

Questionnaires to Political Parties

The Law Council of Australia has sent questionnaires to the four federal political parties seeking to ascertain exactly those parties' policies regarding Commonwealth legal aid funding responsibilities.

The questionnaires, sent to the Coalition, Labour, Democrats and One Nation parties, are intended to obtain definitive positions on each party's policy regarding legal aid funding prior to election day - and to provide evidence of their pre-election legal aid promises post-election.

"The Law Council considers that legal aid funding should be funded by governments as any other essential service" says the President-elect of the Law Council, Mr Fabian Dixon.

"But we have seen this country's legal aid system stumble from crisis to calamity, with the Commonwealth Government's cuts to legal aid over the past two years and the severe restrictions on types of matters that can be funded.

"The questionnaires attempt to get each party to publicly record its legal aid policies, and - particularly for the major parties - to show exactly the direction in which each party would take legal aid if it were elected to Government."

The four parties have been requested to return the completed questionnaires to the Law Council by 22 September 1998. The questionnaires will then be analysed, and a statement regarding the Law Council's analysis made sometime after that.

"We will, of course, also be advising the Australian public if any of the four parties do not respond to the questionnaire" Mr Dixon says.

The questionnaires cover a wide range of issues regarding the Commonwealth Government's responsibility to legal aid, including:

- whether legal aid is a fundamental right for people who cannot afford to pay for legal representation, and whether there should be limitations on this right.
- whether each party would continue the present approach of limiting Commonwealth funds to Commonwealth law matters, and whether each party intends to retain a variation of legal aid dollars per

capita across the various States and Territories of Australia,

- whether each party would maintain the current Commonwealth Guidelines as to how legal aid commission must spend Commonwealth legal aid funding, and whether each party would maintain the current 'caps' on legal aid funding
- what measures each party would take in addressing the issue of funding criminal 'megacases'
- given that the proposed GST does not provide an exemption for legal services - and that this would cause legal service delivery costs to rise - whether each party would increase funding of the legal aid system to compensate for an increasing pool of people unable to access private legal services.
- in light of this latter point, whether legal aid commissions and other providers of legal aid services would be provided with a GST examination status.
- whether each party would ensure that realistic funding allocations are made to ensure that legal assistance is provided at the 'early-resolution' stage of proceedings.

Media Alert - Doorstop

The Law Council of Australia will hold a doorstop outside the Senate entrance, Parliament House in Canberra on Friday 2 October 1998 to provide a commentary on the major political parties' responses to the Law Council's questionnaire on legal aid and those political parties' legal aid policies.

At the doorstop the Council will also be launching a report - *Legal Aid Demand and Funding* which was commissioned by the Council and undertaken independently by public sector finance consultant Mr Ian McCauley. The report shows that at least \$30 million is required immediately just to restore Commonwealth legal aid funding to 1994 levels. Restoration of that funding it states, would then be enough for the legal aid system to stand still - not to keep pace with the growing demand for legal aid.

Expert witnesses are now also required to disclose all instructions given to them which define the scope of their report, and to disclose the facts, matters and assumptions upon which their report proceeds.

Coalition and Labor Disregard Current Legal Aid Funding Crisis

The Law Council of Australia continues to focus on the level of funding of legal aid because:

- it is an area of crucial importance to Australia's justice system; and
- it is essential to deliver sufficient legal service and representation services required by the financially and socially disadvantaged in the community.

The Law Council considers that neither the Coalition, nor the Labor Party, has grappled with a fundamental funding crisis in the legal aid system, adding that an analysis commissioned by the Council demonstrates \$30 million is required immediately just to restore Commonwealth legal aid funding to 1993-94 levels.

The Council provided the three major federal political parties - the Coalition, Labor, and the Democrats - and One Nation, with questionnaires to ascertain their legal aid, and legal aid funding policies. The coalition, Labor and the Democrats responded to the questionnaire, but the Council received no response from One Nation.

"The Coalition did not specifically answer the Law Council's questionnaire, but has framed its response as a general commentary on its law and justice policy" says the Law Council's Treasurer, Ms Anne Trimmer. "It is particularly disappointing that the Coalition did not clearly spell out its policy direction for mainstream legal aid funding.

"It is evident from the Coalition's response that the Coalition's thinking on legal aid has not come to grips with the negative flow-on effects of a diminished legal aid system.

"The Labor Party's legal aid policy - while trying to travel in the right direction of more legal aid funding and a return to a national approach to legal aid - promises too little too late.

"The Labor Party has announced that it will restore a national legal aid system and abolish the artificial distinction between the so-called 'Commonwealth' and 'State' legal aid responsibilities.

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