

Journal of the Public
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PIAC BULLETIN

PIAC

**Mental illness and
insurance**

**Electricity price
rises likely**

**Social Justice
Dinner**

**Reparations for
the Stolen
Generations**



Working for a fair, just & democratic society

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Cover from left: Tina Jelenic, Ellen Tilbury, Oliver Derum, Julia Mansour. Photo: Gemma Pearce

CEO REPORT

PIAC recently produced a short film (available on YouTube!) that asked a diverse group of Aboriginal people to give their immediate reaction to the word 'police'.

The responses were varied and complex. Some showed considerable cause for hope of a better relationship between police and Aboriginal and Torres Strait Islander people.

But there was also much to be depressed about. How else should we feel when a young Aboriginal woman's first reaction to the word 'police' is 'run'? Or when an older Aboriginal man immediately associates 'police' with 'brutality'?

The film ends with a disturbing statistic: young Aboriginal people are 25 times more likely to be imprisoned than the rest of the community. One of the horrifying elements of this statistic is that it is rapidly getting worse, not better: just five years ago, this group was 19 times more likely to be imprisoned.

We know that disadvantage is a root cause contributing to a situation where too many young Indigenous people end up behind bars. This disadvantage is reflected in almost every conceivable measure: life expectancy, health and wellbeing, income, education and unemployment.

There's also ingrained injustice: the generations of Indigenous children forcibly taken from their parents; the wages of Aboriginal workers held on trust by our government and then never handed over.

Last month, PIAC gave evidence to a New South Wales parliamentary committee that is considering ways to provide to redress for members of the Stolen Generations. The committee heard harrowing testimony of



Edward Santow, PIAC Chief Executive Officer.

lives blighted as a result of deeply misguided policies that separated Aboriginal children from their parents.

We at PIAC see how these big, historical events play out in the lives of the people we represent now. The combination of disadvantage and injustice can mean living in an atmosphere of crime, where one day you're the victim of crime and the next day you're the perpetrator.

The relationship with a police local area command can deteriorate partly because it can seem too hard to disentangle the criminal from the victim, and the criminal behaviour from the experience of being a victim.

PIAC's role is to help our clients stand up for their rights. With support from donors, pro bono solicitors and barristers, the Law Society, litigation funders, university and community partners, we can go a long way to redressing the legal system's uneven playing field.

This means PIAC clients don't hold out a begging bowl in their quest for justice. Instead, they can demand respect and defend their rights.

Edward Santow,
PIAC Chief Executive Officer.

The Public Interest Advocacy Centre office is located on land traditionally owned by the Gadigal People of the Eora Nation. PIAC provides services across New South Wales and Australia, and we acknowledge the traditional owners and custodians of the lands on which we work as the first people of this country.

Ending discrimination: Mental illness and insurance

In late 2015, 21-year old Ella Ingram won a landmark discrimination case against insurance giant QBE, sending a strong message to the insurance industry that discrimination on the basis of mental illness is neither acceptable nor lawful.

In its 18 December decision, the Victorian Civil and Administrative Tribunal found that QBE (Australia) Ltd directly discriminated against Ella by providing her with a travel insurance policy that had a blanket exclusion for claims relating to all mental illnesses, and relying on this clause to reject her claim to reimburse travel expenses of almost \$4,300.

Ella's case, run by Victoria Legal Aid, was an Australian-first test of discrimination by insurers on the basis of a mental illness. Ella had no pre-existing illness when she was diagnosed with major depression in February 2012. On medical advice she cancelled an overseas school trip she had booked in late 2011.

This case is not isolated. PIAC is providing legal assistance to over 66 individuals in relation to mental health and insurance.

Their circumstances are varied. In some cases, people have been denied insurance (such as income protection insurance, life insurance and travel insurance) because of a history of actual or perceived mental illness. Insurers have declined to offer insurance altogether or have offered insurance policies that exclude claims arising from any mental health symptom or condition, irrespective of the nature and severity of the



Ella Ingram & Greg Buchhorn. Photo: Victoria Legal Aid.

applicant's mental health history.

PIAC has also provided legal advice and representation to people who have had their existing insurance policies cancelled because they haven't disclosed a mental health symptom or condition at the time they applied for their policy. In some of these cases, the insurer has cancelled the policy following the applicant making a claim for an unrelated illness or condition.

'Given that mental illness is common and can be well managed, we believe insurers should make a more accurate assessment of the true risks involved,' said PIAC CEO, Edward Santow.

'The insurance industry needs to apply a common-sense approach to insuring people who have sought help or treatment for mental health issues. We don't want people to be discouraged from seeking essential treatment because they are worried that their insurer will not treat them fairly,' said Edward Santow.

On the back of Ella Ingram's win, Victoria Legal Aid, beyondblue,

Mental Health Australia and PIAC are calling on the government to change discrimination laws so that:

- there is stronger protection for consumers;
- the data and information insurers rely on when excluding or rejecting claims based on a mental illness are made available to consumers;
- detailed reasons for any denial of cover are provided;
- insurers must report annually on how often and on what basis they discriminate because of a mental illness;
- insurers comply with updated Insurance Industry Anti-Discrimination Guidelines, which could be developed by the Australian Human Rights Commission;
- the 'other relevant factors' insurers can consider in declining insurance are specified.

For further information about PIAC's Mental Health and Insurance Project, contact Senior Solicitor Laura Lombardo on (02) 8898 6500.

Electricity bills likely to rise following Tribunal verdict

For several months, PIAC has been locked in a \$7.1 billion battle with 12 electricity network businesses and the Australian Energy Regulator (AER) in relation to the amount that electricity networks are able to charge consumers for NSW electricity infrastructure.



The Australian Competition Tribunal gave its controversial decision on 26 February 2016.

The Tribunal remitted the matters back to the AER to re-make its determinations, but since then the AER has sought judicial review of the decision. If the Tribunal's decision stands, it seems almost certain that NSW consumers will face higher electricity prices.

In April 2015, the AER made a five-year revenue determination for three NSW electricity networks (Ausgrid, Endeavour Energy and Essential Energy). The AER's decision, which has been in effect since 1 July 2015, has seen an average household bill drop by around \$100 per year (\$300 in regional areas).

However, PIAC's analysis suggested that this component of electricity prices was still too high. PIAC challenged the AER's determination, in a legal first for a consumer group. PIAC submitted that correcting the errors made by the AER would see annual household electricity bills drop by a further \$100-\$300 per year.

The three networks, which are owned by the NSW Government, also appealed their AER revenue determinations. The networks sought to recover an additional approximately \$5.6 billion in order to deliver network services to the required standards. If they were to receive that full amount, typical household annual bills would increase by more than \$500.

The networks were partially

Between 2008 and 2012, electricity prices increased by a staggering 150%. These increases caused huge hardship for low-income households

successful in their quest to recover more from consumers. The Tribunal accepted some of the networks' arguments, and did not rule on the additional amount the networks may recover. Instead, it has directed the AER to reconsider its 2015 price determinations. As a result of the findings on the networks' appeals, the Tribunal did not decide on some of PIAC's arguments, which could have reduced network prices.

This appeal process is about much more than NSW electricity prices. It is also the first test of new laws governing both the price setting process and appeals of those decisions to the Tribunal, and so is important right across Australia's

National Energy Market.

Between 2008 and 2012, electricity prices increased by a staggering 150%. These increases caused huge hardship for low-income households and created a political imperative for reform. In response, in 2013 legislation was passed to strengthen the AER's powers to set network prices across a wide range of areas.

Nonetheless, six of the AER's first nine decisions since the reforms have now been appealed by the businesses. With the cases being heard simultaneously, seven other electricity networks from Victoria, Queensland and South Australia joined the NSW proceedings, concerned about the impact of the Tribunal's decision on their own revenue prospects.

The 2013 reforms also amended the law governing appeals of AER decisions to the Tribunal, with the clear aim to make the appeals process more accessible to consumers and consumer organisations.

As part of these changes, the Tribunal is now required 'to take reasonable steps to consult with' consumers and consumer groups. To PIAC's knowledge, such a requirement is unique to this law and unusual for a Tribunal in Australia. To meet this obligation, the Tribunal hosted a one-and-a-half day public consultative forum on the decisions under review. This new approach drew the Tribunal's attention to matters of concern to consumers and, according to the Tribunal, informed



PIAC's legal challenge was a first for a consumer group. From left: Senior Solicitors Julia Mansour, Ellen Tilbury and Senior Policy Officer, Tina Jelenic. Photo Gemma Pearce.

its ultimate decision-making.

Nevertheless, while the Tribunal acknowledged the assistance of the consumer consultation, it pointed to PIAC's presence as the most significant contributor to the Tribunal's consideration of consumer perspectives.

As well as deciding on numerous technical points of economic regulation, the Tribunal has made the first adjudicated determination of the new threshold test for making any change to an AER determination.

Under the law, it is not enough for the Tribunal to find the AER has made an error of fact, incorrectly exercised its discretion or made an unreasonable decision. The Tribunal must also be satisfied that to change the AER's determination would lead to a 'materially preferable' national electricity objective (NEO) decision. The NEO states that the objective of the law is to promote efficient investment in electricity services that operate 'in the long term interest of consumers' with respect to price, quality, safety and reliability of supply.

The Tribunal identified the goal of economic efficiency as the mechanism for meeting the interest

of consumers, but said this also involves recognition of the networks' legitimate business interests, and emphasised that the AER must achieve this objective within the rules that govern its regulatory functions. Contrary to the AER and PIAC's arguments, the Tribunal found the AER had erred in the way it had tried to 'benchmark' the efficiency of NSW electricity networks against similar businesses in other countries, despite doing so to try to promote more efficient practices by the networks.

While the outcome is not a price win for consumers, the Tribunal has directed the AER to reconsider its revenue decisions with particular reference to its obligation to make the decision that achieves the NEO (and thereby the long-term interests of consumers) to the greatest degree. PIAC hopes this will encourage the AER to minimise any negative impact on prices in its future decision-making.

It is also clear that PIAC's participation in the review process was a big step forward for consumer advocates. PIAC has demonstrated that consumers can have a strong voice in the regulatory process, and the Tribunal praised PIAC's role in

focusing the Tribunal's attention on issues of importance to consumers.

Consumers will have to wait for the AER to re-make its determinations to see what impact the Tribunal's decision ultimately has on prices. However, this could be unknown for some time, as the AER has now applied to the Federal Court of Australia for judicial review of the Tribunal's decisions, challenging the Tribunal's findings of error in the AER's original decisions. The final outcome is also likely to affect the AER's recent determinations in South Australia and Victoria and there may yet be further appeals.

And what has PIAC learned from this process?

Despite the best efforts of policy makers, it seems clear that network businesses continue to see costly appeals as 'just part of the process' to be followed every five years. While consumers are now able to participate, the appeals by network businesses make the price-setting process hugely expensive and wasteful. The solution to this may lie in allowing consumers and networks to negotiate and agree on a revenue amount, as occurs in New Zealand, Canada and the United States.

Battery storage revolution must benefit consumers

Recent developments in battery storage mean that consumers will soon be able to store energy generated from solar panels for later use, potentially reducing bills and giving households more control of their energy usage than ever before.

In this rapidly changing environment, policy-makers must act quickly to ensure that the regulation of new electricity storage technologies provides the best possible outcomes for consumers, a new report released by PIAC's Energy + Water Consumers' Advocacy Program has concluded.

The report, *Batteries and electricity network service providers in Australia: regulatory implications*, examines different models for ownership of energy storage technologies, including innovative approaches taken in California and New York. In particular, it highlights the risk for consumers if electricity networks are allowed to include batteries in their Regulated



Photo: Flickr/Marufish

The proportion of households producing their own electricity and heating water at home continues to rise.

Asset Base, on which they earn a guaranteed return, paid through electricity bills.

'This new era in renewable energy storage needs to be accompanied by some careful thinking about how our energy market is regulated,' said Suzanne Harter from the Australian Conservation Foundation, which, together with Energy Consumers Australia and the Brotherhood of

St Laurence, supported the research.

'This report provides valuable insights into the regulatory arrangements that will be required to make sure consumers are properly protected and unfair competitive advantages are avoided,' said Ms Harter.

'The key to developing a better and more affordable energy system is to embrace this change, not try to fit new opportunities into old ways of thinking,' said PIAC CEO, Edward Santow.

'We need to make sure that all consumers have the opportunity to benefit from these rapidly developing technologies.'

The Australian Energy Market Commission is currently reviewing the issue of regulating energy storage technologies.

Batteries and electricity network service providers in Australia: regulatory implications, is available at piac.asn.au.

Energy disconnection pain continues to bite

The latest figures released by the Australian Energy Regulator show that the recent drop in electricity prices has only resulted in a small reduction in household disconnections - reaffirming that this essential service remains unaffordable for many NSW households.

Figures released in November 2015 show that 31,979 households were disconnected from electricity last financial year.

The total figure is a slight improvement from 2013-14, when 32,940 households were disconnected and coincided with a 5.5% drop in electricity prices last financial year.

However, the total number of households cut off from electricity remains far too high. In fact, twice as many households were disconnected from electricity last year as five years ago.

The figures also reveal an alarming increase in households cut-off from the gas supply, with 7,555 households disconnected in the 2014-15 financial year, a 50% increase on the previous year. Moreover, some households are choosing to stay without gas. Only 27% of gas disconnections were reconnected, compared to 50% last year and 60% for electricity in the last two years.

The sharp increase in disconnections has been attributed to significant price rises last year,

and larger, on-going increases are predicted, due to planned increased gas exports.

It seems that households struggling with energy affordability may be going without gas so they can afford electricity. Given that gas is often the fuel that enables cooking, heating and hot water, this is of concern.

'Energy affordability continues to be a huge problem. There have been some improvements, but the system is fundamentally broken,' said PIAC CEO, Edward Santow.

'We are calling on energy companies and governments to work together with consumer and welfare groups to find lasting solutions to this chronic problem.'

Inquest: Problems with overcrowding and sharps in prisons

P IAC recently represented the family of Michael Nolan at an inquest into his death in the Metropolitan Remand and Reception Centre in Sydney.

Michael Nolan died as a result of a self-inflicted razor blade wound to his wrist in January 2013. Mr Nolan had a long history of attempts at self-harm in custody dating back to a stay in a Juvenile Justice facility in 1999. He also had a long history of mental health issues, an acquired brain injury and developmental delay.

Given his medical history, a key issue for the inquest was whether his classification as 'low risk' of suicide was appropriate, and why he was given a razor. There were also questions regarding whether his behaviour should have led to staff considering him at risk of self-harm on the day of his death.

At the time he died, Mr Nolan was in a general reception wing in a room on his own, waiting to be transferred to a mental health step down cell.

His cell would have been noisy. During the hearing, evidence was given that construction work had been going on in the room next to

Prison authorities determined that the best available cell for this troubled person was adjacent to ongoing construction works

Mr Nolan's for 'several weeks'. Prison officers placed him in this noisy cell because his relocation to a mental health cell had been delayed and he was the subject of a non-association order that prohibited him from mixing with certain inmates.

Overcrowding is becoming an increasing problem in NSW prisons. In 2016, the number of people in custody is even greater than it was three years ago, leading to prisoners being housed in inadequate conditions. The issue of overcrowding was not specifically raised in the Inquest. Mr

Nolan's death makes it clear, however, that the ramifications of overcrowding can be serious. In Mr Nolan's case, the prison authorities determined that the best available cell for this troubled person with complex mental health problems was adjacent to ongoing construction works.

Additionally, State Coroner Barnes noted that 'in hindsight' it would have been better if Mr Nolan had not been given a disposable razor. Corrective Services NSW does not have a clear policy regarding the provision of razors to inmates. If an inmate is considered a high risk of self-harm, they are generally subject to a 'nil sharps' order, but it is clear that further policy guidance is required in this area.

Ultimately, State Coroner Barnes determined that Mr Nolan's death was not the result of a failure of Justice Health or Corrective Services policies or practice. PIAC is hopeful that the inquest into Mr Nolan's death will lead to further consideration by Corrective Services NSW of their policies in relation to razors, and the placement of inmates with mental health issues. The findings are available on the NSW Coroners Court website.

Indigenous justice: new short film, 'One word: Police'



PIAC has recently launched a new short film that focuses on the relationship between Aboriginal peoples and the police.

Inspired by a US project that asked African-American boys and men about their interactions with the police, PIAC's film captures the immediate responses of a number of Aboriginal men and women to the word 'police'.

The film reflects a diversity of attitudes and opinions held across Aboriginal communities, and provides an insight into different and shared experiences of Aboriginal peoples.

Reactions from the Aboriginal participants range from fear and mistrust to friendship and gratitude - as well as almost everything in between. Overall, they show that the relationship between Aboriginal and Torres Strait Islander peoples and the police still has a long way to go.

This year, we hope to release a series of videos produced using the same concept, featuring the words 'racism', 'Stolen Generations' and 'housing'.

You can view the video on PIAC's YouTube channel.

No fixed address – art from the streets

The Homeless Persons' Legal Service (HPLS) has compiled a striking collection of artworks by artists who have experienced homelessness, in a new publication, 'No Fixed Address'.

The book is a record of the works exhibited at the 'No Fixed Address' exhibition, which marked the 10th birthday of HPLS. This vibrant event was opened by renowned actor, director and writer Leah Purcell on 18 November 2014. It featured over 40 artworks including paintings, prints, drawings and sculptures.

The works featured in the publication highlight the legal and human rights issues faced by people living on the streets. As well as tackling subjects like alienation, loss of country and hopelessness, they are a celebration of resilience and life in the inner city.

You can order a copy of 'No Fixed Address' for \$25, see PIAC's website piac.asn.au. Proceeds from the sale of the book will support the work of the Homeless Persons Legal Service.



Hard fought for affordable housing by Stephen Corry

Settlement approved in class action against NSW police

The Supreme Court has approved a final settlement in the long-running class action that PIAC has led jointly with Maurice Blackburn on behalf of young people wrongfully arrested by the NSW Police.

The settlement will see those young people affected share in more than \$1.85 million.

As regular followers of PIAC's work will know, this case commenced in 2011 after PIAC became aware that children and young people were being wrongfully detained, and in some cases imprisoned, as a result of inaccurate or out-of-date information on the NSW police computer system known as COPS (Computer

Operational Policing System). This landmark case was brought in order to achieve justice for the victims and to highlight problems with this computer system.

One of our 14-year-old clients was arrested, handcuffed and strip-searched on three separate occasions over a two-week period. He was held in custody overnight each time.

PIAC has called on the NSW Government to fix any remaining problems with COPS so that no-one else is arrested based on incorrect information.

You can find more information on the case, including links to media coverage, on PIAC's website.

Social Justice dinner 2016



Our Social Justice dinner was a great success, raising more than \$75,000 to support PIAC's work with marginalised communities - especially people who are homeless, people who have suffered discrimination on the basis of their disability, and victims of war crimes.

This year the dinner was held at Doltone House, Jones Bay, against the stunning backdrop of Sydney harbour. Over 250 attendees joined together to celebrate the contribution of PIAC and our partners to social justice in Australia.

All proceeds from the event will be used to fund our legal, policy and advocacy work.

The evening was hosted by the Chaser's Julian Morrow and guests enjoyed a rousing speech by Sarah Ferguson from the ABC's 'Four Corners' program. Sarah talked about the general trend for organisations to take an overly cautious approach to dealing with the media, and called on the audience, many employed in the legal sector, to work with journalists to bring important stories to light.

'We need your help to overcome the assumption, against transparency, that it is better not to speak,' said Sarah Ferguson.

PIAC CEO, Edward Santow,



spoke of PIAC's current work with Aboriginal clients, and launched PIAC's new short film, 'One word: Police', which highlights the diversity of attitudes and opinions held across Aboriginal communities in relation to the police.

'For many of PIAC's Aboriginal clients, living in disadvantage can mean living in an atmosphere of crime, where one day you're the victim of crime and the next day you're the perpetrator,' said Edward Santow.

'The relationship with a police

local area command can deteriorate partly because it can seem too hard to disentangle the criminal from the victim, and the criminal behaviour from the experience of being a victim.'

'Our Indigenous Justice Program aims to improve the relationship with the police. We do this, first and foremost, by helping our clients stand up for their rights.

'But not all our work involves a fight. There's a lot of good will in the police force. We build on this to help them forge a more positive relationship with Aboriginal people.

'And because PIAC runs test cases and works to achieve system-wide reform, we don't just put Band-Aids on big systemic problems; we tackle those problems at their cause.'

If you weren't able to attend the dinner, it's not too late to donate. Contributions over \$2 are tax deductible. See page 15 or donate online at piac.asn.au.



Top row from left: David Porter, Oscar McLaren, Nina Abbey, Emily Mitchell, Vavaa Mawuli, Claire Chaffey, Jane Southward.

Above: Rebecca Gilsean, Merrilyn Walton.

Left: Alexis Goodstone and Camilla Pandolfini.



From left: Sarah Ferguson, Jessica Mutton and Tina Jelenic.

Improving police oversight

PIAC remains concerned that police continue to hold primary responsibility for receiving and dealing with misconduct complaints

For many years, PIAC has called for an independent civilian oversight body for the NSW Police. In our experience, flaws in the current oversight mechanisms have meant that police have not been adequately held to account in a transparent and effective way when they have been allegedly involved in a 'critical incident' - especially incidents leading to the death or serious injury of a member of the public.

As well as running contrary to good accountability, this has undermined community confidence in NSW policing and it has been detrimental to the relationships between the police and communities. Late last year, the Baird Government announced support for a new watchdog, to be called the Law Enforcement Conduct Commission (LECC), after adopting recommendations from a review into police oversight by former NSW Shadow Attorney General Andrew Tink.

The move to streamline police oversight was an election promise following long-running public hearings into the failure of oversight agencies to resolve bugging scandal complaints. On 25 February 2015, Mr

Baird described the current system as 'complex and unsatisfactory, with overlapping responsibilities, duplication and a lack of clarity over responsibility for police oversight'. As a solution, a NSW Upper House Committee recommended setting up a single, well-resourced police oversight body to deal with complaints quickly, fairly and independently.

PIAC provided a detailed submission to the Tink Review based on our work advising and representing clients in relation to police complaints, civil actions and in coronial inquests. A substantial part of PIAC's work relates to policing practices, with a high proportion of our clients being young people and those of Aboriginal or Torres Strait Islander background. PIAC emphasised that any oversight body must be properly resourced, structurally independent and cognisant of the difficult circumstances in which police officers work.

PIAC was pleased to see the Tink Review recommend that the new oversight body should not be implemented as a cost-saving measure and that the function of police complaint oversight be safeguarded in the LECC's budget. However, PIAC remains concerned that police continue to hold primary responsibility for receiving and dealing with misconduct complaints, and carrying out all critical incident investigations.

PIAC believes that one of the chief weaknesses of the current oversight system is that it is founded on police investigating complaints against police. In most cases, a complaint will be resolved by the same police station where the complaint is made. It is disappointing that the Tink Review did not recommend that the LECC serve as an independent conduit for all complaints.

PIAC submitted that the LECC should receive all complaints about police misconduct, and refer them back to the Local Area Command or a different regional office where appropriate. If the LECC is instead to have an arms-length oversight role, it would be preferable to allow members of the public to complain directly to the independent body.

An independent body is particularly important for investigating critical incidents where a member of the public is injured.

Between January 2013 and August 2015, there were 62 critical incidents investigated by police. Two adverse findings were recorded against a police officer in one case, with the officer given counselling. No disciplinary action was recorded against police in any of the 62 cases. If the LECC does not itself conduct investigations, it is vital that oversight powers are robust.



Photo: Flickr

New Homeless Persons' Legal Service clinic in Newcastle

On 18 November 2015, a new legal clinic was launched in Newcastle East, which provides free legal advice to women experiencing, or at risk of, homelessness.

The new clinic is a partnership between PIAC's Homeless Persons' Legal Service, Jenny's Place, Burke & Mead and Hicksons Lawyers.

Clients can be seen by appointment each Wednesday from 12-2pm at the Joy Cummings Centre in Newcastle.

'We are thrilled to open this new clinic in Newcastle, to provide free legal help to women experiencing homelessness or facing the real possibility of becoming homeless,' said PIAC CEO, Edward Santow.

The new legal clinic builds on the other 13 HPLS clinics already run by PIAC, which are managed with the pro bono assistance of over 480 lawyers. The lawyers are drawn from corporate and commercial firms, NSW Legal Aid, and the in-house teams of Macquarie Bank.

The new clinic at Jenny's Place has been part of a project to expand the provision of pro bono legal assistance in New South Wales. In the last six months, other new clinics have opened at Mt Druitt in Sydney, in partnership with The Shed and Carroll & O'Dea and at Matthew Talbot Centre in Wickham, Newcastle, in partnership with Moray & Agnew.

'This is truly a collaborative and innovative service,' Edward Santow said. 'Working in partnership with legal service providers that offer their time and expertise for free, HPLS assists around 800 clients per year at welfare agencies in Sydney and now in Newcastle.'

The Senior Solicitor of HPLS, Roslyn Cook, said, 'at the clinics, we assist clients with a broad range of



From left: Lizzie McLaughlin (barrister, Hunter Street Chambers), James Bartley (Burke & Mead Lawyers), Belinda McDaid (St Vincent de Paul), Marcia Chapman (CEO, Jenny's Place), Sharon Claydon MP (Federal Member for Newcastle), John Kell (Hicksons Lawyers), Edward Santow (CEO, PIAC), Roslyn Cook (Senior Solicitor, PIAC), Mary Sullivan (StreetCare).

There's already been strong demand at the clinic, and we are excited to work with Jenny's Place in delivering this empowering service.

legal problems including tenancy, credit and debt issues, victims' compensation and fines.'

The new service at Jenny's Place also offers family law advice, drawing on the expertise of solicitors from Burke & Mead. 'Our research showed us that there was a real need for family law assistance, particularly for women experiencing domestic violence who may not know their rights under the family law system,' Roslyn Cook said.

'This is the first time we have advised on family law through HPLS, so this is a new kind of partnership for us. There's already been strong demand at the clinic, and we are excited to work with Jenny's Place in delivering this empowering service.'

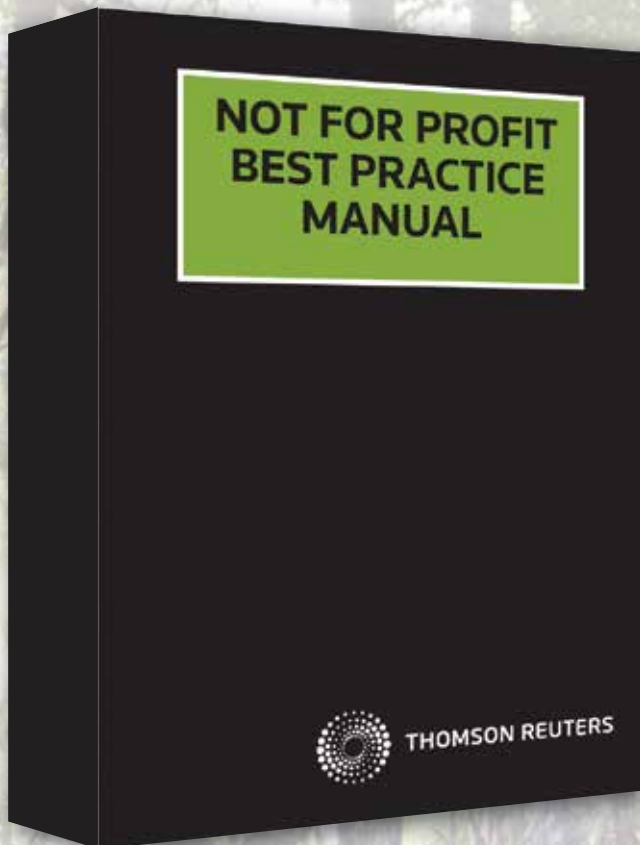
The launch was attended by more than 30 members of the local community, including Sharon Claydon MP, Federal Member for Newcastle, and a representative of Tim Crakanthorpe MP, State Member for Newcastle. The launch was also attended by Mary Sullivan, a Newcastle resident and member of PIAC's Streetcare Consumer Advisory Committee.

Speaking at the launch, PIAC CEO Edward Santow noted, 'this would not be possible without the generous support of our partners, and especially the Australian Government and NSW Public Purpose Fund'.

For more information about HPLS, including details of clinic times and locations, information about our StreetCare group, and to learn about our latest research projects, see our website at piac.asn.au or call the HPLS office at (02) 8898 6545. Free clinics operate every weekday in Sydney, and weekly in Newcastle.

NOT FOR PROFIT BEST PRACTICE MANUAL

Paul Armarego, Vince Sharma, Jonathan Casson, Derek Mortimer,
Darren Fittler, Louise Steer, Alison Choy Flannigan



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NSW Inquiry: Reparations for the Stolen Generations

The NSW Parliament is currently conducting an inquiry into the adequacy of reparations to members of the Stolen Generations, their families and communities.

As part of this process the Legislative Council's General Purpose Standing Committee No. 3 is considering the NSW Government's progress in implementing the Australian Human Rights Commission's recommendations for reparations contained in the Bringing Them Home report, a landmark publication that is now almost 20 years old. In particular, the Committee is considering what further policies or legislation might be required to make reparations possible in NSW.

This follows the announcement of a compensation scheme for members of the Stolen Generations in South Australia last year, eight years after it

was first suggested.

In October 2015, PIAC made a detailed written submission to the NSW inquiry and has also given oral evidence. For many years, PIAC has worked closely with Aboriginal and Torres Strait Islander people in calling for an effective and adequate compensation scheme.

PIAC's central recommendation is for the NSW Government to establish, as a matter of urgency, an independent tribunal with multiple functions to:

- make broad reparations to members of the Stolen Generations, their descendants and communities;
- promote a process for truth and reconciliation;
- review and assess contemporary policies and practices and proposed legislation that recognises the known intergenerational impacts caused

by removing Aboriginal and Torres Strait Islander children from their families and the associated policies of assimilation.

PIAC particularly notes the ongoing disproportionate removal of Aboriginal and Torres Strait Islander children under the rubric of child protection, the lack of publicly available information on the operation of the Aboriginal Placement Principle and the over-representation of Aboriginal and Torres Strait Islander young people in the criminal justice system.

Annexed to PIAC's written submissions is a draft bill to establish the Stolen Generations Reparations Tribunal. The draft bill sets out the powers, functions, operations and structure of the Tribunal proposed by PIAC.

You can read PIAC's submission on our website, piac.asn.au.

Sri Lanka: International Crimes Evidence Project

As our last Bulletin went to print, the UN Human Rights Council (UNHRC) was debating the text of a resolution 'promoting reconciliation, accountability and human rights in Sri Lanka'. On 1 October 2015, that resolution was unanimously passed, marking a crucial turning point in Sri Lanka's transition to a lasting peace.

The resolution, which Sri Lanka co-sponsored, calls for the establishment of a special court, a truth commission, an office of missing persons and other important accountability and reconciliation measures.

Several months later, some important advances have been made. But as the UN High Commissioner for Human Rights observed following his February 2016 visit to Sri Lanka, there are fears the Sri Lankan Government is wavering on its human rights commitments.

One contentious issue has been the UNHRC resolution's call for participation by experts from outside Sri Lanka in the special court, particularly international judges.

While the resolution affirmed the importance of 'Commonwealth and other foreign judges' participating in the court, more recently senior Sri Lankan Government officials have cast doubt on their support of

this element.

In response, the UN High Commissioner for Human Rights explained that international participation was simply a 'practical proposal to solve the very real and practical problems' of a domestic judicial system that has become 'highly politicised, unbalanced and unreliable'.

While the composition of the special court was important, the High Commissioner urged Sri Lanka to focus on the larger transitional justice goal: to 'seize the great opportunity it currently has to provide all its people with truth, justice, security and prosperity', noting that the resolution sets out 'an eminently sensible pathway' for the country to follow.

PIAC's International Crimes Evidence Project (ICEP) is well placed to support and contribute to Sri Lanka's transitional justice process. ICEP continues to gather evidence of alleged war crimes and other violations of international law committed during the conflict.

High-quality, credible documentation will be essential to the proper functioning of each transitional justice mechanism, and ICEP is working with civil society organisations to ensure the collection, storage and analysis of evidence meets best practice standards.

Bullies, bastards and the land of the fair go

Observations on the law during my internship at PIAC.

While studying at Sydney University is good at teaching you how the law should be, a stint at PIAC teaches you how it really is.

And the great irony of the practice of law is that it can be as lawless as a schoolyard brawl. The reality is that the law isn't a level playing field that provides a fair go for all. It's a place where the weak, vulnerable, unpopular or poor risk being singled out and mauled by the bullies of the jurisprudential schoolyard.

PIAC is the confident kid that comes out of nowhere to step in for that weaker one who is about to have the snot knocked out them. It's that kid who you don't actually know, and all you really know is that they're there and they're staring the bastards right in the face for the sole reason that it's the right thing to do.

If you've ever been bullied you'll know it isn't about winning or losing, it's about feeling helpless and having your dignity destroyed. This may sound a little oblique, especially if you've never felt that pit-of-your-guts fear of sitting in the dock of a court room or been steamrolled by a corporation or government



The Social Justice Clinical Summer Course immerses final-year law students in real-world public interest cases and issues.

department coming after you or your family. But coming from disadvantage, trust me, this is how it feels.

The common thread through what I've done and seen at my time at PIAC has been about giving strength to the weak.

That's meant going to court with the Homeless Persons' Legal Service solicitor advocate to watch him stand up for the homeless man that the police were intent to lock up for reacting to unnecessary provocation and harassment.

That's meant learning how PIAC is fighting back on behalf of every electricity consumer against the juggernaut electricity network businesses who have run roughshod over

power prices for over a decade now.

It's meant watching the blind man being led into a conference room by a PIAC solicitor while I was chained to a desk researching fact sheets on unfair dismissal, unlawful arrests and sexual assault. I can't tell you what the blind man was there for but I know what I saw and that was a vulnerable person being given the dignity of being legally represented.

It also meant being part of the process of investigating a judge who gave short shrift to a disadvantaged couple trying to assert their rights against a major private health care provider. While I can't give details of the case, my involvement in applying the principles of administrative law and participating in conference calls with senior counsel was deeply satisfying.

Will the client win? Will they even choose to risk pursuing it? It's not for me to tell. But what I can say is without PIAC's help they would not have an ice cube's hope in hell of even entertaining the option of taking on people massively richer and more powerful than themselves.

To me that's what PIAC has shown me. That the law doesn't have to be how it is but how it should be, a fair go for all.

By MIKE BUTLER, student



From left: Mike Butler and students during the course at PIAC.

Training for social justice: building capacity to participate

Advanced Media Skills

11 May 2016

In this unique workshop you will build up your media skills and receive personal coaching from leading industry professionals. You will develop an understanding of what the media want, getting the message out, what to do when things go wrong and developing on-going relations with the media.

Advanced Negotiation Skills

8 June 2016

Having the skills and confidence to negotiate is an essential part of advocacy. You will learn to strengthen your bargaining position through thoughtful planning, develop effective skills, strategies and techniques, and discover how you can identify your own value and power in any negotiation.

Advocacy Strategies

14 September 2016

This day will teach you the building blocks of good advocacy and how you can advocate your issues to government. Participants will have the opportunity to plan an advocacy strategy around a real life issue from their work.

Advocacy Skills

15 September 2016

The course aims to assist individuals and communities to develop the knowledge and skills to be effective advocates. You will discover tools for effectively incorporating lobbying, negotiation and media into your advocacy strategy.

Tenancy Law for Non-Lawyers

12 October 2016

Learn how to help your clients with their tenancy and housing issues with up-to-date and thorough information from the experts at the Tenants' Union of NSW. This one-day workshop will help to clarify the complicated field of tenancy law and give you knowledge, skills, and confidence in this area.

"Thanks for a great two days. Your knowledge, passion and skills were great. I would highly recommend your training to others. A great workshop."

Participant, Advocacy Strategies 2015



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