

Julie Dennett
Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Australia
Email: legcon.sen@aph.gov.au

12 April 2013

Dear Ms Dennett,

Inquiry into the impact of federal court fee increases since 2010 on access to justice in Australia

The Federation of Community Legal Centres welcomes the Committee's inquiry into the impact of federal court fees on access to justice in Australia.

Federal court fees were substantially increased in 2010 and again in 2013.¹ The scale of the fee increases has made the federal court inaccessible for a number of Australians. The Federation is grateful to have the opportunity to make this submission.

Federation of Community Legal Centres (Victoria) Inc

The Federation of Community Legal Centres is the peak body for 51 community legal centres (CLCs) across Victoria. CLCs provide free legal advice, information and representation to more than 100,000 Victorians each year. Most CLC clients face significant economic, social or cultural disadvantage. They are generally unable to access private legal services.²

As the peak body for Victorian CLCs, the Federation has a unique perspective on the justice system and access to justice issues. Our views are informed by the casework of our member centres.

Impact of federal court fees on access to justice

The Federation has seen first hand the impact that the increased fees have had on CLC clients. For example, in the four months since the fee for a divorce was

¹ For example, the fee for divorce in "hardship" cases rose from \$0 to \$60 to \$265. The fee for applications for consent orders also increased substantially from \$0 to \$80 to \$145.

² The Commonwealth Government's Review of the Commonwealth Community Legal Services Program noted that collated data demonstrated that 58% of community legal sector clients received some form of income support, 82% of clients earned less than \$26,000 per annum, and almost 9% of clients had some form of disability. *Review of the Commonwealth Community Legal Services Program* (March 2008), 6 <<http://www.ag.gov.au/LegalSystem/Legalaidprograms/LegalServicesProgram/Documents/Review%20of%20the%20Commonwealth%20Community%20Legal%20Services%20Program%20March%202008.pdf>>.

Level 3
225 Bourke Street
Melbourne
Victoria 3000

Tel: 03-9652 1500
Fax: 03-9654 5204
administration@fclc.org.au
www.communitylaw.org.au

Federation of
Community Legal Centres
(Victoria) Inc
Registration A0013713H
ABN 30 036 539 902

raised to \$265, Central Highlands Community Legal Centre has had at least five clients who have decided not to pursue their divorce because they could not afford the filing fee.³ As this example makes clear, the increased fees are contributing to a system where the courts are only accessible to those with financial resources.

The Federation endorses the Law Council of Australia's submission that recent increases in federal court filing fees:

- a. impact significantly on low-to-middle income Australians ... [who] do not qualify for legal aid or any fee exemption or waiver;
- b. are unreasonably large and not justified by any rational policy objective, or supported by evidence that changes to fees will advance the government's putative policy objectives;
- c. impose an unreasonable barrier to accessing justice, by making access to the federal courts contingent upon the capacity of litigants of various means to meet the substantial additional cost of litigating;
- d. impact upon litigants inequitably and establish a regime which disproportionately impacts on those of more limited financial means, notwithstanding the apparent attempt by the government to establish a larger burden for publicly listed companies; and
- e. are being used to generate revenue for the federal government by way of an effective tax on court users.

We support the Law Council's recommendations that:

- a. recent changes to filing fees should be wound back;
- b. a clear policy with respect to future changes to federal court filing fees should be developed by the Attorney-General's Department in consultation with the courts, the legal profession and other stakeholders; and
- c. the Senate Committee should consider presenting for adoption by the Senate a clear statement on the importance of keeping federal court filing fees at a reasonable level, to ensure all Australians have reasonable and equitable access to the federal courts.

The unfortunate impact of the increases to filing fees is that an increasing number of Australians are being priced out of the federal court system. In order to ensure access to justice for all Australians, the changes to filing fees should be wound back.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Lucy Larkins
Senior Policy Adviser
lucy.larkins@fclc.org.au

³ As has been noted in other submissions to this inquiry, it is in the interests of the community that individuals who want to finalise their marriage are able to do so by filing for divorce. This is especially true when the breakdown of the marriage involves violence.