



# STATEMENT

5 February 2019

## Community Legal Centres Welcome Banking Royal Commission Report

The National Association of Community Legal Centres (NACLCL), the peak body for Community Legal Centres across Australia welcomes the Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.

The Final Report explicitly acknowledges the value and work of the legal assistance sector in making a difference to people's lives, in contributing to policy development and reform and the need for predictable and stable funding for the legal assistance sector. As a result, we call on the Commonwealth Government to ensure long-term, sustainable and predictable government funding for the sector as well as to support a boost to financial counselling and community legal services through an industry levy.

The Report provides an important blueprint for reform of the financial services sector. A number of specialist community legal centres have been working to engage in and support the work of the Royal Commission and have expertise in the substantive areas highlighted in the Final Report. Links to their analysis and media statements are included later in this statement.

The focus of this statement is on findings and observations made in the Final Report in relation to the work of the legal assistance sector, in particular community legal centres.

### Summary

- The Royal Commission has revealed evidence of misconduct and conduct falling below community standards across Australia's finance sector, including lending, investments and insurance. The practices uncovered by the Royal Commission have adversely affected hundreds of people across Australia.
- Community legal centres help everyday people and people experiencing discrimination and disadvantage every year when they need it most. Credit and debt legal issues are amongst the top 5 areas in which community legal centres helped people in 2017-2018 – this help was provided by generalist legal centres across urban, regional and rural Australia, as well as by specialist consumer community legal centres. However, the current service system is struggling to meet demand.
- The Report provides an important blueprint for reform of the financial services sector. A number of specialist community legal centres have been working to engage in and support the work of the Royal Commission and have expertise in the substantive areas highlighted in the Final Report. Links to their analysis and media statements are included later in this statement.
- Importantly, the Report also explicitly acknowledges the value and work of the legal assistance sector in making a difference to people's lives, in contributing to policy development and reform and the need for predictable and stable funding for the legal assistance sector.
- The Commonwealth Government response to the Final Report acknowledges the need for predictable and stable funding for the legal assistance sector and for financial counselling services and announces a review of financial counselling funding.

- Community legal centres across Australia will continue to work with and support people and communities experiencing financial hardship and with credit and debt issues. NACLC and community legal centres will work constructively with the Government, industry and consumers to support and monitor full implementation of the recommendations made in the Final Report.
- NACLC will also continue to advocate on behalf of community legal centres for long-term, predictable and sustainable funding to ensure the sector can continue to provide vital free legal help to people across Australia.

## What Did the Final Report Say about Community Legal Centres?

- Importantly, the Final Report explicitly acknowledges the value and work of the legal assistance sector in making a difference to people's lives, in contributing to policy development and reform and the need for predictable and stable funding for the legal assistance sector.
- In acknowledging the **value of the sector and its work**, the Final Report notes: "The legal assistance sector and financial counselling services perform very valuable work. Their services, like financial services, are a necessity to the community. They add strength to customers who are otherwise disadvantaged in disputes with financial services entities. In that sense, their role in the financial services sector is complementary to the broader recommendations in this Report that are designed to hold entities to account".
- In highlighting the **difference access to free legal help can make**, the Final Report states: "A number of the consumer witnesses before the Commission received free assistance from the legal assistance sector or free financial counselling services. Often, perhaps in part by force of the situation that gave rise to the dispute, they could not have afforded private financial advice or legal representation. Often, the difference between the result the witness ultimately achieved and the situation that they initially faced before they received legal assistance was very large".
- In acknowledging the expertise and value of the sector in engaging in **policy, advocacy and law reform** work the Final Report emphasised the important role of community legal centres in "providing a balancing consumer voice in policy development".
- Addressing the need for **predictable and stable funding**, the Final Report concluded that "the desirability of predictable and stable funding for the legal assistance sector and financial counselling services is clear and how this may best be delivered is worthy of careful consideration. Such consideration should look at all options that may be available to supplement existing funding".

## What Do Community Legal Centres Need?

### Predictable Funding

As highlighted in the Final Report, a key part of ensuring the community legal sector can continue to deliver high quality services to people across Australia, including in relation to credit and debt and consumer issues is funding predictability.

The major source of Commonwealth Government funding to community legal centres is the National Partnership Agreement on Legal Assistance Services 2015-2020 (NPA). The current NPA expires on 30 June 2020, with no future funding allocation for community legal centres beyond next year.

If no provision for funding for the sector is allocated in the upcoming 2019-2020 Federal Budget and it is left until the 2020-2021 Federal Budget, it will leave only a matter of weeks between the announcement of any funding and the end of current Commonwealth funding on 30 June 2020. This is not enough time for Commonwealth, State and Territory Government decisions and processes and will lead to significant funding uncertainty and inefficiency.

In allocating funding to community legal centres moving forward, at a minimum the current level of Commonwealth funding to community legal centres under the NPA (\$50.7 million for 2019-2020) as well as appropriate indexation should be the baseline for any future funding. In addition to funding certainty, there is also a need to increase the overall quantum of funding to the sector contributed by both Commonwealth as well as State and Territory Governments.

The Commonwealth Government response to the Final Report (on page 39) states:

*The Government agrees with the suggestion by Commissioner Hayne that there is a need for predictable and stable funding for the legal assistance sector and for counselling services.*

*Financial counselling services play an important role in supporting consumers and the challenges faced by parties delivering these services include increasing demand, inconsistent and short term grant-based funding streams and fragmented delivery across jurisdictions. The Government will review the co-ordination and funding of financial counselling services. This immediate review will be led by the Department of Social Services, in consultation with Treasury and the Department of the Prime Minister and Cabinet. The review will consider gaps and overlaps in current services and the adequacy of, and appropriate delivery models for, funding.*

While we welcome the acknowledgement of the need for predictable and stable funding for the legal assistance sector and for financial counselling services, the review announced is limited to financial counselling.

As a result, in addition to the review, which should be conducted jointly with the sector, we call on the Commonwealth Government to include a Commonwealth funding commitment for community legal centres beyond 2020 over the forward estimates in the upcoming 2019-2020 Federal Budget.

### **Increased Funding for Consumer Financial Legal Advice and Assistance Services**

In response to the evidence of misconduct uncovered by the Royal and growing demand for counselling and legal advice, there is a need for substantial additional investment in consumer financial legal advice and assistance services.

Boosting financial counselling and community legal services, through a levy on industry in addition to existing Government funding, is an effective and fair way to ensure people can access help to assert their rights, get out of debt, and protect their livelihoods.

NACLC and Financial Counselling Australia (FCA) are jointly calling for funding of \$157 million per annum to create a properly funded network of community financial counselling and community legal services.

This is composed of: \$1 million for the National Debt Helpline; \$130 million for 1,000 financial counsellors; and \$26 million for an additional 200 community financial service lawyers located in community legal centres across Australia.

We recommend that the expanded network be funded either through an increase in the Major Bank Levy or by expanding the existing ASIC industry funding levy on financial services institutions. This funding model has been canvassed before, and is currently operating effectively in the United Kingdom. We estimate that this expanded network will triple the number of people helped – increasing from around 250,000 to 800,000 people a year.

More information is available in the NACLC and FCA submission to the Royal Commission:  
<http://www.nacalc.org.au/resources/20181026%20NACLC%20and%20FCA%20Banking%20RC%20Submission.pdf>

## **Community Legal Centres Analysis and Comment on Final Report**

Community legal centres across Australia provide legal help about credit and debt matters, and see every day how the misconduct of banks and other financial bodies hurt people experiencing discrimination and disadvantage.

In addition to the work of generalist legal centres in urban, regional and rural Australia, there are five specialist consumer legal centres that focus on the rights of consumers and provide legal support and training to financial counsellors in their states:

- Financial Rights Legal Centre (NSW , but also operates the National Insurance Law Service)
- Consumer Action Law Centre (Vic)
- Consumer Credit Law Centre (SA)
- Consumer Credit Legal Service (WA)
- Consumer Law Centre (ACT)

Below are some initial analysis and media comments from these specialist legal centres in relation to the Royal Commission Report.

### **Consumer Action Law Centre**

The Consumer Action Law Centre is a campaign-focused consumer advocacy organisation. It is a community legal centre that provides free legal advice and pursues litigation on behalf of vulnerable and disadvantaged consumers across Victoria, and is the largest specialist consumer legal practice in Australia. It is also a financial counselling centre and operates [The National Debt Helpline](#) for Victoria, a not for profit email and telephone financial counselling service providing free, confidential and independent financial advice to Victorians experiencing financial difficulty.

Find the Consumer Action media release about the Royal Commission Final Report here:  
<https://consumeraction.org.au/increased-consumer-protections-and-removal-of-legal-loopholes-key-royal-commission-recommendations-media-release/>

### **Financial Rights Legal Centre**

The Financial Rights Legal Centre is a community legal centre that specialises in helping consumer's understand and enforce their financial rights, especially low income and otherwise marginalised or vulnerable consumers. It provides free and independent financial counselling, legal advice and representation to individuals about a broad range of financial issues. It operates the [Insurance Law Service](#) which provides advice nationally to consumers about insurance claims and debts to insurance companies and the Credit & Debt Hotline, which helps NSW consumers experiencing financial difficulties. Financial Rights took over 25,000 calls for advice or assistance during the 2017/2018 financial year.

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Karen Cox is Chief Executive Officer of the Financial Rights Legal Centre and was the first witness to appear in the Hayne royal commission.

Find the Financial Rights Legal Centre media release about the Royal Commission Final Report here:  
<https://financialrights.org.au/media-release-financial-rights-response-to-the-royal-commission-into-misconduct-in-the-banking-superannuation-and-financial-services-industry-final-report/>

### **Consumer Credit Legal Service (WA)**

The Consumer Credit Legal Service (WA) is a not-for-profit charitable organisation which provides legal advice and representation to consumers in WA in the areas of credit, banking and finance. CCLSWA also takes an active role in community legal education, law reform and policy issues affecting consumers.

Find the initial CCLSWA response to the Royal Commission Final Report here:  
<https://cclswa.org.au/cclswas-initial-observations-on-the-royal-commission-final-report/>

## **Information and Contacts**

For more information or to arrange an interview, please contact:

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