

Federal Election

Call to Parties –
Background

May 2016

Federal Election 2016

Call to Parties – Background

Queensland Law Society is the peak professional membership body for Queensland solicitors. We advocate for good law and support good lawyers in our State. We represent, assist and promote Queensland's legal professionals, increase community understanding of the law and help protect the rights of individuals.

Making justice more accessible

Queensland Law Society calls for a commitment to:

1. Immediately restore \$5 million in funding to Legal Aid Queensland for lawyer-assisted dispute resolution in the family law jurisdiction.
 2. Restore equality between the State and Commonwealth shares of funding for Legal Aid Queensland by 2017-18.
 3. Not proceed with planned reduction of funding to Queensland Community Legal Centres in 2017-18 under the National Partnership Agreement on Legal Assistance Services and implement a consistent and reliable funding model for this invaluable sector.
 4. Investigate allocating money seized from proceeds of crime actions as an ongoing funding source for legal assistance services.
-

Legal Aid

Legal Aid Queensland's Commonwealth funding for 2015-16 was reduced by \$1.5M, which followed a \$3M cut in 2014-15.

This caused:

- Family Early Dispute Resolution pilot project to cease except for domestic violence cases or grandparents caring for children in need of orders for parental authority
- family dispute resolution conferences to be limited
- Tightened criteria for aid for lawyer-assisted family dispute resolution (FDR) services
- Limiting eligibility for grants of aid for parenting order litigation
- Tightened access for grants of aid for property matters
- Limiting the number of funded family reports where an Independent Children's Lawyer has been appointed
- Restricting grants of aid for psychiatric reports.

In 2006 the Commonwealth Government contributed 44% of Legal Aid's \$80M revenue. In 2015 it was reduced to 39% of Legal Aid's \$113M revenue.

Community Legal Centres

Community Legal Centres play a critical role in assisting people resolve their legal problems. Last year CLCs helped almost 50,000 people in Queensland but turned another 80,000 away. CLCs are not currently funded adequately to meet existing and increasing demand for services. Unresolved legal problems generate a range of flow-on effects, including significant costs to the government and the community.

In 2017-18 funding for Community Legal Centres from the Commonwealth drops sharply by \$2M from \$8.9M to \$6.9M under the National Partnership Agreement on Legal Assistance Services. These planned cuts will lead to serious consequences for people with legal problems, the justice system and the community more broadly.

Proceeds of crime as a funding source

Budget constraints are always an issue for legal assistance funding. One of the potential sources of legal aid funding that could be explored is the millions raised through the confiscation of criminal profits by federal and state governments.

The balance of the Commonwealth Confiscated Assets Account administered by the Australian Financial Security Authority stood at \$95.535 million in surplus as of 30 June 2015.

Resolving family law disputes in a timely way

Queensland Law Society calls for a commitment to:

5. **Implement a protocol to fill judicial vacancies in the Federal courts within a month of a judge retiring.**
6. **Relieve delays in family law disputes by filling two Family Court trial judge vacancies in Queensland and appointing an additional three Federal Circuit Court judges throughout the State.**
7. **Consider appointing judicial registrars to each place a Federal Circuit Court judge sits.**

In 2010 there were five Family Court trial judges in Queensland and now with the most recent appointment by the federal Attorney-General, Senator Brandis, there are four.

In addition Federal Circuit Court judges are working under incredible pressure both within the regions and within south-east Queensland.

There is an urgent need for more judges and support to be appointed. There is a need for a further two Family Court judges, and to relieve the current pressure on the hard-working Federal Circuit Court bench, at least three new FCC judges.

Inevitably, justice delayed becomes justice denied. With cut backs on legal aid funding, particularly in relation to mediation and assisted dispute resolution, Queenslanders are effectively becoming victims of a system that they would ordinarily expect and hope would deal with their issues in a timely and sensitive manner.

Assist Queensland businesses, including law firms

Queensland Law Society calls for a commitment to:

8. Not lower the entry threshold to the Federal workers' compensation scheme, which reduces benefits for injured workers and would make premiums higher and more volatile for small business in the Queensland WorkCover scheme.
9. Work toward consistent regulation of credit products and unify e-disclosure across the National Credit Code, the *Corporations Act* and the E-payments Code.
10. Investigate codifying regulation of credit-repair agencies and introducing a structured framework for dispute resolution.
11. Identify leading areas of innovation in Queensland for focused incentives and promote the value of professional advice in facilitating innovation.
12. Review the *Environment Protection and Biodiversity Conservation Act* to achieve a balanced, clear and effective issues-focused environmental assessment and approvals framework.

Federal workers' compensation scheme

Legislation introduced into Federal Parliament in 2014 proposed to dramatically lower the threshold for entry to the Commonwealth workers' compensation scheme (Comcare). This risks a substantial number of big businesses exiting the Queensland workers' compensation scheme, reducing funds to the common premium pool, potentially increasing costs for remaining employers and leading to poorer outcomes for injured employees.

To be eligible for coverage under Comcare, private industry employers must either be carrying on business in competition with a Commonwealth authority or with a corporation that was previously a Commonwealth authority. The Bill aimed to remove this competition test and lower the threshold to any corporation which met workers' compensation obligations under the laws of two or more States or Territories.

The 2014 Bill ultimately stalled in the Senate, unable to gain the support of the cross-bench. Following an election, a majority Government may revive the initiative.

Unify e-disclosure across payments and credit

Currently the regulation of e-disclosure is not consistent across the National Credit Code, the Corporations Act and the E-payments Code for deposit and credit products. This leads to red-tape implications for business and increases complexity for solicitors advising their clients.

It is thought desirable that uniformity be achieved to support the online mortgage market and other financial products.

Regulate of credit repair agencies

Currently credit repair agencies operating in the market are largely unregulated except by the general law of misleading and deceptive conduct. Comparable industry sectors have federal dispute resolution schemes, standard forms of behaviour and codes of conduct as features of their regulatory response.

ASIC has raised key concerns in its January 2016 Report 465 *Paying to get out of debt or clear your record*. A dialogue about regulation needs to be commenced.

Promoting innovation and professional advice

An innovation economy is centred on the creation and commercialisation of new ideas as products or services. The process of incubating a great new idea into a profitable enterprise is not without significant challenge.

Good professional advice and especially legal advice on intellectual property protections, business structures, financing, production, sales and distribution is essential. A commitment to focusing incentives and promoting the value of professional advice to start-ups and the innovation community should form a key part of Federal innovation policy.

Review environmental assessments process

Our policy committees have advised that the experience of members navigating the *Environment Protection and Biodiversity Conservation Act 1999* process has demonstrated a need for holistic review. The system may be able to made more streamlined and efficient while also striking an appropriate equilibrium of competing stakeholder interests in developments and recognising broader social and community rights associated with environmental protection and biodiversity conservation.

Develop our region and our profession

Queensland Law Society calls for a commitment to:

13. Investigate promoting the Federal Court as a hub for arbitration of international disputes with Brisbane as the centre for dispute resolution in the Pacific and surrounding region.

Law is the language of trade and a strong legal profession is a foundation stone of the rule of law locally and throughout our region. The Queensland legal profession has a role to play in developing strong legal infrastructure in the Pacific.

Brisbane possesses two key advantages in being a hub for the arbitration of international disputes:

- it is the natural launch point for engaging with many of the Pacific nations; and
- it already has a highly capable local legal profession and specialist courts built on strong foundations of respect for the rule of law and mature ethical infrastructure.

Equal treatment before the law

Queensland Law Society calls for a commitment to:

- 14. Investigate methods of ensuring 17 year olds accused of Federal offences in Queensland receive equal treatment as children with interstate accused.**

Queensland is presently alone in Australia in treating 17 year olds as adults in the criminal justice system.

A key principle of the rule of law is that the law should be applied to all people equally. However this divergent treatment of 17 year olds in Queensland can lead to inconsistent treatment of those charged with Federal offences in Queensland.

For example a 17 year old charged in New South Wales may expect to be dealt with under the juvenile justice regime and its corresponding correctional facilities. Being charged with exactly the same offences in Queensland an equivalent accused will face the adult justice system and adult correctional facilities.

Engaging the not-for-profit sector

Queensland Law Society calls for a commitment to:

- 15. Take to COAG a single national fundraising regulation framework for charities and not-for-profit entities, to be administered by the ACNC. (Currently an Australian charity that wishes to raise funds online needs to consider obtaining licences from every State and Territory regulator before it does so.)**

Effective and focused regulation can enhance public benefit through facilitating charitable and not-for-profit activity. Equally, red tape burden and inefficiency unduly diverts capital from public good activities into unnecessary compliance functions. Fundraising is a key concern for the charitable and not-for-profit sector and inefficient regulation can hamper the charitable or public benefit objectives of organisations.

How to get involved

Members interested in these issues are encouraged to contact their **local Federal member or Queensland Senator**.

To assist in engaging with local members, QLS members are welcome to use the pro forma lobbying letter available at qls.com.au/fedelection2016.