

# Community Law News

AN E-NEWSLETTER OF THE FEDERATION OF COMMUNITY LEGAL CENTRES VIC

The e-newsletter of the Federation of Community Legal Centres (Victoria) Inc, the peak body for Victoria's community legal centres. Community Law News is directed towards community legal centres, the broader legal and social justice sectors, law reform bodies and interested members of the public. For information on Community Law News, or to subscribe, please contact [administration@fclc.org.au](mailto:administration@fclc.org.au)

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Community Legal Centres  
VICTORIA

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Community legal centres are independent community organisations providing free legal services to more than 100,000 Victorians each year. Community legal centres integrate assistance for individual clients with community legal education, community development and law reform projects that are based on client need and that are preventative in outcome. The day to day work of community legal centres reflects a 35 year commitment to social justice, human rights, equity, democracy and community participation.

## A Fair Go in Insurance

If something positive can be salvaged from the devastation of the Queensland and Victorian floods it would have to be a renewal of intense public debate surrounding consumer protections in insurance.

Many flood victims will have home building and/or contents insurance (and/or motor vehicle insurance) but they won't know whether they're covered for damage to their property due to the confusion and inconsistencies surrounding the definition of flood and the differences in cover from insurer to insurer.

Under Australia's insurance laws, these policies are automatically deemed to include cover for flood damage under what are called the "standard cover" provisions, but insurers can exclude damage caused by flood if they 'clearly inform' you in writing of the exclusion at the time of entering into the contract.

"Standard cover" is meant to reflect the public policy goal that ordinary people taking out general insurance would reasonably assume certain things would be covered by that sort of insurance, so an insurer can't exclude those sorts of things unless they clearly bring it to the consumer's attention.

Unfortunately, the case law on standard cover means it's not that hard to meet the requirements for an effective exclusion - the exclusion doesn't have to be in bold coloured letters on your initial insurance quote, it just needs to be written down reasonably clearly somewhere in the fine print of your insurance policy to be likely to be effective.

Flood is a common exclusion under Australian household insurance policies. Due to the fact it is an exclusion, not an inclusion, this also means that the way "flood" is defined in an insurance policy that excludes flood could have a big impact - if it is defined fairly, it will only cover the overflow of water from rivers, lakes, dams and so on. However, it could be defined more broadly and capture types of flash flooding if the consumer is unlucky. Further, a consumer could suffer damage after being hit by rainwater or stormwater damage and then flood waters, and find themselves battling over expensive expert hydrologist evidence to show which hit first or which was the most significant cause of the damage.

Consequently, many of those affected by the floods will find they're not covered for flood, even while their neighbours may be. In the months since the disaster, we've seen the Financial Services Minister, Bill Shorten, hold discussions with the Insurance Council of Australia that have already resulted in undertakings to develop both a mandatory standard definition of the term "flood" and a plain English one page summary document that makes it clear to policy holders what they will and won't be covered for before they sign up.

## CLC Movie Night Invite – see *Conviction* on 3 March

You are invited to attend a special movie event, to share the inspirational story of Betty Anne Waters and the Innocence Project, and enjoy the company of lawyers committed to social justice and human rights.

*Conviction* is the inspirational true story of a sister's unwavering devotion to her brother. When Betty Anne Waters' older brother Kenny is arrested for murder and sentenced to life in 1983, Betty Anne, a Massachusetts wife and mother of two, dedicates her life to overturning the murder conviction. Convinced that her brother is innocent, Betty Anne puts herself through high school, college and, finally, law school in an 18 year quest to free Kenny.

Following the movie, you are invited to Collins Quarter (86A Collins St) to enjoy the company of others who work everyday to promote justice and create change.

All proceeds go to the Tim McCoy Trust.

WHEN 6:15pm Thursday, 3 March  
WHERE Kino Cinema, 45 Collins St  
COST \$22 (inc small drink and popcorn)  
INFO [denis.nelthorpe@iinet.net.au](mailto:denis.nelthorpe@iinet.net.au)  
9689 8444  
REGISTER asap  
EMAIL [admin@pilch.org.au](mailto:admin@pilch.org.au)  
PHONE 8636 4400

## Jobs in Community Law

Working in a CLC is about making a real difference to people's lives through the law. The latest community law and public interest law jobs are at [www.communitylaw.org.au](http://www.communitylaw.org.au)

Current CLC jobs (at 28 February) are:

- Litigation solicitor – Consumer Action Law Centre (closes 4 March)
- Solicitor Advocate – Fitzroy Legal Service (closes 7 March)
- Drug Outreach Lawyer – Fitzroy Legal Service (closes 7 March)
- Legal Project Worker – Seniors Rights Victoria (closes 7 March).
- Administration Officer – Seniors Rights Victoria (closes 14 March)

These are positive steps but lots more needs to be done. Even for those flood victims who find they are covered, the relief may be short-lived because experience tells us that under-insurance in the aftermath of a natural disaster is extremely common – many of those with cover will have a "sum insured" policy rather than a "total replacement" policy, meaning their payout simply won't cover the cost of rebuilding.

Of course, at CLCs, a lot of our clients cannot afford the cost of annual premiums and will not have any insurance whatsoever. Flood victims without insurance face the grim prospect of having lost everything, with little recourse but to rely on the emergency relief and government handouts to replace lost contents.

We believe that the insurance industry needs to look at the way it deals with low income earners and make their home, contents and motor vehicle policies more accessible to this sector of the community.

As a starting point, there needs to be an urgent review of both the minimum cover available under policies for those with limited contents (which nonetheless need to be replaced if lost) as well as increasing the payment options available through avenues such as introducing fortnightly direct debits or making Centrepay available to those on a fixed income.

Immediate steps need to be taken to tackle the most obvious remaining problems, including introducing better disclosure requirements for all insurance policies, encouraging insurers to move from "sum insured" to "replacement" policies and implementing last year's Senate recommendation to extend national unfair contract terms protections to insurance contracts.

A coalition of CLCs, State legal aid commissions and community organisations have called for these things in a 12 point plan which also includes a serious Federal inquiry into flood insurance to examine more complex issues such as floodplain mapping, urban planning, building standards and codes, and more extensive insurance coverage.

You can read more about *A Fair Go in Insurance* on the Consumer Action website [www.consumeraction.org.au](http://www.consumeraction.org.au). The national Insurance Law Service hosted by the NSW Consumer Credit Legal Centre [www.insurancelaw.org.au](http://www.insurancelaw.org.au) is a good source of specialist CLC insurance law advice and fact sheets, and Victoria Legal Aid has also set up Flood Legal Help for Victorians affected by the recent floods to obtain information and help about insurance and related issues (03 9269 0120 or 1800 677 402).

Consumer Action Law Centre

## Order of Australia for Asylum Seeker Resource Centre founder

Congratulations to Kon Karapanagiotidis, the founder and CEO of the Asylum Seeker Resource Centre, who was awarded the medal of the Order of Australia for distinguished service "to the Australian community and humanity". The Asylum Seeker Resource Centre is a dynamic, multi-disciplinary organisation that assists around 1,000 clients a year and relies on contributions from around 700 volunteers. Kon told *The Age* he hoped the award "challenges people to remember that this country was built by 'boat people'." See [www.asrc.org.au](http://www.asrc.org.au)

## New website links community with legal agencies

Victorian legal agencies now have a new and innovative tool to promote their resources and to help their clients – the Victoria Law website: [www.victorialaw.org.au](http://www.victorialaw.org.au)

Victoria Law is a not-for-profit website providing easy-to-understand information about the law and legal services in Victoria. The site – administered by Victoria Law Foundation – was developed in collaboration with several sector partners, including partners from the Federation of Community Legal Centres.

The site houses legal information resources produced by a range of legal and education agencies, including CLCs and Victoria Legal Aid, in the one location.

Subjects covered include debt and credit matters, housing issues, traffic offences, and lots of other everyday issues.

Resources available include factsheets, booklets, books and web pages. Most publications are free to print or download in PDF form; others can be easily ordered. Contributor agencies regularly check their publications to ensure they are current and accurate.

Some resources are available in Chinese, Greek, Somali, Turkish and Vietnamese. We hope to add more resources and languages.

The site has 40 contributors so far, and the Foundation continues to welcome contributions from agencies and government bodies that provide legal services and education. Contributor training is simple, convenient and free. Please contact the Foundation if your agency would like to contribute to Victoria Law. [contact@victorialawfoundation.org.au](mailto:contact@victorialawfoundation.org.au)

## CLC Census highlights workforce challenges facing CLCs

The Federation's annual CLC census gathers information to help us build a stronger and more effective CLC sector. This year we focused on the CLC workforce, gathering more accurate information about salary levels in Victorian CLCs, as well as information on gender, the spread of positions, retention rates, retention issues and professional development. 44 out of 50 centres completed the census, a 88% response rate. This is the best ever response rate. Thank you to all the centres who responded.

The results, summarised below, highlight the workforce challenges facing many of our members, and the need to increase lawyer and manager salaries across the sector. The information will assist the Federation and our government funders to estimate the cost of implementing the equal remuneration case being brought by the Australian Services Union at Fair Work Australia.

Data was collected on 485 positions within the CLC sector, including 53 Managers/Coordinators, 40 Principal Solicitors, 151 Lawyers, 126 Administrative, 29 Paralegal and 69 Community Development, Community Legal Education, Policy and Researcher positions. Over the 485 positions, the total gender breakdown was 73% Female and 27% Male. However, fewer managers were women (60%) compared with the average gender balance across the workforce.

58% of CLC lawyers had salaries (not including super, tax concessions or other benefits) of \$57,000 or less. 83% had salaries of \$65,000 or less. The spread of salaries varied considerably more across the categories of Principal Lawyer and Manager/Coordinator. 56% of CLC Principal Lawyers earned salaries of \$65,000 or less. 27% earned \$74-81,000. 41% of Manager/Coordinators earned \$65,000 or less, but 30% earned \$74-89,000.

CLCs were asked to provide an indication of the number of staff from their centre that resigned during the 09-10 financial year. Forty-two centres provided information, which indicated an average turnover of 16.94%.

Some of the main issues staff highlighted in exit interviews as reasons for leaving were salaries, career development and career advancement, limited or short term funding, redundancy/relocation and moving to a more secure role.

When asked what areas the Federation should be focusing on to improve recruitment and retention, CLCs suggested working to increase salaries and benefits; mentoring programs/ facilitating peer support; tracking employee pathways (both into and out of the CLC sector); career development, including opportunities for secondments; facilitating opportunities for sharing positions across CLCs, including locum roles; and improving job security.

There was support for the Federation's existing professional development program and a range of different suggestions for new focus areas including manager training on people management, conflict resolution and fundraising. Suggestions were also made on using technology to enhance professional development.

When asked about the Federation's performance, all member CLCs who responded think the Federation is doing a very good to excellent job, across all of our areas of work.

*Claudia Fatone, Sector Development Officer, Federation of CLCs*

## Building a fairer justice system – law reform highlights

The Federation structure ensures that the client-driven work of CLCs across Victoria informs our law reform and policy activities. CLC workers collaborate on common justice concerns in law reform working groups supported by Federation staff. Federation law reform submissions, articles and media releases are available on [www.communitylaw.org.au](http://www.communitylaw.org.au). For more information contact Chris Atmore, Lucinda O'Brien, Michelle McDonnell or Jacqui Bell at [administration@fclc.org.au](mailto:administration@fclc.org.au).



Tamar Hopkins

### Justice Profile – Tamar Hopkins

*Tamar is the Principal Lawyer at the Flemington Kensington Community Legal Centre (FKCLC) where she has a focus on police accountability work. She received the 2008/09 Victoria Law Foundation Fellowship to research issues surrounding police grievance mechanisms and police accountability and in 2010 she won the Law Institute of Victoria's Community Lawyer Award.*

#### *How did you become involved in CLCs?*

*I had been working in the ACT Legal Aid Office, a real eye opener, but it didn't leave much time to work on the policy and law reform issues that came out of the work. When I started working at the Welfare Rights and Legal Centre in Canberra, I realized that CLCs were it. Having the licence to holistically problem solve, run test cases and seek reforms to the underlying causes of injustice makes working in CLCs unique and fantastic.*

#### *Why is police accountability important?*

*Police have the power to search us, arrest us, come into our houses, imprison us, charge us, take away our possessions and stop us as we get around. Police can use force and they have access to Tasers, guns and capsicum spray. These powers impact on our liberty and rights and they can cause harm - even lethal harm at times. Because police work impacts so critically on rights, it is critical that their power is exercised strictly in accordance with the law and human rights and that mechanisms exist to hold them to account when they act unlawfully.*

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Highlights and current work includes:

- *Vulnerable debtors and councils project:* We are working with Footscray Community Legal Centre to scope a project aimed at providing free legal and financial counselling assistance to debtors faced with court action by local councils, and reducing court action against vulnerable debtors by local councils. This project idea stemmed from findings contained in Louis Schetzer's report, *Courting Debt: the legal needs of people facing consumer debt problems*, which revealed that in 2005-06, local councils issued 5,309 complaints relating to debts up to \$10,000, and all of those matters were finalised by default judgment, amounting to 21% of all default judgments under \$10,000.
- *Addressing the unmet legal needs of disadvantaged workers:* The Federation is receiving increasing numbers of calls from Victorians seeking no cost legal advice in relation to employment related matters. Our specialist member centre, JobWatch, has 67% unmet demand. We are scoping a project to assess the services currently available for employment related issues nationally, and to propose a national solution for unmet legal needs in this area.
- *Freedom of information (FOI) case to access police use of force documents -* As a result of a lengthy FOI case which settled shortly before a hearing, the Federation has gained access to parts of important Victoria Police reports relating to police use of force. Over the last 14 months, the Federation has been working with a pro bono legal team to access a number of reports including a review of fatal and non-fatal police shootings and a review of police use of capsicum spray and foam. The Federation is now analysing these documents which it believes will help enhance public debate and improve transparency and accountability around the use of coercive powers.
- *Submission to the Tasmanian Government Inquiry into a Human Rights Charter (January 2011):* The Federation endorsed the submission of the Human Rights Law Resource Centre and made 15 recommendations on a number of issues including the importance of justiciable economic social and cultural rights and mechanisms for enhancing community engagement during the law making process. We emphasised the valuable role played by CLCs in undertaking human rights related work and called for greater funding for Tasmanian CLCs. We also addressed a number of technical issues such the 'interpretative principle', the application of a general limitations clause, and drafting an appropriate limitations clause for ESC rights.
- *Submission and participation in the Infringements Trial evaluation (February 2011):* In 2008 the State Government made a number of offences that were previously punishable by way of criminal charge, punishable by infringement (the "Infringements Trial"). These offences, referred to as "Trial Offences", included shop theft of goods valued at up to \$600 and offensive behavior. The Trial Offences are currently being evaluated. The Federation participated in a consultation and made a written submission. During this process we outlined unfair aspects of the Infringements Trial on vulnerable members of the community, including the potential for 'net widening' of behaviours that police formally respond to. We submitted that the Infringements Trial should not be

*Is the proposed new Victorian Anti-Corruption Commission a step in the right direction?*

The Office of Police Integrity focuses on corruption rather than the investigation of deaths in custody and human rights abuses. For what we know of the new Victorian Anti-Corruption Commission that will replace the OPI, this corruption focus will remain the same or increase. As a result, the assaults, ill-treatment and brutality that CLC clients report on a regular basis will stay marginalised with the police investigating themselves in these matters. Instead, we need an organization that is empowered to independently and thoroughly investigate deaths in custody and human rights abuses. Such bodies exist in other parts of the world and if the Victorian Government is serious about police accountability, this is what must be set up here.

*You do some important, tough and challenging work. Any tips for preventing burnout and keeping things in balance?*

I try not to work on weekends so that I can tune out for a couple of days. Working with others makes a huge difference to being able to keep going. It was really important for me to do the Victoria Law Foundation CLC Fellowship to get some perspective on my work and the systemic patterns of police misconduct across the world as well as other people's attempts to deal with it. I came back with lots of ideas and new commitment to the work. I also like planting trees...bring on the urban jungle.

*I've heard that you like getting out into nature. Any favourite places?*

The Snowy Mountains in NSW are just beautiful, Mt Feathertop is a Victorian favourite.

*What are you working on now?*

We are currently working with Arnold Bloch Leibler in a race discrimination case filed in the Federal Court on behalf of 17 young African and Afghani men who claim to have been assaulted, harassed, brutalised and abused by Victoria Police in the Flemington and surrounding areas

extended and we proposed mechanisms for improving the infringements system in light of the circumstances of disadvantaged individuals adversely impacted by the infringements system.

- *Submission to the Australian Attorney General's Department regarding the National Human Rights Action Plan Background Paper* (February 2011): The Federation endorsed the submissions of the HRLRC and NACL. The Federation welcomed the recent pledge by the Commonwealth Attorney General to provide the HRLRC with \$100,000 to support the Centre in the coordination of NGO sector involvement with the Government's Human Rights Framework. We emphasised the valuable role that CLCs can play in undertaking human rights related work. We suggested that the Action Plan and associated baseline study draw on relevant CLC reports.
- *Submission to the Australian Parliament's committee inquiry into the Australian Law Reform Commission* (February 2011): The Federation submitted that the Australian Law Reform Commission plays a vital role in providing impartial and robust law reform advice to the Commonwealth Parliament. The Federation argued that the ALRC should retain its current funding levels. The Federation appeared before the Senate Legal and Constitutional Affairs Legislation Committee during its inquiry into this Bill.
- *Submission to the Australian Law Reform Commission inquiry into discovery in Federal Courts* (January 2011): The Federation endorsed the submission of the Public Interest Advocacy Centre Ltd ("PIAC"). We explained how individuals involved in proceedings against large entities are often at a disadvantage at the pre-discovery stage of civil litigation. We discussed concerns that pre-action protocols may increase the costs and complexities of litigation and submitted that there should be a provision to waive pre-discovery conciliation or filing written statements requirements for matters involving unrepresented and impecunious litigants as well as in public interest cases.

## State Budget Submission

The Federation provided its 2011-12 State Budget Submission to the Victorian Government. The submission outlines a range of priority program and funding initiatives identified by the Victorian CLC sector including eliminating the gaps in CLC service delivery that currently exist in rural and metro-fringe parts of Victoria and adequate annual indexation of funding. A copy of the submission is available at: [www.communitylaw.org.au/cb\\_pages/federation\\_reports.php](http://www.communitylaw.org.au/cb_pages/federation_reports.php)

## Life as a CLC Law Graduate

I have been working as a lawyer for five months and am halfway through the Federation's graduate training program. The program has been an excellent introduction to life as a community lawyer. I have spent time at three centres so far - Brimbank Melton CLC, Footscray CLC and Gippsland CLS. In April, I will move to Women's Legal Service Victoria.

Over the past five months I have worked on a range of typical CLC tasks. I have advised on parenting obligations, tenancy disputes and powers of attorney. I have negotiated with creditors, sought reviews of fines, reviews at the Financial Ombudsman Service, assisted clients with diversion hearings and appeared for applicants seeking intervention orders at Court. I have worked on a law reform submission regarding the Family Law Amendment (Family Violence) Bill and am currently working with the staff at Gippsland to develop two community legal education programs - one to be delivered to young people during Youth Week, the other to be delivered to newly arrived refugees.

One of the great benefits of the Federation's graduate program is the training it has offered. I have received training in a number of areas specific to CLC practice,

over the past 5 years. This is the work of lots of people – clients, CLC lawyers, barristers, volunteers and experts. It's an incredible privilege to be part of it. We are seeking some systemic, long-term as well as individual remedies, including a requirement that police issue receipts when they stop people and the establishment of an independent complaint system.

*What are FKCLC's future plans for police accountability work?*

The issue of police misconduct is absolutely huge across Victoria. With a system that leaves complaints largely in the hands of police, individual legal remedies are critically important. FKCLC is currently running a police accountability project with cases in the United Nations, County, Federal, Magistrates and Childrens' Courts and over 65 clients. These cases are time consuming, resource intensive and require a specialised focus. We hope to increase our resources to work on these cases through grants and cost awards. We are also working with university interns, legal and other volunteers, Arnold Bloch Leibler and a large number of excellent barristers. If anyone has any funding ideas or wants to help out please contact us!!

*What's been your most rewarding moment so far in CLCs? Any case or client that stands out?*

Working around the inspiring people in this sector is very rewarding, as is the privilege of working with our clients and their families and communities. You really get to have a good hard look at your own class privilege and in my case whiteness when you work in CLCs. Many cases stand out – I think the satisfaction of having Magistrates and Judges dismiss charges against our clients in circumstances where the police have assaulted our clients has been the most rewarding. But this is only half the battle.

*What do you like about working in CLCs?*

I like the fact that CLCs allow you to see a problem, dig your heels in and really truly do something about it.

including mental health first aid, cross-cultural communication, negotiation, legal ethics and the history and philosophy of CLCs. The Federation has linked in with the Victoria Legal Aid New Lawyers program, so I have been able to attend a number of training sessions offered by VLA and establish connections with other new lawyers.

Rotating between different centres has allowed me to observe how each operates. I had never worked in a rural area before moving to Morwell so I was surprised to learn about the unique challenges facing rural practice. For example, Gippsland CLS' catchment area covers roughly one-fifth of Victoria, in which there are a number of different communities, each with distinct legal needs. Yet Gippsland is only funded to employ 2.7EFT lawyers. This poses difficulties for how the service is to be accessible and relevant to all across their region. I was also surprised when I visited the Bairnsdale Magistrates' Court and discovered that it is so small that most people who have a matter listed have to wait outside. When it's time the clerk calls their name over a loud speaker that is so loud that anyone who is out and about doing shopping or at the post office can hear exactly who is due in Court!

I chose to study law because I am passionate about social justice and working towards a fairer community. I was drawn to work in CLCs because of their commitment to community participation and empowerment, and because of their commitment to addressing not only individual client problems, but the underlying causes of those problems, through community development, reform and CLE work. I have found that community law is diverse, fast-paced and challenging. I have observed that clients who walk through the door often have not one, but a tangle of legal and non-legal problems that require broad, holistic, sometimes creative responses. After five months I'm feeling inspired and hope to continue working in CLCs for some time to come.

I can highly recommend the Federation's graduate training program to new graduates who are considering a career in the public interest sector.

*Parvathi Suriyakumaran, currently at Gippsland Community Legal Service*



Parvathi at the Bairnsdale Court House

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