



Queensland Association of Independent Legal Services Inc

QUEENSLAND ASSOCIATION OF INDEPENDENT LEGAL SERVICES

SUBMISSION TO QUEENSLAND FLOODS COMMISSION OF INQUIRY

Table of Contents

RECOMMENDATIONS.....	4
BACKGROUND.....	4
THE AUSTRALIAN EXPERIENCE.....	7
<i>Bushfire Legal Help</i>	7
<i>Flood Legal Help</i>	9
<i>Cyclone Legal Help</i>	9
THE INTERNATIONAL EXPERIENCE.....	10
TERMS OF REFERENCE.....	10
<i>Term of Reference (a)</i>	10
<i>Term of Reference (b)</i>	13
<i>Term of Reference (c)</i>	15
<i>The Immediate Response</i>	17
<i>The Short Term Response</i>	18
<i>The Long Run</i>	18
Funding Advocacy.....	19
Appendix 1: Centre Case Studies.....	22
<i>Caxton Legal Centre</i>	23
<i>Central Queensland Community Legal Centre</i>	26
<i>South West Brisbane Community Legal Centre</i>	28
<i>Prisoners Legal Service</i>	30
<i>QPILCH</i>	31
Appendix 2: Bushfire Legal Help Report.....	35
Appendix 3: NPBRC Paper.....	36
Appendix 4: <i>Emergency Preparedness and Disaster Response Plan for the Legal Profession - a Template</i>	37

“There will be a lot of legal stuff to sort through,”

- JP Morgan analyst on Cyclone Yasi (InsuranceNEWS.com)

RECOMMENDATIONS

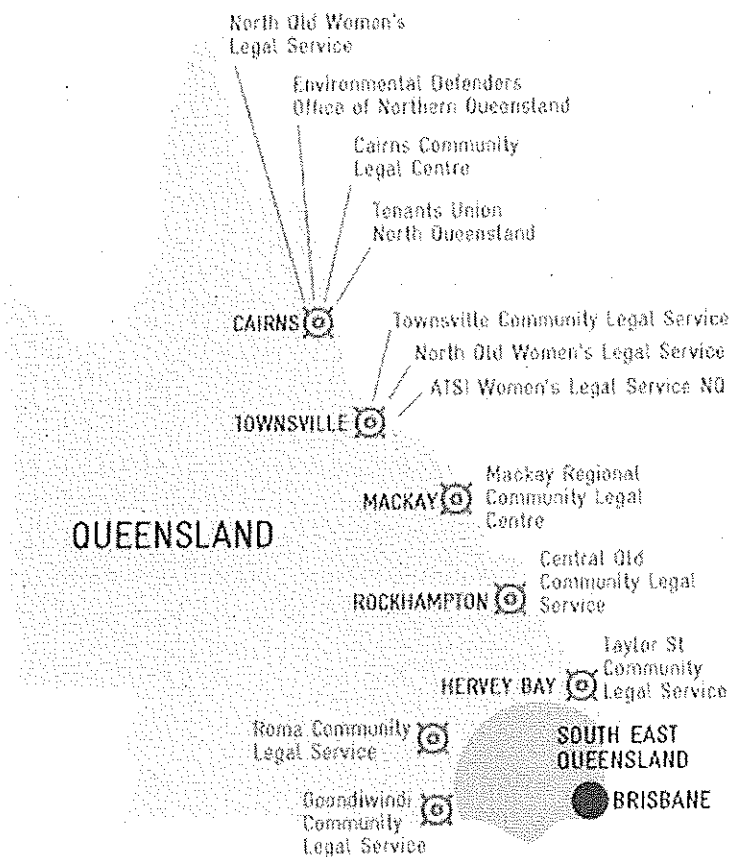
- I. The provision of legal assistance services in the event of a natural disaster should be recognised as an integral and vital aspect of community recovery and included in emergency plans. Delivery of legal services should be integrated into the planning and funding of Emergency Management Australia (at a national level) and State Disaster Management Plan in the same way as other essential services.
- II. In delivering emergency response services, state and national governments should consider the development of innovative, collaborative models of service delivery, with co-location of services such as housing, health, counselling and legal services. This will enable a holistic, immediate multidisciplinary response to the complex needs people will experience.
- III. The legal assistance sector needs to be proactive in recognising and identifying the broad range of longer-term legal problems that arise in the aftermath of a major emergency, and take steps to bring these to the attention of governments and planning bodies so that solutions can be developed.
- IV. The notion of trigger funding for CLCs and other LAPs be considered.
- V. Consideration be given to funding the ongoing training of dedicated recovery legal assistance coordination roles, which in turn, should be recognised in the Disaster Management Strategic Framework. This would enable FLH and member agencies to mobilise immediately without having to renegotiate agency roles.

BACKGROUND

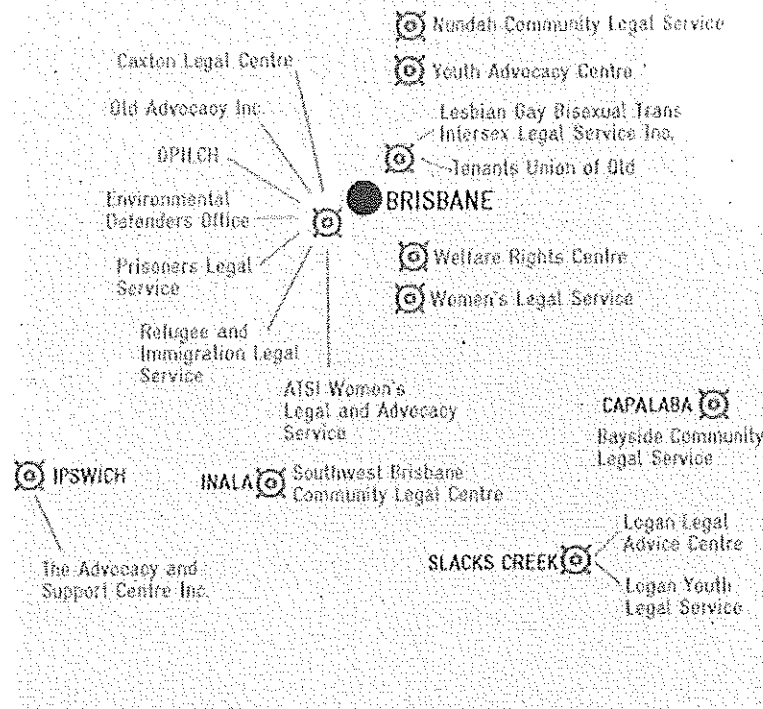
1. This submission is made by Queensland Association of Independent Legal Services Inc. (QAILS) pursuant to Commission of Inquiry Order

(No.1) 2011 2(h).

2. QAILS is the state based peak body representing Community Legal Centres (CLCs) operating throughout Queensland. Queensland CLCs have over 30 years of strategic service delivery experience providing free information, advice and referral, casework and representation to the community.
3. Queensland CLCs are located in areas affected by floods and cyclones including those events subject of this Inquiry.
4. CLCs located outside South East Queensland include:



5. CLCs located in South East Queensland include:



6. In making this submission QAILS draws upon the collective experience of CLCs in responding to natural disasters through the “strategic service delivery model”.
7. Over time this has included individual centre responses to events as well as collaborative responses with other LAPs such as Legal Aid Queensland (LAQ) and the private legal profession.
8. QAILS also takes the opportunity to comment on the recent experience of CLCs with respect to Severe Tropical Cyclone Yasi. Many of the issues canvassed by the Commission are relevant to the emergency management, response and recovery from that event.
9. It seems clear to QAILS that any lessons learned from this Inquiry may also apply more broadly. Former Chief Judge of New York, Judge Judith Kaye suggested that “one disaster is more than enough

for a lifetime of lessons".¹

10. Likewise, Counsel Assisting the Inquiry commented in opening remarks:

*This Commission affords an opportunity to ensure that the lessons which must be learned on this occasion are recorded for the purposes of the future. In this way, it might be hoped that Queenslanders are neither condemned to the fate of those who cannot remember the past, nor left vulnerable at the hands of those who might choose to forget it.*²

11. QAILS hopes that some of our suggestions might be endorsed by the Inquiry as valuable lessons.

THE AUSTRALIAN EXPERIENCE

12. CLCs are experienced in responding to a wide range of events including storms, floods, cyclones and bushfires. The legal profession's response to the Black Saturday Bushfires has many parallels with the floods subject of this Inquiry.

Bushfire Legal Help

13. In the wake of the Black Saturday Bushfires the Victorian legal community responded with Bushfire Legal Help (BLH).³ BLH was a partnership between Victoria Legal Aid, the Federation of Community Legal Centres (Victoria), Law Institute of Victoria, Victoria Law Foundation, the Victoria Bar and Public Interest Law Clearing House.
14. BLH drew on CLC (and other LAPs) experiences in dealing with

¹ Association of the Bar of the City of New York Fund, Inc, The NALP Foundation for Law Career Research and Education, Louis Stein Center for Law and Ethics, Fordham University School of Law, Public service in a time of crisis: a report and retrospective on the legal community's response to the events of September 11, 2001, Fordham Urban Law Journal, May 2004,

² 10022011 D1 T1 HCL QUEENSLAND FLOODS COMMISSION OF INQUIRY, 1-3.

³ Bushfire Legal Help: <http://www.bushfirelegalhelp.org.au/>

communities affected by natural disaster. For example, BLH drew on the experience of CLCs in North Queensland in dealing with cyclones and New South Wales in dealing with severe flooding.

15. The actions of the BLH consortium were evaluated in the Bushfire Legal Help Project Report.⁴ QAILS commends the Bushfire Legal Help Report to the Commission. A copy is annexed and marked "A".

16. The success of BLH was attributed to:

- Creation of a strong single entity
- Quick mobilisation of existing resources
- Effective and open communication

17. The BLH Report made three (3) recommendations:

1. The provision of legal assistance services in the event of a natural disaster should be recognised as an integral and vital aspect of community recovery and included in emergency plans. Delivery of legal services should be integrated into the planning and funding of Emergency Management Australia (at a national level) and Victorian State Emergency Response Plan (DIS-PLAN) in the same way as other essential services.

2. In delivering emergency response services, state and national governments should consider the development of innovative, collaborative models of service delivery, with co-location of services such as housing, health, counselling and legal services. This will enable a holistic, immediate multidisciplinary response to the complex needs people will experience.

3. The legal assistance sector needs to be proactive in recognising and identifying the broad range of longer-term legal problems that arise in the aftermath of a major emergency, and take steps to bring these to the attention of governments and planning bodies so that solutions can be developed.⁵

18. QAILS submits that these recommendations should be endorsed by the Commission.

⁴ http://www.bushfirelegalhelp.org.au/cb_pages/news/bushfire_legal_help_report.php

⁵ BLH Report, 3.

Flood Legal Help

19. In the wake of the floods in Southern Queensland “Flood Legal Help” came into being.⁶ Like BLH, Flood legal Help (FLH) was a consortium of legal agencies that extended and rearranged their services to assist those affected by floods.

20. QAILS suggest that there were a number of factors that contributed to the success of FLH including:
 - The appointment of the LAQ Director of Civil Law to coordinate FLH.
 - Pre-existing goodwill and working relationships between the agencies arising out their involvement in Queensland Legal Assistance Forums.
 - A shared understanding of the respective resources, expertise and abilities of each of the agencies.
 - The preparedness of the agencies to share resources and co-ordinate deployment of services.
 - Use of the LAQ free call number as the single contact point for clients.
 - The ability of CLCs to mobilise staff and volunteers to recovery centres immediately.

Cyclone Legal Help

21. In the wake of TC Anthony and STC Yasi, the FLH service has now been extended to become Flood and Cyclone Legal Help (F&CLH) and funds have been provided by state and federal Attorneys General to supplement and complement the work of F&CLH members.

⁶ <http://www.legalaid.qld.gov.au/floods/Pages/default.aspx>

THE INTERNATIONAL EXPERIENCE

22. There are many examples of the legal community's response to disaster. In the United States, there has been significant analysis in the aftermath of the 911 Terrorist Attacks,⁷ Hurricane Katrina⁸ and the Haiti Earthquakes.
23. The American Bar Association Special Committee on Disaster Response and Preparedness has a number of policies including on "Legal Services and Pro Bono Representation".⁹

TERMS OF REFERENCE

Term of Reference (a)

24. The Commission is appointed to inquire into the preparation and planning by federal, state and local governments; emergency services and the community for the 2010/2011 floods in Queensland.
25. The Minister for Emergency Services is responsible for the State Disaster Management Plan (the Plan) through Emergency Management Queensland.
26. The Minister's own introduction suggests:

There is a high risk of natural disasters in Queensland; higher than most other states in Australia. Coordination is the key to reducing the adverse impacts of disasters upon Queensland communities. Everyone has a part to play in reducing community vulnerability to

⁷ Association of the Bar of the City of New York Fund, Inc, The NALP Foundation for Law Career Research and Education, Louis Stein Center for Law and Ethics, Fordham University School of Law, Public service in a time of crisis: a report and retrospective on the legal community's response to the events of September 11, 2001, Fordham Urban Law Journal, May 2004,

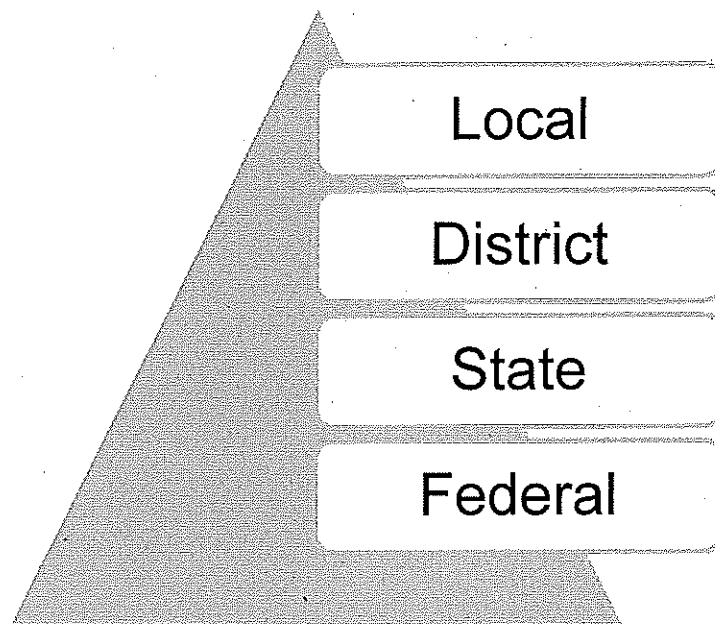
⁸http://www.americanbar.org/groups/committees/disaster/resources/hurricane_katrina_disaster_resources.html

⁹http://www.americanbar.org/groups/committees/disaster/policy/legal_services_and_pro_bono_representation.html

extreme events, such as floods, bushfires, cyclones, and severe storms.

Government has a role, but so too, do communities, families and individuals. The State Disaster Management Plan provides planners with an overview of Queensland's all hazards disaster management arrangements, including the roles and responsibilities of agencies at each level of the arrangements. However, because the environment is always changing, this is a dynamic document that can be adapted to incorporate new conditions and new threats.¹⁰

27. The *Disaster Management Act 2003* (Qld) provides a legislative basis for Disaster Management Groups and Committees (Part 2), Disaster Management Plans and Guidelines (Part3), Declarations of Disaster (Part 4) and other relevant issues.
28. The Plan is prepared in accordance with the Act and sets out the State's arrangements to disaster management.¹¹ The arrangements rely on a four tiered approach/response:



29. There appears no reason why CLCs and other Legal Assistance Providers (LAPs) should not have some involvement at all levels of

¹⁰ Queensland Government, State Disaster Management Group. State Disaster Management Plan, 1.

¹¹ Ibid, 10.

the 'comprehensive approach' known as PPRR:¹²

- Prevention
- Preparedness
- Response
- Recovery

30. In respect of prevention, there are a number of things that can be done:

- Community education about legal preparedness.
- Community education processes such as legal health checks.
- Community education about relevant legal issues such as insurance, tenancy etc.
- Law reform and policy/systems advocacy around controversial issues such as insurance definitions.

31. Preventative work can address underlying and systemic issues within at risk communities. Community education about insurance rights/issues/coverage seems an obvious example.

32. CLCs are also placed to assist in recovery phase.

33. Recovery is a coordinated process of supporting emergency-affected communities in reconstruction of the physical infrastructure and restoration of emotional, social, economic and physical wellbeing.¹³

34. In the recovery phase, CLCs are most likely to have an impact planning at the state level and acting at the local level.

¹² Ibid, 13.

¹³

http://www.ema.gov.au/www/emaweb/emaweb.nsf/Page/EmergencyManagement_RecoveringfromEmergencies_RecoveringfromEmergencies

Term of Reference (b)

35. The Commission is appointed to inquire into the performance of private insurers in meeting their claims responsibilities.
36. It is too early to provide a conclusive view on the systemic performance of insurers in responding to claims. However the issues that have been encountered so far can be grouped into key areas:
- **Non-insurance, capped payments and under-insurance**, especially in lower socio-economic areas of Brisbane and Queensland.
 - **Insurer's delay** - insurers are generally taking significantly longer than average to respond to client questions and claims and organise flood responses, for example organising builders, engineers and loss assessors to attend the affected property. This is leading to significant financial hardship for some clients, such as people who have to cover mortgage and rent payments at the same time.
 - **Insurer misrepresentations** - insurance companies representing to clients that they will have the same coverage but for a lower price than competitors, when flood has been removed or limited in the cheaper policy.
 - **Discouragement of claims** - CLCs have come across a number of instances where insurance companies have verbally informed clients that they will not be covered by floods and actively discouraged them from putting in a claim.
 - **A general lack of understanding of legalistic definitions and terms as well as unclear disclosure** - many clients have assumed that because they had a home and contents insurance policy, they would be covered for floods and storm water inundation.

- **Last-minute policies** - some clients have taken out a last minute insurance policy when the threat of flooding was imminent but were not told about the relevant time exclusions (which range from 48 hours to 96 hours).
- **Lack of communication** from insurers - some insurers have been difficult for clients to contact. This issue is compounded by the fact that many clients have lost their home phone lines and waiting on hold for long periods of time on a mobile phone is cost prohibitive. Insurers should also that 1300 or 1800 numbers are also free from mobiles.
- **Insurers not informing clients of outcomes in writing** - some insurers have been rejecting clients' claims or paying limited claims verbally and not providing written rejection letters. This makes internal and external dispute processes significantly more difficult as the basis of the rejection is often unclear.
- **Inappropriate communication** - insurers are providing information in wordy, formal and legalistic manner. This is inappropriate, especially given the emotional distress that the clients are experiencing.
- **Inappropriate oral communication** - some insurers have been rejecting clients' claims or paying limited claims verbally and not providing written rejection letters. This makes internal and external dispute processes significantly more difficult as the basis of the rejection is often unclear.
- **Insurance brokers and agent misrepresentations** - some clients have received incorrect or misleading advice from insurance brokers regarding what is and is not covered by the insurance policy.
- **Postal delay** - in some of the badly affected flood areas, there are significant delays between when the insurer sends notices and information to clients and when the clients are receiving them in the post. This could have a significant

impact on time limits for internal and external reviews.

37. The issues will also vary depending on the circumstances and occasionally the geographical location of the impacted individuals.
38. For example in the Grantham area, it appears that the majority of policies have been approved for payment, however there are delay and underpayment issues and a number of people who did not have any insurance coverage.

Term of Reference (c)

39. The Commission is appointed to inquire into all aspects of the response to the 2010/2011 floods, including:
 - Immediate management, response and recovery.
 - Resourcing, overall coordination and deployment of personnel and equipment.
 - The adequacy of the community's response.
40. The Queensland Disaster Relief and Recovery Arrangements Guidelines do not contemplate a legal response to disaster.¹⁴ Likewise for the Disaster Management Arrangements in Queensland.¹⁵
41. The Disaster Management Strategic Framework (the Framework) does set out that recovery strategies include "Ensure a holistic approach to community relief and recovery inclusive of social, economic, infrastructure (including power, water and sewerage) and environmental considerations."¹⁶

¹⁴ Queensland Government, Queensland Disaster Relief and Recovery Arrangements Guidelines, 2009-2010

¹⁵ Disaster Management Arrangements in Queensland

¹⁶ Queensland Government, Disaster Management Strategic Framework, 12.

42. The Framework also acknowledges that:

Other non-government organisations such as Red Cross, St Vincent de Paul and local community volunteer groups contribute significantly to the provision of welfare support services during the response and recovery phases of disaster management. The contribution of all these organisations is coordinated within the established disaster management framework.¹⁷

43. There seems no doubt that CLCs should be similarly included in the Framework.

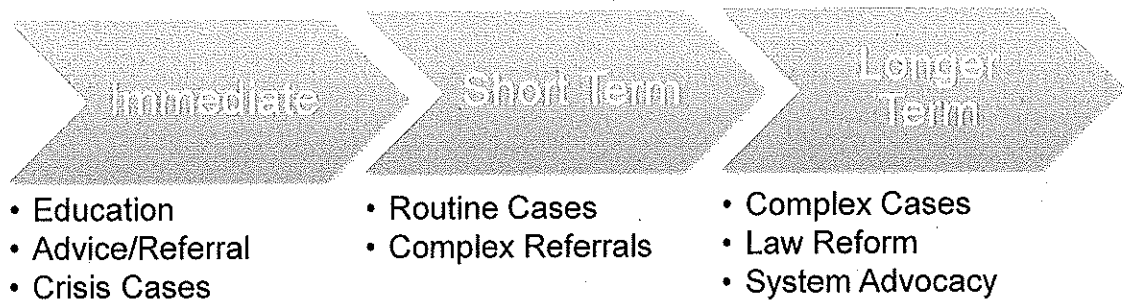
44. This would ensure that legal service providers were able to seamlessly transition into response arrangements rather than negotiating their role in the aftermath, no small feat.

45. For example, following the Brisbane floods, QAILS and various CLCs encountered some difficulty in accessing flood recovery centres in order to provide legal advice. After several days of waiting for contact information and being advised of the requirement for approval by regional managers within the Department of Communities, several CLCs took it upon themselves to make direct contact with recovery centres.

46. In most cases offers for the provision of legal advice were warmly received by the recovery centre managers, some of whom had been fielding questions about tenancy law and insurance.

¹⁷ Ibid, 16.

47. In the recovery phase, CLCs have taken a multi-tiered approach:



The Immediate Response

48. Many CLCs were directly affected by the floods. Prisoners Legal Service, QPILCH lost power for four (4) days. Toowoomba and Central Queensland CLC offices were unable to be accessed for several days.
49. Many CLCs were involved in an immediate response to the floods and continue to be involved in longer-term activities including casework, representation, law reform and systems advocacy.
50. The demands for information, advice, referral, casework and representation appear across the spectrum of legal issues.
51. Commonly encountered issues involve:
- Tenancy and Housing
 - Employment and Small Business
 - Property: Loss and Damage to real or personal property
 - Access to Government Payments
 - Consumer Protection: Credit and Debt, Insurance
 - Neighbourhood issues: trees, fencing

52. It was a common experience amongst CLCs that many people affected by the floods were unaware that:

- insurance claims involve legal issues; and
- free legal advice could be accessed.

53. The immediate response was multi-tiered:

- Participating in the FLH Consortium
- Producing Community Resources (web resources, factsheets, training resources)
- Conducting targeted training for volunteer lawyers
- Providing direct services (outreach in recovery centres commencing within a week of the flood peak, in house, phone)

The Short Term Response

54. The short term response included advice and referral work as well as ongoing casework.

55. The timeframes involved were weeks to 2 months post event.

The Long Run

56. Complex cases manifest in the long run, from 3 months to 2 years. They can take years to complete. In fact some litigation is not even initiated for a significant period.

57. The Cyclone Larry appeal fund spent almost \$22 million on 3005 grants over a period of four (4) years. The process of rebuilding is a long one. Premier Bligh recently noted by way of media release:

Rebuilding after a natural disaster for many takes not months but years and while the last payments from cyclone Larry were made in December we don't put a time limit on people rebuilding their lives.¹⁸

58. QAILS expects the current situation will not differ. Already some examples of the more complex cases are appearing in community legal centres.
59. The Insurance Council of Australia has provided revised claims figures as at 11 February 2011:
- 43 755 claims received
 - \$2.0 billion estimated reserved claims value
 - Increase is due to large commercial/industrial and mining claims now being reported
 - Insurers have completed 77% of initial claims assessment
 - \$201 million has been paid to policyholders already¹⁹
60. Risk modeller AIR Worldwide placed insured losses from Yasi at \$300 million-\$1.5 billion, and Mr Parameswaran says insured losses will be more than the \$540 million inflicted by Cyclone Larry in 2006. "There will be a lot of legal stuff to sort through," he told insuranceNEWS.com.au.²⁰
61. QAILS has no doubt that legal cases will be around for years and many will not be easily resolved.

Funding Advocacy

¹⁸ <http://www.cabinet.qld.gov.au/mms/StatementDisplaySingle.aspx?id=73460>

¹⁹ Insurance Council of Australia, Media release - Revised Claims Figures Qld and Vic, 11 February 2011.

²⁰ <http://www.insurancenews.com.au/local/yasi-damage-bill-months-away>

62. The Commonwealth Attorney General, Robert McLelland, announced funding of \$200,000 for flood related legal assistance on 31 January 2011.
63. Attorney General Dick announced Flood Legal Help on 10 and again on 21 January 2011.²¹
64. The insurance industry itself took the step of providing funding:

The Insurance Council of Australia (ICA) today announced that it will provide \$250,000 to QLD legal aid to ensure that they are able to provide appropriate assistance to policyholders affected by the flooding in QLD.

"The industry understands that not all policyholders will be covered for the recent floods in QLD. If policyholders disagree with the decision from their insurer they are able to access internal dispute resolution processes. The funding from the industry is aimed at providing additional resources for QLD Legal Aid to assist policyholders," said Mr Rob Whelan, CEO of the ICA.²²

65. In its paper "Emergency Preparedness and Disaster Planning for the Legal Profession in Australia" the National Pro Bono Resource Centre suggested that:

1. Legal assistance is not currently explicitly listed as an "eligible measure" which would attract Commonwealth Government funding under the Natural Disaster Relief and Recovery Arrangements ("NDRRA") to assist states and territories facing emergency costs and facilitate access for volunteers at disaster sites. One-off funding has been provided by the Commonwealth A-G to support the legal services of Victorian BLH and the Queensland Floods Legal Help responses. The Commonwealth Attorney General's Department (Emergency Management Australia) introduced the idea of including legal assistance as an eligible measure under the NDRRA at the July 2010 meeting of the NDRRA Stakeholders Group meeting. The matter was considered at the December 2010 meeting of this group but is still under consideration.

²¹ Attorney-General and Minister for Industrial Relations - The Honourable Cameron Dick, Media Statement - Free legal information for Queensland flood victims, Monday, January 10, 2011; Attorney-General and Minister for Industrial Relations - The Honourable Cameron Dick, Media Statement - Free legal services on offer to flood victims, Friday, January 21, 2011.

²² Insurance Council of Australia, Media release - General Insurance Industry Supports Legal Aid, 18 February 2011.

2. It may be that legal assistance could be included as part of the Category A measure set out at paragraph 3.2.2(g) of the NDRRA Determination 2007 as assistance for "personal and financial counselling aimed at alleviating personal hardship and distress arising as a direct result of the natural disaster" but it would be clearer if this was amended to explicitly include legal assistance. This is important given that funds are normally provided to the States and Territories by the Commonwealth under the NDRRA on a cost-recovery basis. This would allow States and Territories to appropriately plan their legal assistance response in light of the level of funding that is likely to be available.

66. QAILS agrees that there needs to be some entrenched trigger for funding of LAPs to assist with natural disasters especially in the recovery phase.
67. There is a also need for funding to enable the ongoing training of staff to fulfill dedicated recovery coordination roles, which in turn, should be recognised in the Disaster Management Strategic Framework. This would enable FLH and member agencies to mobilise immediately without having to renegotiate agency roles.
68. The National Pro Bono Resource Centre has today provided QAILS with a draft document entitled *Emergency Preparedness and Disaster Response Plan for the Legal Profession - a Template*. The document is yet to be considered by QAILS but is included in this submission for the benefit of the Inquiry (Appendix 4).

Appendix 1: Centre Case Studies

Caxton Legal Centre

Caxton Legal Centre (Caxton) worked with the Queensland Law Society, Legal Aid Queensland, the Queensland Association of Independent Legal Services, QPICLH and other key legal organisations to develop a coordinated response to assist Queenslanders in need as a result of the floods, storms, cyclone and other disaster events of December 2010 and January 2011. Caxton was engaged in the immediate flood recovery response offering face to face contact in the Queensland Government Recovery Centres. Initially staff solicitors, staff social workers and volunteer solicitors were rostered to consistently staff two recovery centres for 2 or 3 hours a day, seven days a week. A considerable amount of staff time was dedicated to this project which ran strongly for several weeks and then tapered off as the Recovery Centres began to wind up their work. Training was also provided by Caxton staff and volunteers for the broader group of QPICLH, Caxton and other CLC volunteers who were deployed to recovery centres around Queensland.

Caxton also employed an additional lawyer within days of the floods to provide telephone advice to people with urgent flood related problems (tenancy, employment etc). This was done without specific funding and it was with good fortune that Caxton was able to engage a barrister who had until recently been a generalist solicitor at Caxton. This lawyer was able to quickly respond to clients' needs and fulfilled a very important role in the weeks immediately following the floods. This lawyer worked two or three days a week for approximately 5 weeks from mid-January 2011.

Caxton's generalist social worker spent almost all her time (including a lot of her weekends) for the month following the floods out in recovery centres connecting clients to the legal services on offer and helping people to access information and identify legal issues. It is only at the time of writing, in March 2011 that she has been able to redirect some of her time to other work.

While the immediate emergency response was underway, Caxton was also

engaged in collaborative planning with the QLAF group to develop a longer term (up to one year) program to meet emerging demand. From the early work it became clear that the main problem in the longer term would be disputes with insurers. Discussions with Legal Aid Queensland led to an arrangement which gave Caxton sufficient funding to employ three additional lawyers to work in a Disaster Recovery Unit.

In February 2011 the Consumer Law Service at Caxton began regular (weekly or twice weekly) meetings with the Consumer Protection Unit at Legal Aid Queensland to map out the Caxton Disaster Recovery Unit and to ensure it worked in partnership with the increased Insurance Law program being offered at Legal Aid Queensland. The experience of both these services was drawn on to make a strategic decision to focus additional staff resources on the internal review process with insurers.

Caxton then advertised and employed three new solicitors and, at the time of making this submission, had started offering insurance law casework to disaster affected Queenslanders. At the start of the new service, approximately 40 Caxton clients were being assisted by the Disaster Recovery Unit with more than 200 clients on a waiting list at Legal Aid Queensland. This waiting list is projected to grow rapidly when the remaining insurers issue their refusal letters. The holistic focus at Caxton has meant that this new service has already connected with some of the most vulnerable disaster affected people including via home visits to meet with clients with mobility disabilities, and with the community of Grantham in the Lockyer Valley via the outreach program.

Caxton is now collaborating with Legal Aid New South Wales and the Consumer Credit Legal Centre of New South Wales (which incorporates the Insurance Law Service) as well as Legal Aid Queensland to ensure early and comprehensive help can be provided to the maximum number of clients. These four agencies estimate that, collectively, they will provide approximately 70% of the representation in relation to insurance disputes

arising from the disaster events of December 2010 and January 2011. The high level of organisation, coordination and strategic thought being applied to the way these cases are being conducted is designed to ensure that the effects of the work will also be felt in the wider community.

Caxton has undertaken a number of projects in response to the floods. A Disaster Recovery Unit has been organised consisting of the existing Caxton consumer lawyer and three new lawyers. Where appropriate, this unit will be undertaking Internal Dispute Resolution and External Dispute Resolution processes for clients. As at 31 March 2011, Caxton had 56 open files most of which require internal dispute resolution of insurance rejections.

The Unit has also been involved in a number of home visits in conjunction with a social worker. This is designed for clients who have physical or emotional mobility issues but who need urgent legal and social work assistance to cope with the post-flood situation.

Central Queensland Community Legal Centre

Central Queensland Community Legal Centre (CQCLC) is located in Rockhampton. The CQCLC noted that up to 3,000 people in their area were affected by flood waters. The Fitzroy River rose and fell very slowly taking several weeks to recede. Many residents had water in or surrounding their homes during this period. Many residents were evacuated and referred to evacuation centres and emergency housing. There were numerous road closures, including in the highway to the south and the Rockhampton airport. Several local business received flood damage and many people were unable to get to their place of employment. In the early stages of flooding, CQCLC contacted the local Centrelink Office and requested they refer any flood affected clients to us who may benefit from our service.

The Administrator of the CQCLC was appointed to the role of regional co-ordinator for Queensland Floods Legal Help Rockhampton and Fitzroy area. These areas cover Rockhampton, Theodore and Emerald. During the flooding the Principal Solicitor and the Administrator spoke with various bodies including QAILS and attended numerous tele-conferences regarding flood legal help. After staff returned to work CQCLC continued to dedicate significant time to collaborating flood legal help in the region. Two members of CQCLC staff attended the recovery centre at Rockhampton and met with representatives from the Department of Communities to identify areas of need and provide the centre with information packs. The centre also had numerous telephone and email discussions with Emerald and Theodore recovery centres.

CQCLC distributed QLAF flood legal help posters, information brochures and factsheets to the recovery centres, local councils and several organisations. CQCLC is now experiencing an increase in demand now the community are in recovery and coming to terms with their loss and devastation. It is anticipated that the need for legal assistance will increase in the coming months.

CQCLC will be travelling to surrounding flood affected areas including Emerald and Theodore, to provide flood legal information and assistance. Two trips are already scheduled to Emerald.

South West Brisbane Community Legal Centre

The centre services Inala and surrounding areas such as Ipswich, Booval, Bundamba, Goodna, Oxley, Richlands, Rocklea, Yeronga. The Centre suffered from water damage through the roof which affected the electrical wiring. It was closed to staff for a short period. A number of clients were affected by the floods. Most people in Inala itself were not affected but the surrounding areas were full of clients who were dramatically affected. Many lost everything. Many were displaced from their homes. Many clients lost their cars and all of their personal possessions. Those who lived in caravan parks were made homeless. Some clients lost legal and personal documents.

The centre responded by visiting a number of recovery centres in the area, out as far as Fernvale to assist where possible. Services offered were immediate appointments to discuss any legal issues, either face to face or by telephone. There was some extra work involved. Attending recovery centres, liaising with LAQ, QPILCH, QAILS etc in setting up Flood Legal Help required a significant amount of time spent away from doing other things. The fact that the centre computer server had crashed at this time and the centre were without electronic diaries, email, data bases, precedent documents etc simply exacerbated an already difficult situation.

Issues dealt with included:

- Dispute over who was responsible for the burial/cremation of a person lost in the Grantham disaster;
- Estate matters relating to same/similar scenario where bodies had not yet been recovered;
- Lost wills and enduring powers of attorney - preparation of new documents for those clients;
- Insurance matters;

- Family Law property settlement where the house had been inundated;
- Property stolen from flooded house.

The centre contacted the Flood Commission of Enquiry and offered assistance to people in our area who may require assistance with preparing written submissions to the Enquiry. The centre also contacted all of the local Federal, State and Local Government members offering their constituents the same assistance.

Prisoners Legal Service

The PLS office became an island when both ends of the street flooded. PLS lost power during this time and was closed for 4 days.

Prisoners lost property on the outside and were affected by the floods in many ways. PLS provided advice to clients. PLS also volunteered as local coordinators at the East Brisbane Recovery Centre. In addition, the coordinator volunteered a substantial amount of time, including attending meetings with other local coordinators and LAQ.

PLS has ongoing casework in relation to 2 prisoners who lost property. Also an ex prisoner who was living in her car with her children was rendered (even more) homeless when the car was washed away.

Topics advised on were

- tenancy,
- entitlement to flood benefits and
- employment.

A prisoner who wants to apply for parole but his home was destroyed by the floods. He has been rejected by Ozcare, the homelessness service where many prisoners go after prison. Unable to find accommodation that is deemed suitable by the parole board, he remains in prison. PLS are helping him to apply for flood benefit payments and to link with alternative accommodation services. PLS partnered with Caxton to get materials for recovery center. PLS partnered with QPILCH to increase volunteer resources.

QPILCH

QPILCH is working with the Queensland Law Society, Legal Aid Queensland, the Queensland Association of Independent Legal Services and other key legal organisations to develop a coordinated response to assist Queenslanders in need as a result of the floods. QPILCH members are extending their pro bono services to meet these needs in a sustainable and long-term way.

To date, QPILCH has done several things.

- Banded together volunteers from its member firms who participate in existing outreach clinics (the Homeless Persons' Legal Clinic, the Refugee Civil law Clinic, and the Self Representation Service), to attend training hosted by the QLS, with presentations by specialists in relevant areas including tenancy, insurance, employment and assisting clients in crisis. The training was very well attended with over 100 lawyers participating in person or by video-link. The QLS recorded the training for distribution to regional and remote areas in Queensland, a number of which were themselves flood affected.
- Organised rosters of volunteers to attend Department of Communities recovery centres in Yeronga, Middle Park, Ipswich and Goodna.
- Assisted in the development of materials to assist lawyers providing pro bono advice and assistance. QPILCH has developed its 'Legal Health Check', a questionnaire used by lawyers to assist people to identify legal issues for use at Department of Communities recovery centres and other outreach services set up to assist people affected by the floods. The Legal Health Check addresses a number of concerns which are likely to arise for flood affected Queenslanders including, housing and tenancy, employment, lost documents, fencing, and wills and estates. QPILCH solicitor Andrea de Smidt says

that the Legal Health Check 'alerts people to their legal issues, which would often otherwise be left unaddressed and compound over time.'

- Established a designated appeal fund to support the pro bono effort of the legal community in assisting Queenslanders who have been affected by the floods. While lawyers' time can be given pro bono, there are sometimes expenses associated with legal action which some individuals who need legal help may not be able to afford. QPILCH will use donations to cover these expenses.

Tony Woodyatt, Director of QPILCH says 'the response from the private profession with offers to assist flood affected Queenslanders address their legal problems has been terrific. Particularly those firms which were themselves affected by the floods. Many of these firms have provided support from the beginning of the development of the Flood Legal Help response even though they were working remotely out of temporary office spaces or from home while they waited to regain access to their offices.'

The Advocacy and Support Centre (TASC) (Toowoomba)

TASC had commenced a legal response in South West Queensland prior to the events in Toowoomba and the Lockyer Valley. Prior to Christmas South West Queensland had experienced flooding up to five times including Dalby (5), Chinchilla (2) and Condamine (2). South West Queensland had also experienced flooding in early 2010. TASC with LAQ had responded to those events and had jointly facilitated flood clinics in Roma and Charleville. TASC also provided a response through its Rural Women's Outreach Service . A visiting calendar for solicitors and advocates was already prepared. Dates had been confirmed and visits continued with additional staff. TASC worked closely with LAQ in Toowoomba.

In the weeks after January, TASC visited Toowoomba, Oakey, Dalby, Stanthorpe, Chinchilla, St George, Roma, Miles, Tara, Condamine and Surat. A decision was taken to not visit areas including Grantham, Helidon and Murphy's Creek as it was too early. The immediate legal need identified was tenancy issues, and the tenancy advocacy services were extended to meet the need.

We received \$10,000 funding to enable tenancy advocates to travel in the south west and to employ a short term advocate. Flood tenancy issues continue to arise but are less frequent.

Flood legal response clinics have been facilitated in Stanthorpe, Chinchilla, Surat, Condamine and St George. Insurance issues are now being identified by communities after claims have been made and are still not determined, or claims being rejected. There are inconsistencies with definitions amongst insurance companies even though based on some hydrologist's reports. TASC have employed another solicitor handling minor insurance matters through a civil service - complex matters will be referred to volunteer private lawyers, or specialist services.

TASC visited Grantham on March 30 with LAQ, Legal Aid NSW and Caxton

Legal Centre. Tenancy and insurance issues arose in Grantham.
TASC is visiting Murphy's Creek on 2 April.

TASC was perfectly placed to respond to need in South West Queensland and Toowoomba as our connections in these communities is strong. Small communities have ability to respond to other needs and initiate support for residents through existing connections including legal services such as TASC and LAQ. The Flood Legal Response will be required for some time, particularly for insurance and debt matters. There needs to be an early response from Government for funding for additional legal services. TASC enhanced services from existing staff initially that couldn't be maintained without funding for extra staff.

Appendix 2: Bushfire Legal Help Report