



**Hobart Community  
Legal Service Inc.**

providing legal direction

# **ANNUAL REPORT 2022/2023**

## **ANNUAL GENERAL MEETING**

### **19 SEPTEMBER 2023**

PRESIDENT'S REPORT

TREASURER'S REPORT

WORKERS' REPORTS

FINANCIAL STATEMENTS

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# PRESIDENT'S REPORT

I am pleased to present my report as President to the 2023 AGM of the Hobart Community Legal Service Inc. The 2022/2023 year has marked a transitional period for the organisation. This has brought a chance to reflect on the successes of the Service and the opportunities which exist for the future.

## **A thank you to our staff**

It is hard not to be impressed by the tireless efforts of our staff, both admin team and our practitioners, in their contributions to the service.

The dedication of our staff is evidenced every day by their work both in their face-to-face dealings with the most vulnerable members of our community and also in their dealings with the Courts and the profession.

On behalf of HCLS, thank you to all the staff for your exceptional and valuable contributions toward the organisation, the profession and the community.

## **A thank you to our volunteers**

I commend the dedication and work of volunteers. HCLS relies on its volunteers to extend some of its core services to vulnerable and disadvantaged people.

I would also like to acknowledge the efforts of the members of the Committee of Management of HCLS. I thank the members for their ongoing service and dedication to HCLS.

## **A thank you to Jane**

2022/2023 marks the last full year of Jane Hutchison's tenure as Director.

Jane's decades-long tenure has traversed a period of incredible change and growth within the legal sector generally and the community legal sector.

Throughout this period, Jane has been a fierce advocate for both HCLS and the sector. Her leadership has allowed the organisation to respond to challenges ranging from the everyday to the existential.

Jane leaves the organisation in a strong position in terms of funding, and having been integral in building a team which is eminently qualified to take the organisation forward from here. Thankyou Jane for an incredible contribution to our organisation and community.

## **Commonwealth and State funding**

On behalf of HCLS, I wish to gratefully acknowledge the core operational funding we received from the Commonwealth and State Governments in the past year.

## Looking forward

I look forward to seeing what the future holds for HCLS. Undoubtedly the Service is in a strong position and has a fantastic opportunity to build on its successes as it continues to perform vital work for our community to a high standard.

Henry Pill  
President

## TREASURER'S REPORT

It is with pleasure that I present my fourth report as Treasurer of the HCLS.

After a few years of almost continual disruption for HCLS the services over the past year have returned to normal following the re-occupation of our premises in Macquarie Street in August last year. One upside of the disruptions has been an increase in grant funding and a substantial reduction in rent and outgoings for the premises.

This has resulted in the financial position of HCLS being very sound at the end of the financial year with an operating profit of \$137,548. The Balance Sheet is also very solid with a balance of approximately \$1.1 million in term deposits and bank accounts. This result would not have been achieved without the prudent management of Jane and Bernie whose efforts over the past few years of disruption have been quite extraordinary.

In my report last year, I had advised that we were awaiting a revised version of the NLAP Funding Deed. I am pleased to report that we are now almost at the point of signing off on the Deed which will guarantee funding for the HCLS until June 2025. This has been the result of input from all CLCS and will ensure that we can maintain our current level of staffing and provide an improved level of service for all our clients.

Last year I also reported that the service was in its healthiest financial position in over eight years. This has been surpassed for 2022/23 financial year; and the service has also employed 14 staff for the first time; and that will ensure that we have the funding and staff to continue to provide a very satisfactory level of service.

The only downside for the service last year was issues relating to our accounting platform, MYOB. A number of issues were identified by Bernie and, as these could not be satisfactorily resolved, the Committee of Management decided to transfer our accounts platform to XERO. This transfer occurred on the 1st July last; and to date there have not been any teething issues which Bernie has not been able to

resolve. The change should simplify even further the management of the account for the HCLS. I thank Bernie for her tireless efforts to resolve the issues and to bed in the new platform.

Finally, I wish to thank Jane for her untiring service to the HCLS over the past 22 years. At the time I was instrumental in her appointment which we thought would be for about ten years. At that time, I had been a committee member of HCLS for ten years and during that time we had had three CEOs. Jane's 22 years at the helm of the organisation has therefore been quite extraordinary and I thank her for her assistance and guidance in my role as Treasurer, which I assumed following the sudden death of previous treasurer John Green. I trust she will enjoy the benefits of her well-earned retirement.

James Walker  
Treasurer

## DIRECTOR'S REPORT

Hobart Community Legal Service Inc. (HCLS) has completed another busy year in 2022/23 in which HCLS continued to provide legal services to the community of Southern Tasmania through our Welfare Rights Service, Generalist Services (including Industrial Relations, Consumer Credit, Civil and minor Criminal matters), Child Support Service for current Carer Parents, General Family Law matters focusing on children and Family Violence legal support, Evening Information Service (finally resumed in November 2022), Prisoner Advice Service, and outreach services to various locations in Southern Tasmania. We continue to endeavour not to duplicate services provided by other legal assistance services.

In late July 2022 we were given final permission to move back into our Hobart office after working remotely for the previous 12 months due to storm damage sustained by the subsequently uninhabitable building.

Moving back into the building proved to be a massive job with many container loads of contents that needed to be sorted. This was made more complex as the packing up had been done by the insurance company, as we weren't allowed in the building, and had been done in a rush. Trying to work out what went where was challenging to say the least. It took over two weeks to make the building habitable and staff were able to start moving back in at the beginning of August. I would like to thank Chris Rice and Pam Barrett who helped with this mammoth task, whilst Bernie R and the rest of the staff continued to maintain client services. Staff are to be thanked for their patience when moving back into the office.

In December I was able to report to the Committee of Management that all outstanding claims for the damage caused by the storm had been approved by the insurance company and we were finally able to put the whole roof saga behind us, nearly. There is a leak coming from the roof where the old roof meets the new roof. At the end of June this is still being sorted between our landlord and his insurance company.

I would like to thank Mylinda Purtell and the staff at Worker Assist who continued to let us use their offices to see clients until we were properly settled back into our Hobart Office. This was very kind of them as it enabled us to still engage with our clients so they were not disadvantaged during this time. They were very patient and were helpful to our clients and staff, even when some of our clients were not very well behaved.

COVID continued to affect service delivery and we encouraged clients to wear masks for much of 2022 when attending our offices. All offices were set up to make sure they were COVID safe as possible with enough space between desks to meet regulations. It also affected staffing levels with staff often having to isolate at home due to infection.

We had hoped to re-establish outreach services but COVID once again made this difficult. We have however been able to make regular visits to the Clarendon Vale Neighbourhood Centre, with a lawyer making monthly visits to provide legal advice. Legal Education sessions were also started but had to be put on hold when the Neighbourhood house moved into smaller temporary premises during major building works. It is hoped these will resume once they are settled back in the renovated premises.

HCLS continued to provide legal assistance to clients at the Link Youth Health Service with Jason Cheow attending this service every Thursday to provide legal advice and representation to disadvantaged youth attending the Link. It has proven difficult to re-establish our outreach service to the Safe Space Service for homeless persons but we will once again be providing legal assistance to clients of this service in the next financial year, with Oliver Anderson attending Safe Space every Wednesday.

Prior to COVID spreading throughout Tasmania, HCLS had provided regular legal assistance to Huon Valley residents by providing a Duty Lawyer at sittings of the Magistrates Court in Huonville and an HCLS Lawyer providing more detailed and ongoing legal assistance from the nearby Huon Community and Health Centre. Unfortunately, the Magistrates Court hasn't re-established the court in Huonville and it has been difficult to re-establish our outreach service in Huonville, despite publicising our services in local blogs.. Clients from this area are either provided with phone advice or are happy to travel to our Hobart Office to see a lawyer, often because they have to attend court in Hobart anyway.

In July we welcomed back Hamish Locke to our Bridgewater Office after extended leave. Mieke Matimba joined the Hobart staff in August, replacing staff who had left HCLS whilst we had been working remotely, and very quickly settled in. In September, Irene Tiang resigned after being with us for over 10 years, leaving a big hole in our Generalist Team. We

certainly miss her. Meghan Thomas-Richards joined HCLS in October bringing with her a specialist knowledge in employment law and helped to fill the gap that Irene had left. Oliver Anderson joined HCLS in November to add to our Generalist Team and Masika Morris joined in December to help in the Family Law/Family Violence team. In December we said goodbye to Scott Ashby who decided to venture out setting up his own practise. In May Meghan Thomas-Roberts headed off on extended leave on a long-planned trip around Australia and we welcomed Kiki Mussared as a consultant in our Family Law team with Masika Morris moving into the Generalist area whilst Meghan is on leave. It was sad to see old employees leave but our new employees have proven to be excellent additions to our team.

HCLS has continued to work closely with Knowmore Legal Services helping assist those affected by Institutional Childhood Sexual Abuse following on from the Royal Commission. We are able to provide legal advice and information about the justice and redress options that may be available to survivors and assist them in the application process. HCLS also provides assistance to organisations around Australia where Knowmore Legal Service has a conflict of interest by reviewing applications before they are lodged with the National Redress Scheme.

HCLS has continued to provide a weekend out of hours Bail Court Service at the Hobart Magistrates Court for Legal Aid Tasmania. This service was expanded in December 2022 to provide representation to youths in custody in Launceston, Devonport and Burnie via telephone over weekends and public holidays. The expanded service hasn't been without difficulties and we are in discussion with Legal Aid as to how it can be improved.

The Planning Aid Service, in conjunction with the Planning Institute of Australia, is another service that continues to be provided by HCLS and I would like to thank the volunteer planners who provide this important service.

HCLS continued the partnership with the Law Society of Tasmania and the Tasmanian Legal Practice Course to provide a Duty Lawyer Service for unrepresented people at the Hobart Magistrates Court through a grant from the State Government. HCLS employs the newly admitted solicitors, helps in their training and provides ongoing supervision of their work. Chris Rice, our Principal Solicitor, is instrumental in seeing that this service runs smoothly.

I would like to extend my thanks to HWL Ebsworth for accepting two referrals for pro bono assistance from HCLS. One was a particularly complex elder abuse case and the other a building dispute that looks like heading to the Supreme Court due to the amount of money it will cost to rectify shoddy workmanship.

In March 2023, Community Legal Centres Australia held their first national conference since prior to COVID in Hobart with over 500 delegates from all over Australia attending. HCLS was heavily involved in the organisation of the conference and all staff were encouraged to

attend. It was a great opportunity, especially for new staff to meet their counterparts from across Australia and share their experiences.

HCLS continues to partner with the Fair Work Commission's Workplace Advice Service. We receive regular referrals from this service and provide employment law advice and in some cases representation.

HCLS continues to co-locate with the Tenants' Union of Tasmania (TUT) and provides reception services and the use of the interview room and other facilities in the Hobart Office at no cost to TUT. HCLS sells lease and condition reports on behalf of TUT and makes a very slight profit, which helps in a small way to defray costs of providing such reception services to TUT.

The assistance and cooperation of many individuals from outside the Service needs to be acknowledged. These include Kristie Bourne, Danielle McKee, Trent Linton and Janelle Lucas from the Department of Justice Tasmania; Karen Keogh and Alicia Pelham from HWL Ebsworth; the office of Andrew Wilkie MHR; the office of Brian Mitchell MHR; the office of Senator Jacqui Lambie; the office of Julie Collins MHR; Mylinda Purtell and the staff of Worker Assist; Tom O'Connor and Darshini Bangaru for their assistance with the Planning Aid Service. There are many others who have not been named but whose support has been extremely welcome.

The Committee of Management has continued this year to provide essential oversight of our day-to-day activities and financial situation. The time and energy each Committee Member dedicates to HCLS is greatly appreciated and contributes significantly to the high standard of service provided by HCLS.

Volunteers continue to make a huge contribution to HCLS and without their generous commitment of time and expertise we would be unable to provide the free evening information service, a cornerstone to our service delivery.

The staff are the public face of the organisation and we are fortunate to have a professional and committed team; I would like to thank each and everyone of them for their hard work and dedication that has enabled HCLS to provide legal services of a high quality.

*HCLS staff during the past year:*

Jane Hutchison	Director
Bernadette R	Office Manager
Pam Barratt	Hobart Office Assistant (part time)
Chris Rice	Principal/Welfare Rights Lawyer
Meg Mitchell	Senior Family Law Lawyer (part time, 15 hrs pw)
Alicia Moore	Family Law/Family Violence Lawyer (part time 20 hrs pw)
Kiki Mussared	Family Law Consultant (from May 23; casual 7.5 hrs pw)

Jason Cheow	Generalist Lawyer
Irene Tiang	Generalist Lawyer (resigned Sept 22)
Scott Ashby	Generalist Lawyer (resigned Dec 22)
Mieke Matimba	Generalist Lawyer (from August 22)
Meghan Thomas-Richards	Generalist Lawyer (from October 22)
Oliver Anderson	Generalist Lawyer (from November 22)
Masika Morris	Family/Generalist (from December 22)
Hamish Locke	Bridgewater Office Lawyer
Sandra Higgins	Bridgewater Office Assistant (part time)
Lucy Smejkal	Law Handbook Editor (casual contract)

## VOLUNTEERS

Dedicated volunteers, whose commitment to providing high quality services are greatly appreciated by HCLS, provide the following:

**The Evening Information Service** which provides basic legal information to the public, identifying whether there is a legal problem and available avenues for redress, has been re-established and we are thankful to the lawyers who volunteer their time to assist with this service.

**Planning Aid Service.** This service is provided in conjunction with the Planning Institute of Australia, Tasmanian Division, and provides Tasmanians with access to qualified planners who can provide basic assistance for help with matters pertaining to planning.

We were approached by HWL Ebsworth offering 3 of their graduate lawyers on secondment to HCLS for a day each per week over a 15 week period between September and December. Two of the graduate lawyers worked in the Hobart Office and the third in the Bridgewater office. This was the first time we had had lawyers on secondment and it proved to be very beneficial for both HCLS and the graduates. As well as assisting our lawyers with their work they prepared a fact sheet on appealing NDIS decisions, this factsheet is available on our website and it is my hope that it will be condensed into simple English to make it more accessible. I would like to thank Karen Keogh from HWL Ebsworth and the graduates, Emily Hale, Jessica Fitzpatrick and Sophia Allardice.

We also said goodbye to long-time volunteer Noor Khan who fortunately for him, but not so for us, trained and found employment as a family mediator. Multi-lingual Noor's dedication, reliability and occasional translating skills have been greatly appreciated over the years.

I would like to express my appreciation to all our volunteers for their time and commitment, which can never be overestimated.



## **TRAINING AND STUDENT SUPERVISION PROVIDED TO AND BY STAFF**

All new staff members receive a copy of the HCLS Policy and Procedures Manual and a staff induction when they begin with HCLS.

Staff members are encouraged to attend relevant training sessions. In particular, solicitors are encouraged to attend the Continual Professional Development (CPD) sessions conducted through the Law Society of Tasmania. Relevant staff are encouraged to attend Family Pathways seminars. Staff attend the annual Tasmanian Criminal Law Conference, Employment Law conference and the Family Law Practitioners Association of Tasmania Conference.

All new members of the Management Committee receive the Management Committee Kit.

Evening Information Session volunteers receive an induction when they begin volunteering.

Staff attended the Community Legal Centres Australia National Conference and Economic Justice Australia Conference both held in Hobart.

All staff participated in training kindly provided by Amanda Whelan from Knowmore Legal Service around vicarious trauma in a legal setting.

## **LAW REFORM, RESEARCH, ADVOCACY AND COMMUNITY DEVELOPMENT WORK**

HCLS has continued to direct attention to law reform and advocacy during this financial year by responding to requests for input into various law reform activities. This has been achieved mainly by contributing to the law reform work conducted by Community Legal Centres Tasmania.

The Tasmanian Law Handbook Online continues to be a major project of HCLS.

HCLS has continued to take a very active role in the Law Society of Tasmania's Pro Bono Clearinghouse.

A summary of our key activities follows:

### **Liaison with Government**

- Tasmanian Department of Justice (DoJ)
- Commonwealth Attorney General's Department
- Guardianship and Administration Board Tasmania
- Consumer Affairs and Fair Trading Tasmania
- Commonwealth Ombudsman
- Tasmanian Ombudsman
- Fair Work Commission
- Fair Work Ombudsman
- ASIC
- ACCC
- Legal Aid Tasmania
- Safe at Home Team (Legal Aid Tasmania)
- FAAS Team (Legal Aid Tasmania)
- Child Support Agency
- Centrelink
- Equal Opportunity Tasmania
- Office of the Tasmanian Children's Commissioner
- Registry of the Federal Circuit Court and Family Court of Australia
- Administrative Appeals Tribunal
- Hobart Magistrates Court
- Tasmania Police Prosecution Services
- Tasmanian Prison Service
- Child Safety Services
- Department of Health and Human Services
- Office of Andrew Wilkie MHR
- Office of Brian Mitchell MHR
- Office of Rebecca White MHA
- Office of Ella Haddad MHA
- Office of Rosalie Woodruff MHA
- Office of Senator Carol Brown
- Office of Senator Jacquie Lambie
- Office of Julie Collins MHR
- Huon Community & Health Centre
- Huon Domestic Violence Service
- Centrelink Social Workers
- Skills Tasmania
- NDIS
- National Redress Scheme

## **Liaison with Non-Government Organisations**

- Community Legal Centres Tasmania

- Family Pathways Network of Southern Tasmania
- Community Legal Centres Australia
- TasCOSS
- Tenants' Union of Tasmania (TUT)
- Law Society of Tasmania
- Law Society of Tasmania Pro Bono Committee
- Planning Institute of Australia Tasmanian Division
- Consumer Action Law Centre
- Financial Rights Legal Centre
- Consumers Federation of Australia
- Australian Financial Complaints Authority
- Relationships Australia (Tas)
- Advocacy Tasmania
- Family Law Practitioners Association Tasmania
- Speakout Tasmania
- Carers Australia Tas
- Clarendon Vale Neighbourhood House
- Sexual Assault Support Service
- Worker Assist
- Positive Solutions
- Tasmanian Aboriginal Centre
- Tasmanian Aboriginal Legal Service
- Launceston Community Legal Centre
- North West Community Legal Centre
- Women's Legal Service Tas
- Refugee Legal Service
- Justice Connect
- Disability Tasmania
- The Link Youth Health Service
- Knowmore Legal Service
- Holyoake
- Hobart City Mission
- Safe Space
- Huon Valley Service Providers Network
- Anglicare
- Catholic Care
- Colony 47
- JusTas
- Mission Australia
- Salvation Army
- Australian Pro Bono Centre
- Migrant Resource Centre Southern Tasmania (MRC)

- Australian Communications Consumer Action Network
- University of Tasmania
- University of Queensland
- Tasmanian Centre for Legal Studies

## **Conference Attendance / Event Presentation/Meetings**

- Attended Community Legal Centres Tasmania meetings
- Attended meetings of Hobart Family Pathways Steering Committee
- Attended Community Legal Centres Australia Conference
- Attended meetings of the Tasmanian Legal Assistance Forum
- Attended Tasmanian Legal Assistance Services Planning meetings
- Attended Community Legal Centres Australia meetings
- Attended CLCA conference organising committee meetings
- Attended CLCA Accreditation Review meetings
- Attended CLCA Fee Review meetings
- Attended Tasmanian NLAP meetings
- Attended meetings of the Australian Pro Bono Centre
- Attended meetings of the Law Society of Tasmania's Pro Bono committee
- Attended various Law Society CPD seminars and conferences
- Attended ASIC regional liaison meetings

## **COMMUNITY LEGAL EDUCATION**

COVID continued to make it challenging to provide as many Community Legal Education (CLE) sessions as we would have liked.

We were able to provide some informal sessions at the Clarendon Vale Neighbourhood centre which were well received. We presented an overview of our services to TasCOSS staff and Legal Aid Tasmania staff.

The Tasmanian Law Handbook Online continues to be a major project of HCLS and we continue to endeavour to keep the Handbook up to date. Lucy Smejkal continues to be engaged on a contract basis as Editor of the Handbook.

HCLS is happy to provide CLE sessions when requested by the community.

## AGENCY ADMINISTRATION

HCLS continues to remain vigilant about being as cost effective as possible without compromising the quality of the services provided.

The service continues to be dependent on the National Legal Assistance Partnership Agreement 2020 – 2025 (NLAP) for the bulk of the funding with which to run the service. We are now into the third year of the agreement and have secure funding until June 2025. With the additional funding that we received in June 2022, it has provided HCLS financial stability that was lacking for so many years.

The additional funding has enabled us to employ more lawyers and expand the services we provide to people experiencing disadvantage in Southern Tasmania and we gratefully acknowledge the receipt of this funding from the Commonwealth Attorney General's Department. As we received the 2021/2022 additional funding in late June 2022 it has meant that we are currently running at a surplus. This surplus has meant that we have been able to employ more lawyers to provide additional services. It has also meant that we have been able to improve our computer systems with these improvements ongoing into the new financial year.

We have now entered into a long term lease for our Hobart Office and I would like to thank Silas Hoon for his assistance with negotiations for the new lease and Jim Walker for his oversight. This means for the first time since 2015 we have long term leases for both of our offices. We have been fortunate in being able to negotiate very favourable terms for both our leases and this, and the surplus we now have, will be helpful in the next few years with expenses increasing at a rate far in excess of our base funding increases.

The Tasmanian Department of Justice continues to distribute funding and oversees the administration of legal assistance services in Tasmania.

As mentioned earlier in this report it was with much relief that we were able to move back into our Hobart Office after a very disruptive two years and by the end of 2022 we had settled our insurance claim and could look forward to a more stable future.

In December we had a site visit by the Community Legal Services Australia (CLCA) Accreditation co-ordinator for reaccreditation in phase 3 of the CLCA National Accreditation Scheme, the site visit went well and although I haven't as yet received the final recommendations, I have been assured that HCLS passed this phase of the accreditation.

HCLS continues to sell residential tenancy leases and condition reports on behalf of TUT. A profit is made on each lease and condition report sold and, although the amount raised is not substantial, it helps offset the cost of providing reception services to TUT.

I would also like to take this opportunity to thank our administrative team, Office Manager Bernadette R and Administrative Officers Pam Barratt and Sandra Higgins in the Hobart and Bridgewater Offices respectively for their exceptional dedication and professionalism, especially when dealing with some of the more difficult issues that present at both locations.

## Hours of Operation

Normal Office hours are:

Hobart Office: Monday to Thursday 9am – 5pm, Friday 9am – 1pm (Office closed to public every Friday afternoon).

Evening Legal Information Sessions are conducted from the Hobart Office on Wednesday evenings by appointment only. This service had been suspended in mid-August 2021 due to not having a suitable venue.

Bridgewater Office: Tuesday – Friday 9.30am – 2.30pm.

## ACCESS AND EQUITY

HCLS makes active use of access and equity principles as part of its underlying philosophy of increasing access to justice for those who experience economic and social disadvantage.

HCLS endeavours to treat all clients equally in relation to the provision of information, legal advice and casework.

HCLS is a non-discriminatory Equal Opportunity employer of paid and volunteer staff.

HCLS ensures that all staff and volunteers are sensitive to accessibility issues.

HCLS strives to contribute to the creation of a society where all members can participate fully and have their contributions recognised. To achieve this, HCLS endeavours to ensure that the organisation is both accessible and equitable.

## Information and Advice activities and number of files opened and closed during 2022/23

Total Information & Referral Activities	1593
Total Advice Activities	1318
Legal Tasks	306
Total Files Opened	224
Total Files Closed	192
Duty Lawyer Services	1018

## FUNDING

HCLS gratefully acknowledges its major source of funding for 2022/2023: the Commonwealth Attorney General's Department through the National Legal Assistance Partnership Agreement (NLAP) between the Commonwealth Government and the Tasmanian Government, and the State Government funding administered by the Department of Justice through the Tasmanian Community Legal Service Program.

Jane Hutchison  
Director

## GENERALIST SERVICES

The Generalist Service continues to service a range of matters encompassing industrial, consumer credit, civil and criminal. We continue to support disadvantaged clients, clients who speak languages other than English, those who have mental health problems and those experiencing difficulties with the legal system or negotiations.

Irene Tiang, Scott Ashby, Jason Cheow, Mieke Matimba, Meghan Thomas-Richards Oliver Anderson and Masika Morris have worked in the Generalist Service in varying capacities during this financial year.

As in previous years, the generalist team have been fortunate in having a number of dedicated volunteers work with us in this past year. Our volunteers assisted us with legal research, typing up correspondence and undertaking a range of other administration and research tasks. Each of our volunteers has provided invaluable assistance to the service. We are extremely grateful to have so many committed and engaged people choosing to volunteer with HCLS and assisting to increase our capacity this past year.

## **CRIMINAL LAW**

### **General Comments**

This year the Generalist Service has continued to provide assistance and representation in sentencing and for hearings in a wide range of criminal matters, especially in areas that Legal Aid Commission of Tasmania (LACT) has been unable to assist, such as with traffic-related offences in particular.

We have also been providing assistance for clients with special needs (such as refugees, homeless people, people living with disability and young people).

The types of criminal matters we have been providing assistance and representation for include (but are not limited to):

- traffic offences and related applications
- assault
- drug-related offences
- property offences
- dishonesty offences
- breach of Family Violence Orders/ Restraint Orders and
- offences involving a breach of a suspended sentence.

A number of referrals continue to come from within the legal system, through LACT and private practitioners, as well as from the courts, through Magistrates and our Duty Lawyer programme. We also receive referrals from Tasmania Police and community organisations.

Over the past year, we have increasingly represented clients on a number of serious and complex matters wherein the accused is at a strong risk of serving a sentence of imprisonment.



We have also seen a steady increase in the number of clients seeking to apply for restricted licenses. Our service being one of the few free legal services in the state that deals with traffic matters is perfectly situated to deal with these applications given that a large portion our clients if losing their license easily satisfy the 'Severe and Unusual Hardship' test.

### **Criminal Law Case Study 1:**

A is a refugee and was referred to us by Migrant Resource Centre Tasmania.

A was charged with failing to comply with a breath analysis obligation.

A had been witnessed by police staggering out of a hotel bar, appearing to be intoxicated. A then entered a motor vehicle. Police monitored A to see if they would drive but A noticed that police were present and sat in the seat of their vehicle staring at police.

When police attended to something else briefly, A drove away, appearing to think that police were no longer monitoring them. Police drove around the car park and intercepted A immediately for a breath analysis test.

Police attempted to administer the breath analysis test to A over 24 times, both when they were intercepted and then then they were brought back to the police station. On each occasion A had blown lightly towards the breathalyser machine instead of blowing into it with their mouth on the machine, which failed to register any reading. Police facts stated that A's breath smelled like alcohol during their interactions.

During the process, A also refused an interpreter when police asked if they wanted one, saying that they could understand. Police still tried calling an interpreter but A refused to speak to the interpreter, rendering any communication useless. A also refused to provide a sample of blood for analysis when it was requested of them as an alternative to a breath analysis test.

A was advised on their obligations under the Road Safety Alcohol and Drugs Act (RSADA) to comply with breath tests if found driving on a public street, with the police powers being active whether or not there was a suspicion that they had consumed alcohol prior. A was also advised on the weakness of a defence relying on their inability to understand the police direction given the circumstances of the case - A having just left a hotel bar, their behaviour in trying to avoid police, their apparent avoidance in providing either a breath or blood sample, their refusal to accept the service of an interpreter and their breath being noted to smell of alcohol from the attending officers.

A agreed to enter pleas of guilty and submissions were made with an emphasis on their personal circumstances, particularly their background.

A and their partner were both refugees and arrived in Australia in 2016. They had significant difficulty finding employment and acquiring qualifications due to the language barrier and health issues. A had been working as a taxi driver for the past few years as it was the only job that they could maintain given those circumstances.

A was the sole income-earner in their household and a large portion of their already-limited income went to sending money back to support their children who remained in their home country and who were under the care of their maternal grandparents. A and their partner had almost no savings.

Submissions were made as to A's complete lack of priors as well as past experiences from their time before arriving in Australia that contributed to a fear of authority figures. Further submissions were made focusing on the severe impact that the mandatory disqualification period would have on A and their dependents given the importance of a license to A's job prospects within Tasmania. This was of particular importance since they were statute-barred from applying for a restricted license.

A's income and as a result, their household and family's finances, were going to be severely impacted by any disqualification imposed as they foresaw not being able to find gainful employment without being able to drive.

On sentencing, the Magistrate elected to apply special circumstances given A's background and the severe impact not only A but their family was facing by way of the license disqualification in particular. The Magistrate imposed on A a 3-month disqualification of their license and a fine of \$400.00.

### **Criminal Law Case Study 2:**

B was charged with one count of drink driving with a Blood Alcohol Content (BAC) reading of 0.178.

B was issued with a Road Safety Disqualification Notice (RSDQN) as a result of this act of driving.

B initially queried about applying for a Restricted Driver's License to allow them to drive whilst the RSDQN was in effect, being that they lived in a remote area and did not have access to public transport.

We advised that B would not be able to apply for the Restricted License because, having been issued the RSDQN, they were barred from such an application. The option

was available to make an application to appeal the RSDQN or have it cancelled on the next court appearance on the grounds of severe and unusual hardship, but we recommended against this as B would still ultimately have to face their charge of drink driving at a BAC reading of 0.178.

For B, this would carry a mandatory minimum penalty of a two-year license disqualification period due to their priors and they would once again be barred from applying for a Restricted License for the period of that disqualification due to the level of their BAC reading. B instructed that it 'should be fine' as they would be able to get lifts from friends when they needed anyway.

B was worried about a potential period of imprisonment. B only had one singular relevant prior conviction but it was one of high severity and significance. Many years ago, B was found guilty in a serious drink driving matter heard in the Supreme Court that had resulted in serious injuries and a fatality to the other parties involved. B was sentenced to a significant period of imprisonment for several years on these charges but has had no other offences since then.

Upon discussing the circumstances of the offence with B, they fully admitted that their drinking problems had resurfaced. When B was released from prison over a decade ago, they maintained sobriety for several years, having experienced the consequences of irresponsible use first hand. However, over the past two years, B had encountered some very challenging issues within their personal life including the sudden passing of a close family member, who was a strong source of moral support for them throughout their time in prison as well as their child having suffered significant health issues requiring arduous treatment for the foreseeable future.

B was very transparent with their offending and admitted that they knew they had a problem and wanted to turn things around again. We referred B to a local community organisation in the rural area in which they lived for in-person support as well as Holyoake and the Bridge Program for alcohol counselling and rehabilitation. B was enthusiastic about the Bridge Program having completed a residential period with them to good results shortly after they were released from prison after their last sentence.

B got in touch with the Bridge Program and initiated phone counselling whilst awaiting availability at their residential program.

During court, we made submissions with a heavy focus on B's personal circumstances and their struggles. We also highlighted that B had exhibited a strong willingness and had started rehabilitation, with a residential period with the Bridge Program lined up for them in the near future, an avenue that has borne fruit for B in the past. It was on those grounds that we suggested a Community Supervision Order would be sufficient here to supplement B's rehabilitation in addition to the deterrence imposed by the minimum mandatory penalties.

The Magistrate took some time to read the Supreme Court sentencing remarks for B and initially appeared to disagree with our request, asking us that, given the severity of B's prior, why he should not impose a further deterrent sentence.

We once again submitted that this did not appear to represent a trend even with the severity of their prior offence. That offence was several years ago and B had been sober for over a decade since leaving prison. B had only slipped back into alcohol abuse recently due a particularly trying time in their personal life. They had, however, since initiated steps to rehabilitation and had a plan in place moving towards that end goal.

The Magistrate agreed with our submissions and imposed only a 12-month Community Supervision Order on B in addition to the minimum mandatory penalties for this offence.

### **Criminal Law Case Study 3:**

C initially came to us at the end of 2022 seeking representation on several criminal matters. They were referred to us by their social worker. C did not have a strong recollection of their charges, being that they had many, mostly drug-related and stealing offences, from 2017 up until 2022.

We assisted C in contacting the courts to gain some information on their charges and their next court date but found that, due to a recent failure to appear, an arrest warrant had been issued for C and there was no pending court date as a result.

We advised C on the procedure for having their matters re-listed back into court and that it would involve C turning themselves in and that they could potentially be held in custody overnight. We advised that voluntarily turning themselves in at a police station would present a stronger case for an application for bail than we could appear for on a duty basis.

C was reluctant to do so and we advised them to contact us once they changed their mind or received a court date after bail.

Several months later, C got in contact with us again. C was now out on bail with their matters re-listed having since been taken into custody. C was previously represented by Legal Aid Tasmania but C had been inconsistent with their appearances and communication to the point that they were unaware who their lawyer was. At C's request, we commenced representation for them and had their files from 2017 at Legal Aid transferred over to us to be consolidated with their new matters.

C had 27 separate charges of offending since 2017 including stealing, trespass, family violence, common assault, possession and selling drugs and multiple breaches of bail.

C disclosed that they had struggled all their life with mental health issues and was diagnosed with PTSD from abuse as a child, anxiety, major depressive disorder and, most relevant to the offending, borderline personality disorder which caused C to struggle significantly with impulse control.

We discussed the matters with C and their social worker and advised on the risk of a period of imprisonment due to the persistence and quantity of the charges. Due to this risk, we discussed the potential for C to be dealt with under the Mental Health list but C was unwilling to engage due to the length of the court process. C was, however, keen on a Community Supervision Order after we explained the support services and courses that it could potentially put them in touch with.

On our first appearance for C, we had matters adjourned for them to be assessed for their suitability on a Community Supervision Order to which C was deemed suitable.

On our second appearance, we made submissions with a heavy emphasis on C's disadvantaged background, growing up in an abusive household and having a lack of education. We raised their significant struggles with mental health conditions and the fact that a large portion of the more serious offending coincided with periods of C being unmedicated. We raised the fact that their only offences over the past two years were far more minor, being only stealing offences and breaches of bail for failing to appear. We also made submissions on C's strong efforts to rehabilitate by making efforts to seek support from external services such as drug and alcohol counselling.

We concluded by submitting that C was at a turning point in their life. C had not offended for almost a year, breaches of bail by failing to appear aside. We raised that C would benefit greatly from a Supervision Order from a rehabilitative standpoint in that it would directly address what lay at the root of a significant amount of their offending - their mental health - and that such an order would also provide support services and courses such as education that C has never previously had the opportunity to engage in for their own benefit.

We urged the Magistrate to avoid any period of imprisonment unless it was wholly suspended as C was the sole parent in full custody of a 3-year-old child. A wholly suspended sentence here in conjunction with the Community Supervision Order would not only ensure C continues their progress on the path to rehabilitation but fulfil the role of a deterrent to any potential reoffending again, the risk of which appears to be low given C's lack of offending for almost a year, outside of breaches of bail.

The Magistrate adjourned matters once more in order to consider a sentence for C.

On our third and final appearance, no further submissions were made. The Magistrate agreed that C was in a position where a Supervision Order would be of great benefit but had been considering whether a partially or wholly suspended period of imprisonment would be appropriate.

The Magistrate sentenced C to a Community Corrections Order for a period of 12 months and a period of imprisonment for 28 weeks, wholly suspended for 12 months. Conditions of C's suspended sentence were that they had to comply with the Order and attend any education programs and drug dependency assessments and treatments as directed by a probation officer.

#### **Criminal Law Case Study 4:**

D was charged with a single count of drink driving. Their BAC reading was 0.134.

D had one drink driving prior from 14 years ago and a string of driving with illicit substances priors from four years ago, having committed three within a period of two months.

D had recently started work as a full-time truck driver and would lose their job if their driver's license was to be disqualified, the minimum period of which would be 12 months.

A Restricted License Application was prepared for D to be able to drive during and for the purposes of work on the grounds that a loss of their license would cause severe and unusual hardship due to their lack of savings and the loss of their only source of income.

In order to address the issue of public interest given D's high reading and subsequent offending, D was advised to have a liver function test to determine if they were alcohol dependent.

Additionally, as part of their application, D had submitted bank statements over the last three months in support of their financial situation.

D's bank statements brought about another issue however, in that they contained transactions wherein D would purchase alcohol after work up to four times a week.

At the Restricted License Application hearing, the Magistrate took notice of these transactions and raised the issue of public interest if D was drinking that often.

We submitted that as per D's instructions, they frequently bought alcohol to consume with their meals after work, ensuring that they only drank whilst they were at home and

never when they needed to travel later that day. D had always been careful not to drink and drive, this new offence notwithstanding and the fact that this was their only alcohol-related offence in 14 years supported that.

Further, D's liver function test showed no signs of alcohol dependency and submissions were made that the Magistrate could be satisfied on those grounds with regards to public interest on the front of alcohol-related offending.

Prosecution however pursued the issue of public interest as well, citing the three prior drug driving offences from four years ago. Submissions were made that due to those priors, even if public interest were to be satisfied, a lengthier disqualification period should be imposed as a punitive measure.

We objected to these submissions on the grounds that firstly, D's restricted license would only allow them to use a vehicle at work and for work purposes alone, an incredibly restrictive condition that was more an extension of their job rather than unrestricted freedom to transport himself. Secondly, those priors raised were a string of offences from four years ago over a period of two months and were directly tied to D's personal circumstances at the time. D had since successfully completed a community supervision order and had voluntarily attended and completed a stay-in period at the Bridge Program by their own accord.

To that effect, whilst D had a large number of priors under the Road Safety Alcohol and Drugs Act, we submitted that they were not alcohol-related for the most part and were a reflection of their circumstances years ago, not their present situation.

As such, if there was to be any public interest issue on that basis, it would be limited and could be adequately satisfied by the requirement to always have zero blood alcohol concentration whilst driving on the restricted license. Further, any additional punitive measure on those grounds would not be appropriate being that without any offending for four years, it appeared that D had successfully put that period of their life behind them.

The Magistrate agreed with our submissions in that public interest was satisfied and that no further punitive measures were needed. D was granted a restricted license to drive solely for work purposes for their entire disqualification period of 18 months.

### **Criminal Law Case Study 5:**

E was charged with exceed speed limit, using an unregistered motor vehicle, using a vehicle with no premium cover and possessing a controlled plant or its products.

E was on their provisional license and was detected by police travelling at 36 km/h over the speed limit. When intercepted, it was found that the vehicle was unregistered and uninsured and police also located 30g of cannabis in the vehicle.

E instructed that in relation to the vehicular charges, they knew that the vehicle was unregistered and insured, however they had only recently become aware of this issue. E made no excuse for the speeding offence, admitting fault and accepting responsibility. The vehicular offences involved a total penalty of five mandatory demerit points.

As E was on their provisional licence and had incurred a minor infringement before this offending, they had only two demerit points remaining on their license. Because of the situation, the five mandatory demerit points that E was facing on these charges would have the result of disqualifying them from driving. Given E's circumstances, E was also unable to apply for a restricted license

There were a number of mitigating factors in E's favour. They had recently commenced full-time work and was supporting their family financially. They had recently ceased the use of cannabis and was now prescribed medication for their insomnia which was their reason for cannabis use.

Submissions were made seeking leniency in relation to the vehicular offending and a non-conviction for the drug charge on the basis that E's employment and travel prospects could be significantly affected.

Because the offences happened before E turned 18 years of age, the vehicular offences were prescribed offences (meaning E would be treated as an adult), while the drug-related offence was able to be treated under the Youth Justice Act (YJA).

Under the Vehicle and Traffic Act, the Court has discretion to refrain from awarding demerit points if there are special reasons to do so. After weighing up the effect of E losing their license, the Magistrate noted that while this effect was relatively serious, it would not satisfy special circumstances.

However, the Magistrate noted an alternative under the YJA, which allows the Court to treat offences outside the jurisdiction of the Youth Justice Division, including prescribed offences, as falling within the jurisdiction itself if the offender was between the ages of ten and eighteen at the time of offending.

Using this, the Magistrate then re-evaluated the circumstances of the matter and the loss of their license that E would be facing, within the context of being a youth at the time of the offending.

In this context, the Magistrate was satisfied to apply special circumstances and elected to award E one demerit point. This allowed E to retain their licence with a single point



remaining. The Magistrate also imposed a global fine of \$542 for the vehicular offending, significantly less than that which would have been imposed for an adult offender.

The Magistrate dismissed the drug-related charge and reprimanded E as part of their penalty, under the YJA.

### **Criminal Law Case Study 6:**

F was charged with the following driving offences: drink driving, using a hand-held mobile phone whilst driving, two counts of driving with alcohol in breach of a license condition and a count of possessing an opened or unsealed container of liquor in public street.

F had significant priors for drink-driving, many of them being high-level BAC offences. These present charges brought their total number of such offences to 14, and F also had significant priors for other offending.

In addition to the above matters we assisted F with, Community Corrections (CC) had made an application to breach community orders F was serving at the time, as F had attended CC offices and acted aggressively, making threats toward a staff member. Due to this, CC had issued a total ban notice against F, preventing them from attending any CC offices. F had retained a private lawyer to assist with these breach matters at the same time we were dealing with their other matters.

We appeared for F, who entered pleas of guilty to the driving matters on our advice and a pre-sentence report (PSR) was requested by the Court including an assessment for home detention (HD). We made it clear to F that they needed to make real effort to engage with services for alcohol dependency and continue their engagement with their psychologist to increase their chances of being deemed suitable for any non-custodial penalty.

We received the HD PSR, which had ultimately determined that F was unsuitable for HD due to the total ban notice, given they would be required to attend CC offices for case management if serving a home detention order. The report appeared to contain misrepresented information from F's psychologist supporting the position on F's unsuitability for HD, alleging that HD would be detrimental to their mental health.

We contested the report and the matter was adjourned.

We obtained an addendum report from F's psychologist in relation to their suitability for HD, as well as F's mental health at the time of their alleged breaches of the

community orders that had led to the total ban and whether F's condition had since improved, such that the ban could be lifted.

In the addendum report, F's psychologist confirmed that F had been suffering from elevated mental health conditions at the time of their alleged breaches but also that their condition has since improved enough that the ban could be lifted (if some special conditions we proposed were included in the HD order, to alleviate any risk to CC staff). The psychologist also confirmed that the imposition of an HD order would not have an abnormally detrimental effect on F's mental health.

We then had a meeting with CC, the HD team leader, and the lawyer acting for F in relation to the breaches. Here, it was agreed that the psychologist's addendum report was accepted by all parties, with CC agreeing to lift the total ban and the HD team leader agreed that HD would now be suitable. At the next court date, F was globally sentenced for all the above-mentioned offending to a 10-month HD order, in combination with an 18-month supervision order.

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## **EMPLOYMENT LAW**

### **General Comments**

Our work in the employment law area continues to aid a vast number of individuals in an array of workplace matters, with advice about contracts, awards, bullying, negotiations, dismissals, redundancies and underpayment of wages.

We continue to receive direct referrals from a variety of sources, primarily being Jobwatch, the Fair Work Commission (FWC) and the Fair Work Ombudsman. To a lesser extent we also receive referrals from other legal firms and CLCs across the country.

Equal Opportunity Tasmania, (the office of the Anti-Discrimination Commissioner) continues to be a jurisdiction suitable for individuals who want a low cost and low risk option to pursue discrimination in employment cases.

Whilst unfair dismissal applications, letters of demand and negotiations with our clients' employers have made up the majority of our work in this area in the past year, we have also broadly provided representation and assisted clients with advice and guidance through the legal process in their various areas of dispute.

### **Employment Law Case Study 1:**

G was a worker with a Disability Support Service Provider that was classed as a large business.

G was employed for 3 months at their workplace before becoming ill and they were hospitalised for 8 weeks as a result. G's employer was notified and made aware of their illness and G was put on sick leave for the entirety of that period.

Whilst G was hospitalised, there was some communication between G and the employer and G was ultimately offered a new role within the business to commence once they were able to return to work. However, upon discharge from hospital, G was informed that they were being dismissed.

G's employer cited their absenteeism as the reason for dismissal and this specific reason was provided in writing within G's termination letter as the cause for termination.

G unfortunately was not able to apply for Unfair Dismissal due to the duration of their tenure at the workplace coming under the 6-month time limit for such applications. However, we advised G that they had a strong case for General Protections, firstly due to it having no such time limit and secondly, given the employer's communication in writing being very clear about terminating G for a protected workplace right in taking sick leave.

A Dismissal-related General Protections claim was lodged on the basis that adverse action, being G's dismissal, was taken in direct response to G exercising their protected workplace right to paid leave. Further, G was also protected from discrimination on the basis of their disability under State and Federal legislation and G was also protected from dismissal for the reason of temporary illness or absence.

The application was listed for conciliation, during which the Employer settled to compensate G for the sum of \$20,000 in general damages.

### **Employment Law Case Study 2:**

H was employed full-time at a petrol station. H had been in this position since 2021 and had been working with the employer for just over two years.

In mid-2023, the business was sold to new owners. The sale of business included a full transfer of assets and contracts and the business continued operating as per usual under the same trading name and from the same location.

H's employment with the original business owner was terminated at closing time on the day of the business changing hands in order to facilitate the transfer and H resumed

work in the same role as per usual the very next day with no downtime at all during the transfer of business and no change in duties. H was made to complete Tax File Number Declaration and Superannuation forms for the new business owners on their first day back at work following the transfer.

At no point was it ever communicated to H in any form that their period of service with the new employer would not be recognised.

One week after the transfer of business, H was called in for a meeting with the new business owners. H was told that they were incompatible with the business moving forward and was told to leave immediately. H received no warnings as to any performance issues nor would they have had the time to remedy any such issues even if they were raised during their one week working for the new business owners.

H was paid out about two weeks' worth of their salary after leaving.

The new business owners seemed to be under the impression that they could dismiss H summarily without consequence because they had only worked with them for about a week.

We advised H that under these circumstances, their prior service with the previous business owner was to be recognised cumulatively with their current service under the new business owners and that they were protected by Unfair Dismissal laws having worked for a total period of about two years at that point.

We also advised H that they should have been given notice prior to their dismissal as we could not see any grounds for summary dismissal. H had not been paid out the full amount for their notice in lieu either, having been given one additional week of pay as opposed to the minimum three weeks of notice that they were entitled given their period of service and age.

We prepared and filed an unfair dismissal application seeking compensation in lieu of reinstatement while also raising the issue of their notice period not having been paid in lieu as well.

Shortly after the filing, we received communication from the Respondent's lawyers who accepted that H had been an employee for two years at the time but insisted that H had not been dismissed but that they instead walked out after a disagreement, which the employer took to be their resignation, thus providing a defence to the issues of Unfair Dismissal and failing to pay out H's notice in lieu.

The Respondent's lawyers also raised that there were performance issues with H that were communicated to them at the meeting.

We communicated back that the matter was very clear from H's perspective that they had been told to leave. Whilst it was their word against the two business owners who were present at the time, H had been a loyal employee for over two years and they had no issues at the workplace.

The termination came as a shock to H's co-workers as well who did not foresee them leaving voluntarily although they had not been told about the situation by the business owners and only heard about it from H. We also addressed the performance issues that were mentioned and once again, raised that it was not relevant to the strength of our Unfair Dismissal application because H was not given any warning and they were not given any time to remedy the issues either even if they were raised. Further, the performance issues did not amount to serious misconduct warranting summary dismissal.

We advised the Respondent that we believed we had a strong case for unfair dismissal here and that H would be owed by them notice in lieu as well.

There were significant discussions back and forth and ultimately in the interest of having to avoid the matter going to a conciliation, H instructed us to accept an offer from the other party for three weeks of pay to settle the matter as H had started work at a new job with a similar pay rate shortly after their dismissal.

An agreement using the standard terms from the FWC was drafted up and signed and we sent a notice to the FWC advising that the matter no longer needed to go to conciliation.

### **Employment Law Case Study 3:**

X was casually employed at a café that operated as a small business.

X had an ongoing dispute with their employer about pay that had been going through the Fair Work Ombudsman for some time. The dispute was mainly about some errors in calculation alleged by X who disagreed on the number of hours recorded.

X met up with their employer outside of work hours to discuss the underpayment issue and an argument broke out between the two of them. X instructed that they were civil throughout the argument but at some point, the employer told X not to bother returning to work the following week and ushered them out of the building.

X was not contacted in the following weeks by anyone at the workplace querying why they had not returned nor were they asked to return to the workplace.

Whilst X had been a casual employee, under their casual contract there was continuous service for a period of almost two years. X continued working on a regular and systematic basis whilst on the casual contract with fixed days and hours each week. We advised that there was a reasonable expectation for employment to continue here and that the employer's communication and subsequent lack of communication regarding further engagement of their services made it very clear that X was terminated.

An unfair dismissal application was filed on the basis that the dismissal was harsh, unjust and unreasonable given that there was no valid reason relating to H's capacity and conduct and X was not notified of any reason for dismissal as well.

The employer's response was that during their discussions, X had been rude towards the employer and their communication suggested to the employer that they were quitting, hence the employer's response to them. Nonetheless, the employer agreed that there had been some underpayment and offered to pay X for the amount owed.

During conciliation, we disagreed that the employer had formed the opinion that X had resigned on their own accord. X only threatened legal action during the argument and nothing in their words suggested an intention to leave. Further, if X had been so clear in communicating their resignation, the employer would have had no reason to tell them not to bother returning to work.

After some discussion the matter was settled at the conciliation by way of the employer paying out X the amount owed in underpayments together with an additional sum of about four weeks' pay on the withdrawal of both the unfair dismissal application and the Fair Work Ombudsman complaint.

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## **GENERAL CIVIL LAW**

### **General Comments**

Our civil law work has expanded significantly over the past year. We have seen an increase in the number of clients requiring assistance on a wide range of civil matters.

We have also seen a rise in the number of complex matters that come through our service, ranging from parties requiring protection in relationships to recovery of funds or property as well as elder abuse.

Whilst the majority of our work in this area is primarily assisting parties in drafting small claims, orders and defences in the Hobart Magistrates Court, we have increasingly

represented clients for conciliations and hearings on Family Violence Orders and Restraint Order Applications as well as civil claims over property disputes.

### **General Civil Law Case Study 1:**

Z's Social Worker contacted us for assistance for their matters.

In 2021, Z provided a sum of money to their child for the purposes of purchasing a house. In return, Z's child promised Z the security of being able to live at that property indefinitely.

There was no tenancy agreement or any written agreement in place.

At the end of 2022, Z's mental health had deteriorated shortly after the death of another child and after some arguments, Z's child kicked Z out of the property, refusing contact with Z and refusing their entry to the property. This was to the point where police were called to remove Z from the property.

During the process, Z's child retained possession of Z's vehicle and refused to relinquish it back to Z.

We advised Z that they likely had a caveat-able interest in the property due to their financial contribution towards its purchase and the fact that residence in it was promised to them as a condition to Z's contribution. We viewed this sum of money provided to Z's child as a conditional gift.

We reviewed Z's bank transactions and the dates around the purchase of the property and advised Z that a civil claim could be made against their child for the amount for breaching the agreement and also for the vehicle but Z declined to pursue their child for the money gifted to the child and was willing to let it go.

Z however wanted their vehicle back from their child.

The vehicle was registered in Z's child's name. As per an agreement between them, the child made the purchase for Z using Z's money. Z at all times had exclusive use of the vehicle and had personalised it in several ways. Upon reviewing Z's bank transactions again, around the time of purchase, there were transfers from their account to that of their child's labelled 'car'. These transfers amounted to the purchase price of the vehicle. Z also had records of text messages between them and their child with regards to discussions about what vehicle the child would purchase for Z.

We initially wrote a letter of demand to Z's child requesting for the vehicle to be returned as we believed Z retained ownership of the vehicle despite it being in their

child's possession. We received no response. We then lodged a civil claim against Z's child for the purchase price of the vehicle as well as the cost of other furniture that was left on the child's property. We hoped that this would force Z's child into negotiations during which the child would agree to the return of Z's vehicle as Z had feared matters going to court.

Z's child employed a private lawyer who responded to our claim by offering to negotiate a settlement offer.

After several weeks of negotiation, Z's child agreed to return the vehicle and to transfer registration over to Z upon withdrawal of the civil claim.

The civil claim was withdrawn and the vehicle was returned to Z.

### **General Civil Law Case Study 2:**

J was referred to us by Legal Aid due to a Conflict of Interest.

J was the protected person in a Police Family Violence Order (PFVO) which was granted on an interim basis due to a serious family violence incident involving a Criminal Code assault on them by their partner. Their partner has been in police custody since as a result and was awaiting trial in the Supreme Court for that complaint among other matters as well.

J's PFVO included a 50m boundary condition and conditions barring all direct or indirect contact except for purposes relating to court matters and within court precincts.

J sought a variation to the PFVO. J had recently found out that they were pregnant and had been trying to apply for a variation allowing her to communicate with the other party to discuss the situation around their pregnancy. J wanted to inform their partner of the situation so that the two of them could come to an informed decision as to whether they should keep the baby.

J's matter had already been adjourned multiple times when they made contact with us and she was last represented on a duty basis through Legal Aid.

By the time J contacted us, they were already 11 weeks pregnant. Fearing that any application for Legal Aid through a private lawyer would bring about further delays, we signed J on as a client immediately. We filed an application for a variation to the PFVO on an interim basis and were given a court date within the week. We then sent a letter to prosecution highlighting the urgency of the matter and explaining the variation sought. This letter was accompanied by a doctor's report confirming J's pregnancy.



We sought a variation to J's Orders to the effect of allowing for communication between them and their partner only for the purposes of discussing matters in direct relation to their pregnancy and only through communication at Tasmania Prison Services whilst the other party was an inmate at Risdon Prison.

During our first appearance for J, the Integrated Case Coordinator had not yet considered our application and prosecution had not reviewed our letter. Submissions were made as to the urgency of the matter and a hearing date was set for the next week.

Prosecution did not respond to our proposals up until just before court. The matter was discussed but we could not come to an agreement, with prosecution only consenting for communication via phone calls which would be limited to 10 minutes at a time.

In court, because there was no disagreement as to the facts of the matter or the risks involved but only the appropriateness of the variation sought, the Magistrate chose to hear submissions first in order to make a decision before having to go to a hearing.

We made submissions to the effect that the variation sought would directly remedy J's situation whilst being restrictive enough to avoid any additional risk of Family Violence since communication would be supervised through Tasmania Prison Services. Further if J's partner was to be released on bail, the PFVO functionally remains the same as its original inception as the requested exclusion requires facilitation through Tasmania Prison Services.

The Magistrate agreed and a variation was granted allowing for communication solely for discussing matters pertaining to J's pregnancy via Zoom, telephone or letters whilst the Respondent is an inmate of Risdon Prison. This communication was allowed to continue for a period of two months.

### **General Civil Law Case Study 3:**

K first sought HCLS's assistance in relation to a motor vehicle accident in 2018. K had been riding a motorcycle for an event using a temporary registration permit. An accident had occurred between a car and another motorcycle in front of K, and K had crashed their motorcycle in order to take evasive measures.

K's motorcycle ended up colliding with one of the riders of the motorcycle involved in the accident up ahead, causing moderate injury to the rider.

Sometime after the accident, K received correspondence from the Motor Accident Insurance Board (MAIB) seeking recovery of medical expenses under the Motor

Accidents (Liabilities and Compensation) Act as the temporary registration permit did not include a premium for compulsory third-party cover.

We assisted K in negotiating a payment agreement, which was ultimately executed by deed. The agreement included a clause under which the MAIB placed a caveat on K's house for the duration of the agreement, and also included a clause that allowed K to pay the sum owed in full if their financial position improved.

In 2023, K again contacted HCLS and instructed that they wanted to finalise the agreement by paying the remainder of the amount owed as a lump sum. K wanted an undertaking from the MAIB that the caveat would be lifted as soon as practicable after this payment had been made.

We sent a letter to the MAIB seeking an undertaking, and this was received from the MAIB's solicitors several days later confirming that the caveat would be removed upon receipt of K's payment. K then instructed they would pay the amount in full.

#### **General Civil Law Case Study 4:**

L had just separated from their partner after 4 years together and they share custody of their infant child.

In early 2022, both parties were living separately but still in relatively close proximity on the same street. They were both trying to effectively co-parent under this arrangement. However, L's recently separated partner attended L's property one night whilst both parties were intoxicated. Partially as a result of their level of intoxication, their interaction on that night resulted in an argument.

The neighbours witnessed the argument and phoned the police who attended and misidentified L as the primary aggressor and the visitor at the property.

L was arrested and brought into custody only wearing a nightdress and was prevented from getting anything to cover themselves. They were taken to the local police station and charged with assault.

A further Police Family Violence Order (PFVO) was made protecting L's partner, misidentifying the partner as being the primary resident of L's property and as a result, ordering that L leave their own home within 24 hours despite the parties having separate addresses.

L as a result had to couch surf and move their two children out of the house.

L contacted us to help vary their PFVO so that they could return home. We drafted and filed an urgent application to vary the current orders, raising that L and their partner live separately, and that the condition should be changed from barring L from being at their own address to barring them from their partner's address. We highlighted that due to this misidentification, all the order had done was bar L from their own home, effectively making L and their two children homeless instead of protecting L's partner as is the purpose of such an order.

On our first appearance (approximately a week after the incident), the prosecutor did not oppose an interim family violence order being made reflecting our variation sought whilst the application was assessed by the ICC and L was able to return to their own home.

The varied order was made final on the next occasion.

### **General Civil Law Case Study 5:**

M was engaged to perform some landscaping activities in a customer's backyard and a deposit was paid by the customer.

Once M's works were completed however, the customer refused to pay M the outstanding account balance of about \$13,000. The customer alleged that the agreement was also to landscape the front yard which M had not done and M instructed us that it was never agreed upon.

There was unfortunately very little in writing substantiating the terms of the agreement.

M operated as a sole trader and relied on payments from one job, to finance materials for the next one. The customer's failure to pay M the outstanding balance of \$13,000 put M in severe financial hardship and they were forced to sell one of their vehicles to keep the business afloat.

M came to us for assistance recovering the debt. We wrote a letter of demand to the customer demanding the payment of the entire outstanding balance. The customer initially refused and we drafted a civil claim on M's behalf which they submitted to the Hobart Magistrates Court.

The customer eventually sought representation from a lawyer who contacted us to negotiate the claim. It was eventually agreed that the customer would pay M the sum of \$9,500 within 7 days. Terms of settlement were written up and we submitted a notice of discontinuance to the court upon its signing between both parties.

## CONSUMER LAW AND CONSUMER CREDIT

### General Comments

The Generalist Service team continues to provide advice and representation in general consumer law and consumer credit matters. The types of consumer law and credit matters that we have dealt with in the past year include:

- refusal by creditors of applications to vary credit contracts on the basis of financial hardship
- mortgage foreclosures
- consumer protections
- insurance disputes and
- education loan debt disputes.

In most of these matters HCLS has been able to rely on the protections contained in the *National Consumer Credit Protection Act 2009 & Competition and Consumer Act 2010* to resolve matters. Where negotiations with other parties have failed, we have provided representation as well as guidance through the legal processes for our clients.

We have seen an increase in general consumer law matters over the past year, particularly in the areas of builder disputes and disputes with motor vehicle sales and repairs. However, on the other hand, we have also seen a decrease in some consumer credit matters, particularly irresponsible and unjust lending as compared to previous years.

We continue to receive a large number of referrals for consumer matters from financial counsellors, social workers, and other aid organisations and community-based services across the country.

This year we have received assistance and advice from the Consumer Action Law Centre (CALC), ASIC and ACCC on consumer credit and insurance matters.

### Consumer Law and Consumer Credit Case Study 1:

N contacted HCLS in October 2022 in relation to building works completed at their property in a remote part of Tasmania in the period between April and September 2022. The work was primarily completed by a single tradesperson (the builder) but involved carpentry assistance from a second tradesperson (the carpenter) and electrical work from a third (the electrician).

N is a chronically ill pensioner who had spent their entire superannuation funds purchasing the house and paying for these building works and were now in a dire financial position.

The standard of building works completed was significantly below standard, which was detailed in a Standard Property Report N had obtained. None of the tradespeople were qualified or licensed to undertake the type of work completed on the property, despite having held themselves out to be qualified and capable. There were also a number of failures to comply with Australia Standards in relation to waterproofing and other health and safety requirements.

We first assisted N by filing complaints with Consumer Building and Occupational Services (CBOS) against the tradespeople. CBOS's investigation is still ongoing but compliance officers have indicated that considerable disciplinary measures will be taken against all parties for occupational licensing failures and other significant breaches.

We further assisted N by writing letters of demand to all parties seeking repayment of labour costs, as N instructed their belief that the bulk of the materials could be reused. The builder responded with a letter from their solicitor denying any liability, while the electrician agreed to return and revisit some of the electrical work. In their response, the builder's solicitor suggested the nature of the relationship only involved their client undertaking work on an ad hoc or 'as do' basis, however N had provided us with email and text message records showing that there was an intention that the builder was to conduct a large-scale renovation on the property from the beginning.

The carpenter did not provide a response to our letter of demand and instead filed a minor civil claim against N for an outstanding amount they had refused to pay relating to wages for trade assistants they never agreed to. The trade assistants were actually the carpenter's relatives who were also unqualified.

We assisted N at the conciliation for this claim against them, where a stay on proceedings was negotiated such that no further action would be taken against N until a determination had been made in relation to the CBOS complaints we assisted N with.

As the quantum of damages relating to N's case well exceeded \$100,000 and would ultimately be heard in the Supreme Court, we assisted N to make an application for pro bono assistance with a firm capable of taking on such a matter. A notable law firm has since taken on N's case.

### **Consumer Law and Consumer Credit Case Study 2:**

O is a refugee and was referred to us by a youth-focused social service. O was involved in a motor vehicle accident. They had tried to illegally overtake a vehicle and crashed

into a semi-truck. Their vehicle had to be written off and the accident caused a significant amount of damage to the semi-truck.

O was contacted by the semi-truck owner's insurance company a few months later during their investigation of the incident. It was alleged that O was liable, having driven in an unsafe manner which was the direct cause of the accident. O admitted liability and was served with a \$86,000 insurance claim.

O is an asylum seeker and was on a Refugee visa having arrived in Australia only eight years ago. Their family did not own any property and they lived together in a shared rental house. O's only source of income was a Youth Allowance through Centrelink and a large portion of that amount would go to the household's fortnightly expenses including their rental fees as only O and their father had any capacity to contribute on that front.

O did not have a strong command of the English language. At the time they were taking an English course at TAFE and had no other qualifications. As a result, O's financial situation was unlikely to change for the foreseeable future.

It was clear that O was in no position to fulfil any portion of the claim and we wrote a letter to the insurance company seeking a full waiver.

A Financial Hardship Application was then prepared and filed together with O's financial documents and statements. Following this, the insurance company agreed to waive the entire amount and ceased their recovery efforts against O.

### **Consumer Law and Consumer Credit Case Study 3:**

P had obtained a quote to have some items shipped from interstate to Tasmania in a shipping container.

The supplier had quoted about \$5,000 for 'door to door' delivery, which included one month's container hire, which was to be paid upon delivery. P agreed and the container was shipped to Tasmania.

Upon arrival the supplier demanded instead that P pay \$7,100 to have the container released from the dock and delivered to P's property. P made immediate enquiries with the supplier and was informed that the considerable increase was due to 'increasing fuel surcharges and rail costs' but was assured that this would be the total amount payable.

P reluctantly paid this amount, as other services relating to the goods in the container had been arranged to coincide with the planned delivery date.

Around two weeks later, P received another invoice from the supplier seeking a further payment of \$1,800 for 'haulage'. When P queried this amount with the supplier, the explanation was illogical. Further enquiries were not responded to, with P ultimately receiving correspondence from a UK-based collections service demanding payment of the \$1,800 plus additional collections fees.

P instructed that they did not want to seek repayment of any of the first invoice amount, but were refusing to pay the second invoice amount and collections fees. We sent a letter to both the supplier and the collections agency outlining P's position, citing the Competition and Consumer Act which prohibits suppliers from making misrepresentations about the price of goods.

We also included information from the Australian Institute of Petroleum's 'Weekly Diesel Report' for the relevant period which showed that there had been very little fluctuation in the price of diesel during this period. While P did not want to contest the price increase on the first invoice relating to alleged fuel price fluctuations, outlining the falsehood in the supplier's submissions was useful in obtaining leverage in relation to the second invoice.

We received a response from the supplier advising that the second invoice amount would no longer be pursued and that any collections actions would be immediately ceased.

#### **Consumer Law and Consumer Credit Case Study 4:**

Q was facing significant hardship as a result of a separation following complex family violence. This was to the extent that Q had to flee their own home with their two children and was relying on food assistance vouchers to get by.

Q had approximately \$20,000 in credit card debt and contacted HCLS in 2020 to request assistance in applying to the bank for relief on the grounds of hardship. Relief was granted for a block of six months to a year.

Q was unable to remedy their debts at the end of each block and we applied for relief from the bank a total of 4 times over the last 4 years. On our final application, it was clear that Q had no capacity to fulfil their debt and an application was made to the bank for the debt to be completely waived

The bank ultimately agreed on the final application and released Q from the debt in acknowledgement that they were unlikely to be able to repay the outstanding balance.

## **NATIONAL REDRESS SCHEME**

### **General Comments**

In 2021, The Generalist team started providing assistance on applications made through the National Redress Scheme (NRS).

Our service has assisted and supported clients through the entire process from preparing the application through communication with the NRS to their final payout.

Whilst we have seen a decrease in the number of our own clients seeking our services to assist with Redress applications, we continue to receive a large number of referrals for the review of applications, general advice and assistance with drafting supporting documents. These referrals are primarily facilitated through Knowmore Legal Service whenever they have conflicts of interests. The referrals are not limited to Tasmania and come from anywhere in Australia, as well as through other support services and community organisations.

**Jason Cheow, Oliver Anderson, Mieke Matimba and Masika Morris**  
**Generalist Lawyers**

## **CHILD SUPPORT /FAMILY LAW /FAMILY VIOLENCE**

Two staff members, Meg Mitchell and Alicia Moore, continued to each work part-time in this area of the Hobart Community Legal Service (HCLS) practice during 2022-2023. They have been the core workers in HCLS's family law, child support and family violence practice for well over a decade. During this financial year their combined hours equate to slightly less than one full time lawyer.

Two other staff members have also contributed to this area of work during portions of the financial year. Until March 2023 a new employee, Masika Morris, spent her four days per week concentrating mainly on various aspects of family violence (applications, variations, breaches) before she transferred into HCLS's generalist practice. Kiki Mussared commenced in May 2023 to work one day a week. She therefore assisted for a little over two months of this financial year by using her extensive family law experience mostly providing advice by telephone. Kiki has usually worked from a remote location, as Meg has continued to do, while Alicia and Masika have been office-based.



It was particularly helpful during this year to have the extra worker input to support HCLS's family law workload due to the fact that the core workers had considerable leave of various kinds over the course of the financial year.

The strong workflow in family law, child support, and family violence continued throughout this year. Again, there was a prevalence of family violence problems, either as an aspect of other family law concerns or as the predominant reason for client engagement with our service.

The service also experienced an increase in calls from males who described themselves as victims of family violence, especially of financial abuse. Anecdotally, there also seemed to be an increase in the incidence of males who called to obtain advice and assistance about parenting concerns, property matters arising from marriage and defacto relationships, court processes, mediation and many who were essentially seeking personal support.

We have been able to recommend to callers of all genders that the emotional aspects of their matters be assisted by other providers including mediation services which integrate social workers, counsellors and psychologists into their service models. We have also made warm referrals of complex matters to other service providers including the Refugee Legal Service, Red Cross, Women's Legal Service, Men's Legal Service, Positive Solutions, Relationships Australia, private mediation services and to members of the private legal profession.

Our advices have dealt with an extensive range of legal issues, including aspects of child safety, migration law as it inter-relates with family law, ensuring protection of a client's identity and residential details, wills, testators family maintenance enquiries, elder abuse, guardianship, adoption, caveats and injunctions, grandparent rights, step-parent obligations, claims of sexual assault, single parents suffering a terminal illness wishing to make provision for their children's welfare and living arrangements, false allegations of sexual abuse, misidentification by police of the perpetrator of family violence, non-compliance and contravention of court orders and formal agreements, variation of Orders and Parenting Plans, aspects of departure prohibition orders, Centrelink issues, spousal and adult child maintenance claims, childbirth expenses and many other family law and child support problems. We appeared in the Magistrates Court, Federal Circuit and Family Court of Australia (FCFCOA), prepared applications for clients who self-represented and at times appeared in hearings at the first stage of the Administrative Appeals Tribunal (AAT).

We derived satisfaction from continuing to provide information, advice, representation, and legal support to an extremely broad range of people experiencing vulnerability. Those vulnerabilities took many forms, including disability, mental illness, emotional distress and exhaustion, addiction, homelessness, low literacy, low financial resources,

homelessness, language and information barriers, membership of an ethnic minority and gender diversity. The age of our clients also continued to be very broad-ranging from teenagers to nonagenarians. Many of our clients wrote to thank us for the help they had received.

A paragraph from our report for 2021-22 is still relevant to the current year. It read, "We have regularly given advice about preparing for family law mediation or preparing to see a private family lawyer. Giving clients a framework for organising their thoughts and priorities as well as lists of documents/information to source has been helpful for clients heading into family law matters for the first time. Our objective has been to assist clients to get the most out of their mediation or legal representation, as well as manage their expectations."

The long wait time for the mandated pre-filing mediation services in parenting matters is reported as a common source of frustration for many callers. A number of callers have reported that the tensions arising from the systemic delays in obtaining an initial mediation appointment, and then the wait-time and spacing of subsequent appointments, are leading to frustrations that they fear may ultimately lead to allegations of family violence. Assisting callers with legal and practical strategies to avoid such fears becoming a reality seems to be a timely and hopefully successful preventive intervention.

There appears to be an increase in self-represented litigants seeking advice and help from us with a number of callers having phoned in more than once when faced with an unexpected predicament such as the breakdown of an agreement.

While we have not customarily undertaken to act for people in family law property matters, we have provided initial advice (often quite comprehensive) both in relation to legal process and the applicable family law. We have referred these property matters to other legal service providers including the private legal profession, mediation providers and where the property pool is modest, to Legal Aid's Lawyer Assisted Family Law Property Mediation Trial, which has been re-funded and the eligibility guidelines for which have been made slightly more generous with the pool of total net assets (excluding superannuation) being increased to \$550,000.

Another area in which we have not generally represented clients to seek a legal remedy is where carer parents are owed child support either i) where it is a debt to the Commonwealth because the case is registered for collection with the Registrar of Child Support or ii) where clients have not registered for collection and the debt is privately owed to them. There are exceptional cases such as a debt of approximately \$30,000 owed for the support of twins but which the Registrar had not enforced. Our research found information that we supplied to the Registrar of Child Support which facilitated collection of the entire debt (we do note however that the father is again in arrears and has likely closed the 'loopholes' we exposed on that particular occasion).

Another case was where a mother did not register for collection because she received from the father regular private payments into her bank account that did accord with the liability shown in the operative administrative assessment. She, like so many other payees, did not understand that the father's liability was based on his own Estimates of Income and therefore only reflected a temporary liability. When he submitted his tax returns and the Child Support agency reconciled his Taxable Incomes with his Estimates, a large amount of 'arrears' or additional child support became payable for past periods. However, these needed to be collected as a private debt through the court because the case had not been registered for collection. The second enforcement matter is an ongoing file where the need for legal representation is imperative but time-consuming and therefore an impost on the resource poor community legal service lawyers.

Other clients whose matters have been time-consuming and delicate are overseas born women who need support and representation to apply for a divorce and possibly a property settlement and if family violence has occurred and their husband or partner is the primary Visa holder, also need to apply for a Visa in their own right. We have worked with other services to support these clients, who often experience language, cultural and financial barriers, and also accepted referrals from other legal services where there is a conflict, to deal with aspects of their often-complex matters. Other trends of note:

- We have had a number of clients who have come to us part way through complex child support matters and having not previously realised that our service exists.
- The unfortunate issue of clients' ID being disclosed to other party in child support matters, both in court and administratively, as a result of procedural fairness requirements. This disclosure occurs administratively through Services Australia even in cases where there is an established history of family violence, threats, or an existing protective order. As well as posing a risk to safety, this causes clients to choose not to exercise their right to child support review or collection because the disclosure of their ID or whereabouts to the other party poses too much of a safety risk to the client and/or their children.
- We have assisted in a significant number of matters involving the complexity of misidentification of the victim/perpetrator of family violence, including where the perpetrator of family violence was initially the protected party to a family violence order against the victim.

#### **CASE STUDY:**

Our client is originally from overseas and married an Australian some years ago. Our client has a long history of trauma and the couple had been going through a rough patch as a result of our client's poor mental health, with a lot of verbal and physical abuse perpetrated by the client against their partner. There were cultural differences at play too, in relation to what constitutes abuse in a relationship. The client's partner eventually called the police during one episode of abuse, and they came and made a police family violence order (keep the peace) protecting the partner from our client. A few minutes after the PFVO was made, our client breached it by verbally abusing their partner, and so was charged with breaching the PFVO, as well as common assault (kicking). We represented the client and were able to negotiate with Prosecution to have both charges dismissed by tendering no evidence. To achieve that, we made warm referrals to other support services for both the client and the partner, including psychological support/treatment and marriage counselling. The client and partner engaged with these services and report to us that they have seen a significant improvement in their mental health and communication as a result, and no more abuse. They also have positive reports directly from those service providers. Interestingly, the partner was very confused and upset about the making of the PFVO and the criminal charges against our client. The partner thought the police would send a counsellor or similar professional person to help diffuse the situation, and that was all. It was the partner's view that the PFVO was entirely unhelpful, and that the provision of practical support for both of them would have been more appropriate.

**Meg Mitchell and Alicia Moore**  
**Family Lawyers**

## WELFARE RIGHTS ADVOCACY SERVICE

The Hobart Welfare Rights Advocacy Service (WRAS) employed one full-time solicitor over the last 12 months. Hobart Community Legal Service (HCLS) is fortunate to employ a number of generalist solicitors and utilise the skills of volunteers to assist when required.

As expected, the WRAS workload was constant over the period in question. The number of clients having difficulties with Services Australia or the Social Security legislation continues to be constant. The main areas of contention in the 2022/23 period did not differ from previous years, being Disability Support Pension (DSP) eligibility and overpayments.

Like previous years, WRAS evaluated the merits of each case thoroughly and provided advice only at the first instance, unless representation was clearly required. This allowed WRAS to maintain its caseload at a manageable level. In turn, an increased number of advices (with follow up advice) were conducted and appropriate referrals were made where necessary.

Our clients continue to have difficulties communicating with Centrelink. Long telephone and in-person wait times, unresponsive telephone systems and the inability to access the internet only adds to our clients' frustration with Centrelink, their disempowerment and ultimately their inability to comply with their obligations to report income and activity. We continue to work closely with these clients to resolve their issues and where necessary, liaise with Centrelink Social Workers, whom we find very approachable and of great benefit to our mutual clients.

Referrals from other community groups, Members of Parliament, the Commonwealth Ombudsman, University of Tasmania and Centrelink staff provide an ongoing source of clients. The Administrative Appeals Tribunal (AAT) also continued to refer unrepresented clients to the service.

Once again, the range of work spanned the spectrum of Centrelink decisions. In addition to the most common problems of Centrelink overpayment and DSP refusal, we provided advice on a regular basis with relation to suspension of payments for alleged breaches of activity and participation requirements, significant financial hardship caused by the imposition of compensation preclusion periods, factors considered in the assessment of whether a person was a member of a couple and the impact to their pension/benefit, problems arising from the portability restrictions on payments to people whilst overseas, obligations and restrictions to people while studying and a myriad of other Social Security related topics.

Chris Rice and Mieke Matimba attended two days of online conference provided by Economic Justice Australia (EJA). On Tuesday, 30 August 2022 the EJA conference *System Integrity for Economic Security* was held. One of the major focuses of this conference was on the difficulties faced by our clients when presenting with associated family violence. In particular, the unfortunate and all too familiar occurrence of social security payments being used as a weapon of economic abuse against our clients.

The second online conference was held on Tuesday 11 October 2022 and was for EJA members only. As with previous years, this members-only day had a heavy focus on casework trends and discussed the importance of intake policies and procedures. There were sessions on Freedom of Information requests and understanding intellectual disability in casework. Perhaps the most useful session was an opportunity to provide feedback to the AAT directly, through attendance by Senior Members and Registrars of the AAT.

In March 2023 Chris, along with Mieke and Masika, attended the EJA member conference held in Hobart, as part of the Community Legal Centres Australia's National Conference. This was a great opportunity to meet in person so many of the wonderful members of this network, after years of online meetings.

Highlights included a guest speaker from New Zealand, who gave an engaging presentation on the lack of specialist social security legal services in New Zealand, making clear the urgency to protect our services in Australia. Mr Tim Leach, CEO of CLC Australia, attended to facilitate discussion around future funding models for our services. We were also very fortunate to engage in a lively feedback session with the Deputy President and Senior Members of the AAT.

### **Disability Support Pension:**

As with previous years, our busiest area was by way of providing support for those with a disability. We have taken on a large number of matters at all levels of appeal involving DSP. In particular, we assist clients who are having difficulty with the associated eligibility criteria, rejection and cancellation. In the majority of these cases, we are successful in assisting our clients to obtain the relevant medical information for their claim to be approved or a new claim to be lodged, however, these matters can take a great deal of time and resources.

The majority of these DSP cases relate to refusal of entitlement. The common issues arising are whether the client's condition was fully diagnosed, treated and stabilised, can be awarded 20 points under the impairment tables, whether those points can be obtained from a single impairment table and are therefore classified as severe, and if not, whether they have engaged in a program of support to investigate their future capacity for work.

### **DSP - Case Study:**

Our client developed post-sepsis syndrome (PSS) following three serious infections in 2021, including significant admissions to ICU. Despite having all available treatment, and being proactive in seeking further treatment, our client continued to suffer profound and persistent lethargy with excessive tiredness, muscle weakness and fatigue. They had ongoing cognitive symptoms with poor memory, difficulty concentrating, cloudy thinking, difficulty sleeping, tearfulness and anxiety. Any recovery is considered to be a very long, slow process by their medical practitioners.

Our client claimed DSP in May 2022. Shortly after, an employee of Centrelink decided to reject the claim on the basis that the condition was not fully diagnosed, treated and stabilised and therefore did not have an impairment rating of at least 20 points as required.

We assisted our client to obtain further medical evidence in support of their appeal and attended their hearing at the AAT. It became very obvious that the Tribunal Member was in support of our client and written confirmation of that finding was soon forwarded to our office.

The decision under review was set aside and the matter was sent back to Centrelink for reconsideration in accordance with the direction that our client satisfies the medical requirements for DSP in paragraphs 94(1)(a), (b) and (c) of the *Social Security Act 1991* (the Act). This meant that, subject to all the other requirements of the Act being met, they were eligible to receive the DSP. Thankfully, our client did not have their decision appealed to the second tier of the AAT after scrutiny. They were granted DSP from the date of their original claim, with an arrears payment made for 6 months full DSP. The biggest difficulty with this case was having Centrelink acknowledge a medical condition that they were not familiar with. This was previously not an uncommon occurrence, given the Impairment Tables (the Tables) were last reviewed in 2011. However, we note there were recent changes to DSP eligibility requirements and updates to the Tables, which the Department believes will better reflect the impact of disability on a person's functional ability.

In terms of a big change, prior to the amendments an applicant needed to demonstrate that their medical condition was permanent, meaning that the condition was 'fully diagnosed, fully treated and fully stabilised.' The amendments remove the terminology of a permanent condition. The medical condition must now be 'diagnosed, reasonably treated and stabilised.' This change is an attempt to better reflect the actual requirements people must meet. The term 'fully treated' overstated the actual requirements and made the threshold appear higher than it ought to have been. We believe this led to confusion amongst applicants, their treating doctors and their supports, and it is hoped that clarifying this will help to simplify the process for applicants.

#### **Overpayments:**

Debt cases continue to account for a large proportion of the remaining work undertaken, with a large number of these files closed with satisfactory outcomes.

We must acknowledge our good working relationship with Service Australia's legal service division, which has seen some excellent outcomes achieved for our clients.

We often take carriage of files, with the intent to seek settlement by way of debt reduction. We are fortunate to be in a position to negotiate settlement, by way of debt reduction, in cases where our client no longer wish to pursue their case, for a variety of reasons, including avoidance of further trauma. Moreover, we do the same in matters, where we believe otherwise, the client would be unsuccessful at the AAT.

### **Parenting Payment Debt - Case Study:**

Perhaps the most significant case was a successful review to the Authorised Review Officer to have an overpayment of \$102,197.58 entirely waived for our client. Centrelink had found our client to be a member of a couple and entitled to the partnered rate of Parenting Payment for a 5 year period between 2012 and 2017, rather than the single rate of payment.

We assisted the client in providing detailed submissions of their relationship during this lengthy period and assisted in obtaining third party evidence to show this was an erroneous conclusion by the Department and we were successful. Obviously, the single mother of three young children was very grateful for our assistance and for not needing to take this to the external stages of review.

**Chris Rice**  
**Principal Solicitor/Welfare Rights Lawyer**

## **BRIDGEWATER OFFICE**

The Hobart Community Legal Service's outreach programme based in Bridgewater continues to provide free and independent legal advice, referral and representation to the greater Bridgewater area. This is an important service, as those within this community often have limited transport options, and therefore can struggle to access any other legal assistance. This experience is not limited to the Bridgewater area and is also experienced in Clarendon Vale, Rokeby, Huonville and New Norfolk.



Currently, the office has a full-time lawyer and a part time administrative assistant. We often have volunteers from the Centre for Legal Practice, private practice and the Law School. Earlier this year we had volunteer lawyer from HWL Ebsworth attending the office one half day per week. Volunteers provide invaluable assistance to the Bridgewater office, bringing skills and enthusiasm to the programme and are an invaluable resource.

The Bridgewater Office continues to provide assistance in areas of law including criminal, civil, consumer credit and family law. The Bridgewater Office also provides assistance to inmates at Risdon Prison Complex (RPC). That assistance ranges from providing a referral to outside organisations or providing advice on varying matters.

There continues to be demand for legal services in the Bridgewater area and other areas the office services. The bulk of the work is summary crime, family violence and minor civil matters, such as restraint orders, small civil claims and debt negotiations. Summary crime matters range from drink driving, breach family violence orders and minor assault matters, with occasional petty theft and fire arms charges. Indictable matters are referred to private solicitors and it is heartening to see in recent years more private practitioners willing to take referrals from this office.

The Bridgewater Office will provide assistance to those seeking or defending restraint orders but seeks to avoid getting involved in neighbourhood disputes. To that end, we will assist parties to draft applications for restraint orders but only appear in those matters where the party is considerably disadvantaged and a prudent self-funding litigant would pursue the matter.

The HCLS provides legal assistance after hours on weekends and the Bridgewater office lawyer has an active role in this service. Matters that come before the after-hours bail court can be referred through to the Bridgewater office lawyer where they fall within the catchment area and meet the eligibility requirements.

### Outreach

For the last six months the Bridgewater office lawyer attends the Clarendon Vale Community Centre on the last Monday of every month for a legal clinic. The uptake has been a little slow but we are hopeful that with ongoing exposure the word will get around that there is a legal service available to people in this area.

Referral pathways require maintenance, and in the next financial year the Bridgewater lawyer is planning to be attend the neighbourhood and community centres in the catchment area, including the Migrant Resource Centre, to remind staff at these community organisations of the services that HCLS can offer to their communities.

## Case studies

### Criminal

We have assisted many people in criminal matters in the last twelve months. Earlier in the year we reported upon four people who mistakenly cut fire wood in a reserve and had a defence of mistake, another who pleaded not guilty to a family violence assault and had the matter adjourned sine die, and one charged with a family violence assault dealt with in a similar manner. However, one of the more memorable matters of the last twelve months is the matter of C.

C attended the Bridgewater office in regard to charges of assault where it became apparent this person was the victim of an assault.

C attended a licensed venue and impulsively lit a cigarette inside. C immediately realised the error and put it out. However, security and a venue staff member approached our client and demanded they leave. C apologised and indicated the cigarette was out. Security staff grabbed C and threw our client into the closed door, opened it and then threw them outside. C sustained a broken wrist, and was left to call an ambulance themselves. Staff called police and claimed C had assaulted them. Charges of assault were laid against C.

We assisted C to plead not guilty. After a number of court appearances and requests for prosecution disclosure, prosecution indicated the complainant no longer wanted to give a statement or attend court to give evidence. Prosecution stated they would tender no evidence in the matter.

We then conducted a warm referral to a private practitioner who agreed to assist C on a no win no fee basis to pursue a civil claim against the venue and the assailants.

C had no prior convictions and was not facing a term of imprisonment and therefore was not eligible for a grant of legal aid. Without the HCLS C would have likely been forced into a plea of guilty and as a result would have had no recourse through the civil courts.

C's civil lawyer is currently pursuing that venue through the civil courts.

### Family Violence

The Bridgewater Office assists many people charged with family violence offences.

We recently assisted D in regard to breach police family violence order. D came to the service through the after-hours bail programme.

D entered into a relationship with F. D did not live with F but they enjoyed a close relationship and their children were friendly with each other. D experienced significant anxiety and depression, leading D to suicidal ideation.

After an incident where D expressed thoughts of self-harm, F called police. In order to protect F, police imposed a police family violence order upon D, prohibiting D from attending within 50 metres of F's residence.

Child Safety Services also became involved and informally placed D's two children with F for a brief period to give D some respite.

F and D continued their relationship but D breached the family violence order on three occasions:

- F asked D to drop some veterinary supplements to the house for their kittens. D purchased the supplements and met F across the road from the house to give them to F. F reported the breach and D was charged with breach family violence order, being within the 50 metre exclusion.
- F asked D to attend the address to pick up D's child and take them to school. D parked within 50 metres of F's residence in breach of the exclusion zone and F reported this to police.
- It was suggested by Child Safety Services that D provide groceries to F and the children. D attended F's address and dropped groceries. F reported the breach D to police.

D was remanded in custody for breach of family violence order, was assisted by the after-hours bail programme. Bail was granted and D was referred to the Bridgewater office as D had limited prior convictions, the breaches were low level and D was not facing a term of imprisonment and therefore would not have been eligible for Legal Aid assistance.

After some negotiation with prosecution, D entered pleas of guilty. The court took D's personal circumstances and the low-level nature of the breaches into consideration and the fact D was trying to act in the best interests of F and the children, and dealt with the matter by way of a non-conviction and good behaviour bond.

This outcome could not have been possible without the services offered by the Bridgewater office because, given D's poor mental health and low literacy, it is unlikely

D would have been able to negotiate with prosecution and present the circumstances of the breaches.

**Hamish Locke**  
**Bridgewater Lawyer**

## **DUTY LAWYER SERVICE**

The Hobart Community Legal Service (HCLS) continues its collaboration with the Law Society of Tasmania (LST) and the Tasmanian Centre for Legal Studies (CLS) to provide a Duty Lawyer Service (DLS) to the Hobart Magistrates Court. Recent graduates of the CLS are given the opportunity to apply for a casual position as a Duty Lawyer through HCLS, after completing a week-long intensive training course. Part of the collaboration also provides the ability for a private law firm to employ a graduate and receive incentives from the LST to also join the DLS under the supervision of HCLS.

The partnership was formed to serve a number of purposes. Primarily, it was envisaged the establishment of the DLS would significantly contribute to the efficiency and effectiveness of the Hobart Magistrates Court, by providing representation to those that would otherwise appear unrepresented. Moreover, it would also provide an employment pathway for recent graduates of the CLS's Tasmanian Legal Practice Course (TLPC). With the experience gained from working as a Duty Lawyer providing the experience needed to gain full time employment in the legal profession.

The Duty Lawyers are employed to appear on behalf of claimants, applicants, defendants and respondents appearing at the Hobart Magistrates Court on adjournments, bail applications, restricted licence applications, family violence/restraint order applications and pleas in mitigation. They are also required to provide substantive, procedural, and referral advice to those people requiring it.

As employees of HCLS the Duty Lawyers are expected to complete all documentation as required by HCLS and to keep up to date with relevant legal developments and procedures by attending continuing professional legal education programs. An emphasis was placed on the Duty Lawyers to maintain collaborative relationships with HCLS staff, Hobart Magistrates Court Staff and other justice and community organisations, to ensure cooperative and proactive approaches to improving access to justice.

During the first three months of employment with HCLS the newly appointed Duty Lawyers are heavily supervised by our staff at the Hobart Magistrates Court. They are also required to attend meetings when required. The level of supervision reduces, as the Duty Lawyers gain the requisite experience to perform their role.

HCLS, TLS and CLS see the DLS providing the following advantages:

- enhancing the chances of newly admitted lawyers obtaining permanent legal positions in Tasmania, by gaining practical experience otherwise not available to graduates
- increasing the number of legal practitioners in the private profession undertaking criminal work
- improving the range and quality of legal services provided to the public
- increasing the number of people receiving free legal services in circumstances where previously they would not
- assisting Tasmania Legal Aid with custody matters, where increased demand or staffing shortages require it and
- improving the operation of the justice system, by having less unrepresented defendants appear before the courts.

Once again, the majority of the 2022 Duty Lawyers were successful in obtaining permanent full-time employment. By the end of August 2022 our numbers had dropped from the initial 11 employed down to 4. We like to think their inclusion in the DLS contributed to their employment in the legal profession.

During the first week of November 2022 a new cohort of eight graduates, including seven employed under the scheme through an arrangement with private practice and the Law Society, participated in training provided by Mr Garth Stevens and HCLS Principal Solicitor, Mr Chris Rice. All eight graduates were employed and began completing shifts as early as the following week. Moreover, to assist with the lower number of graduates, one of the 2022 Duty Lawyers had their contract extended for 2023.

By the end of the 2022/2023 financial year our numbers had reduced to a roster of seven employed Duty Lawyers. Unlike previous years, there wasn't the urgency to fill these vacant positions, as five of the remaining Duty Lawyers were privately employed, providing some security in knowing they will hopefully complete their 12-month contract in the DLS.

Discussions are currently underway to commence training at a similar time to last year, so the 2024 Duty Lawyers can be employed with the opportunity to shadow the current Duty Lawyers for the last two months of the calendar year. This will also alleviate any concerns, during this time of year, if further 2023 Duty Lawyers were to graduate the program.

We acknowledge the work of the LST (Luke Rheinberger), the CLS (Naomi Bryant, Susie Winter and Emma White) and Garth Stevens for the continued success of the DLS. The DLS continued to receive significant support from the current sitting Magistrates, registry staff and court security. There is no doubt the DLS has achieved its main objective, by significantly contributing to the efficiency and effectiveness of the Hobart Magistrates Court, in providing access to justice to those who would otherwise have been unrepresented.

Chris Rice  
Principal Solicitor

**HOBART COMMUNITY LEGAL SERVICE INC**

## **FINANCIAL STATEMENTS**

**30TH JUNE 2023**

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Auditor's Report  
Consolidated Profit & Loss Statement  
Balance Sheet  
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Equity Statement

**Independent auditor's report  
To members of Hobart Community Legal Service Incorporated**

I have audited the special purpose financial report of Hobart Community Legal Service Incorporated for the year ended 30 June 2023.

**Audit Opinion**

In my opinion, the special purpose financial report of Hobart Community Legal Service Incorporated presents fairly in accordance with applicable Accounting Standards and other mandatory professional reporting requirements in Australia the financial position of the Association as at 30 June 2023 and the results of its operations for the year then ended.

In my opinion, the financial report has been prepared in accordance with the requirements set down in Division 60-45 of the *Australian Charities and Not-for-profits Commission Act 2012 (as amended)*.

**Management Committee's Responsibility for the Financial Report**

The Management Committee is responsible for preparation and fair presentation of the special purpose financial report and information contained therein. This responsibility includes establishing and maintaining internal controls relevant to preparation and fair presentation of the financial report that is free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

**Auditor's Responsibility**

My responsibility is to express an opinion on the financial report based on my audit. I have conducted my audit in accordance with Australian Auditing Standards to provide reasonable assurance as to whether the accounts are free of material misstatement. My procedures included examination, on a test basis, of evidence supporting amounts and other disclosures in the accounts, and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial statements are presented fairly in accordance with Australian Accounting Concepts and Standards and other mandatory professional reporting requirements (Urgent Issues Group Consensus Views) (where applicable), and statutory requirements so as to present a view which is consistent with my understanding of the Association's financial position and the results of its operations and cash flows.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

**Independence**

To the best of my knowledge and belief, there has been no contravention of auditor independence and any applicable code of professional conduct in relation to the audit.

**Limitation of Scope**

As is common for organisations of this type, it is not practicable to establish complete accounting control over cash received from all of its activities. Verification therefore has been limited to the receipt of funds recorded in the Association's financial records.

Max Peck & Associates



Rendell W. RIDGE  
8 September 2023

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**Hobart Community Legal Service Inc.  
Consolidated Profit & Loss Statement  
for year ended 30 June 2023**

	2023	2022
<b>Income</b>	<b>\$</b>	<b>\$</b>
Commonwealth NLAP Funding	832,887	819,118
State NLAP Funding	325,720	308,050
State Grant	50,000	50,000
SGF grant brought forward	0	7,332
Car Parking, Rent	27,731	12,093
Costs Awarded	0	81,818
Insurance Reimbursement	17,239	13,232
Interest Received	1,512	2,227
COVID – 19 AGD Grant	0	18,976
Disbursements	15,000	0
Other Income	2,139	824
Wage Reimbursements	258,385	227,453
<b>Total Income</b>	<b>\$1,530,614</b>	<b>\$1,541,025</b>
<b>Expenses</b>		
Advertising	1,401	3,244
Amenities: Client, staff, volunteers	3,056	820
Audit Fees/Accountant	2,023	1,900
Cleaning	2,522	711
Computer Expenses	8,392	1,774
Conferences and Training	10,199	1,977
Consultancy Services	9,091	95,050
Depreciation	5,505	5,689
Disbursements	14,485	0
Electricity	2,593	3,321
Equipment Purchases (minor)	3,558	2,163
Employee Leave Entitlements	77,688	68,329
Insurance & workers Comp	7,768	10,335
Library Expenses	1,145	990
Memberships	9,558	6,825
Office Rental	81,831	18,457
Practising Certificates	1,580	2,014
Printing, Postage, Stationary	4,667	6,625
Rates, Land Tax	15,261	1,378
Repairs and Maintenance	19,374	15,743

Salaries & Related Expenses	992,775	826,502
Security	1,736	784
Subscriptions	3,275	1,846
Sundry Expense	1,394	1,061
Superannuation	104,917	84,642
Telephone	7,272	10,515
<b>Total Expenses</b>	<b><u>\$1,393,067</u></b>	<b><u>\$1,172,694</u></b>
<b>Operating Profit</b>	<b><u>\$137,548</u></b>	<b><u>\$368,430</u></b>

**Hobart Community Legal Service Inc.**  
**Balance Sheet**  
as at 30 June 2023

	2023	2022
<b>Assets</b>		
<i><b>Current Assets</b></i>		
Cash at Bank, on Hand	39,045	416,653
Deposits at Call, Term	1,067,425	552,287
Trade Debtors	91,784	14,319
<b>Total Current Assets</b>	<b>1,198,254</b>	<b>982,259</b>
<i><b>Non-Current Assets</b></i>		
Equipment – at cost	178,054	178,054
<b>Add Additions</b>	<b>9,934</b>	
Deduct Provision Depreciation	-175,681	-170,176
<b>Total Non-Current Assets</b>	<b>12,307</b>	<b>7,878</b>
<b>Total Assets</b>	<b>\$1,210,560</b>	<b>\$991,137</b>
<b>Liabilities</b>		
Creditors	6,896	14,616
GST Recoverable	25,445	-28
Payroll Liabilities	35,744	25,288
Employee Leave Entitlements:		

Annual Leave	160,504	107,252
Long Service Leave	122,549	122,136
<b>Total Liabilities</b>	<b>\$351,139</b>	<b>\$269,263</b>
<b>Net Assets</b>	<b>\$859,421</b>	<b>\$721,873</b>
<b>Equity</b>		
Retained Earnings	721,873	353,444
Current Earnings	137,548	368,430
<b>Total Equity</b>	<b>\$859,421</b>	<b>\$721,873</b>

**Hobart Community Legal Service Inc.  
Statement of Cash Flows  
for year ended 30 June 2023**

	\$ 2023	\$ 2022
<b>Cash flows from operating activities</b>		
Cash receipts in the course of operations	1,453,149	1,541,251
Payments for Project & Operating	<u>-1,305,685</u>	<u>-1,124,494</u>
<b>Net cash provided (- used) in operating activities</b>	<b><u>147,464</u></b>	<b><u>416,757</u></b>
<b>Cash flows from investing activities</b>		
Purchase of new assets, inventory	<u>-9,934</u>	<u>-5,685</u>
<b>Net cash provided by investing activities</b>	<u>-9,934</u>	<u>-5,685</u>
Net increase (-decrease) in cash held for year	137,530	411,072
Cash at the Beginning of Financial Year	<u>968,940</u>	<u>557,868</u>
<b>Cash at the End of Financial Year</b>	<b><u>\$1,106,470</u></b>	<b><u>\$968,940</u></b>
<b>Cash at year end represented by:</b>		
Cash at bank, cash floats	39,045	416,653
Term deposits	<u>1,067,425</u>	<u>552,287</u>

Total Cash at end of Financial Year	<u>\$1,106,470</u>	<u>\$968,940</u>
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Reconciliation of cash from operating activities with result for year

Operating surplus	137,548	368,430
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**Change in non-cash items**

Depreciation	5,505	5,686
Payroll liabilities	10,456	-6,917
Employee entitlements	53,666	53,447
Unspent Funds	0	-26,308
Sundry debtors	-77,465	19,064
Sundry creditors	<u>17,753</u>	<u>3,355</u>

<b>NET CASH PROVIDED BY/(USED IN) OPERATING ACTIVITIES</b>	<b><u>\$147,463</u></b>	<b><u>\$416,757</u></b>
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Hobart Community Legal Service Inc.  
 Statement of Change of Equity  
 For year ended 30<sup>th</sup> June 2023

	\$
<b>Balance 1 July 2022 brought forward</b>	353,444
Surplus for the year	<u>368,430</u>
<b>Balance as at 30 June 2023 carried forward</b>	<u>721,873</u>
<b>Balance as at 1 July 2022 brought forward</b>	721,873
Surplus for the year	<u>137,548</u>
<b>Balance as at 30 June 2023 carried forward</b>	<u><b>\$859,421</b></u>

## 1. Basis of Preparation

### 1.1 Statement of accounting policies

The financial report is a special purpose financial report prepared in order to satisfy the financial reporting requirements of the Associations Incorporation Act 1964, the requirements of the Association's Constitution and the requirements of the *Australian Charities and Not for Profits Commission*. The Board of Governance has determined that the Association is not a reporting entity as defined in Statement of Accounting Concepts 1: Definition of the Reporting Entity. The Association has however, prepared the financial report in accordance with the Australian Accounting Standards and the Reduced Disclosure Requirements.

Hobart Community Legal Service Inc. is a not-for-profit entity for financial reporting purposes under the Accounting Standards.

### 1.2 Basis of Preparation

The financial statements, other than the statement of cash flows, has been prepared on an accruals basis and are based on historical costs and do not take into account changing money values or, except where stated, current valuations of non-current assets. Cost is based on the fair value of the consideration given in exchange for assets.

## 2. Significant accounting policies

The following significant accounting policies have been adopted in the preparation of these statements and are consistent with prior years unless otherwise stated.

*AASB 101 Presentation of Financial Statements*

*AASB 107 Statement of Cash Flows*

*AASB 108 Accounting Policies, Changes in Accounting Estimates and Errors*

*AASB 1031 Materiality*

*AASB 1048 Interpretation of Standards*

*AASB 1054 Australian Additional Disclosures.*

### 2.1 Income Tax

No provision for income tax has been raised as the Association is exempt from income tax under Div. 50 of the Income Tax Assessment Act 1997. The Association holds deductible gift receipt status.

### 2.2 Goods and Service Tax (GST)

Revenue, expenses and assets are recognised net of the amount of GST, except where the amount of GST incurred is not recoverable from the Australia Taxation Office (ATO).

### 2.3 Cash and Cash Equivalents

Cash and cash equivalents include cash on hand and at bank.

### 2.4 Revenue

Revenue comprises income from the sale of services, government grants, client contributions and donations. Revenue is recognised when the amount of revenue can be measured reliably, collection is possible, the costs incurred or to be incurred can be measured reliably.

## **Hobart Community Legal Service Inc.**

### **Notes to the financial statements for year ended 30 June 2023**

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#### **2.5 Employee Benefits**

##### **2.5.1 Short-term employee benefits**

Short term employee benefits are benefits, other than termination benefits, that are expected to be settled within twelve (12) months after the end of the period in which the employees render the service. A liability is recognised for the amount expected to be paid if the Association has a present or constructive obligation to pay this amount as a result of past service provided by the employee and the obligation can be estimated reliably.

##### **2.5.2 Other long term employee benefits**

Provision is made for the organisation's liability for employee entitlements arising from services rendered by employees to balance date. Policy is to accrue 0% of long service leave for employees with less than 2 years of service, 33% for long service leave for those employees with 2 to 5 years of service, 67% for these employees with between 5 and 7 years of service and 100% for those employees who have provided over 7 years of service.

#### **2.6 Economic Dependence**

Although there is no reason to believe that funding will vary significantly, the ongoing viability of the Association as a going concern is dependent on continued government funding.

#### **2.7 Payments to Auditor**

Payments to the auditor were \$2,023 in 2023 and \$1,900 in 2022. No other payments were made in either year.

#### **2.8 Related Parties**

Hobart Community Legal Service Incorporated had no significant related party transactions in 2022-2023 requiring disclosure.

#### **2.9 Comparative Data**

To comply with AASB 108, comparative data has been amended where appropriate to correct pre-2023 information.



## COMMITTEE OF MANAGEMENT MEMBERS

### YEAR ENDED 30th JUNE 2023

President	Mr Henry Pill
Vice-President	Dr Kiki Mussared (resigned May 23)
Vice-President	Ms Odette Lenane
Secretary	Mrs Anne Horner
Treasurer/ Public Officer	Mr James Walker
Ordinary Members	Mr Silas Hoon
	Ms Marion Clarke
	Ms Alkinida Milelti
	Mr Chris Webster AM
	Ms Dashini Elankovan (from Oct 22)
Staff Rep	Vacant

