

# ACCESS TO JUSTICE ARRANGEMENTS

Submission to the  
Productivity  
Commission

*November 2013*



Community  
Legal Centres  
NSW



Federation of  
Community Legal Centres  
VICTORIA



COMMUNITY  
LEGAL CENTRES  
TASMANIA

Northern Territory  
Association of  
Community Legal  
Centres

ACT Association of  
Community Legal  
Centres

South Australian  
Community Legal Centres

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## Executive Summary

This submission has been prepared by a number of the peak organisations for Australia's community legal centres<sup>1</sup> in response to the Productivity Commission's *Access to Justice Issues Paper* released in September 2013.

Community legal centres are community organisations that provide free legal advice, information and representation, focussing on the disadvantaged and are a vital part of the existing access to justice system. Based on their community service experiences, community legal centres also encourage governments to reform laws and policies to remove the structural and systemic issues that create legal problems, and educate communities about their legal rights and responsibilities to help prevent legal problems from occurring.

In 2012-13, community legal centres funded under the Commonwealth Community Legal Services Program provided 248,970 advices, a range of other services and in total assisted 211,896 clients across Australia.<sup>2</sup> By providing support and representation to vulnerable Australians, community legal centres make a significant impact on clients' social circumstances and reduce costs to governments, through savings made in diverting matters from the court system, and reducing related health and welfare costs.

This submission is set out as follows:

- **Section 1** outlines the work of community legal centres, noting the effective and responsive nature of community legal centres' services, including its focus on meeting legal need through a range of generalist and specialist services. Particular areas of community legal centres' work are highlighted in sections 3 and 4.
- **Section 2** examines vulnerable Australians' legal need; while recent independent research, most notably by the Law and Justice Foundation of NSW, has significantly improved the evidence base for our understanding of legal need, it has in many ways confirmed community legal centres' understanding of the legal needs in our communities. In this section, we expand on some of the recent research with our own experience. Through the use of case studies, we outline the impacts that community legal centres have for individual clients, complemented by associated activities that increase access to justice.
- **Section 3** focuses on our approach to providing direct legal services, including how we focus our efforts on particularly vulnerable groups, our expertise in working with marginalised communities and individuals with complex legal and social issues and the extent to which community legal centres have been at the forefront of developing both targeted and integrated models of legal service delivery.
- **Section 4** outlines a number of community legal centre activities which support clients and focus on preventing issues from evolving into bigger problems. These exemplify community legal centres' innovative, responsive and effective preventative work.
- **Section 5** seeks to explain current funding for community legal centres, primarily the Community Legal Services Program, outlines the need for a properly supported workforce, and discusses the positive contributions made by pro bono practitioners and volunteers, which community legal centres leverage to provide significant additional services.

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<sup>1</sup> These organisations include: National Association of CLCs; Community Legal Centres NSW; Federation of CLCs (Victoria); Queensland Association of Independent Legal Services; Community Legal Centres Association (WA); Community Legal Centres Tasmania; Northern Territory Association of CLCs; Australian Capital Territory Association of CLCs; and South Australian Council of Community Legal Services.

<sup>2</sup> Source: NALCL, through data sourced from the Commonwealth CLSP.

The terms of reference for this Inquiry ask the Productivity Commission to examine the current costs of accessing justice services and securing legal representation, and the impact of these costs on access to, and quality of, justice. The Productivity Commission has been asked to make recommendations on the best way to improve access to the justice system and equity of representation including, but not limited to, the funding of legal assistance services.

This submission sets out the role performed by community legal centres as a critical element of Australia's mixed legal assistance sector, in which we work alongside legal aid commissions and other community legal organisations, the Aboriginal and Torres Strait Islander Legal Services and the Aboriginal Family Violence Prevention Legal Services. The submission describes community legal centres as efficient, compassionate and effective service providers, delivering successful, sustainable outcomes that promote access to justice in both the short and long term.

In 2012 an independent study found that on average, community legal centres have a cost benefit ratio of 1:18; that is, for every dollar spent by government on funding community legal centres, these services return a benefit to society that is 18 times that cost.

Community legal centres identify, and act on, barriers to justice for the most marginalised and vulnerable members of Australian society. We have developed and implemented comprehensive and successful early intervention measures by:

- using education and accessible information to head off legal problems before they occur;
- taking innovative, consultative and user friendly steps to quickly resolve disputes and other legal problems when they do occur;
- adopting collaborative models of alternative dispute resolution.

Community legal centres have developed and implemented comprehensive and innovative models of legal assistance, and have identified and advocated for changes to unfair or ineffective laws and policies, with proven success in improving access to justice at a systemic level.

We encourage the Productivity Commission to examine the costs and benefits of these activities, particularly understanding the social impact of our work, and the savings realised across multiple portfolios within government. The Productivity Commission is uniquely placed to provide robust, independent evaluation of the costs and benefits of legal assistance services.

Over the past four decades, community legal centres have developed and continually evolved as a community-based response to inaccessible justice systems. We welcome the opportunity to engage with the Productivity Commission as it develops a framework to increase access to justice, and encourage you to contact us to discuss possible reforms to the justice system. We further note that a number of community legal centres have made, or plan to make, their own submissions to the inquiry. We encourage the Productivity Commission to engage in discussions with these, and other community legal centres as the inquiry progresses.

In addition to this submission on the work of community legal centres, we have also submitted two responses on particular areas identified in the Commission's issues paper; *Access to justice for 'disadvantaged parties'* (August 2013) and *Increasing access to justice through alternative dispute resolution* (November 2013; to be submitted under separate cover). We look forward to making additional contributions to support and inform the Commission's work.

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# 1. About Community Legal Centres

Community legal centres are independent community organisations providing equitable and accessible legal services. Community legal centres work for the public interest, particularly for disadvantaged and marginalised people and communities.<sup>3</sup> Community legal centres not only provide legal advice and assistance, but also encourage and enable people to develop skills to be their own advocates. Centres promote human rights, social justice and a better environment by advocating for access to justice and equitable laws and legal systems. Centres work towards achieving systemic change through community legal education, and through law and policy reform, where change is required to ensure fairness and prevent future legal problems.

Community legal centres have been an integral part of the legal assistance sector since the establishment of the first centres in the early 1970s, just prior to the establishment of the Australian Legal Aid office and before the creation of legal aid commissions.

Community legal centres:

- Provide a mix of legal services to individuals, and blend individual assistance with community legal education, systemic advocacy and other early intervention and prevention approaches;
- Seek to provide a safety net, as much as possible within limited resources, for those who cannot obtain legal help from any other provider;
- Use connection with community to identify and address the most pressing legal needs in their target community;
- Are expert in working with people with complex needs, and have been early instigators of targeted strategies and multi-disciplinary or integrated service delivery; and
- Are highly cost effective providers of legal assistance.

CLCs that are full members of CLC state and territory associations must be certified and accredited as having been assessed by trained external reviewers as complying with mandatory service and risk management standards, under a national scheme organised and run by the national peak body, the National Association of Community Legal Centres (**NACLC**).

Community legal centres are able to offer effective and creative solutions to legal problems based on their experience within their community. It is the community relationships that make community legal centres vital organisations able to respond to the evolving needs of their community and it is this relationship with their community that distinguishes community legal centres from other legal services.

Beyond that, community legal centres vary enormously in the range of services they offer, their structure and staffing, the focus of their work and geographic reach.

Community legal centres are located throughout Australia in urban, regional and remote locations.

Community legal centres harness the energy and expertise of thousands of volunteer solicitors, barristers, law students and others, working with staff to provide legal and related

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<sup>3</sup> To illustrate 'disadvantage' through example, a large majority of CLC clients record an income of \$26,000 per annum or less: the Commonwealth Government's *Review of the Commonwealth Community Legal Services Program* noted that collated data demonstrated that 82% of clients earned less than \$26,000 per annum (Review of the Commonwealth Community Legal Services Program (March 2008), page 6).

services. Community legal centres are committed to collaboration with government, legal aid commissions, the private legal profession and community partners to ensure the best outcomes for their clients and the system of justice in Australia.

There are around 200 community legal centres nationally. A number of centres receive no or very little funding; a few are staffed entirely by volunteers. All other centres receive funds from a variety of sources including state and federal governments and philanthropic organisations.

## What do Community Legal Centres do?

Community legal centres offer a range of legal and related services to their client community. Possible services include but are not limited to:

- Information and referral;
- Advice on legal matters;
- Legal casework and representation in targeted areas of law;
- One-off assistance with documents or correspondence, and assistance to people representing themselves;
- Community legal education;
- Law reform and public policy development and advocacy; and
- Related services that vary from centre to centre but can include family violence counselling, Aboriginal liaison, community development, migration agents' advice, and financial counselling.

These services are usually offered for free, although some community legal centres provide fee-based training or other services to cover costs. Community legal centres design their operations to ensure accessibility (for example legal advice may be provided by phone; interviews and advice sessions may be provided after hours or via outreach at places accessible and comfortable for the client groups). Community legal centres employ a range of staff including lawyers, social workers/counsellors (e.g. financial counsellors), and community legal educators. We also have volunteer solicitors, barristers, law students and others working with us to extend our legal services. There are both generalist and specialist centres.

## Generalist Community Legal Centres

Generalist community legal centres are located across Australia. They offer legal advice and assistance to people living in their catchment area. Generalist centres provide confidential legal advice and assistance on a range of issues including:

- Accidents and compensation;
- Civil violence protection/intervention orders;
- Banking and finance;
- Children and young people;
- Consumer rights;
- Credit and debt;
- Crime;
- Employment;
- Environment;
- Family law and relationships;
- Family violence and domestic violence orders;
- Health complaints and issues;

- Housing;
- Human rights;
- Immigration and citizenship;
- Neighbours;
- Property and development;
- Social services, welfare and Centrelink;
- Transport; and
- Wills and estates.

Some generalist centres also offer specialist advice in areas such as tenancy, child support, welfare rights or coronial matters, or target their services to a specific community such as Aboriginal people and Torres Strait Islanders, children and young people, women, older people, people with disability, refugees, prisoners, the homeless, and other groups. The decision to provide such services may be due to targeted funding or a decision by the management committee of the relevant community legal centre to respond to a specific demographic or area of legal need.

### Specialist Community Legal Centres

Specialist community legal centres concentrate on a particular area of law or target a specific group. This can include areas of law such as consumer law, credit and debt, public interest environmental law, welfare rights, mental health, disability discrimination, tenancy, immigration or employment law. Other specialist centres focus on legal issues and services relevant to particular groups, such as laws affecting migrants and refugees, women's legal services, older persons' rights, and so on. The range and type of specialist community legal centres vary from state to state.

Specialist community legal centres can extend and expand the services provided in generalist centres by offering training, advice and support to staff in generalist centres on particular areas of expertise.

A number of states have Public Interest Law Clearing Houses (PILCHs), which are members of community legal centre peak associations. PILCHs serve a particular and important purpose in coordinating pro bono support from the private profession, amongst other things, and work with other community legal centres in their respective states.

### A focus on meeting unmet need

Community legal centres provide assistance to a broad range of people, but usually focus on helping people who cannot afford a lawyer and cannot obtain legal aid either because of the legal aid means test or because legal aid does not assist with their type of legal problem.

In this way, community legal centres provide a safety net for those who have no other option for legal assistance. Unfortunately, limited resources mean that community legal centres can only assist a relatively small proportion of people who need this safety net and community legal centres have to make decisions about how to prioritise scarce resources.

The importance of community legal centres' role in attempting to 'fill the gap' between legal aid and private providers, and the demands this places on community legal centres, cannot be overstated. As the Attorney-General's Department noted in 2009:

“98 per cent of legal aid recipients [receive] an income that would be considered well below the poverty line. This leaves much of Australia unable to afford legal representation but nevertheless ineligible for legal aid”.<sup>4</sup>

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<sup>4</sup> Attorney-General's Department, Strategic Framework for Access to Justice in the Federal Civil Justice System, 2009, page 52



The same point was made by then Shadow Attorney-General, Senator George Brandis QC in 2012:

“Unless you are a millionaire or a pauper, the costs of going to court to protect your rights is beyond you.”<sup>5</sup>

There is evidence that the range of people who are ineligible for legal aid and unable to pay for private legal assistance is growing as demand on the whole legal assistance sector grows. In 2012/13 in Victoria, for example, Victoria Legal Aid changed the guidelines for legal assistance in family, criminal and several other areas of the law. As a result, Victoria Legal Aid could assist 4.6% fewer people in 2012/13 compared with 2011/12, grants of legal aid decreased by 11% and duty lawyer services decreased by 13%. Victoria Legal Aid made 62% more referrals to other agencies, predominantly legal providers of which community legal services, Aboriginal and Torres Strait Islander Legal Services (**ATSILS**) and Aboriginal Family Violence Prevention Legal Services (**FVPLS**) are the only other free providers.

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<sup>5</sup> Brandis G “Lack of access an impending social crisis” *The Australian* 1 June 2012

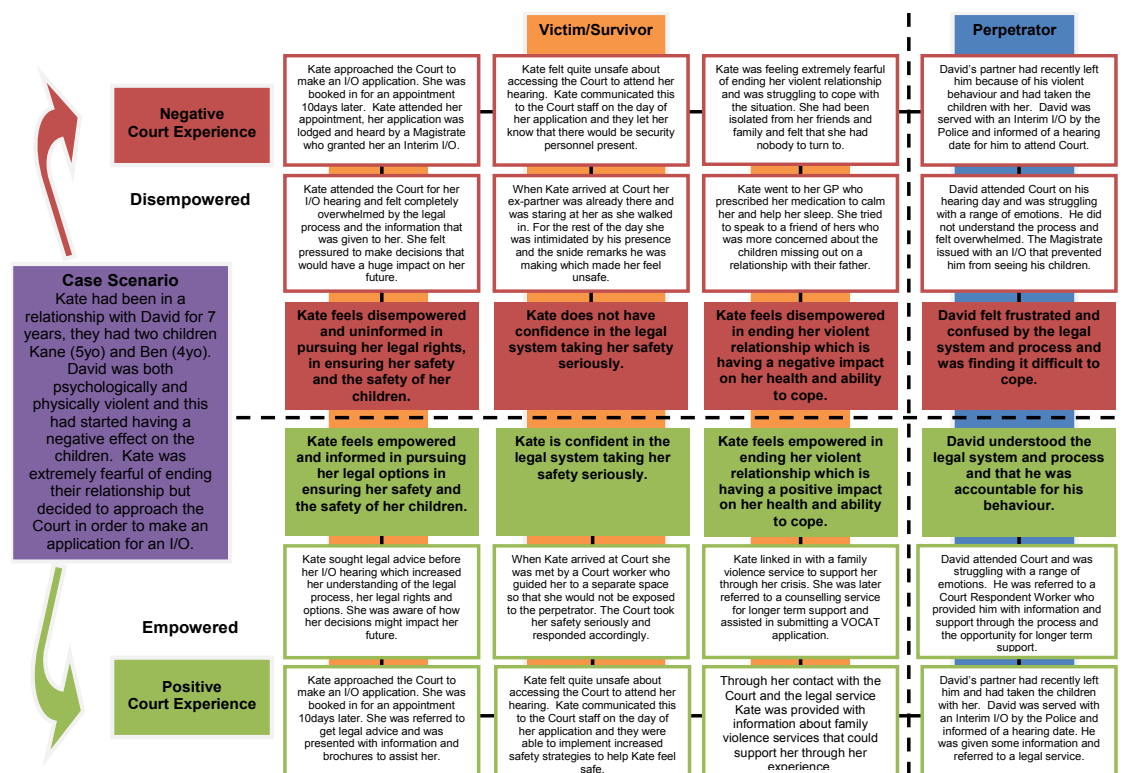
## 2. Understanding legal needs

In this section, we discuss some of the important recent research that has sought to measure and understand legal need, which confirms the experience of community legal centres

For the purposes of this discussion, we accept Johnsen's definition of 'legal need' as legal issues that individuals have not been able to resolve effectively by their own means.<sup>6</sup> Community legal centres break this down further, into 'met' and 'unmet' legal needs. In theory, and expressed as an ideal, legal needs will be met when people with legal issues can access professional assistance to effectively resolve those legal issues; generally, this occurs when they have the resources to engage private legal practitioners, or they qualify for legal assistance services.

Legal need is subject to change over time and is influenced by a range of factors. These factors include growth in population, changes in the demographics of the population and changes in the extent and natures of disadvantage experienced among the population. Factors impacting legal need also include changing social norms and government-driven changes to the legal and regulatory environment. For example deregulation of a number of industries over time has driven legal need among vulnerable and low income consumers and the gradual social and legal recognition of family violence has driven massive growth in legal need as victims access the much needed protection that is increasingly available through the justice system.

Certainly, ensuring access to legal advice and support can improve a person's experience of the justice system, as the following diagram shows:<sup>7</sup>



<sup>6</sup> Johnsen, J.T. 1999, 'Legal Needs in a Market Context', in Regan, F., Paterson, P., Goriely, T. and Fleming, D. (eds), *The Transformation of Legal Aid*.

<sup>7</sup> Provided by Eastern Community Legal Centre: see <http://eclc.org.au/community-development/partnerships-and-projects/family-violence-integration-project> (accessed 4 November 2013).

In terms of measuring legal need, the most recent work in this area is the report commissioned by the Law and Justice Foundation of NSW (**LJF**) and National Legal Aid – the Legal Australia-Wide Survey (the **LAW Survey**).<sup>8</sup> Notwithstanding the wide range of the findings of the LAW Survey, it is believed that because of some aspects of the methodology, particularly the use of landline telephone interviews, some groups who are common users of community legal centres may have been unlikely to have been surveyed, including people experiencing homelessness, vulnerable young people, people with disability, and the many Australians who now only have mobile phones.

We note that the LJF's earlier work has identified the legal needs of some of these groups using alternative methodology. In some cases, there may be no specific analysis of legal need, which is not to say that the legal need does not exist. The lesbian, gay, bisexual, transgender and intersex (**LGBTI**) community is a good example of a group where there is no specific national document talking about legal need for that group. However this does not mean the need does not exist, as demonstrated by the numbers of clients using the unfunded LGBTI Legal Service in Brisbane.<sup>9</sup>

Some of the findings of the LAW Survey would benefit from testing with practitioners. In some jurisdictions, Legal Assistance Forums (**LAFs**), which also serve the role of Jurisdictional Forums required under the National Partnership Agreement on Legal Assistance Services (**NPALAS**), could provide a useful forum for testing these findings and contributing to collaborative and strategic policy design and service delivery models, although these are underutilised.

Other tools have been used in an attempt to measure and understand legal need, including the Legal Needs Assessment Project developed by the national community legal centre peak organisation, NACLC. Another current project is the Indigenous Legal Needs Project, which will provide more detailed information about Aboriginal and Torres Strait Islander peoples' legal needs.<sup>10</sup> The recent Community Services survey<sup>11</sup> from the Australian Council of Social Service (**ACOSS**) is another example of data that can help understand unmet legal need.

In 2008-09, Community Legal Centres NSW (**CLCNSW**), working closely with Judith Stubbs and Associates (**JSA**), conducted the Legal Needs and Strategic Planning Project, which aimed to develop a model strategic planning process and tool to assist community legal centres in NSW to better meet legal needs within their communities. The study provided a framework and data that may be a useful resource for the public interest legal sector more broadly.

The study developed a Legal Needs Assessment Framework (**LNAF**) to identify the characteristics of those most likely to experience 'legal need' and the areas or communities most likely to have a disproportionate level of these characteristics.<sup>12</sup> The LNAF provides a set of indicators that highlight communities or areas most likely to experience both 'met' or 'expressed' legal need<sup>13</sup> and 'unmet' or 'unexpressed' legal need.<sup>14</sup>

<sup>8</sup> National report available at <http://www.lawfoundation.net.au/ljf/app/6DDF12F188975AC9CA257A910006089D.html>

<sup>9</sup> See [www.lgbtilegalservice.org](http://www.lgbtilegalservice.org). See also *Equal Access to the Justice System: Report on Legal Services and Information for Gay, Lesbian, Bisexual, Transgender, Intersex and Queer Victorians* (November 2010), available at [www.pilch.org.au](http://www.pilch.org.au).

<sup>10</sup> <http://www.jcu.edu.au/ilnp/>

<sup>11</sup> See ACOSS report:

[http://acoss.org.au/media/release/nations\\_legal\\_services\\_reaching\\_homeless\\_service\\_crisis\\_levels\\_acoss\\_report](http://acoss.org.au/media/release/nations_legal_services_reaching_homeless_service_crisis_levels_acoss_report)

<sup>12</sup> 'Legal need' is used here to mean the likelihood that a person will experience a legal problem or justiciable event, whether or not it was recognised as being 'legal' or any action was taken to deal with the problem.

<sup>13</sup> Those who may already be seeking assistance for their legal problem.

<sup>14</sup> Those who may not be seeking assistance for their legal problem.

Based on the work undertaken with two pilot Centres, the Legal Needs Strategic Planning Toolkit was developed. The Toolkit provides a guide for other community legal centres to create their own tailored evidence-based service delivery strategic plan that considers both 'met' and 'unmet' legal need in their geographic and/or specialist service catchment.

In 2010, NACLCL engaged JSA to further develop, improve and apply nationally work done in the CLCNSW Legal Needs and Strategic Planning Project.

The application of this research at the national and state/territory levels has provided NACLCL and community legal centres with a consistent evidence-based approach to understanding the distribution of legal need (met and unmet) in the context of disadvantage across the country. The research can be used in strategic planning for service delivery by individual centres and the sector more generally.

Understanding that legal need is concentrated among particular groups allows us to 'target' services to those groups, including preventative legal education, which we discuss more in section 4 of this submission.

Victoria's Fitzroy Legal Service published a 13 part series of articles published in a popular Vietnamese language weekly *Tivi Tuan-san*. In research undertaken by Deakin University, the effectiveness of the work was analysed by reference to legal topic, sex, education level, age and length of stay in Australia. *Tivi Tuan-san* was read regularly by 47.3% of all respondents to the surveys and 28.7% of respondents (more than half the regular readers) had actually read the articles. Overall the publication of these articles resulted in a 13.4% increase in the level of knowledge of the Vietnamese readers with the greatest impact being for those with less than five years in Australia (23.8% increase in knowledge) and in the area of criminal law (24.4% increase in knowledge).<sup>15</sup>

Community legal centres assist many clients with numerous, interrelated legal problems. As the LAW survey found, legal problems were often clustered together, with disadvantaged people especially vulnerable to a wide range of legal problems.<sup>16</sup> To quantify this, nine percent of respondents to the LJF's LAW Survey accounted for 65% of all legal problems reported.<sup>17</sup>

Fifteen year old Jane<sup>18</sup> was in the care of Child Safety Services in Queensland. She sought support from the South West Brisbane Community Legal Centre (**SWBCLC**), who assisted Jane by:

- representing Jane in her youth justice matters and breaches of youth justice orders;
- assisting Jane to secure a residential care placement so that she could make a bail application;
- acting as direct legal representative in Jane's child protection proceedings;
- advocating to keep Jane's residential placement open while in custody;
- assisting Jane to enrol at a drug and alcohol withdrawal facility;
- liaising with Police concerning the return of items of property;
- supporting Jane to make a police complaint following a sexual assault; and

<sup>15</sup> Ton-That Quynh-Du, Greg Connellan and Adolfo Gentile, *Vietnamese language community legal education: a report on the effectiveness of using translated material in the dissemination of legal information through a Vietnamese language newspaper* (Deakin University Centre for Research and Development in Interpreting and Translating, 1993).

<sup>16</sup> Page 219, Coumarelos, C, Macourt, D, People, J, MacDonald, HM, Wei, Z, Iriana, R & Ramsey, S 2012, Legal Australia-Wide Survey: legal need in Australia, Law and Justice Foundation of NSW, Sydney (LAW Survey, Coumarelous et al, 2012)

<sup>17</sup> Page xiv, LAW Survey, Coumarelous et al, 2012

<sup>18</sup> Case studies in this submission do not use clients' real names, other than those case studies for *Rowe v Electoral Commissioner*, David and Julie Rosewall, and Graeme Innes.

- making a right to information request that may assist Jane if she later wishes to pursue a personal injury claim.

Jane has responded well to receiving assistance and has significantly reduced her offending behaviour since SWBCLC began providing her with assistance and support.

In some areas of law, information about grants of legal aid or the number of legal aid applications refused can indicate a growing need. In other critical areas of law, such as employment law or assistance for applicants in family violence proceedings, legal aid commissions have traditionally not provided assistance or have provided minimal assistance, so using this data source to quantify unmet need will not give an accurate account.

Anecdotally, community legal centre workers themselves have a good sense of unmet legal need in their area of practice. Annual reports and other reports and data from community legal centres could be useful to fill the gaps between the empirical research reports that have been done. We note that significant amounts of data are held in CLSIS.

## People who cannot obtain legal aid

Many people who cannot obtain legal aid turn to community legal centres for assistance. Community legal centres provide this group with a range of services, from advice and information through to representation. However, limited resources mean that legal representation and ongoing assistance can be provided to a relatively small proportion of those who need it.

Further, community legal centres cannot provide initial advice and assistance to everyone who contacts them. The 2013 ACROSS Australian Community Sector Survey found 63% of community legal services reported being unable to meet demand for their services and also reported the highest turn-away rate (20%) of any other community services. These rates do not take into account the large numbers of people who do not know about community legal centres<sup>19</sup> or who, for a range of reasons often associated with compounded disadvantage, do not seek legal help.

The LAW Survey reports that some people seek advice from non legal professionals and some take no action or make efforts to resolve their problem with no assistance. If people cannot obtain help and cannot resolve their legal problems without help, they are forced to represent themselves or give up on their rights.

All civil law needs can be critical; a small consumer debt may be merely annoying for an employed, educated person who can navigate the system, but may result in a person already experiencing a degree of disadvantage being evicted into homelessness, prevented from obtaining employment, or dragged through complex legal proceedings.

In early 2009, Caxton Legal Centre (Queensland) assisted a client to file proceedings in the Queensland Civil and Administrative Tribunal (**QCAT**) against a payday lender. The case was a test case relating to the then 48% interest rate cap. After a lengthy exchange about whether QCAT had jurisdiction, the matter was listed for hearing in 2011 and both parties instructed counsel. The hearing was a full day and there were supplementary submissions. A decision in favour of our client was made in late 2011.

Following the decision in 2011 the other party and related companies joined an Ombudsman scheme and the community legal centre assisted a number of clients by referring them to that Ombudsman to file complaints about the companies. The centre provided a copy of the

<sup>19</sup> The LAW Survey found only 36% of people surveyed knew about community legal centres.

QCAT decision to the Ombudsman and requested that they apply it where possible to ensure that everyone who had overpaid interest to this particular lender could recover that in a low-cost and low-risk way.

In addition to significant inconvenience, civil law disputes can have significant impacts on people's health, including their mental health.

Mick is a young Aboriginal man who suffers from a moderate intellectual impairment. He was working as a casual kitchen hand in regional Queensland for a month, when his position was terminated.

Mick's disability included a slow developmental delay and this affected his short term memory. As a result Mick was unable to remember simple instructions at work and had to keep asking the other staff for assistance. He was abused and bullied in the workplace and called stupid because he could not remember how to do things. His employment was terminated, supposedly on the basis of poor work conduct.

This was Mick's first job and he was very proud to be working. When he lost his job he was emotionally crushed. He developed severe anxiety and post traumatic stress disorder as a result of his termination.

Mick approached the Disability Discrimination Legal Service at the Welfare Rights Centre in Queensland, who provided him with assistance. The matter was settled at conciliation and Mick was awarded a work reference and a sum of money for pain, hurt and humiliation. This outcome means that Mick may in time have confidence to try to re-enter the workforce.

## Systemic barriers to access to justice

In the joint NACLCL, Federation of CLCs (Victoria), CLCNSW, QAILS, and CLC Association (WA) submission to the Productivity Commission (dated 2 August 2013), we noted that whilst 'persons for whom English is a second language' are expressly provided for in the terms of reference in the inquiry, there are a number of other indicators of disadvantage, or disadvantaged groups, that should be specifically considered in the Commission's investigations. Without limiting those groups, we suggested that the following groups face particular challenges in accessing justice services:

- Aboriginal and Torres Strait Islander peoples;
- People with disability;
- People with intellectual disabilities or cognitive impairments;
- Older Australians; and
- Women.

We further note that due to geographic constraints and language and cultural differences, other groups of people also experience systemic barriers to access to justice.

## People living in rural, regional and remote (RRR) areas

Those living in rural, regional and remote areas experience particular issues of access to justice, due to geographic barriers.

For example, community legal centres in the Northern Territory have observed:

- Clients face significant delays in having matters finalised due to the lack of services in remote areas, for example a centre in the Northern Territory currently has an Alice Springs client who has been waiting seven months for a neuropsychological assessment appointment that is essential to her legal claim;

- Clients in remote communities have to travel great distances to undertake assessments relevant to their claims or to appear in court; and
- Legal services, and other important services such as health, counselling services and financial counselling services are extremely limited in some remote areas, with legal services able to access many communities only on an intermittent basis, if at all.

In remote Top End (Northern Territory) communities, the only services that regularly attend to provide representation to clients at court are NAAJA (North Australian Aboriginal Justice Agency) and NAAFVLS (North Australian Aboriginal Family Violence Legal Service).

NAAJA, as a result of case load and conflict, are not often available to provide legal advice to defendants in applications for Domestic Violence Orders made by NAAFVLS on behalf of clients. This leaves defendants unrepresented in matters that can significantly affect aspects of their lives such as association with particular persons and access to premises.

NAAFVLS assists with information where possible. However given issues of conflict and restrictions preventing the provision of legal service to perpetrators of family violence, frequently defendants appear unrepresented.

Issues associated with the provision of services to perpetrators also become difficult in remote communities where lateral violence is common and family relationships encompass significant numbers of community members.

NAAFVLS retained a client who was assaulted by her ex partner's new girlfriend. The client had endured serious and frequent violence from her ex partner during the relationship, which eventually led to the breakdown of the relationship.

The client wished for protection against both her ex partner and his new girlfriend. The following day, NAAFVLS staff were approached by the girlfriend who had been seriously assaulted by her new partner and was staying at crisis accommodation and wanted a Domestic Violence Order to protect her before returning home.

NAAFVLS was unable to assist, and referred the girlfriend to a service in Darwin that she would need to access via telephone.<sup>20</sup>

### People from culturally and linguistically diverse (CALD) backgrounds

People from culturally and linguistically diverse backgrounds, particularly people who do not speak English or are not fluent in English, face particular disadvantages in accessing justice, as illustrated by the example below from the ACT.

The Consumer Law Centre of the ACT (**CLC**) regularly provides advice to culturally and linguistically diverse (**CALD**) clients. While many of these clients have a working knowledge of English which is sufficient for day-to-day life, when it comes to dealing with legal issues, the CLC has found that language can be a profound barrier which may prevent clients from seeking legal assistance, understanding the legal issues and options available, pursuing a matter before a court or tribunal, and/or effectively arguing their case.

These barriers are particularly evident in the ACT because, unlike the Consumer, Trader and Tenancy Tribunal in NSW, the ACT does not have interpreter services available for use in tribunal proceedings. Where it is considered necessary, the ACT Civil and Administrative Tribunal (**ACAT**) will pay for an interpreter only in Mental Health, Guardianship and Energy and Water matters; for all other claims, the person in need of interpretation services must arrange and pay for their own interpreter.

<sup>20</sup> Source: North Australian Aboriginal Family Violence Legal Service

The CLC believes that this creates a dual access to justice issue for CALD clients. First, most clients that the CLC sees who are in need of interpreters are unable to afford the service of private interpreters. For example, current fees for sign language interpreters for deaf people in the courts in the ACT are a minimum of \$220 for 2 hours of interpretation. For low-income clients, and in cases where the claim may be for under \$1000, this fee is unaffordable. Secondly, in some cases a client might not consider that they need an interpreter until they are at the tribunal. This is particularly the case in a tribunal setting where the client may feel nervous, have trouble understanding the relevant court or Tribunal procedures and, in some cases, be expected to respond to questions or submissions which use complex English or legal terminology.

A related issue for CALD clients is that the translation of documents can also be prohibitively expensive. Courts and tribunals generally require that translations be certified and the cost of having official translations made can be restrictively high, especially where there are a large number of documents. It is possible for clients to apply for legal aid to fund the document translation in certain circumstance, but this is often unavailable to community legal centres' clients.

### Cultural and entrenched practices in the administration of justice administration

Legal needs can vary depending on access to courts and court administrations, and variations in practice across courts and tribunals. These differences in access can vary widely depending on where a person lives. Many community legal centres across Australia have observed differences in the application of the administration of justice. For example, community legal centres in the Northern Territory have experienced inconsistency of the application of provisions in the *Family Law Act* around process. What a client could apply for and get quite routinely elsewhere in Australia is not available in the Northern Territory due to the way courts operate.

Wendy, an Aboriginal woman, was promised to Richard as a young girl, although community members knew about his controlling and violent behaviour towards former partners. Richard was violent towards Wendy, who sought several Domestic Violence Orders (**DVOs**) against Richard. After a number of years, Wendy went into hiding, leaving their three children with Richard.

Many months later, when she was feeling strong enough, Wendy started trying to locate her children with the view of applying to the Federal Magistrates Court for them to live with her. Richard then applied for a DVO alleging Wendy was violent, and received assistance from the local specialised domestic violence legal service. Wendy also made an application for a DVO against Richard. Wendy's community legal centre lawyer applied to the court to access critical subpoena material evidencing the long history of violence, to be made available to the Family Consultant prior to preparing their report. Richard's lawyer and the independent children's lawyer consented. Wendy's lawyer, an experienced family lawyer from interstate, was aware that this application could be made under the legislation with the consent of all the parties. However, the court declined to make the order.

The Family Consultant interviewed Wendy and Richard together, as there were suggestions they were attempting to reconcile. The Family Consultant appeared to have little appreciation of the complex nature, dynamics and impact of domestic violence, and his final report barely referred to the domestic violence and suggested that Wendy's lawyer was overactive in insisting that there were safety plans for Wendy around their short meeting.



Wendy suddenly announced that she wanted to drop her DVO application. Her lawyer attempted to dissuade Wendy from doing so as she suspected Richard was coercing Wendy. Following this decision, Richard made serious threats to kill Wendy by SMS. When she tried to report this, the police downplayed the significance of the threats, stating 'you don't know he sent this text'. The police did speak with Richard, but were satisfied that there was no basis to the allegations, despite Richard's known history of violence against various members of his family including Wendy, other former and current partners. Wendy fled in tears.

Needless to say, Wendy chose to disengage from the process with respect to the children's arrangements, which was not helped by her lawyer leaving the community legal centre.<sup>21</sup>

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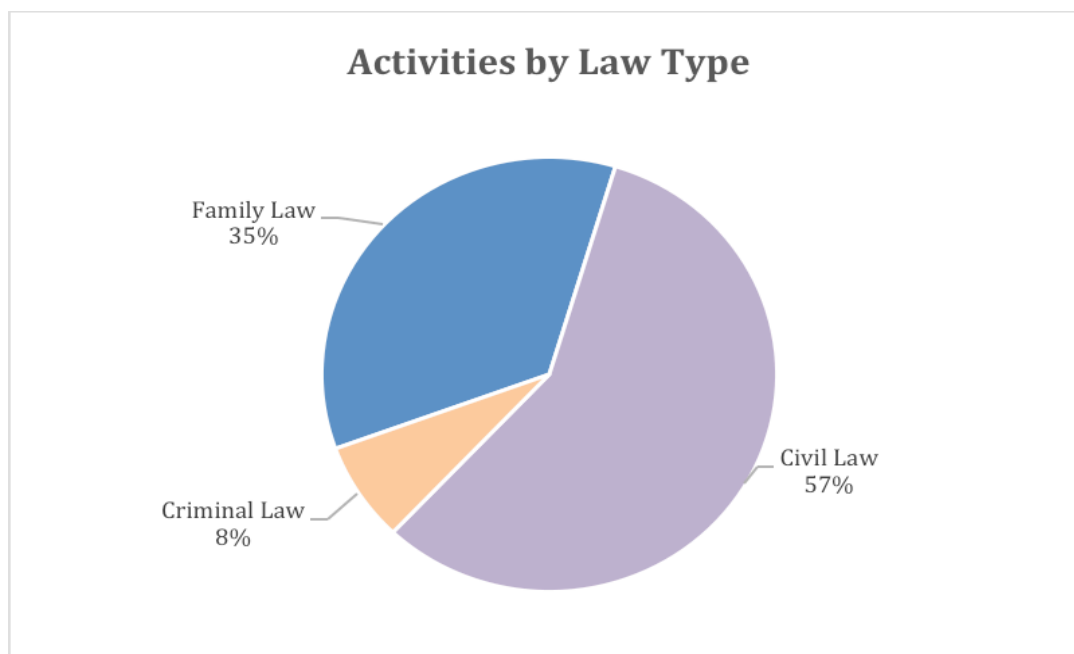
<sup>21</sup> Source: Top End Women's Legal Service

### 3. Casework, advice and information

Community legal centres provide information and referral, legal advice and continuing casework support to hundreds of thousands of Australians every year. In 2012-13, community legal centres funded under the CLSP:

- Assisted a total of 211,896 clients;
- Provided a total of 248,970 advices;
- Worked on a total of 76,142 active cases;
- Opened 51,773 cases; and
- Finalised and closed 51,220 cases.<sup>22</sup>

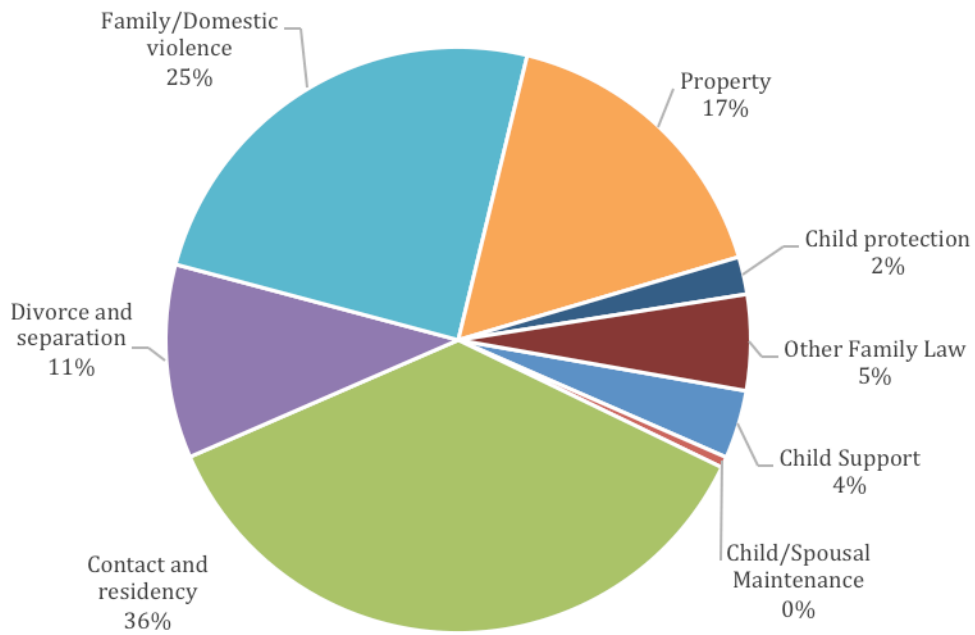
The following four diagrams show the profile of legal services delivered by community legal centres in 2012-13 that currently report through CLSIS, the database used by the Community Legal Services Program.<sup>23</sup>



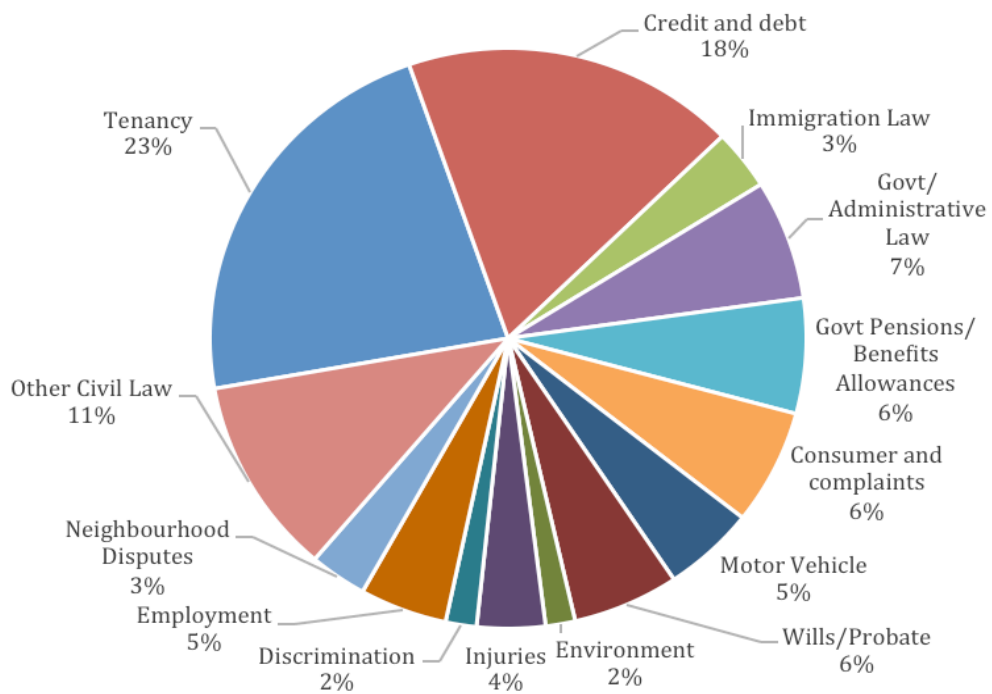
<sup>22</sup> Source: NACLC 2012-12 annual report. These figures are for CLCs that are funded by the CLSP.

<sup>23</sup> Note that not all community legal centres are funded under the CLSP.

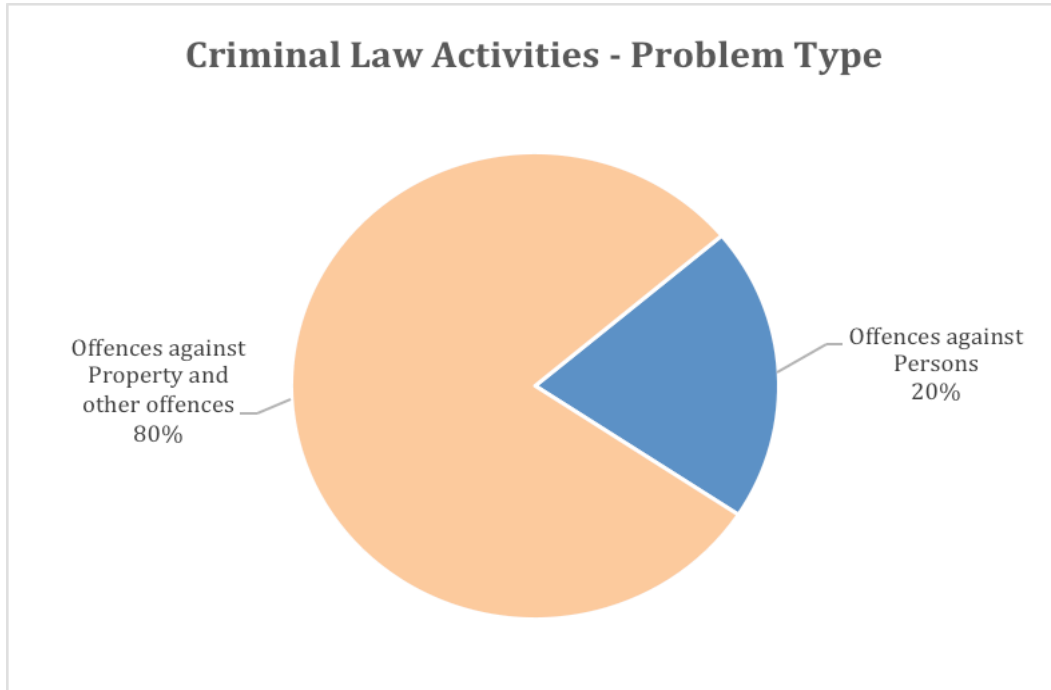
### Family Law Activities - Problem Type



### Civil Law Activities - Problem Type



## Criminal Law Activities - Problem Type



The above data sets are not comprehensive. For example, there are no statistics on mental health work. In the 2012-13 financial year, the QPILCH Mental Health Law Practice assisted 149 clients (new and existing) and other centres such as the Mental Health Legal Centre provided legal assistance to large numbers of people.

In terms of the types of services provided, the following table shows the services delivered (reported to the National Processing Centre<sup>24</sup>):

Financial Year	Legal Advice	Non-Legal Advice	Total Advice	Advice Referrals	Cases Opened	Case Referrals	Information
2007-08	202,210	16,536	218,746	69,519	39,144	3,553	143,054
2008-09	201,986	17,806	219,792	82,704	44,025	3,573	172,913
2009-10	233,702	38,707	272,409	89,990	50,556	3,394	170,375
2010-11	227,291	24,093	251,384	94,264	53,470	3,755	165,601
2011-12	219,164	27,386	246,550	95,220	52,925	4,082	173,932
2012-13	221,009	28,301	249,310	97,952	51,959	4,173	171,353
<b>Total</b>	<b>1,305,362</b>	<b>135,023</b>	<b>1,440,385</b>	<b>529,649</b>	<b>292,079</b>	<b>22,530</b>	<b>997,228</b>

Of course, this aggregated quantitative data does not tell the whole story of community legal centres' work. Below, we set out a number of case studies that demonstrate the wide variety and types of support community legal centres provide to their communities every day across Australia.

Olivia is an elderly woman who came to a CLC with a court judgement awarded against her which ordered her to pay an insurance company \$1,680.25 in relation to a car accident she was allegedly involved in. Olivia was not involved in such an accident and had not received any correspondence in relation to it. Northern Community Legal Centre (SA) assisted Olivia to make an application to set aside the judgement based on mistaken identity. This application was successful and the matter was dismissed.

<sup>24</sup> The National Processing Centre hosts the CLSIS database.

Vi was born in Vietnam and had very poor English, a heart condition, little education and no support. She was also the victim of an abusive and controlling husband. Her partner application to stay in Australia was refused as the Department of Immigration and Citizenship (**DIAC**), now known as the Department of Immigration and Border Protection (DIBP), considered there was inconsistent evidence and the relationship was not genuine. Vi then separated from her partner.

Queensland's Refugee and Immigration Legal Service (**RAILS**) was contacted by a family violence service and represented Vi before the Migration Review Tribunal (**MRT**). The MRT Member initially didn't accept that Vi was truthful and identified apparent inconsistencies in the evidence. Vi's husband had continued to live and work with their mutual friends and work colleagues after the separation, and none of those would provide any evidence in support of Vi.

Following very strong further submissions by RAILS, the member found that the relationship was in fact genuine and Vi had been the victim of family violence. The case was sent back to DIAC to reconsider.

David lives in a rural area and needed assistance with obtaining property and parenting orders after he separated from his wife a couple of years ago. Legal Aid was not able to assist him due to his location and the court dealing with the matter was in another state. David sought assistance from Mackay Regional Community Legal Centre (**MRCLC**), and due to the distances involved, MRCLC worked with another community organisation to send information and court documents back and forth to David. MRCLC assisted David to draft the necessary court documents. He reached an agreement regarding the property settlement with his former spouse and received a favourable parenting order, so all the children now live with him during the school term.

*Further examples of the work community legal centres undertake can be found at: Appendix 1: additional case studies, section 1.1.*

## Community legal centres' approach to service delivery

There is a growing body of research about legal need and disadvantage, the confluence of legal and other social problems, how people most in need of legal help might best access that assistance and what might constitute effective legal service delivery. The LAW Survey findings carried a number of significant implications for the provision of effective legal assistance services including:

- Services should be 'multifaceted' and 'must integrate a raft of strategies';
- There is a need for accessible legal services;
- Service delivery models should recognise non-legal advisers as gateways to legal services;
- Integrated responses to legal and non-legal needs are critical; and
- The importance of tailoring services for specific problems and particular demographic groups.<sup>25</sup>

This significant research affirmed approaches that were developed and have been utilised by community legal centres in Australia over the past forty years. Community legal centres continue to be at the forefront of developing effective models of service delivery to improve access to justice for people with complex legal and related needs.

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<sup>25</sup> LAW Survey, Coumarelous et al, 2012

## Responsive to changing legal need

Increasingly, community legal centres are using a sophisticated, evidence-based approach to inform their approach to service delivery, blending local or in depth knowledge of a target community with analysis of available quantitative data. The NACLCL has supported this work through the development of the Legal Needs Assessment Framework and Toolkits for community legal centres (referred to in section 2 of this submission, and see NACLCL website).<sup>26</sup>

This approach is another reason why community legal centres and their services may differ widely from other community legal centres and indeed change themselves over time, as they adapt to meet the changing needs of their target communities. Community legal centres focus on priority areas of legal need and, subject to resources, offer the mix of services most likely to meet that need, often developing targeted strategies to assist particular client groups as part of this service mix. Community legal centres also provide tailor-made and effective referrals if they are unable to assist a client with a matter. This referral model aims to keep people off the so-called 'referral roundabout' and into the services most suitable for the particular client.

Community legal centres' evidence-based service delivery model, focussing on the most disadvantaged and vulnerable in their communities, and prioritising those unable to access other services, means that community legal centres rarely provide services that duplicate those provided by other service providers. Occasionally, a community legal centre and another legal assistance service provider may both be providing similar services in one area, but this generally occurs where the volume of need requires it, or they are in fact providing services in complementary and often cross-referring ways.

One example of an emerging need that the community legal centre sector identified and has actively worked to meet is assistance with family violence civil protection or intervention orders. As community awareness of family violence has increased, police and other agencies' responses to violence in the home have improved and greater numbers of victims of family violence have sought protection from violence, causing applications for civil protection or intervention orders to rise dramatically.

Community legal centres were the first to provide legal assistance for victims/survivors of family violence who needed to use the court system to seek an order against their violent partner or other family member. In Victoria, family violence legal assistance provided by community legal centres has grown by 70% in the last five years. Eighteen community legal centres now provide duty lawyer assistance for victims/survivors of family violence at 27 Magistrates' Courts across the state and family violence casework now constitutes more than one third of all new cases opened in Victorian community legal centres.

This service often extends beyond the provision of legal advice. A particular value of community legal centre family-violence related legal assistance is that it is provided in close collaboration with other, non-legal agencies - as is necessary for an effective integrated response to family violence. It is 'wrapped around' by broader strategies, including community legal education about what constitutes family violence and where people can go to seek help.

## Experts in responding to complex needs

As community-based organisations committed to a community engagement approach to service planning and delivery, the work of a community legal centre is informed by the local community it serves or the client group/s it strives to assist. Community legal centres consult

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<sup>26</sup> The NACLCL Legal Needs Assessment Framework and Toolkits for community legal centres can be found at [http://www.naclc.org.au/cb\\_pages/legal\\_needs\\_assessment\\_framework.php](http://www.naclc.org.au/cb_pages/legal_needs_assessment_framework.php) (accessed 11 November 2013)

and involve their communities in operations and management. This connection to community enables community legal centres to be responsive and sensitive to the needs of their client groups and to respond flexibly to changes in these needs.

Because community legal centres focus on providing services to those most in need of assistance, most clients of community legal centre experience significant economic, social or cultural disadvantage,<sup>27</sup> which can often be intergenerational.

Many community legal centre clients have a range of complex needs, commonly including special needs arising from mental illness, cognitive impairment, trauma, limited literacy or limited understanding of English. Other needs arise from a person's circumstances, for example because they are experiencing family breakdown, violence or homelessness and often a number of these factors are affecting the person at the same time.

Community legal centres have a longstanding commitment to providing legal and related assistance to address the individual client's inter-related problems. They recognise that an individual's legal rights and well being are usually affected by far more than the facts of their legal case. The community legal centre model of service is to provide, wherever possible, a holistic response. Community legal centres' philosophy and practice means providers take the time and care, and develop the knowledge required, to provide access to justice for clients with more complex and time consuming needs. The result is that community legal centres have developed expertise in working with clients experiencing a range of complex and inter-connected problems, whether they work in generalist or specialist situations or in targeted programs within community legal centres.

A consequence of this commitment and expertise is that community legal centres may take much longer to help a client than, say, a private lawyer would. This is partly because they do not look to advise in relation only to one obvious legal problem, but rather to understand and address the causes of that problem and also the problems, legal and practical, that may have occurred as a consequence. It is also because it necessarily takes more time to understand and communicate effectively with a person with, for example, a mental illness or a cognitive impairment, or who needs a translator. Private lawyers, who still generally charge on a time basis, generally have less capacity or less interest in working with clients who have little or no money, and who take much more time.

Belle is a middle-aged woman with an intellectual disability and an acquired brain injury (**ABI**). She sustained the ABI as a young adult following a violent assault by a former intimate partner.

Belle was first assisted by a community legal centre, in relation to a family violence intervention order (**FVIO**) at a rural Magistrates Court. She was the affected family member in a police application against Simon (her then partner). Simon was extremely violent towards Belle but Belle felt highly dependent on him.

Belle would call the police to report Simon's violence towards her and then fail to support the making of an FVIO because she wanted to be in a relationship and live with Simon.

Despite being in and out of prison for his assaults against her, Simon would contact Belle and convince her to meet him. At one point he even convinced her to withdraw a FVIO against him. Belle was particularly vulnerable to his charms. His violence escalated over time with multiple violent incidents, ranging from trying to keep her from leaving the house, to physically assaulting her (to the point that she required hospitalisation) and threatening to kill her cat. The final straw for Belle came when he raped her at knifepoint and threatened to kill

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<sup>27</sup> The Commonwealth Government's *Review of the Commonwealth Community Legal Services Program* noted that collated data demonstrated that 58% of community legal sector clients received some form of income support, 82% of clients earned less than \$26,000 per annum, and almost 9% of clients had some form of disability. *Review of the Commonwealth Community Legal Services Program* (March 2008), page 6

her. Belle was then taken to a secure refuge and eventually permanently relocated to an assisted living accommodation. Over the course of two years, the community legal centre (via both a lawyer and a non lawyer advocate) assisted her at multiple FVIO hearings and with other associated legal matters. The police and the local domestic violence support program also assisted Belle.

Belle was a high needs client who initially presented with legal problems. However, it became apparent over time that the real assistance Belle needed was to address the social and cognitive issues that led to her legal problems. She also needed a lot of assistance and support simply to engage with the police and courts and to understand the effect of the decisions being made for her benefit.

Jock suffered from severe disabilities, meaning he could not walk without a walking frame. He also had brain and memory function issues meaning he had limited ability to comprehend and retain information. His disability pension was cancelled because Centrelink determined he was not an Australian resident and was not medically impaired enough to be paid to return overseas. Jock did not have the capacity to properly understand the decision or the appeal process. A community legal centre assisted Jock to appeal the Centrelink decision to the Administrative Appeals Tribunal and to obtain relevant medical information in support of his appeal. With assistance from the community legal centre, Jock obtained a stay of the decision so that he was not left entirely without income during the appeal period. Without this, Jock would have been homeless with no money for food or any other basic necessities. After a period of negotiation, Centrelink acknowledged Jock was substantially medically impaired. This meant his appeal was successful and Jock was able to return overseas to be cared for by his family.<sup>28</sup>

*A further example of the targeted work community legal centres undertake can be found at: Appendix 1: additional case studies, section 1.2.*

### **Tailored strategies and services for particular groups**

Community legal centres often adapt tailored service responses or strategies for meeting the legal needs of particular groups in the community.

The PILCH Homeless Persons' Legal Clinic (HPLC) in Melbourne is one example of a service that works with a particular group of clients with complex, inter-related legal and other needs.

The HPLC is a specialist legal service for people experiencing or at risk of homelessness.

HPLC staff work closely with pro bono lawyers to provide legal information, advice and representation to hundreds of people in this target group. Their services are outreach-based and client-centred, and don't just focus on legal issues. The HPLC social worker and the service's relationships with the homelessness sector build HPLC's capacity to understand and respond to clients' wide range of non-legal needs.

In 2014 the HPLC will launch a project that will provide women and children who are at risk of homelessness with eviction prevention legal casework and up to 3 months of intensive social work support. In advocating for women at risk of eviction, HPLC lawyers and the HPLC social worker will assist women who have experienced family violence, financial hardship and acute health concerns.

The Public Interest Advocacy Centre (PIAC) in Sydney runs a similar service to the HPLC, known as the Homeless Persons' Legal Service (HPLS).

<sup>28</sup> Source: Darwin Community Legal Service



The Fitzroy Legal Service Drug Outreach program provides community legal education, referral, legal advice and, where appropriate, advocacy and casework services to drug users. This group of clients often present with multiple issues including homelessness, mental health and alcohol addiction. The Drug Outreach Lawyer works closely with relevant agencies and the community within the City of Yarra in an outreach model that focuses on areas of high need. By providing advice, referral, advocacy and casework services, the Drug Outreach Lawyer aims to address and assist individuals and the community with legal problems related to drug use. The position works closely and collaboratively with individuals and the community to assist with rehabilitation. There is a strong focus on harm minimisation. Outreach is provided at a range of non-legal organisations, including Youth Support and Advocacy Services, Living Room, Inner Space, North Richmond Community Health Centre and North Richmond Public Housing Estate.

QPILCH's Mental Health Law Practice (**MHLP**) seeks to address the serious deficit in legal and advocacy services for people experiencing mental illness. The MHLP provides direct legal advice and assistance to clients and their families affected by mental illness. The MHLP has a number of services including direct outreach services with the Princess Alexandra Hospital and the Tribunal Advocacy Service which supports clients who are subject to an Involuntary Treatment Order (**ITO**). In Queensland, there are more than 11,000 Mental Health Review Tribunal (**MHRT**) hearings each year. Less than 50% of patients participate in their MHRT hearings and less than 3% of patients have any form of representation. This is the lowest rate of representation in any MHRT in the country.

The MHLP runs comprehensive training for advocates who ensure clients understand the role of the MHRT, help them to prepare for their hearings and present relevant information to the MHRT. Feedback about the service from clients, the MHRT and mental health agencies continues to be overwhelmingly positive. Clients have commented that this is the first time someone has listened to them about their mental health issues and provided any support with their ITO hearings.

Other examples of community legal centres adopting targeted strategies to ensure effective provision of legal services for particular groups of people include:

- Inside Access, which provides specialist legal assistance with debt, infringements, family law and other civil law matters for people who are suffering from mental illness and who are in correctional and forensic facilities in Victoria;
- Mortgage Stress Legal Service, which assists people in the Wyndham local government area who face imminent house repossession to negotiate with their financial institution and deal with connected legal issues;<sup>29</sup>
- The Queensland Public Interest Law Clearing House Inc. (**QPILCH**) has developed a number of specialist services to assist people who are self-represented, homeless or at risk of homelessness or suffering from a mental illness with civil law problems. A number of these services operate as legal outreach clinics;
- Footscray Legal Service's African Legal Clinic, run from a local settlement agency and initiated to ensure the community legal centre was accessed by the large refugee community in the local area;
- Loddon Campaspe Community Legal Centre's project, 'Why Didn't You Ask?' which aims to improve the safety, social and health outcomes for women who are at risk of,

<sup>29</sup> Data indicates 15.4% of households in Wyndham are in mortgage stress, compared to 9.9% in the whole of Australia.

or experiencing family violence, by seeking these clients' views about the appropriateness and effectiveness of legal interventions and the women's preferred outcomes. The project will identify any required changes in community legal centre practice to improve clients' experience of lawyers, courts and the justice system; and

- Two Taxi Driver Legal Clinics, which provide specialist legal assistance for disadvantaged taxi drivers in Melbourne, run by Footscray and Fitzroy Legal Services.
- Prison Outreach: a number of CLCs provide regular advice clinics and/or community legal education to people in custody. For example, the Top End Women's Legal Service to women in the Darwin Prison, the Central Australia Women's Legal Service to women in Alice Springs prison, the Women's Legal Services NSW, Hawkesbury-Nepean Community Legal Centre & Warringa Bay Aboriginal Women's Legal Service to 3 women's correctional centres in NSW under the LEAP program (Legal Advice & Education Project), and the education program "Prison Legal Education Assistance Project (PLEA) which provides education to a number of prisons including youth in detention, entirely by volunteers and based at Monash-Oakleigh Legal Service. And Queensland has the specialised CLC: Prisoners Legal Service.

### Aboriginal and Torres Strait Islander community-focussed services and programs

A large number of community legal centres deliver services and run programs targeted to Aboriginal and Torres Strait Islander communities. Programs include the Aboriginal Legal Access Programs (**ALAPs**) run by five community legal centres in NSW, along with the CLCNSW state-wide Aboriginal Legal Access Program.

The Women's Legal Centre (ACT & Region) operates an Indigenous Women's Law and Justice Support Program. Two Aboriginal workers are employed to work with Aboriginal and Torres Strait Islander women to address their legal problems; run community legal education for Aboriginal and Torres Strait Islander clients and workers; and to build relationship with organisations that provide services to Aboriginal and Torres Strait Islander women.

In 1999, when Kimberley Community Legal Services (KCLS) was first set up in the Kununurra area, Ruth Abdullah was employed as the first Aboriginal Legal Liaison Officer in a small team of four staff. Since her first day at the service, Ruth has worked tirelessly to help KCLS identify community needs and develop programs to support and engage Aboriginal and Torres Strait Islander communities. Under Ruth's guidance, these programs have grown significantly, with KCLS now employing five Aboriginal workers. KCLS, which covers an area larger than Victoria, now has outreach locations all over the East Kimberley region. Staff usually stay around for several days, assisting clients with monthly court circuits or helping with issues like debt and credit, family violence and motor vehicle fines.<sup>30</sup>

Jasmine is an Indigenous woman who lives in a remote Aboriginal community. She has been a victim of family violence most of her adult life. Her current and former partners have

<sup>30</sup> Source: NACLCLC Yarnin' Up Link: [http://www.naclc.org.au/resources/YARNINUP\\_NATIONAL\\_WEB.pdf](http://www.naclc.org.au/resources/YARNINUP_NATIONAL_WEB.pdf) (accessed 11 November 2013)

subjected her to many assaults. Because of the interfamilial complexities that bind her she has not been able to escape the cycle of violence that has plagued her, her family and her community in general.

She approached Women's Legal Service (SA) (**WLSSA**) for assistance with obtaining an intervention order against her partner whom she was living with. She instructed that she did not want to separate from her partner but want protection from his abuse.

WLSSA initially approached agencies that could provide programs for Jasmine and her partner to attend. She liaised with drug and alcohol counselling services and Jasmine's partners undertook the programs. WLSSA encouraged Jasmine to participate with self-care programs offered within Aboriginal Community. WLSSA worked closely with the Family Centre in the area enabling her to volunteer with a Community program, which she really enjoyed and committed to on an ongoing basis.

WLSSA approached the police to ensure that safeguards were put in place to protect Jasmine from further acts of assault from her partner.

With the advocacy of WLSSA, the Court granted an Intervention Order (**IO**) against Jasmine's partner that allowed him to continue to live with her, but was not to abuse or assault her and that he maintain his ongoing participation with the various programs that he was undertaking. Further the intervention order granted a nominated area (considered a 'Safe Place") where Jasmine could escape to when her partner showed signs of becoming violent and this safe area excluded him from entering when Jasmine took refuge there from his violence.

Jasmine and her partner face many challenges but WLSSA have been successful in assisting in keeping Jasmine safe and further with engagement in programs to educate both parties and put in place steps to mitigate further incidents of family violence.

We note that a number of AFVPLSs and ATSILSs are members of community legal centre peak bodies. They play a vital and leading role in delivering legal services to Aboriginal and Torres Strait Islander people.<sup>31</sup>

### **At the forefront of integrated service delivery**

Community legal centres have long recognised that:

- Many people, particularly people who suffer disadvantage or are otherwise vulnerable, do not seek help for legal problems and, if they do, they seldom seek help from lawyers; and
- Legal problems are generally connected with a range of other, non-legal issues with which people need assistance.

Recognising non-lawyers as the most common gateway to legal services, community legal centres often work with non-legal agencies to ensure strong referral pathways or to tap into existing services, making legal assistance more readily accessible. Examples include:

- The legal service run by Youthlaw, which is a specialist community legal centre for young people, from the Salvation Army '614 Youth Bus' that provides food and other support to young people at risk of homelessness; and
- The Family Violence Integration project run by Eastern Community Legal Centre to improve the response of support services and other legal agencies to people experiencing family violence.

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<sup>31</sup> See further the submissions of the National Aboriginal and Torres Strait Islander Legal Services (**NATSILS**) and Queensland Indigenous Family Violence Legal Service (**QIFVLS**) to the Productivity Commission.

Community legal centres also have a history of developing integrated or co-located services with a number of other support providers, such as financial counsellors (to assist people with their inter-related legal and financial problems especially around credit and debt issues<sup>32</sup>), family violence counsellors and social workers.

Queensland's Youth Advocacy Centre Inc. (**YAC**) is a legal and social welfare agency for young people generally aged 10 years to 18 years, particularly those who are involved in, or at risk of involvement in, the youth justice and/or child protection systems. Solicitors, youth support and family support advocates function as a multidisciplinary team, acknowledging that legal problems exist in conjunction with a range of other important issues for both young people and their families: for example, education and/or employment disengagement, drug and alcohol issues, and mental health concerns.

YAC Solicitors provide legal advice and representation to young people; the Youth Support Advocate assists these vulnerable young people by addressing their social welfare issues, particularly homelessness related; and the Family Support Advocate assists young people who are still connected to, but may also be in conflict with, their family and require some form of family support intervention.

These services are complemented by the Youth Bail Accommodation Support Service, which seeks to prevent young people spending time in custody pending their court matters being resolved by finding, and supporting them, in safe and appropriate accommodation.

YAC also engages in significant early intervention/prevention strategies, particularly educating young people about their legal rights, providing seminars for workers with young people so they can better support them in legal matters, and advocating in relation to laws or policies that unfairly impact on young people.

A recent survey of Victorian community legal centres, for example, found that 22 out of 26 generalist community legal centres in Victoria have at least some form of integration with non-legal services.<sup>33</sup>

Increasingly, community legal centres work with non-legal service providers to improve their capacity to identify legal issues and connect clients into the right services. The Legal Health Check concept applied in some community legal centres such as the Homeless Persons' Legal Clinics helps non-legal workers to discuss legal issues with their clients, and to identify and respond constructively to legal problems their clients may have.

Whilst community legal centres are at the forefront of integrated service delivery, these are not without issues. Legislation, professional conduct rules, and multiple funding requirements can inhibit a's ability to provide services to everyone who walks through the door. Such issues have been raised by NACLCLC in previous submissions.<sup>34</sup>

## Advocacy-Health Alliances

Other innovative community legal centre initiatives, such as Advocacy-Health Alliances, involve a closer form of integration between legal and non-legal services. Advocacy-Health Alliances or Medico-Legal Partnerships are an alliance between healthcare and legal assistance providers. They are founded on the understanding that one of the key ways to address the health and wellbeing of low-income and vulnerable communities is by removing the legal barriers that impede health.

<sup>32</sup> This model of service delivery, in which consumer credit legal services and financial counsellors work together, was endorsed by the Australian Securities and Investments Commission in its 2011 Consumer Credit Legal Services Report.

<sup>33</sup> Research undertaken by Federation of Community Legal Centres. Contact [policy@fclc.org.au](mailto:policy@fclc.org.au) for further details.

<sup>34</sup> See for example NACLCLC submission on legal profession conduct rules: <http://www.naclc.org.au/resources/Letter%20to%20LCA%20on%20Aust%20Solicitors%20Conduct%20Rules.pdf> (accessed 11 November 2013)

“Traditional healthcare and legal services treat vulnerable populations in isolation from each other. On both sides, people living in low-income communities often fall through the cracks. Many patients suffer from preventable illnesses, often exacerbated by social and environmental conditions that affect health. Many of these conditions, such as insufficient heat or inadequate nutrition, have legal remedies, but low-income communities do not have access to legal assistance. MLP [Medical-Legal Partnerships] offers a solution to this problem by bridging the divide, offering patients and their families the comprehensive care they need.”<sup>35</sup>

A number of community legal centres across Australia have entered into Medico-Legal Partnerships.<sup>36</sup> For example, Loddon Campaspe Community Legal Centre has initiated a pilot Advocacy-health alliance in Bendigo based on Peter Noble’s 2012 research into these models.<sup>37</sup> North Melbourne Legal Service in Melbourne’s inner-north has also recently started a two-year pilot project with the Royal Women’s Hospital. The project, *Acting on the Warning Signs*, addresses the health and legal needs of women experiencing family violence.

*Acting on the Warning Signs* has trained over 125 healthcare professionals at the Royal Women’s Hospital to identify the signs of family violence and to provide appropriate information and referral pathways. Lawyers from the North Melbourne Legal Service attend the hospital and provide on-site advice to women who have been identified by hospital staff as victims or potential victims of family violence. The provision of legal advice empowers women by making them aware of the avenues for protection as well as their rights and entitlements, thereby providing them with alternatives to staying in a violent relationship. This initiative connects women with legal and other help in a non-threatening health setting and recognises that some victims of family violence have little opportunity on a day to day basis to evade the scrutiny of violent partners and seek help.

### Community legal centres: leaders in working collaboratively

As well as working with non-legal providers to address legal and health, financial, safety and other concerns in tandem, legal issues often require close collaboration with other agencies. Community legal centres have a track record of collaborating with a wide-range of partners to address the needs of their clients. The National Bulk Debt Project and the Making Rights Reality Campaign, discussed below, are examples of successful collaborations.

The National Bulk Debt Project is a partnership between community legal centres, legal aid, financial counsellors, banks and other creditors.<sup>38</sup> It aims to protect the income of disadvantaged and vulnerable people who are in long-term financial hardship. It does so by arranging for bulk waivers of the debts owed by people participating in the Project.

In 2010, West Heidelberg Community Legal Service successfully conducted the first ‘bulk debt negotiation’ on behalf of 425 disadvantaged and vulnerable clients, who were referred by legal aid offices, legal centres and financial counselling agencies across Australia.

In 2011, Legal Aid NSW and Victoria Legal Aid joined with West Heidelberg Community Legal Service to establish the National Bulk Debt Project. The participating creditors include

<sup>35</sup> National Center for Medical and Legal Partnerships, <<http://www.medical-legalpartnership.org/model/transforming>> (accessed on 19 October 2013)

<sup>36</sup> See, for example, partnerships established by the First Step Legal Service and the West Heidelberg Community Legal Service. For further information, see <http://advocacyhealth.net.au/category/ahas-in-australia/> (accessed 11 November 2013)

<sup>37</sup> Noble, Peter, *Advocacy-Health Alliances Better Health through Medical-Legal Partnership* (Final Report of the Clayton Utz Foundation Fellowship, August 2012)

<sup>38</sup> Drawn from <<https://www.bulkdebt.org/Public/About.aspx>> (accessed on 19 October 2013).

major banks, insurance companies, credit providers, debt collectors and utility service providers.<sup>39</sup>

If a person meets the eligibility requirements, which includes the requirement that a person only receives income from a Centrelink benefit (or no income at all) and the requirement that the debt is owed to one of the participating creditors, the person and their debt can be entered into the Project. The Project then negotiates with the creditors for a bulk waiver of all of the participants' debts.

To date, the project has negotiated waiver or closure of debts worth over \$15 million with creditors.

People who have a cognitive impairment and/or communication difficulty are highly vulnerable to sexual assault and have little access to justice.

Making Rights Reality is a two-year pilot project in Melbourne's South East region that aims to enhance victims' access to the justice system, increase reporting and prosecution of these crimes, and consequently strengthen deterrence and crime prevention. The project is a partnership between the Federation of Community Legal Centres (Victoria), the South Eastern Centre Against Sexual Assault and Springvale Monash Legal Service (**SMLS**).

The three services are working together to provide integrated crisis care, counselling, advocacy and legal advice. They also provide advice about how to navigate the justice system, including advice about the investigation, prosecution and crimes compensation processes.

In its first year the project has strengthened networks among disability, sexual assault and legal organisations in order to raise awareness, train staff and ensure appropriate referrals are made to service partners.

The number of people with cognitive or communication disabilities seeking assistance from the South Eastern Centre Against Sexual Assault is over four times as many as in the 6 months before the project began. The number of clients with a cognitive impairment or communication disability seen at the Crisis Care Unit also increased, and the number of 'no shows' dropped by two-thirds. Clients are also attending for more counselling sessions and there are more referrals to SMLS for legal assistance with crimes compensation or intervention orders.

## Focus on early intervention and prevention services

In addition to individual legal assistance, most community legal centres conduct community legal education and many conduct systemic advocacy.<sup>40</sup> Community legal education is an important early intervention/prevention strategy designed to make sure people know about the law, their rights and responsibilities and the avenues they can use to enforce their rights. In addition to community legal education, many community legal centres develop information for the community to fill particular gaps in legal information or to assist community members to resolve disputes themselves.<sup>41</sup>

<sup>39</sup> Participants include the Commonwealth Bank of Australia, Westpac / St George National Australia Bank, ANZ, ACMS, Baycorp, Lion Finance/Collection House, Credit Corp, Citibank, GE and HSBC.

<sup>40</sup> As Sue Bruce, Elsje van Moorst & Sophia Panagiotidis have commented: "The legal needs of our communities are best served by the successful integration of three functions: providing legal assistance, providing legal education and information, and promoting reform of laws and procedures which inhibit justice." Sue Bruce, Elsje van Moorst & Sophia Panagiotidis, 'Community legal education: Access to justice', (1992) 17:6 *Alternative Law Journal* 278.

<sup>41</sup> For a good example of self-help information developed by a CLC, see the Consumer Action Law Centre's fact sheets and self help kits available at <http://consumeraction.org.au/category/fact-sheet> (accessed 11 November 2013)

Launceston Community Legal Centre (**LCLC**) operates an innovative volunteer-run community assistance program that aims to improve document literacy and problem solving in communities. LCLC provides training to volunteer legal literacy advocates who then help others to work through issues before they require legal advice or intervention. The highly trained volunteers work within their local community across a number of venues, with the key factor in their work being the identification of potential legal issues, and the subsequent referral to a community legal centre resulting in timely free legal advice. The volunteers sit down with people and walk them through filling out complex forms and understanding official correspondence. The volunteers have direct access to community legal centre lawyers who support them in clarifying issues. The program has assisted over 500 people with a range of issues, including legal (31%), Centrelink (27%), other Government forms (8%), community organisation and information only (16%), personal forms (12%) and other issues (6%).

The Legal Literacy Program also enables LCLC to be more efficient and so able to see more clients, with a 26.5% increase in the number of clients seen since the program was established two years ago.

Systemic advocacy involves community legal centres working to change unfair laws, policies or practices that become apparent from community legal centres' client work or from community legal centres' ongoing engagement with their communities.

The community legal centre blend of services is based on the understanding that an element of legal education and systemic advocacy is fundamental to improving access to justice, particularly for disadvantaged client groups. While individual casework plays a vital role in protecting people's rights and interests at an individual level, casework alone does not normally address systemic problems that lead to or compound disadvantage.<sup>42</sup>

By engaging in education and systemic (law and policy reform) work, community legal centres are able to maximise their impact on the lives of disadvantaged people in their community.

In early 2013, Delia Rickard, the Deputy Chair of ACCC, commented on the important role community legal centres play in ensuring the fair operation of the legal system:

*“Community Legal Centres such as the Consumer Action Law Centre are a critical ingredient if regulators like ASIC and the ACCC are to do our work well. Such services are often the first place disadvantaged consumers go to with their problems. Consequently these centres are frequently the first to identify emerging issues causing real detriment to vulnerable sectors of our community. This is particularly the case where centres combine financial counselling and legal services and integrate case work, research and policy development so that they can promote long term reforms.*

*Centres ... that combine these skills are in a position to analyse their cases, identify systemic conduct (such as poor practices by debt collectors or equity stripping by fringe mortgage brokers) and present the necessary information to regulators, industry and governments. Their work regularly results in regulators taking on major litigation (such as the ACCC's current actions dealing with Door to Door sales in the energy sector) as well as real changes to industry conduct and significant law reform. In short, such centres are essential part of our consumer protection regime.”<sup>43</sup>*

<sup>42</sup> Strategic litigation, which can affect whole classes of people, is an exception to this.

<sup>43</sup> Liz Curran, 'Solving problems – a strategic approach', March 2013. Available at [http://www.naclc.org.au/resources/Cost\\_Benefit\\_Analysis\\_Report.pdf](http://www.naclc.org.au/resources/Cost_Benefit_Analysis_Report.pdf) (accessed on 23 October 2013).

## Collaboration with other service providers

In addition to their own model of service delivery, community legal centres work closely with other legal service providers to ensure those in most need receive essential services. These collaborations identify gaps in legal services and avoid unnecessary duplication of services. They also collaborate on projects of mutual interest. Most States now have coalitions of legal service providers working together through Legal Assistance Forums.<sup>44</sup>

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<sup>44</sup> Examples include NSW Legal Assistance Forum (**NLAF**), Victorian Legal Assistance Forum (**VLAF**) and Queensland Legal Assistance Forum (**QLAF**).



## 4. Preventing issues from evolving into bigger problems

The limited resources available to community legal centres require us to develop significant expertise in resolving disputes in a non-litigious fashion. Community legal centres give advice that encourages taking non-litigious action (at least initially) with the view to avoiding the need for expensive litigation measures by pursuing a matter in court.

South West Sydney Legal Centre negotiated a settlement for a number of private car park employees that saw them receive redundancy payouts. Prior to the involvement of the community legal centre, the employer was insisting that they had no legal obligation to pay redundancies to these employees. The relevant union was not able to assist the employees. The actions of this community legal centre kept three cases from proceeding to litigation.

The Family Relationship Centre/Community Legal Centre program has been successful in effecting family law consent orders (thereby keeping the matter from going to court) due to the pivotal involvement of community legal centre solicitors.

Macquarie Legal Centre (**MLC**), located in Parramatta, has a partnership with Parramatta Family Relationships Centre (**FRC**) at Anglicare and North Ryde FRC at Relationships Australia, as part of the FRC/community legal centre program (**FRC partnerships**). Since its commencement in 2010, this partnership has negotiated dozens of parenting plans and consent orders for couples, avoiding the need for protracted court action by the parties to those agreements/orders. This has been achieved by the use of Lawyer Assisted Mediation (**LAM**) harnessing the services and skills of the FRC and MLC in collaboration, which was hitherto unknown in the family law area. This has resulted in the parties avoiding expensive and protracted litigation in the Family Court/Federal Circuit Court. The fact that the parties have been instrumental in negotiating their own agreements/orders has ensured benefits have flowed both to the parties themselves and their children in the expeditious normalisation of relationships between them. The FRC/CLC partnerships were achieved due to the unique nature of community legal centres being able to embrace the concept of LAMs in a way that no other legal body could effectively embrace.

The extensive experience of community legal centres has shown that some of the best strategies for the avoidance and early resolution of civil disputes are community legal education, law reform work and supported alternative dispute resolution. Community legal centres need to be funded specifically to undertake this community legal education, law reform and supported alternative dispute resolution work so that they can continue to assist the justice system through the avoidance and early resolution of civil disputes.

Dr Liz Curran's report, "Solving problems – a strategic approach. Examples, processes & strategies", explores issues in community centre legal practice and was commissioned by the Consumer Action Law Centre in Victoria and the Footscray Community Legal Centre.<sup>45</sup> The report outlines why engaging in law reform work is an economically efficient way for community legal centres to provide legal assistance services.

### Law reform

In some instances, the most efficient means of avoiding or resolving civil disputes, particularly those arising from unfair operation or application of a law or policy, is to advocate to government for legislative, policy or practice change in that particular area.

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<sup>45</sup> This report can be found at [http://law.anu.edu.au/sites/all/files/legalworkshop/final\\_report\\_solving\\_legal\\_problems\\_curran\\_calc\\_13\\_march\\_2013.pdf](http://law.anu.edu.au/sites/all/files/legalworkshop/final_report_solving_legal_problems_curran_calc_13_march_2013.pdf) (accessed 11 November 2013)

Community legal centres engage in law reform activity to advocate for changes to laws, policies and procedures that are unfair or impede access to justice for the client groups.

Law reform constitutes a core prevention strategy. Rather than assisting an isolated individual with a problem, law reform activity can benefit large numbers of people in our community, and the community itself, by preventing legal problems in the future. In this respect, it makes a permanent contribution to the welfare of our society, albeit a contribution that can be difficult to quantify and measure.

Community legal centres have been engaging in law reform and policy work since they first began in the 1970s. As Nicole Rich has commented in her study of community legal centres and law reform:

*“CLCs have achieved outcomes such as amendments to legislation, the enactment of new legislation, prompting government regulators to take action, convincing business and government to change their practices, and cementing ongoing consultative roles with governments and businesses. Community legal centres are also often the sole agency identifying and advocating on issues experienced by their clients.”<sup>46</sup>*

Law reform can be about substantive law, or it can be related to accessible and equitable methods of resolution. For example, it can involve advocating to government for a straightforward, low cost and informal pathway to be available for resolving civil disputes rather than an indirect, complicated and costly pathway that is currently available.

Some examples of this approach can be found in relation to tenants’ access to justice arrangements in NSW.

Tenants’ services in NSW are currently advocating for reviews of Housing NSW decisions to be reviewable by the Administrative Decisions Tribunal (soon to become the NSW Civil and Administrative Tribunal). There have been a number of instances where because the option for reviewing Housing NSW decisions was not available through a tribunal, tenants have had to pursue expensive and complicated judicial review proceedings in the NSW Supreme Court, or forego protecting their rights.

Another example of this relates to co-tenancy disputes. Prior to the NSW *Residential Tenancies Act 2010*, tenants only options for resolution of these civil disputes was the local court. Tenants were put off from pursuing this option because of the costs involved. Following the introduction of the NSW *Residential Tenancies Act 2010* some co-tenancy disputes could be heard before the Consumer, Trader and Tenancy Tribunal. This low cost and informal option is now available for some co-tenants thanks to advocacy and lobbying work by tenants’ services in NSW.

Many community legal centres in NSW, including the Tenants’ Union of NSW, lobbied successive governments for laws to provide basic safeguards and access to justice for residents of boarding houses. The campaign sought to legal protection via legislation for this socially and economically disadvantaged group of citizens, who are extremely vulnerable to homelessness. As a result of this effective campaign, the current NSW Government enacted the *Boarding Houses Act 2012*. Prior to this legislation, the only options available for boarders and lodgers seeking access to justice were taking costly actions in the Equity Division of the Supreme Court of NSW, or framing them as actions under the implied

<sup>46</sup> Nicole Rich, *Reclaiming Community Legal Centres: Maximising our potential so we can help our clients reach theirs* (Consumer Action Law Centre/VLF, April 2009) 13 <<http://consumeraction.org.au/wp-content/uploads/2012/04/Reclaiming-community-legal-centres.pdf>> (accessed 18 October 2013).

The Consumer Action Law Centre launched the Do Not Knock campaign after seeing an increasing number of people who had been misled or pressured into contracts by door-to-door salespeople which left them worse off.

As a result of these cases, Consumer Action became aware that door-to-door salespeople were:

- selling to the elderly, people with dementia and people who don't speak English;
- refusing to leave when asked;
- targeting refugee and remote Aboriginal communities;
- deliberately misleading consumers; and
- forging signatures as part of fraudulent sales.<sup>47</sup>

As part of the Do Not Knock campaign, Consumer Action developed and distributed a 'do not knock' sticker for people's houses, provided consumer information, liaised with industry and regulatory agencies, lodged door-to-door selling complaints to regulators and contributed to law reform proposals. It also established a web portal where Victorian consumers could register their desire not to be door-knocked by energy companies, which automatically registered this request with all energy providers in the state.

The campaign raised consumer awareness of the risks of door-to-door selling and resulted in the successful prosecution of two large energy companies (initiated by the Australian Competition and Consumer Commission (**ACCC**)). It also led to three energy companies in Victoria deciding to cease selling door-to-door and a Federal Court ruling that the 'Do Not Knock' sticker amounted to a request to leave a property, thereby giving all Australians the ability to control whether or not sales people can knock on their door.

The Federal Court ruling means that a salesperson who ignores a 'Do Not Knock' sticker at a person's house will be in breach of Australian Consumer Law and can face a hefty fine. This result, which has the potential to benefit all Australians, is an example of the wide benefits of some of the work that community legal centres do – in addition to providing legal assistance to individuals.

In the case of door-to-door selling, had Consumer Action chosen to simply help each individual to resolve their dispute with the seller, they would have helped only a tiny portion of those with problems, and the numbers needing help would likely be constantly increasing.<sup>48</sup>

After their adult son went missing in 2009, David and Julie Rosewall faced a number of hurdles when trying to manage his legal and financial affairs. They couldn't get his mail redirected, deal with creditors or utility providers or resolve his lease lawfully.

At the time, there were no provisions in Victorian legislation enabling a next of kin or family member to act on behalf of a missing person where the missing person has not appointed a general or financial power of attorney.

<sup>47</sup> Do Not Knock. Federal Court finds Do Not Knock Sign is 'an unambiguous request to leave the premises'. Available at <<http://donotknock.org.au/2013/10/11/federal-court-finds-do-not-knock-sign-is-an-unambiguous-request-to-leave-the-premises/#sthash.hmTMCXIW.dpuf>> (accessed on 18 October 2013).

<sup>48</sup> Community Law Australia. *Do not knock – a community legal centre win*. Available at <http://www.communitylawaustralia.org.au/do-not-knock-a-clc-win/> (accessed on 18 October 2013).

The Rosewalls sought advice from a vast range of legal service providers and were told they could not be assisted. They approached Loddon Campaspe Community Legal Centre (LCCLC) in 2010. Unable to assist the Rosewalls within the current confines of the law, LCCLC decided to take on the matter as a law reform project to assist the Rosewalls and others who found themselves in a similar situation.

LCCLC prepared a submission to the Law Reform Commission, undertook a media campaign and wrote to the then Attorney-General Rob Hulls. Within weeks, the Attorney-General referred the matter to the Department of Justice who prepared legislation to amend the existing guardianship and administration legislation to enable the effective protection and administration of the affairs of missing persons.

The legislation passed in 2010 with bi-partisan support. As a result, David Rosewall was able to ensure that his son's affairs were kept in order, including the payment of debts, completion of tax returns and redirection of mail. Families in this situation in future will not face the same barriers the Rosewalls had to encounter.

*Further examples of law reform work by community legal centres can be found at: Appendix 1: additional case studies, section 1.3.*

## Law reform through strategic litigation

As well as law reform activity through advocating for changes to laws and practices, community legal centres also play an important role in initiating and conducting strategic litigation. While most litigation seeks to achieve an outcome for a particular individual, strategic litigation focuses on an individual case to create wider change. Strategic litigation uses litigation to change a law or the way the law is applied; it has an impact beyond an immediate case or individual client. In some cases community legal centres are able to support and initiate significant public interest test cases that would not otherwise be run.

As with law reform work, strategic litigation is cost effective in that it has potential to prevent unfairness and the need to provide legal assistance to multiple people on the same issue in the future.<sup>49</sup>

In August 2010, the High Court struck down legislation that resulted in the early close of the electoral rolls and denied over 100,000 Australians the right to vote (*Rowe v Electoral Commissioner* [2010] HCA 46).

The case was a constitutional challenge to the validity of changes to the Commonwealth *Electoral Act 1918* made by the *Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006*. The Amendment Act resulted in the electoral roll being closed on the day on which the electoral writ is issued for new or re-enrolling voters, and three days after the writ is issued for voters updating enrolment details. Previously, the electoral roll remained open for a period of seven days after the issue of the writ. The 7 day period enabled the AEC to advertise and promote enrolment and target particular groups with information campaigns, including Indigenous Australians and people experiencing homelessness. At the 2004 Federal Election, approximately 423,000 people enrolled, re-enrolled or updated enrolment during the 7 day period.

<sup>49</sup> Other examples of effective strategic litigation initiated by community legal centres include *Andrews v ANZ* (2012 HCA 30), a class action on bank fees conducted by a private firm but initiated some time earlier by the Fair Fees Campaign run jointly by Consumer Action Law Centre and Choice; and the race discrimination suit initiated by Flemington Kensington Community Legal Centre against Victoria Police, which resulted in a landmark agreement for Victoria Police to publicly review its training and "field contact" practices. More information on the latter case is available at: [http://www.communitylaw.org.au/flemingtonkensington/cb\\_pages/race\\_discrimination\\_case\\_documents.php](http://www.communitylaw.org.au/flemingtonkensington/cb_pages/race_discrimination_case_documents.php) (accessed on 11 November 2013)

The early close of the rolls denied over 100,000 people the opportunity and right to vote. The legislation disproportionately disenfranchised Indigenous Australians, young people, people experiencing homelessness and people in remote communities.

The challenge to the early close of the rolls was jointly conceived and coordinated by the Human Rights Law Centre (**HRLC**) and GetUp! and builds on the previous work of the HRLC in establishing constitutional protection of the right to vote in the landmark High Court case of *Roach v The Commonwealth* [2007] HCA 43.

The Public Interest Advocacy Centre represented Graeme Innes AM, who is blind, in a disability discrimination claim in response to the failure by Sydney Trains (formerly RailCorp NSW) to provide reliable audible 'next stop' announcements on trains. The announcements are crucial because they allow passengers with vision impairment to know when they have reached the right station. This case tested the Disability Standards for Accessible Public Transport.

The litigation funder, IMF (Australia) Ltd, agreed to indemnify Mr Innes against an adverse costs order. Following several unsuccessful attempts at mediation, *Innes v Railcorp NSW* was heard before the Federal Circuit Court in October and November 2012. On 1 February 2013, the Court found RailCorp had breached federal disability discrimination law by failing to make audible announcements on 36 train journeys undertaken by Mr Innes between 28 March 2011 and 9 September 2011. Sydney Trains agreed to take specific steps to continue monitoring and improving on-train announcements and Mr Innes is now 'satisfied with measures that have been put in place to make on-train announcements clear, consistent and audible.' This has had consequent benefits for all blind train travellers

## Community Legal Education

Community legal centres have found that one of the most effective ways to help people avoid civil disputes is to provide legal education to the community. In some areas and with some groups, targeted education can also build those people's capacity to themselves deal in the future with the issues that can lead to disputes. Even when education cannot do this, it can assist the resolution of disputes in the following way.

Community legal centres find that one of the barriers individuals face is that they often do not identify that they have a legal problem. Individuals may know that they have a problem but not identify it as a legal problem. Community legal centres often find that by delivering community legal education, they help individuals identify legal issues and when their problem has a legal component or when their problem may have a legal remedy. They also learn where they can go to obtain legal assistance.

Once an individual engages with the community legal centre about one legal problem that may have been the subject of the community legal education, community legal centres find that they often then ask questions about other problems that they have. In this way community legal education helps individuals realise they have a legal problem/s and seek assistance earlier than they would otherwise have done so.

The LAW Survey contains indicators that can be used to predict disputes and the individuals more likely to experience them. The findings about disadvantaged individuals with multiple legal problems are evident to community legal centres through our work. We find that running community legal education sessions with disadvantaged communities on common

legal problems is an effective strategy for building people's awareness about legal issues or issues that have legal consequences, informing people about their rights and avenues for assistance and resolution, and resolving multiple and often interconnecting legal issues and disputes early.

The experiences of community legal centres support the finding by the LAW Survey that people with a disability face the greatest access to justice barriers.<sup>50</sup>

We note that a number of organisations with expertise in disability issues, including disability law have made submissions to the Commission, including Australian Centre for Disability Law, People with Disability Australia and Australian Federation of Disability Organisations (ADFO). We note in particular the following statement made by AFDO:

*Forty-five per cent of the two million Australians living with disability live in or near poverty, according to the Organisation for Economic Co-operation and Development. The Australian Council of Social Service has also released figures showing 620,600 people with disability in Australia are living below the conservative, internationally accepted poverty line used to measure financial hardship in wealthy countries.*

*High levels of poverty experienced by people with a disability means that the cost of legal services is a real barrier. These high costs are not limited to fees charged by lawyers, courts and tribunals; cost for transcripts, videoconferencing and expert witnesses are often unaffordable.<sup>51</sup>*

Community legal centres in NSW have recently made recommendations regarding how best to target and deliver early intervention programs relating to child protection.<sup>52</sup> The principles behind these recommendations are useful across a range of legal areas. Community legal centres in NSW support greater investment in early intervention programs tailored to high needs groups. These programs work well when they include holistic community based support such as social worker/support services, early intervention legal services and client advocates/mentors.

Some of the barriers people experience when engaging with early intervention programs include feelings of shame and fear of judgmental attitudes in others. These barriers can be alleviated through appropriate training of people delivering early intervention programs. The lack of access to early intervention programs is exacerbated for clients in regional, rural and remote areas. We are aware that where clients do seek support for a combination of complex problems, they are sometimes turned away where government and not for profit services are unable to identify appropriate supports and treatment options within needed timeframes or sometimes not at all.

### Information and education in plain English media

Community legal centres are experts in providing legal information in easily accessible formats, such as plain language publications and other media. Three examples are:

Far West Community Legal Centre in Broken Hill NSW recently worked with Legal Aid NSW to produce a publication 'Ripped Off? Your rights about unpaid wages and entitlements at work'. This booklet is designed to assist young people to avoid or quickly resolve employment law disputes.

<sup>50</sup> Page xv, LAW Survey, Coumarelous et al, 2012

<sup>51</sup> Page 4, Australian Federation Of Disability Organisations, *Submission to the Productivity Commission Inquiry into Access to Justice* (November 2013)

<sup>52</sup> See, for example, CLCNSW website at: [http://www.clcnsw.org.au/cb\\_pages/child\\_protection\\_discussion\\_paper\\_2013.php](http://www.clcnsw.org.au/cb_pages/child_protection_discussion_paper_2013.php) (accessed on 11 November 2013)

The Queensland Public Interest Law Clearing House Incorporated has developed a suite of plain English factsheets designed to assist self-represented litigants to navigate the litigation procedures in various jurisdictions.<sup>53</sup>

Hume Riverina Community Legal Service is preparing a brochure to assist L and P plate drivers in both NSW and Victoria to understand some of the common driving anomalies. There are many differences in the driving laws between states, for example speed, passenger restrictions, towing and even display of L and P plates. In a cross border environment, support for the brochure has been received from the NSW and Victorian Police. The brochure will be used as a tool for prevention and early intervention.

### Regular appearances in the media, such as radio, electronic and print media.

Northern Rivers Community Legal Centre (**NRCLC**) has a regular radio show on a local radio station. On the radio show, they ran a series of programs about debt. George heard the program and rang up the radio during the program to say that he was going to call the legal centre up and get his debts sorted rather than let them go on and get worse and more complex. George later visited NRCLC who was able to assist him in resolving his debt issues. He had let his debt issues compound and if he had not heard the community legal centre people on the radio, he may never have sought help and his problems would have seriously escalated, causing him severe consequences or, if he eventually sought assistance, requiring expensive legal intervention to resolve his debts.

### Information sessions to community groups, schools and other organisations

Many community legal centres provide information in plain English to groups in the community as an effective way of building capacity in that community for people to understand their legal rights and responsibilities.

Northern Rivers Community Legal Centre (**NRCLC**) runs sessions for year 10 students in the local high schools about their rights at work. They have targeted this age group as they are often entering the paid workforce for the first time. They explain to the students what they should be paid according to the relevant award, what their conditions should be at work, that they have a right to a safe workplace and that they can contact the Fair Work Ombudsman when they have a problem.

- Young people who attend these sessions are informed and empowered to raise work, health and safety issues in their workplace before an incident occurs.
- A number of young people who attended these sessions became aware that they are not being paid properly. They subsequently contacted NRCLC because they identified, based on the knowledge they gained at the information session, that there is a legal problem and they know where to get assistance. NRCLC has been able to encourage them to raise these pay discrepancies with their employer and the issue has been rectified without legal recourse.
- Young people who attend these sessions have informed their family and friends that they can get assistance from NRCLC and helped others to resolve employment matters before they escalate into more serious legal issues.

<sup>53</sup> Available at: <http://www.qpilch.org.au/resources/factsheets/index.htm> (accessed 11 November 2013)

Hume Riverina Community Legal Service (**HRCLS**) regularly delivers life planning information sessions that focus on the importance of having powers of attorney and wills. In one particular session where the presenter had explained that marriage usually revokes a will, a participant in the front row paled significantly. She was not aware that her will, made pre-marriage, and not made in contemplation of marriage, was no longer valid. The participant determined to revise her will. Having HRCLS run this information session potentially saved this family unnecessary stress, delay and expense, and the justice system the costs of at least one civil dispute.

HRCLS and the Dispute Settlement Centre of Victoria presented an information session on neighbourhood disputes, focusing on issues such as noise, trees, fences and animals. Together the services shared information about the application of the law and options for early resolution, including mediation. Participants were asked to consider the neighbour's position, and the importance of selecting a "good time" to discuss grievances. For participants in such an information session, understanding the law, discussing strategies and applying tips for early resolution mechanisms will potentially avoid protracted litigation, expense and stress.

Community legal education activities can also be targeted to a particular group in the community, such as non-English speaking people:

South West Sydney Legal Centre (**SWSLC**) operates a Driving Offences Legal Service. As a result of operating the service it became apparent that whilst culturally and linguistically diverse clients understand the road rules as written, for many (newer arrivals in particular), grasping the concepts that underpin the rules has been elusive. It was obvious that some of these misconceptions stemmed from the vastly different driving and traffic management cultures and practices in which they have previously operated. For example:

- **NO PARKING:** *I left my car on the side of the road for just a minute or two to buy some cigarettes, I didn't plan to leave it there.*
- **DOUBLE PARKING:** *I stopped alongside the car less than a minute to let my wife and children out - I didn't actually park the car*
- **NO STOPPING:** *Yes my car wasn't moving, but I was in the car and the motor was going, so it wasn't stopped.*

This lack of clarity had resulted in substantial police and court time being taken up, as well as many financially disadvantaged clients unnecessarily incurring onerous penalties and demerit points.

As a result SWSLC commenced working with Liverpool Migrant Resource Centre to develop legal information sessions to clarify the concepts inherent in the road rules. These misconceptions were confirmed by the type of feedback received in the first information session delivered by the centre. SWSLC is confident that as a result, people from the local culturally and linguistically diverse community who attended the information session will not 're-offend', thereby avoiding unnecessary demands on the justice system and avoiding cumulative penalties themselves.

## Information sessions and services at Local Courts

Community legal centres provide information and services at Local Courts, which is an effective way of ensuring that people who arrive at court with little or no information about what to do with their legal issue can have assistance. These community legal education activities carried out by a community legal centre are an effective strategy that help



individuals and save valuable court time and taxpayer money. They often lead to earlier resolution of civil disputes.

Every Thursday at Wyong Local Court it is Appended Violence Order (**AVO**) list day. The court allows Central Coast Community Legal Centre (**CCCLC**) to run an information session for all unrepresented parties in AVO matters in a courtroom that is not being used. **SWSLC** provides information about the options available to parties in AVO matters. People can ask questions and line up to talk with a lawyer from the centre. One of the options available is that an AVO defendant can agree to adhere to certain behaviours and if the AVO applicant agrees, an undertaking agreement can be lodged with the court that day and the AVO matter is settled. This suits the legal needs of some AVO parties and provides an early resolution of the dispute.

Lawyers from South West Sydney Legal Centre (**SWSLC**) have draft agreements available that can be tailored to each circumstance and lodged with the court. This way the matter is resolved on the day without the need for subsequent mentions and a full-defended hearing that would require significant legal resources on the part of the court and legal representatives. It is usually the parties that do not want to proceed with the AVO that avail themselves of this opportunity. If SWSLC were not present and providing this information, significant court time and resources would be spent trying to sort out each of these matters, and some would have to be relisted for another day.

## 5. Funding and workforce

An independent study commissioned by NACLC in 2012 confirmed the high economic return on public investment in community legal centres.<sup>54</sup> The study, which was undertaken by Judith Stubbs and Associates, used an economic cost-benefit analysis to understand the economic benefit of community legal centres' direct service delivery in Australia.

The report illustrates the wide range of economic benefits associated with the work done by community legal centres. These benefits include those arising from:

- a more efficient operation of the legal system (for example a reduction in court costs);
- the avoidance of domestic violence (the cost of domestic violence to the community is estimated at around \$37,000 per victim/survivor); and
- the protection of legal rights (such as the reinstatement of an employee who was wrongly dismissed from their job).

The study found that on average, community legal centres have a cost benefit ratio of 1:18; that is, for every dollar spent by government on funding community legal centres, these services return a benefit to society that is 18 times that cost. To express this in dollar terms, if the average held constant for community legal centres across Australia, the \$47 million spent on the program nationally in 2009/10 would yield around \$846 million of benefit to Australia.

It is worth noting that not all of the work done by community legal centres was quantified in the study. The study assessed only direct legal services (such as information, advice and casework) and did not include the community legal education and law reform activities that are commonly undertaken by centres in order to prevent legal problems or to intervene early to prevent problems escalating (discussed in **section 4** above). As the costs considered in the study included all costs but not all services and their benefits, the resulting ratio is conservative.

The activities that were quantified indicate a very high rate of return compared, for example, to the cost benefit ratio of 1:2 or 1:3 that government typically regards as sufficient justification to proceed with a major infrastructure project involving, in some cases, billions of dollars in public expenditure.

*The Executive Summary for the "Economic Cost Benefit Analysis of Community Legal Centres" report is attached, as a separate document, to this submission.*

Other state-based efforts have attempted to calculate the cost-benefit of some of the services provided by community legal centres. For example in Victoria, the Federation of community legal centres has used previous work by Access Economics and KPMG on the cost of family violence<sup>55</sup> to attempt to calculate the costs saved for every woman represented by a community legal centre lawyer in a family violence matter. Conservatively, these calculations suggest that each lawyer would need to assist only 67 clients per year for costs to be neutral. In fact, these community legal centre lawyers see far more than this, with one community legal centre seeing 1300 clients in a year through its family violence program.

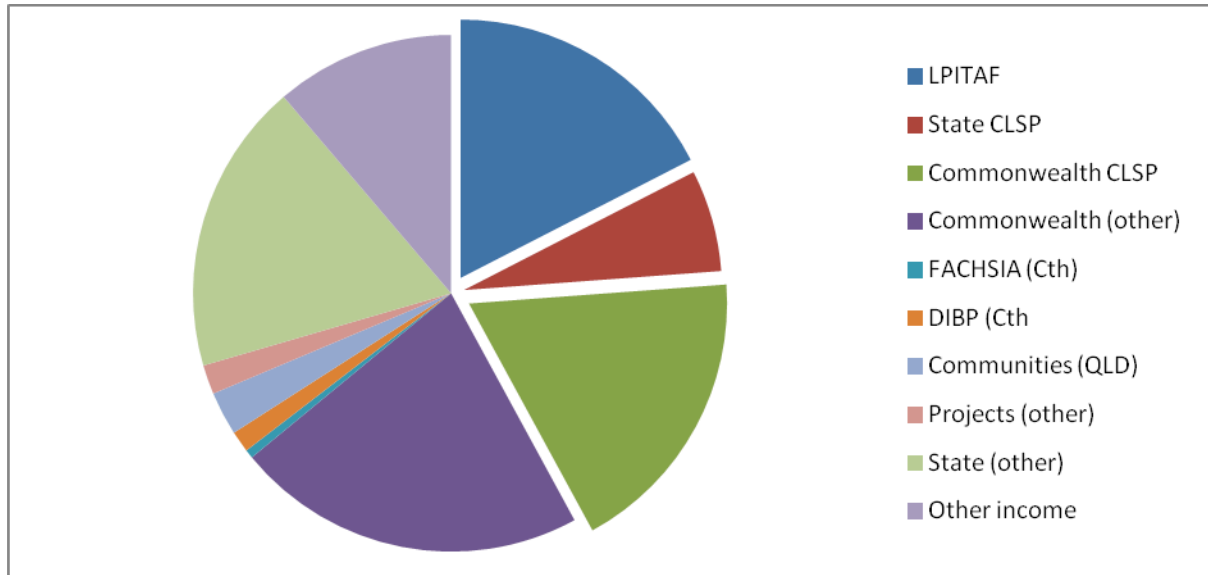
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<sup>54</sup> Judith Stubbs and Associates, 'Economic Cost Benefit Analysis of Community Legal Centres', June 2012. Available at <[http://www.naclc.org.au/resources/Cost\\_Benefit\\_Analysis\\_Report.pdf](http://www.naclc.org.au/resources/Cost_Benefit_Analysis_Report.pdf)> (accessed on 17 October 2013)

<sup>55</sup> National Council to Reduce Violence against Women and their Children, *The Cost of Violence against Women and their Children* (March 2009) and Access Economics, *The Cost of Domestic Violence to the Australian Economy* (2004).

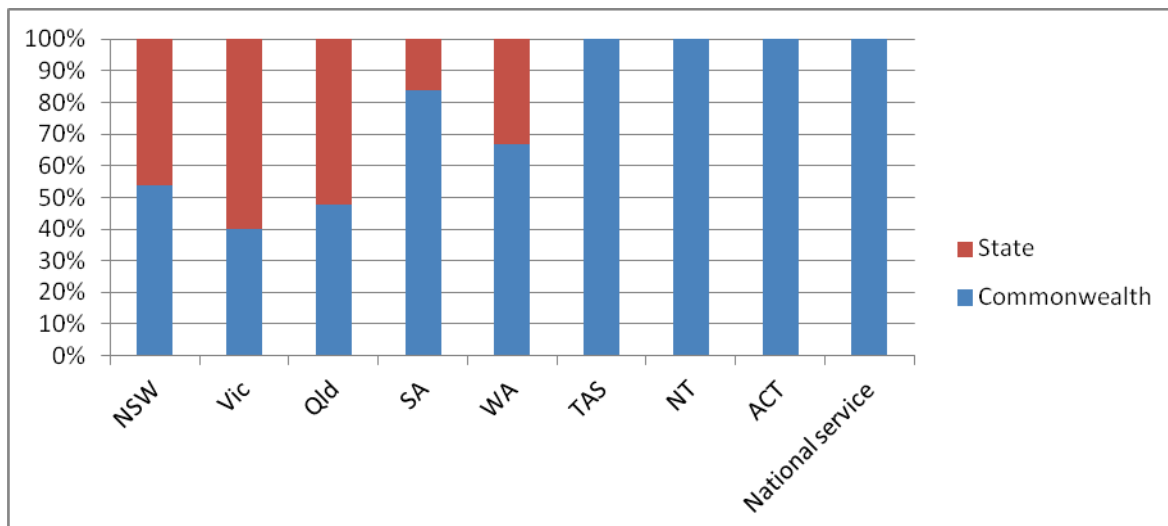
## Funding community legal centres

Sources of funding vary across states, and community legal centres obtain funding from state and commonwealth departments, philanthropic organisations, self-generated income, and other sources. For an example of the breakdown of community legal centre funding, the following is for Queensland funding in 2012-13:



The major funding program for community legal centres is the Community Legal Services Program (**CLSP**), which administers both Commonwealth and State moneys. Not all community legal centres obtain funding from the CLSP, some receive CLSP funding from both the Commonwealth and the State, and some from only one or the other.<sup>56</sup> There are some centres that do not receive any funding at all: they are operated entirely by volunteers.

The 'split' between CLSP contributions from states/territories and the Commonwealth varies across jurisdictions, as these 2013/2014 figures show:

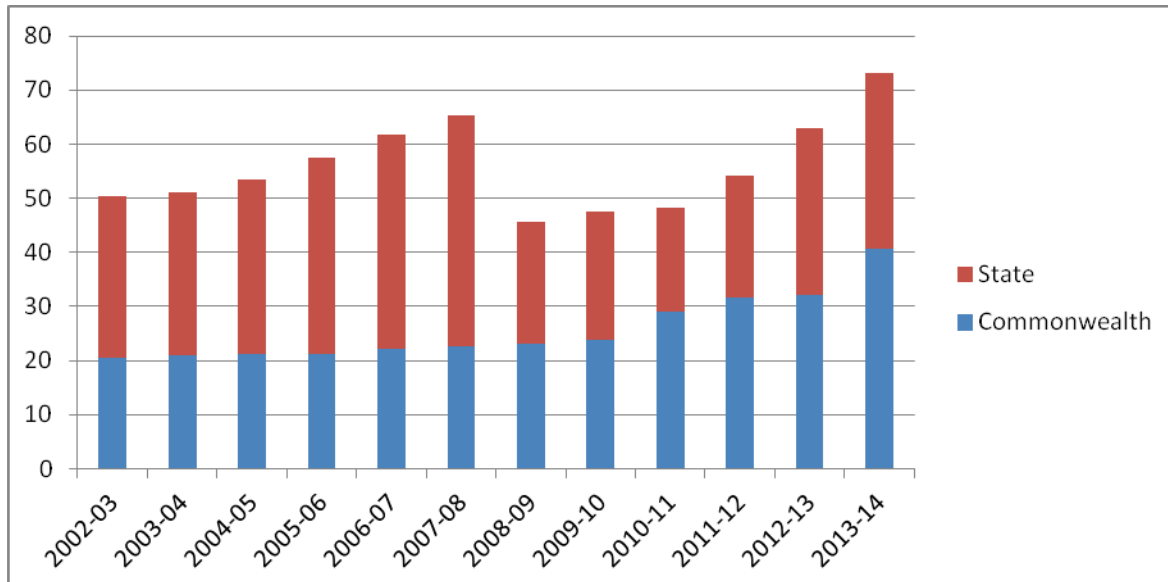


In some states, governments distribute grants from public purpose funds; these funds receive interest earned on deposits in solicitors' trust accounts, and are administered by a

<sup>56</sup> It is understood that at least in one State jurisdiction, that State includes some services in the CLSP that are not members of the State CLC association, not accredited by NACLC, and are not funded by the Commonwealth.

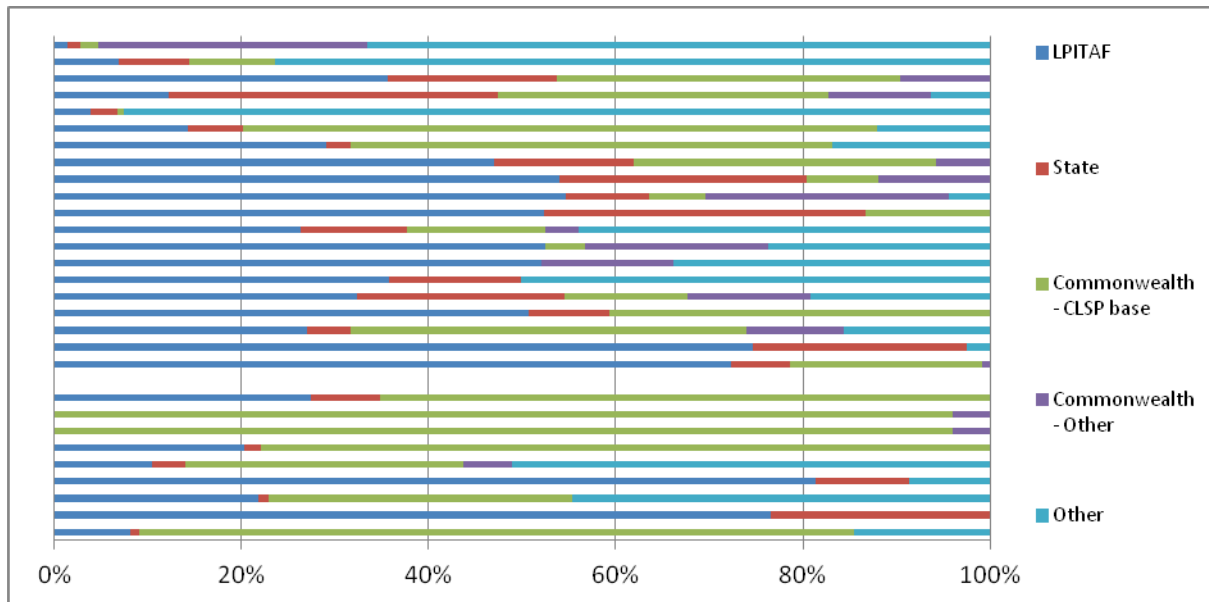
body that allocates grants, to organisations such as Legal Aid Commissions, community legal centres or other justice and legal-related organisations. Historically this was usually for one-off projects, but in two states at least, this has become a significant source of term funding for public legal services.

A significant proportion of state funding for community legal centres in Queensland and NSW is derived from the interest on solicitors' trust accounts, so global factors, such as declining economic activities and market fluctuations, can have a significant impact on funding for legal assistance services through this funding, as set out below:



Monies allocated from public purpose funds must be allocated in accordance with the particular requirements of the relevant trusts, and are distributed at the discretion of the relevant decision-makers, which may be statutory bodies, trustees or Ministers. The process for applying to access these funds varies among the jurisdictions and is a less reliable source of service delivery funding.

Many community legal centres obtain funding comes from a variety of other sources, including project funding, other government (Commonwealth, state and local) funds, philanthropic grants, donations, service generated income (fee for service activities, such as publications, training, etc.), interest, and other activities. This varies significantly across community legal centres; some services rely almost entirely on CLSP, while others rely on other funding sources, as this graphic from Queensland shows (for 2012-13):



CLSP, as a joint program of the Commonwealth and States/Territories, should be structured and resourced so that all community legal centres receive funding to an effective base line or minimum service delivery model in order to deliver core services to the community.

- The CLC Strategic Service Delivery Model (SSDM) (discussed below) has been developed over the forty years that community legal centres have been operating in Australia to meet the needs of clients with complex needs and multi-dimensional problems.
- The essence of the service delivery model is that it is multi-disciplined in approach, works effectively with disadvantaged communities, targets services to emerging need, and is flexible and responsive.
- The first phase in the strategic service delivery model is a legal needs assessment of the community(ies) which the community legal centre serves. Along with the needs assessment, the centre surveys other legal service providers and community organisations about the services they provide and the gaps in service delivery. This process informs the Strategic Plan and directs the targeting of services.
- For the strategic service delivery model to be most effective, a centre needs to be able to employ a multi-skilled team.

*For further detail and costings for the SSDM, see Appendix 2: NACLC funding principles, section on 'Base Funding'.*

## NACLC funding principles

The NACLC Management Committee has determined a set of principles for Commonwealth Community Legal Services Program (CCLSP) Funding 2013 -2016, a copy of which is at **Appendix 2** to this submission.

**In summary, the NACLC funding principles advocate for** CCLSP funding decisions to be made by a funding decision making body, however described, that is established in consultation with the community legal centre sector. NACLC also recommends that CCLSP funding should be made available for:

- Base funding;
- Supplementary funding;

- New funding (to address demonstrated unmet legal need);
- Special funding; and
- Sector development and support initiatives.

NACLC suggests that the Commonwealth should accept primary responsibility for funding community legal centres, and that CCLSP funding should be based on, and enable compliance with, the community legal centre **Strategic Service Delivery Model (SSDM)**. The **SSDM** entails:

- A Identifying legal needs using evidence based assessment.
- B Planning and developing service responses.
- C Delivering legal and related services to clients and including some or all of the following: law reform and policy advocacy, community legal education, strategic litigation (test cases to establish or clarify the law or the legality of application of a policy or practice, often with the effect of avoiding multiple individual actions), community development activities including building the skills, capacity and resilience of individuals and communities to avoid or resolve problems in the future.

A minimum base funding level is required for community legal centres (generalist and specialist) to meet the SSDM and operate efficiently, effectively and safely.

## Workforce challenges

In addition to the general funding issues discussed above, community legal centres face challenges attracting, retaining and developing staff, which directly impacts their capacity to deliver effective legal services and support access to justice.<sup>57</sup> Factors that impact on community legal centres' ability to achieve this are largely connected to resources and include:

- Comparatively low remuneration compared with comparable positions in public and private sector;
- High level of client demand;
- Sometimes inferior work premises and resources of community legal centres;
- Limited access to professional development opportunities particularly in regional, rural and remote areas;
- The lack of a clear pathway from university into a legal career in a community legal centre; and
- Particular difficulties in recruitment and retention in rural and regional community legal centres, especially experienced staff or staff with specialised knowledge and skills required to fill an unmet need or gap in service

NACLC commissioned Mercer Human Resource Consulting to compile a Salaries Benchmarking Review report in June 2011, which was subsequently revised in July 2012. This work compares pay rates for the community legal centre positions with Australian Public Sector (APS) pay rates for equivalent positions. The report found that overall, remuneration

<sup>57</sup> See further Queensland Indigenous Family Violence Legal Service, *Submission to the Productivity Commission Inquiry into Access to Justice* (November 2013).

levels for benchmarked positions within community legal centres are positioned well below other Federal and State award remuneration levels and are not considered competitive.

The report found that for community legal centre salaries to be competitive increases would need to be applied to benchmarked community legal centre positions, including a 60% increase for principal solicitors to bring salaries within 85% of the median APS salary for positions classified at the equivalent level.<sup>58</sup> In the same year, the top salary rate for community legal centre lawyers in Victoria was approximately 17% less than the starting salary for graduate lawyers in private firms.

Accordingly, the more experience a lawyer has, the greater the pay disparity between private and government sector positions and community legal centre positions, and the greater the financial disincentive for private or government sector lawyers to switch to a career in community legal centres.

The community legal centre peak bodies are pursuing initiatives to address these and other factors affecting the community legal centre sector's ability to recruit experienced lawyers. Improvements in relation to conditions of employment, such as parental leave and portable long service leave, secondments, and other initiatives are assisting.

Through a project run by NACLCL, graduate law students have the opportunity to undertake the work experience component of their practical legal training (PLT), a prerequisite to becoming a lawyer, in a regional, rural or remote community legal centre. Having completed her law degree, Fia Norton was one of the first students and was placed at Northern Rivers Community Legal Centre in Lismore, NSW.

For Fia, who had a successful career as a human rights policy manager in the ACT public sector, this was a significant personal and professional change, and one that would turn out to be long-term. After 5 months, Fia completed her PLT, and also decided to resign from her job in the public sector and move to Lismore, with the aim of securing work at the community legal centre.

"It was a risk as I had established a life and a career in Canberra, but I had connected with the CLC, the staff and the vibrant Lismore community. Completing my PLT on a volunteer basis at a CLC made me appreciate the grassroots social change that can happen in a community, and I wanted to be a part of that", Fia said. Fortunately, Fia's risk paid off. She was soon working in the generalist legal practice and the specialist family law service, where she benefited from mentoring and training provided by the community legal centre's senior lawyers. With time, Fia was running community legal education workshops in local high schools about employment law, and providing family law advice to clients referred from the local Family Relationships Centre.<sup>59</sup>

Realistically, however, it will take many years to address these issues satisfactorily and the significant pay disparity can be a powerful disincentive for many in taking up or remaining in a position in a community legal centre.

Community legal centres also note that the nature of community legal centre funding can make it difficult to attract and retain staff. Short term and project-based funding means legal positions are often funded for a fixed short term period, such as 12 months. With no certainty as to ongoing funding, this reduces the attractiveness of community legal centres as a viable and secure career option for lawyers.

<sup>58</sup> Page 24, Benchmarking remuneration report (Mercer, July 2102)  
[http://www.naclc.org.au/resources/Mercer%20Benchmarking%20Review\\_Final%20Report\\_20120717.pdf](http://www.naclc.org.au/resources/Mercer%20Benchmarking%20Review_Final%20Report_20120717.pdf) (accessed 11 November 2013)

<sup>59</sup> Source: NACLCL Working Collaboratively: Community Legal Centres and Volunteers. Link:  
[http://www.naclc.org.au/resources/NACLCL\\_VOLUNTEERS\\_web.pdf](http://www.naclc.org.au/resources/NACLCL_VOLUNTEERS_web.pdf); (accessed 11 November 2013)

## Using volunteers and pro bono support

Community legal centres' capacity to attract, train, utilise and retain large numbers of quality volunteers is a major feature that sets them apart from other legal service providers. Volunteers increase the capacity of community legal centres to provide much-needed direct legal service delivery, community legal education and law reform advocacy.

Garry had transferred three properties to his three adult children (which included the house that he and his wife Betty lived in) and entered into an Enduring Power of Attorney in favour of one of his children. Garry died eight years later, and one week after his death, his children sent Betty a letter requesting she leave the house within 7 days.

Mackay Regional Community Legal Centre (**MRCLC**) assisted Betty to defend the tenancy matter in QCAT, and then drafted a District Court Claim and Statement of Claim. Betty was referred through the Queensland Public Interest Law Clearing House Inc (QPILCH) to a private law firm in Mackay. The transfer of the matrimonial home to the children was voided, so that the house returned to Garry's estate. Pursuant to Garry's Will, the house was then to be transferred to Betty. The Court found that Garry's children had exercised undue influence over their father in relation to the transfer; court costs were ordered against the children and were paid to the law firm.

In June 2012, NACLCL conducted a survey of community legal centres around Australia on the use of volunteers and pro bono services. Of the 106 community legal centres that responded, **95.2% utilised volunteers**, and in these centres alone, **3,637 volunteers contributed 8,369 hours of work per week**.

While the majority of volunteers are lawyers and law students, there are also volunteer social workers, social work students, financial counsellors, administrative assistants and others supporting the governance and management functions of community legal centres.

The diversity of volunteers reflects the range of community legal centre services and their holistic service delivery model, where centres do not just provide a legal answer to a legal query, but attempt to address the complexity of the client's needs. Volunteers contribute to community legal centres in a range of areas, and often in more than one area. For example, at the 106 community legal centres who responded to NACLCL's survey:

- 89.2% had volunteers working in direct legal service delivery;
- 72% in administrative support;
- 48.4% in law reform advocacy;
- 40.9% in community legal education;
- 16.1% in non-legal service delivery (e.g. social work or court support); and
- 16.1% in governance or management.<sup>60</sup>

The survey also examined the extent and value of the pro bono partnerships garnered by community legal centres.<sup>61</sup> Key results from the survey found that from the 106 community legal centres that responded:

- **56,939** hours were contributed in **one year** by pro bono partners to community legal

<sup>60</sup> The survey did not include in this definition CLC Management Committee (MC) members when they are undertaking their standard governance duties; rather it includes any additional volunteer contributions any member makes. Hence, the figure of 16% is the additional management and governance voluntary contributions, sometimes but not always carried out by current MC members.

<sup>61</sup> Pro bono clearing houses or public interest law clearing houses play a significant role in coordinating and supporting pro bono legal services; see further National Pro Bono Resource Centre submission to the Productivity Commission (November 2013).



centres;

- most pro bono contributions were for legal services delivered direct to community legal centre clients, but pro bono legal services were also provided to the centres themselves, saving costs that were used by community legal centres to maintain or extend service delivery;
- pro bono contributions to community legal centres also included accountancy and governance advice, marketing, design and printing, free venues and catering for meetings or training, and fundraising;
- community legal centre staff invest **1,071 hours per week** into supervising pro bono workers and volunteers; and
- **12,346** hours were invested by 106 community legal centres in one year in providing training for pro bono workers and volunteers.

The total number of volunteers and hours contributed would obviously be much greater for all community legal centres in Australia.

Volunteer assistance plays a vital role in the provision of services at community legal centres and community legal centres' ability to harness the contribution of volunteers substantially increases the impact of the legal assistance sector in providing access to justice. Volunteer and pro bono assistance, however, cannot supplant the need for funded, trained professionals and the sector's ability to harness this input requires a strong and well-resourced service and supervision infrastructure to be provided by community legal centres.<sup>62</sup>

As the Public Interest Advocacy Centre (PIAC) notes:

*The vast majority of the 400 lawyers who staff the Homeless Persons Legal Service (HPLS) clinics do not come to the HPLS project with expertise in areas of the law that the clients require assistance with, or with extensive experience or expertise in dealing with people with complex needs, mental illness or those who have suffered from significant trauma. In light of this, all of the pro bono lawyers need training, and HPLS staff supervise the information and advice given to every client who attends every HPLS clinic in a timely manner. During an average week, this involves the supervision of at least 20 solicitors providing advice to at least 35 clients face-to-face at an HPLS clinic, in addition to 200 ongoing casework files.*

*This example illustrates that pro bono does not equate to free. There are substantial costs associated with training and supervising lawyers to do pro bono work, and this coordination role needs to be properly funded so the benefits of pro bono work can be fully realised. HPLS is a good example of how a project harnessing pro bono resources can demonstrate unmet legal need and creative and effective ways to meet that need, but it needs to be understood that to be effective the underlying training and support needs to be funded.<sup>63</sup>*

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<sup>62</sup> See further National Pro Bono Resource Centre submission to the Productivity Commission (November 2013).

<sup>63</sup> Public Interest Advocacy Centre, Submission to the Productivity Commission (November 2013)

## Appendix 1: additional case studies

### 1.1 Cases demonstrating the wide variety of support provided by community legal centres

Pranee's husband passed away last year and she received approximately \$150,000 from his life insurance policy. Subsequently, Pranee lost this money in what is sometimes known as a "Nigerian Scam". Pranee's rate of payment was reduced by Centrelink, which was treating this loss of money as a loan, and therefore treated the amount, which Pranee no longer had, as a financial asset which was then assessed under the income test.

Pranee had been unable to obtain verification of her circumstances from Queensland Police. She sought assistance from the Welfare Rights Centre, which supported Pranee and worked collaboratively with a generalist community legal centre. The centres were successful in liaising between Queensland Police and Centrelink to verify the client's circumstances to Centrelink's satisfaction. Pranee's rate of payment was restored and she received \$3,000 of arrears. This was achieved through early intervention and effective advocacy, thereby saving the public resources required to go through the formal tribunal process – and helping Pranee with a much quicker resolution.

Pippa, born in England, was living with her defacto partner Tom on a temporary partner (defacto) visa. These types of visas are granted in two stages and the visa holder is generally not entitled to qualify for a permanent visa until 2 years have lapsed, provided that the relationship is genuine and ongoing for that 2 year period.

Pippa and Tom had one child who was born in Australia. Shortly after the birth of the child Tom started being physically abusive towards Pippa and made threats that he would send her back to England and that the child would have to remain in Australia. Pippa's support network was in England and she had no family, apart from her child in Australia.

North Queensland Women's Legal Service (**NQWLS**) assisted Pippa by providing legal advice and accessing crisis accommodation, and counselling and support from the Domestic Violence Service. Once Pippa's safety was addressed, NQWLS was able to liaise with the Department of Immigration and Citizenship and provide the evidence required in order for Pippa to seek an exemption to the two year period on the basis that the relationship had broken down, there was a child of the relationship and the parents shared 'custody, access or maintenance obligations' (Department terminology). This was opposed to applying on the basis of family violence as the processing times vary significantly.

Pippa was granted permanent residency. NQWLS then assisted Pippa to draft a parenting agreement which Tom signed and Pippa was able to return to England with the child in order to get much needed support from her family.

Mon is the paternal grandmother of Amy, who was removed from her mother's care. Mon was totally unaware of Amy's removal by Child Safety Services (**CSS**) until informed by a family friend. Mon was aware that Amy's mother was missing, but thought she had taken Amy, as she had done previously. Mon cares for Amy's two siblings and has done so for 2 years. She would take the siblings to visit with Amy on a regular basis.

Mon cannot communicate in the English language and required an interpreter to communicate with services such as community legal centres and CSS. When Mon consulted CSS at no time did CSS utilise the skills of any of their Vietnamese speaking staff, or a qualified interpreter to communicate with Mon.

As Mon wishes to provide kinship care to Amy, particularly given that she is parenting the other siblings, she utilised the English skills of a family member to communicate with CSS. She informed them that she wished to provide kinship care but was told she would need to make a Blue Card application, which is not a standard requirement.

South West Brisbane Community Legal Centre (**SWBCLC**) provided Mon with a kinship carer application kit. CSS had not provided any support to assist Mon and her husband to complete and of the documentation. Meanwhile, and again not in keeping with the legislative intent, Amy was being cared for by a non-Vietnamese, unrelated carer.

Until SWBCLC became involved in the matter, Mon and Amy's siblings had not been permitted to visit with Amy. SWBCLC's involvement led to Mon and Amy's siblings having contact with the child, and SWBCLC also secured assurances from CSS that in any future dealings with the family, interpreters will be engaged to facilitate those dealings.

Pamela is a single mother in serious financial hardship. She receives a welfare benefit and has many debts. Whilst in a shopping centre she was approached by a Photographic Studio to enter a "competition". After declining a number of times she was coerced into entering the competition. The Photographic Studio then called Pamela four times to advise she had won a free sitting even though Pamela said she was not interested. On the fifth time Pamela agreed to the sitting if the Studio stopped calling her. Pamela ended up signing a finance contract for a photo package worth several thousand dollars. Pamela could not afford to make any of the repayments on this credit contract and was referred to Northern Community Legal Centre in South Australia (**NCLC**) by a Financial Counsellor. NCLC was able to organise rescission of the contract based on the breaches of consumer protection laws.<sup>64</sup> Pamela is extremely relieved to be free from this financial burden.

Community legal centres have a long and proud history of supporting and representing families and friends of the deceased in coronial inquests, and of advocating for legal and social change so that future deaths can be prevented. Community legal centres have been heavily involved in numerous inquests concerning deaths in police custody, prisons, mental health facilities and detention centres; family violence-related deaths; and deaths in rooming houses and other accommodation-related fires. Through this work, community legal centres identified a range of shortcomings in the legislation governing coronial inquests.

Coroners have a key role to play in making recommendations to prevent future deaths from occurring, and over the years Coroners have made vital recommendations in areas affecting community legal centre client groups. Under the *Coroners Act 1985* however, there was no requirement for relevant government agencies to respond to those recommendations. The agencies could ignore or adopt the recommendations as they wanted without having to inform the court, the deceased's family or the public, of the response. Following advocacy by community legal centres, individuals and others who participate in the coronial system, the Victorian Parliament Law Reform Committee reviewed the *Coroners Act*. The Attorney-

<sup>64</sup> *Fair Trading Act 1987 (SA), Trade Practices Act 1974 (Cth), Misrepresentations Act 1972 (SA) and National Consumer Credit Protection Act 2009 (Cth).*

General responded to the Committee's Final Report by introducing the *Coroners Bill 2008*. Community legal centres welcomed a range of improvements in the Bill. However, the Bill ignored, or only partly implemented, key recommendations of the Committee's Final Report. In particular, the Bill failed to require mandatory responses from relevant government agencies to coronial recommendations.

A coalition of community legal centres pushed for amendments to the Bill, providing a detailed submission to MPs outlining concerns and suggested amendments. As a result of these efforts, amendments were subsequently incorporated into the *Coroners Act 2008*.

The highlight of these amendments was the insertion of a requirement that if a Coroner makes recommendations to a particular Minister, statutory authority or entity, they must now respond within three months outlining actions that will be taken in response to the recommendations. The response must be published on the Internet and be provided to any interested person. This is a substantial gain for families and for the prevention focus of inquests, meaning inquests are more likely to result in changes that will prevent future deaths.

## **1.2 Additional case demonstrating how community legal centres target their services**

The Aged-care Rights Service – Older Persons Legal Service (TARS-OPLS) assisted Ray, an older person whose son Scott had taken Ray to a solicitor to complete an Enduring Power of Attorney.

Ray was only with the solicitor for a few minutes and the effect of the document was not properly explained to him but he trusted Scott so signed the document, even though he did not have independent legal advice prior to executing the authority to make Scott his attorney, although Ray was to have the full advantage of conferring benefits to meet his reasonable living and medical expenses.

Although Ray had capacity, the Enduring Power of Attorney came into force immediately. When Ray entered into a new relationship Scott transferred all of Ray's assets out of his reach. Scott also applied for financial management of Ray's pension.

TARS-OPLS assisted Ray by seeking leave to represent him before the Guardianship Tribunal where the application for financial management was dismissed.

Since Ray's home was at risk TARS-OPLS also assisted Ray to place a Caveat on the title of his residence. Legal Aid was not available to Ray so TARS-OPLS assisted Ray to obtain legal representation to protect his place of residence.

This is an example where a "transactional" legal matter developed into a crisis for the client. Early intervention – through education and independent legal advice would have saved considerable trauma for the client and time for the Tribunal and Ray's legal support team.

## **1.3 Additional case studies demonstrating community legal centres' law reform activities**

Prisoners Legal Service (PLS) visits all of Queensland's prisons each year. During one of these tours, PLS discovered that many prisoners in far north Queensland had not undergone their scheduled security classification assessment as required under the Corrective Services Act 2006. PLS wrote to the authorised decision maker who then undertook the assessments. Classification assessments are a vital step in progression and planning of a prison sentence.

From February 2009 Women's Legal Services NSW took a lead role in a collaborative project with the Office of the Director of Public Prosecutions, law firms Ashurst (then Blake Dawson), Clayton Utz and Freehills, and the NSW Bar Association to improve the practical application of the sexual assault communications privilege.

The project grew from concern at the lack of legal services for sexual assault victims/survivors seeking to protect the confidentiality of their counselling notes. Without legal representation, the NSW laws limiting the disclosure or use of counselling records were in effect an empty promise.

Legislation to protect the confidentiality of counselling records has existed in NSW since 1997. However, in 2010, the project resulted in changes to the *Criminal Procedure Act* (NSW) to strengthen the privilege. The 2010 amendments did this by enhancing victims'/survivors' participation in decisions affecting the confidentiality of their counselling and therapeutic records.

The project also resulted in over \$4million funding over 4 years to Legal Aid NSW to establish a Sexual Assault Communications Privilege Unit to provide representation to complainants in sexual assault trials to claim the privilege.<sup>65</sup>

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<sup>65</sup> Source: A. Jillard, J. Loughman, E. MacDonald, 'From Pilot Project to Systemic Reform: Keeping sexual assault victims' counselling records confidential', *Alternative Law Journal*, Vol 37:4, 2012, p254-258

## Appendix 2: NACLC funding principles

### NACLC Principles for Commonwealth Community Legal Services Program (CCLSP) Funding 2013-2016

[For funding priorities, see *NACLC Priorities for Commonwealth Community Legal Services Program (CCLSP) Funding 2013-2016*]<sup>66</sup>

#### 1. Decision-making

- 1.1. CCLSP funding decisions should be made by a funding decision making body, however described, that is established in consultation with the CLC sector.
- 1.2. The funding decisions of that body should be made on the basis of funding principles (CCLSP Funding Principles) that are developed in consultation with the CLC sector. The decision making process should be consistent and transparent.
- 1.3. Funding priorities, including any priority client groups for services, should be determined in consultation with the sector and these decisions made publicly available. The priorities should be reviewed regularly, in consultation with the sector.
- 1.4. Where a funding decision is to be, or is being, made that would or may have an adverse effect on a particular CLC or CLCs (for example, funding reduced), or a funding decision has a disparate adverse impact upon a particular CLC or CLCs (for example where funding is allocated to most, but not all, CLCs that undertake a particular type of work), then the affected CLC/s should be given notice and an opportunity to be heard in relation to the proposed decision. This principle should apply to all decisions concerning recurrent<sup>67</sup> funding, and wherever practicable to one-off funding decisions.

#### 2. Funding allocations

- 2.1. CCLSP funding should be made available for:
  - Base funding
  - Supplementary funding
  - New funding (to address demonstrated unmet legal need)
  - Special funding, and
  - Sector development and support initiatives.

Each of these allocations is discussed below.

- 2.2. CCLSP funding should be indexed annually to take account of real increases in costs of wages and wage-related oncosts as well as goods and services. It should be indexed annually using a composite of the annual Labour Price Index (LPI)<sup>68</sup> and the

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<sup>66</sup> Available at: [http://www.nacalc.org.au/cb\\_pages/news/NACLCFundingPrinciplesandPriorities.php](http://www.nacalc.org.au/cb_pages/news/NACLCFundingPrinciplesandPriorities.php) (accessed 11 November 2013)

<sup>67</sup> Funding is regarded as 'recurrent' where it is for three years or more.

<sup>68</sup> This index reflects changes to the cost of wages as well as superannuation, annual and public holiday leave, payroll tax and workers' compensation. Accordingly it more accurately reflects real cost increases than the Wage Price Index (formerly called the Wage Cost Index) that reflects only changes to the cost of wages.

Consumer Price Index (CPI). Wages and wage-related oncosts generally account for around 75% of a centre's total budget. Accordingly, the LPI should be the indexation rate applied to 75% of CCLSP funding and the balance of CCLSP funding should be indexed using the CPI.

### 3. Commonwealth Responsibility

The Commonwealth should accept primary responsibility for funding CLCs because it has:

- sole power to levy income taxes
- responsibility for ensuring that Australia complies with its international treaty obligations including human rights treaties and ensuring the legal protection of people's human rights
- a particular duty of care for social security recipients, Indigenous peoples, newly arrived migrants and refugees, people within the family law system, and consumers of a range of insurance and other financial services, and
- responsibility for many of the areas of law and policy which affect the lives of the disadvantaged and people with special needs.

Accordingly, the Commonwealth should provide at least 60% of total CLSP funding and take responsibility for negotiating with State governments to provide the balance. Further, the Australian Government should accept responsibility for making up any shortfalls in State funding in any particular region.

### 4. Base funding

- 4.1. There should be an allocation of funding sufficient to fund, on a recurrent basis, the core services provided by CLCs.
- 4.2. CCLSP funding should be based on, and enable compliance with, the CLC **Strategic Service Delivery Model** (SSDM).

The **SSDM** entails:

- A Identifying legal needs using evidence based assessment.
- B Planning and developing service responses.
- C Delivering legal and related services to clients and including some or all of the following: law reform and policy advocacy, community legal education, strategic litigation (test cases to establish or clarify the law or the legality of application of a policy or practice, often with the effect of avoiding multiple individual actions), community development activities including building the skills, capacity and resilience of individuals and communities to avoid or resolve problems in the future.

- 4.2 A minimum base funding level is required for CLCs (generalist and specialist) to meet the SSDM and operate efficiently, effectively and safely. This **minimum base funding level**, based on 5 Effective Full Time (EFT) workers, is as follows:

Position	Salary <sup>69</sup>	Oncosts <sup>70</sup>	Total	Operating	Total
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<sup>69</sup> Salaries are 85% of the median of Australian Public Service (APS) salaries for positions at the equivalent levels, as assessed by Mercer (March Mercer Holdings (Australia) Pty Ltd). The  Mercer Benchmarking Review of CLC salaries  (updated 2012)

			salary costs	expenses <sup>71</sup>	position cost
Centre Manager	110,891	15,525	126,416	42,134	168,550
Principal Solicitor	110,891	15,525	126,416	42,134	168,550
Solicitor	71,806	10,053	81,859	27,284	109,143
Community Worker/Educator	61,614	8,626	70,240	23,411	93,651
Finance Officer/Administrator	56,885	7,964	64,849	21,614	86,463
<b>Total</b>					<b>\$626,357</b>

4.3 The minimum base funding may be provided by the Australian Government or a State Government through the CLSP, or by contributions from both. Where the State is not contributing, the Commonwealth should provide 100% of the minimum base funding.

4.4 All existing generalist and specialist CLCs<sup>72</sup> and new generalist and specialist CLCs<sup>73</sup> should be funded to the minimum base funding level for a minimum of three years unless an assessment has been made that there are, in relation to a particular CLC, exceptional circumstances warranting greater or lesser funding as its base level, having regard to:

- the service delivery area, estimation of actual/potential service population and cost of service delivery (for example, CLCs in rural and remote locations)
- evidence-based assessment of profile of disadvantage of the target groups and community/ies
- evidence-based legal needs assessment and analysis of the level and nature of met and unmet legal needs (as distinct from 'disadvantage') taking into account other relevant and appropriate service providers available in the service area and the particular needs, profiles and wishes of individuals and groups within the service area
- the actual/proposed forms of organisational structure (eg need for self sufficient branch office/s)
- the actual/proposed methods of service delivery, including types of services provided, whether large amount and/or spread of outreach etc
- the actual/proposed operational structure, including availability of and reliance on volunteer and pro bono assistance
- the organisational and employment capacity of the centre at the particular stage of its development and operation<sup>74</sup>

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entailed work value assessments of 6 CLC positions and benchmarking against a number of awards and data sources. Mercer recommended 'alignment with APS salary levels as the broadest and most relevant comparator market for all CLC positions given the comparable range of legal, management and administrative based positions'. Mercer stated that salaries within a +/-15% range of desired market salaries are regarded as competitive. The minimum base funding level calculations adopt the Mercer assessments except that the Finance Officer and Administrator positions have been combined into one position with a salary reflecting the potential work responsibilities of a Finance Officer.

APS salary data is sourced from the 2012 APS Remuneration Report (Australian Public Service Commission) recording salary data as at 31 December 2012.

<sup>70</sup> 14% of gross salary to cover costs such as compulsory superannuation, workers' compensation insurance, long service leave, leave loading.

<sup>71</sup> 33.33% of total salary cost which roughly equates to 25% of the total position cost. This reflects our understanding that centres nationally spend an average of 25% of their budget on operating costs.

<sup>72</sup> For these purposes, a CLC is an organisation that is providing the core services under the CLSP Service Agreement.

<sup>73</sup> For these purposes, a CLC is an organisation or that part of an organisation that is proposed to provide the core services under the CLSP Service Agreement.

<sup>74</sup> For example, a particular CLC receiving less than the minimum base level of funding may itself consider that it does not, in the relevant period, have the organisational capacity to expand to (or house) 5 EFT workers.



- whether the centre is/will be auspiced by another agency that will provide some staffing or other measurable support to the centre.

This is ‘core’ funding (as distinct from separate project/program funding that is tied to specific specialised projects or services) – it is for the basic running of the centre and to provide core legal and related services consistent with the aims of the CLSP and the centre’s objectives.

4.5 Some centres receive funding from more than one source. When considering the funding required by a CLC to bring it to the minimum base funding level, the following should be taken into account:

- existing *recurrent*<sup>75</sup> CCLSP funding provided for the core services of the CLC
- existing *recurrent* funding from other sources, including State CLSP funding and, if recurrent, Public Purpose Funding, that is provided for the core services of the CLC for which it is funded by the CLSP.

The following funding should *not* be taken into account:

- non-recurrent<sup>76</sup> funding
- funding, whether or not CLSP funding, that is tied to a specific project or the delivery of other (non-core) legal services, for example, funding under the Child Support Scheme Legal Services program, funding under the Rural Women’s Outreach sub-program.

## 5. Supplementary funding

There should be an allocation of funding or a ‘funding pool’ to enable supplementary (recurrent) funding of centres where an assessment has been made that exceptional circumstances warrant funding the centre/s above the minimum base level: see 4.4. For example, some centres may incur significant extraordinary costs in delivering services, such as:

- a CLC may operate a branch office in a location where, because of the distance from the main office, the nature of the community and/or their legal needs, or the volume of work, a few staff are required to meet significant and otherwise unmet legal need. Indeed some branch offices essentially operate as another centre, and may themselves require a minimum of 5 EFT employees
- some CLCs have special service delivery needs and incur significant additional costs when providing core services to meet these needs, such as the costs of providing significant outreach services and providing services to people with special needs<sup>77</sup>, additional interpreter costs for

<sup>75</sup> Funding is regarded as ‘recurrent’ where it is for three years or more. We accept that if a particular centre has a long history of receiving continuous annual funding grants from a particular source, and there is no reason for thinking the centre will not obtain that funding in the forthcoming year, this funding should be regarded as recurrent funding. However, this requires consideration on a case-by-base basis.

<sup>76</sup> One-off or for less than three years.

<sup>77</sup> For example, facilities for people with hearing impairments, support persons for some clients.

services targeted at CALD communities, additional costs incurred by rural and remote CLCs.<sup>78</sup>

There should be a procedure for an evidence-based application to be made by a centre for supplementary funding from this funding pool.

## **6. New funding to address demonstrated unmet legal need**

There should be an allocation of funding for new initiatives within existing CLCs and/or the establishment of new centres in order to meet identified (evidence-based) unmet legal needs of communities. Priority should be given to addressing 'black spots', areas of high disadvantage and high unmet legal needs that are currently not addressed by a legal assistance provider. Relevant unmet legal needs may be geographic or in respect of a particular target group.

There should be a procedure for an evidence-based application to be made by a centre or other organisation or individual for funding, on a recurrent basis, from this funding pool. Any new centre should be funded to the minimum base funding level unless an assessment has been made that exceptional circumstances warrant greater or lesser funding: see 4.4.

## **7. Special funding**

There should be an allocation of funding or a 'funding pool' that is available to be expended by way of one-off grants made upon application by an individual CLC for funding to meet an unusual and non-recurring circumstance, for example, the start-up costs<sup>79</sup> of a new CLC, significant replacement costs (eg after fire or flood), relocation costs of an existing CLC, or funding a CLC to enable it to respond over a short term to new and urgent legal needs arising from a natural disaster.

## **8. Sector development and support initiatives**

There should be an allocation of funding for initiatives aimed at supporting CLCs in providing effective, efficient, accessible and appropriate services and operating accessible, effective and efficient organisations in a continuous improvement framework. These initiatives may require one-off or recurrent funding and may be made to state, territory or national associations of CLCs, individual centres or networks of centres, or to CLCs in partnership with other organisations.

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<sup>78</sup> For example, travel and communications, possibly relocation and/or housing allowances, increased costs for recruitment and retention.

<sup>79</sup> Including for the initial fit-out of the premises and associated costs (eg lease guarantees), furniture and fittings, capital costs (eg equipment).

## Appendix 3: Summary of acronyms

<b>ABI</b>	Acquired Brain Injury
<b>ACCC</b>	Australian Competition and Consumer Commission
<b>ACOSS</b>	Australian Council of Social Service
<b>AFVPLS</b>	Aboriginal Family Violence Prevention Legal Services
<b>ATSILS</b>	Aboriginal and Torres Strait Islander Legal Services
<b>AVO</b>	Apprehended Violence Order; see also <b>FVIO</b>
<b>CALD</b>	Culturally and linguistically diverse
<b>CCLSP</b>	Commonwealth Community Legal Service Program
<b>CLCNSW</b>	Community Legal Centres NSW
<b>CLSIS</b>	Community Legal Service Information System
<b>CLSP</b>	Community Legal Service Program
<b>CPI</b>	Consumer Price Index
<b>CSS</b>	Child Safety Services
<b>DIAC</b>	Department of Immigration and Citizenship
<b>EFT</b>	Effective Full Time
<b>FVIO</b>	Family Violence Intervention Order; see also <b>AVO</b>
<b>HPLC</b>	Homeless Persons' Legal Clinic
<b>HRLC</b>	Human Rights Law Centre
<b>I/O or I/O</b>	Intervention order
<b>JEO</b>	Justice Examination Order
<b>JSA</b>	Judith Stubbs and Associates
<b>LAF</b>	Legal Assistance Forum
<b>LAW Survey</b>	Legal Australia-Wide Survey
<b>LCCLC</b>	Loddon Campaspe Community Legal Centre
<b>LCLC</b>	Launceston Community Legal Centre
<b>LGBTI</b>	Lesbian, gay, bisexual, transgender and intersex
<b>LJF</b>	Law and Justice Foundation of NSW
<b>LNAF</b>	Legal Needs Assessment Framework
<b>LPI</b>	Labour Price Index
<b>MRCLC</b>	Mackay Regional Community Legal Centre
<b>MRT</b>	Migration Review Tribunal
<b>NAAFVLS</b>	North Australian Aboriginal Family Violence Legal Service
<b>NPALAS</b>	National Partnership Agreement on Legal Assistance Services
<b>NPC</b>	National Processing Centre
<b>NQWLS</b>	North Queensland Women's Legal Service
<b>PLS</b>	Prisoners Legal Service (Qld)
<b>QCAT</b>	Queensland Civil and Administrative Tribunal
<b>QPILCH</b>	Queensland Public Interest Law Clearing House Inc

<b>RAILS</b>	Refugee and Immigration Legal Service (Qld)
<b>SACCLS</b>	South Australian Council of Community Legal Services
<b>SMLS</b>	Springvale Monash Legal Service
<b>SSDM</b>	Strategic Service Delivery Model
<b>SWBCLC</b>	South West Brisbane Community Legal Centre
<b>TASC</b>	The Advocacy and Support Centre (Toowoomba)
<b>TEWLS</b>	Top End Women's Legal Services
<b>YAC</b>	Youth Advocacy Centre Inc. (Queensland)