private Members Bill drafted by parliamentarians Petro Georgiou and Judi Moylan look like they are going to result in the majority of TPV holders being processed by the end of this year.

Furthermore, on 27 July 2005 the Full Federal Court handed down its decision in *QAAH v MIMIA* [2005] FCAFC 136. It is a landmark decision in refugee law, as it upholds the principle that refugee status cannot be withdrawn unless the cessation clause of the Convention can be properly invoked. As a result of that decision, it looks like many TPV cases are now going to be decided favourably at a departmental level.

Migration Litigation Reform Bill 2005

The *Migration Litigation Reform Bill 2005* introduces significant changes to migration law and to civil proceedings generally. In essence, the Bill seeks to:

- Impose non-extendable time limits on the commencement of migration litigation
- Alter the jurisdiction of the Federal Courts, such that the Federal Magistracy becomes the primary forum for migration litigation
- Introduce a new and much wider power to summarily dismiss proceedings generally (not just migration proceedings) in the Federal Courts and High Court
- Impose personal liability for legal costs against persons who "encourage" migration litigation which has no reasonable prospects of success.

QPILCH and South Brisbane Immigration and Community Legal Service (SBICLS) prepared a joint submission to the Senate Committee inquiry into the Bill, and appeared before the inquiry to give evidence. The full text of our submission is available on the QPILCH website. The committee handed down its report on 11 May 2005 ([link here](#)). Despite expressing significant concerns about the breadth of the bill and its potential impact on the non-profit sector, the committee recommended the Bill proceed but with the insertion of a sunset clause of 12-18 months, with a subsequent Parliamentary review of the effect of the provisions.

Obviously the provisions in relation to personal liability for costs are of great concern to practitioners. The legislative scheme is extremely broad – it is not limited to solicitors on the record in the litigation, and includes counsel – and there is considerable ambiguity surrounding the definition of "no reasonable prospects of success".

We wish to assure our members and all lawyers participating in the RAILS Project that QPILCH undertakes rigorous assessment of applications for assistance in migration litigation, and only refers out matters which we consider to have good prospects of success. Please do not hesitate to contact Nitra Kidson if you would like to discuss any aspect of the legislative changes.

Contact Nitra Kidson – rails@qpilch.org.au

SUBMISSION TO A-G FOR SECURE FUNDING AND TO SUPPORT THE REFERRAL SERVICES COORDINATION PROJECT

Pursuant to s209(1)(h) of the *Legal Profession Act 2004*, the Attorney-General now administers the fund comprised of interest on solicitors' trust accounts, previously administered by the Grants Committee of the QLS. In the past, the grants fund has been a significant contributor to QPILCH, without which we would not have been able to function to this time. Accordingly, we have made an application to the Attorney for significant funding for three years. Without this funding QPILCH's core referral activities will not be able to continue. We will keep you informed of developments and thank all members who have written to the Attorney in support of our application.

NEW PANEL SYSTEM

GAAT panel

To increase the number of practitioners willing and able to assist in particular issues, we are developing some panels comprised of expert lawyers to give advice and/or assistance.

We have invited practitioners to join a guardianship and administration panel and a family law panel.

The guardianship and administration panel has arisen because of the increasing number of applications received in this area. Most have been referred to MurphySchmidt, so we are keen to expand the number of firms willing to take referrals in this area. However, several members have indicated that while they are interested in being involved, they do not have the level of expertise to participate. Accordingly, the first step in the establishment of the panel is to conduct training and we intend to conduct a training session in conjunction with the Bar Association in the near future. A number of people with expertise in the area have offered their services to assist and we have applied to the QLS for CPD accreditation. For more information contact Rebekah Leong on 3012 9773 or referral@qpilch.org.au.

Family law panel

To establish the family law panel, we recently wrote to then president of the Family Law Practitioner's Association, Keith Slack, for assistance and Keith kindly forwarded our letter to FLPA members. Already we have received our first member of the panel and hope others will soon join. We thank Keith for his assistance and congratulate him on his appointment to the Federal magistracy.

The primary aim of the family law panel is not for referral purposes but to assist community legal centres to readily obtain advice from expert practitioners when confronted with a difficult or unusual case. QPILCH will manage the panel and refer CLCs for advice so that people on the list are accessed fairly. The panel idea also seeks to access individual lawyers (with their firm's consent) rather than the firm itself as occurs through the public interest referral process. For more information on the family law panel, please contact Tony Woodyatt on 3012 9773 or contact@qpilch.org.au.

TRAINING AND PROFESSIONAL DEVELOPMENT

Since funds and resources for QPILCH services are always stretched, it is important that our services are provided in a manner that maximises results and minimises inputs. One way of helping to achieve that outcome is to arrange training and development in such a way as to support efficient and effective processes and practices.

QPILCH conducts a series of clinical/learning programs such as: the clinics with Griffith University, University of Queensland and Bond University; assessment and advice work conducted by volunteer legal practitioners, secondees and volunteers in direct casework services such as the HPLC and Administrative Law Clinic; assessment of legal merit for referral work conducted by staff and volunteer law students; and assistance functions for community legal centres such as the new panel system to access specialist legal advice in family law and guardianship and administration practice (see above).

Gayle Gasteen, former Blakes solicitor and national training manager has kindly volunteered to develop a training program for QPILCH. We hope to attract funding to audit existing materials and assess learning needs in order to develop a learning and development framework and associated print and computer-based resources which will serve the training and learning needs of a constantly changing pool of people involved in providing QPILCH services.

Contact Gayle Gasteen at pd@qpilch.org.au.

QPILCH WEBSITE

Looking for news, legal materials and other information about QPILCH? Look no further than www.qpilch.org.au. Our website is regularly updated and contains useful information such as our assessment criteria, application form, model pro bono solicitor/client agreement and more. We are particularly excited to present our new-look "Publications" page where users can access QPILCH annual reports, newsletters, legal materials, submissions and cases which were referred by QPILCH to member firms. The legal materials section includes:

- fact sheets on consumer law issues
- guide to the coroners court
- guides in relation to legal costs and fees in public interest litigation and court fee waiver
- schedule of limitation dates
- referral manual for free legal services in Queensland
- refugee and migration assessment manual
- guide to standing.

It is hoped later this year we will have time to revise the site to ensure easier access to information by both the public and the profession. Included will be password protected area for our members involved in programs such as the Homeless Persons' Legal Clinic.

We welcome any comments you might have regarding the current website and any improvements you might like to suggest.

Contact Rebekah Leong at referral@qpilch.org.au.

ADMINISTRATIVE LAW CLINIC

The Administrative Law Clinic for semester 2 of 2005 has now ended and the third will commence in September 2005. The clinic, run by 6 Bond University Law students, provides minor assistance in a range of matters from judicial review to guardianship and administration, social security and prisoner appeals. In the past,

referrals have been received from Legal Aid Queensland, Welfare Rights Centre and the Ombudsman.

Over the last semester our assistance has included:

- drafting submissions in 2 Guardianship and Administration Tribunal matters and 1 Social Security Appeals Tribunal matter;
- providing advice and drafting correspondence on behalf of clients in relation to Centrelink;
- undertaking assessment of judicial review matters and either providing the client with a detailed rejection letter as to why their matter has no legal merit or referring the matter on for pro bono assistance;
- providing advice regarding appeal of Legal Services Commission decisions.

We have been fortunate to have had Welfare Rights Centre and Prisoners' Legal Service provide guidance to students in specific matters.

We would also like to thank the following people for donating their time to speak to the students on administrative law issues: Darryl Rangiah (barrister), Matthew Holmes (solicitor, MurphySchmidt), Nitra Kidson (RAILS), John Stannard (Welfare Rights Centre) and Geoff Airo-Farulla (Assistant Ombudsman)

Contact Rebekah Leong – adminlaw@qpilch.org.au

REFERRALS

Clayton Utz assisted the Tenants Union in making submissions to the Queensland Government regarding the legitimacy of provisions of the *Residential Services (Accommodation) Act 2002 (Qld)*. The provisions allow service providers to immediately terminate residential agreements and use reasonable and necessary force to remove residents who are in breach. This accommodation is frequently occupied by people with disabilities. The submission argues that the legislation does not afford security of tenure as anticipated by Australia's international treaty obligations, nor does it correspond with enactments in similar Australian jurisdictions requiring an application to an intermediary tribunal before a tenant can be evicted.

MurphySchmidt helped an applicant whose wife was diagnosed with Alzheimer's and Dementia to oppose the appointment of an Adult Guardian. The applicant sought assistance in obtaining evidence supporting his capacity to care for his wife and her cognitive functioning and capacity to make decisions. The appointment was successfully revoked.

Deacons and barrister member **Damien O'Brien** assisted an applicant in drafting a deed of settlement to bring contractual arrangements between a Native Title claim group and a private company to an end to resolve a commercial dispute successfully.

Blake Dawson Waldron has again updated the limitation schedule (see our website). Originally developed by Caxton Legal Centre, the schedule provides an important resource of most limitation periods. It is updated annually by Blakes for QPILCH, primarily to assist community legal centres to have ready access to this critical information.

HOMELESS POLICY PROJECT

As mentioned above, the Homeless Policy Project has also been funded with a grant from the Department of Communities. Michael Carey, who was previously employed in the position under a grant from the Grants Fund, has continued in the position on a part-time basis for two days per week. Michael's key duties will be the expansion of the clinics to other areas in Queensland, notably Cairns, Townsville, Rockhampton and the Gold Coast. He has already had discussions with the Toowoomba Community Legal Centre regarding its proposal to establish a clinic in Toowoomba.

Michael will also be undertaking research and policy work, particularly following up the Government's recent 'reforms' in relation to begging and other street offences that impact adversely on the homeless.

Contact Michael Carey – homelesspolicy@qpilch.org.au

OUR THANKS

We thank **Clayton Utz** for donating a number of boardroom and office chairs to replace existing old furniture.

STUDENTS

A new group of volunteer students has commenced at QPILCH for the three available days in semester 2, 2005.

The third Consumer Law Advice Clinic with the University of Queensland Law School has commenced and the third Bond's Administrative Law Clinic has ended. Griffith University PLT student Francis Ng finished his term in June.

We thank all the students who attended QPILCH in first semester for their valued assistance.

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, McPhee Lawyers, Miller Harris (Cairns), Minter Ellison, MurphySchmidt, Nathan Lawyers, Phillips Fox, Quinn and Scattini, Shine Roche McGowan, TressCox Lawyers, Walkers Solicitors (Toowoomba)</p> <p>Barristers Nicholas Andreatidis, Franc Asis, Ken Barlow, John Bond SC, Jacoba Brasch, Judy Brien, Sue Brown, Gary Coveney, Christopher Crawford, Quentin Cregan, Jean Dalton SC, Dr Gillian Dempsey, Joshua Hanna, Eric Howell, George Kalimnios, Stephen Keim SC, Liam Kelly, Carla Klease, Peter Lyons QC, Ross Mack, Nicole Martin, Damien O'Brien, Dan O'Gorman, Darryl Rangiah, Hugh Scott-Mackenzie, David Thomae, Michael Wilson</p> <p>Specified members Bar Association of Queensland Inc, Legal Aid Queensland, Queensland Association of Independent Legal Services Inc, Queensland Law Society Incorporated</p> <p>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)</p> <p>Government legal unit members Australian Competition and Consumer Commission</p> <p>Corporate legal unit members Energex Limited</p>
