T R A N S C R I P T

LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry into a legislated spent convictions scheme

Melbourne—Monday, 1 July 2019

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WITNESSES

Ms Jennifer Black, Principal Solicitor, and

Ms Hui Zhou, Principal Solicitor, Fitzroy Legal Service.

The CHAIR: Thank you so much for coming along. As you are well aware, this is an inquiry into spent convictions. All evidence is being recorded today. Just so you are well aware, any information, any evidence, taken at the hearing is protected by parliamentary privilege, so you are protected against any action for what you say here today. However, if you go and repeat that outside, those comments will not be protected. We invite you to speak for 5 or 10 minutes, and then if we could open it up for questions that would be wonderful.

Ms BLACK: We would just like to start by acknowledging the traditional owners of the land which we sit on, past, present and emerging. My name is Jen Black and this is Hui Zhou, and we are both principal solicitors at Fitzroy Legal Service. Fitzroy Legal Service has a long and proud history. We are one of the oldest community legal centres in Australia, and we have recently merged with Darebin community legal service. Since our inception our centres have worked alongside criminalised communities, with incarcerated people, with racialised communities and with women and children who have experienced gender-based and family violence. We have provided frontline legal assistance to these communities, and we also have a strong history advocating for justice law reform, including for a Victorian spent convictions scheme. So we applaud your efforts on this very important piece of legislation.

With this legislation Victoria has an opportunity to learn from other jurisdictions and be a leader in expanding the attainability of a second chance, a scheme that genuinely pursues values of transparency, fairness rehabilitation, community safety and wellbeing. We have provided you with a brief document containing our draft recommendations, a comparative table and some case studies which are largely drawn from our casework. We now have an updated version of our recommendations and a document explaining the Women Transforming Justice project, which we will refer to in our presentation. We do not propose to talk through all 16 recommendations, but rather some key points in relation to recommendations 1, 2, 6 and 7.

To begin with recommendation 1, the question of eligibility, many of our clients at Fitzroy Legal Service suffer from the stigma of the disclosure of a non-conviction disposition for relatively minor, sometimes once off, low-level criminal offending. We therefore support in recommendation 3 that no conviction records should be immediately spent. However, the vast majority of our clients have lengthy criminal histories and cycle in an out of prison with sentences of one month up to four years. Additionally many of these clients have experienced significant harms at an early age, and these harms often include exposure or direct experience with serious family violence. A large number of these clients also have single or multiple diagnoses of mental illness, their reliance on illicit drugs has often begun from an early age, 11 or 12, and family support or social supports are incredibly limited. There is also emerging evidence that we are seeing in our practice that this cohort is being remanded more often and being sentenced to more prison for time served on remand as a result of the recent Victorian bail change reform.

We submit that rehabilitation for this cohort of clients is really an extraordinary achievement, often involving intensive drug rehabilitation, healing from past trauma and navigating complex systems to obtain the necessary social support, such as housing or mental health services. A recovery journey can take many forms, and it is not unusual for these clients to be marked by intermittent periods of relapse or reoffending. Employment, in this context, is particularly important because it is a stabilising and protective factor, and it integrates our clients into a community that they have long been excluded from.

The women in the Women Transforming Justice project are examples of this extraordinary perseverance. They are all women with lived experience of prison who are now employed by Fitzroy Legal Service, and they use their knowledge and experience of the prison system to guide our advocacy regarding women's criminalisation and incarceration. We submit that it is cases like these, alongside others, that deserve recognition in a Victorian spent convictions scheme. We therefore recommend that the eligibility limit for the Victorian spent convictions scheme include imprisonment and be based on length of imposed sentence, aligning more closely with that of

the United Kingdom's spent convictions scheme—up to four years imprisonment—rather than the more limited Australian domestic examples.

Recommendation 2, 'excluding categories of offending': as the committee will have observed at the open mic forum on the evening of 19 June, human stories of interaction with the criminal justice system are very complex and not uniform. As such, we do not support the exclusion of specific categories of offences from the scheme. However, if certain categories of offences are excluded—for example, sex offences or drug trafficking—we would urge the committee to enable a mechanism for judicial discretion where demonstrated exceptional circumstances are present. The case studies we have provided you with—the case studies of Sammy, Simon, Julian and Alex—we argue, tell the stories of such exceptional circumstances and the potential of perverse outcomes from a one-size-fits-all approach.

Ms ZHOU: If I may take you to our recommendations 6 and 7, which are interrelated and relate to the crime-free period and the mechanism for review, on the question of what length, if any, the crime-free period should be, we say that any legislated crime-free period should be the minimum—that is, the least restrictive—period to meet the objectives of the scheme and should be determined based on evidence. Studies looking at the predictive effect of a criminal record on a person's future offending have shown that the more years a person is crime-free after conviction, the less predictive a criminal record is on any future offending. It has been evidenced that after being crime-free for about six to seven years the risk of future offending is relatively equal to a person with no criminal history at all.

Given the understanding that employment is one of the greatest factors preventing reoffending, imposing a lengthy and immutable crime-free period could be setting people up to fail. We therefore say that the committee should aspire to as minimal a legislated crime-free period as possible. For young people the impact of a crime-free period on their rehabilitation is particularly important, and therefore we ask the committee to take that into account as well when determining how to deal with the crime-free period with respect to young people—and when I talk about young people, I mean the broader definition of that, not just with respect to the Children's Court matters.

The committee will see that in an earlier draft of the recommendations we had provided to you we recommended judicial discretion to reduce or waive any legislative crime-free period as a decision in sentencing. We have thought long and hard about this. There are considerable benefits to allowing the courts to determine this in sentencing. For example, the fact that courts have all the circumstances of a relevant case before them and are able to weigh up all the factors carefully and make a decision that is fair and transparent is one of the reasons. However, we also understand that determining a crime-free period as part of a sentencing disposition would cause some difficulties operationally. For the most part it would mean that any decision about reducing the crime-free period would always be made at a specific point in time—that is, at sentencing—and therefore would not take into account any steps towards rehabilitation after that sentence has been imposed and would therefore exclude benefit to a large range of people who progressively rehabilitate afterwards.

Ultimately our primary concern is preserving an ability for an individual who has circumstances that warrant a shorter or indeed no crime-free period at all to have those circumstances carefully considered. Consistent with the earlier discussion on the complexity of human stories of interactions with the criminal justice system, our submission is that a blanket and immutable crime-free period is at odds with a scheme that genuinely seeks to allow people the opportunity to move forward with their lives and away from a criminal past that no longer reflects them. Our view is that in order to meaningfully operate, any spent convictions scheme must have an avenue or mechanism for exceptional cases to be considered. This mechanism would allow a person to make an application for a number of types of relief, including, for example, to apply for a waiver or reduction of the crime-free period, or to be included into the scheme, where they would otherwise have been excluded, for example, because of a longer period of imprisonment or because their conviction is for an offence that is specifically excluded, or alternatively to apply for a subsequent conviction to not be taken into account within a crime-free period. This is relevant, for example, if a person was convicted of a fairly serious offence and during the crime-free period commits something that is relatively minor. We say that in these circumstances they should be able to apply to have this intervening offence not considered in the application of the crime-free period. The mechanism would operate to essentially safeguard against perverse outcomes. Because everyone's

interaction with the criminal justice system is unique the scheme needs to be flexible enough to fairly apply to those cases that require a more nuanced understanding of their circumstances.

Again, if you revisit the case studies that have been provided, Simon's story is one that reflects how a criminal conviction can come about and unfold in unexpected ways. His offence was committed 40 years before he was then charged with it, and so if he were to have to wait another, say, seven or 10 years before his crime-free period would apply, that would be an extraordinary amount of time to wait. Similarly for Julian and Alex, who have shown steps of rehabilitation that reduces the likelihood of their offending, we say that it would be in the public's interest for stories such as these to be considered by a separate authority, potentially the courts, to determine whether they could be included in the scheme.

The CHAIR: Things to think about. Thank you. It certainly really expanded things, and I think this is an interesting opportunity for Victoria because we do have the experience of all the other jurisdictions. However, looking at all the other jurisdictions, they have drawn a line: they have said a 10-year crime-free period for adults and for a three to five-year crime-free period for young people. I appreciate the arguments for being flexible on that, but how would you suggest that we would articulate that in legislation, given that most spent convictions legislation has drawn those lines, whereas what you are suggesting is no blanket period? How would we articulate that?

Ms ZHOU: What we are suggesting is that, if there is a crime-free period, there is a possibility for a review of that.

The CHAIR: Sorry, we have got Youth Parliament going on, so they are dividing and voting and doing lots of wonderful things down there. If the bell rings again, we will just stop. Sorry, can you just take that up?

Ms ZHOU: Yes. So what we say is that a crime-free period, if legislated for, should also recognise that there should be a mechanism so that people can apply to not have it apply to them in a specific case or to have it reduced on the basis of their circumstances, and when determining what the crime-free period should be, the committee should not just look at the experiences of other jurisdictions, which is absolutely informative, but also look at all the studies that are available on what rehabilitation actually means and what the evidence is for the time period that someone is more likely to remain crime free after they have committed crime initially. We say that this is an opportunity to lead the way for that kind of evidence-based legislation.

The CHAIR: Yes, and your point saying that six or seven years of being crime free, the chances of you committing another crime are the same as the chances of someone who has never had an offence committing a crime?

Ms ZHOU: Yes, that is correct; and that is well below the 10-year period that some of the other Australian jurisdictions have put in place.

The CHAIR: Yes. I think that is interesting.

Ms LOVELL: I was just interested. I think you said that you did not believe that any conviction should be excluded. Can you just expand on that as to why you do not think that sexual offences or extremely violent crimes should be excluded?

Ms BLACK: Sure. I guess the first point is a philosophical one. I mean, at Fitzroy Legal Service our work is underpinned by a faith in rehabilitation and a value that each of us is more than the worst thing we have ever done, and it is difficult to reconcile that value with excluding categories of offences from a scheme like this. But I think there are also some pragmatic considerations there. One is that, as with the case studies, within every category there is nuance, and within both, I guess, the offence and the individual, there is nuance—and I think the case studies illustrate that. The case study of the young person who filmed themselves having sex with their girlfriend is very different to perhaps some of the more serious sex offences you might hear about in the media, yet under exclusion of all sex offences they would both be excluded from any scheme.

I think the other point is that spent convictions for particular types of checks or particular types of employment—such as, you know, working in a position of trust or in a childcare centre, those sort of things—would be still disclosable under other regimes such as working with children checks, for example.

Ms LOVELL: I do not know that that really explained anything to me. It seemed to me you are saying that they would not be excluded if people applied for a working with children check to work in a children's centre, that they are still going to be disclosed—

Ms BLACK: Disclosable under a working with children check, yes.

Ms LOVELL: But you want them to be spent for anything else?

Ms BLACK: Yes, so our view is—

Ms LOVELL: But if they are spent, they are spent. They will not be disclosed for—

The CHAIR: Working with children they still will be.

Ms LOVELL: Working with children, either?

The CHAIR: No, they still will be.

Ms LOVELL: Still will be, okay.

Dr KIEU: Thank you for your submission. Your submission up to now is one of the most flexible ones in terms of the types of convictions and the crime-free period. But, for example, with the Canadian jurisdiction they also consider the number of times that they have been convicted before, and your recommendation 8 seems to be on the opposite position to that. Could you explain a little bit further on your point there?

Ms BLACK: Sure.

Ms ZHOU: So what we are submitting essentially is that if you commit an offence and, for example, if it is a fairly serious offence—say, robbery or something like that—and then in the intervening period you have a less significant offence, maybe something like begging or an offence that is much less serious, you should not be disqualified from having the initial conviction spent within that crime-free period. So there should be some flexibility allowed for the nature of the offending that is subsequent to be taken into account when the scheme is applied.

Dr KIEU: So you would not support the example of the Canadian jurisdiction, that if there is a certain number of times that they have been offending, then they should not be spent?

Ms ZHOU: Yes, that is correct. The reason for that is that there are in our experience people who are particularly marginalised by community, are in fact exposed to more policing and also face circumstances that lead to a greater number of offences. So I think that having a cut-off point for the number of offences that you have committed to be made ineligible for a spent conviction scheme would unduly prejudice those people. The people that I am talking about are people, for example, who are homeless. Obviously when you are homeless you are more exposed to policing because you are on the street. A lot of offences that relate to sleeping rough are criminalised. It is those types of clients that we see that are cycled through the criminal justice system. Their offending is not particularly serious in the scheme of things, but they are caught up in the system more times than most people. So we say that to cap the number of offences under a scheme would mean that those people would have much more difficult a time in rehabilitating and to move on with their lives than another person.

Dr KIEU: Thank you. We have heard one witness talk about a case. She was a homeless person begging on the street, and every time she was picked up, usually there were multiple offences associated with that, not just one.

Ms ZHOU: Yes.

The CHAIR: I think Simon raises a really interesting circumstance. As we have seen in all other jurisdictions, sex offences are excluded from a spent conviction, and also the time period either occurs from when the person is convicted or to when the person finishes their sentence. Obviously in other jurisdictions, Simon, even though he committed the offence some 20 years ago, would be entering into a period where he

would need 10 years of no conviction. How do you think we would deal with this in Victoria—and I am sorry, it is 40 years later—or how would you recommend we deal with this circumstance in Victoria?

Ms ZHOU: I think there are two ways that you could potentially deal with it, and one is the submission that Jen made earlier which related to not excluding offences. So that is the simpler way. And then the other way is to deal with it by way of having a mechanism for review so that Simon could apply to this body—and it could be a judicial body or it could be an administrative body—to say, 'These were my circumstances at the time. This is how this offending came about. It is 40 years later. Is there a possibility of having some leniency so that the crime-free period is either reduced in my circumstances or waived?'. If there was that kind of mechanism in place then that would open it up for Simon but also for a number of other people who we have listed the studies of in that document.

The CHAIR: He received a community-based order. Was a no-conviction recorded in that? It does not say.

Ms ZHOU: I am not actually sure. My understanding is that he was convicted.

The CHAIR: He was convicted. If he had received a 'no conviction' I am guessing that you would argue that no convictions be automatically spent?

Ms ZHOU: Yes.

The CHAIR: Our previous witness, the former victims of crime commissioner, suggested that that should not be the case, that guilt is guilt whether the conviction is recorded or not. How would you respond to that assertion?

Ms BLACK: I guess there are two points. One is that there is currently a lot of confusion about what will be disclosed. There is a lot of confusion from people who use the courts—who come before the courts. There is a lot of confusion from lawyers, police and prosecutors. I guess enabling a non-conviction outcome to be immediately spent would solve that confusion and arguably align itself with section 8 of the Sentencing Act, which actually talks about the circumstances that a magistrate or a judicial officer might consider imposing a non-conviction disposition, which turns around the individual's circumstances, the circumstances of the offence but also prospects for employment and rehabilitation.

I guess the other thing that I would say is that in our experience the offences that receive non-conviction dispositions are generally very low-level offences. As Hui mentioned, they tend to be offences like—I think the example that Melinda Walker from the LIV gave was stealing a pie from a 7-Eleven or stealing an orange juice or stealing coins from someone's car, the sorts of offences that come from policies and laws that criminalise certain vulnerable groups, such as people who are homeless, people with mental health issues and people who use drugs. Our argument is that it is better to address those issues with social supports and that the sentencing principle of specific deterrence should be less relevant in those circumstances.

Dr KIEU: In your revised submission there is something about Women Transforming Justice. Just for our education, in the 10 years from 2008 to 2018 the number of women prisoners increased 140 per cent, particularly Aboriginal women, at 400 per cent. What is happening? Do you have any insight into that?

Ms ZHOU: Yes, absolutely. In terms of women's pathways into criminalisation and imprisonment a lot of that is related to gender-based trauma. We have been working on the Women Transforming Justice project and working particularly with women who are criminalised because of experiences of violence as young people or experiences of violence in their intimate partner relationships, where they as a consequence become homeless and as a consequence lose access to their children, become involved—

Dr KIEU: But why is it a more recent phenomenon rather than in the—

Ms ZHOU: The more recent phenomenon I think relates in particular to the changes to the bail law. That came into effect in 2017, and what we have seen is that there is an overrepresentation of women. The types of offences that now mean that people find it harder to access bail relate to offences under the Bail Act, so things like not reporting, things like not turning up to court and not meeting your bail conditions, and that disproportionately affects people who are homeless, people who are not in safe accommodation and people

who are using drugs. For us, our experience has been that women are caught up under those bail laws, and when they appear before the court, if there is no safe accommodation for them to be released to, it is much less likely that they will be released at all. The flow-on effect for that is that the corrections stats show that women are in fact serving almost their full time on remand. So they are spending something from about one month and, in some cases, up to 12 months on remand, unsentenced, and then when their matter is finally heard before the courts they are given a disposition of time served, which means that they have on their record an imprisonment record but in fact it is likely that they would never have served time in the first place had it not been that they were on remand.

Ms BLACK: I guess the particular relevance for this committee's consideration is the fact that if you were considering excluding all people who have served terms of imprisonment or if you are considering a low eligibility such as, say, three months, we argue that that will actually prejudice people who have lower level offending who might have ordinarily, but for the bail law changes, benefited from a spent convictions scheme, but because of being denied bail, wrapped up in the bail law changes, they are actually pleading guilty to lower level offences and getting time served for terms of imprisonment—short terms of imprisonment often—for time served on remand.

The CHAIR: Yes. So they would not have got that imprisonment in the first place had they been able to be bailed?

Ms BLACK: Exactly. And we argue that disproportionately affects women and other vulnerable groups such as people who are homeless, people with mental health issues.

Ms LOVELL: Your recommendation 4 states:

> That while a person is engaged in the diversion program pending charges are non-disposable.

Can you just talk a little bit more about the rationale behind that?

Ms BLACK: Sure. So essentially what happens at the moment is when you are eligible for the diversion program there are quite significant hurdles that you need to overcome: you need to be recommended by a police informant for the diversion program, and then there is a process through the Magistrates Court where you will meet the diversion coordinator and you will agree to a diversion plan. The diversion plan might ask you to engage with services—so perhaps continue to see your GP or engage in a men's behaviour change program or some sort of therapeutic component. That diversion plan is adjourned off for a period of time—say, six months or a year—and then it returns to court.

Our experience is that during that diversion plan we have had clients who have gone for positions of employment, and what actually appears on the record is 'Charges pending', which actually has impacted on some of our clients' ability—when there is a choice of two candidates, they will lose out on a job. That is different from most people appearing in the court who have not finalised their charges yet. Those charges pending do not appear on that person's record. So our argument is that diversion candidates are essentially disadvantaged in that sense in that very crucial rehabilitation period where they might be looking to secure employment which will be a protective factor against future offending.

The CHAIR: Recommendation 11—I think given we are now up to 716 000 police checks in Victoria each year—in my reading is actually about limiting who can make those applications. Could you speak a little bit more to that, and who would you limit it to?

Ms ZHOU: I must admit I have not necessarily thought through who—the question of who—and I think that again our only submission with regard to who would be that it needs to be necessary. So I think it is a matter to think through, but we say that it is where people are in positions of trust or there is a specific reason for why a criminal record should be released, that only those circumstances warrant release. With respect to the detail, I have not got any yet, so I apologise for that, but we are happy to take that on notice.

The CHAIR: If you would like to provide further information because I think it is interesting, and it is interesting from a privacy perspective. If we are getting 700 000 police checks being done each year, that has an enormous impact not only on the system but on the people having that information disclosed about. But we

have also heard that people cannot apply for their own police checks. Presumably, if there is a spent convictions scheme, that would be less relevant because there would not be the discretion that we have got now. Is that something you are aware of, that your clients are not applying for something because they are not certain how a police check might come back?

Ms ZHOU: Yes, that is right, and that was the other point that I was going to address: that having to apply for a job knowing that you are going to have a police check is a huge barrier to actually getting out there and applying for those jobs if you know there is something that may appear. I am not sure, practically, about whether a person can apply for their own police check, but what I do know is that for those people who think there is something on the record and are uncertain about it, they are probably more likely to not make that application—and they are anecdotal experiences that we have heard.

The CHAIR: I will just keep going. With the notion of there being a no-blanket crime-free period, or if there was, there would be an ability to ask for a waiver of that, in what circumstances do you think that waiver should be considered?

Ms ZHOU: A couple of them have been addressed already. Where there are exceptional circumstances that could convince a reasonable person with all the circumstances before them to make that waiver, and again it is difficult to say in the abstract because everybody's circumstances are different. I think also where there have been huge steps taken towards rehabilitation, if you could compare someone's circumstances at the time of offending to now and a reasonable person would see that and say, 'Wow, you have taken some extraordinary steps. You should be applauded for your perseverance', then we say that people should have the ability for that work to be recognised. So those are two of the circumstances. Like that case we have talked about already—Simon's case—I think that is another circumstance that, given the extraordinary nature in which that has come about, that should be also reviewable. The question for us, or the crux of it, is really being able to be in a position to put before a decision-maker all of the circumstances that you want taken into account so that a decision can be formed in that way. At the moment with other schemes where it is a blanket rule nobody has that opportunity to be considered.

The CHAIR: We heard from Liberty Victoria that looking at having an exception, so an application to the court for an exception to the legislation, would be an open process, it would be a transparent process, and it could involve the victims of the crime and victim impact statements at that time. Would you see that as an approach that you would support?

Ms ZHOU: Yes, I think so. There has been a lot of work done on restorative justice processes as well, and I think that interaction with victims so far, if it is facilitated properly, could be a really useful way for both parties to actually move on with their lives—that if there is an opportunity to have within this framework some restorative processes, or for people to simply know that the person who has affected their lives negatively at a particular stage has now come good, that could absolutely be an uplifting experience. So again we have not really discussed it prior to today, but it is certainly something to think about. Would you agree?

Ms BLACK: Yes. I think there is great potential in a process like that, I guess, for both the perpetrator and the victim to perhaps have a meaningful engagement about the journey that both parties have been on and where they are now, and I think that could be a very healing process potentially.

The CHAIR: No, that is right. Thank you. That has pushed the envelope. It has given us room to think. Sorry, just one quick question. A number of the jurisdictions have introduced anti-discrimination legislation and the attribute of an irrelevant criminal record or conviction. Are you aware of if that has been applied and how that has been applied in other jurisdictions?

Ms ZHOU: I am not aware.

Ms BLACK: It is a question we can take on notice, in that we do have some expertise in relation to discrimination, and we can definitely address that in our substantive submission.

The CHAIR: That would be appreciated; thank you.

Dr KIEU: The equal opportunity employment act has been brought up a few times in the hearing so far. Just related to this bill, one of the aims of the outcomes of spent convictions is to remove certain barriers for employment for people with a past. In terms of the equal opportunity employment act would you think that there should be requirements that certain employers should not ask the applicants about their past? Would that be a desirable outcome or not, because it would have a similar effect of removing a certain barrier for the employment of other people?

Ms BLACK: I think that is addressed in our recommendation 9 to some extent. Our view is that the effect of a spent conviction should be that the person is regarded and treated as though they have not committed, been charged with, prosecuted for, convicted of or sentenced for that charge and as such they are not required to disclose that spent conviction, and that questions of a personal criminal history should not be included in that spent conviction and questions of a person's character and fitness should not permit reference or consideration of that spent conviction, so that any questions from an employer around a spent conviction would be inappropriate.

Dr KIEU: It should be more than that. For a spent conviction it should be illegal to ask the question, because if the conviction is spent and then you ask a general question whether you have a spent conviction, that would defeat the purpose. But my question is: should we exclude a range of employment that would require a police check? That would have a similar outcome in terms of the barrier to employment. What is your view on that?

Ms BLACK: Is your question: should the question be illegal, essentially?

Dr KIEU: No, there are two questions in that. The first is should it be illegal for an employer to ask whether you have a spent conviction, because that would defeat the purpose that the conviction is spent and then you ask it in a roundabout way? So that is number one. Number two is what is your view on certain employment for which we should not be able to ask for police checks, because that would have effectively a similar outcome to an employment barrier? So there are two questions in there.

Ms ZHOU: Our view is that the police checks should only be performed when it is necessary. So we say that, for example, if you were doing work that did not require a position of trust or did not require certain interactions with vulnerable groups of people you should not be asked to provide information about your previous criminal history. I would agree that to do so—to ask someone those questions—if it was legislated that they were not allowed to ask them or that that sector did not need to ask them to form an opinion about their capability in that position would be discriminatory, or should be discriminatory rather. Does that answer your question in a roundabout way?

The CHAIR: I think it is very difficult to draw those lines. Sometimes with a gardener you might think that that was fine, but then they are gardening at their local primary school or they are in charge of the tools.

Ms ZHOU: Yes. If I may say one point which we had not addressed earlier: with respect to our Women Transforming Justice work we have really recognised the value of peer-based work. As you would be aware, co-design is incredibly relevant these days. What we are doing is asking people for their expertise because they have experienced the system. A lot of organisations really respect and value that but at the same time there are barriers to employment for the women that we are working with because of their criminal history, and so it is this kind of double-edged sword where you are asked to disclose your experience but then your experience is also used against you. For a lot of people it is not just in relation to employment, it is also in relation to studying—for example, not being able to access an internship for a social work degree and not being able to graduate because you have not done that internship. So those are things that can really be mitigated by a spent conviction scheme that can address all of those broader issues.

The CHAIR: Yes, and I think we have heard from other witnesses where their lived experience is valuable to the job that they are applying for but that experience actually excludes them from that work. In some regards it is to do with the policies of the funding bodies. I am guessing with your project you have not found that barrier—you have not experienced that barrier for this pilot.

Ms ZHOU: Not for us personally, but some of the people that we work with have experienced that barrier elsewhere, not with us.

The CHAIR: Certainly I know we had a witness talking about doing an alcohol and other drugs diploma and certificate and that they were excluded from doing a lot of the prac work due to their criminal convictions. Is there a solution to that, or is it just about being practical and weighing it up a bit? I am just not sure how we get around it.

Ms ZHOU: I suppose that mechanism that I spoke about earlier could have an ability to review an application from that person. So they could say, 'This is specifically relevant to the career path of choice. These are the types of skills that I could bring to such a position. Can you take these circumstances into account and, for the purposes of this application, allow my conviction to be spent?'.

The CHAIR: Yes. Maybe just for this course or things like that.

Ms ZHOU: Yes.

The CHAIR: Thank you so much. We will look forward to seeing a substantive submission as well. In the next few weeks, we will send you out a draft transcript of this hearing.

Ms BLACK: Great. Thank you for inviting us.

The CHAIR: Thank you. We really appreciate it.

Witnesses withdrew.