

Issue 15, November 2008

Contents

New consumer law service	1
Funding for coordinated pro bono services	1
RRR project	1
QPILCH becomes a PBI	2
Jobs at QPILCH	2
2 nd National Pro Bono Conference	2
HPLC news	2
HPLC policy	3
Refugee civil law service	3
Self-Representation Civil Law Service	3
Training and research news	4
Referrals	4
Student and volunteer programs	5
Secondments	6
AGM	6
Subscription	6

Christmas wishes

This newsletter will be our last for the year. We extend our thanks to our members and supporters for their great assistance throughout the year and wish you a relaxing and happy summer.

Caxton's new consumer law service

Since 2004, with the assistance of Clayton Utz and more recently the TC Beirne School of Law, QPILCH has run a part-time consumer law service for disadvantaged Queenslanders. While this service achieved excellent outcomes, the hours committed to the service were unable to meet the demand and could only provide one-off advice and minor assistance.

The Queensland Attorney-General and Minister for Justice, the Hon Kerry Shine has now funded through *Legal Practitioners Interest on Trust Accounts Fund* (LPITAF) a full-time service located at Caxton Legal Centre and staffed by a solicitor and financial counsellor. QPILCH's student based consumer law advice clinic will transfer to Caxton to augment the service.

These new arrangements will be of great benefit to Queensland consumers who have been without a full-time holistic legal

service for many years. We congratulate and thank the Attorney for this initiative.

New pro bono referral service

QPILCH has recently been granted funding for a one-year pilot project to coordinate pro bono referrals in non-public interest matters.

Previously, the Queensland Law Society and the Bar Association have made ad hoc referrals, but this new project will streamline the options so that any individual, not-for-profit organisation or community legal centre in Queensland can contact us as the one-stop shop for pro bono referrals. This new scheme will help to increase the number of matters that can receive pro bono assistance, and will have only merits and means as criteria for assistance.

The scheme is modelled on the successful one which has been in operation through PILCH in Victoria for some time. The project has received funding through LPITAF and will employ a solicitor from January 2009.

RRR project

QPILCH has also recently been granted funding from LPITAF for a 6-month project to continue on from the first Rural, Regional and Remote project commenced in 2004.

The aim of the project is to facilitate two pilot partnerships (one rural, one regional) with city-based firms to increase the capacity of the rural and regional firms to undertake pro bono work.

We thank the Attorney for funding both these new projects.

QPILCH becomes a PBI

With the great assistance of Freehills, QPILCH has become a Public Benevolent Institution with Deductible Gift Recipient status. This means that from 8 October 2008, all donations over \$2 to QPILCH will be tax deductible. We are now exploring ways to make the most of this new status to benefit our clients. We thank former QPILCH staff member Rochelle Carey and Freehills, particularly Anna Lyons of its Melbourne office, for their fine work in preparing and submitting our application to the ATO.

Jobs at QPILCH

QPILCH seeks to fill two full-time solicitor positions from mid to late January 2009:

1. Coordinator of the pilot QLS and Bar pro bono referral schemes (one year with the possibility of extension). This position will entail development of operational guidelines, liaison with the QLS and Bar Association, promotion of the project, assessment of applications for assistance and referral to participating firms and barristers;
2. Coordinator, rural regional remote project (six months only). The position will involve oversight of two pilot partnerships between rural and regional firms and national law firms, working with other staff in developing rural and regional pro bono services and promotion of pro bono. This project will involve some travel within Queensland.

Details of salaries and conditions and the positions descriptions can be found on the QPILCH website at www.qpilch.org.au or contact QPILCH on 3012 9775 or by email at contact@qipilch.org.au.

Retired practitioners vital link in providing free services

QPILCH is very fortunate to have four retired practitioners assisting with various

programs: retired Supreme Court judge Martin Moynihan AO QC chairs the reference group that oversees the Self-Representation Civil Law Service; retired solicitors Lex MacGillivray and John Rowell volunteer for our Court of Appeal self-representation service; and retired magistrate Michael Halliday has volunteered for the panel of accredited mediators supporting the self-representation service. We thank these volunteers for giving up their time and giving us the benefit of their skills and experience.

QPILCH seeks other retired practitioners willing to help. We hope soon to have sufficient office space so we can properly accommodate our volunteers. If interested, contact Tony Woodyatt on 3012 9775 or email contact@qipilch.org.au.

2nd National Access to Justice and Pro Bono Conference, Sydney

This conference was held from 14-15 November 2008, with pre-conference sessions on self-representation and student participation in pro bono.

Joanne Rennick, QPILCH president presented a paper on working with partners in undertaking pro bono work.

At the self-representation seminar, delegates heard from Robin Knowles QC, chair of the UK Bar Pro Bono Unit and Susan Ledray of the Minnesota 4th Judicial District on their programs for self-representation. Justice Margaret White of the Queensland Supreme Court highlighted aspects of Queensland's new *accessCourts* initiative which draws on the strengths of the UK and US experiences. Tracy Dutton of the Supreme and District Court's self-help service and Tony Woodyatt of QPILCH spoke on our respective services.

Training coordinator, Andrea Perry-Petersen presented a paper on working with law schools and students at the students and pro bono seminar.

HPLC news Clinics

Our nine clinics in and around Brisbane and our three regional clinics in Townsville and Toowoomba are continuing to see a steady flow of clients. Our Youth HPLC, previously located at the Red Cross Night Café, has commenced operation at the Brisbane Youth Service in Fortitude Valley. We welcome Holding Redlich who will join

Mallesons Stephen Jacques in the operation of this clinic and we thank the Red Cross for their past and ongoing participation and support of our service.

Funding

We thank the Minister for Communities, the Hon Lindy Nelson-Carr for continuing to fund coordination of our homeless persons' clinics. While the funding is still not recurrent, this funding enables us to continue and expand the services for another year.

Art exhibition

The HPLC Social Committee met for the first time on 16 September and planning is underway for the 2009 Art Exhibition. This event follows on from the successful 2007 Art Exhibition which showcased the artistic and creative talents of over 50 members of Brisbane's homeless community. Please contact QPILCH via email, social@qpilch.org.au if you have any queries about the 2009 Art Exhibition or would like to get involved.

Reform

The HPLC submitted its response to the Federal Government's Green Paper on Homelessness on 27 June 2008. The Green Paper put forward principles, targets and options for reform and sought feedback on these, as a first step in facilitating the Government's agenda of reducing homelessness. The HPLC response was informed by our client's experiences and focussed on best practice in early intervention, the negative impact of Queensland public space laws and the importance of funding specialist networked services. Thanks to lawyers from Minter Ellison and McCullough Robertson for their research and drafting assistance in the preparation of our response.

Casework

Jean Dalton SC and Kerri Mellifont, instructed by a QPILCH team including Robert Reed and the CIP graduates of Minter Ellison Lawyers, successfully appealed a District Court decision (affirming a Magistrates Court decision) before the Court of Appeal regarding the exercise of police move-on powers on an elderly homeless man. This case is important because it goes to the heart of our justice system - how we treat the most vulnerable and marginalised citizens. We thank Jean and Kerri, Rob and

all the other lawyers, particularly barristers Peter Callaghan SC and Shaun Gordon, who worked on the case from the Magistrates Court to the Court of Appeal, for their great work.

Andrea de Smidt – hplc@qpilch.org.au

HPLC policy news

Nine Gold Coast law firms and one retired lawyer have committed to a local HPLC. Griffith (GC) and Bond law schools will also arrange for their PLT students to volunteer at the clinic. This will cover the running of the clinic for 7 months, so we are still recruiting local firms, and aim to induct volunteer lawyers in January.

We have commenced a pilot project with Roma House, a supported accommodation service in Brisbane, to develop a legal needs assessment tool, capable of being administered by non-legal staff, which will become available in all HPLCs. Legal research in Australia (e.g. *Pathways to Justice: the role of non-legal services*, Law and Justice Foundation, June 2007) and elsewhere demonstrates that, broadly speaking, most socially or economically disadvantaged clients do not realise they have a legal problem. Of those who do, only half of them seek assistance for that problem. Of those who seek help, around 12% seek assistance from a legal service. These statistics become even bleaker in the realm of small-scale civil law matters experienced by those in extreme disadvantage. Resourcing non-legal staff with an assessment tool, when combined with accessible pro-bono lawyers, may help address this dynamic. We hope to attract funding for this project with our new DGR status.

Sue Garlick – homelesspolicy@qpilch.org.au

Refugee Civil Law Service

The Refugee Civil Law Clinic (RCLC) has assisted 41 clients since its inception in August 2007. Many of these clients have benefited greatly from the service and we are thankful to Corrs Chambers Westgarth for their ongoing commitment to this service.

Andrea de Smidt – hplc@qpilch.org.au

Self-Representation Civil Law Service

In the first seven months of operation to 30 June 2008 we opened 86 files. In the first five months of this financial year we have assisted 100 clients. In view of the increase in workload and because clients are attending our courthouse office on days when it is unattended, we have applied to LPITAF to increase Allira Thompson's paralegal position from three to five days per week.

The day before execution of an enforcement warrant for possession of her property was to occur, the SRCLS assisted a client to stay the warrant on the grounds that it would create excessive hardship on her health and financial situation. Upon our referral, the Court Network provided emotional support to the client. The Registry's Self-Represented Litigants Service also provided the client with access to a fax machine and telephone. This case exemplifies the co-operative approach of the *accessCourts* initiative at the Brisbane and District Court to help self-represented litigants unfamiliar with the court system.

Thank you event

Held at Parliament House on 10 September, the Attorney-General, the Hon Kerry Shine MP, thanked volunteers for their valuable contribution in ensuring that some of the state's most marginalised people are guaranteed fair access to the courts. The event also provided volunteers an opportunity to share their experiences and provide valuable feedback to the Service about its potential for improvement.

We thank the Attorney for hosting this function and the Chief Justice, the Honourable Paul de Jersey AC, Justice Margaret White, Chief Judge Wolfe and Justice Department Director-General Julie Grantham for attending, contributing and supporting the SRCLS.

Pro bono mediation service

Having determined that there is an urgent need for affordable mediation services accessible to self-represented litigants, the SRCLS has established a free mediation service. Our panel is currently comprised of 13 accredited mediators who have volunteered to conduct pro-bono mediations on an as needed basis. We have also asked the Attorney to approve the participation of government employed mediators in this scheme. The SRCLS intends to encourage its clients to participate in mediation, and to organise a free mediation if the opposing side

is agreeable. We thank Toby Boys of Holding Redlich for his assistance in establishing the panel and for conducting the first two mediations, and the other mediators who have volunteered.

Call for volunteers

The SRLCS is seeking the assistance of legal practitioners specialising in planning and environment law to volunteer as part of the SRCLS P&E panel.

Judith Douglas – selfreps@qpilch.org.au
Allira Thompson – selfrepsadmin@qpilch.org.au

Training

The Law Foundation Queensland has confirmed continued funding for this financial year for our training program. The LFAQ charter is to support initiatives of benefit to QLS members. Accordingly before the end of the year we will be finalising an extensive 2009 program for professional training in areas of poverty law and other legal issues not usually taken up by commercial providers.

We are currently organising a professional seminar on consumer law with speakers from Legal Aid Queensland and Caxton Legal Centre's new Consumer Law Centre.

On Monday 13 October, the sixth seminar in this series "*How healthy is your organisation? - A legal service for not-for-profit organisations*" was held on the topic of "The Law of Volunteers" at the Queensland Law Society. Presenters were Di Morgan, CEO and Perry Hembury, Governance Manager of Volunteering Queensland and Ros Williams, solicitor of Caxton Legal Centre. This was a popular seminar with 40 people attending and providing positive feedback on the seminar which covered issues such as minimising liability and managing staff and volunteer relations.

Training for HPLC and RCLC volunteers is continuing and a program for SRCLS volunteers, including a seminar on making the most of the hour interview and a rerun of the successful drafting seminars, will start in early 2009.

Recent CLEs conducted for the HPLC and RCLC are as follows:

1. *Assisting Clients with Criminal Law matters* – presented by Legal Aid duty lawyer, Mark

- Schofield, and hosted by Allens Arthur Robinson;
2. *Criminal Injuries Compensation and the Civil Law Legal Aid Scheme* presented by Helen Boreham and Murray Brown from Legal Aid Queensland, and hosted by Mallesons Stephen Jacques, and
 3. *Assisting clients with Guardianship and Administration Issues* presented by Clare Endicott, deputy president of the Guardianship and Administration Tribunal, and hosted by Corrs Chambers Westgarth.

Andrea Perry-Petersen – training@qpilch.org.au.

Referrals

In the first four months of this financial year, QPILCH has referred 36 matters to our members for legal assistance. This is an incredible effort by our members and is an increase from 23 in the same period last year.

We thank all our members for their continued acceptance of referrals.

Just a small snapshot of some of the referrals which have been finalised in the last few months:

DLA Phillips Fox assisted a not-for-profit organisation set up a legal entity for a fundraising project to raise awareness about bi-polar disorder.

Corrs Chambers Westgarth provided advice to an individual about the steps required to review a council's planning and environment decision.

MurphySchmidt Solicitors assisted an individual successfully resist an application for guardianship in the Guardianship and Administration Tribunal.

Miller Harris Lawyers assisted an individual to recover part of a judgment debt.

Cristy Dieckmann – services@qpilch.org.au

Student and volunteer programs Consumer Law Advice Clinic

The Consumer Law Advice Clinic has been operating each semester since 2004. It was started with the assistance of QPILCH foundation member Clayton Utz which seconded a senior solicitor for three days per week to establish and run the service. UQ has funded the service since 2007. However, from first semester 2009, it will transfer to the new Consumer Law Centre at Caxton Legal Centre.

We thank all the students involved this semester and for the support of Randal Dennings and staff from Clayton Utz who provided a venue and leadership for the clinic's training on its commencement.

Catherine Uhr – consumer@qpilch.org.au

Public Interest Research Clinic

Second semester 2008, the third PIRC took place with 5 UQ students. The students reported enjoying their time at QPILCH and hearing from guest speakers including Justice Roslyn Atkinson, Professor Richard Johnstone (Griffith University), Dr Ros McDonald (QUT) and Deborah Scott of Allens Arthur Robinson to name a few. Through this clinic the law students increased their knowledge of areas of law not covered in their law degree such as law reform, knowledge management, plain English drafting and socio-legal research, and considered areas of law such as elder law.

The students produced "Guidelines to assist barristers and solicitors opposing self-represented litigants" which we will publish in the near future and commenced an evaluation of QPILCH services which will be completed by early 2009.

The students rated PIRC 8.5/10 and here are some of their comments:

- "Very enjoyable and valuable learning experience with diverse educational experiences"
- "Preparing guidelines for barristers and solicitors made me come to the realisation of the interconnectedness of social issues with the law".
- "This clinic made me truly aware of public interest legal issues that I would never normally be exposed to. By analysing the service of QPILCH I understood the role of policy and social issues in the law".

Andrea Perry-Petersen – training@qpilch.org.au.

Administrative law clinic

The Bond administrative law clinic third semester 2008 is nearing completion. Supervised by Bond academic Jackson Walkden-Brown, this clinic has undertaken some significant casework this semester and we hope soon to have a dedicated administrative law page on our website through the students work. Jackson has supervised the clinic since second semester

2007 and this semester will be his last. We thank Jackson for his great legal work and his energetic and empathetic supervision. We thank the students for their terrific contribution.

Student volunteers

We would like to thank our students who volunteered with QPILCH in second semester. Thanks to Heike Herrling, Steph Hooper, Nora Gotzmann, Amy Heselwood, Shelly Nakamura, Nikki Wawryk, Dominique Mayo, Belinda Dickson, Eddie Wood, Raj Srikanth and Chelsea Tabart. These students produced work of a high standard and offered a great deal of assistance in dealing with some particularly lengthy assessments.

We have recently appointed another 12 volunteers to work one day per week over the summer semester and look forward to their contribution to the office.

Thanks also to all the students and supervisors in the three university clinics in second semester who added greatly to the number of people QPILCH was able to assist.

Cristy Dieckmann – services@qpilch.org.au.

Secondments

Duncan Marckwald (referral@qpilch.org.au), the second graduate secondee from Corrs Chambers Westgarth, is half way through his secondment:

“My main role has been to assist in assessing the applications for our public interest referral scheme. This involves taking a matter from start to finish, beginning with a client’s initial instructions, identifying, researching and evaluating the legal options available and assessing the application. The next step is either drafting a referral email or writing to the applicant and explaining our decision, their legal position and their next steps. The responsibility and ownership of a matter that this process ensures is both daunting and challenging, but ultimately rewarding. Already, I have been exposed to a great variety of legal areas, including unfair dismissal, professional negligence, misleading and deceptive conduct, crown immunity, constructive trusts, and of course, the fisheries tribunal.

“Apart from this main role, I have also had the opportunity to instruct counsel at conferences in the Anti-Discrimination Tribunal and the Administrative Appeals Tribunal. I have attended client interviews and drafted affidavits which were then settled by a partner of a QPILCH

member firm and Senior Counsel and filed with an urgent application for judicial review. I have helped other volunteer solicitors give direct advice to clients at the Self-Representation Civil Law Service. The work has been difficult at times, but with the fantastic support of others at QPILCH it has been achievable.

“This is just a small sample of the type of work that my secondment has involved so far, and given my already amazing experience, I am excited about what is yet to come.”

As free legal services are overloaded with requests for assistance, secondments of any duration from private firms are becoming increasingly important and of great benefit to the community. If you would like to broaden the experience and skills of your staff, we can use more hands to assist disadvantaged clients at QPILCH or another CLC. If interested in discussing a secondment, please contact Tony Woodyatt on 3012 9775 or contact@qpilch.org.au.

AGM

The QPILCH AGM was held on Monday 6 October 2008. The following member representatives were elected or appointed in accordance with the rules:

Joanne Rennick – President - Partner, MurphySchmidt

Hugh Scott-Mackenzie, Vice-President – Barrister

Robert Reed – Secretary/Treasurer - Senior Associate, Minter Ellison

Peter Carne – CEO, Queensland Law Society Incorporated

Professor Jeff Giddings – Griffith University Law School (Associate Member representative)

Dan O’Connor – Chief Executive, Bar Association of Queensland Inc

Samantha Lentell - Senior Associate, Clayton Utz

Sarah McBratney – Lawyer, McCullough Robertson

Julie McStay - Senior Associate, Blake Dawson Waldron

Elizabeth Shearer – Director, Client Information and Advice & Civil Justice Services, Legal Aid Queensland

Two other members were coopted to the committee:

Andrew Buchanan and **Rochelle Carey**.

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 07 3012 9775 or fax 07 3012 9774.

What is QPILCH?

The Queensland Public Interest Law Clearing House Incorporated (QPILCH) is an initiative of the legal profession to assist people who cannot obtain legal aid or afford private legal services in civil law public interest cases. QPILCH draws on the resources of the wider legal profession - private firms, barristers, government, corporate lawyers, university law schools and works with other community based agencies to assist those who are the most disadvantaged and marginalised. In addition to public interest referrals, QPILCH operates four direct services with the support of its members – the Homeless Persons’ Legal Clinic, the Refugee Civil Law Service, the Self-Representation Civil Law Service, and the Administrative Law Clinic. For details of our referral and direct services, criteria and procedures, see the QPILCH website at www.qpilch.org.au.

QPILCH Members

Firms Allens Arthur Robinson, Blake Dawson, Brian Bartley and Associates, Carter Capner, Clayton Utz, Corrs Chambers Westgarth, Deacons, DLA Phillips Fox, Ebsworth & Ebsworth, 4 Change Lawyers, Freehills, Holding Redlich, Hunt & Hunt, Macrossans Lawyers, Mallesons Stephen Jaques, McCullough Robertson, McInnes Wilson, McPhee Lawyers, Miller Harris (Cairns), Minter Ellison, MurphySchmidt, Nathan Lawyers, Piper Alderman, Quinn and Scattini, Shine Lawyers, Slater & Gordon, Smith & Stanton, Sparke Helmore, TressCox Lawyers, Walkers Solicitors (Toowoomba) **Barristers** Nicholas Andreatidis, Franc Asis, Michael Ballans, Ken Barlow, John Bond SC, Shelley-Anne Brace, Jacoba Brasch, Vince Brennan, Judy Brien, Alexandra Brook, Simon Brown, Sue Brown, Anna Cappellano, Gary Coveney, Jarrod Cowley-Grimmond, Christopher Crawford, Quentin Cregan, Jean Dalton SC, Dr Gillian Dempsey, Cameron Dick, Susan Fajardo, Tracy Fantin (Cairns), Dr Kim Forrester, Joshua Hanna, Keith Howe, George Kalimnios, David Keane, Stephen Keim SC, Liam Kelly, Nitra Kidson, Carla Klease, Michael Labone, Peter Lyons QC, Aida-Portia Maier, Paul Marshall, Scott McConnel, James McNab, Ross Mack, Nicole Martin, Damien O’Brien, TP O’Brien, Dan O’Gorman, Rebecca Pearson, Darryl Rangiah, Justin Ky Ratanatray, Guy Sara, Hugh Scott-Mackenzie, Sarah Scott-Mackenzie, Dr Max Spry, Clare Sultman, David Thomae, Roger Traves SC, Terrence Walsh, Karen Williams, Douglas Wilson, Michael Wilson, Julene Winn **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**