

2001-2002 Annual Report

Queensland Public Interest Law Clearing House Incorporated



QPILCH MEMBERS

Allens Arthur Robinson
Ash Solicitors
Franc Asis, Barrister
Bain Gasteen
Bar Association of Queensland Inc
BDO Kendalls, Chartered Accountants
Blake Dawson Waldron
John Bond SC, Barrister
Brian Bartley and Associates
Clayton Utz
Freehills
Griffith University Law School
Stephen Keim, Barrister
Legal Aid Queensland
Mallesons Stephen Jaques
McCullough Robertson Lawyers
McInnes Wilson
Minter Ellison
MurphySchmidt
Queensland Association of Independent Legal
Services Inc
Queensland Law Society Incorporated
Shine Roche McGowan
Walkers Solicitors (Toowoomba)

PRESIDENT'S REPORT

It is my very great pleasure to present the first President's Report for the Queensland Public Interest Law Clearing House. It is not an exaggeration to say that QPILCH's first year has been a success beyond expectations.

Pro Bono Enquiries and Referrals

The co-ordination of requests for pro bono assistance, their assessment and the referral out to member firms and barristers is the raison d'être of QPILCH. In the six months of effective operation since QPILCH was established in January to 30 June there have been 50 written requests for pro bono assistance, of which 17 have been referred out to member firms. This demand on our service is despite only minimal publicity which occurred following our launch in April and after a brief mention on television in May. So far, the majority of the referrals to QPILCH have come from Legal Aid Queensland and the Queensland Law Society.

QPILCH Launch

QPILCH was launched at a lunch held at Customs House on Friday 19 April 2002. I wish to especially thank our patron, the Chief Justice and the Honourable Rod Welford MP, Attorney General for Queensland, for speaking at that lunch. We were also fortunate to have the launch in the presence of the President of the Court of Appeal, the Chief Judge of the District Court and the Chief Magistrate.

Student Clinic

Griffith University and QPILCH have jointly launched a student clinic. Students from Griffith University, as part of their course, undertake research projects of public interest in conjunction with QPILCH and also assist in assessing applications for pro bono assistance. In one project, the students are focusing on 'no win, no fee' solicitor/client agreements because of its importance and relevance to the current debate on solicitors' fees.

I have met the students and find their enthusiasm is infectious, their interest in public interest law is outstanding and I was also impressed at their legal and practical skills in assessing requests for assistance and investigating both the legal and factual background to those requests.

Homeless Persons' Legal Clinic

QPILCH will shortly launch a homeless persons' legal clinic. The Queensland clinic is based on a Victorian model which has proved very successful. Legal assistance is provided to homeless people at convenient places to them on a pro bono basis. The following firms have agreed to provide pro bono assistance at the clinics: Allens Arthur Robison, Blake Dawson Waldron, Clayton Utz, Freehills, Hopgood Ganim, McInnes Wilson, Minter Ellison and MurphySchmidt, with Mallesons Stephen Jaques and McCullough Robertson still to provide formal confirmation of their involvement. At this stage, the clinic is planned to operate in conjunction with Mission Australia, the Salvation Army, St Vincents Community Services and Wesley City Mission. I wish to record particularly thanks to Carla Klease, who has been responsible for the organisation of the clinic. Her organisational skills are outstanding and I would not be using hyperbole to say that she has done a fantastic job to date. I must also thank Blake Dawson Waldron for allowing Carla to be seconded to QPILCH for this project.

Acknowledgements

As in the launch of all such organisations, there are a large number of people to thank.

I would like first to thank coordinator, Tony Woodyatt. I personally, and QPILCH think that we are extremely fortunate to have someone with Tony's experience and skills.

The success of QPILCH can be put down largely to his dedication and enthusiasm.

I would also like to thank my fellow committee members, and in particular QPILCH's secretary, Simon Cleary, who have not hesitated to provide the high level of assistance necessary to get an organisation like QPILCH off the ground.

The Hon Paul de Jersey, AC, Chief Justice of Queensland has always provided his enthusiastic support for QPILCH, as has The Hon Rod Welford MP, Attorney General and Minister for Justice

I also record those firms who provided seed capital funding for QPILCH. Without the support of these firms, QPILCH could never have come into existence. The firms are:

Allens Arthur Robinson
Blake Dawson Waldron
Clayton Utz
Mallesons Stephen Jaques
McCullough Robertson and
Minter Ellison.

I also need to record QPILCH's gratitude to the Grants Committee of the Queensland Law Society for the substantial funding it has provided, as well as to the Attorney General, the Hon Rod Welford MP for the recurrent funding he has authorised for QPILCH. I also thank the Gambling Community Benefit Fund for assisting with the purchase of essential equipment.

And there has also been generous assistance provided by members and others who deserve credit and gratitude:

Shine Roche McGowan has been extremely generous in allowing QPILCH the use of its premises for a year free of rent.

Peter Russo, solicitor, who donated a board table and photocopier.

Clayton Utz - computers for use in the student clinic (Mike Driver), website design (Di Bingham and Jody Fisher), assistance with incorporation (Geoff Harley and Clifford Hughes) and other advice (Mark Curran).

Mallesons Stephen Jaques provided assistance with incorporation and tax issues (Hugh Scott-Mackenzie and Nicholas Clifton), and Mallesons also provided some furniture.

Blake Dawson Waldron and **Minter Ellison** donated furniture.

Legal Aid Queensland - Humphrey Kariuki for logo, brochure, e-mail, letterhead and annual report cover design; Jo McDonald for computer formatting and administration support; Terry Kelly for telephones and setup and Robyn Wilkinson for ongoing advice and assistance.

Queensland Law Society Incorporated assisted with printing of letterhead and 'With Compliments' slips (Tom Byrne and Dorothy Henderson).

Caxton Legal Centre for administration advice and assistance (Anne-Maree Elliott).

Andrew Hall – reduced fees for maintaining our computer network.

Douglas Heck and Burrell for auditing and accounting advice and assistance (Rob St Clair, Dimitri Constantinous and Kerry Lane).

Microsoft for donating computer software to facilitate our services and the student program.

Dan O'Connor from the Bar Association for facilitating referrals to barristers.

And last but not least, **our members** for being part of QPILCH and for accepting referrals on a pro bono basis to assist people in need.

The speed with which QPILCH has been established could not have occurred without the whole-hearted support of our members and others who have generously provided their time, energy and resources.

The Future

I do not doubt that QPILCH has a great future in Queensland. The ongoing pro bono assistance it will coordinate, the homeless person's legal clinic and the student clinic should contribute greatly to the delivery of pro bono legal service to the community, and also to publicise to the community the dedication and sense of community which those lawyers, law students and academics demonstrate through their pro bono activities.

There will be a launch of the homeless person's legal clinic. QPILCH is also planning to have an annual function, similar to the launch where prominent speakers will be asked to deliver an annual public interest address.

And we have other projects planned to target those in our community most in need of legal assistance.

Continuing to fund QPILCH will be one of our challenges. Law firms and barristers may rest assured that we will be pursuing them to become members of QPILCH and we will be knocking on any doors which we think could provide us with funding assistance. From next year we must survive on membership fees and donations alone. Any ideas would be gratefully received by Tony Woodyatt and the committee.

Andrew Buchanan, President

2001-02 MANAGEMENT COMMITTEE

Executive

Andrew Buchanan, President – Partner, Allens Arthur Robinson

Hugh Scott-Mackenzie, Vice-President – Partner, Mallesons Stephen Jaques

Simon Cleary, Secretary/Treasurer – Solicitor, Legal Aid Queensland

Committee Members

Lucy Bretherton – Special Counsel, Blake Dawson Waldron

Tom Byrne – Queensland Law Society Incorporated

Associate Professor Jeff Giddings – Director, Clinical Legal Education, Griffith University Law School

Geoff Harley – Managing Partner, Clayton Utz

Merran Lawler – Director, Caxton Legal Centre Inc (resigned 30 June 2002)

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

Robert Reed – Senior Associate, Minter Ellison

Peter Rosengren – Partner, McCullough Robertson

Robyn Wilkinson – Executive Legal Officer, Legal Aid Queensland

NATIONAL PRO BONO RESOURCE CENTRE – 2001/2002 REPORT

The National Pro Bono Resource Centre (NPBRC) has been established over the course of 2002 with funding from the Commonwealth Attorney-General. QPILCH has been represented on the Steering Committee for the establishment of the NPBRC. The NPBRC will, as the name suggests, be a resource centre for people, firms and organisations across the country which, like QPILCH, provide pro bono legal services.

It will not duplicate the direct service-delivery of organisations like QPILCH, but rather will support that pro bono work. Its objects include:

- Promoting pro bono work throughout the legal profession in Australia;
- Providing practical support to existing pro bono service providers; and
- Promoting and undertaking research and projects to inform and enhance the provision of pro bono services.

On August 15 the Public Interest Advocacy Centre (PIAC) hosted a national pro bono workshop, which built on the landmark National Pro Bono Conference in Canberra in 2000. A number of representatives of QPILCH members attended the workshop whose theme was "Overcoming Barriers". The workshop was effective in generating practical responses to obstacles in pro bono service delivery and informing the strategic direction of the NPBRC.

The three PILCHs in Queensland, NSW and Victoria will make an ongoing contribution to the work of the NPBRC, with VicPILCH and QPILCH rotating representation on the NPBRC Board. The NPBRC will be housed in Sydney. Its inaugural director is Gordon Renouf.

Simon Cleary, QPILCH Secretary and representative on NPBRC Steering Committee

SECONDEE'S REPORT

Carla Klease, Lawyer, Blake Dawson Waldron

I am very fortunate to have been given the opportunity to be a secondee at the Queensland Public Interest Law Clearing House Incorporated (QPILCH) two days per week for six months from 2 July 2002. My project at QPILCH is to establish a Homeless Persons' Legal Clinic in Brisbane.

The Homeless Persons' Legal Clinic is modelled on a similar clinic operating in Melbourne under the auspices of the Victorian Public Interest Law Clearing House (PILCH). I visited many of the Clinics operating in Melbourne at the beginning of my secondment to get a first hand view of how each Clinic works. PILCH was kind enough to share its wisdom (including valuable precedents, forms etc) with me which has greatly assisted me to get the Clinic up and running sooner.

The Clinic will provide free legal assistance to the homeless at locations already frequented by homeless people, such as at emergency accommodation centres, welfare agencies or drop-in centres for the homeless. This gives homeless people direct access to legal services which is essential because, given the range of pressures and issues confronting homeless people (including financial, social, psychological, medical and health issues), legal problems often go unaddressed unless services are appropriately located and delivered.

Each law firm or corporate legal department that participates in the project will provide lawyers to staff the Clinic at the same welfare agency at regular intervals. In addition to providing legal advice in all areas (excluding family or criminal law), lawyers will seek to identify the range of legal issues facing homeless people, identify gaps in the delivery of legal services to homeless people and examine relevant policy and law reform issues.

In my capacity as Clinic Coordinator, I am presently identifying the number of Clinics that can be supported in Brisbane and where those Clinics should be located, taking into account the areas where many of Brisbane's homeless live and the proximity to other support services and transport.

I am negotiating with a number of law firms in Brisbane the different ways in which firms can be involved in the Clinic and attempting to appropriately match law firms

with agencies. So far, Allens Arthur Robinson, Blake Dawson Waldron, Clayton Utz, Freehills, Hoggood Ganim, McInnes Wilson, Minter Ellison and MurphySchmidt have committed to the project, enabling us to operate up to four clinics. Mallesons Stephen Jaques and McCullough Robertson have expressed an interest in the project but are yet to complete their internal approval processes. I am drafting a practice manual for the volunteer lawyers of the Clinic as well as the identification and assessment of issues relevant to the Clinic's operation, including professional indemnity insurance, occupational health and safety and professional conflict. I am also organising appropriate training for the volunteer lawyers of the Clinic.

Once the Clinic commences operation, my role will be to coordinate the running of the Clinics, attend the Clinics and, in conjunction with the QPILCH Coordinator, monitor all advice given at the Clinics. From Victorian experience, the areas of law that homeless people often require advice about include fines, debts, housing/tenancy, welfare/social security, guardianship, victims of crime compensation and police powers.

Since I have commenced working at QPILCH, I have become acutely aware of how the law can, often inadvertently, disproportionately affect homeless people. I have also been surprised that some homeless people do not realise they have legal remedies for many of the problems that they face – for this reason, they do not seek legal assistance. Locating the Clinics at welfare agencies where homeless people already frequent and feel comfortable helps them overcome the barriers that ordinarily prevent them from seeking legal assistance.

I thank Blake Dawson Waldron and QPILCH for this opportunity and for the continued support from them both and from the other QPILCH member firms.

STUDENT CLINIC

Beginning in July 2002 QPILCH and Griffith University Law School has established a public interest law clinical program for small groups of senior law students. The pilot program is being run during second semester 2002.

The participating students attend QPILCH for one full day every week during which they are involved in case work, law reform projects, and group seminars. The focus of the Law School's 'Public Interest Lawyering' course is to improve students' understanding of lawyers' work in public interest matters.

Students are primarily involved in assessing applications for assistance and so are given the opportunity to develop interviewing, analysis, fact-gathering, file-management, and decision-making skills. Of particular significance is the role students have in applying and interpreting the QPILCH assessment criteria to individual cases.

Some of the issues involved in student assessments during the pilot program included solicitors' negligence, discrimination in health care, environmental nuisance, Indigenous land rights, and complaints against government departments. Some of the students were also involved in preparing a brief to counsel for opinion on the merits of an applicant's case.

The students also undertook work on two law reform projects. One group of students has furthered research completed by students from the Law School's 'General Legal Clinic' (run at Caxton Legal Centre Inc) on 'no-win, no-fee' client arrangements to provide suggestions for a model contract balancing solicitors' interests with adequate protections for clients. A second group of students is working on materials for lawyers on the proposed Coroners Court for Queensland (in the *Coroners Bill 2000*) with particular emphasis on the rights of interested parties.

Students are supervised by a Law School staff member and by the QPILCH coordinator. Assessment is based on students' performance of tasks at QPILCH, individual seminar presentations, and a collaborative written placement report.

The first group of students is:

Jenny Clark
Ben Cochrane
Kate Fitzgerald
Louise Formosa
Craig Pratt, and
Paula Rogers

We have found our experience at QPILCH of great value to our legal studies and to our further understanding of legal professional issues, the application of legal principles, and our appreciation of public interest lawyering.

We have enjoyed the working environment and our interaction with other legal professionals. We have been particularly privileged to meet with the executive members of QPILCH and with other esteemed members of the profession. Whilst mindful of our status as students and as guests at QPILCH we feel we have successfully formed close working relationships with QPILCH staff and with each other.

As this is the first time the course has run, we have been active in reviewing and developing procedures to ensure efficient and effective case management and communication, to facilitate expedient review of applications, and to keep applicants well-informed of the progress of their assessments. We have been mindful of assisting to establish what will hopefully become a successful and rewarding program for both future students, QPILCH and its many applicants.

We have attempted in our short time at QPILCH to work our way through as many applications as possible. This has given us exposure to a wide range of legal problems experienced by some of the more disadvantaged groups in our community. We have felt considerable pride in being in a position to assist in some small way with the plight of many of these applicants.

This enriching experience has only been possible with the generous and willing guidance provided to us by QPILCH coordinator Tony Woodyatt, by Blake Dawson Waldron secondee Carla Klease, and by our course convenor, Associate Professor Jeff Giddings. We would like to take this opportunity to express our gratitude for what has been a value-laden and unforgettable experience.

QPILCH SERVICES

QPILCH refers requests for legal assistance in public interest matters to its members who provide assistance pro bono or for reduced fees. Our aim is to increase access to justice by disadvantaged members of the community and to assist and support community groups that advance the public interest. QPILCH provides a central point of contact for the community to seek legal assistance, connects the profession directly to the community and provides a filter through which cases are passed to ensure that the most deserving cases are given priority.

Other advantages provided by a central clearing house include:

- giving priority to legal areas not covered by other legal service providers and to areas usually not litigated.
- canvassing issues raising concerns/ambiguities likely to be resolved/clarified through litigation – test cases.

- focusing on accountability issues such as professional regulation and instances of arbitrary exercise of discretionary power.

Our members provide a range of legal services from litigation to document drafting to assisting community groups with incorporation, tax issues etc. However, legal expertise will not be enough on its own. QPILCH seeks to work closely with other disciplines as well as with lawyers working in other fields.

The process for assessing applications for assistance from individuals and community organisations involves an assessment of its compliance with our public interest guidelines and a determination of merit.

In the first test, we ask if the matter:

- affects a significant number of people, or
- involves groups of people facing particular difficulties, focusing on the financially and socially disadvantaged.

We also consider issues such as the cost of the case in the context of what benefit will accrue to the community as a whole if the claim is successfully pursued. We assess if the matter involves complex issues such as matters which may be difficult to prove.

The sorts of matters that have been referred to date include:

- The recent highly publicised District Court appeal regarding Baker Johnson's action against a client for fees far in excess of the client's damages settlement.
- Claims by indigenous people arising from government control of workers accounts.
- A matter involving a young disabled person who claimed physical and financial abuse by a carer.
- Several discrimination matters.
- A number of referrals to assist community groups with incorporation, tax issues, rules interpretation etc.

QPILCH needs a strong membership base because the legal profession recognises that there is a crisis in the provision of some legal services. There are regular stories in the media about people who cannot get legal aid and cannot afford private assistance. Our members have recognised the need to find practical ways to address these problems.

It is the role of QPILCH to tap the skills and resources of our members – firms, barristers, corporate legal units and associate members – to assist members of the public who cannot find affordable assistance elsewhere. And QPILCH seeks to maximise the available resources by concentrating on public interest cases and targeting the areas of greatest need.

The Homeless Persons' Legal Clinic is an example of a targeted initiative. QPILCH has other projects planned to coordinate the resources of the profession to assist people most in need of assistance.

QPILCH also provides a forum for research on legal needs to be discussed and priorities to be mediated by members of the profession with a focus on the public interest. To this end, QPILCH is participating in a Law Society and QUT project to more clearly identify the extent of and need for pro bono assistance, so that legal responses can be better targeted.

STATISTICS 2001-02

The inquiry statistics primarily cover the period from early April to the end of June 2002. While some applications for assistance and referrals were processed from June 2001 (by Simon Cleary, QPILCH Secretary/Treasurer) and early 2002, most were received from April. Our services were not publicised until later in the financial year.

Inquiries	108 (from April 2002)
Applications for assistance	50 (from June 2001)
Referrals	17 (from June 2001)

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