

Our ref: AGD\LEBR\07 3002 9671  
Partner: Tony Denholder  
Direct line: +61 7 3259 7026  
Email: tony.denholder@ashurst.com  
Contact: Lucy Bretherton, Special Counsel  
Direct line: +61 7 3259 7121  
Email: lucy.bretherton@ashurst.com

Justice & OLAB 2014  
Submission 016

Ashurst Australia  
Level 38, Riverside Centre  
123 Eagle Street  
Brisbane QLD 4000  
Australia

GPO Box 9938  
Brisbane QLD 4001  
Australia

Tel +61 7 3259 7000  
Fax +61 7 3259 7111  
DX 388 Brisbane  
www.ashurst.com

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**BY EMAIL**

The Research Director  
Legal Affairs and Community Safety Committee  
Parliament House  
[lacsc@parliament.qld.gov.au](mailto:lacsc@parliament.qld.gov.au)

ashurst

Dear Committee

**Submission re *Justice and Other Legislation Amendment Bill 2014* - Clause 80**

1. **Our interest in clause 80**

Ashurst (previously Blake Dawson) is a global law firm with a large office in Brisbane.

We have a formal pro bono program through which our lawyers provide a significant amount of pro bono legal assistance to marginalised or disadvantaged people of limited means, and not-for-profit organisations and social enterprises assisting those people, on a wide range of matters.

In the current financial year, we expect that our lawyers will work more than 36,000 hours in Australia on pro bono matters. Last year, through our in-house pro bono practice we assisted more than 800 clients and through our program of external clinics and secondments we assisted more than 1,500 people.

Our pro bono work is performed largely in partnership or relationships with community legal centres, family violence prevention legal services, Aboriginal and Torres Strait Islander legal services, pro bono service providers such as the Queensland Public Interest Law Clearing House and organisations working in the welfare sector (**Community Organisations**). We often work with Community Organisations to develop projects to address the unmet legal needs they have identified. If required, we can provide further details about the full range of legal services we provide on a pro bono basis.

Clause 80 of the *Justice and Other Legislation Amendment Bill 2014* (**JOLA Bill**) proposes the deletion from section 289(1)(h) of the *Legal Profession Act 2007* (Qld) of the ability for funds from the Legal Practitioner Interest on Trust Accounts Fund (**LPITAF**) to be distributed to Community Organisations for:

- "the advancement of law reform"; and
- "the collection, assessment and dissemination of information concerning legal education, the law, the legal system, law reform, the legal profession and legal services"

(the **Section 289 Deletions**).

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We are concerned about the possible ramifications of clause 80 on Community Organisations and, consequently, on the ability of the marginalised or disadvantaged people they assist to access justice.

## 2. **Other submissions**

We are aware that a number of other submissions have been lodged urging the rejection of clause 80 of the JOLA Bill. Those submissions argue for the rejection of clause 80 on the basis that, inter alia, Community Organisations provide valuable and effective law reform, policy and consultation work.

We understand that other submissions with similar arguments will also be lodged.

The submissions currently lodged also point out:

- (a) how Community Organisations are uniquely placed to gather information about systemic issues affecting vulnerable people and disadvantaged community members; and
- (b) consequently, the clear link between law reform work and the delivery of frontline justice services for Queenslanders.

In relation to paragraph (a), the clinics and services operated by the Queensland Public Interest Clearing House (including the Homeless Persons Legal Clinics and the Self-Represented Litigants Services in the Supreme and District Courts and the Queensland Civil and Administrative Tribunal) are clear examples of how a Community Organisation is able to identify issues affecting disadvantaged community members so steps may be taken to address those issues.

Insofar as other submissions argue for the rejection of clause 80 of the JOLA Bill on the basis of the value of the experience and expertise of Community Organisations in assessing legal need and the need for legal services, we fully concur with them.

## 3. **Our submission**

The purpose of clause 80 of the JOLA Bill, as stated in the Explanatory Notes to the JOLA Bill, is to "make minor amendments to reflect changes as a result of the implementation of recommendations resulting from the *Review of the allocation of funds from the Legal Practitioner Interest on Trust Accounts Fund*" (the **Review**).

In our submission, clause 80 of the JOLA Bill simply removes the ability of the Minister to decide to distribute a payment from the LPITAF for the purposes described in the Section 289 Deletions. In some situations, that inability could result in inconsistency with the Review's recommendations.

Anecdotally, we are aware that currently government and other agencies often make inquiries or general requests to Community Organisations for information which has been collected by the Community Organisations to assess whether there is a systemic issue which needs addressing. The collection of such information by a Community Organisation could be considered to be the "collection, assessment and dissemination of information concerning ... law reform", one of the matters in the Section 289 Deletions.

In our view, it is implicit from the recommendations in the Review that government and other agencies should continue to seek the views of Community Organisations about legal services and other matters in the Section 289 Deletions, including matters related to law reform. However, if clause 80 is enacted in its current form, Community Organisations will not have LPITAF funding to collect or assess information necessary to respond to such requests.

We point out that section 290 of the *Legal Profession Act 2007* (Qld) already provides that the Minister (after receiving recommendations from the chief executive) must decide any conditions applicable to a payment from the LPITAF. Therefore, in appropriate circumstances, the Minister currently has power to impose a condition that, eg, prohibits a Community Organisation from using a particular payment for a matter which is currently listed in the Section 289 Deletions unless specifically requested. Clause 80 is therefore unnecessary given the Minister's current discretion in relation to the making of grants (and any conditions to those grants) from the LPITAF.

It is therefore our submission that clause 80 does not achieve its stated purpose. Rather, it simply removes the Minister's ability to make a decision to provide a grant from the LPITAF for law reform work, even where such a grant is appropriate and could result in a law reform outcome that delivers better frontline justice services for Queenslanders.

Yours faithfully



**Ashurst Australia**