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Dear Kerin, Carolyn and Eve and the Review Team,

Access to Justice Review

Thank you for requesting a meeting with me by way of consultation and agreeing to take the oral discussions as my submission which is helpful in view of my current teaching, research and practice commitments.

Just to note our conversation is to form my detailed submission but that this is summarised in bullet points as requested:

- Unlike previously, since 2012, we now are better positioned than previous decades with some empirical data and information on advice seeking/non advice seeking behavior which can inform better policy making (I am researching as much as possible to gather more evidence based data to inform program & policy development on access to justice issues). These landmark reports are the Australia-wide Law Survey (Coumarelos, C., MacCourt, D., People, J. McDonald, H.M., Wei, Z., Iriana, R. & Ramsey, S. (2012) *Access to Justice and Legal Needs: Legal Australia Wide Survey Legal Need in Australia*, (Sydney, Law and Justice Foundation of New South Wales). Available at: [http://www.lawfoundation.net.au/ljf/site/templates/LAW_AUS/\\$file/LAW_Survey_Australia.pdf](http://www.lawfoundation.net.au/ljf/site/templates/LAW_AUS/$file/LAW_Survey_Australia.pdf)) and Productivity Commission Final Report on 'Access to Justice Arrangements' (Australian Government Productivity Commission Final Report, 'Access to Justice Arrangements, No 72, September 2014, <http://www.pc.gov.au/inquiries/completed/access-justice/report>).
- My research demonstrates efficient, effective practice involves legal information, advice, community development/community, empowerment and systemic reform including policy and legislative input, capacity building of non-legal professionals as well as legal advice and case work when used strategically (and sometimes in combination) can enable

targeted and preventative responses. They can also reduce the revolving door of individual cases which impact on court resources and which can be costly. Such strategic approaches to problem solving combining a range of options can also lead to efficiencies and reductions in costs to the system overall and can reduce harm.

- Quality and Evaluation Frameworks that work best in a human services contexts such as legal assistance services are situated within a 'continuous development, reflection and improvement' model. This model supports staff to do challenging work with the most vulnerable and enable thinking around what works well and why and what might be done differently which lead to innovation. Such a framework enables innovation and collaboration rather than a top down 'stick' approach.
- Vulnerable and disadvantaged clients as we know are not gaining access to lawyer (16%) however there are recent innovations such as multi-disciplinary practice (including Health Justice Partnerships) which are leading to greater reach to these people than before. My HJP evaluation research on a range of projects in Australia and developing in Canada are highlighting that such approaches are reaching people who might otherwise seek help with legal problems and who are disadvantaged and vulnerable. This movement has been led by services rather than government and has been largely philanthropic funded until recently. It is important to note that as these clients have compounding and multiple legal issues and complex needs it is inappropriate to count number of clients as one client can when finally reached have between 7-15 legal issues than can be significant.
- Access to justice is not just about having legal information, it includes having the confidence, capacity and wherewithal to action it – often if people are unwell or dealing with overwhelming number of problems they just give up. This may mean they need support from legal and non-legal services. I noted when we met some recent client call backs I conducted which highlighted this point and the barriers that fees such as those in VCAT presented for a single mum with children with health issues. Even though people have rights there are significant barriers to them advancing them. Often complaints processes are written by people without thought to plain English, people with low literacy, under stress and are overly confusing. Simplicity of expression is rare in complaints processes and court & tribunal documentation.
- Be wary of adopting models from the UK, Europe, and New Zealand their legal aid systems are vastly different and in many ways Australia and Canada's systems have more effective service delivery. Procurement models such as those in the UK lead to narrow prescriptive service often unconnected to real need and end up being blunt and leaving people in worse predicaments that is not nimble, responsive and is often more costly. The adaptability, flexibility and specialization in dealing with the complex human predicaments that form critical backdrops to legal problems are often developed through the use of salaried public lawyers who will often develop non-legal support networks and strategies to better assist clients with vulnerability. The UK suffers from a fragmented, revolving door of clients with a private profession often more concerned about its own funding (which after all makes sense as they are a business) than a holistic client centred approach to vulnerability and disadvantage that often comes with consistent casework informed by and aligned with law reform and legal education that is connected.

- The UK government spent considerable money on advice delivery through Information technology. The procurement of the private profession where most of legal aid is provided through contracted out services in the UK was thought to be a way of saving money. Instead it has seen scarce legal aid funding to the IT industry which developed programs for legal advice and information that are accessible by often well educated, articulate people (who are not the remit of legal aid funding) and divert money from services to those in most need of legal help and with little access. This was the subject of much concern by direct line services when I was in the UK and Europe in 2013 and 2015. They noted their clients had relied on poor information or who had no capacity to work out what to do with information and how to navigate the IT system that is if they had computers or computer know how. Simultaneously, support service such as youth and social workers who might be able to navigate the IT Advice have been defunded under the Blair, Brown and Cameron governments in recent years. Smith and Denvir (see attached) have demonstrated that IT Advice and Information has limited utility for vulnerable and disadvantaged groups and can often increase barrier or run the risk that they rely on poor information for their advice. Consumer Action Law Centre (CALC) has developed plain English 'Fact Sheets' which are available on their web site. (www.consumeraction.org.au) CALC does not use the Facts Sheets as a substitute for giving advice but rather for triage. People who are articulate and capable are referred to the Fact Sheets to self-help and the advice line is then freed up to focus on those clients who need tailored and supported advice.
- Critical to access to justice is enabling the actual voice of all people in the community to be heard. Often the vulnerable and powerless have no voice and yet policy can affect them deeply. In our discussion I noted ways in which this can be achieved that I have successfully evaluated and undertaken myself when in legal practice and in my humanitarian and human rights work. Some of this is outlined in the article which is currently with the Osgoode Hall Law Journal which is listed below and will be attached.

In our meeting today, I promised to provide you with the following documents which I now attach or provide a hyper link too or if not available on-line the references to:

1. Curran L (2013). *Encouraging Good Practice in Measuring Effectiveness in the Legal Service Sector*, Legal Workshop Australian National University College of Law, 21 May. Available at: <http://www.plelearningexchange.ca/database/solving-problems-strategic-approach-examples-processes-strategies/> accessed 19 June 2014.
2. Curran L (2012) *'We Can See there's Light at the End of the Tunnel Now': Demonstrating and Ensuring Quality Service to Clients*, Legal Aid ACT, (Canberra, Legal Aid ACT). Available at: http://www.legalaidact.org.au/pdf/Light_at_the_end_of_the_Tunnel_Legal_Aid_Services_Quality_and_Outcomes.pdf, accessed 14 May 2014.
3. Curran L (2012) A Literature Review: examining the literature on how to measure the 'successful outcomes': quality, effectiveness and efficiency of Legal Assistance Services,

(Canberra, Australian Attorney General's Department). Available at: [http://www.ag.gov.au/LegalSystem/Legalaidprograms/Documents/Literature%20review%20of%20legal%20assistance%20by%20Dr%20Liz%20\[Author_surname\].pdf](http://www.ag.gov.au/LegalSystem/Legalaidprograms/Documents/Literature%20review%20of%20legal%20assistance%20by%20Dr%20Liz%20[Author_surname].pdf), accessed 30 January 2014.

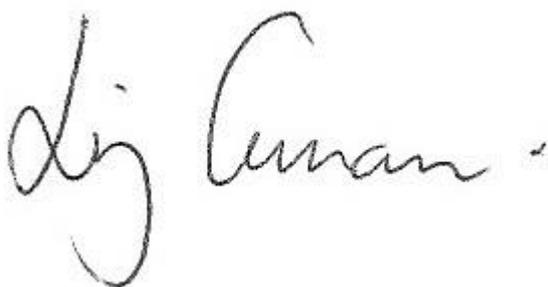
4. Curran L (2013). *The Strategic Approach to Legal Problem Solving problems –: Examples, processes & strategies*, Legal Workshop, Australian National University College of Law, 13 March. Available at: <http://www.plelearningexchange.ca/database/solving-problems-strategic-approach-examples-processes-strategies/> accessed 19 June 2014.
5. Giddings, J & Robertson, M 2002, ["Lay people, for God's sake! Surely I should be dealing with lawyers?" Towards an assessment of self-help legal services in Australia](#), *Griffith Law Review*, vol. 11, no. 2, pp. 436–464.
6. My Power Points for the Victorian Health Care Association on Health Justice Partnerships (HJP with preliminary findings).
7. My article (with Taylor Barnett and Vernon both of whom have agreed this draft article for the Review team). Please note this needs to be acknowledged as in submission stage to the Osgoode Hall Law Journal and I believe until it is published it cannot be provided on – line or through a link and may need their permission.
8. ANU Research in Progress Power-Points from November 2015 on HJP.
9. Report of Roger Smith UK which outlines limitations of IT for legal information and advice.
10. Client Feedback Survey for Consumer Action Law Centre
11. Buck, A & Curran, L 2009, 'Delivery of advice to marginalised and vulnerable groups: the need for innovative approaches', *Public Space: The Journal of Law and Social Justice*, vol. 3, pp. 1–29 & also Buck, A, Pleasence, P & Balmer, N 2008, 'Do citizens know how to deal with legal issues? Some empirical insights', *Journal of Social Policy*, vol. 37, no. 4, pp. 661–681.
12. Curran L, A practical model for demonstration and ensuring quality legal aid services: A case study in applied research, International Legal Aid Group Conference paper with Andrew Crockett, CEO of Legal Aid ACT in The Hague, Holland in June 2013.
13. Curran L, 'Holistic approaches to reaching and assisting clients experiencing vulnerability or disadvantage - Health Justice Partnerships in Australia and beyond – with a focus on the emerging value of secondary consultations', International Legal Aid Group Conference, Scotland, June 2015.
14. Curran L, 'Making Connections: the Benefits of Working Holistically to Resolve People's Legal Problems,' 2005, Vol, 12 E Law - *Murdoch University Electronic Journal of Law*
15. Curran L , 'Relieving Some of the Legal Burdens on Clients: legal Aid services working alongside Psychologists and other health and social service professionals', *Australian Community Psychologist*, August 2008, Vol 20 (1), pp 47-56.

16. Curran L, 'Ensuring Justice and Enhancing Human Rights: A Report on Improving Legal Aid Service Delivery to Reach Vulnerable and Disadvantaged People, La Trobe University & Victoria Law Foundation (2007) <http://libertyvictoria.org/sites/default/files/Report%20-%20Ensuring%20Justice%20and%20Enhancing%20Human%20Rights.pdf> accessed 1 September 2015
17. Curran L 'Community Legal Centres Lead on Law Reform,' *Law Institute Journal*, Vol 82, Issue 4, 2008, pp 62-65.
18. L Curran, *Report: Ensuring Justice and Enhancing Human Rights: Improving Legal Aid Service delivery to reach Vulnerable and Marginalised People*, La Trobe Law and Victorian Law Foundation, November, 2007
19. Curran L 'Making the Legal System more Responsive to Community: A Report on the Impact of Victorian Community Legal Centre (CLC) Law Reform Initiatives', Reichstein Foundation, 2007 www.fclc.org.au/public_resource_details.php?resource_id=1152
20. A Crockett & Curran L 'Measuring Legal Services: A Practical methodology for measuring quality and outcomes of legal assistance services' Vol 32, 1 University of Tasmania Law Review, 2013, 70-95.
21. Digitally (De) Faulted? How do young people use the Internet to acquire knowledge of their rights? Catrina Denvir & Nigel Balmer, University College London, <http://www.lawforlife.org.uk/wp-content/uploads/Cat-Denvir-YP-article.pdf>

I also promised to provide my submission on HJP findings to the Australian Human Rights Journal when it is finished again with the proviso noted above in relation to the Osgoode Hall Law Journal.

Have a good weekend and I am very pleased you invited to meet to canvas these very important ways in which access to justice might be enhanced.

Yours sincerely



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