

# National Legal Assistance Partnership Review

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Public Interest Advocacy Centre  
**ABN** 77 002 773 524  
[www.piac.asn.au](http://www.piac.asn.au)

Gadigal Country  
Level 5, 175 Liverpool St  
Sydney NSW 2000  
**Phone** +61 2 8898 6500  
**Fax** +61 2 8898 6555

## About the Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is a leading social justice law and policy centre. Established in 1982, we are a community legal centre that works with people and communities who are marginalised and facing disadvantage.

PIAC builds a fairer, stronger society by helping to change laws, policies and practices that cause injustice and inequality. Our work combines:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change and public interest outcomes.

Our priorities:

- **First Nations justice:** working with Aboriginal communities to end child removal and overpolicing.
- **Reducing homelessness** through the Homeless Persons' Legal Service and empowering people with lived experience (StreetCare).
- **Disability rights**, including access to services and a fairer NDIS.
- **Energy and water justice:** ensuring access to sustainable and affordable energy and water.
- **Civil rights**, including the rights of people in detention.

## Contact

Jonathon Hunyor  
Public Interest Advocacy Centre  
Level 5, 175 Liverpool St  
Sydney NSW 2000

T: +61 2 8898 6508

E: [jhunyor@piac.asn.au](mailto:jhunyor@piac.asn.au)

[www.piac.asn.au](http://www.piac.asn.au)

The Public Interest Advocacy Centre office is located on the land of the Gadigal of the Eora Nation.

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# 1. Introduction

The Public Interest Advocacy Centre (PIAC) is pleased to make this submission to the National Legal Assistance Partnership Review.

PIAC is a Community Legal Centre. Some of our work – primarily that of the Homeless Persons' Legal Service – has similarities to that of other legal assistance providers, in providing individual transactional services to people experiencing disadvantage.

However, the vast bulk of PIAC's work in strategic litigation and systemic policy and law reform advocacy is distinctive and highly specialised. It is those aspects of our work that are the focus of this submission.

We urge the Review to:

- Understand 'legal need' by reference to its underlying causes, and distinguish 'recurrent' legal need from 'systemic' legal need.
- Recognise the different approaches that are necessary to meet these different types of legal need, including systemic advocacy for reform to laws, policies and practices.
- Recognise the specialist nature of systemic advocacy, including strategic litigation, and the resourcing required to deliver it effectively.
- Recommend significant investment in sector capacity for systemic advocacy to both support such work across the sector and by specialist services such as PIAC.

PIAC is committed to effective and fit-for-purpose impact measurement. We have thought deeply about how we identify the impact of our work and have developed systems for planning, managing and evaluating our impact. We set this out below along with our views on how this is relevant to decisions about funding for legal assistance and access to justice.

## 2. Legal need and access to justice

### 2.1 'Recurrent' legal need

Many of the legal problems experienced by the community that give rise to 'legal need' are essentially recurrent in nature: we can expect that people will always face issues such as family law disputes, housing and tenancy, consumer and criminal law issues.

Such need is primarily (and appropriately) met by ensuring people have access to legal assistance and forums including courts and tribunals in which they can resolve their issues and obtain a remedy.

As the discussion paper recognises, there is also an important role for advocacy by legal assistance providers in addressing this 'recurrent' legal need. Law and systems reform work – such as submissions to inquiries or direct advocacy with government to highlight issues that arise in casework - can reduce disputes, litigation and the demand for legal services.

We support funding for all legal assistance providers to be able to undertake such advocacy.

## 2.2 'Systemic' legal need

We also urge the Review to recognise what might be called 'systemic' legal need and the specialised response that is required to meet it and deliver justice for people experiencing disadvantage.

'Systemic' legal need arises from laws, policies and practices that cause unfairness or injustice or fail to adequately protect people's rights. For example:

- Policing practices like the use by NSW Police of 'Suspect Targeting Management Plans' that have a discriminatory impact on Aboriginal people;
- Policies of service providers like insurers that exclude and discriminate against people with disability; or
- Laws like the NSW Anti-Discrimination Act that, after years of neglect, fail to adequately protect people from discrimination.

We provide case studies of our work on each of these issues below.

There is a role for individual, transactional legal assistance in responding to this need. For example, by helping a person get compensation for a breach of their rights. In some cases, this can also lead to a change in policies and practices.

But in PIAC's experience, addressing the underlying causes of 'systemic' legal need requires specialised, strategic advocacy, often over many years.

Importantly, this can not only deliver justice for impacted individuals: it can resolve the underlying legal need by bringing about change to unlawful or unfair practices, ensuring that others will not face the same problem. As the Productivity Commission's 'Access to Justice Arrangements' report recognised: 'addressing an underlying problem that has led to many disputes can free up the resources of affected parties, legal assistance providers, private lawyers, courts and governments.'<sup>1</sup>

Systemic work can also deliver substantive justice for the community by ensuring the law provides adequate protection of the rights of people experiencing disadvantage. Effective rights protection is an essential aspect of a well-functioning justice system.<sup>2</sup>

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<sup>1</sup> Productivity Commission, *Access to Justice Arrangements* (2014), 708.

<sup>2</sup> *Ibid*, 139.

## Case study one: the Suspect Targeting Management Plan

In 2015 the Aboriginal Legal Service NSW/ACT (ALS) raised concerns with PIAC that Aboriginal young people were being stopped and searched by NSW Police officers and told this was because they were on the 'STMP' or 'on a list to be searched'. ALS lawyers were concerned that police were, in fact, searching young people without a proper lawful basis under the *Law Enforcement (Powers and Responsibilities) Act 2002*.

PIAC has a long-established relationship with the ALS, working on systemic justice issues that impact Aboriginal people. To better understand this issue, we engaged with a range of other organisations, legal professionals and academics to form an STMP working group within the Youth Justice Coalition (YJC).

### Research and the STMP report

There was initially no information publicly available about the STMP: the Suspect Targeting Management Plan.

Over 2015-16, PIAC and the working group obtained information from NSW Police about the STMP through the *Government Information (Public Access) Act 2009* (NSW). This required multiple applications to several Local Area Commands, and challenging the withholding of certain information, including in the NSW Civil and Administrative Tribunal.

The working group also interviewed 12 lawyers who had acted for clients who were known or suspected to be on the STMP.

In late 2017, PIAC was a lead author of the YJC report [\*Policing Young People in NSW: A Study of the Suspect Targeting Management Plan\*](#) (YJC Report). The report was the first public analysis of the STMP. It was a ground-breaking report, finding that the STMP

- was disproportionately used on young Aboriginal people;
- encouraged poor police practice, including unlawful use of power;
- led to young people being subject to patterns of 'oppressive policing' that damaged relationships between police, young people and their families;
- lacked transparency and was not open to scrutiny; and
- was not supported by publicly available evidence that it was effective in reducing youth crime.

A key recommendation of the YJC Report was that the Law Enforcement Conduct Commission (LECC), which has oversight of NSW Police, investigate the STMP. The report also recommended that police cease to use the STMP on children.

PIAC organised for the report to be launched at a public event with media and a range of legal and government stakeholders present. The report generated significant media coverage, including in the Sydney Morning Herald, ABC, SBS, the Guardian and news.com.au. The issue has continued to be the subject of media coverage since that time.

## **LECC investigation**

In mid-2018, the LECC commenced an investigation into use of the STMP on young people under the age of 18, citing the report by the YJC as having informed its decision to commence the investigation. That investigation is named 'Operation Tepito'.

In August 2018, NSW Police advised that they had changed their practices in relation to the STMP such that the Assistant Commissioner (Youth Command) had to approve placement of children aged under 14 on the STMP.

In January 2020, the LECC published the [Operation Tepito Interim Report](#), which confirmed many of the concerns detailed in the YJC Report and made 15 recommendations for how the STMP could be improved for young people.

In February 2022, PIAC and the STMP working group provided a further submission to the LECC. A final report into Operation Tepito is to be tabled in NSW Parliament on 30 October 2023.

## **Engagement with NSW Parliament**

In 2018, PIAC made a submission and gave evidence to the NSW Parliamentary Inquiry into the Adequacy of Youth Diversionary Programs, in which we highlighted our concerns with the STMP and drew attention to the YJC report.

In November 2020, as a result of PIAC briefings with parliamentarians, policy documents were made publicly available through the NSW Parliament Standing Order 52 process. This process allows for parliamentarians to require the production of documents by government agencies. This made possible public scrutiny of NSW Police policy documents concerning the third iteration of the STMP (STMP III). This resulted in further media coverage of the issues, including in the Guardian.

In May 2022 further documents were required to be produced under Standing Order 52, allowing for ongoing scrutiny and advocacy. In particular, the documents supported further engagement by PIAC with the LECC in relation to the STMP.

We have continued to engage with key Members of Parliament and Members of the Legislative Council, to explain our concerns with the STMP and how the issue relates to their respective portfolios and/or committees. This has resulted in the issue remaining the subject of questions in Budget Estimates hearings, ensuring ongoing scrutiny and public discussion of police practices.

## **Casework**

In conjunction with our systemic advocacy work, we have also undertaken the following casework for young people on the STMP:

- We have successfully represented a number of young people in negotiation with NSW Police to have them removed from the STMP.
- In May 2022, we settled a case for a young Aboriginal man who was stopped and searched over 68 times while subject to the STMP in circumstances we believe were unlawful.

- We represent two young Aboriginal people who experienced a pattern of continuous harassment, interrogation and surveillance, including through stops and searches, while on the STMP. We believe their treatment was unlawful and their cases are ongoing.
- In May 2023, we made a complaint to the LECC on behalf of a young Aboriginal person who was subject to the STMP when aged only 13. Our concerns include that NSW Police did not have appropriate approval to place this child on the STMP.

We have also explored a range of potential options for test cases to challenge the STMP and its discriminatory impact on Aboriginal young people.

### **Ongoing advocacy**

PIAC maintains an ongoing dialogue with the LECC about policing issues, including the STMP, informed by our casework experience and expertise.

We have also engaged with the Assistant Commissioner of Police (Youth Command) about the STMP and other issues relating to the policing of young people.

PIAC is recognised for our leadership and expertise in relation to the STMP. We continue to raise awareness of the STMP in journal articles, conference presentations (such as the Crime Justice and Social Democracy 5th Biennial Conference, QUT Centre for Justice) and community education with partners such as Just Reinvest NSW.

## **Case study two: Mental Health and Insurance**

In 2011, Beyond Blue and Mental Health Australia published research revealing that people living with mental health conditions are frequently discriminated against when applying for insurance products and making claims against their policies. This included increased premiums, excessive restrictions on policies and outright rejection of applications and claims when a history of mental illness was disclosed.

Over 10 years, PIAC worked in partnership with Beyond Blue and Mental Health Australia to tackle this issue through casework, advocacy and engagement, guided by a working group including representatives from Beyond Blue, Mental Health Australia, and SANE Australia.

### **Casework**

From 2012 to 2021, PIAC provided legal information, advice or representation to approximately 180 clients across Australia in relation to insurance decisions connected with their mental health. Most of these disputes concerned travel insurance or life insurance products.

PIAC's initial casework identified several recurring concerns relating to travel insurance and life insurance products and services. These included:

- having an application for insurance cover declined after disclosing a mental health condition;



- insurance cover being limited by a blanket mental health exclusion applicable to all policies;
- insurance cover being limited by a broad exclusion for mental health for the individual insured;
- insurers charging an additional policy loading due to a mental health condition; and
- insurers cancelling (avoiding) a policy and/or denying a claim because of an alleged failure to disclose a mental health condition.

The types of assistance PIAC provided included:

- requesting further information and/or explanations from insurers regarding a decision;
- seeking internal review through the insurer's internal dispute resolution processes;
- representing clients in dispute resolution through the Financial Ombudsman Service (FOS) which later became the Australian Financial Complaints Authority (AFCA); and
- representing clients in complaints of unlawful discrimination in state and Commonwealth jurisdictions including the Australian Human Rights Commission (AHRC) and anti-discrimination bodies in the states and territories.

Through this casework, PIAC developed a detailed understanding of the issues people were experiencing and the systemic change needed to address them. This served an unmet legal need as well as providing the evidentiary basis for advocacy to change laws and practices which enabled ongoing discrimination.

### **Advocacy**

PIAC undertook extensive advocacy within and outside of the insurance sector to draw attention to systemic issues. This included making detailed submissions incorporating case studies to several key inquiries (and many other consultative processes) examining the conduct and practices of insurers, including:

- 2016/2017 Parliamentary Joint Committee on Corporations and Financial Services Inquiry into Life Insurance;
- 2017/2018 Victorian Equal Opportunity and Human Rights Commission (VEOHRC) Inquiry into Travel Insurance;
- 2018 Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Financial Services Royal Commission); and
- 2020 Productivity Commission Inquiry into Mental Health.

PIAC also engaged directly and through consumer forums with government departments and agencies, including the AHRC, the Disability Discrimination Commissioner, ASIC and AFCA, as well as with responsible Ministers and Shadow Ministers.

In 2021, PIAC released the report '[Mental Health Discrimination in Insurance](#)', documenting the work of the project, progress made and ongoing concerns. That report informed the National Mental Health Commission for the purpose of their consideration and development of the National Stigma and Discrimination Reduction Strategy.

## **Industry engagement**

Through our casework and advocacy, PIAC became a respected voice and engaged with insurers directly (outside of individual casework), as well as with key industry bodies including the FSC and Insurance Council of Australia. This informed the development of new and improved policies and practices by individual insurers, and facilitated our participation in key processes including the development of successive iterations of the Life Insurance Code of Practice and General Insurance Code of Practice.

## **The Financial Services Royal Commission**

PIAC also played a significant role in encouraging the Financial Services Royal Commission to consider insurance industry conduct in relation to mental health issues. PIAC provided a detailed submission to the Commission including case studies. Many of the issues PIAC identified with existing regulation of insurers and insurer practices were exposed by the Commission, and the Commission drew directly from PIAC's case studies.

This included a case study which became the subject of evidence at the Commission and was subsequently taken up by ASIC for further action in the Federal Court of Australia. The insurer in that case was found to have breached its duty to act in good faith towards PIAC's client in its conduct while purporting to avoid an income protection policy on the basis of a failure to disclose a mental health condition unrelated to the client's claim.

The Commission also recommended significant changes to the Insurance Contracts Act, among other things, which were ultimately implemented and have made the insurance market fairer for consumers.

## **Capacity building**

In addition to the outcomes flowing from PIAC's advocacy, the project was also able to assist the community sector to deepen its understanding of mental health related discrimination in financial services and incorporate that into future advocacy. PIAC provided training based on our experience and expertise to several other legal service providers who continue to assist clients with insurance related issues, as well as sharing our understanding of the legal dimensions of the issues with mental health advocates who continue to engage with the insurance industry.

## **Outcomes**

PIAC's work combining strategic legal action with sustained advocacy over the ten years of the project influenced key developments that improved the insurance system for consumers with experience of mental ill-health, including:

- Blanket exclusions from mental health related claims in travel insurance policies were found to be unlawful in the Victorian case of *Ingram v QBE Insurance* and have now been removed from all major travel insurance policies, following the VEOHRC inquiry. Travel insurers also committed to improving their compliance and training practices in relation to discrimination laws.
- The AHRC developed guidelines for insurers regarding compliance with the Disability Discrimination Act, providing a resource for both consumers and insurers.

- Legislative changes were made following the Royal Commission to give more responsibility to insurers to obtain all necessary information from consumers and making it more difficult for insurers to unfairly avoid policies for non-disclosure.
- Codes of Practice have been introduced and recently updated for both General Insurance and Life Insurance, both of which contain specific commitments in relation to providing services to people with experience of mental ill-health.
- The National Mental Health Commission has developed a National Stigma and Discrimination Reduction Strategy which addresses financial services and insurance and proposes further actions to address ongoing concerns.

### **Case study three: Reforming the Anti-Discrimination Act**

In 2018, PIAC identified the *Anti-Discrimination Act 1977* (NSW) as a priority for our law reform activities. This was both because of the poor state of the law itself – narrow and out-dated, without substantial amendment since the 1990s meaning it had fallen significantly behind best practice – and the impact that a lack of adequate legal protection has on a range of communities which we work with, including people with disability, women, LGBTIQ communities and others.

Over the past five years we have successfully put comprehensive reform of the Act on the government's agenda.

#### **Collaborating to identify issues and solutions**

Through 2019 and 2020, we engaged with a wide range of community organisations, representing different groups affected by the *Anti-Discrimination Act* (including those currently not covered, such as faith bodies), to determine their priorities for reform. We also partnered with the Australian Discrimination Law Experts Group (ADLEG) – leading academics on discrimination law from around Australia – to understand what best practice reforms would look like.

#### **Raising awareness**

Over the course of the 2019-23 NSW Parliamentary term, we engaged in a number of public inquiries relating to the Act to raise awareness about the need for change. This included submitting to and appearing before inquiries into the Anti-Discrimination Amendment (Complaints Handling) Bill 2020, and Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020. It also involved engaging in public debates around these Bills (such as [this Sydney Morning Herald opinion piece](#) about the latter Bill).

We were then consulted as trusted experts on the Act by Independent Member for Sydney Alex Greenwich in his development of his Equality Legislation Amendment Bill, seeking to amend the Act to better protect LGBTIQ people (among a range of amendments to other laws).

## **Making the case for reform**

In August 2021, we produced a landmark report– ‘[Leader to Laggard: The case for modernising the NSW Anti-Discrimination Act](#)’. This built on our work with partner organisations and experts, casework, law reform activities and independent research.

The report makes a clear, concise and compelling case for why the Act should be reviewed, repealed and ultimately remade. We launched this report with a public forum, featuring representatives of ADLEG, women’s and LGBTIQ organisations. The report was also distributed to the Attorney General, Shadow Attorney and a large number of other MPs across Parliament.

## **Putting reform on the agenda**

Through 2022, and especially in the lead-up to the March 2023 NSW state election, we kept reform of the *Anti-Discrimination Act* on the political agenda. This included pre-election letters to major parties, cross-bench MPs and viable independent candidates, as well as seizing opportunities to draw media attention to the Act’s deficiencies (such as [this Guardian Australia opinion piece](#) linking the limited protections offered under the Act and Sydney World Pride).

Our report, and ongoing strategic advocacy, resulted in the then-Opposition making an election commitment to refer the *Anti-Discrimination Act* to the NSW Law Reform Commission for review.

## **Progress towards change**

Following a referral by the new NSW Attorney-General, the NSW Law Reform Commission is now conducting an inquiry into the Act. PIAC was one of only a few select groups to be consulted on the Commission’s terms of reference prior to it being announced in late June.

We have continued to consult with partner organisations to inform our preliminary submission to the inquiry, submitted in early October.

We also continue to play a leading role in debates on other amendments to the Act, such as the Government’s recent amendments to introduce religious vilification provisions, and engagement with decision-makers about Mr Greenwich’s recently-introduced Equality Bill(s).

## **More work to do**

Our work has put reform of the broken NSW *Anti-Discrimination Act* firmly on the political agenda, with the potential for significant benefits for a range of different groups in the NSW community. But the work is far from over – the Law Reform Commission review is expected to stretch well into 2024, with the consequence that any new Anti-Discrimination Act which arises from it may not be introduced until 2025 at the earliest.

### 3. What it takes to make systemic change

As the case studies above illustrate, making systemic change requires a combination of strategies. PIAC has developed the following ‘theory of change’ that identifies the elements of successful advocacy for systemic outcomes.

We build a fairer, stronger society by:

- exposing laws, policies and practices that cause or entrench injustice
- challenging decision-makers over actions that are unfair or unlawful
- identifying solutions to deliver fair, practical outcomes
- engaging the public and decision-makers to bring about change, and
- empowering people to initiate, inform and influence positive change and become leaders in social justice.

These strategies often overlap. They operate to a greater or lesser extent for particular issues and may be employed at different times: sometimes simultaneously, but rarely in a predictable sequence. Changing circumstances will often require changes in approach or emphasis between the different strategies.

An essential feature of the way PIAC works is an emphasis on partnership, to support and build capacity in the community for effective social justice advocacy. Our role is to bring specialist legal and policy expertise to the issues that matter most to the people we work with, including First Nations people, people with disability, people experiencing homelessness, people held in detention, and other groups experiencing disadvantage or marginalisation.

Working in this way requires a range of specialist skills, experience and capacity across the organisation. This includes capacity for:

- Complex and novel litigation in superior courts;
- Developing and maintaining deep subject matter expertise;
- High-level government engagement;
- Effective involvement in parliamentary processes (such as Senate or Budget Estimates and specific inquiries);
- Research and fact-finding through freedom of information processes, including the ability to challenge adverse decisions through litigation;
- Effective media and public communication on issues that are often complex, contentious and nuanced;
- Sophisticated interpersonal skills that support partnerships and collaborations with high degrees of trust and respect as well as working with clients from a range of backgrounds, many of whom have experienced trauma;
- Planning, monitoring and evaluation to deliver a coordinated and strategic body of work.

## 4. Evaluating impact

PIAC is committed to effective and fit-for-purpose impact measurement and have developed a global impact framework based on our theory of change. We have attached a high-level summary of that at **Appendix One**.

Our framework is designed to help us measure impact across the organisation as a whole and provide a consistent approach for impact measurement for standalone projects.

We recognise that measuring the impact of advocacy for systemic change presents challenges. The Center for Evaluation Innovation notes that ‘advocacy occurs in dynamic political contexts, where advocates partner or work in parallel with others to advance a policy agenda and counter opposition.’ This captures a number of issues: the changing, complex and often unpredictable context in which advocacy happens; and the fact there are almost always multiple players involved, making it difficult to distinguish contribution and attribution for outcomes.

Other challenges include the long time it can take to achieve the change we are working towards and the non-linear nature of systems change. Smaller short-term ‘wins’ may not lead to longer-term change and ‘losses’ may galvanise action for success.

And sometimes we can do everything right, but still not get a ‘win’: external events can set back (or derail) even the most effective work.

Therefore, our focus is on clearly articulating the short-term outcomes that lead to longer-term impact, recognising when incremental changes are achieved, and gathering the data to evidence our contribution.

Another challenge we face in measuring impact is that many indicators of impact require qualitative assessment. We have some capacity for this – for example by surveying clients or partners – but we are not resourced to implement methods such as contribution analysis that could demonstrate the relationship between advocacy and policy change in a more thorough way. We are often limited to undertaking our own assessment based on anecdotal evidence, such using an ‘impact log’ to record observations of our influence on decision-makers or decision-making processes.

Impact measurement for systemic justice work is therefore far from an exact science and we caution against tying funding to specific data points.

## 5. Resourcing systemic justice advocacy

Government funding should reflect the significant contribution that systemic advocacy makes to an effective and fair justice system. This was recognised by the Productivity Commission in its ‘Access to Justice Arrangements’ report, which recommended that governments ‘provide funding for strategic advocacy and law reform activities that seek to identify and remedy systemic issues and s reduce demand for frontline services.’<sup>3</sup>

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<sup>3</sup> Ibid, 713, recommendation 21.1.

PIAC urges the review to recommend funding for policy advocacy and law reform work to address both ‘recurrent’ legal issues (undertaken by most legal assistance providers and often responsive/reactive) and ‘systemic’ legal issues (strategic advocacy undertaken by specialist organisations like PIAC). Such funding is an investment in the social infrastructure necessary for a healthy democracy and reflects the broader benefits of a well-functioning civil justice system, also identified by the Productivity Commission.<sup>4</sup>

PIAC recognises the disadvantage of funding systemic justice advocacy outside a funding allocation model for legal assistance services generally: notably, it makes such funding vulnerable to cuts, particularly in the event that government is hostile to advocacy that challenges it.

There may therefore be benefit to an approach that provides a weighting or additional component for advocacy and law reform by legal assistance providers to address recurrent legal issues.

However, we suggest that systemic justice advocacy does not fit within the sort of schematic represented at Figure 4.1 of the Issues Paper. In our view, systemic justice advocacy requires a separate funding allocation that recognises the value of this work and its unique contribution to advancing justice for people experiencing disadvantage.

As to the quantum of such allocation, we offer these observations from over 40 years’ experience:

- Effective systemic advocacy requires a substantial core of reliable, long-term funding. This is essential to:
  - support work that is long-term and may need to scale up or down rapidly to respond to circumstances;
  - establish and maintain a ‘critical mass’ of organisational capacity across disciplines, including non-legal skillsets: expertise in public policy development, government engagement, media and communications; and
  - ensure that politically contentious work can be conducted without fear of de-funding.
- Strategic advocacy requires experienced staff with high-level skills. As noted above, this includes deep subject matter expertise, ability to develop and manage a wide range of stakeholder relationships, knowledge of systems and processes and an ability to communicate effectively in a range of forums. Strategic litigation requires experience in complex litigation in superior courts. Current funding for Community Legal Centres does not allow for salaries that can attract a wide pool of applicants with these skills and retain them.
- Developing and maintaining diversity amongst the staff in our sector also requires salaries that are competitive with other roles in government and the private sector – otherwise the only people that can afford to do this work are those with sufficient financial security. This excludes many people from backgrounds of socio-economic disadvantage.

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<sup>4</sup> Ibid, 138-9.

- It is very difficult to quantify in advance what public interest advocacy ‘costs’. In practice, we must often ‘cut our coat according to our cloth’. More resources obviously allows for greater effort and will often lead to quicker results. A question for government is how much it values this work and how much it is prepared to invest to get better justice outcomes.
- In setting ‘deliverables’/KPIs for systemic advocacy, it is necessary to recognise the non-linear and complex nature of systemic change: there is scope for quantitative data, but assessing outcomes requires qualitative evaluation. When working strategically, more outputs does not equate to more impact. This is not to seek to avoid accountability, but to urge that any measurement is meaningful.
- There is scope for private, philanthropic funding and pro bono support for public interest advocacy. This can be important for new and emerging issues and to support innovation. But it is not a replacement for core, untied funding from government. Indeed, core funding provides the capacity needed to leverage additional resources, including pro bono assistance.
- Finally, as we hope the case studies above demonstrate, PIAC works consistently with these values:
  - We work with compassion and respect.
  - We amplify the voices of people who are marginalised or excluded.
  - We are tenacious and courageous.
  - We are creative and open-minded.
  - We do everything with integrity and are committed to excellence.

We recognise that such values are not uncommon for organisations working to achieve justice for people experiencing disadvantage. We set them out in full to make this point: working in this way is, in fact, very hard. It takes time, patience and care. Funding for systemic justice advocacy should recognise and reflect what it takes to work consistently with values like these.

We have attached at Appendix Two an overview and observations about PIAC’s resourcing (not for publication). Some high-level observations:

- PIAC receives no NLAP funding for advocacy or law reform work.
- In the last financial year, PIAC received \$352,854 under the NLAP CLC Program for the delivery of legal services by our Homeless Persons’ Legal Service (HPLS).
- The funding provided for HPLS is historical. It does not reflect the costs of delivering the service, nor an assessment of the cost of meeting the legal needs of people experiencing, or at risk of, homelessness in the areas in which we provide the service.
- The cost of delivering legal services by HPLS last financial year was \$866,579. The balance of funds for this work (\$514k) is sourced from donations from individuals, participating pro bono law firms and the Public Purpose Fund.



## **6. Conclusion**

We urge the review to recommend a substantial commitment by government to funding systemic justice advocacy, as delivered by organisations like PIAC. This commitment should be in addition to funding for services providing individual legal assistance and related law reform and policy advocacy on recurrent legal issues.

The case studies above illustrate what the Productivity Commission found in 2014: systemic justice advocacy is work that addresses legal need by responding to its causes and has deep and wide benefits for the community.

Such work calls for a wide range of high-level skills and an ability to work strategically on issues over many years. This requires a significant and sustained investment by government.