



**National Council of
Women of New Zealand**

Te Kaunihera
Wahine O Aotearoa

National Office
Level 4 Central House
26 Brandon Street
PO Box 25-498
Wellington 6146
(04) 473 7623
www.ncwnz.org.nz

7 October 2010

S10.28

Submission to Justice and Electoral Committee on the Legal Services Bill

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 51 nationally organised societies and national members. It has 23 branches throughout the country attended by representatives of those societies and some 150 other societies as well as individual members. The Council's function is to serve women, the family and the community at local, national and international levels through research, study, discussion and action.

This submission has been prepared by the Justice and Law Reform Standing Committee and the Parliamentary Watch Committee after consultation with the membership of NCWNZ.

Introduction

NCWNZ made a substantial submission to the Legal Services Review Committee in 2009, following a review of the legal aid system led by Dame Margaret Bazley.

In this submission we recalled that NCWNZ has had policy since 1937 calling for free legal assistance in certain circumstances, and in 1968 specifically for domestic proceedings, particularly for women. As an organisation, we are well aware that it is often women who need financial help where legal matters are involved

We note that this is the third attempt to achieve greater efficiency and increased quality of service since the Legal Services Board and its District Committees were set up in the early 1990's.

NCWNZ is fully in support and appreciative of the Legal Aid System and can only praise measures intended to make it more efficient. Our members are aware that there is increasing pressure on the court system with the rise in family violence, drug use and other forms of abuse, such as Internet and email scams, frauds and password theft.

NCWNZ supports the transfer of the administration of publicly funded legal services to the Ministry of Justice as a logical decision. It is hoped that the rearrangement will provide a more effective and efficient system. If streamlining is done well, client satisfaction will improve and the costs incurred by delays will be reduced.

Concern was expressed by our members where evidence of guilt is strong, e.g. committing a murder, and the accused is able to appeal against the sentence, using legal aid at the expense of the taxpayer.

NCWNZ supports the establishment of an independent statutory officer; the Legal Services Commissioner. We believe that this person will be able to provide impartiality and independence in the granting of legal aid.





Dame Margaret Bazley's report referred to the legal aid system as being second rate and not inspiring public confidence. The majority of legal aid clients are among the lower socio-economic strata of our society and as such, need a great deal of support. NCWNZ is delighted to read of the proposal to introduce new quality assurance and performance management systems for those providing publicly funded legal services; this can only improve the structure of the system.

NCWNZ supports the streamlining of the process for assessing applications for all cases, not just low-cost criminal cases. There is often a long waiting period before court cases are heard, which is not a positive situation for either offender or victim.

Our members were divided on the issue of legal aid for settlement negotiation for Waitangi Tribunal proceedings being handled by the Office of Treaty Settlements. On the one hand, the Office, as the most knowledgeable office for these matters, was seen as the sensible and rational place for them to be handled. On the other hand, the Office of Treaty Settlements was seen as being the Government body responsible for negotiating settlements with Maori groups. Legal aid matters would appear to be beyond its brief.

Our members expressed concern that some lawyers are making a great deal of money out of legal aid. Likewise, some criminals are using it to the maximum. However, there must be a system where offenders who cannot afford a lawyer, are able to get help. We accept that it is not always possible to remain within a set budget and some trials can become long and complex.

Other comments

Regarding replacement of the current Legal Aid Review Panel with a new Legal Aid Tribunal, some of our members expressed doubt that any problems would be solved by this change.

Regarding the transfer of the administration of publicly funded legal services to the Ministry of Justice, some of our members expressed a concern that simply transferring administrators from one agency to another would not necessarily ensure improvements in service delivery.

Our members supported the introduction of new quality assurance and performance management systems for those providing publicly funded legal services.

With respect to streamlining processing for assessing applications for certain low-cost criminal cases one member (a lawyer) expressed concern at the amount of paper work currently required, which she described as "over the top".

Another concern expressed was that these measures could result in "just a change of bureaucrats doing the same thing under a different body".

One of our members wrote: "I support any change that helps so that a client and legal aid cannot 'rip off the system'. In our family a member needed to get out of a violent marriage. Every time a date was made for a court appearance, the man came up with opposition on about day 20 of the given 21 days. One of his aims was to make the legal aid costs so expensive that his wife would not be able to afford to buy a new home when the legal aid bill was settled. It took two people to carry the files each time they went to Court. The stress had ripple-on effects on the children as well as the wife."



Another member, who served on the Wellington District Legal Committee through the 1990's, wrote: "Over some years I have built up my knowledge of how the court system works. I have reached the view that it needs urgent reform. It is overburdened with work and continuing with traditional processes is only making things worse. Just tackling the legal aid system may not be tackling the right problem."

One member commented that the Bill fails to address the issue of how people on legal aid may be made more aware of the costs.

Conclusion

NCWNZ generally supports the Bill with some reservations. As noted in our 2009 submission to the Review Committee, NCWNZ believes women's access to justice is critically important and an efficient and functional legal aid system is key to ensuring women do have access to justice. It is hoped that the Bill will lead to an improvement in services. It is our intention to continue to monitor the situation to ensure it does, if passed.

Elizabeth Bang
National President

Christina Reymer
Justice and Law Reform SC Convenor