

Inquiry into social isolation and loneliness in Queensland

Submission by Legal Aid Queensland

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Introduction

Legal Aid Queensland (LAQ) provides legal assistance services to financially disadvantaged people who may experience many forms of intersecting vulnerabilities, including those vulnerable to the impacts of social isolation. LAQ was created by, and operates under, the provisions of the *Legal Aid Queensland Act 1997* (the Act). Pursuant to the Act, LAQ provides legal assistance to financially disadvantaged people throughout Queensland. Under the Act LAQ was established for the purpose of “giving legal assistance to financially disadvantaged persons in the most effective, efficient and economical way” and is required to give this “legal assistance at a reasonable cost to the community and on an equitable basis throughout the State”. Consistent with these statutory objects, LAQ also regularly contributes to government policy processes.

The LAQ Strategic Plan confirms, among other objectives, that our values include the protection of people’s legal and human rights, promotion of fair treatment, and helping those at risk of social exclusion.

The scope of services delivered by LAQ includes:

- Community legal education
- Information and referral
- Advice and task assistance
- Duty lawyer
- Lawyer assisted dispute resolution
- Representation services in courts and tribunals.

Legal assistance services are provided through a mixed service delivery model of LAQ in-house lawyers in partnership with preferred supplier law firms, community legal centres and community controlled Aboriginal and Torres Strait Islander legal services such as the Aboriginal and Torres Strait Islander Legal Service and the Queensland Indigenous Family Violence Legal Service.

Legal service areas where LAQ may assist clients experiencing social isolation include:

- Criminal law and youth justice
- Family law (including independent children’s lawyers)
- Child protection (including separate representatives)
- Child support
- Domestic and family violence
- Civil law including consumer law (such as banking, finance and insurance), Commonwealth benefits - social security and National Disability Insurance Scheme (NDIS) appeals, employment law and discrimination law
- Veterans’ affairs assistance is available through grants of aid allocated to preferred supplier law firms
- Civil Law Legal Aid Scheme
- Dangerous prisoner matters
- Family dispute resolution and family law property mediation pilot
- Farm debt mediation (through the Farm and Rural Legal Service)
- Natural disaster legal responses

- Client Assistance Service (Information, advice, referral, and task assistance)
- Your Story Disability Legal Support (specific Commonwealth program to support people to engage with the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability).

Legal problems often intersect with non-legal issues ... including social isolation.¹ Social commentary and reporting suggest that clients with intersecting non-legal issues or vulnerabilities such as homelessness, mental illness, physical and/or cognitive disability, social minority groups including First Nations peoples and other disadvantaged members of our community are overrepresented in the justice system.² These disadvantaged community members and those most at risk of social exclusion are frequently met with critical barriers when accessing justice. Lawyers at LAQ work with clients to manage and reframe the distress they experience in relation to the social, health, financial and familial situations which have become barriers to the resolution of their legal issues.

Importantly, LAQ recognises that First Nations Australians are over-represented in the criminal justice, child protection and domestic and family violence systems. The LAQ First Nations strategic and operational plans aim to improve awareness of choice in representation for First Nations clients and address over-representation and disadvantage in these communities. LAQ programs and initiatives that support clients that experience social isolation also focus upon assisting vulnerable First Nations clients across Queensland.

The direct experience of LAQ as a legal assistance provider combined with the diversity of the legal services delivered throughout Queensland, positions the organisation to identify where current government investment in LAQ creates access to justice and mitigates the impact of social isolation for individuals.

In addition to its broad range of general legal services LAQ has implemented several targeted support programs designed to enhance the accessibility of socially isolated, vulnerable, and financially disadvantaged individuals to legal assistance. The capacity of these specialist programs to help clients is limited to the number of clients that can be assisted under current resourcing. LAQ remains committed to providing help to those at risk of social exclusion however demand outstrips supply for all LAQ's specialist services. Additional government investment in these services would give LAQ greater capacity to provide legal information, advice and assistance to Queenslanders experiencing, or at risk of experiencing social isolation.

Specific LAQ service programs that assist people who are impacted by social isolation include:

1. [Civil Justice Services](#)
2. [Civil Law Legal Aid Scheme](#)
3. [Client Assistance Service](#)
4. [Farm and Rural Legal Service](#)
5. [Social Exclusion Program](#)

1. Civil Justice Services (CJS)

In CJS's experience, clients who experience separation from friends or family due to illness, family break down or death, loss of mobility, vision or hearing impairments, disability or intellectual impairment, housing insecurity or instability, or lack access to transportation, or are from culturally and linguistically diverse (CALD) backgrounds or are experiencing mental health and other stressors are at particular risk of loneliness and

¹ Law Council of Australia 2018 *The Justice Report* < https://www.lawcouncil.asn.au/files/web-pdf/Justice%20Project/Final%20Report/Justice%20Project%20_%20Final%20Report%20in%20full.pdf>

² Ibid.

social isolation. LAQ clients also present with a range of issues that extend beyond the legal problem for which they have sought assistance from LAQ.

CJS is a specialist team at LAQ that provides legal advice and representation in the following areas of law - Anti-Discrimination, Employment law, Consumer law, Farm and Rural Legal Service, Social Security Appeals and NDIS Appeals. Clients can receive legal advice and minor assistance from experienced lawyers through CJS's weekly specialist legal clinics. Legal representation is available in these areas of practice for clients who meet LAQ's funding guidelines and merits and means tests.

CJS recognises the importance of face to face and targeted services aimed at assisting vulnerable clients. CJS collaborates with various external stakeholders including the Queensland Human Rights Commission (QHRC), the Administrative Appeal Tribunal (AAT) and the Fair Work Commission (FWC) for the provision of advice services.

These arrangements have multiple benefits including building strong and supportive relationships and networks with external stakeholders. As these stakeholders have a whole of Queensland scope LAQ can provide services to vulnerable clients in rural and regional areas. Access to relevant client information and records enables advice to be very effective and targeted (e.g. FWC, AAT and QHRC, with the client's consent, provide to the LAQ lawyer the client's record/file/documents relevant to their claim). This addresses an issue often experienced with the inhouse telephone advice clinics where the clients are unable to provide documentation relevant to their matter. Access to this documentation results in more effective and targeted advice which enhances access to justice for the client and is more effective use of the lawyer's time.

CJS addresses issues relating to social isolation and loneliness as follows:

- The lawyers in CJS work hard to be empathetic and supportive to clients experiencing a range of stressors and to provide advice, representation, and referral as appropriate.
- Up until the onset of COVID-19 lockdowns in March 2020 the CJS provided face to face consumer law legal advice services in three regional areas for a number of years. These weekly clinics were conducted in Woodridge, Inala and Ipswich. The clientele presenting were at risk of social isolation and loneliness largely as a result of financial misfortunes. These clients were typically more vulnerable than the already vulnerable cohort accessing LAQ phone services. Most clients had intersecting vulnerabilities including CALD, elderly, limited computer literacy, intellectual disabilities or requiring Auslan interpreters.
- CJS actively contributes to calls for submissions made by various Royal Commissions, government, parliamentary or other relevant bodies, from time to time. CJS provides input into State and Commonwealth policy development and law reform processes to advance LAQ organisational objectives of assisting vulnerable and financially disadvantaged Queenslanders. CJS always seeks to offer policy input that is constructive and is based on the extensive experience of LAQ's lawyers in the day to day application of the law in courts, tribunals, commissions and Ombudsman services.

2. Civil Law Legal Aid Scheme (CLLAS)

The CLLAS improves access to justice outcomes for children and financially disadvantaged Queenslanders, who have met with adversity. For over 30 years the CLLAS has effectively provided access for vulnerable and financially disadvantaged Queenslanders to pursue eligible civil law claims. The scheme provides grants of aid to children and financially disadvantaged people to cover the costs of outlays in civil claims where LAQ does not provide grants of legal aid. It is an outlays only scheme funded by the Public Trustee of Queensland and administered by LAQ. No interest or other fees are charged on approved grants.

Priority is given to matters involving children or matters where the applicant risks loss of their home or livelihood if they do not take legal action. The CLLAS commonly funds outlays in personal injury matters to cover the costs of medical reports, court filing fees and other reasonable outlays associated with the claims. Applicants

are represented by law firms on the CLLAS approved panel list and the work undertaken by these firms is on a no win/no fee basis. If the claim is successful, the applicant must refund the full amount of approved and funded outlays to CLLAS. If the claim is not successful, the applicant does not have to repay CLLAS.

The matter types for which CLLAS grants of assistance can be made include motor vehicle personal injury cases; medical negligence; historic sexual, psychological and physical abuse, including institutional abuse; common law workplace injury; and some wills and estate matters. The scheme can also help with public interest and test cases in accordance with the Scheme's funding guidelines.

With amendments to the time limits for commencement of historical childhood abuse claims the CLLAS is providing assistance and funding for the survivors of institutional abuse to progress their personal injury claims and the CLLAS has seen an increase in the numbers of applicants for these claims. A quarter of these applicants are Aboriginal and/or Torres Strait Islanders. Funding through CLLAS has enabled survivors of childhood abuse to obtain legal advice and representation regarding personal injuries claims so that informed decisions can be made as to the most appropriate claim to proceed with i.e. a claim to the National Redress Scheme or personal injury claims.

3. Client Assistance Service (CAS)

The CAS is a client centred specialist service within LAQ focused on connecting socially isolated, vulnerable, and particularly disadvantaged clients with legal and social services to promote resolution of their legal and non-legal issues. The service was established in 2019 to engage vulnerable client groups who may be at most risk due to their multiple legal and social issues.

As a collaborative model, it is most successful when clients are supported to also connect with necessary social services. CAS staff work with other organisations already involved with the client and where a client has no supports, or requires additional supports, will identify and facilitate appropriate referrals. Through these referrals the CAS ensures clients are linked to appropriate non-legal services to promote the holistic resolution of their legal matters.

In 2020/2021, 387 vulnerable people were assisted by CAS to resolve their legal and non-legal matters. Of these people, 73.12% had a disability, 56% of clients identified mental health as a vulnerability, 26.87% were experiencing domestic or family violence and 15.24% were homeless; 91.47% of clients had multiple vulnerabilities.

CASE STUDY 1

Clint is a 45-year-old Aboriginal man who lives in regional Queensland. Clint experiences multiple disabilities including mental illness and an intellectual disability, homelessness, is geographically isolated, and cannot read or write. Clint had been an inpatient at a psychiatric facility for several months. Vulnerable people will often seek support with their legal matters from non-legal services, and for Clint this was the case. Clint spoke to his social worker about concerns that he missed a court appearance and was fearful about the consequences. The social worker supported Clint to contact LAQ and he was referred to the CAS. The legal system can often be inaccessible for people with a disability and adopting flexible and client-centred support was critical in responding to Clint's needs.³ Clint faced structural and systemic barriers to accessing justice due to his regional location, disabilities, homelessness and poor literacy. These vulnerabilities had a compounding effect that manifested in social exclusion and isolation. The CAS worked with Clint over two months and as a result of this support he was able to access legal representation in court and a local

³ Ibid.

community support service for safe accommodation. Clint contacted the CAS after his criminal matters were finalised and expressed his gratitude for the assistance that was provided.

CASE STUDY 2

Sara, a 30-year-old mother who arrived in Australia two years prior, had recently escaped a violent intimate partner relationship. She had given birth to her first child a week prior to becoming homeless and was couch surfing with her child at a friend's home. Sara's partner had socially isolated her, and she was experiencing mental health issues as a result of this traumatic relationship. Sara spoke limited English which made it harder for her to engage with services. Sara was referred to the CAS by a multicultural community mental health service for legal assistance to obtain a domestic violence order against her previous partner. The family violence system is complex to navigate and can dissuade people from seeking help.⁴ A suite of legal issues can intersect when leaving a violent relationship and this was the case for Sara. While the CAS assisted Sara she raised a number of secondary legal and non-legal issues. Sara discussed the difficulty of having to pay for all of the baby's items and care. There was also a debt that she had incurred after her ex-partner used her credit card without her consent. Sara was reluctant to seek help with these issues as she feared it would impact on her immigration status. People on partner visas may avoid seeking help due to fears of deportation.⁵ Due to Sara's isolation from social and professional supports, the CAS had to provide culturally safe and collaborative support to help her resolve her legal and non-legal matters. Ultimately, our work resulted in Sara having legal representation to apply for a domestic violence order, legal advice, and guidance about managing and resolving her debts, and assistance to apply for child support payments.

4. Farm and Rural Legal Service (FRLS)

LAQ's Farm and Rural Legal Service (FRLS) engages clients in rural areas where geographical barriers may contribute to social isolation and consequently affect an individual's capability to engage in and resolve their legal issues. This service provides advice and assistance to rural producers and rural small businesses that have severe debt related problems or are in dispute with their lenders or are otherwise facing financial hardship directly related to their business of primary production. The service is free of charge. No income or assets tests apply.

The FRLS works closely with rural financial counsellors and professional advisors, such as agribusiness consultants, accountants and private legal advisors and represents rural producers in farm debt mediations as well as other debt negotiations with their financiers. The FRLS does not provide representation in court proceedings. The FRLS specialises in representing farmers and rural small businesses in negotiating settlement of financial disputes between primary producers and financiers.

5. Social Inclusion Program

Under the Act, LAQ may give legal assistance for legal representation services for a court proceeding or an alternative dispute resolution process to an applicant for legal assistance only if the applicant meets the criteria published under a regulation or published by LAQ and notified in the government gazette.

The LAQ Grants Policy Manual and Grants Handbook sets out the criteria, policies and other matters that govern the provision of legal assistance. The targeting of legal assistance services to people who experience, or are at risk of experiencing, social exclusion recognises the special circumstances or vulnerabilities that can limit or restrict the ability for a person to adequately represent themselves in court.

⁴ Ibid.

⁵ Ibid.

If by reason of intersecting vulnerabilities an individual's application for legal services does not meet the published criteria, LAQ has developed and implemented two discretionary considerations for funding approval.

- a) With Directorial approval, guidelines can be relaxed to facilitate approval of the application for legal assistance where it is recognised that approval for funding will mitigate, or address intersecting vulnerabilities present in the applicant's criminal law matter or civil or family law matter.
- b) Currently, in-house lawyers are also able to utilise a limited pool of funding under LAQ's Public interest summary trial pilot to assist those more vulnerable clients with summary matters that have merit but do not meet funding guidelines for summary trials. Using in-house lawyers allows LAQ to manage expenditure and the costs of the program.

Broader LAQ service delivery and programs that engage people who are impacted by social isolation include:

Community legal education (CLE)

LAQ's community legal education activities are a key component of service delivery to socially isolated individuals. CLE helps to reduce barriers that stop socially isolated people from accessing legal help by creating connections so that people find out where they can get legal assistance when they need it. Activities are focused on connecting to disadvantaged groups through a variety of forums and resources, helping people understand when they have a legal problem and educating people about the benefits of addressing legal issues early to prevent issues from escalating. LAQ collaborates with other agencies to help the most disadvantaged and socially isolated access the justice system.

These relationships help LAQ to reach priority clients whose vulnerabilities can prevent them accessing legal help and avoid duplication of effort and services in a sector that has limited resources. Legal education sessions explore relevant legal issues across family, criminal and civil law with community workers who work directly with people experiencing social isolation and loneliness as well as directly to members of the community. These sessions open direct referral pathways to LAQ. These connections mitigate the social isolation and loneliness experienced by groups including victim survivors of family and domestic violence, older people, people experiencing a disability, culturally and linguistically diverse clients and victims of elder abuse. In 2019/2020 8,482 people attended LAQ CLE activities, 17,394 people viewed LAQ CLE resources on YouTube and 158 activities were delivered through community events, webinars, and face-to-face information sessions.

Client Contact Centre

LAQ operates a state-wide phone service for clients seeking assistance with legal issues. Clients from all around the state can contact LAQ and be provided with legal information and referral services. In 2020/21 the contact centre answered 137,090 calls and provided 82,262 instances of legal information and referral for clients. Clients can receive information via telephone, via assisted technology (e.g. TTY) or via email. The contact centre also operates specialist lines including the Indigenous Hotline, Disaster line and a Prison advice line.

LAQ Regional Offices

LAQ has 14 offices throughout Queensland. The regional offices provide a community contact point for the towns and cities they are located in and the surrounding regions. Our frontline counter staff provide an invaluable service in easing the social isolation and loneliness experienced by people in the regions by not only booking clients for legal advice but by also connecting people to a range of other support services so that

both their social and legal issues can be addressed. Face to face advice is a critical component of LAQ's service delivery model for clients experiencing a range of vulnerabilities which can lead to social isolation.

Mental Health Court

The LAQ Mental Health Court (MHC) team provides advice and representation for people charged with criminal offences who have been referred to the Mental Health Court either because their mental health/cognitive impairment impacts on their fitness to instruct/plead or impacts on their criminal responsibility at the time of the offending. The referrals to the MHC are subject to legislative criteria set out in the *Mental Health Act 2016*. Once a legally aided client falls within the criteria, their representation through the MHC will be funded. In the 2020/2021 financial year, LAQ funded approximately 180 referrals in the MHC.

Mental Health Review Tribunal

The LAQ Mental Health Review Tribunal (MHRT) team provide legal representation services to patients appearing before the MRHT under the *Mental Health Act 2016*. This is a state-wide service supplemented by accredited preferred suppliers, including community legal centres. In total in 2020/2021, 2316 legal representation services were provided to clients. The in-house team also provides legal advice to people in relation to tribunal processes and procedures, the impacts of tribunal decisions and options for appeal or review. This capacity to give legal advice is subject to the MHRT representation work of the team. Currently the representation aspect is limited to matters where the Attorney-General is a party, and/or the case is referred to LAQ from the MHRT.