

Community Law News

AN E-NEWSLETTER OF THE FEDERATION OF COMMUNITY LEGAL CENTRES (VICTORIA)

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

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Federation of
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.

CLC's "Leading Justice" Conference

The 2008 CLC State Conference, *Leading Justice*, reinforced the strength, innovation and diversity of the Victorian CLC sector. A well-received opening address by Attorney General Rob Hulls set the tone of the conference. The Attorney commended CLCs on their contribution to family violence reform and reinforced the critical role of CLCs as legal service providers, community law advocates and contributors to broader policy and law reform.

Debbie Kilroy from the Queensland prisoner advocacy organisation Sisters Inside, addressed the conference dinner on prison reform within a decarceration framework. Debbie's forthright challenge of the prison industrial complex provoked debate and inspired a large and diverse turnout at the Centre for Human Rights of Imprisoned Peoples' forum held the following day.



On the final day, Tony Douglas of Essential Media Communications, presented important reflections on two high profile campaigns: the ACTU's *Your Rights at Work*; and the Australian Education Union's *Education for Everyone's Needs*. Tony demonstrated the effectiveness of research-based communication strategies.

The conference program featured CLCs showcasing material from across the spectrum of their work. Topics included innovative programs for working with young people; policy issues surrounding the use of tasers and capsicum spray; the case for CLCs to work with women and girls trafficked as sex slaves; reducing our carbon footprint; amendments to the infringements system; employment rights and remedies; effectively using the Human Rights Charter in CLCs; innovative community development; identifying and responding effectively to legal need; Disability Action Plans and CLCs; mentoring and leadership and much more.

The conference and dinner were attended by over 200 people from a range of organisations including CLCs, Victoria Legal Aid, community organisations, statutory authorities and government. Feedback has been resoundingly positive.

The Federation thanks the conference presenters, sponsors, organisers, volunteers, caterers and participants for their extraordinary contribution to this successful event.

Annie Nash, Sector Development Officer, Federation of Community Legal Centres (Victoria)

Anti-Terror and Child Protection laws clearly explained in two new CLC publications

Two new CLC publications demystify complex areas of law.

The Anti-Terrorism Laws – A Guide for Community Lawyers is a 70 page booklet providing plain English information on Federal and Victorian anti-terrorism legislation. The guide is an invaluable resource for both lawyers and individuals and communities affected by the laws. The guide was prepared by Marika Dias (Western Suburbs CLC) and Dr Patrick Emerton (Monash University) on behalf of the Federation's Anti Terror Laws Working Group. Hard copies are being distributed to community legal centres nationally or you can download a copy at www.communitylaw.org.au

Western Suburbs CLC's *Child Protection - a Guide for Parents and Family Members* was recently launched by the Honourable Brian Tee MP. The guide provides accessible information to parents and families involved in child protection matters with the Department of Human Services. The guide helps families understand how the Department works and their rights in relation to child protection decisions. Copies are available for download at www.communitylaw.org.au/westernsuburbs/ or you can contact the centre for a hardcopy.

Both publications were made possible by grants from the Victoria Law Foundation.

Landmark new Victorian family violence laws proposed

Victoria should soon have landmark new family violence legislation with the introduction to Parliament of the *Family Violence Protection Bill 2008*. The Bill represents the culmination of years of work by community legal centres, domestic violence organisations and victims/survivors, who have tirelessly advocated for Victoria's family violence protection laws to be made more accessible and effective for victims.

Back in 2002, following advocacy by CLCs and others, the Victorian Law Reform Commission received a reference to review Victoria's family violence laws. The Commission's 2006 report, *Review of Family Violence Laws*, recommended a raft of changes to the justice system, including new legislation to deal exclusively with family violence.

The Federation joined with Domestic Violence Victoria to lead the Victorian Family Violence Justice Reform Campaign to support the Commission's recommendations. Other members of the campaign included Domestic Violence Resource Centre Victoria, Victorian Council of Social Service, Women's Electoral Lobby, Victorian Women with Disabilities Network, Amnesty International, No to Violence Male Family Violence Prevention Association and individual survivors of family violence.

Many of the Commission's recommendations were incorporated into draft legislation released in 2007 for stakeholder comment. The Federation and the Campaign made submissions and the Attorney-General congratulated the campaign on an 'unprecedented collaboration'.

The revised Bill, which was introduced into Parliament in July, provides for an effective and accessible system of family violence intervention orders and safety notices. The Bill aims to maximise safety for victims/survivors, prevent and reduce family violence to the greatest extent possible, and promote accountability of perpetrators.

The Bill acknowledges the social realities and dynamics of family violence including the fact that family violence is predominantly committed by men against women, children and other vulnerable persons; and that this violence is a fundamental violation of human rights.

The definition of family violence has been broadened in the Bill so that if the behaviour concerned is threatening or coercive, the person seeking protection no longer has to also show that they were controlled or dominated or that they were made to be fearful.

Family violence now includes causing a child to witness, hear or otherwise be exposed to the effects of, family violence. It covers economic abuse and emotional or psychological abuse also. "Family member" is also more broadly defined. For example, a "relative" now includes a relative according to Aboriginal and Torres Strait Islander tradition or contemporary social practice. The Bill also covers many situations where someone (such as a person with a disability) is subjected to violence from a carer who is not otherwise a family member.

Other significant changes aim to protect people applying for protection from being personally cross-examined by the alleged perpetrator. The legislation will also make it easier for protected people, usually women, to remain in the family home once the alleged perpetrator is excluded.

Dr Chris Atmore, Policy Officer, Federation of Community Legal Centres (Victoria)



Justice profile – Shelley Burchfield

Shelley you are admired by your colleagues for your commitment and stoicism - what's kept you in CLCs?

The money...and... CLC's provide the most direct way to work toward social justice, on the ground, with independence and with inspired people.

You've been in community law for 17 years - that's quite a commitment. What was your first job in a CLC?

I started volunteering at Coburg CLC in 1989, during Articles, and at the time I was ready to ditch lawyering for good. After working as a locum for 6 months or so at Coburg, I started in the Community Lawyer position there in 1990 and stayed happily until 2000. It was a great community to work in. The centre, through its staff, committee and supporters had a real commitment to social change.

Where are you working now?

For the past 4 years, I've been working as Principal Solicitor at the Aboriginal Family Violence Prevention and Legal Service and as the Women's Legal Advocate at the Asylum Seeker Resource Centre. I have recently moved to policy work in both jobs.

It's great to see someone with extensive casework experience move into policy and law reform. How have you managed the transition?

I will miss the inspiration and enjoyment that comes from working with clients, but not the frustration of never having the time for much needed law reform and policy development. This is a great opportunity to channel learning and experience from the casework into advocacy for systemic change. Hopefully I will also develop some new skills which can be put to good use.

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Tackling unfair practices by motor car traders

We've all heard horror stories of dodgy practices by car salespeople. Consumer Action Law Centre is doing something about it - on a systemic basis. Consumer Action has launched a campaign aimed at raising the bar amongst motor car traders. The "Say No to the Wizard" campaign focuses on Motor Finance Wizard Pty Ltd (MFW), a licensed motor car trader.

Consumer Action has received numerous consumer complaints about MFW's practices, including:

- Sales targeting low-income and vulnerable consumers, aimed at "ex-bankrupts", "the unemployed" and "pensioners";
- Inflated costs of vehicles, marketed as "interest-free";
- Poor quality vehicles; and
- Telling buyers only one car in the yard is available to them, often after keeping them waiting for hours.

MFW's business model has been deliberately structured to evade consumer protection laws, such as the Uniform Consumer Credit Code. The Code only provides you with protection if you take out a loan with interest being charged. MFW offers "interest-free" loans, but then sells cars for much more than they are worth. The difference between actual value and sale price is effectively the interest, but consumers lose their Credit Code protections, including that MFW avoids having to disclose all fees, charges and interest to buyers clearly before they sign up, MFW can undertake a repossession without first providing notice or the waiting period, and consumers don't have a right to apply for a variation to the loan if they are in financial hardship.

One of Consumer Action's clients was a 21 year old sole parent whose only source of income was the single parent pension. MFW sold her a 1995 Mazda 121 hatchback for a total cost of over \$15,000. The car's market value turned out to be about \$3,000. The car's brakes failed soon after purchase, making it unusable.

Consumer Action, financial counsellors and other community legal centres have assisted numerous clients with legal issues concerning MFW. While the centre has resolved numerous disputes individually and raised complaints with regulators, it continues to witness significant consumer detriment from the company's actions. So it began a 'direct action' campaign, taking the issues to consumers outside MFW dealerships.



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Both these CLCs do amazing work with the communities they serve - if you could wave a wand for law reform, what would you wish for?

There are too many things...

Genuine pursuit of Indigenous rights

as determined by the Indigenous

community and a clear voice for

Indigenous women within this.

Funding of Indigenous legal services

for Indigenous women in urban areas

throughout Australia (the FVPLS

program funds only regional/remote

areas). Appointment of Indigenous

Magistrates and Judges in Victoria

and greater employment of Indigenous

staff in the justice system. Funding for

dedicated pre and post release support

services for Indigenous women across

Australia. No mandatory detention.

Work rights for asylum seekers.

Urgent implementation of a system of

complimentary humanitarian protection.

Appropriate funding for support services

for asylum seekers.

What's been the highlight of your 17 years - when have you felt like you've made a difference to people's lives?

Working in this area I am happy to

say there have been many highlights;

whenever individual clients are

empowered to access their basic

human rights; and the great working

relationships and collaborative

experiences I have been a part of in

battling for justice and systemic change.

Law Grants: Legal Services Board, Victoria Law Foundation and more

The Victoria Law Foundation's second General Grants round closes on 17 September 2008. General grants are

for projects with budgets over \$5,000. See www.victorialaw.org.au. The

Legal Services Board's project grants

(up to \$50,000) round closes on 12

September 2008. See www.lsb.vic.gov.au. The

Victorian Women's Trust will announce a new grants round in

October – CLCs are encouraged to

apply. See www.vwt.org.au

Consumer Action's campaign involves going to MFW dealerships and offering potential customers of MFW free consumer information and legal advice about the lending and business practices of the company. It provides free RACV mechanical and roadworthy inspections to those who purchase or are considering purchasing a car. Consumer Action has been campaigning outside MFW's Melbourne dealerships in Maidstone and Dandenong with the help of financial counsellors and Footscray CLC.

On 28 June, Consumer Action, with interstate colleagues, held a national 'Say NO to the Wizard day'. Campaigners were present at outlets in Sydney, Brisbane and Melbourne.

Consumer Action's campaign aims for the following outcomes:

- Raising consumer awareness of MFW's practices;
- Raising awareness of consumer rights and options to get advice and assistance;
- Securing MFW and its related finance company's Kwik Finance's compliance with the Credit Code;
- Stopping MFW from hiding finance costs in the cost of the car and having the company disclose interest and fees appropriately; and
- Having MFW adequately assess borrowers' ability to pay.

Please contact campaigns@consumeraction.org for more information.

Gerard Brody, Director – Policy and Campaigns, Consumer Action Law Centre

Gippsland Koori Identity Documentation (KID) Project

Gippsland Community Legal Service (GCLS) is undertaking a law reform and policy project in partnership with a number of stakeholders comprising the *Let's Get Connected Project* Steering Committee (whose main role is to look at transport options in eastern Gippsland).

GCLS is acting as "lead" agency for the Committee in an initiative to address the widespread lack of identity documentation among the Koori population in Gippsland. Potentially, the project has statewide ramifications for Koori communities.

Many older and younger members of Gippsland Koori communities do not have a copy of their birth certificate – either because their birth was not been registered or because of the legal, administrative and financial impediments to obtaining a copy from the Registry of Births, Deaths and Marriages.

Without a birth certificate it is almost impossible to obtain a driver's license, apply for a Tax File Number, enroll to vote, obtain a passport, visit a prison, open a bank account, obtain social security benefits, etc.

The project seeks to initiate legal and administrative reforms that recognise the difficulties faced by Indigenous Victorians in obtaining a birth certificate, and facilitates a program in which **all** Kooris have unimpeded access to a copy of their birth certificate. GCLS regards the issues as a human rights issue and is investigating the application of the *Charter of Human Rights & Responsibilities* in this matter.

For further information, contact Joel Orenstein at GCLS on (03) 5150 3727

Joel Orenstein, Community Lawyer, Gippsland Community Legal Service

Inclusion and Disability: Removing the Barriers in Community Legal Centres

This project, funded by the Colley Foundation ensures that people with disabilities can better access legal services and participate more fully in the justice system. The project need was identified by the Federation's Disability Working Group report *Inclusion & Disability: Removing the Barriers in Community Legal Centres*.

Project Worker Alyena Mohummadally trained CLCs and provided resources to help them develop their Disability Action Plans – plans which identify actions required to remove barriers for people with disabilities to accessing CLC services. The Federation aims to have five Victorian CLC Disability Action Plans lodged with the Human Rights and Equal Opportunity Commission by the year end. The project will improve CLC practices – expanding on existing strengths of CLCs as role models of social justice and human rights

IT innovation to save time and dollars – WebEx

Some have described WebEx as the IT innovation that will level the remote communication playing field. Rural and regional CLC workers often bemoan the inefficiency of telephone conferencing - and rightly so. Courtesy of the National Association of CLCs and the Commonwealth Attorney General's Department, CLCs across Australia now have access to WebEx.

WebEx provides CLCs with the ability to conduct online video & voice meetings at any time. It allows CLC workers to share documents, their desktop, websites, applications, chat and annotate. The only equipment required is a computer and an internet connection.

CLCs should contact Kaeleene Owen on (03) 9015 9337 or Kaeleene@finrea.com.au for further information on WebEx or to arrange a demonstration.

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. Workers in Victorian legal centres work together on common justice concerns in law reform working groups supported by Federation staff. Current projects include:

- Family violence reform. The Sentencing Advisory Council held a discussion with the Federation's Violence Against Women and Children Working Group on sentencing options for breaches of intervention orders. The Working Group stressed that rather than increase the penalties for breaches, sentencing should reflect the range currently available and demonstrate that breaches are a serious matter.
- Equal opportunity reform. The Federation made a submission in the second stage of the Victorian Equal Opportunity Review recommending that the Victorian Equal Opportunity and Human Rights Commission have key research and education functions, with community legal centres being resourced to play a central role in the provision of advice.
- Citizenship. The Federation participated in the Round Table for the Review of the Citizenship Test and supported many other participants in arguing that applicants for citizenship should not be forced to meet inappropriate or discriminatory criteria which have no bearing on whether applicants will make a positive contribution to Australian society.
- Driving while disqualified or suspended. The Federation made a submission to the Sentencing Advisory Council supporting the restoration of judicial discretion in sentencing for driving whilst disqualified or suspended.
- Vexatious litigants. The Federation made a submission to the Victorian Parliament Law Reform Committee Inquiry. The Federation is concerned that there should not be a legislative over-reaction to the issue - especially given the risk that such legislation can be used to silence unpopular people and causes.
- Police misconduct and liability. The Federation's Police Issues Working Group wrote to the Victorian Police Minister urging him to amend the *Police Regulation Act 1958 (Vic)* so that the State is liable for all legal wrongs committed by Victorian Police Officers in the course of their duties in the same way employers are normally liable for wrongs committed by their employees.

Federation law reform submissions, articles and media releases are available on www.communitylaw.org.au. For more information contact Chris Atmore at policy@fcl.org.au or Sarah Nicholson at sarah_nicholson@clc.net.au

Attorney General's Community Law Partnerships Round Table

The Federation is hosting a Community Law Partnerships Round Table from 9.30-12.30 on Thursday 25 September 2008 at Lander & Rogers, 600 Bourke Street. The forum seeks to encourage open engagement with a view to expanding the number and quality of pro bono partnerships between CLCs and law firms. This is an opportunity for those with innovative and successful partnerships to share ideas and inspiration with firms and CLCs interested in developing partnerships. If you are interested in making a presentation about your partnership, or if you are interested in forming a partnership, please contact Annie Nash, sectordevelopment@fcl.org.au. Event details will be posted on 'events' at www.communitylaw.org.au. Thank you to Lander & Rogers for hosting this event.