

21 March 2017

Research Director
Finance and Administration Committee
Parliament House
George Street
Brisbane Qld 4000

By email: mailto:fac@parliamnet.qld.gov.au

Dear Sir/Madam

State Penalties Enforcement Amendment Bill 2017

Community Legal Centres Queensland welcomes the opportunity to provide the Finance and Administration Committee with a submission on the State Penalties Enforcement Amendment Bill 2017 (the Bill).

Community Legal Centres Queensland applauds the Queensland Government for proposing to reform State Penalties Enforcement Registry processes to ensure that they are less likely to adversely impact disadvantaged Queenslanders. In particular, this submission provides comment on the areas of:

- Work and Development Orders;
- the exclusion of compensation and restitution amount from non-monetary options; and
- Best practice processes for implementation.

Community Legal Centres in Queensland

Community Legal Centres Queensland is the Queensland peak body for 33 community legal centre across the State. Community Legal Centres Queensland works to achieve sustainable and adequate policy decisions to ensure that Queenslanders are able to get the legal help they need and to ensure access to justice.

Community legal centres are not-for-profit, community based, legal services that provide free and accessible legal and related services. Community legal centres provide legal assistance to 60,000 people every year. The clients of community legal centres are people who can't afford a lawyer and are not eligible for legal aid including people who have debts under the State Penalties Enforcement Registry (SPER).

In July 2015, Community Legal Centres Queensland was part of a collaborative community response that provided comment on the Work and Development Orders consultation paper. For the committee's convenience a copy of that response is **attached** to this submission.

In that submission, a number of case studies were reported about the impact of SPER debts on a range of vulnerable and disadvantaged Queenslanders. This submission revisits some of these case studies to illustrate how the Bill might impact on these types of circumstances and highlight some of the implementation issues that will need to be considered to ensure the success of the new provisions.

Work and Development Orders

Community Legal Centres Queensland congratulates the Queensland Government on the proposed introduction of Work and Development Orders (WDOs). Many clients of community legal centres are disadvantaged members of the community who are more likely to attract fines and infringement notices, but have very limited capacity to pay these. WDOs will provide these people with non-monetary options that reduce their risk of greater involvement in the criminal justice system.

Eligibility for WDOs

The Bill sets out the criteria that needs to be met for a person to be eligible for WDOs. Including people that:

- Experience financial hardship
- Have a mental illness
- Have a cognitive or intellectual disability
- Are homeless
- Have a substance use disorder
- Are experiencing domestic and family violence

While we agree with the proposed list, in our experience, vulnerability is complex and often hidden in a range of personal circumstances. To ensure WDOs areas accessible as widely as possible to marginalised people, we recommend a separate eligibility category for “other special circumstances”. A separate category for “other special consideration” may allow otherwise eligible people to demonstrate their eligibility to obtain WDOs more easily.

Lydia sought assistance from a community organisation in southern Brisbane for her personal circumstances. Lydia had accumulated a number of SPER fines for fare evasion, due to not paying for train tickets. Lydia's only source of income was Centrelink, she had a Health Care Card and she was looking for work. Lydia indicated that she wanted to do community service to make connections with the community, but she could not afford the transport costs. In the end, it was cheaper for Lydia to pay her debt at \$10 per fortnight than to do community service. However, this meant she did not have the opportunity to make connections in the community that may have led to work.

Lydia's story illustrates the additional positive impact that WDOs could have for people like Lydia. However the costs of undertaking WDO must be taken into account in the implementation of WDOs.

Liam was released from prison on parole with strict conditions in April 2015. He was staying in temporary accommodation, his only source of income was a Newstart Allowance and he was also under an Involuntary Treatment Order. Liam became aware of his unpaid SPER debt when \$50 per week started being deducted from his bank account. Liam was not able to afford his medication as a result of the deductions. Liam sought help from a legal service to manage his SPER debt. The legal service assisted Liam to enter into a manageable instalment plan for his outstanding fines. Liam's total SPER balance was \$18,335.40.

Liam's story illustrates that vulnerable people with complex problems need legal assistance to engage with SPER. WDOs will provide people like Liam more flexible options that may assist him with his mental health issues. Liam's story also illustrates the importance of assistance to negotiate with SPER. The establishment of "approved sponsors" as part of the implementation is an opportunity to ensure that there is early and productive engagement with SPER so that debtors are fully aware of their liabilities.

Exclusion of compensation and restitution

We note that section 32I of the Bill excludes WDOs being applied to satisfy part of a person's SPER debt that a court has ordered the person pay to someone else by way of restitution or compensation.

The policy framework underpinning the introduction of WDOs is there are members of the community that are unable to pay debts to the government, but have the capacity to make a contribution in other ways. There is overlap between the cohort of SPER debtors who struggle to finalise their debts monetarily and those who have a history of being involved in the criminal justice system where compensation and restitution orders are made. The policy framework that recognises the limitations of individuals to pay at debt to the government should equally apply to compensation and restitution amounts administered by SPER so long as there is no disadvantage to the victim. Extending the applicability of WDOs has the potential to reduce the debtor's ongoing interaction with the criminal justice system, often at great cost to the State.

Thomas has a SPER debt of over \$100,000 which relates to a criminal compensation debt. Thomas spent some time in prison and while he was incarcerated his adult child had an accident which led to a profound disability. Thomas receives a disability support pension and has been diagnosed with anxiety and depression. For a number of years Thomas was making regular payments of \$25 per fortnight to SPER. SPER recently asked Thomas to complete a financial disclosure application and review this payment plan and increased the target amount to \$100 per fortnight. Thomas complained about this decision but it was confirmed by SPER. A legal service assisted Thomas to negotiate a payment plan of \$40 per fortnight.

Thomas' story illustrates the impact of not including compensation or restitution amounts ordered by the court in the non-monetary options of the Bill. A person in Thomas' position would find it difficult to pay off the size of the SPER debt without having other monetary options available to him.

Implementation issues

Should the Bill be passed there are a range of implementation issues that will need to be considered to ensure that the changed policy direction has a positive impact on vulnerable and marginalised Queenslanders. Some of these issues include:

- the process of approving sponsors and their relationship with SPER
 - the quantum of debt and the amount of WDO activities required to off-set a debt
 - regional access to WDO opportunities
 - impact on resources in the community
 - ensuring that information about WDOs is available to the community

These implementation issues are best considered by the Queensland Government by establishing a working group of key stakeholders from government and the community sector to design the implementation, particularly the WDOs.

Glynn is a 27 year old male with a history of youth homelessness (since 2006) and is currently sleeping rough and intermittently couch-surfing. Support (including support from mental health services) has been occasional over the years and limited to periods of time when Glynn has been contactable. Given Glynn's transient situation, no sustained support around health, legal, financial or other issues could be put in place and Glynn has been unable to maintain his housing application without support to keep it active. His housing application was cancelled on 26 June 2016, and support services are unable to have this reinstated until contact can be made. Glynn identifies his homelessness as a contributing factor to a list of charges for which he is appearing before court. These charges are for stealing, fare evasion, assaulting/obstructing police, contravening a police banning order and possessing a knife in public space. Glynn has recently had all his ID stolen, leading to further complications in accessing money for food, transport and daily living, and also in applying for housing, should the opportunity arise to progress this Glynn has been unable to find employment since losing his job 8 years ago. Glynn's licence is currently suspended as a result of unpaid SPER debt, further limiting his employment prospects. Glynn is currently receiving Newstart and has accumulated a SPER debt of \$24,386. Glynn's SPER debt is exacerbating the challenges he already faces.

Glynn's story illustrates that vulnerable people most likely to benefit from the changes proposed by the Bill have complex issues and don't regularly maintain contact with government and community agencies. The implementation process, through consultation, needs to consider the role of well-placed community organisations in providing assistance to marginalised members of the community in negotiating existing and future SPER processes.

We welcome the opportunity to assist the Finance and Administration Committee and look forward to hearing the outcomes. If you have any queries, please contact Rosslyn Monro on (07) 3392 0092 or at sector@communitylegalqld.org.au.

Yours faithfully



James Farrell OAM

Director

Community Legal Centres Queensland Inc.