

# **Canberra Community Law: Submission for ACT Government 2020-2021 Budget**

Canberra Community Law (CCL) has over 30 years' experience providing high quality, wrap-around community legal services for vulnerable service users. It works to overcome systemic barriers to justice and provide holistic legal services that strengthen our community.

CCL was Canberra's first community legal centre, established in 1986 under its former name, the Welfare Rights and Legal Centre. A voluntary community-based board of people from academia, community sector, peak bodies and private legal practice governs CCL.

CCL provides free specialist legal advice, assistance and representation services to people in the ACT on low incomes for matters relating to tenancy, public housing, social security and disability discrimination law. CCL also operates three specialist legal services:

- **Street Law Program:** outreach services to people experiencing or at risk of homelessness.
- **Night Time Legal Advice Service:** information, referral services or one-off advice in most areas of law
- **Dhurrawang Aboriginal Human Rights Program:** holistic civil law service for ACT Aboriginal and Torres Strait Islander communities in its specialist areas of law, through a human rights framework.

In the 2018/19 financial year, CCL assisted 952 service users, provided 1002 referrals, 1325 advices, 61 duty lawyer services, 686 legal task assistance services and worked on 223 cases with a staff of 6 full time and 6 part time lawyers.

## **Summary of proposals for new funding**

CCL has identified three projects that can provide efficient responses to critical legal needs in the Canberra community by integrating closely with current CCL services.

- A. **Duty Lawyer Service at the ACT Civil and Administrative Tribunal (ACAT)** – CCL established the Service to proactively help social housing tenants resolve their Tribunal matters and avoid eviction. It has effectively reduced complexity and delays for ACAT. To maintain the service, CCL is seeking recurrent funding of \$20 000 per annum. Indexed.
- B. **Social worker – Socio-Legal Practice Clinic** - CCL has piloted and developed a Socio-Legal Practice Clinic (the SLP Clinic) integrating legal and social work services to resolve significant legal barriers faced by highly vulnerable people. To secure the Clinic's ongoing operation, CCL is seeking recurrent funding of \$60 000 per annum indexed.
- C. **Specialist Disability Legal Service** - CCL has identified the need for targeted assistance for people with disabilities in areas of civil law, within a multi-disciplinary approach. This submission proposes two funding options, subject to the service's scope and staffing levels.

## **A. Duty Lawyer Service, ACT Civil and Administrative Tribunal**

Canberra Community Law established the ACAT Duty Lawyer Service to proactively help social housing and other low income tenants resolve Tribunal matters and avoid eviction. It has reduced complexity and delays for ACAT. To maintain the service, CCL is seeking sustainable recurrent funding.

### **Community need**

While homelessness in the ACT has recently decreased, long-term trends show an entrenched problem. The number of rough sleepers has increased, growing numbers of people are competing for limited social housing, and private rental housing affordability is poor. When people become homeless, their chance of returning to secure housing drops dramatically.<sup>1</sup>

The ACT Civil and Administrative Tribunal (ACAT) hears applications for eviction due to rental arrears, allegations of poor property condition (squalor and hoarding) and claims of neighbourhood disturbance. It also includes applications for property access, repairs and compensation.

Tenants facing eviction tend to ignore legal issues until forced to respond to a tribunal application, and they face significant barriers accessing legal assistance.<sup>2</sup> Few tenants seek legal advice before attending the Tribunal. The law around social housing evictions is often complex and vulnerable people struggle to run these matters themselves.

Unrepresented and under-represented tenants often struggle to effectively represent themselves as they fail to understand requirements, have no capacity to prepare their best case, or have not addressed underlying issues leading to eviction.

Many tenants facing eviction had a prior strong history of meeting obligations before they became disengaged due to a triggering event (such as trauma or change of circumstances).

Eviction impacts on tenants and their families (usually children), who also lose their homes. Eviction of low-income tenants creates a significant risk of homelessness, with loss of social housing a main pathway to homelessness.<sup>3</sup> Preventing eviction helps vulnerable people maintain employment, keep their family together, and achieve better health outcomes.

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<sup>1</sup> Australian Institute of Health and Welfare, *Specialist homelessness services 2016–17: Australian Capital Territory*, 2018

<sup>2</sup> Australian Government Productivity Commission: *Access to Justice Arrangements*, 5 September 2014 p. 45, quoting Tamara Walsh, Submission No 101.

<sup>3</sup> Australian Government Productivity Commission: *Access to Justice Arrangements*, 5 September 2014 p. 44, quoting Tamara Walsh, Submission No 101, on behalf of the National Study on the Criminalisation of Poverty and Homelessness.

## **Program overview**

CCL's ACAT Duty Lawyer Service prevents homelessness by helping social housing tenants resolve their Tribunal matters and avoid eviction. CCL is also assisting an increased number of tenants to maintain low-cost private housing.

The Service operates from an allocated office at ACAT to work with social housing tenants who have matters in ACAT's residential tenancies list on Thursdays. Lawyers also attend ACAT at short notice to provide urgent duty lawyer services at other times.

The Service reduces complexity and delays at ACAT by providing social housing tenants with timely advice, representation, follow up and casework services. The Service provides a strategic intervention to avoid evictions and minimise the legal and social costs associated with eviction and homelessness. This Service is a gateway to legal assistance and connects tenants to case management and interdisciplinary support.

Cases run by a lawyer are better presented and supported by relevant evidence, which results in more equitable and sustainable outcomes, including orders that tenants are more likely to comply with and a reduction in evictions.

## **Key program benefits**

CCL's Duty Lawyer Service effectively:

- **Improves access to justice** through earlier, expert and specialist help for people involved in social housing matters in ACAT to navigate the complex laws involved, including a reduction in the risk of eviction orders.
- **Reduces legal costs for ACAT** by reducing complexity and delays associated with social housing tenants being unrepresented and poorly prepared or failing to understand the nature and requirements of a determination.
- **Reduces social costs of eviction and homelessness**, especially by assisting people to take timely and appropriate action to progress or resolve their social housing matters.

## **Funding request**

Since its inception, CCL's Duty Lawyer Service has operated on limited resources. CCL established the service by reallocating some core funding and securing limited philanthropic support. In 2016, the Maddocks Foundation provided start-up funding of \$20 000 to pilot the service. It maintained the funding in 2017-18, 2018-19 and 2019-20. This funding is due to end on 30 June 2020.

CCL provides a co-contribution of more than \$20 000, comprised of \$5 000 administrative support and \$15 000 in social worker support (one day per week) in conjunction with CCL's Socio-Legal Practice Clinic. The ongoing casework generated from the Service is funded out of core funding. The service integrates with broader CCL services.

The work required to support tenants throughout an ACAT application far outweighs the resources for a conventional duty lawyer service and has a disproportionate impact on CCL's workload compared with its level of funding. Follow up work essential to resolving legal matters includes drafting witness statements, subpoenaing records, obtaining medical and other letters of support, making referrals to financial and social services, reviewing documents, negotiating with housing providers and making substantive oral and written legal submissions.

CCL has limited to capacity to absorb a loss of philanthropic funding and maintain this service. Its social security and tenancy casework service is overstretched, with CCL lawyers working significant overtime to manage additional casework from the ACAT service.

To maintain this Service and help make it sustainable, CCL needs stable, recurrent funding for a duty lawyer one day per week at ACAT.

### **CCL requests \$20 000 per annum to maintain the current operations of the ACAT Duty Lawyer Service.**

This proposal aligns with the Parliamentary Agreement around strengthening specialist homeless and housing support services to make sure vulnerable groups (such as older women, Indigenous communities, women escaping family violence and people who have experienced trauma) get needed support and housing assistance. It aligns with the ACT Government's Housing Strategy.

### **Additional background**

Using its existing relationships with ACAT and Housing ACT, CCL established the service in 2016 with financial assistance from the Maddocks Foundation. Informal protocols were established, with ACAT agreeing to list residential tenancy matters on Thursdays, provide CCL with relevant information and facilities, and to stand down or adjourn matters to enable CCL to work with tenants.

Since its establishment in July 2016 to 30 June 2019, the ACAT Duty Lawyer Service has assisted 105 unique service

### **Case study**

**“Lauren”** and her adult son had lived in the same public housing property for over 15 years. She had work difficulties, significant debts and health problems. Her son was not helping with rent.

Lauren was referred to the ACAT Duty Lawyer Service when Housing ACT sought to evict her.

CCL represented Lauren at the first and subsequent mentions to get adjournments so that she could address issues with her employer and get support.

In discussions with CCL, Lauren disclosed for the first time that she was experiencing family violence at the hands of her son. CCL's duty lawyer and social worker worked with Lauren to resolve her employment issues, as well as seek support for her debt and health issues. With this support, Lauren got her son help to deal with his violence towards her.

The duty lawyer put together relevant evidence and legal submissions. By the final hearing, Lauren had obtained stable employment and her income had stabilised. CCL's duty lawyer was able to argue that Lauren's underlying issues were being addressed and ACAT issued an order that enabled Lauren and her son to remain in their home.

users, providing 173 instances of duty lawyer services, with some service users receiving assistance on more than one occasion.

The following statistics provide a snapshot of the ACAT Duty Lawyer Service's client base:

- 89% of service users suffered financial disadvantage
- 18% identified as being Aboriginal or Torres Strait Islander
- 26% identified as having experienced family violence
- 43% had dependent children
- 50% identified as having either an intellectual, physical or psychiatric disability
- 9% came from a culturally or linguistically diverse background.

### **Demonstrated outcomes**

In 2018, CCL commissioned an independent external evaluation of its ACAT Duty Lawyer Service. Qualitative data, obtained through structured stakeholder interviews, and available quantitative data, demonstrated the value and effectiveness of the service.

The evaluation found that:

- 66% of tenants received representation at the first mention of their matter.
- 82% of service users had a successful outcome that prevented homelessness when CCL offered case management.

Key stakeholder feedback to the evaluation demonstrated that having a duty lawyer at ACAT provided operational efficiencies and increased the tribunal's ability to discharge its legislative functions. The service increased tenant engagement with Housing ACT and kept individuals and families in safe and secure housing.

ACAT strongly endorsed the service and stressed it could not perform the Thursday housing list without the Duty

### **Case study**

**“Matthew”** lived in a Housing ACT property. He had paid rent regularly until he fell into significant rental arrears due to a dramatic change in circumstances (including worsening mental health and a decline in his casual work). Although entitled to Centrelink payments, he had not taken the steps to obtain payment due to his mental health.

Housing ACT applied to ACAT seeking his eviction.

Matthew was referred to CCL's ACAT Duty Lawyer Service, which got an adjournment and worked with him to:

- link with support services, including Everyman and CARE Financial Counselling
- backdate the rental rebate, which led to significant reduction in rent owing, as he had not previously lodged an application due to his mental health and was being charged full market rent
- get him on Centrelink payments.

The duty lawyer assessed the medical evidence needed and drafted a detailed letter to Matthew's psychologist. His psychologist was able to show that Matthew's failure to engage with Housing ACT was a result of his mental health.

The lawyer completed substantial legal work putting together witness statements over two appointments with Matthew and wrote complex legal submissions.

Based on the evidence and legal arguments, ACAT made an order enabling Matthew to stay in his home.

Lawyer Service. The 2016/17 ACAT Annual Report highlighted that Tribunal members value the program as few tenants seek legal advice before coming to the Tribunal. The Service makes an important contribution to access to justice for tenants and assists ACAT to comply with the requirements of procedural fairness.

For service users, the Service was the difference between receiving legal advice before the hearing and proceeding self-represented. The evaluation concluded that a significant proportion of tenants who attended ACAT obtained advice from the Service. Tenants valued the Service because it helped them prepare their cases in line with Tribunal requirements, reduced the time spent at ACAT, lessened the emotional stress on them, and helped achieve a desirable outcome.

ACAT has acknowledged that, with CCL duty lawyer assistance, tenants propose practical and sustainable alternatives that ACAT can incorporate into orders. The service has reduced the number of evictions.

CCL practical support helps tenants demonstrate an ability to meet their tenancy obligations.

Since the service started, CCL has seen a significant shift in its client base, from evicted tenants to tenants at the start of ACAT proceedings. Access to justice at this point reduces the likelihood of homelessness as it allows tenants to prepare their best case at the earliest opportunity.

## **B. Socio-Legal Practice Clinic**

Since 2015, CCL has developed a Socio-Legal Practice Clinic integrating legal and social work services to resolve complex issues and significant legal barriers faced by highly vulnerable people. To secure the Socio-Legal Practice Clinic, CCL is seeking sustainable recurrent funding.

### **Community need**

Highly vulnerable and disadvantaged members of our community experience a range of concurrent legal and non-legal problems that cut across multiple aspects of their lives, including family circumstances, finances, employment, disability, health, housing and welfare.

Standard legal services can overlook or be unable to address the most difficult cases for service users with the highest or most complex needs. This can include service users facing barriers such as mental health issues, with disabilities and experiencing domestic violence, while concurrently experiencing homelessness or facing eviction from social housing.

CCL identified that collaboration with a social worker can achieve better legal outcomes by helping service users address the non-legal issues contributing to or affecting their legal situations.

Social workers are better equipped than lawyers to evaluate service users' needs or refer them to appropriate services. An interdisciplinary model involving a social worker provides the team with a better understanding of social and psychological aspects of a clients' legal problems.

This need is often most acute where people need to access housing or are on the verge of eviction. The resolution of non-legal problems is often inextricably intertwined with presenting legal issues. Lawyers cannot resolve the legal issues without parallel resolution of non-legal issues.

### **Programme overview**

The Socio-Legal Practice (SLP) Clinic provides integrated legal and social work services to highly vulnerable people who have multiple, significant and complex barriers to successfully resolving their legal matter.

The primary focus of the SLP Clinic is addressing homelessness, especially for women and children affected by family violence and people with a disability. The program also assists service users with other legal problems including social security and disability discrimination matters.

Following preliminary assessment of whether a service user might benefit from a referral, the SLP Clinic allocates a lawyer and a social worker to undertake joint case work to identify and address interrelated legal and social issues affecting the resolution of their matters.

The approach is like health-justice partnerships that benefits from approaching legal issues with multi-disciplinary skill-sets.

## **Key program benefits**

The Socio-Legal Practice Clinic effectively:

- **improves access to justice** where service users' complex socio-legal needs prevent legal issues being resolved separately.
- **reduces long-term legal costs and improves legal outcomes** by reducing the risk of legal issues recurring because the non-legal issues remain unaddressed.

## **Funding request**

Since its inception in 2015, the Clinic has been funded by philanthropic grants from the Clayton Utz Foundation and the Snow Foundation, with CCL meeting the shortfall.

The Snow Foundation has currently provided \$20 000 per annum for three years to June 2021. CCL has recently been advised that its application to the Clayton Utz Foundation seeking \$20 000 for the 2019-2020 financial year has been successful.

This 'start-up' philanthropic funding will not continue indefinitely, and recurrent government funding is needed to cover the full cost of the social work component of the SLP Clinic to secure its future.

The 2018-2019, the ACT Government Budget recognised the value of the program and provided recurrent funding for the SLP Clinic of \$250 000 over four years. Funding is \$60 000 in the first two years and \$65 000 for years three and four.

CCL does not have resources to cover a growing funding shortfall required to maintain a full-time social worker position. CCL provides an in-kind contribution of approximately \$15 000 to cover overheads (rent, equipment etc) and management. It reallocates its own resources to covers the current shortfall in funding of around \$5 000 for a full-time social worker position and external supervision costs.

Under the Better Service Delivery area of the Disability Justice Strategy 2019-2029, the ACT Government committed to the continuation of CCL's Socio-Legal Practice Clinic.

**In order to secure the viability of the program, CCL is seeking full program funding from year three (the 2020-2021 budget year) in the form of an increase of \$60 000 per annum indexed in recurrent funding.**

The cost of a full-time social worker position is currently \$105 813.60 per year, including superannuation, workers compensation and provision of leave payments (excluding operational costs).

## **Additional background**

The SLP Clinic provides social work assistance to any CCL service user where that service could:

- contribute to overcoming issues creating barriers to accessing legal services and justice; and

- maximise CCL's ability to achieve a successful resolution of the service user's legal matter(s).

It gives priority to services and assistance that:

- improve access for vulnerable individuals and families to safe and affordable housing
- assist vulnerable individuals and families to maintain existing tenancies and reduce the risk of eviction
- reduce the negative effects of homelessness for vulnerable individuals and families by connecting them with appropriate community support
- assist service users to address social security and disability discrimination law issues.

Due to its limited capacity, the SLP Clinic gives priority to assistance that is likely to help the service user to either gain housing or prevent eviction. Within these areas, the SLP Clinic gives priority to women and children affected by family violence and people with disability.

The SLP Clinic provides a range of assistance including:

- intensive social work case management, focusing on building a relationship based on respect, trust and rapport to facilitate engagement, assessment and focused solutions.
- the completion of psycho-social assessments to enable a full understanding of a service user's circumstances.
- co-ordinating case conferences with other support agencies to put in place a realistic plan to address the presenting issues.
- linking service users with well-targeted service and supports.
- providing emotional support through often challenging legal processes.
- assisting service users to put in place arrangements for the payment of rent and arrears.

## Case study

**“Vicki”** is a single mother of three young children. The eldest two live with their father.

Vicki moved interstate to care for her aging parents. When her mother died, Vicki put support in place for her father and returned with her daughter to Canberra.

Vicki's housing fell through and they moved in with her children's father. A week later, they were forced out by domestic violence and became homeless. They lived in a car for two and a half weeks while Vicki tried to support her daughter back into school and manage their mental health. It was winter and Vicki regularly drove the car to keep it warm.

When Vicki contacted CCL, the SLP Clinic's lawyer and social worker collaborated to address her needs. She was physically and emotionally fatigued. Her daughter was suffering acute stress and was missing school for mental health reasons.

The lawyer gathered documentation, advocated with Housing ACT and prepared legal submissions to get Vicki on the Priority Housing list.

In the meantime, the SLP Clinic social worker connected Vicki with welfare services for food, bedding and washing while living in the car. She met Vicki for emotional support, provided referrals for counselling for her daughter, advocated for crisis accommodation, and helped co-ordinate support. When a housing provider offered temporary accommodation, the social worker helped Vicki secure a safer family grant and supported her move.

Vicki and her daughter had a secure home while they waited for permanent housing with Housing ACT. Their mental health improved and Vicki's daughter returned to school.

- accessing brokerage to assist service users to pay rent arrears or to access assistance to help service users to bring their properties up to standard.
- advocacy and legal representation, such as accessing housing or defending eviction proceedings.

## **Demonstrated outcomes**

The SLP Clinic has had two independent, external evaluations in 2015 and 2017. Each included quantitative assessment of available data on outcomes and qualitative assessment through interviews with key stakeholders and service users.

The 2017 review concluded that the SLP Clinic was highly effective in meeting its aims and was taking on the most difficult cases involving service users with the highest or most complicated needs. It demonstrated positive outcomes achieved by collaboration between a legal practitioner and a social worker, and supported expansion of the approach subject to funding.

In brief, the report found the SLP Clinic:

- was meeting its objectives and achieving positive outcomes, despite significant challenges, including service users' disadvantages and uncertainty surrounding financial support.
- has evolved through an 'action learning process' into a sophisticated and synergistic legal and social work service model.
- is taking on the most difficult cases and the service users with the highest or most complicated needs, often overlooked or not undertaken by other service providers.
- has assisted socially isolated service users who have difficulty articulating their own needs at a time where they are facing a crisis such as homelessness, eviction or trauma.
- has a highly beneficial method due to the synergy achieved by a legal practitioner and a social worker working side by side.

## **Case study**

**“Janet”** suffers mental health issues and has a history of drug dependency and trauma from being exploited working in a brothel.

She was struggling to cope when her public housing tenancy was terminated for arrears. She did not attend the hearing and *ex parte* orders were made for her eviction. Her electricity was cut off and the stress worsened her health.

Janet was referred to the SLP Clinic. The lawyer helped get the eviction warrant set aside by drafting relevant forms and helping Janet lodge them. They got agreement for closed proceedings to help Janet feel safe giving her sensitive evidence.

With a timeframe for a fresh hearing, the SLP Clinic helped Janet prepare her case. The social worker assisted her to engage with her doctor and be able to disclose information about her mental health and abuse. The lawyer took detailed witness statements over several sessions so as not to overwhelm or re-traumatise Janet.

The social worker gave practical assistance to reconnect her electricity and the Clinic helped Janet see a financial counsellor and get Centrelink payments restored.

This strengthened Janet's position when her matter returned for hearing. Based on the evidence and the positive progress, the Tribunal issued an order that kept Janet in her home.

- has met its objectives primarily by developing an early intervention approach.

During the most recent financial year, 1 July 2018 to 30 June 2019, the SLP Clinic:

- assisted 42 service users
- provided 41 discrete support services (matters involving less than five hours work, such as client assessment, targeted referrals to appropriate support services, and crisis support)
- worked on 66 cases (opened for matters involving over five hours work) and closed 30 cases.

Its service user base incorporated:

- 100% suffering financial disadvantage;
- 14% identified as being Aboriginal and Torres Strait Islander;
- 74% were vulnerable women with children and/or who had experienced family violence;
- 83% identified as having either an intellectual, physical or psychiatric disability; and
- 7% came from a culturally and linguistically diverse background.

Apart from two people who disengaged with the SLP Clinic during 2018/19, all other service users with housing matters were successfully helped to avoid eviction or access safe affordable housing.

These numbers include an increase in the SLP Clinic taking on service users with the highest or most complicated needs. From September 2018, CCL allocated a Senior Solicitor to the SLP Clinic in recognition of the increased complexity.

## C. Specialist Disability Legal Service

CCL has identified the need for a specialist disability legal service that provides targeted assistance in areas of civil law, with associated multi-disciplinary support. There is currently no specialist legal service of this nature in the ACT.

### Community need

CCL's disability discrimination practice, Disability Discrimination Law (DDL), specialises in discrimination and employment law. However, service users face a myriad of legal issues. In 2017-18, DDL advised on complaints about employment (21), government or administrative (18), consumer (15), personal injury (5), other discrimination (17) and credit/debt (17).

Across the range of CCL services, around 60 per cent of service users in recent years identified as having a disability. A significant amount of CCL's work with people with disabilities is ancillary to our funded programs, the result of our policy of holistic, wrap-around services.

CCL's experience aligns with the 2014 *Legal Australia-Wide Survey* (LAW Survey) conclusion that people with disability were 2.2 times more likely to experience legal problems than other respondents. They often had multiple legal problems, many non-legal needs and multiple disadvantages, such as poverty, poor housing, unemployment and crime victimisation.<sup>4</sup>

The Law Council of Australia's *Justice Project* also found that people with disability experience substantial and multiple legal problems. They face systemic and structural barriers to accessing justice, including inaccessible legal information, inflexible court procedures, negative attitudes, and an under-resourced legal assistance sector. Without specialist support, the legal system is inaccessible for many people with disability and can produce unjust outcomes.<sup>5</sup>

The NSW Law and Justice Foundation Collaborative Planning Resource found that traditional legal assistance providers can have difficulty identifying disabilities, particularly mental illness. People with a mental illness are likely to face added barriers from a lack of awareness of legal rights, limited capacity to participate in court, low education levels and financial disadvantage. They may exhibit difficult behaviour, communication problems and lack of organisation.

A low level of DDL clients with intellectual disability (7%, compared to 62% for those with physical or psychiatric disabilities) indicates the need for different service access options, such as outreach to group residences.

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, established 4 April 2019, will increase focus on the breadth and severity of issues faced by people with a disability. CCL anticipates that the work of the Commission will lead to an increase in people with disabilities seeking legal support as they engage with the Commission and

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<sup>4</sup> Christine Coumarelos et al, *Law and Justice Foundation of New South Wales, Legal Australia-Wide Survey: Legal need in Australia*, 2012.

<sup>5</sup> Law Council of Australia's *The Justice Project, Final Report - Part 1, People with Disability*, August 2018 pp 4-5.

identify matters that have not been resolved. This Commission provides the opportunity to better understand these needs and issues in order to develop better services.

### **Proposal overview**

Given the scale and complexity of legal needs for people with disabilities, specialised legal assistance needs to be expanded and underpinned by other critical support services, such as disability advocates and mental health services.

CCL's experience points to the need for a targeted disability legal service operating with a collaborative, multi-disciplinary approach to effectively address the range of complex legal and non-legal issues faced by people with disabilities. The interdisciplinary approach of CCL's SLP Clinic provides a model, with a lawyer collaborating with a social worker to address non-legal issues that prevent resolution of legal matters.

CCL will customise the approach of the legal services to the needs of the individual service users, including clients who wish to engage in supported decision making or self-advocacy.

CCL is a "key agency" under the ACT Government's recently launched Disability Justice Strategy (2019 to 2029) and has considerable expertise to develop and run a Specialist Legal Disability Service, given its knowledge of disability law, extensive networks and collaboration with relevant Canberra services, and successful development of a multi-disciplinary service. CCL will draw on its expertise designing and running services targeted for groups of vulnerable service users, such as its Street Law and Dhurrawang Aboriginal Human Rights Programs. It will build on the DDL program and work with CCL's Socio-Legal Practice Clinic.

The service will collaborate with other community legal services, Legal Aid ACT and other relevant services to establish clear referral pathways that make the best use of resources and prevent duplication. CCL works closely with people with disabilities and their advocates from organisations such as the ACT Disability, Aged and Carers Advocacy Services (ADACAS).

Services will be provided on site as well as by meeting users at a time or place they are comfortable with. This will increase the program's engagement with people with disabilities who would otherwise not be aware of the service or access legal help.

During the Disability Royal Commission, this Service will provide new capacity to respond to a foreseeable increase in demand for disability-ready legal services and help people with disabilities engage with the Commission. The Service will demonstrate ACT commitment to action on issues being considered by the Commission while it is underway and provide valuable data and experience to assist timely and effective responses once the Commission reports.

Where relevant, the service will engage with the Disability Royal Commission and related government inquiries (such as reviews of the NDIS), with its service users and on their behalf.

## Key program benefits

The Specialist Disability Legal Service aims to:

- *improve access to justice* for people with disabilities where complex needs and disadvantage restrict or prohibit use of generalist legal services.
- *strengthen capacity for people with disabilities*, reducing the cost and complexity caused when matters escalate unresolved.
- *improve engagement with the Disability Royal Commission* to take short-term action and assist the Canberra community to provide timely and effective longer-term responses.

## Funding request

CCL is seeking recurrent funding to establish a Specialist Disability Legal Service.

**Option 1** (preferred): \$220 000 per annum to engage a full-time specialist disability lawyer and a full-time disability case worker, including on-costs and operational costs. This option provides the greatest likelihood of success for the multidisciplinary approach, recognising limited capacity in the sector.

**Option 2:** \$130 000 per annum to engage a specialist disability lawyer, including on-costs and operational costs. This option requires existing case work resources within CCL (including its Socio-Legal Practice Clinic) and the sector to accommodate additional case load.

CCL will incorporate into the service its existing 0.8 FTE disability law solicitor engaged through existing CCL funding.

Establishing the service at this time aligns with the work of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, which will provide an interim report by

## Case study

“**Mary**” was referred to DDL by ACT Disability, Aged and Carer Advocacy Service (ADACAS).

A transport provider had refused Mary service on an occasion due to the size of her wheelchair. She had also experienced ongoing incidents where the provider's timetables had wrongly indicated a service would be wheelchair accessible.

Mary had also experienced incidents of sexually inappropriate behaviour over several years by workers from a disability care service provider in her home.

DDL advised that a disability discrimination complaint against the transport provider should be made to the ACT Human Rights Commission (ACTHRC) and that DDL could assist with this in collaboration with the ADACAS advocate.

DDL also advised that a sexual harassment complaint could be made against the care provider to the ACTHRC, and DDL made a warm referral to a *pro bono* law firm to assist Mary.

DDL drafted a discrimination complaint against the transport provider for Mary and supported her through the conciliation and settlement process.

She obtained an apology, a financial settlement and an agreement from the transport provider to review procedures and training for its staff.

Her complaint against the disability care service provider was handled by the *pro bono* lawyer.

30 October 2020 and a final report no later than 29 April 2022. The Department of Social Services also recently announced a review of the NDIS Act and the Joint Parliamentary Committee on the NDIS announced inquiries into NDIS Planning and Supported Independent Living.

This project would provide ACT Government action on Policy Direction 2.3 of the National Disability Strategy (2010-2020) to ensure that people with disability have access to justice. This proposal also aligns with the goals of the ACT Government's Disability Strategy (2019 - 2029).

The service provides a comparatively low-cost opportunity to demonstrate action and respond to immediate needs while the ACT Government assesses feasibility for longer-term broad-based services, and options for funding sustainability.

### **Additional background**

CCL has the expertise to develop and establish this service:

- DDL, Housing Law and SLP Clinic services assist people with disability to secure the limited accessible public housing properties in Canberra or obtain reasonable adjustments in non-accessible properties.
- DDL assists children with disabilities and their parents to obtain reasonable adjustments in childcare and school settings, including children with NDIS packages where schools were not allowing access to NDIS funded external therapists. The service also assists university students to obtain reasonable adjustments to allow them to continue their studies.

### **Case study**

**“Grace”** is independent, despite being born with an intellectual disability, vision impairment and cerebral palsy. She uses a wheelchair and people find her speech impediment hard to understand.

A club refused Grace entry on several occasions. She said security staff told her on one occasion that she took too long to produce her ID and on other occasions that she needed a carer.

Grace made a complaint to the ACT Human Rights Commission, which it was unable to resolve through conciliation. DDL represented Grace at ACAT when the matter was referred for determination. It was settled with a compensation payment.

Since then, CCL has assisted Grace with other diverse issues:

- repairs to her wheelchair by ACT Health, prior to her accessing the NDIS.
- delays in providing reasonable and necessary supports under the NDIS.
- the quality of service by her former NDIS service provider.
- difficulties applying for a therapy dog.
- modifications and repairs to her Housing ACT property.
- difficulties applying for a split system under the ACT Energy Efficiency Scheme.
- her arrest for an assault.
- police investigation of her complaints of assault
- difficulties applying for personal protection orders against others who assaulted her.
- Unfavourable treatment at several shopping centres, a medical practice and a fertility clinic.
- difficulties she had busking at several shopping centres, markets and other public places.
- complaints about a telecommunications service provider, a bank and an escort service.

Grace's current NDIS support workers have collaborated with DDL to resolve all these legal and related non-legal issues for Grace.

- Social Security Law and SLP Clinic increase economic participation by people with disabilities by assisting them to access income support, including the Disability Support Pension. DDL negotiates with employers to obtain reasonable adjustments to allow employees with disabilities to remain in employment. It also represents employees with disability who may have been unreasonably terminated to seek reinstatement or compensation, along with changes in practices to prevent a recurrence of discrimination.
- DDL and SLP Clinic assist people with disabilities to make health service complaints and represent them at conciliation of those complaints.
- DDL, Housing Law and Street Law assist people with disabilities to make complaints about lack of police action on reports of assaults; assist them with court processes; represent them in minor criminal matters; and assist prisoners with disabilities with housing matters, including applications for eviction while they are in prison.
- DDL and SLP Clinic assist people with disabilities with discrimination complaints against transport providers, in relation to inaccessible buildings, and to access assistive technology.
- DDL and SLP Clinic assist people with disabilities to increase their community participation by negotiating reasonable adjustments with service providers, groups and clubs. They also assist with discrimination complaints where providers fail to provide reasonable adjustments.

CCL participated in one of the first consultation workshops held by the Disability Royal Commission with legal practitioners and advocates with experience in disability law, held in Sydney on 1 July 2019. CCL also participated in the National Association of Community Legal Centres Disability Rights Network meeting on 26 August 2019 in Brisbane with Counsel Assisting the Royal Commission.

### **Contact for Submission**

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