

# In the Public Interest

Newsletter of the Queensland Public Interest Law Clearing House Incorporated



Issue 24, December 2011

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In 2011 we celebrated 10 years since QPILCH was founded. As we look back on this year, one that started with floods and a cyclone and QPILCH's participation in the legal response to these disasters, it has been another busy and productive year, reflective of QPILCH's decade of growth.

We have seen growth in the number of applications from people in need of legal assistance, growth in the number of firms and barristers willing to participate in structured pro bono, growth in the number of people actually assisted through referrals and the direct services we provide, growth in the staff complement at QPILCH to coordinate and facilitate this work and growth in our funding to achieve it. Our expansion reflects the growth in the legal profession in Queensland and the enthusiasm with which the profession is committed to the communities in which we all work.

Since our last newsletter, QPILCH held the second *Red Wine for Justice* which raised over \$11,000 for the Homeless Persons' Legal Clinic to support its increasing work in regional Queensland. In October, the HPLC made a submission on the proposed amendments to the *Police Powers and Responsibilities Act 2000*. Since commencing in July, the new Self Representation Service in the Federal Court and Federal Magistrates Court has assisted 50 parties. In October, we commenced a new mental health legal service, using the HPLC model, in a community mental health service. Also in October, we commenced an environmental governance project.

*Everyone at QPILCH thanks all QPILCH members and supporters for their great contribution throughout 2011. We also thank our colleagues in other CLCs and interstate. We wish you a relaxing summer break and happy and peaceful Christmas. We look forward to working with you again in 2012.*

*Tony Woodyatt*

## Social media

[QPILCH is on Facebook](#). We encourage you to 'Like' us to hear about events and issues.

## Secondments

We thank Corrs Chambers Westgarth, McCullough Robertson and Mallesons Stephen Jaques for secondments over the year. If you are interested in this secondment opportunity, particularly to support the environmental governance project, please contact Tony Woodyatt on [contact@qpilch.org.au](mailto:contact@qpilch.org.au).

## New life members

On the retirement from the Committee of **Hugh Scott-Mackenzie**, a founding member of QPILCH and Vice-President since inception, the Committee resolved to appoint Hugh a life member for his services to QPILCH and to pro bono. The Committee also made **Simon Cleary** a life member for his services to QPILCH and pro bono. Representing Legal Aid Queensland, Simon was a founding

member and the inaugural secretary/treasurer. Like Hugh, Simon is now at the private bar, actively and enthusiastically accepting pro bono referrals. We thank Hugh and Simon for their great contribution.

## **UQLS Law Revue**

We thank the UQLS for making QPILCH the charity partner of its award-winning Law Revue, raising \$3,500 for QPILCH.

## **Self Representation Service**

The outcome of legal proceedings will generally have a significant impact on the people involved, many of whom will, by necessity, be representing themselves. Volunteer solicitors for QPILCH's Self Representation Service have done much this year to address the needs of self represented parties in the Brisbane Supreme and District Courts, Queensland Civil and Administrative Tribunal and most recently in the Brisbane district of the Federal Court and Federal Magistrates Courts.

Some recent stories:

- We assisted a young woman to prepare for a three-day trial in the District Court against the Queensland Police Service for false imprisonment. She was awarded \$93,000 in damages.
- We helped an aged pensioner to mediate a dispute about the sale of her interest in a property where the co-owner of the property had suffered a stroke and lost capacity, and the relationship with the purchasers had deteriorated.
- A Yugoslavian woman was assisted through her QCAT anti-discrimination proceeding to resolve a complaint against her former employer and then enforce the QCAT order made in her favour.
- We helped an elderly flood victim to obtain an injunction to prevent her former landlord from removing and destroying her possessions in residential tenancy proceedings in QCAT.
- The Federal and State Courts arms of the Service worked collaboratively to assist a client to have a bankruptcy notice and default judgment set aside.

Of note is that we have just learned that the Australian Institute of Judicial Administration has awarded QPILCH a grant to begin a major evaluation of the State Courts arm of the Service.

In just over five months of operation, the Federal Courts arm of the Service has opened 45 files and provided 56 hours of appointments. As the Service operates two days per week, these are encouraging results. The clients of the Service can be broken down into the following categories:

- eight were applicants in proceedings already commenced when the Service received their application;
- 10 were clients who were considering instituting proceedings;
- 13 were respondents in proceedings already commenced when the Service received their application;
- three were clients who were considering responding in proceedings already commenced; and
- the remaining 11 matters were Fair Work settlement conferences or mediations.

After receiving advice from the Service, 2 clients withdrew or discontinued the proceeding in which they were already involved, and 5 clients decided not to proceed with proceedings they were considering instituting.

The Self Representation Service continues to play a valuable role in encouraging clients whose cases lack merit to find other means to resolve their disputes.

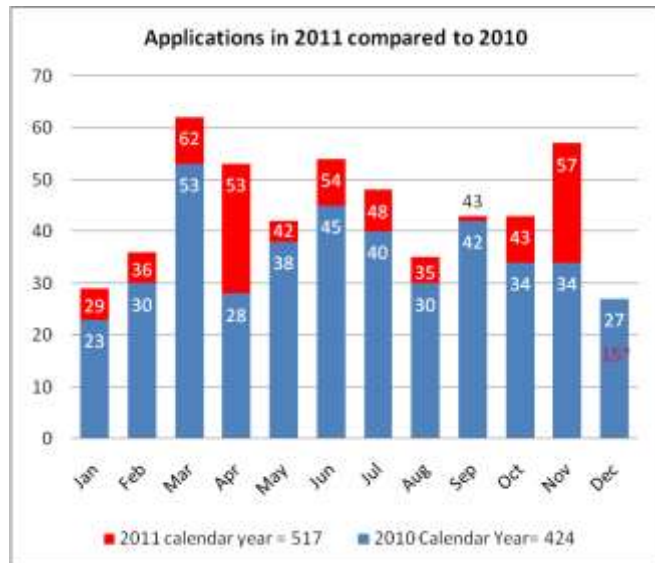
We are grateful to each volunteer of the Service who takes the time out of their busy working days to provide advice and assistance to our clients. We are also grateful to the members of our representation panels who take on matters which require pro bono representation. The commitment of our volunteers not only assists clients to achieve outcomes that may otherwise not have been possible, but also assists the courts and tribunal in the administration of justice.

## Referral Service

So far in the 2011 calendar year, we have received 517 applications for pro bono assistance, compared to 424 in 2010. We have referred out a wide range of matters, including consumer credit, discrimination, elder financial abuse, property law and administrative law.

So far this financial year, we have received 235 applications (compared with 188 this time last year), and have successfully referred 93 matters (compared with 72 last year).

- There are 145 QPILCH members and barristers receiving referral requests through the Public Interest Referral Service.
- There are 138 QLS and BAQ Referral Service participants, up from 111 this time last year.



Just some of the many matters taken on recently:

- **Blake Dawson** is assisting an intellectually impaired woman who alleges misconduct against the trustees of her late husband's estate.
- **Steven Hogg** of Counsel and **DibbsBarker** are assisting a low-income, 19-year-old country music artist who is being sued by her former management company.
- **Cronin Litigation Lawyers** is assisting a 22-year-old man with limited financial means whose parked vehicle was involved in a collision. With advice from the firm, the man is contesting a claim for \$25,000 made by the other side's insurer.

There has been an increase in not-for-profits seeking assistance, and many members have accepted these matters, including:

- **Hynes Lawyers** are assisting a NFP organisation to develop a constitution that will allow it to incorporate. The organisation supports same-sex couples seeking to become parents or who are already parents.
- Hynes is also assisting a marine conservation group developing an app for sustainable seafood.
- **Holding Redlich Lawyers** are assisting an orchestral organisation.
- **Blake Dawson** is assisting a network which facilitates a refugee community in Australia to build capacity in their country of origin.

There are many more matters that have been taken up, including by our barrister members, and we thank QPILCH members and QLS & BAQ Referral Service participants that have taken on referrals.

- 📞 Please contact us if you're interested in becoming a QPILCH member or participant in the QLS and BAQ Referral Service.

We also thank the dedicated and hardworking volunteer lawyers and students, Professional Legal Training (PLT) students and interns who have freely given their time to research and assess applications for assistance received by our Referral Service in 2011.

## Flood & Cyclone Legal Help

Flood & Cyclone Legal Help was established soon after the devastating floods and Cyclone Yasi early this year. Since being established on a two day per week basis, we have received nearly 50 applications from assistance from small businesses, body corporate, and more recently individuals who remain significantly affected by the damage caused by the natural disasters.

The percentage of referrals taken up by members and participants is nearly 50%, for which we thank the profession. A number of matters have been referred for Counsel's opinion.

### **Homeless Persons' Legal Clinic and Refugee Civil Law Clinic**

The HPLC program has achieved much in 2011. We have seen a further 428 new clients in our thirteen clinics across Queensland (including the Refugee Civil Law Clinic in Brisbane) with a lot of successful outcomes, including:

- Volunteer lawyers from **Freehills** assisted a client of Roma House in a personal injury claim. The client attended hospital twice in one week because a Gold Coast hostel had provided him with a bed infested with bed bugs. QPILCH prepared the forms required to make his claim and entered into negotiations with the hostel owner and manager. After four months of negotiations a financial settlement was reached and the client was able to access compensation.
- Volunteer lawyers from **HWL Ebsworth** assisted an elderly woman with problems she was having with her public housing tenancy. She moved in with her partner to be his full-time carer, but her partner had neglected to add her name to the lease due to his dementia. After her partner moved into residential care nearby, the Department of Communities (Housing) requested that she move out of the property within two weeks. The volunteers negotiated with the Department and to get a 2 week extension to allow the client to remain in the house until another appropriate house was found.
- **Blake Dawson** volunteer lawyers recently assisted an indigenous client with a consumer issue. After saving for a long time, the client had been able to purchase a television. Upon delivery, the client found the television had a wide crack across the screen, which the store refused to replace. The volunteers contacted the local store manager, but were told that the client had "lied to his face" about the damage. The volunteers then contacted the National Service Manager, to explain the possible cultural misunderstandings that may have occurred between the client and the store manager. After negotiation, the volunteers resolved the situation, and the client had his TV replaced at no cost.
- **Mallesons** and **Holding Redlich** volunteers are assisting a client with a number of outstanding debts with various creditors. So far, three debts totalling over \$700 have been totally waived as a result of the lawyers writing to the creditors explaining the client's financial situation and the difficulties she had been experiencing when the debts were incurred. The lawyers have also been able to organise for a realistic payment plan to be set up with SPER to pay off an outstanding fine to Queensland Rail.

After a year's hiatus, our fourteenth clinic, located at Pindari Women's Hostel, will reopen in January with Clayton Utz as the partner firm. This clinic will use the Legal Health Check, a legal diagnostic tool developed by the HPLC, to ensure a comprehensive and holistic approach to our legal assistance.

On 9 November HPLC staff and volunteer lawyers attended Homeless Connect at the RNA Showgrounds. Ten clients were seen on the day, with some requiring just one off advice and others are receiving on-going assistance from the lawyers. Thank you to the volunteers from **Murphy Schmidt, Clayton Utz, Minter Ellison, Allens Arthur Robertson** and **Freehills** for attending the event.

In policy news, Sue Garlick, HPLC Policy Officer, was interviewed by the ABC 7:30 Report for an investigative report into jail time for SPER offences. This report stemmed from the story of a young mother in Brisbane who was taken into custody at her local shopping centre and sent to jail for seven months over unpaid fines, which were mostly for traffic offences accumulated during a time when she was homeless. She was released from prison only after the Prisoners' Legal Service (PLS) took up her case. Sue is now working with the PLS and Sisters Inside to advocate for permanent change to the system, to make sure no one goes to prison without the approval of a judge or a magistrate.

The HPLC student clinic also completed a project for the semester, which involved facilitating art and text for street law posters for our host agencies. A celebration was held at Roma House to present the posters and thank everyone involved. The students also completed eight interviews with residents, and these incredible accounts of both disadvantage and resilience will be published early in 2012 as a resource for the HPLC.

Finally, the external evaluation of the HPLC and RCLC is now complete and a copy of the report can be found on the QPILCH website. The evaluation was informed through data from the HPLC client database, interviews with host agency representatives, on-line surveys of Team Leaders and volunteer lawyers, client case studies prepared by volunteer lawyers, and an in-depth case file reading for Roma House clients. The feedback received through the evaluation was very positive, and a few areas of improvement were identified that the HPLC is keen to address in 2012.

The HPLC team would like to thank our member firms, volunteer lawyers and Team Leaders, host agencies, and all of our supporters.

### **Student clinics**

Participants in our student clinics have the opportunity to provide direct client services and conduct socio-legal research on issues of concern. Students consistently report how valuable they find the opportunity to integrate theory and practice. QPILCH clients benefit through the delivery of advice and assistance which we would otherwise be unable to provide. We offer six student clinics in conjunction with four university partners. We are currently looking to establish new clinics in a number of areas including environmental law and family and child support.

### **Administrative Law Clinic**

Students in this semester's clinic had the opportunity to work on a diverse range of matters. The clinic:

- assisted a long-term prisoner to obtain documents and make a complaint to the Queensland Ombudsman about the failure of Queensland Health to conduct regular medical reviews as required under the relevant legislation;
- provided advice and assistance to another prisoner seeking to review the conditions of his parole order;
- provided advice to a client seeking to obtain judicial review of a decision by Legal Aid Queensland refusing him legal aid for a serious criminal trial;
- drafted correspondence for, and provided advice to, a client who was facing eviction from their property by the local council;
- provided advice to a client with a \$64,000 child support debt owed to the New Zealand child support agency.

The students also observed a hearing at QCAT and visited the AAT. We are grateful to members of the profession who generously met with the students and shared their wisdom and experience: Dominic McGann, partner at McCullough Robertson; Michael Carey, Chief of Staff for Minister for Agriculture, Fisheries and Forestry; Geoffrey Airo-Farulla, Director of the State Office of the Commonwealth Ombudsman and Bernie McCabe, Senior Member of the AAT.

### **Mental Health Law Clinic and Open Minds Mental Health Service**

The Mental Health Law Clinic assists clients who have a mental illness with issues arising from the application of the Mental Health Act as well as minor civil and public law issues. This semester students assisted clients to: obtain copies of medical records; challenge involuntary treatment orders; negotiate with the Public Trustee about the management of their financial affairs. The clinic provided advice on a wide range of matters including: appealing a forensic order, privacy of medical records, a personal injuries claim.

Students also worked on various research projects including:

- a fact sheet to assist people with mental illness to obtain medical records from government agencies;
- a draft proposal to establish a free advocacy and support service for clients appearing before the Mental Health Review Tribunal;
- a literature review on young people and mental illness;
- a review of Queensland hospital policies to prevent people with mental illness exiting to homelessness;
- a checklist **for lawyers and students assisting clients with mental illness.**

Clinic students attended a hearing at the Mental Health Court and were fortunate to meet with Barry Thomas, President of the Mental Health Review Tribunal, Ms Helen Webster an experienced psychiatric nurse, and Julie Hearnden, a mental health lawyer with Queensland Advocacy Inc.

### **Open Minds Service**

A new outreach clinic was established in partnership with QAI and DLA Piper Lawyers to provide civil law advice for people with mental illness. The clinic operates at Open Minds, a mental health service, each fortnight.

The Open Minds Legal Clinic had its first advice session on 25 October 2011. It has now held 4 sessions and has seen 12 clients. The feedback from clients so far has been very positive with several clients saying they feel like someone is finally listening to their problems and will (and can) actually do something to help them.

### **Public Interest Research Clinic**

The six students in this semester's research clinic undertook two projects. One group of students developed a multi-media presentation on pro bono and social justice legal issues which they presented to senior students at Church of England Grammar School and Clayfield College. The presentation included videotaped interviews with QPILCH President, Rob Reed and staff as well as other community lawyers.

The other group of students conducted research and prepared a draft submission on the impact of recovery of compensation mechanisms under the *Victims of Crime Assistance Act (Qld) 2009*. We hope to finish this research and publish the results in 2012.

### **Intellectual Property and Technology Law Clinic**

While the QUT clinic has ended for the year, QPILCH continues to receive applications for assistance with IP matters. Over the recent semester, there were 24 advice sessions, 6 matters taken on as casework, and one referral to a law firm, with 3 matters awaiting referral.

### **Environmental Governance Project**

The Environmental Governance Project is investigating ideas employed around the world for decision-making in land and natural resource planning and use and other issues that impact directly on the environment, ensuring there is a mechanism appropriate to the times to fully account for social, environmental and economic interests.

The project is focusing on coal seam gas, an example of an issue where stakeholders appear to be dissatisfied with the existing processes, and the speed with which it is occurring leaves little time for proper examination of its impacts. The aim is to find new mechanisms and ideas that will lead to more accountable and transparent processes and will reduce the need to resort to litigation to resolve disputes.

Catherine Cocks is investigating how stakeholder consultation can be improved and how science and technical knowledge can be better incorporated into the decision-making process.

Catherine is supported by a number of student volunteers from the UQ Pro Bono Centre. We are very grateful to Lisa Fairley, Jessica Thrower, Ying Tay, Paula Hughes, Sarah Brown, Rachel Gallagher

and Stephen Grace for volunteering their time over the summer. The project is also supported by members of the Environmental Law Roundtable.

QPILCH is also seeking a secondee from one of our member law firms to assist with research for the project. The position would involve a part time secondment to QPILCH over three months between January and March 2012. The position would be well suited to a research clerk, graduate or first year lawyer who would be involved in undertaking environmental law and governance research. The secondee would not have face-to-face contact with clients, though there may be contact with other stakeholders and people affected by the laws QPILCH is studying by either telephone or face to face.

### QPILCH Members

**Firms** Allens Arthur Robinson, Australian Workplace Lawyers, Blake Dawson, Brian Bartley and Associates, Butler McDermott (Sunshine Coast), Clayton Utz, Cooper Grace Ward, Corrs Chambers Westgarth, David Wise Solicitor, Dibbs Barker, DLA Piper, Family Law Doyle Keyworth & Harris, Freehills, Henry Davis York, Herbert Geer, Holding Redlich, HWL Ebsworth, Hynes Lawyers, Kelly Legal (Mackay), Macrossans Lawyers, Mallesons Stephen Jaques, Maurice Blackburn, McCullough Robertson, McInnes Wilson, McPhee Lawyers, Minter Ellison, MurphySchmidt, Norton Rose, P&E Law (Cairns and Sunshine Coast), Piper Alderman, Shine Lawyers, Slater & Gordon, Sparke Helmore Lawyers, TressCox Lawyers, Trudie Rogers Health Law Consultancy, Walkers Solicitors (Toowoomba) **Barristers** Nicholas Andreatidis, Michael Ballans, Ken Barlow SC, John Bond SC, Shelley-Anne Brace, Robert Brandon (Miami), Jacoba Brasch, Vince Brennan, Judy Brien, Sue Brown SC, Liam Burrow, Gerald Byrne (Rockhampton), Anna Cappellano, Justin Carter, Lee Clark, Simon Cleary, Patrick Cullinane (Mackay), Scott Collins, Lauren Coman, David Cormack, Gary Coveney, Kristy Crabb (Maroochydore), Christopher Crawford, Janice Crawford, Brian Cronin, Elliott Dalgleish, Dr Gillian Dempsey, Michael de Waard, Michael Drew (Townsville), Barto du Plessis, Susan Fajardo, Tracy Fantin (Cairns), Michael Fellows (Townsville), Neil Foran (Gold Coast), Dr Kim Forrester, Alexis Gage, Dr Elizabeth Gass, Dr Andrew Greinke, Ryan Haddrick, Gavin Handran, Patrick Hay, Matthew Hickey, Steven Hogg, Keith Howe, Joseph Jacobs (Cairns), Joshua R Jones, Matthew Jones, George Kalimnios, Alexandros Katsikalis, David Keane, Stephen Keim SC, Liam Kelly SC, Nitra Kidson, Carla Klease, Dereck Kordick (Cairns), Michael Labone, Dr Stephen Lee, Allan Lonergan, Aida-Portia Maier (Ashmore), Scott Malcolmson, Alexandra Marks, Nicole Martin, Janice Mayes (Townsville), Mark McCarthy, Ben McEniery, Kelly McIntyre, James McNab (Southport), Peter Metzdorf, Paula Morreau, Alex Nelson, Damien O'Brien, TP O'Brien, Dan O'Gorman SC, Kateena O'Gorman, Chato Page, Dan Pratt, Andrew Radley, Darryl Rangiah SC, Justin Ratanatray, Guy Sara, Hugh Scott-Mackenzie, Sarah Scott-Mackenzie, Anand Shah, Julian Siggins, Greg Smart, Caleb Spicer, Dr Max Spry, Lisa Stewart, Amanda Stoker, Clare Sultmann, Chris Tam, David Thomaes, Douglas Turnbull (Cairns), Ben van de Beld, Lynette Vanderstoep, Patrick Van Grinsven, Suellan Walker-Munro, Karen Williams, Douglas Wilson, Michael Wilson, Dianna Worrell **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, Managing Justice, Queensland University of Technology Law School, TC Beirne School of Law (University of Queensland) **Government legal unit members** Australian Competition and Consumer Commission **Corporate legal unit members** Xstrata Copper **Life members** Andrew Buchanan, Peter Rosengren, Joanne Rennick, Hugh Scott-Mackenzie, Simon Cleary.