

Coalition Broke Legal Aid Election Promises

The Law Council of Australia has revealed that the Coalition broke many of its 1996 Federal Election promises regarding legal aid, leaving Australia's legal aid system in a state of upheaval throughout the last term of Government.

The Council has undertaken a comparison of the Coalition's legal aid funding outcomes during its term of Government, with its 1996 Election campaign promises regarding legal aid.

"The 1996 Coalition *Law and Justice Policy* was well received by legal aid stakeholders - they felt reassured of the Coalition's support for legal aid" says the President-elect of the Law Council, Mr Fabian Dixon. "The Policy stated that 'provision of legal aid is an essential element in providing access to justice'".

"But the comparison shows that in most areas of legal aid funding, the Coalition broke promises made to the electorate before the last election. The Coalition has denied many Australians the quality access to justice they expect, as much as they expect access to quality public health-care.

"Put simply, the Coalition has not lived up to its promises on legal aid".

In the 1996 Federal Election campaign, the Coalition stated that it would maintain current levels of Commonwealth legal aid funding. This is what really happened:

- in its first Budget the Government announced that from 1 July 1997 the Commonwealth would only fund matters arising under Commonwealth laws, leaving the States and Territories to fund legal aid matters arising under their laws.
- in that first Budget, the Government also announced that from the 1 July 1997, Commonwealth outlays would be reduced by \$33.16 million each year for the following three years, ie. a total of over \$99 million. Special legal aid-related initiatives under the former Labor Government's *Justice Statement* would also be reduced from \$4.6 million in 1995-96 to \$2 million in 1996-97 and withdrawn altogether in 1997-98. Many other *Justice Statement* initiatives were also abandoned.
- the chairman of the Senate Legal and Constitutional References Committee - a Committee inquiring into Australia's legal

aid system - announced in June 1998 that forward estimates disclosed that the Coalition would spend \$231 million less (in real terms) on legal aid over the six years it had budgeted for. The result would be that \$46.7 million less would be put into the national legal aid system each year than if the 1995-96 funding levels had been maintained.

In the 1996 Federal Election campaign, the Coalition stated that it would maintain current levels of funding to community legal centres. This is really what happened:

- in this year's Budget (May 1998) the Government announced it had allocated an additional \$11.4 million over the next four years (\$2.85 million per year) to improve and expand community legal centres (CLE's). But according to the Shadow Attorney-General and the Shadow Minister for Justice, Senator the Hon. Nick Bolkus, the Government has cut \$0.3 million a year in real terms from CLC funding in the 1996-97 and 1997-98 budgets.

- the Senate Committee inquiry also found that CLC's are bearing the brunt of increased workloads as they try to take up the cases that cannot be met by the legal aid commissions. There are real limits to the centres' capacity to manage this increased load.

In the 1996 Federal Election campaign, the Coalition stated that it would ensure greater co-ordination and direction in the current provision and allocation of legal aid funding. But after extensive investigation, the independent Senate Committee:

- found that the changes made by the Commonwealth to the legal aid system were based on insufficient information and "displayed more concern to achieve savings than with their impact on the legal aid system and access to justice."
- noted that "there are signs emerging that the Commonwealth, having decided to fund only Commonwealth matters, is reducing its role in co-ordinating the legal aid system in Australia." The Committee recommended that the commonwealth retain an active co-ordination role in this area, "notwithstanding its decision to fund only Commonwealth matters."
- was critical of the manner in which the Government undertook the final allocation of legal aid funding for 1997-98, without waiting for the outcome of a federal review of legal aid need being undertaken by the Commonwealth Attorney-General's Department. The Committee

considered the failure to wait to be "a serious matter", and stated that the matter provided "further evidence that new arrangements were unduly hasty and were Budget-driven, rather than based on a proper assessment of, and concern for, the legal aid needs of the Australian community."

In the 1996 Federal Election campaign, the Coalition stated that it would maintain the Momentum of improving access to justice by creating the Australian Legal Access Forum. This is what really happened:

- after the 1996 Election, the Law Council was invited to assist the Government by proposing ways it could effectively implement its Policy in relation to this Forum. The Law Council submitted its suggestions, in writing, in June 1996. But by December 1996, a letter from the Federal Attorney-General made it clear that the Government had no intention of proceeding quickly with the Australian Legal Access Forum. No such Forum has ever been held.

In the 1996 Federal Election Campaign, the Coalition stated that it would establish the Australian Legal Insurance Task Force, to promote the development of legal insurance schemes which have the potential to markedly improve access to justice for all. This is what really happened:

- the Law Council was invited to assist the Government by proposing ways it could effectively implement its Policy in relation to this Task Force. The Law Council submitted a proposal for a Task Force in May 1996. This proposal was for a small Task Force to operate economically, and effectively, with representation from legal aid system - and other relevant - participants, to consider and develop legal insurance schemes.
- in December 1996, the Government advised that it had no intention of proceeding with the Australian Legal Insurance Task Force.
- ironically, Government Senators on the Senate Committee - in their minority response to the Committee's third report into Australia's legal aid system - indicated that legal expenses insurance was one way of giving more Australians greater access to justice, and chastised the Committee for "dismissing" it as having little to offer, based on fledging, attempts that have not been effectively promoted."

The Law Council calls on the Coalition, if re-elected, to live up to its 1996 election promises regarding legal aid and, in doing so, restore a responsible level of legal aid and access to justice for the Australian people.