

Walking the talk: Bentham IMF and PIAC

If you have limited means, the threat of an adverse costs order can discourage you from enforcing your legal rights - even if you have suffered a serious injustice and have a strong legal case.

This challenge is particularly acute for public interest test cases in the discrimination jurisdiction, such as the ones undertaken by PIAC, because it falls to the people who suffer discrimination to take on the risk involved in litigation. Put simply: losing one's case could give rise to a costs order that means the client also losing their home.

Australia's largest litigation funder, Bentham IMF Limited (Bentham IMF), has supported PIAC since 2011 through sponsorship, and by providing costs indemnities in high-profile discrimination cases.

Where it provides such an indemnity, Bentham IMF is removing a significant barrier to a person being able to enforce their rights. Executive Director of Bentham IMF, John Walker, recently spoke with the Bulletin about civil justice, pro bono work and why they support PIAC.

Bentham IMF's first case with PIAC was Greg Killeen's disability discrimination complaint about many of Sydney's supposedly wheelchair-accessible taxis. The case came about after Greg Killeen, who has quadriplegia, noticed that many taxis licensed in NSW as wheelchair-accessible taxis were unsafe for wheelchair passengers and too small

to access.

The case was successful, and in January 2011 the Federal Court found that the Disability Standards had been breached. As a result, the Department of Transport issued a new Wheelchair Accessible Taxi Measurement Protocol, increasing the minimum amount of useable space required for all new wheelchair-accessible taxis. Since 1 October 2011, all new wheelchair-accessible taxis must meet the new guidelines to be licensed.

'When you have identified that there is discrimination and the relevant organisations are not acknowledging the norm that should be enforced, PIAC becomes one of very few that will take that organisation to task,' explained John Walker.

'That's why we are proud to assist applicants by promising to pay the respondent's costs in the unfortunate case that they lose and are ordered to pay.'

Bentham IMF has also provided adverse costs indemnities in two other major discrimination cases.

The first was Julia Haraksin's case against Murrays Australia Ltd, a landmark case enforcing the rights of wheelchair users to use buses.

The second was Graeme Innes' case



John Walker, Executive Director Bentham IMF

against Sydney Trains, which has improved the use of audible next-stop announcements on trains for the benefit of people like Mr Innes, who is blind.

While the partnership between Bentham IMF and PIAC clearly has been very successful in facilitating public interest litigation, John Walker has also noticed some benefits for Bentham IMF itself.

'Bentham IMF is a change agent in the sense that we created the litigation funding market in Australia. We deal with a broad range of stakeholders, including regulators, courts, lawyers, journalists, and capital markets. People need to learn to trust you, so living what you are saying is important.

'PIAC specialises in working for social justice, which is different from our work - so if IMF can provide some resources for PIAC to do its job better, then we feel like we've been able to give back to the community too,' added John Walker.

For more information about PIAC's cases, or to find out about supporting PIAC, visit www.piac.asn.au.

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