

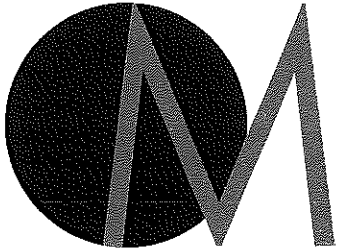
**Submission
No 6**

DRIVER LICENCE DISQUALIFICATION REFORM

Organisation: Marrickville Legal Centre

Name: Mr Michael Walton

Date Received: 20/07/2013



Marrickville Legal Centre

The Committee Manager
Committee on Law and Safety
Parliament House
Macquarie St
SYDNEY NSW 2000

BY ONLINE POST

19 July 2013

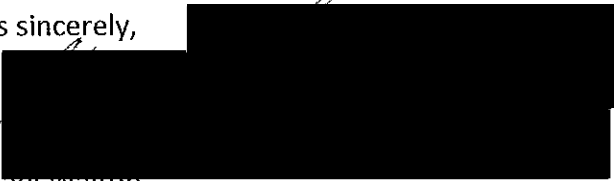
Dear Committee Manager,

RE: Driver Licence Disqualification Reform (Inquiry)

Please find attached the submission of Marrickville Legal Centre to the Committee's Inquiry into Driver Licence Disqualification Reform in NSW.

We thank the Committee for the opportunity to make this submission. If the Committee has any questions about our submission, we are happy to provide further material.

Yours sincerely,


Michael Walton
Principal Solicitor

**SUBMISSION OF MARRICKVILLE LEGAL CENTRE TO THE
LEGISLATIVE ASSEMBLY COMMITTEE ON LAW AND SAFETY
INQUIRY INTO DRIVER LICENCE DISQUALIFICATION REFORM**

1. ABOUT MARRICKVILLE LEGAL CENTRE (MLC)

- 1.1 Marrickville Legal Centre is one of 39 community legal centres across NSW. It is a non-profit community based organisation. The organisation's purpose is to provide accessible legal services to the community, with particular focus on meeting the needs of clients who are socially and economically disadvantaged.
- 1.2 Our client base is diverse and includes young people, mentally and physically disabled, clients from CALD backgrounds, Aboriginals and Torres Strait Islander.
- 1.3 The Centre provides free legal advice to the community including advice about unauthorised driving offences.

2. EXECUTIVE SUMMARY

2.1 This submission addresses four issues:

- 2.1.1 The average person on the street finds the law relating to unauthorised driving offences complex and difficult to understand. The distinction between disqualification, cancellation and suspension is confusing. We recommend that the terminology be simplified, for example "not allowed to drive (court)".
- 2.1.2 New immigrants are often unaware that they need to apply for a NSW licence. We recommend that first-time offenders be given a caution and two months to apply for a licence. We also recommend a public education campaign to raise awareness in emerging communities about obtaining NSW driver licences.
- 2.1.3 Currently people cannot apply to have their disqualification period reduced or removed. This can be harsh on people who turn their lives around and need a car for work or education. We recommend that courts should be able to hear and assess such applications on a case-by-case basis.
- 2.1.4 The habitual offenders scheme is a harsh scheme that has, in the past, resulted in disproportionate penalties being imposed on vulnerable clients. We recommend that this scheme be removed and replaced by a program focused on rehabilitating and educating offenders.

3. CHANGES TO THE TERMINOLOGY

- 3.1 The average person finds the current driver licence disqualification system complex. Different terms are used to express the same outcome: that someone is not allowed to drive. The difference between disqualification, cancellation and suspension confuses our clients. While the terms have distinct legal meanings, the distinction is meaningless to our clients, who only need to know if they are permitted to drive.
- 3.2 We recommend that the terminology be simplified to make it easier for the general public to understand. For example, “not allowed to drive (court)”, “not allowed to drive (RMS)”, “not allowed to drive (police)”.

4. NEW IMMIGRANTS WHO HAVE NEVER BEEN LICENCED

- 4.1 New immigrants and residents, including international students, are often unaware that they must obtain a NSW drivers licence within three months of taking up residency in NSW. The first they hear about this requirement is when they are fined.
- 4.2 We recommend that first-time offenders be given a caution and a chance to apply for a licence within two months. This will also promote awareness of the obligation to have a NSW drivers licence.
- 4.3 In our experience, public awareness of such laws is not widespread in the community. We recommend that the RMS undertake a public education campaign in community languages to raise awareness of the law. This could also improve public safety and raise awareness of Australian Road Rules.

5. VARYING THE DISQUALIFICATION PERIOD

- 5.1 Currently, once the period of appeal has expired, a disqualified driver cannot apply to remove or reduce the period of disqualification.
- 5.2 The NSW Bureau of Crime Statistics and Research recently found that disqualification periods are a weak deterrent and in many cases increase the risk of reoffending.¹ One contributing factor to this is limited access to public transport. Many people rely on their car to travel to work, shopping centres and educational and medical facilities. Public transport is not always available for shift workers.
- 5.3 In one recent case, “Dean” came to the Centre for advice about his disqualification period. In his late teens Dean had been dealing with a drug addiction and had committed several licence disqualification offences that resulted in a six month prison sentence and a six year licence disqualification period. After coming out of prison, Dean started work as an apprentice electrician and was rebuilding his life. However,

¹ Steve Moffat and Suzanne Poynton, *The Deterrent Effect of Higher Fines on Recidivism: Driving Offences* (Contemporary Issues in Crime and Justice No. 106, NSW Bureau of Crime Statistics and Research, 2007) 9-10.

his continuing licence suspension was restricting his ability to get to and from jobs. In a competitive job market, Dean's inability to drive was restricting his choices. Dean had clearly turned his life around and it would have been fairer to provide him with a second chance to get his licence back and improve his work prospects.

5.4 We recommend that drivers should be able to apply to the Local Court to have their disqualification period removed or reduced and to have their licence reinstated. They would need to demonstrate a significant need and change in circumstances. Courts are experienced in assessing such submissions.

6. 7. HABITUAL OFFENDERS SCHEME

7.1 The NSW Sentencing Council noted that the Habitual Offenders Scheme had "led to 'crushing' periods of disqualification, particular for young people without qualifications for whom the lack of licence significantly impacts on their chances of employment and arguably contains little incentive to refrain from driving".² The scheme is arbitrary and does not consider subjective circumstances. Additional punishment could potentially reduce the offender's motivation to turn their life around.

7.2 The Scheme also ties up free legal and court resources in advising on and hearing appeals of these orders.

7.3 We submit that this scheme should be replaced by a new scheme that focuses on education and rehabilitation of drivers who have served their disqualification period.

² New South Wales Sentencing Council, *The Effectiveness of Fines as a Sentencing Option: Court-imposed fines and penalty notices: Interim Report*, Sydney, 2006