

# The Change Toolkit

## Chapter 6. Engaging with the legislative process and participating in inquiries

Getting involved in the legislative process and participating in government inquiries is a key way that CLCs can have an impact on law reform. CLCs can engage with the legislative process in several ways, some of which are outlined below. This chapter outlines the ways in which CLCs can contribute to legislative processes and participate in inquiries at both State and Federal level.

### Inquiries

CLCs can present their views on the law to government, parliamentary and law reform commission inquiries. These inquiries will often call for public submissions.

Good government processes increasingly involve engaging with stakeholders.

Participating in committees, forums, and inquiries will identify your CLC as an expert on an issue and/or as a stakeholder that ought to be consulted.

Before making submissions, CLCs should check whether there are terms of reference for the inquiry. When making submissions, CLCs should try to frame their comments around any terms of reference, and provide evidence and case studies to support the positions they put forward wherever possible.<sup>1</sup> When invited, CLCs can also appear at committee hearings for government inquiries.

### The importance of a multi-faceted approach

CLCs are most successful when they use multiple techniques to contribute to an inquiry

process. A submission in isolation may not be very influential, but in combination

with media coverage, a meeting with those undertaking the inquiry, and appearing at a public forum, a CLC's law reform proposals can play an important role in influencing and guiding the legislative process.

### Law reform commission inquiries

The Victorian and Australian Law Reform Commissions ('VLRC' and 'ALRC') work with their respective governments and the broader community to improve and update laws.<sup>2</sup> Both conduct inquiries into particular areas of law reform, and CLCs can engage with law reform commissions at several steps of the inquiry process:

- Initial consultations: Stakeholders with particular expertise around an inquiry issue will be selected by the commission.
- Submissions: When an inquiry invites public submissions, CLCs can make submissions that outline their position and make recommendations about how the law should be changed. Recommendations

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<sup>1</sup> See Chapter 7 for more information on preparing submissions.

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<sup>2</sup> See Australian Law Reform Commission, 'Law Reform Process', <<http://www.alrc.gov.au/law-reform-process>>, Victorian Law Reform Commission, 'Law Reform Process', <<http://www.lawreform.vic.gov.au/our-approach/law-reform-process>>.

should be as concrete and workable as possible, and offer solutions to issues identified as problematic by the CLC.<sup>3</sup>

- Discussion Paper or Position Paper consultations: These consultations occur at interim points throughout the process when the commission has already received information from stakeholders and is seeking further feedback/opinions. Discussion papers will be made available on the commission's website, and CLCs can respond to the paper by making a written submission.

## State and Federal committee inquiries

Committee inquiries provide a good opportunity for CLCs to be involved in the legislative process. Given that committees report back to Parliament on their inquiries, committees can provide a valuable vehicle for having your views heard.

CLCs can become involved in the following ways:

- Make a submission. Calls for submissions will be available on the relevant committee's website. CLCs hoping to appear at a committee hearing for the inquiry should request this in their submission.
- Appear at a committee hearing.<sup>4</sup> Committees will generally choose witnesses who have made submissions to the inquiry.<sup>5</sup>

## Other inquiries

There are a number of statutory bodies engaged in law reform. It is worthwhile making sure you are up to date about what they are

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<sup>3</sup> See Chapter 7 for a detailed discussion on writing effective submissions.

<sup>4</sup> For an example of testimony at a committee hearing, please see the Federation of Community Legal Centres evidence at a senate committee inquiry in relation to the impact of increases to federal court fees. [The testimony can be accessed here.](#)

<sup>5</sup>Parliament of Australia, 'Getting involved', <[http://www.aph.gov.au/About\\_Parliament/Senate/Committees/Getting\\_involved\\_-\\_witnesses\\_appearing\\_before\\_Senate\\_or\\_Joint\\_committees#q02](http://www.aph.gov.au/About_Parliament/Senate/Committees/Getting_involved_-_witnesses_appearing_before_Senate_or_Joint_committees#q02)> and Parliament of Victoria, 'Giving Evidence', <<http://www.parliament.vic.gov.au/committees/get-involved/giving-evidence#What>>.

focusing on. In particular, consider: State and Federal human rights commissions; the Productivity Commission; and other agencies such as the Sentencing Advisory Council.

## Submissions – how many is too many?

Submissions can be time-consuming. CLCs working together on an issue should consider whether they want to make several smaller submissions, or one comprehensive submission signed by multiple stakeholders. Both have their benefits. The number of submissions that an inquiry receives that support a certain point of view may be considered persuasive. On the other hand, an in-depth submission that provides detailed evidence and recommendations may be more valuable than shorter submissions in guiding possible reforms.

## Government consultation processes

The Victorian government regularly invites organisations and individuals to contribute to submissions and give feedback on proposed laws, projects and planning.<sup>6</sup> CLCs can also make submissions or contribute in other ways to Commonwealth government public consultation processes.<sup>7</sup>

### White Papers

White Papers will be commissioned by State or Federal governments and, when completed, provide a comprehensive policy statement on a particular issue. They will often be the basis for a Bill put before Parliament. They are usually disseminated publicly, and submissions, comment and public discussion are invited. CLCs are well placed to contribute to this process and advocate for law reform by influencing White Papers.

## Appearing at public forums

Appearing at public hearings or forums is an important element of CLC participation in

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<sup>6</sup> Victorian Government, 'Consultations', <<http://www.vic.gov.au/consultations.html>>.

<sup>7</sup> Australian Government, 'Public consultations', <<http://australia.gov.au/news-and-media/public-consultations>>.

legislative processes. Preparation is crucial – whoever is appearing on behalf of the CLC should be well versed in the evidence, findings and recommendations of the CLC. Importantly, they should also be aware of counter-arguments of other organisations, so that they can respond to these strongly. Reading other organisations' submissions and noting key points of contention is one way CLCs can ensure they are across all the issues in regard to a particular topic.

## Regulatory Impact Statements ('RISs')

Many rules that affect people's lives and rights are created as regulations, rather than legislation. Commenting on regulations, before they become law, is a key way for CLCs to engage with the regulatory process. A RIS is a document prepared by a department, agency or other body which has made a regulatory proposal. The document details the process through which the proposals were made, and assesses the costs and benefits of various options. CLCs can make submissions in response to RISs, addressing specific issues within the proposed regulations.

## Being proactive

### ***Get your issue on the agenda...***

Don't fall into the trap of waiting for an inquiry to start advocating for change. Over the years, CLCs have played an active role drawing attention to unfair laws and practices. Indeed, CLC reports, media campaigns and other advocacy have contributed to government decisions to conduct an inquiry or begin law reform in a particular area.

### ***...but be aware of the political climate***

CLCs should try to frame their law reform and advocacy work within the current political environment. Sometimes, it may be unrealistic that a particular law reform project will be successful at a given time. Where the political climate doesn't allow for successful engagement with government on a law reform or advocacy project, CLCs can continue to engage with other potential partners.

## Remember to follow up to assess your impact

If you engage with the legislative process or make a submission, remember to follow up to assess the impact that you had. For example, read the relevant committee's final report to find out whether you have been quoted, or check Hansard to see whether your arguments were raised in parliamentary debates. See Chapter 13 on Evaluation for further details about evaluating the impact of your work.

## Examples

### Coronial Law Reform Project, various CLCs

CLCs have a long history of supporting and representing families and friends of the deceased in coronial inquests, and of advocating for legal and social change so that future deaths can be prevented. CLCs have been heavily involved in numerous inquests such as those concerning deaths in police custody, prisons and mental health facilities, and as such are uniquely placed to advocate for law reform in this area.

A coalition of CLCs identified a range of shortcomings in the legislation governing coronial inquests. Particularly, there was no requirement in the *Coroners Act 1985* for relevant government agencies to respond to vital and potentially life-saving recommendations made by coroners. The agencies could ignore or adopt them as they pleased without having to inform the court, the deceased family or the public of the response. Following advocacy by CLCs, individuals and others who participate in the coronial system, the Victorian Parliament Law Reform Committee reviewed the *Coroners Act*. The Attorney-General responded to the Committee's Final Report by introducing the *Coroners Bill 2008*. CLCs welcomed a range of improvements in the Bill, but sought to have more of their recommendations included - in particular mandatory responses to coronial

recommendations by relevant government agencies.

CLCs pushed for changes to the Bill, providing a detailed submission to MPs that outlined concerns and suggested amendments. As a result of these efforts, amendments were subsequently incorporated into the *Coroners Act 2008*. The highlight of these amendments was the insertion of a requirement that if a Coroner makes recommendations to a particular Minister, statutory authority or

entity, they must now respond within three months, outlining actions that will be taken in response to the recommendations. The response must be published on the internet and be provided to any interested person. This is a substantial gain for families and for the prevention focus of inquests, meaning inquests are more likely to result in changes that will prevent future deaths.<sup>8</sup> In March 2013 on behalf of the Australian Inquest Alliance, Chris Atmore at the Federation produced a report pushing for further improvements to the process.<sup>9</sup>

## Acknowledgments

**This chapter has been downloaded from <http://www.thechangetoolkit.org.au>. We recommend checking back to see if the content has been updated.**

The Change Toolkit was prepared by the Federation of Community Legal Centres. The Federation is the peak body for community legal centres across Victoria.

**The Federation can be contacted at:**

Level 3, 225 Bourke Street  
Melbourne VIC 3000 Australia  
Phone: (03) 9652 1500  
Email: [administration@fclc.org.au](mailto:administration@fclc.org.au)

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<sup>8</sup> Federation of Community Legal Centres et al. 'Submission to the Productivity Commission' (November 2013), 51-2.

<sup>9</sup> Federation of Community Legal Centres, 'Saving lives by joining up justice: Why Australia needs coronial reform and how to achieve it', (28 February 2013), <[www.fclc.org.au/public\\_resource\\_details.php?resource\\_id=2238](http://www.fclc.org.au/public_resource_details.php?resource_id=2238)>.