

Quarterly Highlights Report October to December 2018

The New South Wales Legal Assistance Forum (NLAF) plenary group meeting was held on 5 December 2018, and was chaired by Brendan Thomas, CEO of Legal Aid NSW.

Guest Speakers at the Meeting

Fines and Vulnerable Clients

NLAF, on the advice of Fines and Traffic Law Working Group ('FTLWG'), has identified several issues relating to fines that affect the sector's vulnerable clients. The focus of this meeting, was to discuss these issues with our two guests **Ms Ann King**, Director of Department of Finance, Services and Innovation ('DFSI'), and **Ms Meredith Osborne**, Director Civil Law of Legal Aid NSW and Chair of the NLAF FTLWG.

Earlier this year, the Department of Finance, Services and Innovation (DFSI) and Revenue NSW conducted a *Fairer Penalty Notice System* review to recommend measures that will reduce the disproportionate impact and social cost of the fines system on vulnerable people. NLAF provided detailed feedback to the review. Unfortunately, the **practices of issuing agencies** were outside the scope of the FPNS review. The NSW Law Reform Commission in *Penalty Notices (2012) Report No. 132* made many recommendations, including better use of cautions, which have not yet been adopted. The NLAF FTLWG plans to focus on these issues in the new year.

In relations to other matters regarding fines, DFSI informed NLAF of the complexity of the current fines system and provided an update on the steps they are taking to simplify processes, including changes to the internal review process and to the methods used to identify vulnerable customers earlier.

Key NLAF Issues

New: Aboriginal Incarceration Working Group

A new NLAF working group has been established to address the problem of Aboriginal overrepresentation in NSW adult prisons. Members of the group will include Aboriginal Legal Service NSW/ACT, Bureau of Crime Statistics and Research, Community Legal Centre NSW, Law and Justice Foundation of NSW, Law Society of NSW, Legal Aid NSW, NSW Bar Association, and Public Interest Advocacy Centre. The Terms of Reference is being drafted and will be available on our website once finalised.

New: Prisoners and Identification Documents Subcommittee

The Prisoners and Identification Documents Subcommittee has been established jointly by the NLAF Prisoners Forum and the NLAF Fines & Traffic Law Working Group. Members include Aboriginal Legal Service NSW/ACT, Births Deaths & Marriages, Community Restorative Centre, Corrective Services NSW, Juvenile Justice NSW, Legal Aid NSW, Red Cross, Revenue NSW, Roads & Maritime Services, and Service NSW. Its aim is to identify and resolve issues that prevent prisoners leaving custody without a suitable identification document. The subcommittee has already met twice, and will continue its work in 2019.

Below are the key issues raised by the groups that report to NLAf.

Fines and Traffic Law Working Group (FTLWG)

Driver Disqualification Reform Implementation

Previous NLAf reports to the Attorney General summarised two key challenges relating to the implementation of driver disqualification reforms. As you would be aware, progress to one of these issues has been made. The Supreme Court of NSW in the matter of *Dixon v Attorney General of NSW* [2018] NSWSC 1618 (per Adamson J) decided that Local Courts have jurisdiction to hear applications to quash Habitual Traffic Offender declarations, and the *Justice Legislation Amendment Bill (no. 3) 2018* confirms this power of local courts. The other key challenge relates to the ongoing issue as to when the relevant offence free period is to commence (date of offence or date of conviction). This issue has not yet been addressed.

Bicycle Fines update

As discussed above, recommendations made by the NSW Law Reform Commission in *Penalty Notices (2012) Report No. 132* have not yet been adopted in relation to the practices of issuing authorities and their use of cautions. As the working group strongly believes that reform in this area should remain a priority, FTLWG plans to focus on addressing this issue in 2019. FTLWG has invited relevant representatives from the NSW Police Force, Corrective Services NSW and Transport of NSW to join the working group to assist with this matter.

Prisoners Forum

JUST Connect

Corrective Services NSW presented on JUST Connect, a project updating AVL services provided by Corrective Services NSW. The Prisoners Forum was pleased to hear the many updates that they provided. The use of technology will help streamline prison visits for family and professionals as well as Corrective Services NSW staff.

Collaborative Service Planning Working Group

The Collaborative Service Planning working group is investigating options to determine catchment areas for legal assistance service provision across the state. The catchments would be used for analysing the legal needs in an area, identifying the services being provided, and for service planning. The working group has also convened a Data Subcommittee to develop a framework for sharing legal assistance data for service planning purposes.

Cooperative Legal Services Delivery (CLSD) Program operated by Legal Aid NSW

The CLSD Program has identified several salient ongoing legal needs and emerging issues from regional, rural and remote NSW, including:

- underutilised diversion under the *Young Offenders Act 1997* in some regions,
- the need to assist older people who have had lengthy disqualification periods lifted and may have literacy issues to regain drivers licence,

- drug and alcohol rehabilitation facilities and MERIT (to address issues raised by CLSD partners, and highlighted in the NSW Parliament’s inquiry into the Provision of drug rehabilitation services in regional, rural and remote NSW),
- inconsistent messaging to women about the value of attending court for ADVOs.

NLAF Website (nlaf.org.au)

Quarterly working group reports tabled at the NLAF meetings and NLAF Highlight Reports are posted on our website. In addition, the NLAF News page is updated weekly with links to NLAF member updates and news items.

Lillian Leigh
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