

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

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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.

Collaboration showcased in new youth legal service in Sunshine

Justice Frank Vincent officially opened Brimbank Melton Community Legal Centre's youth legal service in Sunshine on 9 September 2008, stating that "the law is at its best when it empowers the weak". Also speaking at the opening was Peter Gordon of Slater & Gordon, who was raised in Sunshine and who played a key role with Rob Stary in establishing Western Suburbs Legal Service in Newport 30 years ago.

The new service highlights the benefits of collaboration. It is co-located with other youth specific services in the Sunshine Hub and incorporates a clinical legal education component. Law students from Victoria University engage in paralegal work supervised by a lawyer from Brimbank Melton CLC. Students interview clients, liaise with their supervisor and assist in providing advice to the client.

The clinical legal component of the service enables students to understand the law in practice, develop the students' legal practice and teamwork skills and better understand the economic and social problems faced by socially excluded people in the community. To facilitate proper monitoring and supervision, student numbers are deliberately limited with an initial intake of 8 students.

Funding was a major issue in establishing the service. It is extremely difficult for CLCs to undertake new initiatives without additional resources. Fortunately, Victoria University and Slater & Gordon generously provided financial assistance.

The service has now been operating for two months and the early signs are encouraging; client numbers are growing and the students in the program are approaching their work with typical enthusiasm and passion, generating new ideas about the service's operation.

It has been particularly pleasing to see how collaboration by the project partners is delivering improved access to justice to the young people of the region. Brimbank Melton CLC, a program of Community West Inc, was ideally suited to manage this project, given its base and profile in the west. After analysing its client data, the CLC had identified the need to provide more accessible services to younger clients. The newly established Sunshine Hub provided the ideal location to base a youth specific service.

Brimbank Melton CLC services Melbourne's outer west - one of the fastest growing regions in Victoria, with high cultural diversity and significant areas of disadvantage. The pace of growth in the area has largely outstripped the services available and the advent of the new service in Sunshine is a timely development.

Philip Cottier, Manager and Principal Solicitor, Brimbank Melton CLC

Funding - Law Grants

The Legal Services Board Major Grants Round (project budgets of more than \$50,000) will open shortly. Grants may be sought for activities that lead to improved laws and legal services, enhanced access to justice and better informed consumers of legal services. Successful major grants applications are expected to have a wide impact, create long-term positive change in the Victorian legal environment, and have a strong public benefit. Organisations and individuals can apply for projects that are relevant to Victoria. Potential applications should visit www.lsb.vic.gov.au/Grants.htm for information about applying. All applicants must discuss their potential application with the Board's grants team by 13 February 2009. Applications close on 13 March 2009.

The Victorian Women's Trust (www.vwt.org.au) has announced a new grants round closing 15 December 2008. CLCs are encouraged to apply. The trust is interested in funding applications that address issues and concerns of young women, including violence and harassment within new media technologies; workplace barriers; lack of representation; young women's experience of poverty; and emerging issues around binge drinking and other drug abuse.

Policy Job @ the Federation

The Federation of CLCs is recruiting a Policy Officer to implement its "Grounded Justice Project", funded by the Legal Services Board. Full-time fixed term employment with generous remuneration is offered. For a position description, and details of other jobs available in Victorian CLCs, go to: www.communitylaw.org.au or contact administration@fclc.org.au.

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. CLCs 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. For more information contact Chris Atmore at policy@fclc.org.au or Sarah Nicholson at sarah_nicholson@clc.net.au.

Current initiatives include:

- Anti-terror laws – The Federation wrote a submission and gave evidence to the Senate Inquiry into the *Independent Reviewer of Terrorism Law Bill 2008*, broadly supporting the establishment of an Independent Reviewer but not as a substitute for the repeal of undemocratic, unjust or excessively broad anti-terror laws. The Federation recommended establishing criteria against which the Independent Reviewer can assess the operation, effectiveness and implications of the laws. The Federation is also working with other human rights organisations to pursue reform in areas covered by the Clarke Inquiry into the case of Dr Mohamed Haneef.
- Criminal justice – The Federation gave evidence at the Drug and Crime Prevention Committee's Inquiry into Strategies to Prevent High Volume Offending by Young People. We outlined how a rights-based approach could be applied to crime prevention strategies and profiled successful diversionary strategies that CLCs have been involved with including the Victorian Aboriginal Legal Service's Police Cautioning and Youth Diversion Pilot and the Youth Referral and Independent Person Program (YRIPP). The Federation is also providing feedback to the Department of Justice's comprehensive review of the *Crimes Act 1958*.
- Coronial inquests – The Federation made a comprehensive submission to members of the Victorian Parliament debating the *Coroners Bill 2008*. The Bill makes some improvements to the current Act, but fails to implement key recommendations of the Victorian Parliament Law Reform Committee Inquiry into the *Coroners Act 1985*. The Federation's concerns focus on: the Bill's exemption of the Coroners Court from the definition of 'public authority' in Human Rights Charter; some continuing omissions from the definition of reportable deaths; the need to further strengthen the prevention purpose of the Bill, particularly in relation to mandating responses to coronial recommendations and effectively resourcing systematic monitoring and research; increasing rights and genuine participation for families in the coronial process; and incorporating Indigenous understandings of next of kin and family, and autopsy, body removal and burial protocols. The submission suggests amendments to the Bill.
- *Assisted Reproductive Treatment Bill 2008* – The Federation wrote to members of Parliament expressing its support for the Bill on the basis that the present Victorian law concerning access to assisted reproductive technology, parentage and surrogacy is discriminatory and out of step with the reality of modern families. We applauded the Victorian Government's moves to provide legal certainty to children born to same-sex couples, single parents or through a surrogacy arrangement.
- Justice and mental health – The Federation participated in a workshop aimed at providing guidance on the development of the Justice Mental Health Strategy. The Strategy's objective is to provide a framework to make the justice system more responsive and accessible to offenders, victims and witnesses with cognitive impairment.



Marika with the Law Institute's New Lawyer Award 2008 (see page 5).

Justice Profile - Marika Dias

Marika, you're off to the US for 12 months. It must be a great opportunity. It is great to go off and try something new, though it's definitely tinged with a little sadness. There's a lot I'll miss about the Vic CLC sector, the work that I've been able to do and the great people I've had a chance to work with.

You've had a broad range of experience in CLCs. How long have you been a CLC lawyer and what's been the highlight?

I started in CLC's in 2001 as a volunteer at Darebin CLC. I'd just finished a law degree but couldn't imagine practising law at all. Volunteering at Darebin changed my mind and I've been in CLC's ever since. Since then I've worked at a few different CLC's and have had the chance to work in diverse areas of practice. The highlight would have to be the work that I've done with CLC clients. It's incredibly satisfying to help someone out a bit or to solve a problem that someone has, especially when you consider all the obstacles that many of our clients face – lack of money, housing issues, language barriers, racism etc. I've also really appreciated how much I've learned working in CLC's. The lack of resources and the small practices I've worked in have meant that it's been a steep learning curve and I think I'm the better for it.

This year you launched a detailed legal education booklet on anti terror law - what's the unique role of CLCs in undertaking this kind of work?

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Building a stronger community legal sector – sector development round up

The Federation works with its members and stakeholders to build a stronger and more effective community legal sector. Resources and information on our sector development work are available at www.communitylaw.org.au. For more information, contact Annie Nash on sectordevelopment@fcl.org.au. Current highlights include:

- Attorney-General's Community Law Partnerships - In September, the Federation, Lander & Rogers and Holding Redlich, hosted the AG's Community Law Partnerships Round Table. Over 60 representatives attended from law firms, CLCs, Victoria Legal Aid, Legal Services Board, Department of Justice and the Victoria Law Foundation. The event demonstrated the momentum and traction gained from previous pro bono forums and initiatives. It focused on experienced community law partners sharing their skills and wisdom with those seeking partnerships. It was all about the 'c' words - community, collaboration, capacity building, cooperation and change. A paper on the scheme is at: www.communitylaw.org.au/fedclc/cb_pages/managing_the_organisation_pro.php
- Roundtable on legal structures relating to community not-for-profit organisations. The Federation and individual CLCs were represented at this roundtable. The event examined the numerous legal structures in existence around Australia for community organisations and ways to simplify and improve them. For more information, visit www.nonprofitroundtable.org.au//AM/Template.cfm?Section=Home1
- Federation partnership with RMIT - Over the past three months, RMIT students have been engaged in two innovative capacity building projects in CLCs. Legal & Dispute Studies students are undertaking strategic placements with CLCs to help centres meet their annual reporting requirements and assist with administration. Policy & Human Service Masters Students undertaking a subject titled 'case study intensive in transforming organisations', are working with four CLCs to undertake a 'CLC health check' to identify priority areas for capacity building. The students are currently developing a tool to assist centres with future capacity building initiatives.
- CLC Multi Business Agreement (MBA) – The CLC MBA, which delivers a range of wage and entitlement benefits to CLC staff, underpinned by funding from Victoria Legal Aid, was approved in August by a majority of employees across the 27 CLCs parties to the agreement. The MBA was lodged with the Workplace Authority for approval on 18 August 2008. Three months later, we are still waiting for advice from the Authority on the timing and outcome of the approval process.

A fairer way of dealing with criminal records in Australia

"The information revealed in my criminal record check is no longer a true reflection of my character...This police check process, in its current form, is discriminatory as it permanently disallows a person like me to totally reintegrate myself back into society. In doing so it denies me exactly the one thing that everyone deserves: a second chance." - Participant in Criminal Records Project, Fitzroy Legal Service

In partnership with other community legal centres and organisations, Fitzroy Legal

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Our close ties with our local communities puts us in a really good position to monitor the on-the-ground impact of counter-terrorism strategies, whether that's the fear created by the laws or the racism that media coverage generates or the tactics and strategies of Federal Police and ASIO. Also, we are currently one of only a few organisations willing to take a strong stand against the domestic 'war on terror'. Calling for repeal of the laws altogether has become almost a radical position to take. I think it's really important that CLC's continue to take this position so that the debate isn't narrowed just to questions of safeguards and wording of provisions. But we'll definitely need to keep up the work with local communities in order to give our arguments strength.

If you could wave a magic wand for CLCs, what would you do?

I'd do a few things. For one, each CLC would open up tomorrow and find themselves with buckets and buckets of money filling their reception areas – buckets that replenish every year! We need to be better resourced. It's a miracle that CLC's manage to do all the work they do, given the paltry amount of money we get. Secondly, I'd change the drift away from law reform and community legal education (CLE) in CLC's. I feel like that push from above for CLC's to become more and more casework focussed is steadily diminishing the fantastic work CLC's have always done in the areas of CLE and law reform. And finally, I'd fix some of the organisational issues that so many CLC's seem to have – though maybe the buckets of money would help with that too.

Do you have any pearls of wisdom for new lawyers to CLCs?

For new lawyers: Community lawyering is not just a stepping stone, it can be a great final destination. And, take some leave each year. And, make friends with Gary Sullivan – he's super-wise and a know-it-all (in a really good way).

Service (FLS) has been engaged in advocacy for several years around criminal record discrimination against prospective employees and volunteers. This work, supported by the Reichstein Foundation, aims to change laws, policies and attitudes that create unjustified barriers to meaningful participation in the workforce. In undertaking casework, education, research, consultation, submissions and lobbying in this area, FLS has consistently sought to voice the experiences of those affected by policies of exclusion, and to tackle broader cultures of unfair prejudice and unjustified risk aversion.

This work has been undertaken against a backdrop of an explosion in the number of criminal record checks being conducted in Australia. In 2006-07, 2.3 million checks were lodged with the national criminal record agency, an increase of around 35% on the previous year.

FLS' work has focussed on three key areas of concern:

- the lack of legal protection against discrimination on the grounds of an irrelevant criminal record (a record that isn't relevant to the job requirements);
- Victoria Police's practice of releasing details of criminal offences where no conviction has been recorded – undermining sentencing law and courts' discretion whether or not to impose a conviction in less serious offences; and
- the absence of a legislative "spent convictions" scheme in Victoria, under which certain offences are not disclosed in a criminal record check if the offender completes a qualifying period of crime-free behaviour (an administrative scheme currently operates, but it is not governed by legislation).

The recent announcement by the Standing Committee of Attorneys-General to release draft national criminal record legislation for community comment provides a welcome opportunity to facilitate comment on present impacts. Information on making submissions should shortly be available on www.justice.vic.gov.au. FLS will be strongly engaged in this process, and is available to provide assistance and support where required to community members and others.

A further important development was the findings of the Equal Opportunity Review 'An Equality Act for a Fairer Victoria', which recommended the inclusion of 'irrelevant criminal record' as a protected attribute. The review also called for the development of guidelines for employers and others to help determine whether a person's criminal record is relevant (see recommendations 48 and 49).

The Victorian Human Rights Charter provides a sound ideological framework to underpin advocacy in this area. FLS has argued that the release of information regarding *pending* proceedings contravenes the right to presumption of innocence; the release of 'no conviction' records imposes retrospective punishment; and the systemic discrimination faced by those with criminal records often imposes a greater penalty than that imposed by the Court.

FLS will continue to advocate for approaches that are inclusive, context specific, evidence based, and grounded in human rights. In one successful case brought by the FLS, Senior Member Noreen Megay of the Victorian Civil & Administrative Tribunal noted that "rehabilitation is seldom a real possibility if offenders are unemployed and unable to obtain gainful employment."

Meghan Fitzgerald, Community Development Officer, Fitzroy Legal Service

PILCH Manual unlocks homelessness law

The PILCH Homeless Persons' Legal Clinic recently launched its Homelessness Law and Advocacy Resource Manual. The Manual is an online 'one-stop shop' that provides targeted and practical legal information and assistance to community lawyers and non-legal practitioners such as financial counsellors who work with people experiencing homelessness. It covers off on legal topics including:

- fines & infringements
- housing & tenancy
- social security
- discrimination
- credit & debt
- victims of crime
- human rights and the Victorian Charter

While focused on homelessness, the information in the Manual will be of benefit to community lawyers and others more broadly. The Manual can be downloaded for free by single chapter and also contains a range of precedent letters and forms for the different areas of law – see www.pilch.org.au/hlarm.

Western Suburbs Legal Service turns 30

This year marks 30 years since the Western Suburbs Legal Service was established. The legal service celebrated this important milestone on 13 November 2008. Guests included past volunteers, staff, committee members, members and people who played a role in establishing the service 30 years ago. Speakers discussed the service's long history of innovative work with the poor and the working class in Melbourne's west and its strong history of legal activism. It was great to see so many people come together to celebrate the Western Suburbs Legal Service's rich and vibrant history.

Justice for All: A History of the Victorian CLC Movement

The 'Justice for All' history project investigates CLCs as points of connection and conversation between the law and disadvantaged citizens. Monash University researchers Associate Professor Jude McCulloch, Professor Mark Peel, Dr Megan Blair, and doctoral student Bridget Harris, are examining how CLC volunteers and workers have inspired and contributed to some of Australia's most important debates about better ways of doing justice. The project celebrates volunteering and its importance to CLCs and it is strongly supported by the Federation of CLCs for its aim of honouring those who have made contributed to the movement.

Work has begun on a chronological account of Victorian CLCs' development. The vexed question of which CLC came first has already arisen, with strong voices on several sides! A Wikipedia entry about CLCs has been written: http://en.wikipedia.org/wiki/Community_Legal_Centre and we hope that past and present CLC people will be keen to contribute to the entry. This will help us in writing the chronology, and also publicises CLCs' important place in Australian legal history. We are also interviewing past and current workers and volunteers at CLCs for their insights into how CLCs identify and correct deficiencies in the law; how they function as sites of voluntarism, cooperation, outreach and activism; how they work as training grounds for the profession; the challenges they face, particularly in relation to funding frameworks; and how these challenges are met and overcome.

We have also started working through the Federation's archives. We would like to access as many different CLC archives as possible, and would be grateful if people could point us towards other important documents or collections. We are keen to view documents, but are also interested in photos, campaign materials, T-shirts – anything that will build a strong visual and written archive of the CLC movement.

Past or present CLC workers and volunteers who are interested in participating in project interviews or group discussions or who have archival materials to share should contact the project team at legalcentreproject@arts.monash.edu.au.

Dr Megan Blair, Monash University

CLC work recognised in legal awards

Staff and volunteers at the Loddon Campaspe CLC are celebrating after collecting two prestigious legal awards. The centre won the Tim McCoy Award 2008, which recognises outstanding work in the access to justice sector, and Manager and Principal Lawyer, Peter Noble, won the Law Institute's Community Lawyer Award.

The awards recognise the centre's tremendous work over the past 3 years under Peter's leadership. Loddon Campaspe CLC was only established in 2005, but has already undertaken a range of innovative projects including the Older Person's Outreach to Bendigo Health, Homeless Person's Legal Clinics, Migration Advice Services and Family Violence Prevention Legal Services.

Marika Dias of Western Suburbs Legal Service also won the Law Institute's New Lawyer Award 2008. Marika has established herself as an expert on Australia's anti-terrorism laws, drafting around 16 policy submissions; appearing before several Parliamentary inquiries; co-authoring an extensive Anti-Terrorism Law Guide; and representing clients including US peace activist Scott Parkin.