



AUSTRALIAN
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Media release

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Australia should heed UK Supreme Court decision on access to justice

Leading Australian human rights lawyers have welcomed a landmark UK Supreme Court judgement handed down last Wednesday, arguing the decision sets an important precedent for Australian courts in relation to the need to ensure access to justice and equality before the law.

Australian Lawyers for Human Rights Women and Girls' Rights Subcommittee Co-Chair Anna Kerr explains, "In the UK case the Supreme Court held that costly fees charged for persons to bring matters before employment tribunals interfere unjustifiably with their rights to access to justice and with an effective remedy before a tribunal. In essence, the Court found that the fees were effectively preventing people from pursuing their claim. It also found that fees were indirectly discriminatory because higher fees put women and other protected groups such as those with a disability at a particular disadvantage."

Kerr continued, "In the Australian context, the costs of litigation regularly deter potentially meritorious claims. The paucity of legal aid means that increasing numbers of litigants are self-represented and self-funded in relation to civil and family law claims. However, while filing fees are often waived by Australian courts for those in receipt of welfare benefits, for many others these amounts, combined with the cost of other essential disbursements, are already prohibitive. In addition, the threat of an order to pay the other side's costs in the event of a loss effectively prevents access to justice for all but a small minority of very wealthy or reckless individuals."

"Women, in particular, are systemically disadvantaged within Australia's legal system. For example, in NSW the majority of legal aid goes to assisting men, with only 26% of legal aid clients being women. This is despite the fact that women are more likely to be living in poverty than men."

Kerr noted that "fees in Australia's courts must be affordable so that people involved in complex or intractable matters are not denied access to the court because of their financial vulnerability. Reductions in legal aid funding by governments over recent years are having a very real human rights impact on vulnerable members of our community accessing justice. Despite the recent restoration of some funding, Australia's legal assistance sector remains chronically underfunded."

ALHR Vice President Kerry Weste said, "It is a core principle of the rule of law that justice must be accessible to all. Without this there can be no equality before the law."

"ALHR calls on the Federal and State and Territory Governments to take note of the UK Supreme Court's decision and do more to address systemic issues affecting access to justice in Australia. This is a critical issue that goes to the heart of Australian values: values of equality and the fair-go. It goes directly to Australia fulfilling its obligations under international human rights laws, and to the heart of the question as to what kind of society we want to be. Is it a society in which everyone has access to justice, or only those who can afford a lawyer and court fees?"

To arrange an interview with Anna Kerr please contact Matt Mitchell on 0431 980 365 or media@alhr.org.au

ALHR was established in 1993 and is a national association of Australian solicitors, barristers, academics,

judicial officers and law students who practise and promote international human rights law in Australia. ALHR has active and engaged National, State and Territory committees and specialised national thematic subcommittees. Through advocacy, media engagement, education, networking, research and training, ALHR promotes, practices and protects universally accepted standards of human rights throughout Australia and overseas.

Background information

Costs of Litigation

The cost of private legal representation typically ranges upwards from \$400 per hour for a solicitor and daily rates of \$900-4,200 for junior counsel and between \$2,060-6,400 per day for senior counsel according to the National Guide to Counsel Fees provided by the Federal Court. For those with the temerity or foolhardiness to represent themselves, the cost of filing fees and photocopying alone is likely to amount to several thousand dollars.

R (on the application of UNISON) (Appellant) v Lord Chancellor (Respondent) [2017] UKSC 51 Wednesday 26 July 2017

Further information on the UK Supreme Court Decision can be accessed [here](#)