

# PIAC ANNUAL REPORT

2010-2011



Public Interest Advocacy Centre



## PUBLIC INTEREST ADVOCACY CENTRE • ANNUAL REPORT 2010-2011

PIAC  
Level 9, 299 Elizabeth St  
Sydney NSW 2000  
DX 643 Sydney  
Phone: 61 2 8898 6500  
Fax: 61 2 8898 6555  
www.piac.asn.au  
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working for a  
**fair &  
just**  
democratic society

empowering  
**citizens &  
consumers**  
communities

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Annual Report Editor: Deirdre Moor  
Photo: Scott Parker

Cover: Greg Killeen (left) and PIAC solicitor Gemma Namey (centre) talk to media outside the Federal Court.  
For further details, see Accessible Public Transport, page 30.

The Public Interest Advocacy Centre (PIAC) works for a fair, just and democratic society. It empowers individuals and groups, particularly those who are disadvantaged and marginalised. Using legal, policy, communication and training initiatives, PIAC makes strategic interventions in public interest matters.

PIAC is an independent, non-profit legal and policy centre. It was established in July 1982 as an initiative of the Law Foundation of New South Wales with the support of the NSW Legal Aid Commission. Since that time it has grown from a staff of four to a paid staff at the end of the 2010-11 financial year of 26, as well as professional placements, secondees and interns who all make a valuable contribution.

PIAC works co-operatively with other groups and individuals to achieve public interest outcomes. PIAC works predominantly with other public interest groups, community and consumer organisations, community legal centres, private law firms, professional associations, academics, experts, industry and unions. PIAC provides its services free or at minimal cost.

## WHAT PIAC DOES

PIAC aims to:

- expose & redress unjust or unsafe practices, deficient laws or policies;
- promote accountable, transparent & responsive government;
- encourage, influence & inform public debate on issues affecting legal and democratic rights;
- promote the development of law that reflects the public interest;
- develop and assist community organisations with a public interest focus to pursue the interests of the communities they represent;
- develop models to respond to systemic unmet need; and
- maintain an effective and sustainable organisation.

***‘ The Public Interest Advocacy Centre (PIAC) works for a fair, just and democratic society. It empowers individuals and groups, particularly those who are disadvantaged and marginalised. ’***

‘The world is a comedy for those that think, a tragedy for those that feel.’

– *Horace Walpole, 1776*

This report documents the important work and significant achievements of PIAC over the past year.

Such work would not have been possible without the generous support of those whose financial assistance is gratefully acknowledged below.

Such achievements would not have been feasible without the commitment, resourcefulness and vision of the staff of PIAC and others who have worked on the significant projects and cases referred to in this report.

Major projects and cases handled by PIAC over the past year encompassed assistance provided to Indigenous people to recover stolen wages; representation of young people unlawfully held in custody due to glitches in communication between the police and the courts; the conduct of test cases arising out of

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‘*Such achievements would not have been feasible without the commitment, resourcefulness and vision of the staff of PIAC and others who have worked on the significant projects and cases referred to in this report.*’

wheelchair inaccessible taxis; the conduct of test cases under anti-discrimination legislation; legal and other assistance to people experiencing homelessness; strategic advocacy to combat rising energy price rises; the use of freedom of information laws to expose injustice and to improve government accountability... and the list goes on.

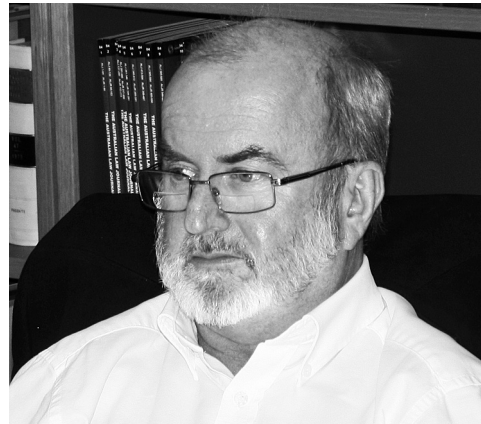
In seeking to achieve change in the public interest, PIAC has continued to work collaboratively with other individuals, organisations and private law firms. During the year under review, PIAC has worked with the Commonwealth and NSW Governments; contributed to law reform initiatives in Tasmania, Western Australia and Victoria; and worked with numerous law firms, community sector NGOs and various policy think-tanks.

This has also been a year of internal change.

Robin Banks left as CEO to become Tasmania's Anti-Discrimination Commissioner. Robin made a monumental contribution to PIAC over a period of six years. PIAC is very fortunate to have engaged Ed Santow as her replacement as CEO. Ed's experience, energy and commitment will greatly assist PIAC in its important work.

After a period of ten years on the board of PIAC, Shauna Jarrett has taken on new responsibilities and relinquished her position as Chair of the Board. Shauna worked tirelessly both on the Board and on various sub-committees to facilitate both managerial oversight and the achievement of PIAC's strategic objectives. All Board Members have also provided invaluable advice and guidance over the year under review.

***‘ As PIAC approaches its 30th birthday it can be proud of its many achievements. However, there is much to be done. Injustice, inequity and iniquity abound. ’***



PIAC Chair, Peter Cashman. Photo: Scott Parker

As PIAC approaches its 30th birthday it can be proud of its many achievements. However, there is much to be done. Injustice, inequity and iniquity abound.

In its Strategic Plan for the next five years, PIAC has resolved to concentrate on four major areas. The first is ‘social justice’, with a special focus on addressing the legal problems that accompany homelessness, as well as promoting the basic rights of those detained in prison and elsewhere.

The second area, ‘inequality’, focuses on the promotion of justice for Indigenous people through the continuation of PIAC’s work on Stolen Wages and juvenile justice, and also addressing discrimination, especially on the grounds of race and disability. The third area is ‘government and democracy’.

Here, PIAC will build on its successes in promoting public access to government-held information, and ensuring that government is accountable for key decisions that affect individuals’ basic rights and freedoms.

Finally, ‘consumer rights’ focuses on access to core energy and water services for disadvantaged consumers, as well as health care for vulnerable groups such as prisoners.

Significant social justice objectives will be pursued through PIAC’s core strategies of public interest litigation, policy development and campaigning as well as education and training.

The achievements in the present year are cause for optimism about the prospects of further success.

A handwritten signature in black ink, appearing to read 'Peter Cashman'.

PETER CASHMAN, CHAIR



# CHIEF EXECUTIVE OFFICER'S OVERVIEW

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Even amid a global recession, the vast majority of us have access to far more than the bare necessities of life. This prosperity, along with a politico-legal system that is generally free and fair, offers some armour against fortune's slings and arrows.

Of course, as a community, we do not all share this good fortune equally. It can be especially difficult to make yourself heard if you are poor or experiencing homelessness, if you have an illness or disability, if you are Indigenous, if you have suffered discrimination or if you are in detention.

PIAC's core work is to assist and amplify the voices of these people. Listening to and working with those we serve, PIAC searches for the root causes of inequality and injustice. PIAC then develops solutions that benefit our individual clients, as well as addressing the underlying systemic problems that affect others in the same position.

This approach is at the heart of all that PIAC has done over the past year. This Annual Report provides a more comprehensive picture of the breadth of PIAC's work, but I take this opportunity to identify some highlights.

PIAC's Children in Detention Advocacy Project works to assist young people who have been unlawfully detained by police. For several years, the NSW Police computer system has been generating incorrect bail information. This causes an alarming number of young people to be detained unlawfully by the police until they can be brought before a court.

Working with Legal Aid NSW and the Public Interest Law Clearing House NSW (PILCH), PIAC has helped many young people, who have been innocently caught up in this predicament, to achieve redress. However, this systemic problem remains unresolved.

With increasing numbers of young people being unlawfully detained, PIAC and law firm Maurice Blackburn together launched a class action against the state of NSW. As well as providing justice for the individual litigants in this case, we hope that this class action will prompt a successful resolution of the underlying flaws in the NSW Police computer system.

The Homeless Persons' Legal Service (HPLS) remains an extraordinary collective achievement. Run jointly by PIAC and PILCH, HPLS brings together solicitors acting *pro bono* from 10 law firms and Legal Aid NSW, as well as a number of homelessness services.

This year, HPLS assisted well over 700 clients. This provided the foundation for HPLS's innovative policy and law reform work. HPLS worked with its clients and experts in the field to research pressing issues, such as the unacceptable level of violence suffered by people experiencing homelessness. This collaborative approach was recognised by the Law and Justice Foundation,

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***‘ It can be especially difficult to make yourself heard if you are poor or experiencing homelessness, if you have an illness or disability, if you are Indigenous, if you have suffered discrimination or if you are in detention. ’***

***‘ As well as being proud of what PIAC has achieved over the past year, I am also excited about the year ahead. ’***

which gave HPLS the Community Legal Centre NSW Award for its work with Street Care – the homelessness advisory group established by HPLS.

While public recognition for work on homelessness is rare, PIAC has been much more prominent in the news in relation to our investigation into the role of the Australian Defence Force (ADF) in the conflicts in Iraq and Afghanistan. After six years using freedom of information laws, PIAC uncovered shocking revelations about the ADF’s detention and treatment of captives in the Middle East.

PIAC is working with other civil society organisations to promote the ADF’s commitment to adhere fully to the Geneva Conventions and international law. PIAC has called for a full, public inquiry into the issues that our investigation uncovered.

This year saw the conclusion of the Mental Health Legal Services pilot project. This project drew on PIAC’s extensive experience in the area of health, trialling a multi-disciplinary approach to assist people with a mental illness resolve their legal problems. The project showed the benefits of lawyers working collaboratively with other service providers to assist clients holistically.



PIAC Chief Executive Officer, Edward Santow.  
Photo: Dominic O’Grady

Building on some success in securing financial support to continue the project beyond the pilot phase, PIAC is now working with partner organisations to secure further funding to enable this excellent work to proceed.

As well as being proud of what PIAC has achieved over the past year, I am also excited about the year ahead. PIAC’s work on energy and water has particular currency in a context of steeply rising utility bills and clear government commitments to address climate change.

PIAC recently completed a review of operations and this has helped us to develop a new strategic plan. The new plan will allow PIAC to build on a number of our strengths. For instance, this year saw a review and updating of a number of PIAC’s popular and successful training courses.

In the year ahead, we will be further developing this training program, working in particular with partners such as Legal Aid NSW and the University of Sydney.



## CHIEF EXECUTIVE OFFICER'S OVERVIEW

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The achievements in this Annual Report reflect the extraordinary skill, creativity and dedication of PIAC staff. While much of their work is demanding and difficult, PIAC staff embrace these challenges with enthusiasm, good humour and a deep commitment to social justice. I also express my gratitude to the many unpaid volunteers and student placements who have generously given of their own energy and expertise.

PIAC's past and future work relies on significant funding from the NSW Public Purpose Fund, and the Commonwealth and NSW Governments. PIAC also receives very generous financial support from donor organisations, including Allens Arthur Robinson and the Myer Foundation, as well as individuals.

Without exception, this support is provided with concern only that it is used to achieve PIAC's intended outcomes. It is a mark of the health of our democracy that PIAC's supporters seek to impose no other fetters on PIAC's activities or independence, and we honour their integrity and generosity.

6 I feel fortunate to have taken stewardship of an organisation with excellent governance. Much of the credit for this lies with PIAC's Board of Directors. Representing a broad spectrum of experience, the PIAC Directors contribute a great deal to the smooth operation and strategic direction of the organisation. After a decade of service, PIAC's Chair, Shauna Jarrett, announced her retirement from the Board. Her contribution to PIAC has been immense.

Professor Peter Cashman, whose experience at PIAC extends back to its inception in 1982, succeeds Shauna as Chair. We are very fortunate that Peter has agreed to take on this role.

As this is my first Annual Report as CEO, I would like to express a mixture of appreciation and awe for the excellent work of my predecessor, Robin Banks. I also thank Deirdre Moor, who acted as CEO for the first three months of this financial year, prior to my starting in October 2010. Along with the other members of PIAC's management team, she provides the organisation with invaluable leadership, direction and support.

**EDWARD SANTOW,**  
PIAC CHIEF EXECUTIVE OFFICER



## THE PIAC BOARD

|                          |   |
|--------------------------|---|
| Dr Peter Cashman         | Chair<br>Professor, Faculty of Law, University of Sydney  |
| Ben Slade                | Deputy Chair<br>Principal, Maurice Blackburn  |
| Britta Bruce             | Management Consultant   |
| Shauna Jarrett           | Assistant Group Secretary<br>Office of General Counsel, University of Sydney (resigned 19 May 2011)                   |
| Coralie Kenny            | Principal Legal Counsel, Suncorp Life   |
| Alan Kirkland            | Chief Executive Officer, Legal Aid NSW  |
| Alison Peters            | Director, Council of Social Services of NSW   |
| Ralph Pliner             | Consultant, Baker & McKenzie  |
| The Hon Kevin Rozzoli AM | Nominee of the NSW Law and Justice Foundation<br>Former Member for Hawkesbury and Speaker of the Legislative Assembly |
| Dr Merylyn Walton        | Associate Professor<br>Faculty of Medicine, University of Sydney  |
| David Weisbrot AM        | Professor of Law and Governance, Macquarie University   |

## AIMS

- To develop and pilot models for addressing unmet legal need
- To explore and promote innovative ways of funding and progressing public interest law
- To identify, challenge and prevent systemic barriers to justice

## KEY ACHIEVEMENTS

- Class action launched on behalf of young people falsely imprisoned by NSW police.
- PIAC's work with homeless consumers recognised at the Justice Awards.
- Stolen Wages Helpline has assisted 160 callers with information about the Aboriginal Trust Fund Repayment Scheme.
- Work and Development Orders are made permanent, enabling homeless and other disadvantaged people to reduce their fines debts by completing training or treatment.
- Completion of Mental Health Legal Services Project pilot.

## PUBLIC INTEREST LEGAL PRACTICE

Public interest litigation promotes greater equity, access and confidence in the legal system, creates economies of scale, enhances public sector accountability and reduces the costs associated with market and governmental failure.

PIAC's litigation practice in 2010-11 continues to identify and pursue legal claims that will determine, enforce or clarify important rights affecting a significant sector of the community or involve the resolution of an important question of law, within areas of strategic priority.

This has led us to run test case claims under the *Disability Standards for Accessible Public Transport 2002* (Cth) in relation to taxis and buses; launch a class action claiming unlawful imprisonment by the state of NSW on behalf of young people wrongly detained for breach of bail; act in various coronial inquests relating to deaths in custody; pursue freedom of information appeals seeking access to information about Australia's military practices in Iraq and Afghanistan; and test the religious bodies exemption in the *Anti Discrimination Act 1977* (NSW) via a case concerning foster care services. These cases are discussed throughout this annual report.

PIAC solicitors and staff are keenly aware of the barriers and hurdles that must be overcome to commence public interest cases, and ultimately to achieve a successful outcome. One of the most significant barriers is the issue of costs, and in particular, the general rule that the loser pays the winner's legal costs following litigation.

In 2010-11, PIAC made a successful application to have costs capped pursuant to Order 62A of the Federal Court Rules (Cth) in *Haraksin v Murrays Australia Ltd*, a disability discrimination matter against the coach company, Murrays Australia Limited, based on its alleged failure to provide wheelchair accessible coaches. The substantive claim is made pursuant to the *Disability Standards for*

*Accessible Public Transport 2002* (Cth). The court ordered that the maximum costs that either side could recover were \$25,000. Without such an order, the applicant, Julie Haraksin, would not have been in a position to proceed with the litigation.

PIAC also continues to call for reform to the law regarding costs in public interest litigation. This has involved PIAC contributing a number of submissions to government inquiries, as well as broader

advocacy. For instance, in September 2010, PIAC presented a paper on litigation costs and strategies for the public interest lawyer at the *Public Interest Law: Opportunities and Obstacles* conference hosted by Melbourne Law School and others.

PIAC's first class action since the *Homefund*<sup>1</sup> case has been an exciting development. Class actions provide a vehicle for addressing systemic wrongs committed against groups of people in similar circumstances, and we are excited to be using this procedure to address the public interest issue of the unlawful detention of young people.

It has been an exciting year for PIAC's public interest litigation practice, with a wide variety of public interest legal mechanisms used to pursue our strategic goals. We aim to continue using these and other strategies to achieve the goals of the next Strategic Plan 2011-15.

<sup>1</sup> *Bass v Permanent Trustee Co Ltd* [1999] HCA 9



Final year law students, Practising in the Public Interest.

## COMMUNITY LEGAL EDUCATION

### Practising in the Public Interest

Practising in the Public Interest (PIPI) introduces final year law students to advocacy in the public interest and exposes them to organisations that are directly involved in public interest and *pro bono* initiatives.

*Thank you so much! Best course ever. Totally confirmed why I am doing law. – PIPI STUDENT, FEBRUARY 2011*

Once again, PIAC worked in partnership with PILCH and the law faculties of Macquarie University, the University of Sydney and the University of Wollongong to conduct Practising in the Public Interest summer and winter schools.



## ACCESS TO JUSTICE

Twenty students from Macquarie, eight students from Wollongong and five from Sydney completed the one-week intensive course. PILCH members, Norton Rose and Henry Davis York, each hosted a course.

Students at PIPI undertake three days of training and two days of placement. Students work in syndicates throughout the three training days to apply what they learn by developing an advocacy campaign around a case study on a public interest issue. External presenters deliver the training, together with staff from PIAC and PILCH.

*All of the guest speakers were awesome. Good to see representation from so many different organisations and services. I found that really informed me of options for future employment. – PIPI STUDENT, JULY 2010*

The course continues to stimulate and inspire students to consider a future in public interest law and social justice.

*Overall I had a really great experience... It [w]as a really inspiring and thought provoking course and has really hardened my resolve to work in the public interest area. – PIPI STUDENT, FEBRUARY 2011*

### Law for Non-Lawyers

Law for Non-Lawyers is an intensive, two-day training course that provides participants with a working understanding of the law and the legal system. It is a regular part of PIAC's public training calendar, and two fully registered public courses ran in Sydney during the year with a total of 58 participants.

The Legal Information Access Centre (LIAC) at the State Library of NSW has a close working relationship with PIAC, in particular



Legal Aid's Homeless Outreach Solicitor, Anna Nightingale ... partnered with PIAC to deliver training workshops.

through the Law for Non Lawyers program. LIAC's Jill Quinn has presented at each of the Sydney sessions. LIAC has also promoted the course through its public library service and purchased copies of *Working the System* for its standard Tool Kit collections available in over 300 libraries across NSW.

In July and August 2010, PIAC partnered with Legal Aid NSW to present two customised courses for Legal Aid's Co-operative Legal Service Delivery (CLSD) project. These courses were presented in Nowra and Bega.

PIAC also partnered with Legal Aid to pilot Law for Non-Lawyers courses for communities serviced by Legal Aid's Homeless Outreach Solicitors in the Hunter and Riverina regions. Four workshops were delivered in the Riverina region and two in the Hunter area. Homeless Persons' Legal Service staff shared their practical expertise in areas such as fines and debt, tenancy problems and problems with Centrelink.

All aspects were relevant and very useful; covered so many issues faced by people with mental illness.

Kevin's experiences made it very real and gave insight into [the] life of [a] homeless person. – PARTICIPANTS, HOMELESS LAW FOR NON-LAWYERS, WAGGA WAGGA 30 SEPT 2010

The workshops were very popular, with participants particularly enjoying the opportunity to hear from Kevin, a speaker who has experienced homelessness and who spoke about the impact of legal problems on the slide into homelessness. Community workers and staff from local government agencies attended the workshops, and this gave the Legal Aid Homeless Outreach solicitors close contact with the communities they are serving. Further workshops are planned in other regions for the coming financial year.

## PRISONS AND DETENTION

PIAC has continued to focus on the rights of people in detention, including prisoners, forensic patients and involuntary patients in psychiatric hospitals.

PIAC is a member of several consultative committees that deal with NSW prisoners. PIAC is a member of the NSW Corrective Services Women's Advisory Council Consultant Group, NSW Legal Assistance Forum Prisoner's Working Group and the Justice Health Consumer and Community Group. PIAC also supports the Women in Prison Advocacy Network (WIPAN) through membership of its Executive Committee.

### Involuntary Patients

PIAC continues to play a leading role in raising concerns about delays in inquiries under the *Mental Health Act 2007* (NSW) (the Mental Health Act).

A person who is detained because they are deemed mentally ill in NSW has a right to a timely and independent review of their

detention under the Mental Health Act. Previously, a person deemed 'a mentally ill person' had to be taken before a magistrate 'as soon as practicable' after two doctors decided they warranted detention. Now the magistrate's role has been taken over by the Mental Health Review Tribunal (MHRT).

The meaning of 'as soon as practicable' has long been interpreted as within a week or so. Now, through an administrative decision by the MHRT, the inquiries can be delayed for up to four weeks.

These changes threaten the human rights of people living with mental illness in NSW because they can now be detained for up to four weeks.

A timely inquiry should consider whether someone is a 'mentally ill person' under the Act and whether there is a less restrictive form of treatment and care available other than involuntary detention. Under the current arrangements, someone could be held for up to four weeks and then discharged just before they were due to go before the Tribunal, with no independent scrutiny of these issues.

PIAC will continue to campaign until the rights of involuntary patients are restored to the position where they have the right to an independent inquiry as to the lawfulness of their detention in the week after they are first detained as involuntary patients.

### Children in Detention Advocacy Project

The aim of the Children in Detention Advocacy Project (CIDnAP) is to challenge the unlawful and unnecessary detention of young people. It is a partnership between PIAC, PILCH and Legal Aid NSW.

The project provides *pro bono* or legal aid representation to minors on cases of false arrest, unlawful detention, malicious

‘ *These changes threaten the human rights of people living with mental illness...* ’



prosecution and/or the use of excessive force by police, transit authorities and private security companies.

It also works to identify and rectify the underlying causes of these arrests through systemic advocacy. Over 30 cases have been referred to the project for assessment and representation. Many of the cases involve Indigenous young people.

### **CASE STUDY: AMY'S STORY**

*In July 2009, Amy (not her real name) was placed on bail conditions, which included not being in the city without her mother, and not associating with certain people. Her case was heard on 24 August 2009, and the bail conditions were dispensed with.*

*On 3 September 2009, Amy was in the city with her friends and was arrested for not being with her mother. She told the police that her bail conditions were no longer in force but the police said their computer system did not show that. Amy was taken to Juniperina juvenile detention centre overnight. Amy appeared in court the next morning and was released.*

*One week later, police detained Amy again. She showed the police documents from her recent court appearance but they still handcuffed her and took her to the police station.*

*Only after the court confirmed there were no bail conditions in place was Amy released again.*

*In early 2011, after several months of negotiation with the State of NSW, Amy's claim for compensation for false arrest was settled with a positive result.*

### **CASE STUDY: JACK'S STORY**

*Jack (not his real name) is an Indigenous teenager who was charged with several minor offences. He was given bail conditions that included a curfew. Two months later, Jack went to court, the matters were dealt with and bail was dispensed with.*

*Within one week, Jack had been arrested and detained three times for breach of bail. On the first occasion, he was held overnight in custody. When he appeared before the Magistrate the next morning, it was confirmed that there had been no breach of bail. On two subsequent occasions, he was picked up by police and not released until his parents provided police with his bail papers.*

PIAC is aware of many more cases of young people who were arrested on out-of-date bail conditions because of a long-standing problem with the NSW police computer system. This has had a devastating effect on young people who are spending unnecessary time in custody, usually at least overnight, causing disruption to school and family life.

On 8 June 2011, PIAC launched a class action in the Supreme Court against the State of NSW on behalf of all young people affected by this problem. PIAC is co-counselling in this action with law firm Maurice Blackburn. The lead applicant is Musa Konneh, a young man who was unlawfully detained overnight by police for allegedly breaching bail conditions that were no longer in effect, an error recognised by the court the next day.

Through the class action, PIAC and Maurice Blackburn hope to resolve this ongoing problem within the criminal justice system and achieve compensation for individuals who have been falsely imprisoned by the police as a result of incorrect bail information.



PIAC Senior Solicitor Vavaa Mawuli (left), Musa Konneh, and Maurice Blackburn Managing Principal (NSW), Ben Slade ... launched a class action against the State of NSW. Photo: Scott Parker

## INDIGENOUS JUSTICE

PIAC is a strong advocate for justice for Indigenous Australians. Its most recent work has focused on stolen wages, policing and discrimination. Its Indigenous Justice Program (IJP) receives very generous support from the law firm, Allens Arthur Robinson, which provides a grant that enables PIAC to employ a full-time Indigenous justice solicitor.

### Racial vilification

PIAC represented an Aboriginal man in a racial vilification claim against his employer. PIAC's client claimed that he had been the victim of sustained racial vilification and harassment at work, and that despite several complaints to senior managers, no adequate action had been taken to address the complaints and ensure a safe work environment. All employers have an obligation to ensure that workplaces are free of all forms of racial discrimination and

failure to act appropriately can constitute unlawful discriminatory conduct. The case was settled on terms favourable to PIAC's client shortly after proceedings were filed in the Federal Court.

### Indigenous young people in the criminal justice system

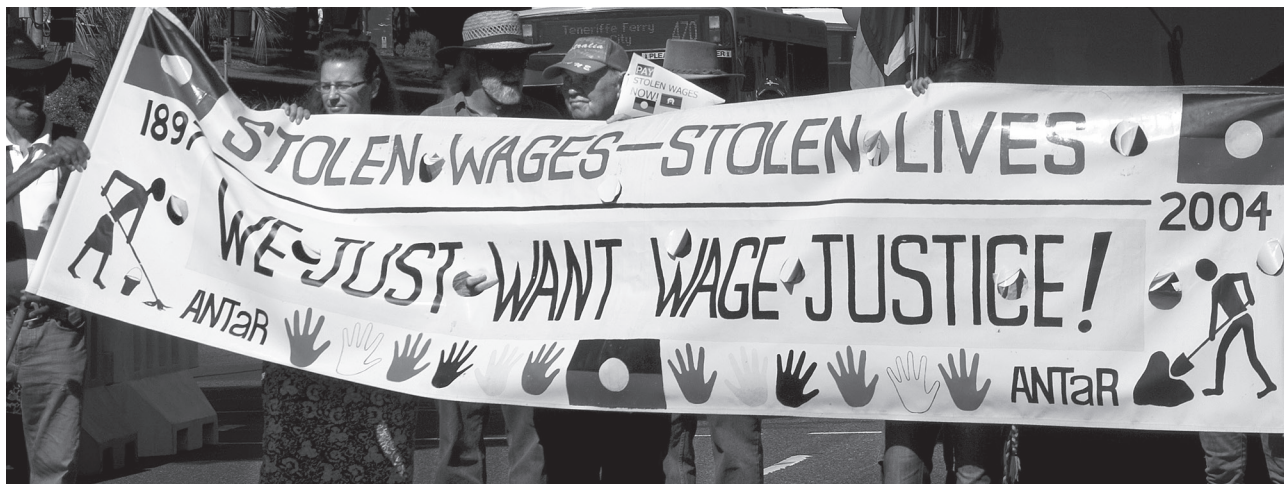
The House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs Inquiry into the high level of involvement of Indigenous juveniles and young adults in the criminal justice system was conducted from December 2009 until June 2011 (with delays caused by federal election in 2010). PIAC's submission in December 2009 recommended changes to the legislation governing the arrest and detention of children by offering alternatives to detention, such as bail diversionary programs.

The Committee report *Doing Time – Time For Doing*, was released in June 2011, and PIAC is quoted multiple times throughout the submission in relation to misuse of police discretion, section 22A of the *Bail Act 1978* (NSW) and juveniles detained on remand for technical breaches of bail. There were 40 recommendations made in a number of areas, including education and health, and while PIAC was extensively quoted throughout the report, none of PIAC's specific recommendations was included in the final report.

### Stolen Wages

PIAC has continued to advocate for greater transparency, accessibility and accountability in the processing of claims, access to records and review processes for claimants to the Aboriginal Trust Fund Repayment Scheme (the Scheme).

After extensive lobbying by PIAC and other organisations, the NSW Government established the Scheme in 2004. Its purpose was to repay to Aboriginal people and their descendants wages,



Stolen wages ... many claimants are still waiting for their claims to be processed years after they were lodged. Photo: Flickr/RaeAllen

pensions, child endowment payments and other money that was held in trust fund accounts by state agencies and never repaid. This money is often referred to as Stolen Wages.

PIAC has helped more than 200 people lodge their claims and provide further evidence and documentation to the Scheme.

In addition, PIAC has operated a Stolen Wages Helpline since 30 March 2010. The Helpline is a free, confidential telephone information service that provides information and advice to claimants. The Helpline has assisted over 160 callers during the past financial year, offering general advice about the claims process and the operations of the Scheme as well as providing legal advice and assistance to callers who require additional support with their claims.

Initial estimates by the Department of Community Services in 2001 put the amount in trust as up to \$70 million, with over 11,000 eligible claimants expected to register. However, the latest figures show that as of 30 June 2011, there were approximately 8,931 people with registered claims, and repayments totalling \$6.8 million had been made. The Scheme was scheduled to end in December 2010; however, as a result of delays in processing claims, this date was extended until the end of June 2011 and then further extended until the end of 2011.

Many claimants are still waiting for their claims to be processed years after they were lodged.

In an interview on the ABC's *Stateline* program in August 2010, PIAC Acting Principal Solicitor, Vavaa Mawuli, raised concerns about access to records, delays in processing claims, and the lack of compensation for those who suffered abuse in their employment. The Scheme's response was to highlight the new guidelines that allowed the NSW Government to offer repayments in more cases; however, this does not address the issue of accessibility of records.



Two months later, in an interview on ABC Radio National, PIAC outlined the procedural challenges that many claimants faced and highlighted the considerable time pressure that the Scheme was under to process the remaining claims by December 2010, an issue that has been resolved to some extent by the extension of the Scheme until 2011.

When the Scheme finally comes to a close at the end of 2011, PIAC will continue to push for transparency and accountability. PIAC remains concerned about a number of issues. Many eligible claimants were unaware of the Scheme until after registrations closed; the process for assessing claims and making repayments was inconsistent, non-transparent and inaccessible to many Aboriginal people living in remote areas; and questions remain about the money that will remain in government control if the people from whom it was taken have not been repaid. PIAC will continue to lobby for justice for Aboriginal people in NSW, as well as an inquiry into the operations of the Scheme and the plans for the remaining money in government funds.

### **Claims against the Child Welfare Department**

PIAC has directly assisted six people whose claims fell outside of the Aboriginal Trust Fund Repayment Scheme's jurisdiction because they involve trust fund accounts administered by the Child Welfare Department (the predecessor to Community Services NSW), rather than the Aborigines Protection Board (APB) or Aborigines Welfare Board (AWB). Currently, the Scheme is set up to repay monies held by the APB or AWB. Claimants who are owed money from trust fund accounts administered by the Child Welfare Department still have no official avenue for redress.

PIAC has had considerable success in its Child Welfare Department matters. It has successfully negotiated repayments in five out of the six matters so far, in situations in which the clients would otherwise not have received a repayment.

PIAC will continue to advocate until the NSW Government has repaid all monies under its control belonging to Aboriginal people.

***‘ PIAC has had considerable success in its Child Welfare Department matters. ’***

### **Review of Government compensation payments**

In June 2010, PIAC made a submission to the Senate Legal and Constitutional Affairs Committee Inquiry into a review of Government compensation payments. The submission analysed redress schemes in Australia affecting Indigenous Australians (with a focus on the Aboriginal Trust Fund Repayment Scheme (the Scheme) in NSW) and examined their achievements and shortcomings.

The submission particularly addressed issues arising from the Scheme which affect the transparency and fairness of the claims process. In November 2010, PIAC gave evidence at a public hearing held by the Senate Legal and Constitutional Affairs Committee in relation to the inquiry. PIAC's evidence emphasised the need for Federal and State governments to work together to address the needs of Aboriginal and Torres Strait Islander families who were affected by Stolen Wages policies and policies that permitted the forcible removal of children from their families.

The committee reported in December 2010, and made seven recommendations in relation to the establishment of new schemes to compensate care leavers in various states. PIAC's recommendations were largely of a detailed nature in relation to the conduct of compensation schemes; while they have not been directly cited in this report, PIAC hopes that its submission and recommendations will be used in relation to these schemes in the future.



### HOMELESS PERSONS' LEGAL SERVICE

*Homelessness can happen to anyone, it does not discriminate. I first became homeless at the age of 15 when I was forced to leave my family home. – RHIANNON, CONSUMER ADVISORY COUNCIL MEMBER AND MEMBER OF THE STREET CARE HUNTER WORKING GROUP.*

HPLS is a joint initiative of PIAC and the Public Interest Law Clearing House. The Homeless Persons' Legal Service (HPLS) continues to provide free legal advice and representation to clients experiencing a wide range of legal problems. During 2010-11, the service helped 738 clients; since its inception in 2004, HPLS has assisted over 4,500 clients.

The primary points of contact between HPLS and its clients are the weekly clinics offered in the inner city, Bondi and Parramatta.

Ten clinics are operated on a roster basis at welfare agencies that provide direct services, such as food and accommodation, to people in housing crisis. The clinics staffed by lawyers acting *pro bono* from PILCH members. The HPLS team at PIAC continues to co-ordinate and supervise all of the work done at the clinics and to provide support for the *pro bono* solicitors from the partner legal practices.

The clinics are hosted by the following welfare agencies: Edward Eagar Lodge (Wesley Mission), Matthew Talbot Hostel (St Vincent de Paul Society), Newtown Mission in Partnership with Newtown Neighbourhood Centre, Norman Andrews House (Uniting Care), Parramatta Mission (Uniting Church), Streetlevel Mission (Salvation Army), The Station, Vincentian House (St Vincent de Paul Society), Wayside Chapel (Uniting Church) and Women's and Girls' Emergency Centre.

The following PILCH NSW members provide lawyers on a *pro bono* basis to HPLS to provide legal services through the clinics: Allens Arthur Robinson, Baker & McKenzie, Corrs Chambers Westgarth, Dibbs Barker, HWL Ebsworth, Gilbert + Tobin, Henry Davis York, Legal Aid NSW, Minter Ellison, Norton Rose and Thomsons Lawyers.

### Work with consumers

*Learn to listen and know that it is very hard to have no home and expect you to remember a lot of rules when you are traumatised. – ANONYMOUS HOMELESS PERSON, IN RESPONSE TO BEING ASKED HOW HOMELESS SERVICES COULD BE IMPROVED.*

HPLS is committed to making sure that the voices of the real experts on homeless issues, homeless people themselves, have the opportunity to be heard by the decision makers in government agencies and non-government organisations.

In October 2010, this work was recognised when HPLS received the Law and Justice Foundation's Community Legal Centre NSW Award for its work with Street Care, the homelessness advisory group established by HPLS. The advisory group is composed entirely of people who have experienced homelessness. It aims to uphold the rights of homeless people, enabling them to participate in the development of more effective government responses to homeless issues.

Street Care members now regularly advise the Federal and NSW Governments. The group has influenced government agencies and providers of services to homeless people to consider consumer participation essential to developing responses to homelessness.

### Consumers influencing government policy

In 2010, two members of Street Care were appointed to the NSW Premier's Council on Homelessness. To inform Premier's Council discussions, HPLS hosted and managed three homeless consumer forums. HPLS set up a Consumer Advisory Council (comprising representatives from Street Care and other homeless people) to provide advice and assistance with the forums.

There were forums in Sydney, Western Sydney and the Hunter. Reports from each forum were provided to the NSW Government.

*This was the first time consultations run by homeless people for homeless people have occurred in the Hunter Region. All of the people consulted felt relaxed about sharing their stories and ideas with the members of the Council because they had a shared experience of homelessness. It was an empowering process for those consulted as well as for those running the consultations. – HPLS POLICY OFFICER CHRIS HARTLEY.*

The change of government in NSW has seen a hiatus in consumer participation and engagement with government. However, in May 2011, the NSW Department of Human Services provided funding for PIAC to address some recurrent concerns of the homeless people who participated in the Consumers' Forums.

These concerns include the one-way flow of information and a lack of positive change from government as a result of consultation. HPLS has re-convened the Consumer Advisory Council to drive this work.

## Violence and homelessness

*I first became homeless at the age of fourteen after my parents separated and my father threw me out of home.*

*I spent 20 of the next 30 years of my life living on the street. During that time, I saw many unprovoked attacks on the homeless. On one occasion I witnessed two men throw concrete blocks and beer bottles at a group of homeless people whose only crime was trying to get some sleep. – KEVIN, CONSUMER ADVISORY COUNCIL MEMBER.*



On the streets ... The Homeless Persons' Legal Service (HPLS) continues to provide free legal advice and representation to clients. Photo: Flickr/Y

PIAC commissioned a research report, *Rough living: Surviving violence and homelessness*, produced by Dr Catherine Robinson of the University of Technology, Sydney. The research reveals the long-term impacts of childhood sexual, physical and emotional abuse.

*I don't have a lot of memory of my early childhood. I remember that my father was a really violent, aggressive mongrel of a man and I grew up with violence. I grew up with him, and his alcoholism and his addiction to drugs, and he was an addict and alcoholic and he used to beat us and my mother and that's what I grew up with basically. I left home at a really early age as a result of his beatings and seeing him the way he was, doing what he was doing. I couldn't take it, and I was usually on the end of his fist anyway so I left. – PART OF ALEX'S STORY, TAKEN FROM ROUGH LIVING: SURVIVING VIOLENCE AND HOMELESSNESS*



*Rough living* highlighted how many agencies working with homeless people have limited understanding of trauma and how childhood physical, sexual and emotional abuse can shape and inform a person's interactions into adulthood. The report also highlighted the random attacks that occur against rough sleepers and the fact that many of these attacks are not reported to police.

On the basis of the research, HPLS established a working group made up of consumers, homelessness service providers and representatives from NSW Police to investigate ways of establishing better relationships between rough sleepers and the police, and better reporting of violent incidents.

The Working Group has played a key role in promoting the need for trauma-informed care in homeless services in NSW. Some of its achievements include:

- development of a training package for homeless services about the impact of trauma. This package has been made available to all homeless services in NSW;
- delivery of a three-day workshop on trauma-informed care for managers of homeless services in Sydney; and
- working closely with a number of individual services to ensure best practice in responding to people experiencing trauma.

### **Fines**

The Work and Development Order (WDO) program that allows homeless and other disadvantaged people to 'play off' outstanding fines through volunteer work has been expanded and made permanent.

Fines and debt are common problems experienced by HPLS clients and often they are a major factor in reinforcing disadvantage. HPLS first recommended the WDO program in its 2006 report, *Not such a Fine Thing*.

This issue was raised again in a 2011 submission, *Penalty notices: still not such a fine thing for vulnerable people*, to the NSW Law Reform Commission of Inquiry Into Penalty Notices. HPLS argued that despite the recent improvements, the penalty notice system continued to generate and exacerbate disadvantage among homeless and other vulnerable people. HPLS highlighted the challenges faced by vulnerable people at nearly every stage of the penalty notice process. Due to their visibility and personal and financial circumstances, homeless people are more likely to receive multiple penalty notices but are less likely to respond effectively within the time limits imposed, leading to spiralling debt.

The WDO program helps extremely disadvantaged people acquire skills, work experience and educational opportunities while reducing an otherwise crippling debt. It makes a significant difference to people who are homeless and others who face disadvantage, including people with mental illness and people with drug or alcohol addictions.

PIAC was a member of the WDO working group, and welcomed the recent NSW Government decision to expand and make permanent the system. The program evaluation after the two-year trial showed that:

18 ***‘Fines and debt are common problems experienced by HPLS clients and often they are a major factor in reinforcing disadvantage.’***

- More than 700 people had been approved to do WDOs and reduced \$294,000 worth of their fine debt. A further \$1,933,755 worth of fine debt is now under management through WDOs.
- More than 80 per cent of participants had no further fines or penalties referred for enforcement.
- At least 200 people with mental illness participated.

### **Solicitor Advocate for homeless clients**

Since January 2008, PIAC has trialled an innovative approach to provide legal and related services to homeless people by employing a Solicitor Advocate within HPLS. The Solicitor Advocate provides legal representation in minor criminal matters.

The role overcomes some of the barriers homeless people face accessing legal services, including: a lack of knowledge of how to navigate the legal system; the need for longer appointment times to obtain instructions; and the capacity to address multiple and complex inter-related legal and non-legal issues, such as mental health or addiction issues.

A key feature of the HPLS Solicitor Advocate model is that it is proactive. It involves the Solicitor Advocate going to the client at either the relevant HPLS host welfare agency or outreach centre following referral from one of the HPLS clinics, the host agency or other homelessness services.

The Solicitor Advocate represents homeless clients in court and in mediation arrangements and the client has the same solicitor from start to finish. This arrangement produces greater client satisfaction and a better outcome, in comparison with the more common situation in which the client is represented by a different solicitor at each court appearance.

***‘ Because of the chaotic nature of life for many homeless people and the daily battle to find safe accommodation, a meal or attend a clinic to get their medication, it can be difficult to ensure that homeless clients attend court. ’***

Because of the chaotic nature of life for many homeless people and the daily battle to find safe accommodation, a meal or attend a clinic to get their medication, it can be difficult to ensure that homeless clients attend court. This means that the Solicitor Advocate must work closely with homeless clients, showing concern for their pastoral care.

The target clients for the Solicitor Advocate are homeless people who cannot effectively access Legal Aid or the duty solicitor at court.

The clients of the Solicitor Advocate have complex needs. As well as being homeless, many clients must overcome the impact that mental illness or drug and alcohol addiction has on their ability to give clear instructions in a very short interview in an unfamiliar and unfriendly environment immediately before their matter is called.



***During the two years of their operation, more than 250 clients had their legal needs attended to, resulting in not only improved legal outcomes but also improvements in clients' mental health, and in many cases, their related social and economic circumstances.***

Between 1 January 2010 and 30 June 2011, the HPLS Solicitor Advocate provided court representation to 104 individual clients. Of these:

- 53 per cent disclosed that they had a mental illness;
- 62 per cent disclosed that they had drug or alcohol dependency;
- 76 per cent said that they had either a mental illness or drug/alcohol dependency;
- 38 per cent disclosed that they had both a mental illness and drug/alcohol dependency;
- 45 per cent indicated that they had previously been in prison.

### **MENTAL HEALTH LEGAL SERVICES PROJECT**

Since 2008, PIAC has investigated models to improve access to justice for people with mental illness. Over the past two years, four Mental Health Legal Service (MHLSP) pilot projects have demonstrated innovative ways to apply a multi-disciplinary approach to meeting needs. In June 2011, the pilot projects came to an end. During the two years of their operation, more than 250 clients had their legal needs attended to, resulting in not only improved legal outcomes but also improvements in clients' mental health, and in many cases, their related social and economic circumstances.

The pilots were implemented within existing legal, health or community services, providing a multidisciplinary approach to address unmet legal needs for four of the most chronically disadvantaged groups in NSW:

- Young homeless people who are mentally ill (at the Shopfront Youth Legal Centre);
- Refugees who, as a result of trauma, are mentally ill (at the NSW Service for the Treatment and Rehabilitation of Torture and Trauma Survivors (STARTTS));
- People from non-English speaking backgrounds who are mentally ill (at the Multicultural Disability Advocacy Association (MDAA));
- Indigenous men who, as a result of trauma, are mentally ill (in partnership with the Gamarada Men's Healing Program).

Each of the MHLSP pilots had different settings and client groups. However, they each shared a common purpose, and each has had significant impacts for clients and services.

Collectively, the pilots demonstrated the importance and value of a multidisciplinary approach to service delivery that combines health, legal and community services. This reflects the complexity of issues faced by people with mental illness.

*"The benefits have been enormous – clients are getting a better and more holistic service from the Shopfront."*  
– SHOPFRONT SOLICITOR.

*"The benefits are that the consumers are feeling confident that with the solicitor present someone will stand up for them and protect their rights."* – MDAA ADVOCATE

A large proportion of the MHLSP clients had multiple, interrelated issues reflecting the complexity of their backgrounds and socio-economic and psychosocial circumstances. The MHLSP workers saw some clients over an extended period and for repeat visits in relation to ongoing or new issues.

*"I was introduced into a circle of loving, caring men of all shades of black who were haunted by the same demons as me... I was accepted as an Aboriginal man and for the first time in my life I actually felt that I belong somewhere."* – IMAJ MHLSP CLIENT

*"In all of the matters in which [the MHLSP worker] has been involved, without exception the legal outcomes have been dramatically improved; as have the knowledge of clients' rights, services and access to entitlements."* – SHOPFRONT SOLICITOR

All of the MHLSP pilots produced significant improvements for clients. Some clients avoided prison or were referred to diversionary programs; some were able to resolve legal and other issues; some changed their patterns of interaction with the justice system; and some experienced an increase in self-confidence and their sense of well being, along with a greater capacity to function more effectively.

*"I will never forget the lawyers who helped me."  
"I cannot thank them enough. May God give them good health and well-being so they can provide such excellent service to others as well."* – STARTTS MHLSP CLIENT

The pilot project recognised that mental illness can prompt or exacerbate a person's legal problems. The project showed that mental health and legal problems can be dealt with simultaneously and successfully for all involved.

Now that the pilot phase of the project has finished, PIAC is working with its partner organisations to secure funding that will enable this excellent work to continue.

## AIMS

- **To enhance the capacity of individuals and non-profit organisations to undertake advocacy and related activities on public interest issues.**
- **To promote government responsiveness to Australian community diversity.**
- **To enhance community awareness of and engagement in government.**
- **To promote and enhance transparency and accountability in the exercise of government power.**

## KEY ACHIEVEMENTS

- **PIAC continues to be a leader in training community advocates.**
- **After six years of effort, PIAC's FOI investigation reveals the truth about Australia's detention practices in Iraq and Afghanistan.**

## EDUCATION AND TRAINING

Through its training courses, PIAC develops the skills of community sector workers, enabling them to be more effective advocates for their client groups and communities.

### Advocacy training

PIAC's advocacy training assists individuals and communities to gain the knowledge and skills to be effective advocates. This training is one of the ways that PIAC achieves its aim of enhancing the responsiveness and representativeness of Australian democracy.

Training also helps PIAC to build closer relationships with the community sector, from where the majority of PIAC training participants come. Most of PIAC's training is now customised and presented in-house to groups and organisations.

PIAC's original flagship course was called Work the System. Over the 2010-11 year, this course was reviewed and updated. The new course is called Introduction to Advocacy and Campaigning. This was presented as a public course twice during the year with a total of 30 participants. Effective Advocacy Skills and Strategies public courses were also held twice during the year, with 34 participants.

## Advanced media skills

PIAC continued to offer Advanced Media Skills Training, presented by experienced journalists Lynette Simons and Don Palmer. This course covers radio and television interview skills and writing media releases. It continues to be very well regarded, with six customised courses presented during the year.

Two public courses were also presented during the year, with a total of 19 people attending. PIAC uses this course to train clients who need to engage with the media to promote the public interest issues underlying their cases.

## Customised training

The majority of PIAC's training courses are delivered as customised training for organisations, groups and networks. During the 2010-11 financial year, PIAC delivered 18 in-house advocacy and media skills training courses, over 20.5 days. This was slightly lower than the previous year; however, it was balanced by a large increase in other customised and project training in Law for Non-Lawyers and human rights.



PIAC delivered customised advocacy or media skills training for the following organisations:

- The Cancer Council of NSW Consumer Advocacy Training (four courses, including one regional course in Young);
- Tenants Union of NSW (two courses for the TAAP Network);
- Heart Foundation (two courses)
- Gay and Lesbian Rights Lobby;
- Department of Immigration and Citizenship for settlement workers;
- NSW Consumer Advisory Group;
- Legal Aid NSW staff;
- Community workers through Fairfield Council (two courses);
- South West Community Connect; and
- NSW Federation of Parents and Citizens Associations (two courses).

Since 2002, PIAC has partnered with the Cancer Council NSW and Cancer Voices NSW to train health consumer advocates to become active and effective advocates for improved health policies and systems. PIAC presented four two-day training courses in Sydney and the Riverina region.

## FREEDOM OF INFORMATION

Over a number of years, PIAC has been actively involved in consultations resulting in reform of federal and NSW Freedom of Information (FOI) legislation. Freedom of information laws are an important tool for ensuring government accountability and transparency.

On 1 July 2010, the *Government Information (Public Access) Act 2009* (NSW) (GIPA Act) commenced. This Act replaced the repealed *Freedom of Information Act 1989* (NSW). The GIPA Act is designed to provide greater government openness and accountability. The new legislation introduced a new test for disclosure of information: agencies must release information unless there is an overriding public interest against disclosure. This is a welcome development and will hopefully result in greater release of information.

A new regulator, the Office of the Information Commissioner (OIC), was created. The OIC's role is to monitor, audit and report on compliance with the GIPA Act.

‘ **Over a number of years, PIAC has been actively involved in consultations resulting in reform of federal and NSW Freedom of Information (FOI) legislation.** ’

In 2010 and 2011, new provisions of the *Freedom of Information Act 1982* (Cth) commenced. The new provisions created the Australian Information Commissioner to monitor and review FOI decisions.

The amendments apply a public interest test to a greater range of exemptions. However, exemptions remain for defence and security agencies.

PIAC has continued to use freedom of information laws in its casework. For example, GIPA Act requests have been made to assist clients with their Stolen Wages claims. Similar requests have been successfully made on behalf of clients as part of the Children in Detention Advocacy Project.



Tour of duty ... FOI documents raise questions about Australia's detention policy in Iraq and Afghanistan. Photo: Australian Defence Image Library/CPL Chris Moore.

### **Military detention: uncovering the truth**

PIAC's major work in FOI over the past year has been in relation to the Department of Defence. The project began in 2005, when PIAC made an FOI request to the Department of Defence for information regarding the handling, detention and treatment of detainees in operations outside Australia.

The Department of Defence did not make a decision in response to PIAC's request until August 2008, and PIAC was only granted access to 21 of 222 documents that were deemed relevant to the FOI request.

In April 2009, PIAC requested a review of the Department of Defence decision not to release all the documents, as permitted under FOI law. As the Department of Defence did not respond, PIAC sought review of the decision in the Administrative Appeals Tribunal (AAT).

As a result, PIAC was successful in obtaining access to dozens of previously classified documents in relation to Australia's operations in Iraq and Afghanistan from 2002-05. The documents included Ministerial briefing notes, Question Time briefs, internal reports, records of interview with Defence personnel, memorandums and operational

orders. PIAC analysed the information contained in the documents and compared it with public statements made by the Government at the relevant time, identifying numerous inconsistencies.

PIAC identified two main issues arising from the documents: that the Australian Defence Force's detention policy in Iraq and Afghanistan sought to avoid Australia's international legal obligations, and that the Australian Government had prior knowledge of illegal detention practices in Iraq, including at Abu Ghraib.

PIAC worked with media organisations, including the ABC and Fairfax, to publish these revelations. In July 2011, PIAC published the documents on the PIAC website and received widespread domestic and international media coverage.

PIAC's work on this matter continues, with PIAC calling for a Royal Commission into Australian military detention practices and policies.

## AIMS

- To ensure that consumers, particularly low-income and vulnerable consumers, have access to fair treatment in identified priority areas.
- To redress obstacles to the fair treatment of consumers in identified priority areas.
- To encourage the active participation of organisations and individuals committed to ensuring that all people have access to fair treatment as consumers.

## KEY ACHIEVEMENTS

- PIAC's call for an independent aged care complaints system backed by the Productivity Commission.
- Social media engages energy and water consumers.
- PIAC's competition and consumers conference.

## HEALTH

### Aged care

There has been considerable public concern about the safety and quality of the health care that elderly Australians receive in aged care facilities. There has also been consumer concern about the Commonwealth aged care complaints process.

PIAC made a submission to the Australian Productivity Commission inquiry into aged care, analysing the impact of regulation and competition on high care services in residential aged care. It recommended the Commission pay particular attention to the circumstances and needs of older people and their carers when they are seeking high care beds because these services are often accessed when the older person is in a particularly vulnerable situation.

PIAC also responded to the Department of Health Care and Ageing's Discussion Paper, *Aged Care Complaints Scheme: Proposed Complaints Management Framework*.

PIAC proposed the creation of a fair and transparent complaints process for aged care consumers. PIAC's submission stressed the need to make the process more accountable, the importance of independent decision-making, the need to provide timely decisions, and the

importance of how such decisions are communicated. It also considered an appropriate review process, particularly given the vulnerability of family members who often make complaints on behalf of an aged relative.

In response to the Draft Productivity Commission Report, *Caring for Older Australians*, PIAC commented on complaints handling and appeals and access to independent consumer advocacy services. Currently, the office of the Aged Care Commissioner is not independent and can have its decisions on complaints overturned by government. PIAC argued strongly that there should be an independent body that assesses, investigates and makes the final determination on aged care complaints.

The Productivity Commission released its final report, *Caring for Older Australians*, on 8 August 2011.

The final report quoted PIAC's concern that 'to a fair degree, the aged care complaints system in Australia has lost the trust of Australia's consumers'. The report recommends that there should be a new office of Commissioner for Complaints and Reviews, as part of a larger independent body called the Australian Aged Care Commission (AACC). PIAC is satisfied, if the Government adopts the Productivity



Prisons and mental health ... PIAC continues to emphasise the importance of diversion from the criminal justice system for people with a mental illness. Photo: AYArtos

Commission's recommendations, that this body will be sufficiently independent. If the AACC is appropriately funded, PIAC expects complaints about aged care would in the future be determined impartially and transparently.

### **Mental health – prisons**

Given the overrepresentation of people with mental illness in the prison system, PIAC has continued to emphasise the importance of diversion from the criminal justice system for people with a mental illness or other forms of cognitive disability. PIAC has continued to advocate for continued reform of the processes that regulate the rights of forensic patients.

The NSW Law Reform Commission (NSW LRC) has an ongoing reference, 'People with cognitive and mental health impairments in the criminal justice system'. In the past year, the Commission has released four discussion papers relating to this reference.

In July 2010, PIAC made a submission in response to the first three of the discussion papers. PIAC argued that law and policy reform in the criminal justice system should be driven by concern about the long-term and persistent over-representation of people with mental illness and/or other forms of cognitive impairment. PIAC argued that the goal of law reform in this area should be improved ways of dealing with people who are caught in this cycle.

PIAC made a second submission in response to the NSW LRC Discussion Paper regarding young people with cognitive and mental health impairments in the criminal justice system.

The submission discussed the specific issues young people with a cognitive disability or mental health condition experience when they are in contact with the juvenile justice system. It recommended changes to legislation governing criminal proceedings, the

policing of young people on bail, bail applications, and sentencing, to ensure these young people are diverted from the justice system.

Both submissions were informed by the day-to-day experience of HPLS Solicitor Advocate, Jeremy Rea, and of Social Worker, Jamie Alford, who was employed in the pilot project located at Shopfront Legal Centre as part of PIAC's Mental Health Legal Services Project.

PIAC also participated in the NSW LRC's public consultation on these issues and facilitated a meeting between representatives of the NSW LRC and the FLAMES group of forensic patients at Morisset Hospital to discuss issues raised in the discussion papers.

The NSW LRC inquiry provided PIAC with an opportunity to raise issues about people with mental illness and other cognitive disabilities in detention and in contact with the criminal justice system. In the submissions and in face-to-face discussion with NSWLRC representatives, PIAC was able to highlight the importance of diversionary options for people with cognitive disabilities.

PIAC will continue to take an active part in the next stages of the NSWLRC reference in this area.

## ENERGY AND WATER

The Energy and Water Consumers' Advocacy Program (EWCAP) continues to represent residential consumers in key policy deliberations at both state and federal levels. Key recent developments include the privatisation of the state-owned electricity retailers, a NSW election delivering a new government, and action to price carbon. These developments highlight the importance of EWCAP's role in developing and promoting water and energy policies that ensure equitable access to these essential services.

### Carbon pricing and household compensation

The assistance package aimed at compensating eligible households for any carbon-related cost of living increases has been an important focus this year. PIAC encouraged the Federal Government to deliver assistance through such measures as energy efficiency programs and raising consumers' energy literacy.

One of PIAC's recommendations was for the household assistance package to include additional financial and program support for consumers who have less ability to reduce their energy consumption because of a serious medical condition. In July 2011, PIAC welcomed

the announcement that the household assistance package will include an Essential Medical Equipment Payment of \$140 per annum to assist people with these unavoidable costs.

### Engaging NSW consumers through social media

Over 1000 people engaged in a social media campaign run by PIAC to highlight important water and energy issues in the lead up to the NSW election in March 2011. The campaign encouraged consumers to engage with candidates and party representatives at local events on issues including the indexation of the Energy Rebate and equitable access to water and energy consumer protection measures.

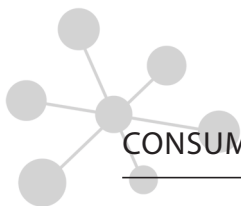
### Competition and Consumers Conference

In June 2011, EWCAP held its biennial conference, Competition & Consumers. The day sparked constructive conversations on the effectiveness of energy market competition for all NSW consumers. The conference attracted attendees from community organisations, government agencies, state and federal regulators, energy businesses and consumer representatives from across NSW as well as interstate.



Edward Santow (left) and IPART chair Rod Sims ... speaking at the EWCAP biennial conference. Photo: Erin Halligan

Rod Sims, Chair of the Independent Pricing Tribunal and Chairman Elect of the Australian Competition and Consumer Commission, delivered the keynote address. Mr Sims acknowledged PIAC's assistance in identifying groups adversely affected by pricing decisions and PIAC's help in guiding recommendations aimed at reducing disadvantage.



*'IPART and PIAC have a long association. PIAC provides valuable input into our regulatory processes by advocating the interests and concerns of end-use customers, particularly low-income and disadvantaged customers. PIAC has helped us to identify groups of people who will be most affected by our pricing decisions, allowing us to recommend specific and well-targeted government actions to assist those groups.'* – ROD SIMMS, SPEAKING AT THE COMPETITION AND CONSUMERS CONFERENCE

28 ***'PIAC provides valuable input into our regulatory processes by advocating the interests and concerns of end-use customers, particularly low-income and disadvantaged customers.'***

### **Research report shines light on consumers' experiences of competition**

PIAC recently completed research into the effectiveness of competition in five NSW rural and regional areas. The report, *Choice? What Choice?*, demonstrated that consumers who were surveyed had relatively low levels of awareness of their ability to choose between electricity retailers. Where consumers switched retailers, most did so in search of savings, and ultimately did not have their expectations of lower electricity prices realised.

PIAC will use these findings to inform its submission to the Australian Energy Market Commission's review of the effectiveness of competition in the NSW energy market. This review is scheduled for 2012.

### **Water Review – an opportunity to call for greater equity**

The Productivity Commission's Inquiry into Australia's Urban Water Sector provided PIAC with an opportunity to call for a more consistent approach to consumer protections for water consumers.

In line with PIAC's recommendation, the Productivity Commission's Draft Report, included a recommendation urging COAG to develop a set of best practice principles for consumer protection that include 'the establishment of an industry code defining service standards and provisions to assist consumers facing hardship'.

## AIMS

- To promote the use of human rights mechanisms.
- To promote community awareness of human rights.
- To extend protection in Australia of internationally recognised human rights.
- To promote the equal enjoyment of rights.
- To promote improved privacy protection.

## KEY ACHIEVEMENTS

- Successful representation of Gregory Killeen in his claim against the NSW Department of Transport and two taxi companies.
- PIAC continues to represent Julia Haraksin in her disability discrimination claim against Murrays Australia Ltd.
- PIAC has played a leading role in advocating for human rights law reform.

## HUMAN RIGHTS PROTECTION IN AUSTRALIA

In April 2010, the Federal Attorney-General announced a commitment to harmonise and consolidate Commonwealth anti-discrimination laws. PIAC contributed to two submissions made by the National Association of Community Legal Centres to the Attorney-General's Department. The submissions argued that the creation of a new Equality Act should strengthen human rights protection by expanding the grounds of discrimination, improving access to justice by creating a no-costs jurisdiction for discrimination matters, and replacing existing exemptions with a single exception clause.

In October 2010, PIAC made a submission to the Senate's Legal and Constitutional Affairs Committee Inquiry into the *Human Rights (Parliamentary Scrutiny) Bill 2010* and the *Human Rights (Parliamentary Scrutiny) (Consequential Provisions) Bill 2010*. In its submission, PIAC welcomed the inclusion of seven international human rights instruments in the Bills, to be the basis for pre-legislative scrutiny and consideration of existing legislative instruments by the Parliamentary Committee. However, there were some uncertainties in the coverage of the definition of 'human rights' in the Bills, and concerns about the omission of some

key international human rights standards. The Government plans to reintroduce the Bills to the Senate in the second half of 2011.

PIAC supported the reform process in Tasmania in relation to the possible introduction of a Charter of Human Rights and Responsibilities. In its submission to the Tasmania consultation, PIAC identified the features of effective human rights protection and promotion that should be included in the Tasmanian legislation.

PIAC also contributed to the Victorian Parliament's Scrutiny of Acts and Regulations Committee review of the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*. The submission concluded that the Charter is having a significant, positive impact in protecting human rights and was operating in an efficient and cost-effective way. PIAC's submission compared the protection of human rights in Victoria in key government service areas under the Charter with the protection in NSW, where there is no Charter.

In January 2011, the United Nations Human Rights Council undertook its Universal Periodic Review (UPR) of Australia's human rights record. The Committee provided Australia with 145 recommendations. PIAC responded to the Government's request for comments



## HUMAN RIGHTS

on the recommendations, and called for the implementation of all 145 recommendations.

### HUMAN RIGHTS EDUCATION

PIAC continued to provide human rights education throughout the year, encouraging participants to take a rights-based approach to their advocacy. In November 2010, PIAC delivered a Human Rights 'Train the Trainer' workshop as a part of the International Conference on Human Rights Education. In June 2011, PIAC organised training focusing on human rights issues in the disability sector.

In February 2011, PIAC submitted its comments on the Background Paper for the development of the National Human Rights Action Plan for Australia.

*‘ PIAC continued to provide human rights education throughout the year, encouraging participants to take a rights-based approach to their advocacy. ’*

PIAC supported the development and implementation of an Australian Human Rights Action Plan, providing it remains action-oriented and incorporates transparent accountability mechanisms for Government and its agencies. The Background Paper and the subsequent comments from civil society, including PIAC, were encompassed in the Baseline Study, which is a first step in the development of the National Human Rights Action Plan.

### ACCESSIBLE PUBLIC TRANSPORT

#### Taxis

PIAC successfully represented Gregory Killeen, who has quadriplegia, in his claim against the NSW Department of Transport and two taxi companies. Mr Killeen argued that many wheelchair accessible taxis (WATs) are too small to be accessible in practice and so do not comply with the *Disability Standards for Accessible Public Transport 2002* (Cth) (Disability Standards). He maintained that some wheelchair accessible taxis were unsafe because doors



Tony Jones from Spinal Cord Injuries Australia (left) with Greg Killeen, PIAC Solicitor Gemma Namey and Associate Professor Simon Darcy outside the Federal Court ... successful taxi ruling.

failed to close properly and access ramps intruded into the space where passengers were supposed to sit.

In January 2011, the Federal Court ruled on the requirements in the Disability Standards for WATs. This was the first time a Court had considered the scope and enforceability of the Disability Standards. The Court ruled that a wheelchair user should not have to lower their head or change their normal posture when entering and travelling in a WAT.





PIAC Solicitor Gemma Namey (left), Julia Haraksin, Chris Ronalds SC ... disability discrimination claim against Murrays Australia Limited.

Following the Court's ruling, the Department announced new rules for WATs that will commence in October 2011. The new rules will ensure that all new WATs will have adequate space for wheelchair users. This marked the successful resolution of the case.

*'Today is a victory for all people with disability who use wheelchairs and wheelchair accessible taxis. The case was simply a matter of justice. All I wanted was for wheelchair accessible taxis to be just that – wheelchair accessible.'* – GREG KILLEEN, PIAC CLIENT

### Buses

PIAC continues to represent Julia Haraksin in her disability discrimination claim against Murrays Australia Limited. Ms Haraksin, who has brittle bone disease and uses a wheelchair, attempted to book a return ticket on a Murrays Australia Ltd bus to Canberra to attend a work conference.

She was informed that Murrays Australia Ltd had no wheelchair accessible buses. The claim alleges direct or indirect discrimination and a breach of the Disability Standards.

PIAC successfully represented Ms Haraksin in her application for a costs cap under Order 62A of the Federal Court Rules. PIAC had previously successfully used this provision in another accessible public transport case against Virgin Blue to limit the client's exposure to an adverse costs order.

The Disability Discrimination Commissioner, Graeme Innes, has intervened in the case. It is listed for hearing before the Federal Court in October 2011.

*'Today is a victory for all people with disability who use wheelchairs and wheelchair accessible taxis. The case was simply a matter of justice.'*

### SEXUALITY DISCRIMINATION

In 2002, Wesley Mission refused to accept an application from a same-sex couple, OV & OW, to become foster carers on the ground of the couple's sexuality. The couple complained to the Anti-Discrimination Board, and Wesley Mission relied on the religious bodies exemption in the *Anti-Discrimination Act 1977* (NSW) to defend the claim.

Over the past eight years, the matter has been the subject of hearings before the Administrative Decisions Tribunal (ADT), the ADT Appeal Panel and NSW Court of Appeal. In December 2010, the ADT decided that Wesley Mission was entitled to rely on the religious bodies exception to refuse to allow gay couples to seek to become foster carers.

‘ ***In September 2010, the Adoption (Same Sex Couples) Amendment Act 2010 (NSW) was passed allowing same sex couples to adopt children.*** ’

In September 2010, the *Adoption (Same Sex Couples) Amendment Act 2010* (NSW) was passed allowing same sex couples to adopt children.

In October 2010, PIAC made a submission to the Senate Standing Committee on Legal and Constitutional Affairs regarding the Sex and Age Discrimination Legislation Amendment Bill 2010. PIAC supported the Bill, which included making breastfeeding a separate ground of discrimination, extending the protection of discrimination on the ground of family responsibilities, improvements to the definition of sexual harassment and creating an Age Discrimination Commissioner. PIAC submitted that the proposed Bill could go further.

### **UNLAWFUL DETENTION**

Joanne Darcy, a woman with an intellectual disability, is seeking compensation from the State of NSW for unlawfully detaining her at the Kanangra Centre, near Newcastle, for over six years.

In June 1996, Ms Darcy appeared before a Magistrate on a number of charges of assault and property damage. Her charges were dismissed under Section 32 of the *Mental Health (Criminal Proceedings) Act 1990* (NSW) on the condition that she attend the Kanangra Centre. The Kanangra Centre is a NSW government-run institution for people with intellectual disabilities, located on the mid-north coast of NSW. Notwithstanding advice by the relevant government agency that her placement was only to be for a two-month period, Ms Darcy was held at Kanangra for more than six years, against the express wishes of herself, her guardian and her family.

The case was heard by the District Court in August 2010. On 21 September 2010, Judge Johnstone ruled that during her time at Kanangra, Ms Darcy was not subjected to a 'complete deprivation of her liberty' and therefore had not made out her claim for unlawful imprisonment.

He also determined that, if the plaintiff had been imprisoned, this imprisonment was 'necessary' and justified on the basis of orders under Section 32. The case was reported in the *Sydney Morning Herald* and on *Life Matters* on ABC Radio National.

PIAC lodged an appeal on behalf of Ms Darcy to be heard by the NSW Court of Appeal on 29 August 2011. The Court is yet to hand down its decision in this matter.

## **ACCESS TO JUSTICE**

### **Updating bail**

A submission re the draft NSW Bail Bill 2010. 27-Oct-10

### **Draft Civil Procedure Amendment (Supreme Court Representative Proceedings) Bill 2010**

A submission in response to the NSW Government's draft Civil Procedure Amendment (Supreme Court Representative Proceedings) Bill 2010. 10-Nov-10

### **Discovery for all**

A submission in response to the Australian Law Reform Commission's Consultation Paper into Discovery in Federal Courts. 20-Jan-11

### **Reform of judicial review in NSW: response to Discussion Paper**

A submission in response to the NSW Department of Justice and Attorney General discussion paper on judicial review of NSW government decision-making. 28-Apr-11

### **Statutory judicial review - keep it, expand it**

A submission to the Administrative Review Council in response to its Consultation Paper, Judicial Review in Australia. 14-Jul-11

## **INDIGENOUS JUSTICE**

### **A fairer system**

A submission to the Senate Legal and Constitutional Affairs Committee Inquiry into a review of Government compensation payments. 9-Jun-10

### **Draft Amendment to Constitution Act 1902 (NSW)**

A submission in response to the NSW Government's proposal to insert a preamble to the NSW Constitution recognising and honouring Aboriginal people. 10-Aug-10

### **Inquiry into former forced adoption policies and practices**

A submission to the Senate Community Affairs References Committee's inquiry into the Commonwealth Government's contribution to forced adoption policies and practices. 7-Apr-11

## **HOMELESS PERSONS' LEGAL SERVICE**

### **Proposed vulnerable payment recipient measure**

A submission in response to the Department of Families, Housing, Community Services and Indigenous Affairs call for submissions into models of income management proposed for vulnerable welfare recipients. 25-Jun-10

### **Boarding house residents' rights**

A submission to Ageing, Disability and Home Care, Department of Human Services on the Youth and Community Services Regulation 2010. 13-Jul-10

### **Oversight of boarding houses**

A submission to the NSW Legislative Council Standing Committee on Social Issues Inquiry into Ageing, Disability and Home Care services. 17-Aug-10

### **Residential Tenancies Regulation 2010**

A submission to the Department of Fair Trading re the Draft Residential Tenancies Regulation 2010. 13-Oct-10

### **Rough living: surviving violence and homelessness**

A research report commissioned by the Public Interest Advocacy and produced by Dr Catherine Robinson. 15-Dec-10

### **Penalty notices: still not such a fine thing for vulnerable people**

A submission to the NSW Law Reform Commission reference, Penalty Notice Offences. 17-Dec-10

### **Penalty notices: still not such a fine thing for vulnerable people**

A supplementary submission to the NSW Law Reform Commission reference, Penalty Notice Offences. 24-Feb-11

### **Australian Law Reform Commission - Family violence and Commonwealth laws. Social security. Issues Paper 39**

A submission to the Australian Law Reform Commission inquiry into Family violence and Commonwealth laws. 15-Apr-11

### **Quality - ensuring rights, respect and dignity for homeless people**

Comments on the Options Paper for a National Quality Framework to support quality services for people experiencing homelessness. 27-May-11



## PUBLICATIONS

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### GOVERNMENT AND DEMOCRACY

#### **Code of Conduct NSW**

A submission re the review of the Code of Conduct for Members of the NSW Parliament. 12-Jul-10

### CONSUMER RIGHTS AND PROTECTION

#### HEALTH

#### **Health care rights for older Australians**

A submission to the Australian Productivity Commission inquiry into aged care. 30-Jul-10

#### **Treatment and care rather than crime and punishment**

A submission to the NSW Law Reform Commission reference, People with cognitive and mental health impairments in the criminal justice system. 31-Jul-10

#### **Treatment and care over punishment and detention - even more critical for young people**

A submission to the NSW Law Reform Commission reference, People with cognitive and mental health impairments in the criminal justice system, Consultation Paper 11. 17-Mar-11

#### **Resolution and advocacy: essential partners in the management of aged care complaints**

A submission is made in response to Department of Health Care and Ageing's Discussion Paper: Aged Care Complaints Scheme: Proposed Complaints Management Framework. 25-Mar-11

#### **Independence and advocacy: the key to gaining consumer trust in Australia's aged care complaints system**

A submission in response to the Productivity Commission's Draft Report, Caring for Older Australians. 4-Apr-11

#### ENERGY AND WATER

#### **Power/knowledge**

PIAC response to the Australian Energy Regulator's (AER) Issues Paper, Approach to compliance with the National Energy Retail Law, Rules and Regulations. 13-Jul-10

#### **Levelling out the playing field.**

A submission in response to the AER's Issues Paper: AER approach to retail exemptions. 4-Aug-10

#### **EnergyAustralia's Pass through application: NSW Solar Bonus Scheme**

A submission to the AER in response to EnergyAustralia's application to the AER for permission to pass through the administration and implementation costs arising from the NSW Solar Bonus Scheme. 30-Sep-10

#### **FiT and Fair?**

A submission to the Review of the Solar Bonus Scheme. 30-Sep-10

#### **Erosion of integrity?**

A submission in response to the Industry & Investment NSW Policy Paper on the Implementation of the National Energy Customer Framework in NSW. 11-Oct-10

#### **More information please**

A submission in response to the Position Paper: AER Retail Pricing Information Guideline. 29-Oct-10

#### **On good terms**

A submission to IPART's Review of the Customer Contract for Hunter Water. 17-Nov-10

#### **A rights approach**

A submission to the Productivity Commission inquiry, Australia's Urban Water Sector. 30-Nov-10

#### **Draft Retailer Authorisation Guideline**

A submission to the AER regarding the development of a Retailer Authorisation Guideline. 22-Dec-10

#### **Open access**

A submission to the Review of the Energy Accounts Payment Assistance (EAPA) Scheme in NSW. 24-Dec-10

#### **Water Industry Competition (General) Regulation 2008: Draft Marketing Code of Conduct and Draft Transfer Code of Conduct**

A submission in response to the development of the Water Industry Competition Act Draft Marketing Code of Conduct and Draft Transfer Code of Conduct. 6-May-11

**Acting to keep the essential affordable:**

A submission in response to the Independent Pricing and Regulatory Tribunal Draft Report, Changes in regulated electricity retail prices from 1 July 2011. 12-May-11

**Energy Assured Limited amended application for authorisation A91258 & A91259**

A submission in response to the Australian Consumer and Competition Commission call for feedback on Energy Assured Limited's (EAL) application to authorise a scheme designed to self regulate door to door energy sales (the EAL Scheme). 24-May-11

**Review of the Operating Licence for Hunter Water Corporation**

A submission in response to the Independent Pricing and Regulatory Tribunal's End of Term Review of the Operating Licence for Hunter Water Corporation. 31-May-11

**Choice? What Choice?**

A study of consumer awareness and market behaviour in the electricity market in five regions of New South Wales: Cooma, Lismore, Bourke, Wagga Wagga and Orange. 15-Jun-11

**Australia's Urban Water Sector Draft Report**

A submission in response to the Productivity Commission Inquiry into the Urban Water Sector Draft Report. 30-Jun-11

**HUMAN RIGHTS****The first step to realising rights**

A submission to the Senate Legal and Constitutional Affairs Committee Inquiry into the Human Rights (Parliamentary Scrutiny) Bill 2010 and the Human Rights (Parliamentary Scrutiny) (Consequential Provisions) Bill 2010. 21-Oct-10

**The other side of the story: extending the protections of the Sex Discrimination Act 1984 (Cth)**

A submission to the Senate Standing Committee on Legal and Constitutional Affairs on the Sex and Age Discrimination Legislation Amendment Bill 2010. 27-Oct-10

**Protecting the rights of children and young people**

A submission in response to the Bill to establish the Office of Commonwealth Commissioner for Children and Young People. 12-Jan-11

**Human rights in Tasmania - In on the act**

A submission to the Tasmanian Consultation on the proposed Human Rights Charter of Rights and Responsibilities. 14-Jan-11

**Human rights action plan for Australia**

A submission in response to the Attorney-General's Background Paper, A New National Human Rights Action Plan for Australia, which proposes how the Government will develop the National Action Plan. 11-Feb-11

**Exposure draft of amendments to the Acts Amendment Act 1901**

A submission to the Attorney-General's Department in response to the exposure draft of amendments to the *Acts Interpretation Act 1901* (Cth). 2-Mar-11

**Ensuring accessibility, openness and privacy:**

A submission in response to the Office of the Australian Information Commissioners' issues Paper 1 - Towards an Australian Government Information Policy. 7-Mar-11

**Universal Periodic Review recommendations**

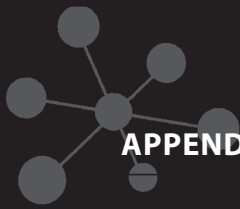
A submission in response to the request for comments on the United Nations Human Rights Council Universal Periodic Review of Australia's Human Rights Record. 4-Apr-11

**Submission to the Migration Amendment (Detention Reform and Procedural Fairness) Bill 2010**

A submission re the Migration Amendment (Detention Reform and Procedural Fairness) Bill 2010. 23-Jun-11

**Human Rights Charter review - respecting Victorians**

A submission in response to the Victorian Parliament's Scrutiny of Acts and Regulations Committee review of the *Charter of Human Rights and Responsibilities Act 2006* (Vic). 24-Jun-11



## APPENDICES

### PIAC Staff

Edward Santow

CEO (from 11 October 2010)

Alexis Goodstone

Principal Solicitor (Parental leave to 8 June 2011)

Jane King

Manager, Finance & Administration

Deirdre Moor

Manager, Policy & Programs (Acting CEO from 10 July to 10 October 2010)

Jamie Alford

Social Worker (Shopfront) Mental Health Legal Services Project (to 23 June 2011)

Brenda Bailey

Senior Policy Officer

Robin Banks

Chief Executive Officer (to 9 July 2010)

Katherine Boyle

Solicitor - HPLS (8 September 2010 to 30 June 2011)

Laura Brown

Solicitor

Natasha Case

Senior Solicitor (to 3 January 2011)

Sharny Chalmers

Co-ordinator, Mental Health Legal Services Project (to 26 November 2010)

Peter Dodd

Solicitor, Health Policy and Advocacy

Ben Fogarty

Senior Solicitor, HPLS (commenced 23 May 2011)

Marion Grammer

Bookkeeper

Carolyn Grenville

Training Co-ordinator

Erin Hallligan

Policy Officer - Energy & Water (commenced 2 February 2011)

Chris Hartley

HPLS Policy Officer (to 11 February 2011)

Carolyn Hodge

Policy Officer, EWCAP (to 4 November 2010)  
Senior Policy Officer, EWCAP (commenced 15 November 2010)

Julie Hourigan Ruse

HPLS Co-ordinator (to 25 March 2012)

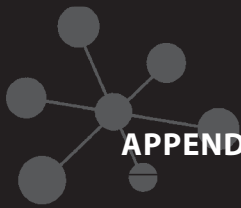
Karen Kwok

Administrator

Mark Ludbrooke

Senior Policy Officer, EWCAP (to 15 October 2010)

|                   |   |
|-------------------|---|
| Anne Mainsbridge  | Solicitor (STARTTS) Mental Health Legal Services Project (to 8 June 2011)                             |
| Vavaa Mawuli      | Senior Solicitor, Acting Principal Solicitor (to 7 June 2011)   |
| Sarah Mitchell    | HPLS Administrator (commenced 17 May 2011)  |
| Jason Mumbulla    | Computer Systems Administrator (to 25 August 2010)  |
| Gemma Namey       | Solicitor   |
| Ka Ki Ng          | Administrator (to 21 April 2011)  |
| Dominic O'Grady   | Communications and Media Officer  |
| Scott Parker      | Administrator   |
| Hemal Perera      | Solicitor - IJP (from 25 October 2010 to 27 May 2011)   |
| Melissa Pinzuti   | Legal Secretary   |
| Joel Pringle      | Policy Officer, EWCAP (to 30 June 2011)   |
| Jeremy Rea        | HPLS Solicitor Advocate   |
| Louis Schetzer    | Research and Policy Officer EWCAP (to 13 March 2011)<br>Policy Officer HPLS (commenced 14 March 2011) |
| Elizabeth Simpson | Solicitor (Parental leave to 9 November 2011)   |
| Sally Spence      | Receptionist  |
| Katarina Tomolova | Training Officer (from 4 April 2011)  |
| Nancy Walker      | Solicitor (MDAA) Mental Health Legal Services Project   |
| Elwyn Ward        | Finance Officer   |
| Catherine Whiddon | Training Officer (to 25 February 2011)  |
| Ken Zulumovski    | Indigenous Men's Access to Justice Worker Mental Health Legal Services Project<br>(to 17 May 2011)    |



## APPENDICES

### PIAC Staff

Mikalie Nash

to 4 November 2010

Melanie Montalban

to 23 December 2010

Katherine Boyle

to 3 September 2010

Christopher Dyer

to 19 October 2010

Anita Chan

3 August to 30 September 2010

Corinna Edwards

2 November 2010 to 1 April 2011

Liz Green

commenced 4 January

Terri Anderson

commenced 24 March 2011

Felix Hang

commenced 28 March 2011

Stephen  
Rivers-McComb

5 May to 17 May 2011

#### COLLEGE OF LAW PLACEMENTS: JULY 2010 TO JUNE 2011



**PUBLIC INTEREST ADVOCACY CENTRE LTD  
ABN 77 002 773 524**

**DISCUSSION AND ANALYSIS OF THE SUMMARY  
FINANCIAL STATEMENTS**

**FOR THE YEAR ENDED 30 JUNE 2011**

**Information on Public Interest Advocacy Centre  
Limited Summary Financial Report**

The summary financial report is an extract from the full financial report for the year ended 30 June 2011. The financial statements and disclosures in the summary financial report have been derived from the 2011 financial report of Public Interest Advocacy Centre Limited. The summary financial report cannot be expected to provide as detailed an understanding of the financial performance, financial position and financing and investing activities of Public Interest Advocacy Centre Limited as the full financial report. A copy of the full financial report and auditor's report will be provided to any member, free of charge, upon request.

The discussion and analysis is provided to assist members in understanding the summary financial report. The discussions and analysis is based on Public Interest Advocacy Centre Limited's financial statements and the information contained in the summary financial report has been derived from the full 2011 Financial Report of Public Interest Advocacy Centre Limited.

**Statement of Comprehensive Income**

The company's total revenue remained consistent to the prior year with a slight increase of \$31,829 or approximately 1.1% to be \$2,819,864 for the year.

The company's total expenditure for the year decreased slightly by \$12,880 or approximately 0.5%. The decrease in expenditure is

attributable to decreased employment costs.

For the year ended 30 June 2011, the company recorded an overall operating profit of \$16,400 as compared to an operating loss in the prior year of \$28,309.

**Statement of Financial Position**

As a result of the small operating profit, the overall net asset position of the company has increased by 3% to \$651,676. The company continues to hold high levels of cash reserves which to a large extent are offset by the corresponding amount of unexpended grants. The company maintained appropriate levels of working capital at year end. Trade debtors decreased by \$284,716 and unexpended grants and other income in advance decreased by \$281,551 as compared to last year. This was a result of a one off grant payment that was received subsequent to reporting date in the prior year. There was also a transfer in the classification of provisions from non current to current to the value of \$78,280. There are no other notable movements or issues relating to the company's financial position.

**Statement of Cash Flows**

The company has generated a positive cash flow from operating activities being \$64,281 compared to a cash outflow of \$263,429 from the prior year. This result is largely attributable to a timing difference whereby grant funding invoiced later in the financial year was received prior to the reporting date compared to the prior year where it was received after the reporting date. Minor purchases of additional plant and equipment were also noted during the year.

**INDEPENDENT AUDIT REPORT TO THE MEMBERS  
OF PUBLIC INTEREST ADVOCACY CENTRE LIMITED  
ABN 77 002 773 524**

**Report on the concise financial report**

The accompanying summary financial report which comprises the statement of financial position as at 30 June 2011, the statement of comprehensive income, statement of changes in equity and statement of cash flows for the year then ended and related notes and directors declaration, are derived from the audited financial report of the Public Interest Advocacy Centre Limited for the year ended 30 June 2011. We expressed an unmodified audit opinion on that financial report in our report dated 28 September 2011.

The summary financial report does not contain all the disclosures required by the Australian Accounting Standards Reduced Disclosure Requirements, Interpretations and other authoritative pronouncements of the Australian Accounting Standards Board and the Corporations Act 2001. Reading the summary financial report, therefore is not a substitute for reading the audited financial report of the Public Interest Advocacy Centre Limited.

**Directors' responsibility for the concise financial report**

The directors are responsible for the preparation and presentation of the summary financial report in accordance with the basis of preparation as described in note 1 to the summary financial statements. This responsibility includes establishing and maintaining internal controls relevant to the preparation of the concise financial report, selecting and applying the appropriate accounting policies, and making accounting estimates that are reasonable in the circumstances.

**Auditor's responsibility**


Our responsibility is to express an opinion on the summary financial report based on our procedures, which were conducted in accordance with Auditing Standard ASA 810 Engagements to Report on Summary Financial Statements.

**Auditor's Opinion**

In our opinion, the summary financial report derived from the audited financial report of the Public Interest Advocacy Centre Limited for the year ended 30 June 2011 is consistent, in all material respects, with (or a fair summary of) that audited financial report, in accordance with the basis of preparation as described in note 1 to the summary financial statements.



**Mark Godlewski**  
Partner



**Pitcher Partners**  
Sydney, NSW  
28 September 2011

**PUBLIC INTEREST ADVOCACY CENTRE LTD**

**ABN 77 002 773 524**

**DIRECTORS' DECLARATION**

The directors of the company declare that the summary financial statements and notes for the financial year ended 30 June 2011, as set out on pages 39 – 49:

- (a) is an extract from the full financial report for the year ended 30 June 2011 and has been derived from and is consistent with the full financial report of Public Interest Advocacy Centre Limited.

This declaration is made in accordance with a resolution of the Board of Directors.



**Dr Peter Cashman**  
Chair

Sydney, NSW  
27 September 2011



## FINANCIAL STATEMENTS

### PUBLIC INTEREST ADVOCACY CENTRE LTD ABN 77 002 773 524

### STATEMENT OF COMPREHENSIVE INCOME FOR THE YEAR ENDED 30 JUNE 2010

|   | NOTE | 2011<br>\$  | 2010<br>\$  |
|---|------|-------------|-------------|
| Revenue                                   | 3    | 2,819,864   | 2,788,035   |
| Less: expenses                            |      |             |             |
| Depreciation and amortisation expense     |      | (54,565)    | (55,714)    |
| Employee benefits expense                 |      | (2,050,801) | (2,103,352) |
| Rent                                      |      | (252,588)   | (233,359)   |
| Project and casework expenses             |      | (298,404)   | (301,766)   |
| Other operating expenses                  |      | (147,106)   | (122,153)   |
|   |      | (2,803,464) | (2,816,344) |
| Profit / (loss) before income tax expense |      | 16,400      | (28,309)    |
| Other comprehensive income                |      | -           | -           |
| Total comprehensive income                |      | 16,400      | (28,309)    |

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The accompanying notes form part of these concise financial statements.

## STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2011

|                                      | 2011<br>\$       | 2010<br>\$       |
|--------------------------------------|------------------|------------------|
| <b>ASSETS</b>                        |                  |                  |
| <b>CURRENT ASSETS</b>                |                  |                  |
| Cash and cash equivalents            | 1,068,427        | 1,045,740        |
| Trade and other receivables          | 51,791           | 340,390          |
| Other current assets                 | 35,790           | 33,128           |
| <b>TOTAL CURRENT ASSETS</b>          | <b>1,156,008</b> | <b>1,419,258</b> |
| <b>NON-CURRENT ASSETS</b>            |                  |                  |
| Financial assets                     | 84,394           | 84,394           |
| Property, plant and equipment        | 95,866           | 106,518          |
| <b>TOTAL NON-CURRENT ASSETS</b>      | <b>180,260</b>   | <b>190,912</b>   |
| <b>TOTAL ASSETS</b>                  | <b>1,336,268</b> | <b>1,610,170</b> |
| <b>CURRENT LIABILITIES</b>           |                  |                  |
| Trade and other payables             | 507,408          | 787,794          |
| Short-term provisions                | 113,280          | -                |
| <b>TOTAL CURRENT LIABILITIES</b>     | <b>620,688</b>   | <b>787,794</b>   |
| <b>NON-CURRENT LIABILITIES</b>       |                  |                  |
| Long-term provisions                 | 63,904           | 187,100          |
| <b>TOTAL NON-CURRENT LIABILITIES</b> | <b>63,904</b>    | <b>187,100</b>   |
| <b>TOTAL LIABILITIES</b>             | <b>684,592</b>   | <b>974,894</b>   |
| <b>NET ASSETS</b>                    | <b>651,676</b>   | <b>635,276</b>   |
| <b>EQUITY</b>                        |                  |                  |
| Reserves                             | 195,732          | 238,967          |
| Retained earnings                    | 455,944          | 396,309          |
| <b>TOTAL EQUITY</b>                  | <b>651,676</b>   | <b>635,276</b>   |

The accompanying notes form part of these concise financial statements.



## FINANCIAL STATEMENTS

### PUBLIC INTEREST ADVOCACY CENTRE LTD ABN 77 002 773 524

### STATEMENT OF CHANGES IN EQUITY FOR YEAR ENDED 30 JUNE 2011

|   | RESERVES<br>\$ | RETAINED<br>EARNINGS<br>\$ | TOTAL<br>\$    |
|---|----------------|----------------------------|----------------|
| Balance as at 1 July 2009               | 270,995        | 392,590                    | 663,585        |
| Profit/(loss) for the year              | -              | (28,309)                   | (28,309)       |
| Total comprehensive income for the year | -              | (28,309)                   | (28,309)       |
| Transfers                               | (32,028)       | 32,028                     | -              |
| <b>Balance as at 30 June 2010</b>       | <b>238,967</b> | <b>396,309</b>             | <b>635,276</b> |
| Balance as at 1 July 2010               | 238,967        | 396,309                    | 635,276        |
| Profit for the year                     | -              | 16,400                     | 16,400         |
| Total comprehensive income for the year | -              | 16,400                     | 16,400         |
| Transfers                               | (43,235)       | 43,235                     |                |
| <b>Balance as at 30 June 2011</b>       | <b>195,732</b> | <b>455,944</b>             | <b>651,676</b> |

The accompanying notes form part of these concise financial statements.

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### PUBLIC INTEREST ADVOCACY CENTRE LTD ABN 77 002 773 524

### STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30 JUNE 2011

|   | NOTE | 2011<br>\$  | 2010<br>\$  |
|---|------|-------------|-------------|
| CASH FLOW FROM OPERATING ACTIVITIES                   |      |             |             |
| Receipts from government, customers and donations     |      | 2,989,263   | 2,731,585   |
| Payments to suppliers and employees                   |      | (3,001,502) | (3,043,124) |
| Interest received                                     |      | 76,520      | 48,110      |
| Net cash (used in) / provided by operating activities |      | 64,281      | (263,429)   |

|   |           |           |
|---|-----------|-----------|
| <b>CASH FLOW FROM INVESTING ACTIVITIES</b>          |           |           |
| Proceeds from sale of property, plant and equipment | 2,319     | 727       |
| Payment for property, plant and equipment           | (43,913)  | (22,561)  |
| Net cash (used in) investing activities             | (41,594)  | (21,834)  |
| <b>RECONCILIATION OF CASH</b>                       |           |           |
| Cash at the beginning of the financial year         | 1,045,740 | 1,331,003 |
| Net increase (decrease) in cash held                | 22,687    | (285,263) |
| Cash at the end of the financial year               | 1,068,427 | 1,045,740 |

The accompanying notes form part of these concise financial statements.

**PUBLIC INTEREST ADVOCACY CENTRE LTD  
ABN 77 002 773 524**

**NOTES TO THE CONCISE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2011**

**Note 1: Basis of Preparation of the Summary  
Financial Report**

The summary financial report is an extract of the full financial report for the year ended 30 June 2011.

The financial statements, specific disclosures and other information included in the summary financial report are derived from, and are consistent with, the full financial report of the Public Interest Advocacy Centre Limited. The summary financial report cannot be expected to provide as detailed an understanding of the financial performance, financial position and financing and

investing activities of the Public Interest Advocacy Centre Limited as the full financial report. A copy of the full financial report and auditor's report will be sent to any member, free of charge, upon request.

The presentation currency used in the summary financial report is Australian dollars.



## FINANCIAL STATEMENTS

|  | 2011<br>\$       | 2010<br>\$       |
|--|------------------|------------------|
| <b>NOTE 2: Revenue</b>                         |                  |                  |
| Operating activities:                          |                  |                  |
| - Grants and other contributions               | 2,486,954        | 2,451,718        |
| - Casework                                     | 92,594           | 79,053           |
| - Casework disbursements recovered             | -                | 28,616           |
| - Training workshops, seminars and conferences | 142,566          | 146,088          |
| - Sale of publications                         | 2,899            | 7,150            |
| - Interest income                              | 72,637           | 53,048           |
| - Other  | 19,895           | 21,635           |
| <b>Total Revenue</b>                           | <b>2,817,545</b> | <b>2,787,308</b> |
| Other income:                                  |                  |                  |
| - Gain on sale of assets                       | 2,319            | 727              |
| <b>Total Revenue and Other Income</b>          | <b>2,819,864</b> | <b>2,788,035</b> |

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### **NOTE 3: Revenue from Charitable and Fundraising Activities**

During the year, the company did not conduct any fundraising appeals or receive any significant donations which are subject to the specific reporting requirements of the *Charitable Fundraising Act (1991)*.



**NOTE 4: Key Management Personnel Compensation**

|  | <b>2011</b>    | <b>2010</b>    |
|--|----------------|----------------|
|  | <b>\$</b>      | <b>\$</b>      |
| Compensation received by key management personnel of the company |                |                |
| - Short term employee benefits                                   | 109,402        | 108,326        |
| - Other long term benefits                                       | -              | 1,921          |
| <b>Total Revenue and Other Income</b>                            | <b>109,402</b> | <b>110,247</b> |

The names of key management personnel who have held office during the year are:

| <b>Name</b> | <b>Appointment / resignation details</b> |
|-------------|--|
|-------------|--|

**Directors**

Ms Britta Bruce

Dr Peter Cashman

Ms Shauna Jarrett                      Resigned 19 May 2011

Mr Alan Kirkland

Ms Coralie Kenny

Ms Alison Peters

Mr Ralph Pliner

The Hon. Kevin Rozzoli AM

Mr Ben Slade

Dr Merrilyn Walton

Mr David Weisbrot AM

**Management – Chief Executive Officer**

Ms Robin Banks                      Resigned 9 July 2010

Mr Edward Santow                      Appointed 11 October 2010



## FINANCIAL STATEMENTS

### NOTE 5: Related Party Transactions

Transactions between related parties are on normal commercial terms and conditions no more favourable than those available to other persons unless otherwise stated.

#### *Legal Aid NSW*

Mr Alan Kirkland, board member since 27 August 2008 is currently Chief Executive Officer of Legal Aid NSW, which administered funding to PIAC during the current financial year of \$1,552,291 (2010: \$1,553,858).

|  | 2011<br>\$     | 2010<br>\$     |
|--|----------------|----------------|
| <b>NOTE 6: Capital and Leasing Commitments</b>   |                |                |
| (a) Operating lease commitments  |                |                |
| Non cancellable operating leases contracted for but not capitalised in the financial statements: |                |                |
| Payable  |                |                |
| - not later than one year  | 264,849        | 309,353        |
| - later than one year and not later than five years  | -              | 266,331        |
| - later than five years  | -              | -              |
| <b>Total Revenue</b>   | <b>264,849</b> | <b>575,684</b> |

The property lease commitment is a non cancellable operating lease contracted for but not capitalised in the financial statements with a seven year term. No capital commitments exist in regards to the operating lease commitments at year end.

**NOTE 7: Events Subsequent to Reporting Date**

There has been no matter or circumstance, other than that described below, which has arisen since 30 June 2011 that has significantly affected or may significantly affect:

- (a) the operations, in financial years subsequent to 30 June 2011, of the company, or
- (b) the results of those operations, or
- (c) the state of affairs, in financial years subsequent to 30 June 2011, of the company.

The company is in the process of negotiating a new operating lease in respect of premises for the company's operations. It is expected that the new lease agreement will be in place before the conclusion of the current lease in April 2012.

**NOTE 8: Members Guarantee**

The company is incorporated under the *Corporations Act 2001* and is a company limited by guarantee. If the company is wound up, the Constitution states that each member is required to contribute to a maximum of \$20 each towards meeting any outstanding's and obligations of the group. At 30 June 2011 the number of members was 35 (2010: 33). The combined total amount that members of the company are liable to contribute if the company is wound up is \$700 (2010: \$660).

## PIAC THANKS THE FOLLOWING FOR THEIR ASSISTANCE AND SUPPORT

### Homeless Persons' Legal Service partner organisations

Public Interest Law Clearing House

### HOST AGENCIES AND COMMUNITY SUPPORT ORGANISATIONS

Edward Eagar Lodge

Matthew Talbot Hostel

Newtown Mission

Newtown Neighbourhood Centre

Norman Andrews House

Ozanam Learning Centre

Parramatta Mission

Salvation Army Streetlevel Mission

The Station

Vincentian House

Wayside Chapel

Women's and Girls' Emergency Centre

### PILCH MEMBERS THAT ARE PARTNERS WITH HPLS

Allens Arthur Robinson

Baker & McKenzie

Corrs Chambers Westgarth

Gilbert + Tobin

Henry Davis York

HWL Ebsworth

Legal Aid NSW

Minter Ellison

Norton Rose

Thomsons Lawyers

### Barristers who provided advice and representation

Simeon Beckett

David Bennett QC

Dr Chris Birch SC

David Catterns SC

Kate Eastman

Kellie Edwards

Henry El-Hage

James Emmett

Rachel Francois

Louise Goodchild

Simon Hamlyn-Harris

Bora Kaplan

Jeremy Kirk

Michael Lee

Ragni Mathur

Nicola McGarrity

Verity McWilliam

Tom Molomby SC

Miranda Nagy

Anna Perigo

Dr Melissa Perry QC

Mark Polden

Roger Rasmussen

Robert Reed

Alan Robertson SC (now a Justice of the Federal Court of Australia)

Chris Ronalds SC

Naomi Sharp

Richard Wilson

### People (other than PIAC or PILCH staff) who have provided training

#### PEOPLE WHO PROVIDED TRAINING FOR HPLS

Grant Arbuthnot, Tenant's Union

Josh Barr, Housing NSW

Melissa Brunning and Ruth Nocka, Corrs Chambers Westgarth

Esther Cho, Guardianship Tribunal

Joana D'Orey Novo, Senior Policy and Education Officer, Australian Human Rights Commission

Alice Finn and Sarah Barton, Legal Aid NSW

Mary Gibson, Office of the Protective Commissioner

Prue Gregory and Erin Lynch, Macarthur Legal Centre

Rhonda Hawkesford and Anne Parkes, Centrelink

Alex Kelly and Alice Linn, Consumer Credit Legal Centre

Ruth Pollard, Public Trustee

Gary Smith, Public Guardian

Shirley Southgate, Office of the Information Commissioner



## SPECIAL THANKS

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### **LAW FOR NON-LAWYERS**

Lurline Dillon-Smith, Senior Civil Law Solicitor, Legal Aid NSW

Jackie Finlay Welfare Rights Centre

Julie Foreman and Grant Arbutnot, Tenants' Union of NSW

Steve Frost, Horizons Community Legal Centre

Jnana Gumbert, Director, Stacks Goudkamp

Dianne Hemey, Women's Legal Services NSW

Leanne Mellor, Homeless Outreach Solicitor, Legal Aid NSW

Fiona Pace, Solicitor, Legal Aid NSW

Megan Pikett, Managing Solicitor, Legal Aid Nowra

Kevin Simpson

Sharlene Naismith, Homeless Outreach Solicitor, Legal Aid NSW

Anna Nightingale, Homeless Outreach Solicitor, Legal Aid NSW

Jill Quin, Legal Information Access Centre

Andrew Stone, Barrister, Sir James Martin Chambers

Susan Winfield, Consumer Credit Legal Centre

### **MEDIA SKILLS**

Don Palmer

Lynette Simons

### **PRACTISING IN THE PUBLIC INTEREST**

Rory Alcock, Cancer Council NSW

Rachel Callinan, NSW Legislative Council

### **EWCAP Reference Group Members**

PIAC takes this opportunity to thank the members of the EWCAP Reference Group for providing valuable feedback on policy directions over the year:

Charmaine Crowe, Combined Pensioners & Superannuants Association of NSW

Sean Ferns, Park and Village Service

Joyce Fu and Helen Scott, Ethnic Communities Council NSW

Patricia Le Lievre, rural and regional consumer representative

John McFarlane, National Seniors

Dev Mukherjee, Council of Social Service of NSW (NCOSS)

Chris Riedy, Institute for Sustainable Futures, University of Technology, Sydney

Ben Williams, Physical Disability Council NSW

PIAC also thanks the following EWCAP Conference Presenters:

Teresa Corbin, Chief Executive Officer of Australian Communications Consumer Action Network (ACCAN)

Steven Graham, Chief Executive of the Australian Energy Market Commission (AEMC)

Catriona Lowe, Co-CEO of the Consumer Action Law Centre

Clare Petre, NSW Energy & Water Ombudsman

Rod Sims, Chairman of the Independent Pricing and Regulatory Tribunal

### **Indigenous Justice Program**

#### **STOLEN WAGES REFERRAL SCHEME**

Allens Arthur Robinson

Corrs Chambers Westgarth

Freehills

Gilbert + Tobin

Henry Davis York

HWL Ebsworth

Minter Ellison

Norton Rose

#### **OTHER ASSISTANCE AND SUPPORT**

Allens Arthur Robinson for its generous funding support for the Indigenous Justice Program and for printing the newsletter of the Indigenous Justice Program, *Talkin' Justice*.

Thomsons Legal for its printing of the *PIAC Bulletin*.





**PUBLIC INTEREST ADVOCACY CENTRE • ANNUAL REPORT 2010-2011**

PIAC  
Level 9, 299 Elizabeth St  
Sydney NSW 2000  
DX 643 Sydney  
Phone: 61 2 8898 6500  
Fax: 61 2 8898 6555  
[www.piac.asn.au](http://www.piac.asn.au)