

THE IMPACT OF INADEQUATE FUNDING OF LEGAL AID AND THE COMMUNITY LEGAL SECTOR IN FAMILY LAW MATTERS

BACKGROUND

- ❖ Access to justice is fundamental for the enjoyment of basic human rights, social inclusion and the effective functioning of our community. Everyone should be entitled to access justice.
- ❖ Legal Aid was created to provide equitable access to justice for all particularly the most disadvantaged in our community.
- ❖ The top two queries over the telephone for Victoria Legal Aid (VLA) were in relation to family law; children's arrangements and post-separation property settlements.
- ❖ In spite of this, family law funding in Victoria has been significantly reduced which has resulted in a further decrease of family law assistance to at risk children.
- ❖ Unfortunately inadequate commonwealth funding to Legal Aid has made Legal Aid limit their guidelines. This means fewer people and even fewer family law disputes can be assisted through Legal Aid. For instance:
 - until very recently Legal Aid assisted people in family law disputes involving children and very limited property matters;
 - currently Legal Aid no longer assists people with any family law disputes where children's matters are joined with property matters, even if the property pool is very small or limited to debts or chattels.
- ❖ Inadequate funding of Legal Aid for family law matters puts immense pressure on Community Legal Centres and pro bono services to cover the shortfall.
- ❖ Community Legal Centres are funded to cover the gap between Legal Aid and private practitioners. When Legal Aid is not funded to properly provide the full range of its core service, the most poorly resourced, underfunded family law community legal sector becomes the only option or people are forced to self-represent.
- ❖ Inadequate Legal Aid funding for family law matters decreases the pool of available private family lawyers who take on legal aid family law matters as it is no longer cost effective for them to do so.

THE COSTS TO THE COMMUNITY

- ❖ Post-separation, families are at a higher risk of poverty and homelessness. Their inability to access legal aid for their post-separation family law property disputes puts parents and children at an even higher risk of poverty and homelessness, further entrenching their disadvantage.
- ❖ Children in high risk situations pay the price for inadequate family law funding when their parents cannot get legal aid to resolve their family law matters.
- ❖ An inability to resolve family law matters puts families at a greater risk as family violence victims are forced to remain with the abuser.
- ❖ Having no access for resolution further creates situations where there is more conflict which also increases the risk of harm to family members.