



14 March 2014

Mr Bruce Barbour
NSW Ombudsman
Level 24, 580 George Street
Sydney NSW 2000

By email: review@ombo.nsw.gov.au

Dear Mr Barbour,

Consorting Issues Paper: Review of the use of consorting provisions by the NSW Police

1. Women's Legal Services NSW (WLS NSW) thanks the NSW Ombudsman for the opportunity to comment on the *Consorting Issues Paper: Review of the use of consorting provisions by the NSW Police Force (Issues Paper)*.
2. WLS NSW is a community legal centre that aims to achieve access to justice and a just legal system for women in NSW. We seek to promote women's human rights, redress inequalities experienced by women and foster legal and social change through strategic legal services, community development, community legal education and law and policy reform work. We prioritise women who are disadvantaged by their cultural, social and economic circumstances. We provide legal services relating to domestic and family violence, sexual assault, family law, discrimination, victims compensation, care and protection, human rights and access to justice.
3. WLS NSW believes the consorting laws amount to an unjustifiable curtailment of a person's right to freedom of association and do little to achieve their stated purpose of reducing organised crime and gang related violence.
4. We submit that the consorting laws are too broad and criminalise legitimate social interactions. The provisions impact heavily on the most disadvantaged and marginalised groups and place these persons at risk of discrimination, over-policing and unjust targeting by NSW Police (Police).
5. We are particularly concerned about the numbers of Aboriginal and Torres Strait Islander women who have been subject to the consorting provisions.
6. WLS NSW believes that Police already have sufficient powers to address organised criminal activity.¹

¹ NSW Ombudsman, *Consorting Issues Paper: Review of the use of the consorting provisions by the NSW Police Force (Issues Paper)* November 2013 at 14-18



7. WLS NSW submits that the consorting laws breach Australia's international human rights obligations.
8. WLS NSW does not believe that legislative amendment can effectively remedy the inherent problems with the consorting provisions and accordingly, the consorting provisions should be repealed in their entirety. In the event the consorting laws are not repealed, we make recommendations for legislative amendment which will limit the adverse impacts of the current provisions and decrease the likelihood of the legislation being applied to groups and for purposes that are inconsistent with the objects of the provisions.

Summary of Recommendations

9. In summary we recommend:

- 9.1 The consorting provisions be repealed.

- 9.2 In the event that the consorting provisions are not repealed, WLS NSW makes the following recommendations:

- 9.2.1 The definition of 'convicted offender' within section 93W of the *Crimes Act 1900 (NSW)* should be redefined as a person who has been convicted of a criminal group offence under section 93T of the *Crimes Act 1900 (NSW)* within the last five years.

- 9.2.2 There should be a time limit on the validity of a warning. Consorting should only be an offence if the two occasions of consorting occur within a six month time frame from each other;

- 9.2.3 A definition of 'family members' should be included in section 93Y of the *Crimes Act 1900 (NSW)*.² The definition should recognise the broad understanding of family and kinship ties of the Aboriginal and Torres Strait Islander communities;

- 9.2.4 There should be a defence to consorting that occurs in the course of cultural activities;

- 9.2.5 In addition, the list of defences to consorting should be expanded to include the following:

- consorting between people who live together;
- consorting between people who are in a relationship;
- consorting that occurs in the provision of therapeutic, rehabilitation and support services;
- consorting that occurs in the course of sporting activities;
- consorting that occurs in the course of religious activities; and
- consorting that occurs in the course of genuine protest, advocacy or dissent;

² Section 93Y *Crimes Act 1900 (NSW)*

- 9.2.6 The list of defences should be an inclusive rather than exhaustive list;
- 9.2.7 A general defence of 'reasonable excuse' should be included in addition to the list of defences;
- 9.2.8 The consorting provisions should be amended to provide that the prosecution must satisfy the court that none of the defences raised by the defendant apply and that the alleged consorting was not reasonable in the circumstances;
- 9.2.9 The consorting provisions should provide for a formal review process to assess the validity of official warnings. This should include both an internal and external review process;
- 9.2.10 Consorting provisions should require police officers to provide official warnings in writing, in addition to giving a verbal warning. We endorse the recommendation made by Kingsford Legal Centre that 'the written warning should include the following information:
- The time and date the person was seen 'consorting' with the convicted offender;
 - The name of the convicted offender;
 - That the person may be prosecuted if they continue to consort with that particular convicted offender;
 - That the offence is punishable of up to three years imprisonment and/or \$16,500 if they continue to consort with the convicted offender;
 - Information about internal review mechanisms if they want to challenge the validity of the official warning',³

Additionally we recommend that every person who receives a warning must be provided with contact details for services that provide free legal advice.

Australia's human rights obligations

10. Review of the consorting provisions must be grounded in a human rights framework.
11. Australia is a party to the *International Convention on Civil and Political Rights* (ICCPR).⁴ The ICCPR provides specific protection of an individual's right to freedom of association and places specific obligations on Australia to protect these rights.⁵ An individual's right to freedom of association is also closely linked to other rights such as the right to meet for common purpose, to socialise and to assemble peacefully.
12. WLS NSW submits that the consorting provisions significantly impinge on an individual's right to freedom of association and as such are inconsistent with Australia's human rights obligations. The consorting provisions also impinge on a person's right to participate in cultural life. This is of particular importance for Aboriginal and Torres Strait Islander people as discussed below. Accordingly, the consorting provisions should be repealed in their entirety.

³ Kingsford Legal Centre Submission *Legislative Review of the Consorting Provisions* (February 2014) at 4

⁴ *International Convention on Civil and Political Rights*, ratified by Australia on 13 August 1980 ('ICCPR')

⁵ Article 22 ICCPR

Recommendation:

The consorting provisions be repealed.

Disproportionate effect on advantaged and vulnerable groups

13. WLS NSW is concerned that the consorting provisions disproportionately impact upon disadvantaged and marginalised groups, including Aboriginal and Torres Islander persons, culturally and linguistically diverse communities, people with an intellectual disability and young people. It is likely that this is in large part because such groups are more likely to congregate in open spaces and thus are often more visible to police.
14. The data outlined in the *Issues Paper* indicates that the consorting provisions are being used against disadvantaged and vulnerable groups where there is limited evidence that people within these disadvantaged and marginalised groups are involved in organised criminal activity.
15. WLS NSW is concerned about the number of Aboriginal and Torres Strait Islander people who have been targeted by the consorting provisions and in particular the number of Aboriginal and Torres Strait Islander women who have been targeted.
16. As identified in the *Issues Paper*, 40% of all people who received a warning for consorting or were given a warning about consorting in the first 12 months of use were Aboriginal or Torres Strait Islander people.⁶ Two thirds of the children and young people targeted by the consorting provisions were Aboriginal or Torres Strait Islander people and figures show that the majority of women dealt with under the consorting provisions were Aboriginal or Torres Strait Islander people.⁷
17. The statistical data outlined in the *Issues Paper* indicates that Aboriginal and Torres Strait Islander people comprise approximately 2.5% of the total NSW population.⁸ We note that figures for Aboriginal and Torres Strait Islander persons targeted by the consorting provisions are greatly disproportionate to the percentage of Aboriginal and Torres Strait Islander people in the population.
18. WLS NSW notes the ‘significant variation between the use of the consorting provisions against Aboriginal people by general duties police and use by officers attached to specialist squads targeting organised crime and criminal groups.’⁹ We note further that ‘very few of the uses by the specialist squads involved Aboriginal people, where as the proportion of uses by general duties police against Aboriginal people was significantly higher.’¹⁰ Aboriginal and Torres Strait Islander people have not been common targets of the two specialist squads who focus on organised criminal activity and gangs. WLS NSW believes that this is a strong indication of the likely low involvement of Aboriginal and Torres Strait Islander people in this type of offending and submits that this is also an indication that the consorting provisions, in practice, are not being used to target criminal gangs in the way in which the legislation was intended.

⁶ *Issues Paper* at 29

⁷ *Issues Paper* at 30

⁸ *Issues Paper* at 28

⁹ *Issues Paper* at 31

¹⁰ *Issues Paper* at 31

19. The issue of over-policing has previously been raised by non-government organisations as a factor in the over representation of Aboriginal and Torres Strait Islander people in the criminal justice system.¹¹
20. WLS NSW has previously raised concerns about the over-representation of Aboriginal and Torres Strait Islander women in custody:

According to the Australian Bureau of Statistics report Prisoners in Australia there was an increase of 20% in Aboriginal and Torres Strait Islander female prisoners over the period June 2011 – June 2012, compared to a 3% increase for non-Indigenous female prisoners in the same period.

Based on the experiences of our clients, it is our conclusion that the dramatic rise of incarcerated Aboriginal and Torres Strait Islander is closely correlated with over-policing in Indigenous communities, and a failure to pursue non-custodial sentencing option for Indigenous women in contact with the criminal justice system.¹²

21. As outlined in the *Issues Paper*, many Local Area Commands have indicated that they:

were targeting people spending time in certain locations in response to complaints received from businesses and members of the public who expressed concern or fear in relation to these people's presence.¹³

22. Furthermore, Local Area Commands have indicated that 'a motivating factor for police was to respond to the community perception of what was taking place.'¹⁴
23. We are concerned that Police are using the consorting provisions in a manner which may legitimise racism and foster social exclusion.
24. We submit that the provisions are too broad, provide Police with too much discretion and are open to misuse in circumstances for which they were not intended. This provides further evidence that the provisions should be repealed.

Recommendations for amendment

25. As stated above WLS NSW strongly recommends repeal of the consorting provisions.
26. Should the provisions be retained, we suggest a number of amendments to increase protections afforded to people from vulnerable and disadvantaged group and minimise the unintended consequences of the current provisions which have resulted in the over-policing and over-representation of Aboriginal and Torres Strait Islander people in particular. Such amendments will also go some way to ensuring that the legislation is used for its intended purpose.

Narrow the application of the consorting provisions to persons involved in serious criminal activity

27. WLS NSW submits that in the event the consorting provisions are not repealed then the

¹¹ Joint NGO Coalition, *Universal Periodic Review of Australia: Fact sheet 7: Aboriginal and Torres Strait Islander peoples*. 2010.

¹² WLS NSW Submission to the Committee on the Elimination of Discrimination against Women *General Discussion on Access to Justice* (2013) at 7 accessed on 10 March 2014 at: <http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/WomensLegalServicesNSW.pdf>.

¹³ *Issues Paper* at 21

¹⁴ *Issues Paper* at 21

definition of consorting must be significantly narrowed. This would provide consistency with other Australian jurisdictions where use of consorting provisions is limited to specific categories of offenders or people suspected of having committed particular types of offences.

28. Under the NSW consorting provisions, 'associations that are proscribed are those between a person previously convicted of an indictable offence and any other person.'¹⁵ 'Indictable offences make up the majority of criminal offences and include virtually all types of criminal activity.'¹⁶ Accordingly, the provisions in their current form allow for broad application that far exceeds the intended scope of preventing organised crime.
29. The legislation should be narrowed to persons who have previously been involved in organised crime. We propose that the definition of 'convicted offender' within section 93W of the *Crimes Act 1900 (NSW)* be redefined as a person who has been convicted of a criminal group offence under section 93T of the *Crimes Act 1900 (NSW)*.
30. Section 93T of the *Crimes Act 1900 (NSW)* makes it an offence to participate in a 'criminal group'.¹⁷
31. A 'criminal group' is defined as a group of three or more people who have as their objective, or one of their objectives, obtaining material benefits from conduct that constitutes a serious indictable offence or committing serious violence offences.¹⁸
32. A 'serious violence offence' is an offence punishable by imprisonment for life or for a term of 10 years or more, where conduct constituting the offence involves:
 - loss of a person's life or serious risk of loss of a person's life, or
 - serious injury to a person or serious risk of serious injury to a person, or
 - serious damage to property in circumstances endangering the safety of any person, or
 - perverting the course of justice in relation to any conduct that, if proved, would constitute a serious violence offence.¹⁹
33. We also believe that the time period between a conviction and the issuing of a consorting warning should be restricted. Currently, a warning may be issued at any time after a person has been convicted for the relevant offence. These provisions are unnecessarily broad and far exceed the intended purpose of the legislation. We propose that an appropriate time frame between conviction and the issue of the warning should be limited to five years.

Recommendation:

The definition of 'convicted offender' within section 93W of the *Crimes Act 1900 (NSW)* should be redefined as a person who has been convicted of a criminal group offence under section 93T of the *Crimes Act 1900 (NSW)* within the last five years.

¹⁵ *Issues Paper* at 22

¹⁶ *Issues Paper* at 22

¹⁷ Section 93T (1) – (5)

¹⁸ Section 93S(1) *Crimes Act 1900 (NSW)*

¹⁹ Section 93S(1) *Crimes Act 1900 (NSW)*

Time limits

34. There should be a time limit on the currency of a warning. Warnings are currently valid for an indefinite period of time.
35. We note that the Police have introduced a policy that criminal proceedings are not to be commenced for consorting 'unless the occasions of consorting occurred within a six month period, unless exceptional circumstances exist.'²⁰ While we support limiting the time frame in which a warning may remain valid, we do not believe that Police policy contained in the *Consorting Standard Operating Procedure* is sufficient protection against unfair prosecution. For clarity and to ensure that prosecutions take place only in appropriate circumstances, we recommend that this protection be inserted into the legislation.

Recommendation:

There should be a time limit on the validity of a warning. Consorting should only be an offence if the two occasions of consorting occurred within a six month time frame from each other.

Definition of family

36. Section 93Y(a) of the *Crimes Act 1900 (NSW)* specifies that consorting with family members, if it is reasonable in the circumstances, is a defence to the offence of consorting.²¹ 'Family members' is not defined in the Act.
37. WLS NSW is concerned that the failure to include a definition of 'family' or 'family member' may result in a narrow interpretation. This may have an adverse impact on people from Aboriginal and Torres Strait Islander communities where a narrow interpretation may not adequately take into account broader family structures and kinship groups and potentially criminalise interactions between Aboriginal and Torres Strait Islander family and kinship groups. We submit that there needs to be adequate measures in place to ensure protection of these important social and cultural relationships.
38. The intention of the legislation was the introduction of reforms designed to 'combat organised crime in further support of police in their war on drive-by shootings,'²² not to criminalise '...everyday, innocent relationships which should not be the subject of prosecution.'²³

Recommendation:

A definition of 'family members' should be included in section 93Y of the *Crimes Act 1900 (NSW)*. The definition should recognise the broad understanding of family and kinship ties of the Aboriginal and Torres Strait Islander communities.

²⁰ *Issues Paper* at 19

²¹ 93Y(a) *Crimes Act 1900 (NSW)*

²² The Hon. Barry O'Farrell MP (Premier of NSW), *New Laws to Tackle Drive-by Shootings*, media release, NSW Government, Ministry for Police and Emergency Services, Sydney, 13 February 2012, in NSW Ombudsman, *Consorting Issues Paper: Review of the use of the consorting provisions by the NSW Police Force (Issues Paper)* November 2013 at 1

²³ *Issues Paper* at 1

Expansion of existing defences

The right to participate in cultural life

39. The narrow scope of the current defences to consorting means that cultural and social interactions of Aboriginal and Torres Strait Islander people are unjustly criminalised, significantly impinging on human rights.
40. WLS NSW believes that the defences to consorting should include specific protections for consorting that occurs in the course of cultural activities.
41. The list of six defences does not provide protection for many types of legitimate social interactions. For example, the existing defences do not provide protection for members of Aboriginal and Torres Strait Islander communities participating in cultural practices and significant events. This could have serious unintended consequences.
42. For instance, there is no exemption for an Aboriginal person participating in Sorry Business. During the grieving process, it is often very important for an Aboriginal person to be around their family and community in times of Sorry Business. It is important that they are able to fulfil their cultural roles and responsibilities and are able to pay their respects. This period usually extends further than just the day of the funeral. We are deeply concerned that the consorting provisions may prevent an Aboriginal person from exercising their right to take part in such cultural practices.
43. The consorting provisions may also capture participation in cultural events such as the annual NSW Aboriginal Rugby League Knockout. The Knockout is one of the largest Aboriginal and Torres Strait Islander gatherings in Australia and sees communities from all across the State come together to represent their community, showcase the host nation's traditional culture, share knowledge and reconnect with family.
44. WLS NSW believes that placing limitations on a person's ability to take part in cultural events and practices such as those outlined above amount to a breach of Australia's international human rights obligations.
45. The right to take part in cultural life is found in Article 15, paragraph 1(a) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), ratified by Australia on 10 December 1975 and in the *International Convention on the Elimination of All Forms of Racial Discrimination* (CERD), which was ratified by Australia on 30 September 1975.²⁴
46. General Comment No. 23 of Committee on Elimination of Racial Discrimination specifically outlines States obligations in relation to Indigenous peoples. Amongst other recommendations, the Committee in particular calls upon State parties to:
 - (a) recognize and respect indigenous distinct culture, history, language and way of life as an enrichment of the State's cultural identity and to promote its preservation... [and]
 - (e) ensure that indigenous communities can exercise their rights to practise and revitalize their cultural traditions and customs and to preserve and practise their languages.²⁵
47. General Comment No. 21 of the Committee on Economic, Social and Cultural Rights states

²⁴ Art 5. Para 5 (e) *International Convention on the Elimination of All Forms of Racial Discrimination* ratified by Australia on 30 September 1975

²⁵ General Comment No. 23 of Committee on Elimination of Racial Discrimination at paragraph 4(a) and (e)

that the right to take part in cultural life:

requires the State party both abstention (i.e., non-interference with the exercise of cultural practices and with access to cultural goods and services) and positive action (ensuring preconditions for participation, facilitation and promotion of cultural life, and access to preservation of cultural goods).²⁶

48. In relation to the specific protection for Indigenous peoples, the Committee on Economic, Social and Cultural Rights in General Comment 21 states:

State parties should take measures to guarantee that the exercise of the right to take part in cultural life takes due account of the values of cultural life, which may be strongly communal or which can only be expressed and enjoyed as a community by indigenous peoples. The strong communal dimension of indigenous peoples' cultural life is indispensable to their existence, well-being and full development, and includes the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.²⁷

49. On 3 April 2009 the Australian Government formally expressed support for the Declaration on the Rights of Indigenous Peoples. Article 11 states:

Indigenous peoples have the right to practice and revitalize their cultural traditions and customs.²⁸

Introduction of additional defences

50. In addition to a defence to consorting that occurs in the course of cultural activities, we support an expansion of the current defences to cover:

- consorting between people who live together;
- consorting between people who are in a relationship;
- consorting that occurs in the provision of therapeutic, rehabilitation and support services;
- consorting that occurs in the course of sporting activities;
- consorting that occurs in the course of religious activities; and
- consorting that occurs in the course of genuine protest, advocacy or dissent.²⁹

51. It is conceivable that some women participating in domestic violence support groups or in annual events such as International Women's Day and Reclaim the Night may have convictions for indictable offences and as such may be captured by the consorting provisions. We submit this is not the intention of the legislation and highlights the importance of expanding the defences to include, for example, consorting that occurs in the provision of therapeutic, rehabilitation and support services and consorting that occurs in the course of genuine protest, advocacy or dissent.

²⁶ General Comment No. 21 Committee on Economic, Social and Cultural Rights at paragraph 6.

²⁷ General Comment No. 21 of the Committee on Economic, Social and Cultural Rights at paragraph 36

²⁸ Art. 11 *Declaration on the Rights of Indigenous Peoples*

²⁹ *Issues Paper* at 45

52. We note the list of defences is currently an exhaustive list. We submit it should be an inclusive and not an exhaustive list.
53. We further note that it was ‘... not the intention of the section to criminalise meetings where the defendant is not mixing in a criminal milieu or establishing, using or building up criminal networks.’³⁰

Recommendations:

There should be a defence to consorting that occurs in the course of cultural activities.

In addition, the list of defences to consorting should be expanded to include the following:

- consorting between people who live together;
- consorting between people who are in a relationship;
- consorting that occurs in the provision of therapeutic, rehabilitation and support services;
- consorting that occurs in the course of sporting activities;
- consorting that occurs in the course of religious; and
- consorting that occurs in the course of genuine protest, advocacy or dissent.

The list of defences should be an inclusive list instead of an exhaustive list.

General defence of reasonable excuse

54. WLS NSW submits that the inclusion of the above defences will decrease the likelihood that innocent social interactions are unfairly or unjustly captured by the legislation. However, we submit that there are likely to be numerous other innocent and legitimate social interactions that fall outside these categories that the legislation did not intend to target and should not be criminalised. As such, we support the inclusion of a general defence of reasonable excuse.
55. A general defence of reasonable excuse would be consistent with the majority of defences to consorting provisions in other Australian jurisdictions.³¹
56. While it is useful to identify categories of legitimate association to provide guidance to both community members and Police, the risk of excluding some categories of legitimate association is high. The introduction of a general defence of ‘reasonable excuse’ will go some way to addressing this concern.

Recommendation:

A general defence of ‘reasonable excuse’ should be included in addition to the list of defences.

Burden of proof

57. Under the current consorting provisions, the defendant bears the onus of proving that the consorting falls within one of the six existing defences and that the consorting was reasonable in the circumstances.

³⁰ *Issues Paper* at 2

³¹ *Issues Paper* at 45

58. This is in direct contrast to the general principle of criminal law where the prosecution must prove the elements of the offence and rebut any defences raised by the defendant.³²
59. WLS NSW submits that there is no justification for the reverse onus of proof and we are concerned that this will lead to unjust outcomes.
60. We note the high likelihood that many vulnerable people inadvertently caught by the consorting provisions will not be eligible for legal aid and will therefore need to represent themselves before the court. The reverse onus of proof places defendants in an extremely difficult position, particularly where they are unrepresented. We are concerned about the difficulties defendants will have in articulating their defence or obtaining evidence to support their defence and that this will lead to convictions in circumstances where there are innocent explanations for the consorting.
61. While we acknowledge that this may make it harder to prosecute these matters, given the significant penalties faced by defendants if they are found guilty of consorting, increasing the evidentiary burden for the prosecution is warranted.
62. We submit that reversing the onus of proof will provide greater protection for vulnerable persons and help ensure that prosecutions are only brought against defendants where there is strong evidence that the consorting was not reasonable in the circumstances. We note this is consistent with the intention of the legislation. As outlined by the Parliamentary Secretary in the second reading speech, the intention was to ensure that:

*the provisions of the [Crimes] Act remain effective at combating criminal groups in NSW' and that the Police 'has adequate tools to deal with organised crime.'*³³

Recommendation:

The consorting provisions should be amended to provide that the prosecution must satisfy the court that none of the defences raised by the defendant apply and that the alleged consorting was not reasonable in the circumstances.

Written warnings

63. WLS NSW is concerned that many people may not understand the warning they have been given. They may not understand who they are not allowed to associate with, that further consorting may lead to prosecution for a serious offence, the defences available or who they should contact for help. We believe that this may lead to reoffending and convictions in unjust circumstances.
64. The current consorting provisions specify that official warnings may be given verbally or in writing. We note that only four written warnings have been issued by Police, one of these at the request of the person.³⁴
65. We are concerned that these provisions are likely to be particularly problematic for people from disadvantaged or vulnerable groups, such as:

- people from culturally and linguistically diverse backgrounds;

³² *Issues Paper* at 47

³³ *Issues Paper* at 2

³⁴ *Issues Paper* at 42

- persons with intellectual disability;
- persons with mental health issues;
- young people; and
- Aboriginal and Torres Strait Islander persons.

66. We submit that these problems could be addressed by requiring Police to issue written official warnings. We endorse the recommendations made by Kingsford Legal Centre that ‘the written official warnings should include:

- The time and date the person was seen ‘consorting’ with the convicted offender;
- The name of the convicted offender;
- That the person may be prosecuted if they continue to consort with that particular convicted offender;
- That the offence is punishable of up to three years imprisonment and/or \$16,500 if they continue to consort with the convicted offender;
- Information about internal review mechanisms if they want to challenge the validity of the official warning.³⁵

We recommend further that persons receiving warnings must be provided with contact details for services that provide free legal advice.

67. Police should be required to explain the warning to the person and in some circumstances it may be appropriate that a relevant support person is present for the warning, for example, where a person has an intellectual disability.

Recommendation:

Consorting provisions should require police officers to provide official warnings in writing, in addition to giving a verbal warnings. The written warning should include the following information:

- The time and date the person was seen ‘consorting’ with the convicted offender;
- The name of the convicted offender;
- That the person may be prosecuted if they continue to consort with that particular convicted offender;
- That the offence is punishable of up to three years imprisonment and/or \$16,500 if they continue to consort with the convicted offender;
- Information about internal review mechanisms if they want to challenge the validity of the official warning; and
- Contact details for services that provide free legal advice.

Additionally we recommend that every person who receives a warning must be provided with contact details for services that provide free legal advice.

³⁵ Kingsford Legal Centre Submission *Legislative Review of the Consorting Provisions* (February 2014) at 4

Review of validity of an official warning

68. There is currently no process to challenge the validity of an official warning other than during a defended hearing into the consorting charge.
69. Good practice and procedural fairness requires a formal review process wherein the validity of a warning can be challenged. This process should include an internal review process and an external review mechanism.

Recommendation:

The consorting provisions should provide for a formal review process to assess the validity of official warnings. This should include both an internal and external review process.

70. If you would like to discuss any aspect of this submission, please contact Gabrielle Craig, Senior Solicitor or Shannon Williams, Senior Community Access Worker on 02 8745 6900.

Yours faithfully,
Women's Legal Services NSW

Janet Loughman
Principal Solicitor