FINANCE AND ADMINISTRATION SUBCOMMITTEE

Members present:

Mr PS Russo MP (Chair)
Mr RA Stevens MP (Deputy Chair)
Mr DC Janetzki MP

Staff present:

Ms A Honeyman (Committee Secretary)
Ms K Shalders (Assistant Committee Secretary)

PUBLIC HEARING—INQUIRY INTO THE STATE PENALTIES ENFORCEMENT AMENDMENT BILL 2017

TRANSCRIPT OF PROCEEDINGS

THURSDAY, 13 APRIL 2017

Brisbane

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Subcommittee met at 9.00 am

CHAIR: Good morning. I declare open this public hearing for the committee's inquiry into the State Penalties Enforcement Amendment Bill 2017. On 2 March 2017, the Treasurer and Minister for Trade and Investment, the Hon Curtis Pitt MP, introduced the bill to the Queensland parliament. The parliament has referred to the bill to the Finance and Administration Committee for examination, with a reporting date of 28 April 2017. The objects of the bill are to amend the State Penalties Enforcement Act 1999, the act, to modernise the management of penalty debts by the State Penalties Enforcement Registry, SPER. The bill has the following objectives: to provide improved nonmonetary debt finalisation options for people in hardship; to facilitate case management of debtors rather than management of their individual debts; to establish fairer, simpler and more consistent fee arrangements; to create efficiencies in the management of disputes; to enhance information sharing between the State Penalties Enforcement Registry and other prescribed agencies for penalty debt management purposes and to improve SPER's information collection and disclosure provisions; and to assist SPER's enforcement functions.

The purpose of today's subcommittee hearing is to assist the committee with its examination of the bill. My name is Peter Russo, the member for Sunnybank and chair of the committee. With me is the deputy chair, Mr Ray Stevens, the member for Mermaid Beach; and Mr David Janetzki, the member for Toowoomba South. The other members of the committee who are not present today are Ms Jo-Ann Miller, the member for Bundamba; Mr Steven Minnikin, the member for Chatsworth; and Mr Linus Power, the member for Logan. Only the committee and invited witnesses may participate in the proceedings. If you wish to address the committee, please see the committee staff. Witnesses are not required to give evidence under oath, but I remind witnesses that intentionally misleading the committee is a serious offence. These proceedings are similar to parliament and are subject to the Legislative Assembly's standing rules and orders. In this regard, I remind members of the public that under the standing orders the public may be admitted to or excluded from the hearing at the discretion of the committee.

The proceedings are being recorded by Hansard. Media may be present and will be subject to the chair's direction at all times. The media rules endorsed by the committee are available from the committee staff if required. All those present today should note that it is possible you might be filmed or photographed during the proceedings. I ask everyone present to turn their mobile phones off or switch them to silent mode. The program for today has been published on the committee's web page.

MATSUYAMA, Mr Yuu, Senior Legal Officer, Office of the Public Advocate

I welcome Mr Yuu Matsuyama, the senior legal officer with the Office of the Public Advocate. I thank your office for your submission. I invite you to make an opening statement, after which the committee members will have some questions for you.

Mr Matsuyama: The position of the Public Advocate is that the concept of the work and development order or WDO is certainly supported. It is something that our office has been pushing for for a number of years. We have made a number of communications with SPER in the past regarding potentially implementing it. Our main concern with the bill is that it is our understanding that New South Wales has received additional funding in relation to both their Legal Aid and Aboriginal Legal Services and other agencies to implement the WDO program. The purpose of the bill being nonmonetary debt management, another aspect of that is potentially writing off debts for people who either cannot pay or would not be criminally liable due to either their disability or other such factors. Although that is provided for in the current legislation, we feel that this can be an opportunity to better implement that and make it more transparent. I believe our submission was not too long. I think that covers most of it.

CHAIR: Can I pick up on that last point. What you are telling the committee is that previously in the legislation there was provision for the debts to be written off, but that has not been carried over into the new bill?

Mr Matsuyama: No, it is still in the legislation. That has not been taken out or anything like that. We feel that this is an opportunity to clarify the requirements of writing off. Under the current act, under sections 150A and 150B, I believe, it is just a policy or a guideline that I believe the minister issues, in terms of what can be written off.

CHAIR: Could you make a suggestion to the committee as to how that could be a little bit more transparent?

Mr Matsuyama: Certainly. One model that could be utilised is simply what is currently used in criminal justice, where—I suppose using the words of criminal law—if someone is of unsound mind or unfit for trial they are not found liable for the offending. Obviously that is also covered under the Mental Health Act more specifically, but it is in conjunction with the Criminal Code. If someone appearing before a magistrate or a judge can be found not liable for offending, we feel that a similar system should also be transparently available for those who are, say, issued an on-the-spot fine because, firstly, if they do not have the capacity to present their case to whatever officer is issuing that fine then they are not going to have the opportunity to try to argue their case later in court.

CHAIR: Is one of the issues the fact that a lot of the people who fall into the disability category do not have the capacity to follow through on these things? They get a ticket when they are on the side of the road and then it becomes a non-event for them, not through deliberately trying to avoid paying the debt, but simply because they do not have the capacity to follow it through.

Mr Matsuyama: That is certainly the case. Our understanding is that whenever the Public Trustee receives an administration claim, they have standard procedures with SPER in relation to seeking whether they have a debt and to seek for it to be written off. That is to the credit of the Public Trustee and we believe that it is the right thing to do. However, for people who do not have the Public Trustee administering their funds, it becomes a very nontransparent process to be able to do that. It is not clear on the SPER website that that is even possible.

CHAIR: Do you know how people in correctional centres handle their SPER debts?

Mr Matsuyama: I do not know that.

CHAIR: That is okay. I will go to the deputy chair and then to David Janetzki.

Mr STEVENS: Thank you, Mr Matsuyama, for your submission on behalf of the Office of the Public Advocate. Quite clearly, you are of the opinion that funding is required to make the WDOs work, as in the New South Wales case?

Mr Matsuyama: Yes.

Mr STEVENS: The government has put forward a case that there will be no extra funding required for this legislation. Can you comment on the rationale or even the believability of that statement, that no extra funding will be required to make this work?

Mr Matsuyama: I suppose it comes down to the nitty-gritty, if I can put it that way, of the administration and the education of people to even know that this WDO scheme exists and then helping people onto that scheme. My understanding of the New South Wales scheme was that a number of full-time positions were allocated to Legal Aid and the Aboriginal Legal Service in order to guide people onto and assist them in understanding the WD0 program. It is just that aspect of it alone, whether or not the current services available can accommodate a brand-new program. Apart from Legal Aid and the Aboriginal Legal Service, it is also a question of whether or not certain charitable organisations that are being relied upon to actually run these WDO programs have the extra capacity without being given more funding to accommodate more people. Presumably for someone to be on the WDO program, there will be more people undertaking activities with different organisations. Asking those organisations to do more work without more funding is a question that we have. We do not know whether there is that capacity available. It is our experience that many of these organisations do not exactly have a lot of spare money lying around.

Mr STEVENS: Correct.

Mr Matsuyama: We have that concern, whether or not those organisations do have the capacity to take on more clients.

Mr STEVENS: Further to that, are you aware of the amount of extra funding that New South Wales has put into this program?

Mr Matsuyama: No. On the fact that there has been actual funding, that information came from the initial Treasury consultation paper where they did note that there was extra funding, but I do not think the figures were in there, from memory.

Mr JANETZKI: Mr Matsuyama, have you have spoken with your counterpart in New South Wales on the WDOs or the reforms generally?

Mr Matsuyama: No, not specifically. It can get confusing, regarding our offices. There is the Public Advocate in Queensland and also the Public Guardian. There are two separate functions. The Public Advocate in Queensland is relatively unique, from my understanding. We do not actually have a counterpart because we concentrate on what is generally called systemic advocacy. Generally, we concentrate on policies, legislation and bills, and making submissions such as this. I guess the short answer to your question is that, no, we have not had any consultation with the Public Guardian in New South Wales.

Mr JANETZKI: What would the learnings be then from the introduction of the WDOs in New South Wales, in your opinion?

Mr Matsuyama: I think the consultation paper that our Treasury did was a fairly thorough analysis of how well it was eventually implemented. I believe it started off slow, as all new programs would. I would have thought that the introduction would have been assisted by the extra funding, just because knowing disadvantaged people and how to actually inform them that the WDO scheme exists would be one of the key aspects of successfully implementing it. I cannot really speak much more to that. Perhaps Treasury might have more information. They seem to have done very thorough research on the implementation side of things.

Mr JANETZKI: One of my concerns with the bill is the eligibility criteria in new section 32H. I appreciate new sections B through to F, but I wonder if you have any views on new subsection H, which talks about eligibility for a WDO relating to financial hardship. The financial hardship is not defined anywhere, as far as I can see.

Mr Matsuyama: I do not believe we have any specific opinion on the categories as such, because we feel that there is a lot of room for interpretation, as you have noted, so it would very much come down to how well SPER itself will be implementing this and what kind of policies they have been setting in place. Our office will certainly be keeping an eye on whether or not there are people being left out who should not be and whether it is very inclusive and is actually taking in the people we feel should be allowed on a WDO. I have no specific comment at the moment, but we will be looking at it closely in the future.

CHAIR: In relation to the fact that your counterpart in New South Wales put extra staff on or funding was made available to the agencies at the coalface, in your view could that function be performed by the staff at SPER?

Mr Matsuyama: It would be difficult to say, because my understanding is the funding went to Legal Aid, which would be one of the first ports of call for many people who have been charged or even given a fine, just for general information. I am trying to recall whether that extra fund also covered things such as community education, which possibly SPER could do as well. I guess transparency in all of this is one of our main concerns, to ensure that the people—

CHAIR: At the moment, if you have a SPER debt and you are trying to negotiate it, you negotiate it directly with SPER.

Mr Matsuyama: Yes.

CHAIR: One of the aims of this legislation is to allow SPER to deal with the individual. That is one of the processes that the legislation is hoping to improve. Taking on board that it will take some time, if there is a change in culture at SPER in relation to dealing with the individual do you believe that SPER could then manage the individual and help them through the process, rather than having an external agency do that?

Mr Matsuyama: That is very possible, but I think it would require SPER to be in contact with a lot of the organisations that I mentioned previously to have them come on board with the WDO scheme. That would once again come down to what is happening on the front line, and I cannot really comment too much on that. It is possible that SPER could cover those functions, but that would depend on how it is implemented and administered at that level.

CHAIR: Prior to being elected I was a practising criminal lawyer. My reaction to that as a lawyer is whether you work at Legal Aid or in your own office, you have a responsibility to make sure that you deal with all aspects of your client's issues, including his SPER debt.

Mr Matsuyama: Yes.

CHAIR: I am not too clear on why they would need to employ additional lawyers when really it would fall to—

Mr Matsuyama: This is not specific detail that I have, but I was not sure if the extra funding specifically went to lawyers at Legal Aid. I am just trying to remember what I have been told. It was also to just link people with those organisations as well, so I do not believe they are necessarily lawyers that came on. It might have been for the field officers, but hopefully Treasury might have that information.

Mr STEVENS: I currently have a case in relation to SPER with one of my constituents in Mermaid Beach. The problem is that one of the younger members of the family is on the spectrum with Asperger's. It is a dysfunctional family in terms of living arrangements et cetera, and there has been great difficulty in delivering the message of the outstanding fines to the people that are responsible for that person. It just seems to me there is a breakdown in the system. This debt has mounted up incredibly for a person who has done the wrong thing but has impaired capacity. What better system could be added to the changes to this legislation to give these people a fairer opportunity of meeting the penalty but not incurring the extra heavy charges that go with the initial fine?

Mr Matsuyama: That is an issue we have encountered before in the criminal space, where a person with a lifelong intellectual disability who does not have capacity goes down to a shop, takes something and goes home. It was a difficult situation because the community expected something to be done. The police felt that one of the options open to them is to simply charge them, but at the end of the day they are not liable. Perhaps one way to deal with that—and this is just off the top of my head right now—is to have some way to tell whichever law enforcement officer is involved in issuing those fines that this person does not have capacity and instead of fining them, perhaps either speaking to their family or an advocacy organisation that could perhaps assist them and give them the supports required so that that offending behaviour does not continue. I am not necessarily saying that you set up a database of people who lack capacity—I do not believe that would be ideal—but there could be some way to identify people or at least provide better education for law enforcement officers to think that if this person lacks capacity, then is fining them going to achieve anything? The answer will be no in a lot of circumstances where people simply lack capacity altogether.

I suppose it is an issue of educating the front line and training them to realise that there are other options available. The agencies that those officers work for need to acknowledge that as well and have transparent policies in place so that people advocating on their behalf can look it up and say, 'This person should not have been fined. Your policy says that if they lack capacity, instead of fining them you should do these other things instead.' I think that is an option as well for whoever is issuing those fines or charges to judge at that point in time. Going through with that particular action is not going to achieve anything, and instead it really does potentially cause further damage to that individual as well as also wasting the resources of everyone involved, especially government, in terms of issuing that fine, then having to find ways to write it off and all of the administrative costs that go into phone calls and trying to find out what is happening. Some kind of better integrated system to acknowledge that people without capacity are not criminally responsible, is the very longwinded way of answering that question if that makes sense.

CHAIR: I am conscious of time. That brings to a conclusion this part of the hearing. Thank you for your participation. Thank you for your submissions and your thoughtful answers to the questions that have been put to you by the committee. The secretariat will be in touch with you with the proof of transcript. Thank you for your attendance and thank you for your submission.

EX, Mr Lemm, Principal Privacy Officer, Office of the Information Commissioner

GREEN, Mr Phil, Queensland Privacy Commissioner, Office of the Information Commissioner

CHAIR: Can I invite one or both of you to make an opening statement?

Mr Green: I will make an opening statement. Mr Ex is the author of the submission, so if you wish to get into the specific detail of the drafting—

CHAIR: We will fire all the questions at him.

Mr Green: I should be able to answer some of them as well myself. Firstly, I must say that I would like to congratulate SPER and the Registrar. They have consulted with my office right from the inception of this bill on the information-sharing arrangements, and that is to be commended. They have thoroughly thought about the issues. We do not have any substantive privacy concerns with the bill the way it is drafted. We raised some finer drafting points which are more matters of policy or possibly drafting.

Fundamentally, the information sharing is quite consistent with the existing legislation. The Information Privacy Act allows for bills to override in the interests of proportionate responses for information sharing. Fundamentally this bill facilitates what should be common-sense information flows. For example, if Transport and Main Roads refers a debt to SPER, they can use licensing and registration details to chase the debtors down. That assists with debt collection in an expedient way and can help prevent the escalation of the debt and charges. We support what was trying to be achieved, and we have worked with the registry to make sure that privacy has been addressed in the bill.

As I say, it has often been the case that other legislation is the impediment to information sharing. Our act often facilitates information sharing, and the privacy principles and national privacy principles allow other legislative schemes to provide that. There have been quite a number of bills recently—this is not the only one—in the criminal justice system and particular in other areas such as domestic and family violence where information sharing has been facilitated by the legislation.

The submission speaks for itself to some extent on the finer drafting points. They are not die-in-the-ditch issues. I do not think they make the bill fundamentally flawed. As I say, we have worked with the Registrar to try and address privacy concerns from the outset. We would be happy to work further with them if the finer details of drafting require it or if they wish to take up our offer. In relation to the specific detail, I can get into the submission or we can take questions; as you wish.

CHAIR: Obviously part of our role is to prepare a report that deals with the legislation. You say there are some parts of the legislation that you think need tweaking but you would not die in the ditch for them. Would you share them with us?

Mr Green: Certainly. One of the first points is the provision that allows for a regulation. We thought that is a fairly broad regulation. We question whether there is a need for it. The explanatory notes did not particularly do it justice. That regulation is in section 134K(2) (d). It provides for 'another purpose prescribed by regulation', so we question whether there is a need for that to be so broad.

Another finer point is that section 134E does not provide that the person who is doing the questioning and administering the oath has to inform the witness that they have a right to ask for a transcript. It provides them with an ability to seek one, but we thought it could be as part of the administration that the legislation could specify that they be told they had a right to seek it. Again that is a finer point.

The more detailed concern that we had was there is not a definition of 'personal information' which was consistent with our legislation. We suggest that could be defined consistently with our legislation, and then it could rely on a fairly substantial body of jurisprudence that has been built up on the interpretation of that term. There is a small issue in that our act does not cover corporations, but we think that the Acts Interpretation Act could deal with that quite considerably.

CHAIR: An amendment to the Acts Interpretation Act?

Mr Green: More to this bill, and then the corporation definition of 'person' would sort it out in the Acts Interpretation Act. We put that in some amount of detail in our submission.

CHAIR: As you would have heard from the previous witness, one of the biggest issues in relation to dealing with SPER debt—the deputy chair has referred to an example, and I have seen many examples of this—is where you have people who lack capacity. It may not be to the criminal standard where a court would find that they are not able to stand trial, but they still lack some

functionality. Is there anything that you think this legislation can do in relation to this issue? You are dealing with an area where I know straightaway that, if you want medical information about anyone, forget it; you are not going to get it because of the privacy legislation. That is my interpretation; correct me if I am wrong.

Mr Green: I believe that in this legislative framework SPER could get access to it where there has been a formal declaration of mental illness or something like that, but it would depend on that being available.

CHAIR: I understand that, but you have cases where that is easily proven and then you have other cases where the person's capacity is not to that level. A judge would rule that they are capable of standing trial to answer the charges; however, when it comes to dealing with the more fundamental details of paying a fine or talking to SPER about having the fine going onto a work scheme or having that fine written off, they do not have the capacity to facilitate that. Have you seen anything about that?

Mr Ex: I will answer that if I may, Chair. This was a discussion that we had right from the start with SPER. They came to us initially because they were having difficulty getting relevant and useful information in order to pursue debts, including information such as medical information and capacity to pay, capacity to understand the processes. They were very keen that, when they drafted this new legislation to overcome those difficulties, it was compliant with the individual's general right to privacy protections, and so all the way along our conversations have been geared towards satisfying those twin needs. As the Commissioner has mentioned, this bill actually has by and large—apart from those minor tweaks—actually delivered on that. We are very comfortable that it actually is able to do that without compromising privacy.

CHAIR: How do you deal with where SPER gets a letter from me as the member for Sunnybank saying, 'I have this person who has come to see me. They have a SPER debt. They do not have the capacity to pay. They have disabilities,' and I can list them? How does SPER then verify that information? Are they able to do it under this new legislation without breaching the privacy, or has there been no capacity built into the legislation for that particular function?

Mr Green: There is the capacity to prescribe entities. If that information is held by an entity—say Queensland Health or by a hospital—and there has been some finding of mental illness, that could be confirmed and those entities could be prescribed in the legislation as information-sharing ones. It is only where there is not a formal finding by, say, a medical practitioner, or there is no information held where you simply cannot confirm that.

CHAIR: No, I am talking about someone who has a diagnosis and that submission is made to SPER. What you are saying is that the legislation will allow SPER to verify that with whatever hospital or doctor?

Mr Green: Yes, with Disability Services. If it is held by a Commonwealth entity, that may be more difficult because of extraterritorial issues but, within Queensland government agencies—so the 500 or so agencies that we regulate—those entities could be prescribed.

CHAIR: Thank you.

Mr STEVENS: Mr Green, further to your explanation of 134E in relation to the taped conversation, or the transcript of that conversation, are you suggesting that it should be changed to 'There will be a copy of the transcript provided'? Is that what you were trying to intimate?

Mr Green: I believe that would be one solution, or else simply a prescription that they be advised to the effect that they could obtain a copy.

Mr STEVENS: I understand that it says that—that you will be provided with a transcript upon request.

Mr Green: Correct. The section says—

The registrar must give the person a copy of the recording if asked to do so by the person.

I believe another way of going about it would be to have another section that said, 'The registrar must advise the witness that they may ask for a copy of the transcript.'

Mr STEVENS: Thank you. Further, in relation to the legislation, which you support, the Privacy Commissioner's interests—as the existing legislation has been drafted—is to protect privacy interests. That is basically your job. Do you feel that an opening up, through this legislation, of a more sharing arrangement of information is what we call a breach of fundamental legislative principles—the old Henry VIII clause, if you like, in that this legislation is basically overriding some of the legislation that you have in place now to protect the privacy interests of your people?

Mr Green: I believe that a correct balance has taken place here. When you say a 'Henry VIII clause', our act allows for other legislation to provide for sharing arrangements, or to, if you like, override, or be subject to it. I believe that the Legislative Standards Act says that it should have sufficient regard to the rights of individuals. In this case, I believe that a fair balance has been struck in terms that it is not open-slather sharing; it is for the purposes of the act, which is to collect the debt if the person has had contact with the criminal justice system through, say, Transport and Main Roads, as an another example—I am picking on them—or the Queensland police and they have been fined. The police sharing information with SPER seems fair enough. The Queensland government sharing information in the interests of collecting the debt seems fair enough. There has been a proportionate balance struck. It does not go holus-bolus but, basically, they have limited prescribed entities. It is limited for the purposes of the act. I believe that it is proportionate in its response and has had an attempt at balancing the rights of individuals.

Mr STEVENS: Going back to my case study, I believe that there are different debts collected by my individual on the Asperger's spectrum from different bodies. There has been an attempt to pay some of those and that information that 'X' has been paid has not been passed through to the others, which means that the debt keeps ticking over. That seems incredibly unfair when there has been a genuine attempt to address the initial fines for certain matters. Will this legislation address that sharing of information, or force the sharing of that information so that the SPER debt does not increase exponentially unfairly?

Mr Green: I believe that the intent of the legislation is that they will take a case management approach to an individual's debt and manage them as a whole portfolio. So the sharing of that information should be facilitated by the act as far as I can see.

Mr STEVENS: In your view, there is no forcing, or direction, if you like, within the legislation that will make that information be shared?

Mr Green: I believe it facilitates that. Whether it forces SPER to do it, I could not say. I believe that would be a question to be addressed to them, but I believe that it will facilitate that. I do not know that it forces SPER to do that.

Mr STEVENS: Thank you.

Mr JANETZKI: I have a different angle, though, on the information sharing. So far as I can read it, the act does not preclude the possibility of concurrent WDOs operating at the same time. There may be occasions where there are a couple of sponsors of approved WDOs in the system. I am just wondering whether you have reflected at all on the potential need for information sharing between sponsors of WDOs?

Mr Green: I think that the act would still facilitate that.

Mr JANETZKI: It would facilitate that information sharing?

Mr Green: I had not turned my mind specifically to the WDOs, but between entities that are prescribed by the regulation, I believe that should be facilitated and SPER should be able to get their hands on both sets.

CHAIR: I have one final question. Has your office been consulted on any of the platforms to allow the information sharing that is envisaged in the bill?

Mr Green: Not as yet. I take that as ICT platforms?

CHAIR: Yes.

Mr Green: Not as yet, but I believe that they would more likely than not consult with us as they implement.

CHAIR: Implement the legislation if passed? Thank you. Thank you for your time today. Thank you for your written submission. Thank you for your answers to the questions. It has been very helpful to the committee. The secretariat will be in touch with you regarding the proof of the transcript.

Mr Green: Thank you, Mr Chair and thank you committee.

GRACE, Mr Stephen, Coordinator, Homeless Persons' Legal Clinic, LawRight

HUGHES, Ms Paula, Policy Lawyer, Homeless Persons' Legal Clinic, LawRight

TANG, Ms Belinda, Secondee Lawyer, Homeless Persons' Legal Clinic, LawRight

CHAIR: I invite one of you, or all of you, to make an opening statement if there are different areas that you have looked at. If not, could just one of you make an opening statement and then we will go into questions.

Mr Grace: Thank you very much. Firstly, thank you for the opportunity to contribute in some way to your report on the amendments to the SPER act. I coordinate the Homeless Persons' Legal Clinic. As the name suggests, we provide legal advice and assistance to people experiencing homelessness, many of whom, obviously, have concerns with mental health issues, financial hardship, disability. They are very much the type of people some of the amendments around WDOs are targeted towards.

I would like to make a couple of comments to start with around debt waivers and also fine collection notices. I would like to address a couple of the comments that have been made already this morning around the possibility of debt waivers and addressing the needs of people who have disabilities or experience challenges connected to their disadvantage and then through that are connected to SPER for the collection of fines. As has been mentioned, the current act allows for waivers of those debts. Our position is that an appropriate and clear position around the possibility of debt waivers is something that would be able to effectively address some of the inherent unfairness about the imposition of enforcement costs and administrative costs on people who have an inability to pay fines as they are occur. It would also allow an appropriate way to address some of the concerns about capacity in situations where it might not reach that criminal level of capacity.

The current system allows for that waiver but, by guidelines set by the minister, which are by the legislation, are not public. As advocates, or supporters of people who are trying to engage with SPER, we have no guidance as to what SPER requires us to show in order to make that request. We are very much in support of proposed changes to the legislation that would specifically reference the authority of the registrar to waive the fees associated with a fine. My understanding is that the current proposed legislation would allow the guidelines for that to be published through the regulations. What we would submit is that that should also be the case for a waiver. With that clear guideline and a very broad approach to that, you could have a system that more appropriately addresses some of the concerns that have been raised by the committee.

I would also like to make a comment about the current position for fine collection notices. This is in our submission, but one of the things that we see quite regularly is that SPER and the registrar will implement a fine collection notice process where a financial institution is required to deduct a sum of money from any money put into a bank account. For us, that is a real concern. There are not protections around that in the same way that there are for earnings that people have through employment, or even the proposed changes to lump sum payments out of a financial institution to SPER. What we see in that space is that a lot of our clients who are on Centrelink payments and living week to week are having large portions of those payments deducted from their bank accounts as the money comes into the account. That then makes them more vulnerable to the pressures of living off a low income which, in our opinion, then also makes them less likely to be able to resolve their SPER debt as it enhances the disadvantage that they face.

Ms Hughes: I will just add to that. I will touch on a couple of key points in our written submission. One is the absence in the bill of an 'other special circumstances category' in the eligibility criteria. We have concerns that, by taking a prescriptive approach to eligibility, there is a possibility that a strict reading could exclude people who are nonetheless experiencing significant marginalisation or hardship. Some people who could be excluded by the bill would be refugees and asylum seekers who are newly arrived and people who are exiting prison and are trying to get their lives back on track and re-engage with society. Those kinds of people who are experiencing significant hardship in their lives would be excluded from the scheme.

The other point that I would touch on is that a strict reading of the legislation as it is currently drafted would allow for a very sudden revocation of work and development orders. For example, if a woman leaves her domestically violent relationship she is all of a sudden not meeting those eligibility criteria and so the Registrar can revoke the WDO. Obviously that is contrary to the intention of rehabilitation and the whole purpose of a WDO scheme. We would seek to trust that SPER would not make such a decision, but as you probably gathered from our submissions we have had ongoing difficulties engaging with SPER and we would have concerns.

CHAIR: You don't need to convince me about that.

Ms Hughes: It is unfortunate, I might add, that the committee's scope of inquiry is not broader, because we have some big questions about the impact of some types of offences on marginalised Queenslanders, offences like begging and fare evasion. If you look at the statistics from the types of penalties imposed for those offences, they are by far and away monetary penalties. That really raises some big questions. It is quite obvious why the SPER system is so overborne if that is the case.

Mr STEVENS: It is amazing there is a monetary penalty for a begging offence.

Ms Hughes: Yes.

CHAIR: Dealing with that, my past experience is that often magistrates impose fines on people who just don't have the capacity to pay the fine, but as we all know, when you are standing there trying to make sure that your client does not go to jail you sometimes have to accept something that you know is not going to work. Ms Tang?

Ms Tang: I just wanted to add to Stephen and Paula's comments. Although we acknowledge the recognition in section 32G subsection (1)(g) of Indigenous Australians being able to participate in the WDO scheme, we also submit that we believe the qualification of living in a remote area is unnecessarily restrictive for Indigenous Australians living in urban areas who also need to access culturally appropriate programs.

CHAIR: Before I became a lawyer I was the fines clerk at Southport. I had many clients who came to me on a regular fortnightly basis asking for an extension on their fines. Prisoners who were in custody were able to call their debts in. There does not seem to be any provision in the current act or in the new bill to cater for prisoners to call their debts in. I noticed in one of your examples that someone comes out on parole but they still have their SPER debt. Previous to this you were able to call your debt in and serve the sentence concurrently. There does not appear to be that capacity in the previous legislation or, and I will stand corrected if it is there and I just cannot see it, in the new proposed bill to deal with that. Is my interpretation of that correct or am I asking the wrong people?

Mr Grace: In some ways you are asking the wrong people in that we do not engage directly with people who are in prison. That said, many of our clients have exited prison recently and my understanding is that there is not the capacity to serve those two penalties essentially concurrently as you are suggesting. I would also note as well in terms of the potential of a waiver, in the New South Wales system they have guidelines now around writing off a debt. That is relevant for two reasons. One is that the previous amendments back in 2006 to our legislation which brought in the opportunity to waiver debt, which is still the same as it stands now, the explanatory notes for introducing that section specifically reference the fact that New South Wales did not publish their guidelines and my understanding is that that has now changed in New South Wales, which is something that we would encourage to happen here in Queensland. The other thing I would say on that is that having looked through the guidelines last night, there is a reference in their guidelines to the fact that being incarcerated is not the basis of requesting a waiver of a debt. I would suggest that being incarcerated for a lengthy period of time puts you in a position of disadvantage in the same way that other things do and it should be something that can be considered. Again, it is not something that we as a service do directly, but having some scheme available where you can either pay it off concurrently or it can be considered in waiving that debt would be appropriate.

Mr STEVENS: Mr Grace, could you tell me a little bit about the Homeless Persons' Legal Clinic in terms of, (a), how do you find your clients or your customers, if you like, in terms of the homeless people—or do they find you or do you find them; and, on the other side of it, how are notices served on homeless people?

Mr Grace: Absolutely. The Homeless Persons' Legal Clinic is a partnership between private law firms and community agencies. We have 18 clinics across Queensland. We have a few of those that target people who are experiencing a mental health issue or refugees as well, but we are an outreach legal clinic so we go out to the community centres and it is through the community centres that we engage with clients. That is absolutely a key aspect of what we do in terms of being able to connect with people experiencing severe levels of disadvantage. I might ask my colleague Paula to make comments about the communication of fine collection notices and enforcement notices.

Ms Hughes: The first thing to canvass is that the definition of homelessness does not just include people who are sleeping rough and who do not have a fixed address.

Mr STEVENS: At risk, yes.

Ms Hughes: Homelessness can include people who are couch surfing or staying in overcrowded accommodation so it does not necessarily mean they do not have a postal address in SPER's system where an enforcement notice could be served. Our experience has been that the

delivery of enforcement notices has been extremely problematic for our clients. Often the enforcement notices when they are served have very confusing information in the letter. They are really unclear, even from a lawyer's perspective. Something we see all the time is that an enforcement notice will be delivered because a new offence has been added to their SPER account but it makes no acknowledgement of the fact that the person is already on a payment plan. That is really triggering for our clients when they have no need to be alarmed because they have already taken steps to address their SPER debt. There are some really significant issues with the service of enforcement notices on our clients.

Mr Grace: To add to that, it very much is the case that even our clients who fit more into the category of at risk, many of them are transient in some ways.

Mr STEVENS: In and out.

Mr Grace: In and out. It might be that they spend a period of time sleeping rough, they connect with a housing service into transitional housing, they are there for three or four weeks and then they are unable to afford to remain at the property or they are kicked out for a breach of the property's internal policies. There are very many reasons, but it does mean that it is unlikely that there are sustained periods where they are at the same address so quite often our clients do just fail to receive those notices. They just get sent to old addresses or they are sleeping rough and there is no postal address.

Mr STEVENS: You quote the Victorian experience in WDOs as being quite successful: 64 per cent resolved and a further five per cent paid beforehand. Do you believe that this legislation towards the WDOs will have a similar success rate to the Victorian experience?

Mr Grace: It certainly has the potential to be, yes. I think as a general comment we are very happy and we very much support the legislation as it stands and this move towards greater options for people to have non-monetary ways of resolving their debt. There are concerns, as we have raised, in terms of accessibility to the system, where people might be unfairly excluded because of those strict definitions. Also, and I know this was raised earlier, in terms of funding, as many of you would know, the community legal centres across Queensland and Australia have recently been defunded by a significant amount. We already do a lot of work in terms of community education for schemes like this to case workers and our partner agencies in the community, but going into a new scheme that education is very important. That was something that came out of the New South Wales scheme. The assessment of that scheme was that an awareness of the availability of the scheme and what is required, which I think we as lawyers and community lawyers particularly are really well placed to provide, is a really key aspect of the success of the scheme. Obviously it is more appropriate for some of our community agents to speak on this, but there would be an increase in their obligations to connect people and to monitor people through the scheme as well, I think. I think that there is every opportunity that it would be as successful as the southern states, but there are those areas that are important to keep in consideration.

Mr JANETZKI: Just turning to the proposed section 32H, and Ms Hughes spoke to the eligibility criteria and I tend to find her argument persuasive in a new category of other special circumstances. My concern is with subsection (a): is experiencing financial hardship. It is a question of equity for me. In a banking context a borrower may qualify for financial hardship if they are between jobs. A well resourced borrower might get financial hardship for three months. I do not think persons in those circumstances should qualify as financial hardship under this proposal, but I think the categories (b) through (f) and in other special circumstances are the kinds of people we need to be targeting with this bill. Do you have an opinion on financial hardship or eligibility for financial hardship generally?

Ms Hughes: In terms of resolving the problem you have raised, we would be opposed to the introduction of a qualifying term like 'acute financial hardship'. We think that that would be overly restrictive. Our view is that people who are on Centrelink should be automatically eligible for a work and development order. The reason for that is that obviously the federal government has made a decision that that amount of money is necessary for a minimum standard of living. Our view is that those moneys should not be going towards payment of state government debts. Further to that, it is widely acknowledged that most of the social security payments fall well below the poverty line and so it would be inappropriate to expect people whose sole source of income is Centrelink to be making payments towards their debts. We also do advocacy in private debts and it would usually be sufficient for all other creditors that the person is on Centrelink and they are not in a position to pay their debt. In fact, for all other creditors, social security payments are not accessible.

Mr Grace: There are also other protections that already exist in the act and that are in the proposed legislation that would address your concerns. As I hear it, one of the concerns is somebody who might be reasonably comfortable but in between jobs applying for a work and development order

in a situation where that might not be appropriate and that is not the intention of the proposed legislative changes. Under the current legislation you still have to be connected to a community agency which will have its own assessment criteria around eligibility, mostly around financial hardship. You also, just from I guess a practical perspective, have to be engaging with that agency regardless of whether you meet with their criteria. The likelihood of somebody who is in a very strong financial position taking advantage of the scheme is, I think, addressed by that. Within the legislation there is the opportunity for the Registrar to revoke an order when it is no longer appropriate. Again that offers, I think, protection against your concerns.

Mr JANETZKI: With the chairman's grace and for my background knowledge, assuming they hit one of those eligibility criteria, how is the value of a WDO quantified? If they go for alcohol counselling or financial counselling, is the value of that WDO simply the retail cost of that particular counselling appointment?

Mr Grace: In New South Wales, because they have gone through the process of setting out the regulations and implementing the system, it varies depending on how somebody engages with a WDO. If it is unpaid community work, it is at an hourly rate, maybe $20 or $30 an hour. We would suggest $30.

Mr JANETZKI: Who would set that?

Mr Grace: That would be set by SPER in the regulations or by their policy, so they would determine how much that time is worth for a person to engage with the system. If it is for counselling, again, they would set that to, say, an hour's counselling is worth the reduction of your SPER debt by this set amount. That may not necessarily be linked to the cost of the counselling but to, I guess—

Mr JANETZKI: Their own internal parameters.

Mr Grace:— their own internal decisions.

CHAIR: That brings this part of the hearing to a conclusion. I thank you for your participation and your written submission. Thank you for answering the questions in such a forthright manner. The secretariat will be in touch with you in relation to the proof transcript.

DE SARAM, Ms Binari, Acting Manager, Advocacy, Queensland Law Society

KRULIN, Ms Vanessa, Policy Solicitor, Queensland Law Society

FOGERTY, Ms Rebecca, Member, Criminal Law Committee, Queensland Law Society

POTTS, Mr Bill, Immediate Past President, Queensland Law Society

CHAIR: Would you like to make an opening statement?

Mr Potts: Good morning, members of the committee. Thank you for inviting the Queensland Law Society to appear at the public hearing on the State Penalties Enforcement Amendment Bill 2017. As you would all be aware, the society is the peak professional body for the state's legal practitioners, over 11,000 of whom we represent, educate and support. In carrying out its central ethos of advocating for good law and for good lawyers, the Law Society proffers views that are truly representative of its member practitioners. The society is an independent apolitical representative body upon which government and parliament can rely to provide advice that promotes good evidence-based law and policy.

The Queensland Law Society broadly endorses the options for change as set out in the 2011 report, the *Fines enforcement regime in Queensland* by the Queensland Public Interest Law Clearing House Incorporated, which is now of course called LawRight. I do not know who thought that QPILCH was a good name. The QLS supports proposals to, firstly, introduce payment plans under part 3A and to introduce work and development orders under part 3B. The Queensland Law Society suggests that a guideline should be created to assist the administering authority in assessing individuals for work and development orders.

Many years ago what would happen is that the courts, which were to some degree treated as a gigantic ATM machine by the government, would fine people and then put in default periods. When a very young Peter Russo was dealing with those people, they were facing the very real prospect of going to jail. Some very clever people worked out that you could accumulate $12,000 worth of speeding fines and serve it out in a three-day sentence. The law changed because we discovered that often very young offenders, quite often through poverty, would find themselves in jail and sometimes raped and killed. It was an awful thing. The state penalties enforcement regime, which was introduced, was effectively designed to institute a system whereby those fines could be collected in an orderly manner. The community service orders that we saw were able to be given by courts as they struggled to broaden their capacities to deal with offenders. We would have had probation and community service orders.

One of our concerns is this: community service orders have broadly fallen into desuetude, because there is a lack of work for people to do and a lack of resources, that is, supervisors for the assessment of the people that they are actually doing the work and not turning up and bludging at the back of the park while others do the real work. If this is to go through with the WDOs, which I think is an admirable attempt at putting some good back, firstly, into the community and sometimes to put the good back into the people who are the offenders in the first place, we have to make sure that it is properly funded. I appreciate that is outside the purview of this committee, but I can simply say that all of the good words and the good intentions that this committee and this legislation have will fall upon rocks unless it is properly enforced.

There are some bizarre things in the legislation in relation to the plea to extend the time to restrain vehicles from five days to 14 days, the theory being that it gives people more time to find money—I think that was set out in the explanatory notes—or more time to prove how impoverished they are. One of the real concerns about that is, if you are impoverished and barely employed, your 1982 Subaru Forester might be the only means that you have to get to work. The end effect is that we sometimes find with SPER that there is a massive debt, which is an embarrassment to the state—there is no doubt about that—but quite often the attempts to try to enforce it are designed to meet those people who are just—well, let us say, back sliders and people taking advantage of the system. Invariably, we have to treat all legislation as how it will affect the lowest common denominator. We heard from the homeless advocates and much of what they have to say is of significant value. There is a very large number of people who simply cannot afford it because they are in a cycle of poverty, drugs—I have always been amazed that they can afford the drugs but not the fines—and the poverty trap is to some degree made worse by the state penalties enforcement regime. It works well when it works; it works poorly when it does not. That is our opening statement.

CHAIR: In relation to the funding of the scheme to make the work orders more workable, will this scheme be worked through Corrective Services?

Mr Potts: It will, but they have to be funded properly as well. We have an overcrowded system.

CHAIR: I am trying to identify the agency that you believe would work it. I believe that Corrective Services would work it.

Mr Potts: It is the Probation and Parole Office, which is run by Corrective Services.

CHAIR: In your submission you mentioned that the option that magistrates have to put people on work orders has fallen by the wayside and not as many orders are being made.

Mr Potts: It is still in existence, but we are not seeing the orders because they do not have the supervisors or the work. For example, I can remember taking my idealistic young daughter to Lotus Creek to help plant plants to clean up a concrete drain so it could be called a river or a creek. There were people, who turned out to be clients of mine, doing community service orders down there. Whilst they were trying to put some good back into the community, the concern was that sometimes they were taking work away from council employees. In theory we get our scout halls painted, in retirement villages we get sheets cleaned and dishes washed. It is perhaps meaningless work, but all work has meaning in the sense that it gets people out of their homes and it gets them community based.

CHAIR: Obviously what I am trying to get at is that magistrates are not making work orders as much as they used to when I was there.

Mr Potts: Exactly. It has changed. I should introduce Rebecca Fogerty, who is the subject expert in this area.

Ms Fogerty: Thank you, but I think you have spoken well and sufficiently dealt with everything on behalf of the QLS.

CHAIR: He is good at that.

Mr STEVENS: The immediate past leader of the House welcomes the immediate past president of the Queensland Law Society, feather duster to feather duster. It is good to see you again. I hear there are more unsuccessful clients up at Lotus Creek. Can you pass on my thanks to your new president on her submission in relation to the proposed legislation. Quite clearly, that submission suggests that what is proposed in this legislation is a bandaid solution to the ballooning problem of state debt, which is almost $1.2 billion, in relation to the problems we have that you identified very well such as looking after people in a proper and rightful manner going forward to try to get these debts, while also addressing the fact that the debts must be collected. As you correctly said, the fact that they can afford drugs but not their fines is a big part of the problem of the debt ballooning to almost $1.2 billion. Your president suggested that this legislation should require more time and that there are more answers to be found rather than the bandaid that we have before us. For a long time you have been advocating for major change. Mr Potts, is it fair to say that this legislation is not going to address that ballooning $1.2 billion in debt? We support work for the dole. I have been at police youth clubs that have had Numinbah prisoners working for nothing, but that has been given up because it cost a lot more in time to oversee those matters. The suggestion from the government that it will not cost the Queensland government any money to put in these WDOs is highly ludicrous. Can you comment on what we should be doing and your preferred options, as the Law Society?

Mr Potts: Whilst the Law Society is not political in nature and I would not wish to make a political speech, I say these things. You are quite right: it is a huge ballooning debt. What is proposed is, if it works, I would like to think that, like when you buy a computer system, it will come in on time, on budget and fit for purpose.

Mr STEVENS: A bit like the health payroll system.

Mr Potts: Exactly. The reality is that for government, private enterprise and everybody, we discover along the way that with these things the cost of enforcing the debts, in fact, often outweighs the debts themselves. I said something about the car thing, for example. It is only available to those people who have a SPER debt worth more than $5,000. If you have a SPER debt worth more than $5,000, quite frankly, your car is not going to be worth more than $5,000, so the state gets to clamp for five or 14 days a heap of rubbish that has cost more money to get nothing back. The problem is that it is designed to—dare I use a terrible pun—spur people into paying. The reality is that you are dealing with an echelon of entrenched poverty or people who simply will not by choice pay because they have moved address, they do not have cars, they do not have cars in their own names, they have moved employment.

I note that the intention is to modernise the system by sending off electronic notices, but they do not necessarily have computers, they do not necessarily have email addresses, iPhones and the like. Whilst there is a lot of good intent I see, my concern is that that good intent is going to meet realpolitik or real world problems and the system, no matter how well-designed and well-intentioned, is not going to succeed in reducing the debt.

So what do we do? One of the things that we can do, I suspect, is that when the courts make the orders, rather than make financial penalties outright with the then almost automatic reference to SPER, they make some inquiry better than just the solicitor or the lawyer saying, 'He earns $200 or $300 a week' and does not take into account their financial situation, I suspect if you are going to fine people you should find out right at the beginning their capacity to pay and right at the front end when a decision is made as to the payment and the modality of payment, that the court be placed in a better position to work out whether the debt is going to be enforced.

I want to make sure that I make this clear for the magnificent member for Mermaid Beach: we do not want a situation where the courts impose a fine and then the person goes to jail not because they deserve to go to jail, but because of poverty. I think an early identification of unemployment, an early indication of their means of payment and entering into a scheme at the earliest opportunity for the payment is something which will go some distance to stopping that.

CHAIR: I am conscious of the time. I already have a question in relation to the submission that was made by the president.

Mr Potts: She sends her apologies, by the way. She is on a flood tour up north.

CHAIR: The submission states—

Furthermore a guideline, provided to the administering authority to assist in the assessment of an individual who may be eligible for a work ...

—and development pursuant to one or more of the identified categories. It has been suggested in the submission that a catch-all category would be useful. The submission goes further and states—

The Society would be pleased to be consulted on such a guideline.

Can the QLS provide us with what they believe a good guideline would be?

Ms De Salam: Absolutely.

Mr Potts: We would certainly welcome the opportunity to do so. We have had a very short turnaround and we had the flood the other week, but that is something that we would welcome the opportunity to do.

CHAIR: Can you do that?

Mr Potts: Certainly. Can we be given perhaps two weeks?

CHAIR: No. The reason why you cannot have two weeks is not because I want to be a dictator or anything, but it is basically because we have to report by 28 April. As you having time restraints on things, so does this committee.

Mr Potts: We have a submission which we are delivering before the LAC next week with respect to the CCC which is engaging our policy people fairly heavily at the present time. Next Wednesday or Thursday? It will not be as thorough as we would like.

CHAIR: Obviously if we have something, we can then either include it or exclude it from our report subject to what the committee decides ultimately. How about Monday, 24 April, by midday?

Mr Potts: Thank you. Whilst I have made what I hope are helpful comments about the system as a whole, I really do wish to stress that the QLS is in fact very broadly supportive of the attempts in this legislation. We are just concerned, I suppose, in a realpolitik way that it works.

Mr JANETZKI: With deference to you, Mr Potts, this could be a question for Ms Fogerty. There were no comments made in your submission on the proposed section 32G; just the various kinds of WDOs that are in existence. Is that definition of WDO broad enough and, when compared with other jurisdictions, does it match up well with them?

Ms Fogerty: Bearing in mind that one of the objectives of the legislation is to create inclusive legislation, our position is that it would be beneficial to have a broadly catch-all clause given that the intention to be as inclusive as possible. Our view is that legislation of this nature, as a drafting matter and as a policy matter, is always enhanced with a catch-all provision where the intention is to be broad, as it is stated here.

Mr Potts: The reason being too that in remote areas there may be remote needs, and a system of justice that is one size fits all may lead to injustice itself.

Mr JANETZKI: Especially with the Westbrook Boys Home closing a few years ago, in my patch of the world there is always a need for more of 32G(1) (a) rather than the others. I will leave it at that.

Mr Potts: We will take that as a comment.

CHAIR: Thank you for your participation, thank you for your submission and thank you for undertaking the task that I gave you. I do apologise that we have time limits, but we have to get our report done. The secretariat will be in touch with you regarding the proof of transcript.

VINK, Ms Kristen, Private capacity

CHAIR: Kristen, you can address us or we could go straight into questions, but I think it would be helpful for the committee if you could just tell us your story and then we will ask you some questions.

Ms Vink: I came in as a witness today mainly because I am at the receiving end of a SPER debt. As a personal person who is receiving infringement notices and stuff like that, I have to ask the committee if it is fair that I receive over $220 in fines for a $1.76 toll charge.

CHAIR: Is that the fine or the fees?

Ms Vink: It gets to $220 at the end of it. It started off—

CHAIR: Is that $220 in fees or a fine?

Ms Vink: The fine was $160 and then you add the fees on top of that.

CHAIR: That is how you get your $220.

Ms Vink: I have to ask if that is a realistic collection of a debt for a $1.76 toll charge. Mine started off over 18 months ago. I took it up with the toll company and had a discussion with them as to how much I actually owed them. I paid them $800—as a single mother that is a lot of money—only to discover that several toll infringement fines started to show up in the mail after I had been told that I had paid my debt in full when I paid the $800. That toll debt now has escalated to $33,000.

Mr STEVENS: How much?

Ms Vink: $33,000. Realistically, I am just a mum. I do not have $33,000. SPER has contacted me probably two or three times in the last two years. The first time I gave them a submission to say that I was in financial hardship. I did not hear anything from SPER. Then in January this year I received a letter from SPER stating that I owe $33,000. Again I have submitted some paperwork and documentation saying that I cannot afford that debt. Again I have not heard anything from SPER. Each attempt with SPER I have contacted them and told them that I would like to pay my debts in relation to the Queensland Police Service fines that I have incurred with SPER, because I do agree with that debt. However, with the toll fines I do not agree with them. In some cases where my car was not even on the road I received toll charges. How that is even possible is beyond my comprehension. I had a hire car at the time that had received several toll infringements for that period, and I do not understand why the state government collects debts for a private company such as that but you do not collect debts for Telstra or Urban Utilities. I do not know of any business that I have dealt with in my life that can escalate a debt from $1.76 to $200. It is insane, and just as a normal law-abiding citizen I find it very difficult to accept that that is an acceptable practice.

CHAIR: Going back to your statement where you said you were dealing with the toll company and then you were dealing with SPER, could you just maybe for the committee's benefit outline your interaction with the toll company?

Ms Vink: My first interaction was when I first became aware of the fact that I had a dodgy thing on my window and I contacted them via phone. I said, 'How much money do I owe?' The lady over the phone said that I owed $800. At the time I was petrified of the toll company and I was just like, 'I have to pay this,' so I paid the money. I asked the lady, 'Do I owe you anything after I pay this money?' I thought $800 at the time was quite exorbitant. I found out later it was administration fees, because I had moved and was going through a divorce at the same time all this was happening, so the least of my concerns was what mail I was or was not getting. Then I contacted SPER later—

CHAIR: That is what I am trying to understand, because they are two different entities. When you were talking to the toll company did they give you any documentation or anything?

Ms Vink: No.

CHAIR: When you paid the $800, how did you pay that?

Ms Vink: My credit card. I did not know what I was paying for.

CHAIR: Then why were you talking to SPER? Did you receive a notice from SPER?

Ms Vink: Yes.

CHAIR: You paid the $800 to the toll company thinking that it was well and done, and then the next thing that triggered your contact with SPER was you received the notice.

Ms Vink: Yes.

CHAIR: Do you still have copies of those notices?

Ms Vink: Yes, I do. They are at home; they are not with me.

CHAIR: Is it much of an ordeal for you to get those notices to the secretariat?

Ms Vink: I would have to put them together. To be honest—

CHAIR: If you do not know where they are, it is not going to be a big impost for us. Can you just relate your dealings with SPER?

Ms Vink: I set up a payment plan with SPER to pay back the debts.

CHAIR: Is this the same debt as the one that you paid to the toll company?

Ms Vink: Yes.

CHAIR: As far as you were concerned you had paid it, so why are you paying it to SPER?

Ms Vink: I do not know.

CHAIR: Okay.

Ms Vink: I have asked on three different occasions for a statement.

CHAIR: So you told SPER that you had paid the toll?

Ms Vink: No, I do not think that I have told them direct that, but I have taken it up with Queensland Transport in regard to it. I went to Queensland Transport, because every time I talk to SPER about these debts they refer me straight back to the department of transport and most recently I have been referred to a—

CHAIR: The Ombudsman?

Ms Vink: Yes, to an email address and again that person has come back and said basically, 'Suck it up and pay it' and I am just like, 'No.'

CHAIR: I hope they did not say, 'Suck it up,' but they may have said, 'Pay it.'

Ms Vink: Or that.

CHAIR: It may have felt that way. Can you tell us about your dealings with the transport department?

Ms Vink: I have the emails here. I have brought them with me as well. Basically, the transport department backs up go via. Everyone just keeps pointing the finger. SPER goes to the department of transport. The department of transport goes to the toll. The toll goes back to the department of transport and then back to SPER. So you do not really get a definitive answer from any of the three departments. The one thing that I have asked for through the whole ordeal is for a statement from go via as to what I have paid and what debt I have actually incurred. I have had a gentleman come to my door on a Saturday morning and threaten to ruin my life over these toll debts. I said to him then, 'Can you please provide me with proof of debt?' and still to this day—three months on—I have still not received proof of debt.

CHAIR: Did he identify himself?

Ms Vink: No. He came to my front door and asked me for personal details in relation to a debt with the toll and stated that he was from the Probe Group.

Mr STEVENS: First of all, Kristen, thank you coming in today and being very forthright with your presentation. If there is a document that you would like to present to the committee, you have to seek permission from the committee to table it.

CHAIR: Yes, I was going to deal with that when you have finished your questions.

Mr STEVENS: Could you advise, if it is not in your submission, how many transgressions across-the-board—registration, tolls, the works—that have been incurred getting to that $33,000 debt?

Ms Vink: I have no idea. That is it. I have no idea.

Mr STEVENS: You have received no information?

Ms Vink: No. I received a letter from SPER last year saying it was around about $5,000 that I owed and then in January this year I received a debt for $33,500, which I have given you a copy of in my submission.

Mr STEVENS: Thank you. You have not had any advice? You have had advice about your $1.76 toll?

Ms Vink: Yes.

Mr STEVENS: That was just one of them. You have not received any advices about any other parking debts?

Ms Vink: No. I know about my Queensland—

Mr STEVENS: The QPS—

Ms Vink: The police debt ones, yes.

Mr STEVENS: How many of those have you received?

Ms Vink: I think four or five, which I have agreed in writing to pay. I have agreed all the way along.

Mr STEVENS: Are they speeding debts?

Ms Vink: Yes.

Mr STEVENS: Do you still have your licence?

Ms Vink: Yes. I saw that they were talking about suspending licences. I do not know how that is going to help you pay a SPER debt, because I know personally that, if I lose my licence, I lose my job. If I lose my car, I lose my job.

CHAIR: Kristen, could you request the committee to accept your submission.

Ms Vink: Will you accept my submission?

CHAIR: We do. I really thank you for coming along. The committee is really grateful to hear from you. I know that it takes time to come along, but it is important. I was very keen, as was the rest of the committee, to hear from individuals, because that is important. We can hear from many representatives from the government departments, but it is better to get the story straight from the individuals who have been impacted. I am really grateful that you took the time to come along. The secretariat will be in touch with you about what you have said today. All you have to do is read it and, if you are happy with what has been transcribed there, you just let the secretariat know that you are happy. If there is a misinterpretation there, or you do not believe that you said the words, just tell the secretariat that and a decision will be made about whether it is in or out.

Ms Vink: Thank you.

CHAIR: Thank you, Kristen and good luck.

Ms Vink: Thank you.

Proceedings suspended from 10.38 am to 10.43 am

POPHAM, Mr Troy, President, Townsville Chamber of Commerce (via teleconference)

CHAIR: Mr Popham, I am the chair of the Finance and Administration Committee and also the member for Sunnybank. With me I have Mr Ray Stevens, the deputy chair and member for Mermaid Beach and also Mr David Janetzki, the member for Toowoomba South.

Mr Popham: Good morning.

CHAIR: Would you like to make an opening statement and then the committee may or may not have some questions for you?

Mr Popham: Yes, sure. I have been thrown into this late. Michael Kopittke from our board of chamber of commerce was going to represent us. I am the current president of the Townsville Chamber of Commerce. My day job is I am a partner at Crowe Horwath in North Queensland—a business services and professional services firm. My day-to-day paid job is giving advice to small and medium businesses throughout the region. So I am very close to what is happening in business land. Basically, I am happy to talk to these points that I have been given around how we manage and what this bill means around managing debt and supporting the case management of people who are in a difficult position.

CHAIR: Do you want to give us what you believe the management of the debt means to the businesses you represent, or the individuals?

Mr Popham: Yes, sure. We all know in regional Queensland that it has been quite tough economically. People are investing to keep their businesses afloat. They are having to either go into some level of debt, whether that be with government agencies or whether that be with financial institutions. It is all around how they manage that process. You have people who are recalcitrant in relation to debt and just do not want to deal with it and then you have people who have fair and reasonable financial hardship. I think it is around how it is approached and how it is managed. Everybody knows that commercial debt rates are a lot higher in terms of interest versus any government style debt rate.

CHAIR: Troy, specifically, the bill deals with people who have incurred a SPER debt. I am assuming that some of your companies would have incurred perhaps some toll debts. How do you accumulate a toll in Townsville?

Mr Popham: We do not. There are no tolls in Townsville. Are you talking about tolls as in the road toll?

CHAIR: No. I just want to step it through, because that is one of the issues down here in the south-east.

Mr Popham: There are no real toll road options in the north.

CHAIR: That is okay. Can you outline what some of your businesses are? Are they trucking companies?

Mr Popham: In our industry in the regions you are a jack of all trades and a master of none. I have trucking companies, yes.

CHAIR: Do they get fines from the Department of Transport for overloading?

Mr Popham: For sure, yes, anything from a fine for overload to the normal registration or the machineries that have to be done.

CHAIR: Do you have companies that you represent, either through your business or through the chamber of commerce, that have accumulated large debt?

Mr Popham: Not really. Not in the trucking space, no.

CHAIR: In any other space?

Mr Popham: Not really, no. The debt I am seeing is more with the local authority around rates. Obviously with trucking businesses with fines and registrations it can escalate pretty seriously. I haven't really had any issues in that space up here that I have seen.

CHAIR: The debt you are talking about is really in relation to local government rates?

Mr Popham: We are seeing local government debt. We are seeing it in the stamp duty and payroll tax area, obviously from a state point of view.

CHAIR: Can I ask this question, and pardon my ignorance: none of those debts that you refer to, as far as I am aware, get referred to SPER.

Mr Popham: No.

CHAIR: This legislation is specifically to deal with SPER debt or, for want of a better description, debts that are incurred by people who breach tolls, speeding, registration—I am just paraphrasing.

Mr Popham: We are probably not that well placed to give a lot of content around that area. I am sure there is private debt out there in relation to people not paying registrations on cars, for example.

CHAIR: I am going to let you get back to your day job. Thank you for your input. That concludes the public hearing. Thank you for your attendance today. Thank you also to Hansard. A transcript from today's proceedings will be available on the committee's website in due course. I declare the public hearing of the committee's inquiry into the State Penalties Enforcement Amendment Bill 2017 closed. Have good Easter.

Subcommittee adjourned at 10.50 am