

Your Ref:

Quote in reply: Access to Justice:

14 April 2010

The Hon Wayne Swan MP
Treasurer
PO Box 182
NUNDAH QLD 4012

Email: Wayne.Swan.MP@aph.gov.au

Dear Treasurer

LEGAL ASSISTANCE SECTOR FUNDING

I write on behalf of the Queensland Law Society comprising members who have and continue to experience first hand the results of the funding difficulties faced by the legal assistance sector.

Legal aid commissions, community legal centres and Indigenous legal services have been chronically underfunded, particularly in the Commonwealth area, since 1996, when the so-called "Commonwealth/State divide" was introduced by the previous government. Unfortunately the current Government has done nothing to address this problem, resulting in a large proportion of the Australian community being unable to obtain access to justice.

Legal aid is subject to severe budgetary restrictions resulting in commissions being forced to apply overly restrictive means and merits tests that exclude many people from receiving legal advice and representation. My members find that only the most poor are eligible for legal aid and encounter a significant number of people who are unable to qualify for legal aid and yet who are also unable to fund their own legal proceedings.

Further, the legal aid fees paid to private practitioners are below the real cost of generally providing the necessary legal service and increases are urgently required. There is a growing trend of the withdrawal of experienced lawyers from publicly funded legal work and a greater investment is required to prevent private practitioners from withdrawing their services.

The Society believes that all Australians have a fundamental right to access legal advice and services, regardless of means. This is an essential tenet of the doctrine of the rule of law. I therefore call on you to commit to the following objectives:

- In the short term, restore per capita funding to Legal Aid Commissions to 1997 levels. This would require a \$43.2 million increase in the 2010-11 Commonwealth Budget.

- In the longer term, restore Commonwealth share of Legal Aid Commission funding to 50% (up from 32%). This would require an additional recurrent expenditure of \$220 million.
- Make the Commonwealth increase conditional on States/Territories maintaining their funding levels.
- Develop a National Partnership Agreement with the States/Territories which is based on national goals, as distinct from Commonwealth or State goals.

I look forward to receiving your response.

Yours faithfully

Peter Eardley
President