

Federation of
Community Legal Centres
VICTORIA

Supreme Court (Fees) Amendment Regulations
Manager
Courts Policy
Civil Justice Division
Department of Justice
GPO Box 4356
Melbourne Victoria 3000

4 July 2014

Dear Manager, Courts Policy

RE: Supreme Court (Fees) Amendment Regulations

The Federation of Community Legal Centres welcomes the opportunity to comment on the proposed increases to Supreme Court fees.

The Federation of Community Legal Centres (the Federation) is the peak body for 50 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.¹

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. In addition, the views in this submission are informed by the members of the Federation's Civil Law Working Group, a group comprising CLC practitioners with specialist experience in providing civil law assistance to low income and disadvantaged clients.

The Federation is pleased to see that provisions for fee waivers will remain in place. We support these fee waiver provisions being applied in a way that most facilitates access to justice.

The Federation does not object to commercial parties making a greater contribution to court costs through fees.

We are, however, concerned about the impact that the fee increases will have on individuals who are not eligible for a waiver but for whom the increased fees will pose a substantial barrier to accessing the court.

For example, under Option One, which is the preferred option according to the Regulatory Impact Statement, applicants whose matters require a five day hearing will face hearing fees of \$7,215.70. This is more than a 50 per cent increase on existing fees.²

¹ In 2012-13, 82.2% of Victorian community legal centre clients received less than \$26,000 per annum. 96.5% of clients received incomes less than \$52,000.

² We have calculated this on the basis that the 2013-2014 hearing fees for a five day hearing are: \$1,136.30 for the first hearing day and \$590.60 for each of the subsequent four hearing days (total: \$3,498.70). Under Option 1, the hearing fees would be: \$1,977.30 for the first hearing day and \$1,309.60 for each of the subsequent four hearings days (total: \$7,215.70).

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We are concerned that people who are on a low income but who are not assessed as meeting the criteria for financial hardship, will be unfairly discouraged from pursuing matters through the Court of Appeal under some of the options canvassed in the Regulatory Impact Statement.

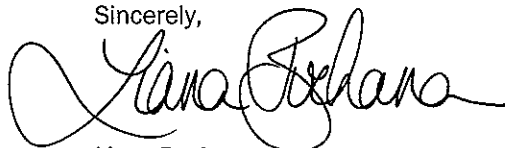
As the Productivity Commission notes in its Draft Report on access to justice arrangements, a significant number of people face a degree of hardship that is below the threshold for a fee waiver, but who nevertheless struggle to pay court fees.

... there is a sizable group of court users with incomes that are below-average but higher than the income of the average waiver recipient. This 'missing middle' can be faced with the same court fees as other individuals on higher incomes, while paying much more than those eligible for full waivers, but whose incomes may be only slightly lower.³

The Federation urges the Government to take this into account when determining the new structure and quantum of fees. We also encourage the Government to consider the possibility of implementing a sliding scale of fees so that the fees charged are proportionate to the income of the court user.

Please do not hesitate to contact me or Lucy Larkins on 9652 1501 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Liana Buchanan', with a large, stylized initial 'L'.

Liana Buchanan
Executive Officer

³ Productivity Commission, Access to Justice Arrangements, Draft Report, April 2014, page 495.