

Senate Standing Committee on Legal & Constitutional Affairs: Inquiry into Access to Justice
Promoting CLC sustainability by establishing a CLC Law Graduate Scheme
21 August 2009

This document was prepared by the Federation of Community Legal Centres (Vic) Inc ('the Federation') to brief the Committee on the specific issue of the need to create a pathway from university to a career in community legal centres (CLCs). The document also provides information on the wide gap between CLC salaries and government and private sector salaries.

The Federation is the peak body for Victoria's 51 CLCs. We are a member of, and work closely with the National Association of Community Legal Centres. Further information: Hugh de Kretser, executiveofficer@fclc.org.au, T 9652 1505

Summary

Repeated inquiries into CLCs continue to confirm the critical role played by CLCs in providing access to justice and addressing disadvantage. They also confirm the low funding levels for CLCs and the overwhelming demand for services.¹

The capacity of CLCs to deliver effective public legal services is heavily dependent on their ability to attract and retain excellent staff. Significant factors which negatively impact on Victorian CLCs' ability to achieve this include:

- the lack of a clear pathway from university into a legal career in a CLC; and
- for rural and regional CLCs, the lack of lawyers outside of metropolitan Melbourne.

These factors are compounded by issues including the comparatively low remuneration of CLC legal staff, the potentially stressful work demands on CLC staff, the often inferior work premises and work environments of CLCs, limited access to professional development and the lack of conventional career pathways within the CLC sector.

The Federation is currently seeking to establish a CLC career pathway for law students by establishing a CLC Law Graduate Scheme in Victoria. With a strong emphasis on rural and regional placements, the Scheme will also assist with recruitment and retention in rural and regional CLCs.

We have sought funding to establish the Scheme through the major grants round of the Victorian Legal Services Board and also from the Federal Government's Jobs Fund. We believe there is merit in providing recurrent Community Legal Services Program funding for the Scheme and also exploring creating a national Scheme.

Lack of pathways from university to CLCs

The Victorian CLC sector is a significant legal sector, employing over 170 lawyers and drawing on the services of hundreds more volunteer lawyers. Despite this, pathways from university to commencing a career in CLCs are extremely limited. For most law graduates, there is no way to commence a legal career in CLCs immediately upon completing law.

Under the Victorian Legal Profession (Admission) Rules 2008, a law graduate can become

¹ The 2008 Review of the Commonwealth Community Legal Services Program confirmed that CLCs: assist "clients who are significantly disadvantaged" (p 6); use a "multi-dimensional approach...which is well-suited to assisting people with complex needs and multiple disadvantage" (p 6); and experience "particular problems in meeting demand for services within their current funding allocations" (p 47). Similarly, the Australian Council of Social Services "Australian Community Sector Survey Report 2007" found that CLCs are amongst the service providers with the highest "turn away" rate for clients seeking assistance.

admitted to legal practice, in broad terms, either by completing a Practical Legal Training (PLT) course such as College of Law, or by undertaking at least 12 months of supervised workplace training (“traineeship”). Because of the compulsory competencies which must be obtained through the traineeship (eg: commercial and corporate practice), it is very difficult for CLCs to provide traineeships to law graduates. The traineeship system replaced the previous articulated clerk system.

Fitzroy Legal Service is the only Victorian CLC that offers a traineeship position each year. A national law firm, Allens Arthur Robinson, provides funding to Fitzroy for the position and allows the trainee to access Allens’ in-house training program to satisfy the required competencies under the admission rules.

On occasion, CLCs like the Asylum Seeker Resource Centre or North Melbourne Legal Service have offered one-off articulated clerk/traineeship positions. Also, from time to time, law graduates undertaking PLT courses have negotiated with individual CLCs to complete the work placement component of their course at a CLC, in either a paid or voluntary capacity. These initiatives, however, have been ad hoc and have usually relied on a previously established relationship between the CLC and the graduate.

Accordingly, if they are unable to secure the single traineeship in the sector at Fitzroy Legal Service, Victorian law graduates wanting to commence a legal career in a Victorian CLC must first seek admission through a PLT course, and then apply for any available jobs in CLCs. These graduates must pay for the PLT course themselves and will have no income while attending the course, other than any casual or part-time external work they are able to undertake in addition to attending the course. They could potentially negotiate to complete their work placements in CLCs.

The option of commencing a career in a CLC in this way is not attractive when compared with the option of a paid traineeship position at a law firm or statutory authority. Large and medium law firms and some statutory authorities with legal practices are continuing to offer sophisticated traineeship programs with attractive remuneration and professional development, in addition to the security of an ongoing position once the traineeship period has ended.

Pay disparity between CLCs and other law practices

Of course a law graduate who wants to work in a CLC could undertake a traineeship at a law firm or statutory authority, and then, at some stage after becoming admitted, apply for a job in a CLC. The significant pay disparity between CLCs and other legal sectors, however, becomes a significant impediment to this, and the disparity increases the longer a person works in a law firm or statutory authority.

Annual graduate salaries in the top firms in 2009 are around \$60,000. Each year post-admission, these salaries rise significantly. The Michael Page Legal Salary Survey 07/08 listed the salaries (cash only, excluding superannuation and other benefits) of private law firms as:

<i>Years since admission</i>	<i>Vic medium firm (\$,000)</i>	<i>Vic top-tier firm (\$,000)</i>
<i>Graduate lawyer</i>	<i>45-60</i>	<i>55-65</i>
<i>1st year PQE</i>	<i>50-75</i>	<i>57-80</i>
<i>2nd year PQE</i>	<i>60-80</i>	<i>70-95</i>
<i>3rd year PQE</i>	<i>65-115</i>	<i>75-100</i>
<i>4th year PQE</i>	<i>75-120</i>	<i>82-120</i>
<i>5th year PQE</i>	<i>82-135</i>	<i>90-150</i>
<i>5-10 years PQE</i>	<i>90-150+</i>	<i>110-230+</i>

PQE = post qualification experience

Public sector lawyer salaries are not as high but are still significantly higher than CLC salaries, with increased potential to move to higher salary bands with greater experience. For example, Victoria Legal Aid lawyers are in the “VLA 3” pay band, which in October 2007 ranged from \$50,671 to \$65,572. Senior Victoria Legal Aid lawyers fall within “VLA 4”, which in October 2007 ranged from \$65,573 to \$81,963.

By contrast, the top salary rate under both the Victorian Social and Community Services Award, which applies to Victorian CLCs, and the CLC Multiple Business Agreement 2006-09, is less than \$54,000. The Federation surveyed Victorian CLC lawyer salary rates in 2008. 71% of the 24 centres who responded to the salary survey pay their community lawyers \$57,000 or less. Similarly, a 2006 study conducted by Mercer Human Resources for the National Association of CLCs found that award-based NSW CLC salaries were around 29-38% below the NSW and Australian public sector rates for equivalent positions.

Further information on salaries is set out in the Appendix.

Accordingly, the more experience a lawyer has, the greater the pay disparity between private and government sector positions and CLC positions, and the greater the financial disincentive for private or government sector lawyers to switch to a career in CLCs. As lawyers progress through their careers, they may also have greater financial responsibilities, such as home mortgages and family expenses, which serve as further disincentives to switch to a career in CLCs.

The Federation is pursuing initiatives to address these and other factors affecting the Victorian CLC 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 under the Victorian Attorney-General’s Community Law Partnerships scheme, are assisting. The Federation is also seeking funds to facilitate more appropriate wage bands in industrial instruments applying to CLCs.

Realistically, it will take some years to address these issues satisfactorily. The reality is that many excellent law students, who might otherwise want to pursue a career in CLCs, are becoming admitted through traineeships in private firms and statutory authorities, and the significant pay disparity becomes a powerful disincentive to later taking up a position in a CLC.

Why focus on law graduates?

In contrast to the difficulties in recruiting experienced lawyers, CLCs can readily realise their potential to recruit excellent law graduates into CLCs, for the following reasons:

- there is strong interest amongst law students in pursuing a career in CLCs;
- the pay disparity between CLCs and other legal sectors is not as great for graduates and

junior lawyers;

- graduates and junior lawyers are less likely to have significant financial responsibilities;
- CLCs are well placed to tap into the large numbers of law students who volunteer in CLCs (over 600 students volunteer in Victorian CLCs each year).

Further, based on the experience of Fitzroy Legal Service, the Federation believes that a structured CLC law graduate program will have good retention rates amongst the graduates – with many graduates developing their skills and experience and remaining in the sector for a number of years, helping to address the difficulties in recruiting experienced lawyers to the sector.

Overview of the proposed Scheme

The Federation's proposed CLC Law Graduate Scheme will build the capacity of Victorian CLCs, and in particular rural and regional CLCs, to deliver effective legal services to the public. It will do this by:

- creating a clear pathway from law schools to a career in CLCs;
- assisting CLCs, and in particular rural and regional CLCs, to attract and retain lawyers;
- providing greater resources for legal service delivery;
- improving professional development for CLC graduate lawyers; and
- promoting careers in public interest law.

Under the Scheme, final year law students will be offered:

- a paid position in a PLT course (College of Law or Leo Cussen Institute);
- the professional placement for the PLT course, to be conducted as paid part-time work in a CLC;
- a 12 month graduate lawyer position in a CLC;
- three "rotations" in that 12 months through CLCs, with one of the rotations being to a rural or regional CLC; and
- ongoing professional development during the 12 month position, tailored to CLC service delivery (potentially delivered in collaboration with Victoria Legal Aid's New Lawyer Program).

Towards the end of the 12 month position, the Federation will work closely with the graduates to identify appropriate ongoing positions in Victorian CLCs.

The Federation would employ a CLC Law Graduate Scheme Manager to coordinate the Scheme.

The Scheme would cost around \$116,000 per graduate position, excluding the cost of the Scheme Manager position.

Evidence backing the need for the Scheme

Fitzroy Legal Service's experience provides a useful evidence base on which to gauge the potential of the Scheme.

For the past nine years, Fitzroy has offered one 12 month articulated clerkship/traineeship. No guarantee of ongoing work is provided beyond the initial 12 months, however Fitzroy works closely with the clerk/trainee to identify ongoing opportunities at Fitzroy or in the broader CLC sector.

Fitzroy's experience has been that there is significant demand for the position. Each year,

Fitzroy receives around 90 applications for the single traineeship position. The quality of applicants for the position is high. Importantly, once employed, the clerks/trainees have gone on to successful careers in the CLC or social justice sectors.

The following summary of the career history of clerks/trainees at Fitzroy following their admission demonstrates the success of Fitzroy's articulated clerk program as a pathway for a career in the CLC and social justice sectors:

- 1999/2000 clerk – worked in legal practice and law reform roles at Fitzroy until 2007; currently working as Senior Advisor to the Victorian Attorney-General;
- 2000/2001 – worked as Coordinator and Principal Solicitor of the Environment Defenders Office and the Communications Law Centre until 2008;
- 2002/2003 – worked in legal practice roles at Fitzroy and then at Victoria Legal Aid;
- 2003/2004 – worked in private practice then from 2005 has been working at Aboriginal Family Violence Prevention and Legal Service;
- 2004/2005 – worked as Associate to Justice Maxwell, President of the Victorian Court of Appeal, and is currently director of an international housing rights non-government organisation;
- 2005/2006 – worked at Victorian Aboriginal Legal Service based in Gippsland until 2007; now working at Gippsland Community Legal Service;
- 2006/2007 – working at Fitzroy in a legal practice role; and
- 2007/2008 – working at Darebin CLC and St Kilda Legal Service in legal practice roles.

The interest and demand for CLC graduate positions is also confirmed by a 2008 career survey undertaken by the Young Lawyers Committee of the Law Institute of Victoria (LIV). 328 law students, from each of the five Victorian law schools, and with a strong sample from each year level, responded to the survey.

The survey confirmed the strong interest amongst law students in a career in CLCs. 59% of students "could see themselves working" in a community legal centre (compared with 72% for government and 65% at a commercial firm). 20% hoped to undertake a traineeship at a CLC and 37% of students rated "contributing to the community" as a very important factor for when they became a practitioner, rating this as more important than remuneration or the prestige of the organisation.

The survey also confirmed the large numbers of students who volunteer in CLCs. 38% of respondents had volunteered at a CLC.

This interest amongst students in a career in CLCs is also borne out by the Federation's experience in attending the annual Victorian Council of Law Student Societies Careers Fairs and speaking at careers sessions at the various university campuses.

In short, there is strong student interest in CLC careers, however, apart from the single position at Fitzroy, there is no pathway from university to a CLC career.

Helping rural and regional CLCs address recruitment and retention issues

The shortage of lawyers in rural, regional and remote (RRR) areas in Australia, and the consequent impact on access to justice, is well documented in reports and papers including:

- *Funding for Recruitment and Retention of Legal Practitioners to Rural, Regional and Remote Areas*, Law Council of Australia, January 2009;
- *Study of the Participation of Private Legal Practitioners in the Provision of Legal Aid*

Services in Australia, TNS Social Research, December 2006;

- *Western Australian Country Lawyers Program*, paper delivered by Jane Stewart, Legal Aid Western Australia to the National Access to Justice Conference, November 2008;
- *Lawyers Go Bush*, Regional Summer Clerkships Project 2005-06, Helen McGowan, Albury Wodonga CLS for the Victoria Law Foundation CLC Fellowship; and
- *Recruitment and Retention of Lawyers in Rural, Regional and Remote NSW*, Trish Mundy, Northern Rivers CLC, July 2008.

RRR CLCs face similar difficulties to other RRR law firms in recruiting and retaining lawyers, however these difficulties are compounded by issues such as the comparatively low remuneration in CLCs. Rural and regional Victorian CLCs confirm this difficulty. For example, Murray Mallee CLS recently took over ten months to fill a lawyer position.

Various schemes outside of Victoria are being adopted to address the shortage of lawyers and legal services in RRR areas, including the WA Country Lawyers Program and RRR lawyer schemes established by the Queensland and NSW legal aid commissions. The National Association of Community Legal Centres is also working on a proposal for graduates undertaking their PLT to conduct their work placement in rural and regional CLCs.

The Federation's proposal for a CLC Law Graduate Scheme would feature a strong rural and regional component, to create career pathways to working in rural and regional Victorian CLCs. It would also provide greater resources for service delivery in those centres.

As set out above, law graduates participating in the Scheme would undertake three rotations in Victorian CLCs. One of the three rotations for each graduate would be in a rural or regional CLC (or permanent CLC branch office). There are currently seven rural and regional Victorian CLCs. Two statewide CLCs – Victorian Aboriginal Legal Service and Aboriginal Family Violence Prevention and Legal Service – also have regional offices.

Law graduates undertaking rotations in rural and regional areas would be provided with a housing subsidy during that rotation, and the Scheme would actively explore opportunities for ongoing work in rural and regional CLCs beyond the initial 12 months.

Appendix: CLC Salary Information

Mercer Human Resource Consulting Report

The National Association of Community Legal Centres commissioned this report which was finalised in October 2006. It contains a job evaluation assessment of standard CLC positions to arrive at a "work value assessment" based on a points scale – in other words it looks at the skills and experience required for a position and gives the position a points value. The pay rates for the CLC positions are then compared in the report with Australian Public Sector (APS) pay rates for equivalent positions. Comparing these rates, the study found that award-based NSW CLC salaries were around 29-38% below the NSW and Australian public sector rates for equivalent positions. A summary of the relevant APS equivalent rates is set out in the table below.

Job	Salary
APS Base Salary Scale for position equivalent to CLC Principal Solicitor or Coordinator	\$96,063
APS Base Salary Scale for position equivalent to CLC Solicitor	\$62,775
APS Base Salary Scale for position equivalent to CLC Administrator	\$43,293

Victoria Legal Aid

VLA salary rates are set out in the table below. These rates were current in July 2009. We understand that VLA has recently agreed to 3.25% annual increases on top of these rates.

VLA 6 – Senior Manager	\$104,320 – \$120,000
VLA 5 – Manager of Section or Regional Office	\$81,964 – \$104,319
VLA 4 – Experienced Lawyer, Deputy Manager of Section or of Regional Office	\$65,573 – \$81,963
VLA 3 – Lawyer	\$50,671 – \$65,572
VLA 2 – Admin worker	\$37,258 – \$50,670

Private sector

Information on private sector rates is taken from the Michael Page Legal Salary Survey 07/08 extracted below. The rates are cash only, excluding superannuation and other benefits.

<i>Years since admission</i>	<i>Vic medium firm (\$,000)</i>	<i>Vic top-tier firm (\$,000)</i>
Graduate lawyer	45-60	55-65
1 st year PQE	50-75	57-80
2 nd year PQE	60-80	70-95
3 rd year PQE	65-115	75-100
4 th year PQE	75-120	82-120
5 th year PQE	82-135	90-150
5-10 years PQE	90-150+	110-230+

PQE = post qualification experience

2008 Victorian CLC salary rates

The Federation collected salary information from Victorian CLCs in October 2008. 32 of 50 CLCs responded to the 2008 Census but not all of those 32 CLCs provided salary information. The chart below shows the salary range used by each CLC for the relevant positions.

Position	Salary \$,000s					
	<42	42-49	50-57	58-65	66-73	>73
Administration	8	9	4	2	1	
Paralegal / financial counsellor /migration agent	2	2	4			

Position	Salary \$,000s						
	<50	50-57	58-65	66-73	74-81	82-89	>90
Centre Coordinator / Manager / Executive Officer / Principal Lawyer who also manages the centre	4	5	4	3	6	3	1
Principal Lawyer who does not also manage the centre	3	5	8	3	1	1	
Lawyer	3	14	3	4			
Community Education/Community Development Worker	8	9	2	1			
Policy Officer / researcher	2	2	3		1		