

## **working together – qpilch and the private profession**

### **Background**

Prior to the launch of QPILCH in January 2002, pro bono work in Queensland was significant but was largely conducted on an ad hoc basis. The Queensland legal profession has been and remains highly decentralised, both geographically and in numbers of small practices and sole practitioners. Contribution to pro bono efforts often took the form of involvement with community legal centres, pro bono requests through personal contacts and in-house schemes operated by national firms.

Since QPILCH began operations almost seven years ago, it has expanded rapidly, taking on a range of activities to draw on the resources and goodwill of the Queensland legal profession; to attract government funding for pro bono coordination; to work closely with community legal services and Legal Aid Queensland to reduce duplication and develop better services; to increase the contribution of law students and universities to pro bono work; and to focus the resources and commitment of our professional bodies - all with the primary aim of increasing civil law services for disadvantaged Queenslanders.

This has been achieved through a range of targeted and tailored programmes, all of which depend on co-operation and support (financial and otherwise) from a wide range of stakeholders and it is really the nature of those relationships I would like to focus on in providing a brief overview of the QPILCH programmes.

#### **1. Public interest referrals service**

This was the first service launched by QPILCH in 2002, which receives and assesses requests for pro bono legal assistance in civil matters. Applicants must be unable to obtain Legal Aid or afford to pay for legal assistance. The matter must also be in the public interest. This requirement is interpreted broadly – for example, something might be in the public interest if it involves a significant number of people, if it particularly impacts on a disadvantaged or marginalised group or if failure to address the problem would result in a serious injustice.

If the matter satisfies these requirements and is considered to have legal merit, it will then be referred to the member firms. In the last financial year, QPILCH received 212

requests for assistance through the public interest referrals service. 62 matters were referred to member firms.

In terms of funding for the service, six foundation firms contributed to the first years' activities along with a grant from the Queensland Law Society. The first four years were operated on a part-time basis until government funding was obtained for the co-ordination of our pro bono services.

Corrs Chambers Westgarth seconds a solicitor to QPILCH full-time to support this program. This is an extremely valuable resource that enables QPILCH to take on considerably more work and to back fill positions that are usually unfilled because of resource limitations. It is also invaluable experience for the secondee who gains exposure to a much wider and varied range of legal issues (and clients) than he or she would otherwise.

## **2. Homeless Persons' Legal Clinic (HPLC)**

The clinic was initially established with the support of a Blake Dawson secondee and then with secondees from Minter Ellison until 2005 when funding for its co-ordination was obtained from the Queensland Department of Communities.

It began with one clinic in Brisbane and now has eight across Brisbane, one in Toowoomba, three in Townsville and one soon to start at the Gold Coast. The service is supported by over 30 law firms across the State and its co-ordination is funded by non-recurrent state government funding.

Solicitors from member firms generally attend emergency accommodation centres and welfare agencies and provide advice to people experiencing homelessness or at risk of homelessness. Assistance is regularly provided with social security, fines and tenancy issues, but is also provided in a broad spectrum of legal problems apart from, generally, criminal law.

As part of the HPLC, a Criminal Law List was established in 2005-06 to assist homeless people with particular criminal cases that impinged on homelessness issues. A member firm recently instructed senior and junior counsel in a case involving move-on powers that was successfully appealed to the Court of Appeal.

An important HPLC development has been the expansion of our clinics outside Brisbane to Toowoomba, Townsville and soon the Gold Coast. This expansion has

been led by a QPILCH staff member, but has been achieved with the support of regional law firms and community legal centres. A key to the strength of these new services has been the involvement of local CLC's.

### **3. Consumer Law Advice Clinic (CLAC)**

This clinic was initially established with the support of Clayton Utz in 2004 and targets people with credit or debt problems. It is now funded by the TC Beirne School of Law (UQ). In this coming year, with the support of the Attorney-General (from LPITAF), it will join a new coordinated consumer law service located at Caxton Legal Centre.

### **4. Administrative Law Clinic (ALC)**

The ALC fills a much needed gap in assisting people who cannot afford a lawyer to challenge government decision-making and has been wholly funded by Bond University since 2005. It is primarily staffed by senior law students who are supervised by an experienced lawyer and focuses on judicial review applications and appeals to the AAT.

### **5. Refugee Civil Law Clinic (RCLC)**

With the support of Corrs Chambers Westgarth and the Refugee and Immigration Legal Service (RAILS), this service provides civil law assistance to refugees and immigrants with less than five years residence who have insufficient funds for a lawyer.

### **6. Self-Representation Civil Law Service (SRCLS)**

This service was established to assist eligible litigants in person with the conduct of civil litigation which is already on foot in the Supreme and District Courts and the Court of Appeal. For the first time, there is a formal avenue of assistance for people who cannot afford representation in civil cases.

In all free civil law services, the hardest assistance to find is representation. Legal Aid in Queensland provides or funds representation in only a few civil law areas. Most community legal centres can only provide representation in their areas of specialisation and in occasional test cases. Pro bono representation is an important addition, but there are limits to what the profession can provide, particularly in litigation, because of factors such as legal and commercial conflict, capacity, availability and cost.

The focus of this service is therefore largely on providing discreet services - information, advice and drafting assistance with pleadings and the like. Where appropriate, cases are directed to QPILCH for referral to a member firm.

QPILCH has developed a mediation service to complement the SRCLS. There has been considerable interest from members and lawyers in the government sector to support this service.

The SRCLS is another example of where effective partnerships can make a difference. Here, the courts, private firms and barristers and QPILCH, with annual Government funding of only \$117,000, co-operate to significantly increase access to justice.

The Self-Representation Civil Law Service also draws on retired practitioners. A Reference Group is chaired by a retired Supreme Court judge, and a Court of Appeal service so far has two retired solicitors volunteering their time to help self-represented litigants in this jurisdiction.

Like the HPLC, the operation of this service relies on the volunteer solicitors from 12 member law firms. While the time commitment is not onerous, the results have been outstanding.

Dealing with clients at the SRCLS can sometimes be challenging - the phenomenon of the vexatious litigant could take up a whole conference agenda by itself. However, significant training has been provided to volunteers about the particular needs of the self-represented litigant and how best to deal with them.

Although many clients were well-entrenched in litigation by the time they sought the assistance of the SRCLS, one third (26 of 86) of the applicants have sought assistance to commence proceedings in court. The majority of those clients (81%) have not gone on to do so.

## **7. Training and knowledge management**

As part of QPILCH's ongoing professional training and development program, CLE activities are organised for HPLC and SRCLS volunteers to augment skills and acquaint them with ongoing issues. This training is provided by members and experts and supported by member firms which host the events.

Training activities have focused on seminars for members of the profession and not-

for-profit organisations. In addition, four on-line training modules on anti-discrimination law, practical legal ethics, guardianship and administration tribunal, and practice management and business skills are nearing completion. The online modules were primarily designed for CLC lawyers in rural and regional areas and have been reviewed by experienced practitioners in member firms.

Public interest and pro bono assistance involves practice areas which are often far-removed from those normally handled by member firms. Accordingly, in conjunction with the Bar Association of Queensland, QPILCH has hosted professional seminars on topics including “Disability and the Law”, the Children’s Services Tribunal and the Adult Guardian.

QPILCH has delivered seminars to not-for-profit organisations about governance and improving procedures. Legal information has been delivered in an interactive way by expert barristers and solicitors at low cost to participants, with the aim of alerting participant organisations to issues which are important for their legal “health”.

## **8. Pro Bono Coordination Project**

Funding has recently been provided by the Queensland government for a pilot scheme for QPILCH to co-ordinate pro bono referrals on behalf of the Queensland Law Society and the Bar Association. This project will run like the Victorian PILCH scheme which coordinates the Law Institute and Bar pro bono schemes. The QLS and Bar Association have given considerable support to the development of this project which will benefit the provision of pro bono services by providing support to and co-ordination of pro bono work throughout Queensland as well as broadening the scope of current QPILCH referrals beyond public interest issues.

## **9. Rural Regional; Remote Program.**

After receiving new funding, QPILCH has re-activated its rural, regional and remote project, which aims to partner rural and regional firms with better-resourced city firms to assist with local pro bono initiatives. This will commence in January 2009.

## **10. Student programs**

Students volunteer at QPILCH in vast numbers. We also run five student clinics which are all examples of the benefits and outcomes which can be achieved through successful partnerships:

The Griffith Law School clinic, “Public Interest Lawyering”, was our first clinic, commencing in second semester 2002, only six months after QPILCH itself started. It was a vital initiative as it permitted our coordinator to work an extra day per week and provided much needed assistance in the assessment of applications. A large part of the students’ day is devoted to practical casework without losing sight of the educational outcomes.

Our second clinic, the Consumer Law Advice Clinic, was established as a partnership between Clayton Utz and the UQ Law School. Since 2004, the CLAC has assisted a large number of clients with credit and debt problems. The outcomes from this service are always heartening. From first semester 2009, this clinic will move to a new consumer law service at Caxton Legal Centre, which was an initiative of Caxton and QPILCH and has received funding from the Queensland government.

The Public Interest Research Clinic through the University of Queensland commenced in second semester 2007 with the aim of furthering QPILCH’s research and publications agenda. This clinic provides students with insight into issues such as socio-legal research, legal publications, legal knowledge management, legal training, evaluation and plain English drafting.

The Administrative Law Clinic, a joint project of QPILCH and Bond University, fills a gap in legal service delivery by helping people with administrative law problems. The case turnover is not as high as the other clinics, but the students work on complex cases, assisting people who act for themselves, dealing with some cases by correspondence or referring other matters to firms and barristers.

The HPLC co-supervises a clinical legal education subject in partnership with UQ’s TC Beirne School of Law. Six law students gain an appreciation of the operation of the law as it relates to members of Brisbane’s homeless community by undertaking a placement at QPILCH and participating HPLC law firms.

### **The benefits of co-operation**

Contribution by members and other stakeholders of QPILCH extends beyond legal assistance to research and submissions to government on various issues including litigation funding, civil law services, costs issues, homelessness etc.

The Law Walk for Justice was held in Brisbane for the first time on 19 May 2008. Led by the Chief Justice and the Attorney-General, the walk in Brisbane coincided with walks in Sydney, Melbourne and London. Over \$8,000 was raised for a disbursement fund for outlays in pro bono matters.

The vital ingredients in all of QPILCH's initiatives and programmes can probably be distilled to a few key points:

- They would not be of such high quality without the strong commitment of the private profession
- They would not be sustainable without Government's commitment to funding their co-ordination
- They would not be relevant and effective without the support and involvement of the host agencies and other partners, particularly other community legal centres, and
- They would not be so efficient and comprehensive without dedicated and talented staff members.

From the perspective of the private profession, much is to be gained from a co-ordinated approach to pro bono referrals and assistance, whether that assistance is through referral of clients, participation in clinics or research and policy formulation. Effective co-ordination of services and partnerships between the various stakeholders ensure that limited pro bono resources can be properly and efficiently directed and utilised. Although many of the larger firms have run highly-organised and innovative pro bono programmes for a long time, most firms have traditionally undertaken pro bono work on an ad hoc basis, often as a result of some personal contact between the client and the lawyer involved.

The benefit of a detailed assessment of the claim and its merits by QPILCH also cannot be overstated. Economic reality dictates that pro bono contributions by most practitioners must be limited. Better that those contributions be directed to assisting cases with merit than assessing those without merit.

There are also less tangible (but nonetheless important) benefits to the profession such as job satisfaction and broader experience for employees. Thanks to the increasing emphasis placed by law schools on pro bono work, most graduates expect potential employers to undertake pro bono work and to offer involvement in it.

## **Challenges ahead**

As always, the challenge is to improve the delivery methods and provision of pro bono legal services. A sample of current issues for QPILCH includes:

- improvement of the coordination of legal services in Queensland through proper support of community legal services and bringing CLCs together in joint projects.
- the need for predictable and appropriate funding of services
- availability of small grants in order to respond quickly to emerging or pressing needs
- more innovative and responsive funding options for community legal services. CLC support is vital to many of our services and clinics, particularly in regional areas
- increasing membership – we seem to have reached a plateau in firm membership which may, in the future, impact on the level of referrals and services QPILCH can offer
- maintaining members' interest in and commitment to our programmes
- providing services to clients in rural and regional areas and increasing the involvement of practitioners in those areas in co-ordinated pro bono services.

Despite these challenges, with the continued goodwill and involvement of the profession and all other stakeholders, there is no reason why the services provided by QPILCH cannot continue to expand and improve access to justice for those who could otherwise not afford legal representation.