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Mr Noah Carroll
ALP National Secretary
Australian Labor Party National Secretariat
Unit 5 / 9 Sydney Ave
Barton ACT 2600

Dear Mr Carroll

Re: Submission in Response to Draft ALP Party Platform

The National Association of Community Legal Centres (NACLC) welcomes the opportunity to provide this brief submission in relation to the Draft ALP Party Platform, released in April 2018.

NACLC is the peak body for all community legal centres (CLCs) in Australia. Community legal centres are independent, not for profit community based organisations. Community legal centres provide free legal help – including information, referral, legal education, advice, casework and representation services – to hundreds of thousands of people across Australia every year, at times when they most need it.

We provide brief comments and a number of recommendations about amendments to the Draft Platform in the submission below. This submission does not address the entire Platform, but rather focuses on Chapters Six and Nine.

In addition to this submission, we also draw your attention to the submission made by Change the Record. NACLC is a member of the Change the Record Coalition Steering Committee and endorses the submission made to this process. We also endorse the submissions made by our member organisation the Federation of Community Legal Centres Victoria.

Chapter Six: New Opportunities for an Ageing Australia

We welcome the commitments to supporting older people in Australia, including those experiencing elder abuse.

While welcoming the commitment to improving and enhancing legal protections for older people in Australia, we also recommend an explicit commitment to investing in community-based legal services (in addition to the other services noted in paragraph 17). As a result, we recommend an additional dotpoint under paragraph 17 that includes a commitment to: “Expand community-based legal services to assist people experiencing elder abuse”.

Chapter 9- A Fair Go For All

We welcome many of the commitments in Chapter 9 of the Draft Platform.

Terminology

At the outset we emphasise the importance of using appropriate terminology in the Platform when referring to the legal assistance sector.

There are four publicly funded legal assistance providers:

1. Community Legal Centre
2. Aboriginal and Torres Strait Islander Legal Services
3. Family Violence Prevention Legal Services, and
4. Legal Aid Commissions

Collectively, the preferred terminology is to refer to each of the services individually or collectively as the 'legal assistance sector'. It is not appropriate to use the term 'legal aid' to refer to the services collectively. As a result, we recommend amendment to the Draft Platform where such terminology is used. For example, see paragraph 230 (replace with 'legal assistance'), and 224 (see recommendation below).

Human Rights

(Paragraphs 42-44)

We welcome the strong commitments to human rights included in the Draft Platform, and acknowledgement of the key role played by the Australian Human Rights Commission. We also welcome the inclusion of commitments such as the consolidation of anti-discrimination law.

At paragraph 44 the Platform includes a commitment to: "Review the Human Rights Framework and consider whether it could be enhanced through a statutory charter of human rights or other similar instrument."

In the absence of a federal charter of rights or human rights act, there are very significant gaps in the protection of human rights in Australia and existing mechanisms are insufficient to provide for the protection and promotion of human rights. There has already been extensive national consultation and consideration of the need for a Human Rights Act. Importantly, in 2009 the National Human Rights Consultation Committee ultimately recommended the introduction of an Act.

As a result, we strongly recommend that this language is strengthened to include an explicit commitment to the introduction of a National Human Rights Act or Bill of Rights. For example, paragraph 44 should read:

"Labor will review the Human Rights Framework to consider ways to strengthen or enhance its operation. Labor will also introduce a statutory charter of human rights or other similar instrument."

Preventing Violence against Women and Children

(Paragraphs 172-177)

We welcome the reference to supporting people experiencing family violence, including through resourcing community legal assistance at paragraph 174. However, many people experiencing family violence require legal help even when not 'going through court'. As a result, we recommend the following wording change:

“Support victims and survivors of family violence ~~going through court~~ by resourcing community legal assistance including culturally-appropriate support for Aboriginal and Torres Strait Islander people.”

Support for the Community Sector

(Paragraphs 204-209)

We welcome the strong commitments made in the Platform with respect to support for the community sector.

Advocacy

Australian charities and non-government organisations (NGOs), including CLCs, undertake advocacy on a range of matters in the public interest each year. These organisations, including many CLCs, undertake important advocacy work and have a long and successful history of bringing about positive and systemic reform of laws and legal frameworks at all levels of government.

However, in light of recent moves to limit advocacy by civil society we recommend stronger wording and commitment to protecting the right of civil society and community sector organisations to undertake such advocacy. Labor’s introduction of the *Not-for-Profit Sector Freedom to Advocate Act 2013* (Cth) is reflective of its prior commitment to protecting this work.

As a result, we recommend insertion of new wording that says: “Labor is committed to protecting and upholding the right of community sector and other non-government organisations to undertake advocacy”.

Justice in the Community

(Paragraphs 215-226)

Legal Assistance Services and Funding

We welcome the commitments made in the Platform with respect to justice in the community.

However, we strongly recommend the inclusion of revised appropriate wording relating to the legal assistance sector (see terminology note earlier in this submission) and an explicit commitment to increasing funding and support for the legal assistance sector.

As a result, we recommend amendment to paragraph 224 as follows: Labor will provide national leadership to adequately support and resource our system of legal assistance ~~aid~~, including Community Legal Centre, Aboriginal and Torres Strait Islander Legal Services, Family Violence Prevention Legal Services and Legal Aid Commissions, in partnership with the states and territories. Labor will support general and specialist community-based legal services, clinical legal education schemes and pro bono clearing house services.

It is vital that the Platform reflects that community-controlled organisations are and should be the preferred providers of legal assistance to Aboriginal and Torres Strait Islander peoples where possible. As a result, we recommend an additional commitment to funding, working with and supporting community-controlled legal services.

Advocacy by Legal Assistance Services

Community legal centres have a long and successful history of bringing about systemic change through policy, advocacy and law reform. This work is crucial in identifying and encouraging reform of laws, policies and practices that are not operating effectively or equitably.

The value of the advocacy work of CLCs has been recognised in a number of contexts, including the 2014 Productivity Commission Inquiry into Access to Justice Arrangements.

In its report, the Productivity Commission stated that CLCs play a key role in law reform, policy and advocacy, that it should be a 'core activity' of CLCs and that 'in many cases, strategic advocacy and law reform can reduce demand for legal assistance services and so be an efficient use of limited resources'.¹

The Commission also expressed the view that 'strategic advocacy can benefit those people affected by a particular systemic issue, but, by clarifying the law, it can also benefit the community more broadly and improve access to justice (known as positive spill-overs or externalities)'. It ultimately recommended that "Australian, State and Territory Governments should provide funding for strategic advocacy and law reform activities that seek to identify and remedy systemic issues and so reduce demand for frontline services."²

Unfortunately however, CLCs that receive Commonwealth funding under the National Partnership Agreement on Legal Assistance Services 2015-2020 (NPA) have been restricted from undertaking advocacy work with Commonwealth funding.

As a result, we recommend the insertion of a new commitment which states:

"Labor recognises the importance of strategic policy, advocacy and law reform by legal assistance services in identifying and remedying systemic issues which reduces demand on frontline services and benefits government and the broader community. Labor is committed to protecting and upholding the right of the legal assistance sector to undertake this work. For example, future funding agreements with the legal assistance sector will not restrict the ability of the legal assistance sector to campaign, lobby and participate in law reform and advocacy."³

The Value of Peak Bodies

Funding and support for, as well as engagement with, peak community sector organisations and bodies results in more positive outcomes for government, the sector and the community more broadly.

For example, NACLC plays a key role in ensuring a thriving community legal sector through national coordination and support; engagement with government and other stakeholders; building the evidence base and supporting good practice service delivery. Similarly, the State and Territory CLC Associations play a key role at a jurisdictional level.

¹ Productivity Commission of Australia, Access to Justice Arrangements Inquiry (2014) Final Report, Vol 2, 709.

² Ibid, Vol 1, rec 21.1.

³ We note both NACLC and the Federation of Community Legal Centres Victoria (a member organisation) have made submissions on this point, this wording is the agreed wording endorsed by both organisations.

While there are a number of references to peak bodies throughout the Draft Platform, there is no express commitment to funding or supporting peak bodies either in the legal assistance context or more broadly. As a result, we recommend including a reference to funding, supporting, engaging and collaborating with peak legal assistance (and other community) organisations/bodies.

Australian Law Reform Commission

With respect to the Australian Law Reform Commission, given recent changes to the structure and operation of the ALRC, we recommend a minor amendment to the second sentence in paragraph 226 to provide: “Labor will adequately resource the Australian Law Reform Commission and ensure its structure and operation ensure that it can continue to provide independent and comprehensive advice on all aspects of law reform”.

Conclusion

For any further information or to discuss this submission please contact me at amanda.alford@naclc.org.au on 0421 028 645.

Yours sincerely

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National Association of Community Legal Centres