

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,

CLCs helping to build a fairer Victoria

The Victorian Government's 2009 "A Fairer Victoria" report begins by identifying two major challenges facing Victoria; the global financial crisis and the bushfire emergency. CLCs are playing a key role in responding to both these challenges.

Spike in demand for CLC services in areas impacted by the financial crisis

CLCs are helping to mitigate the impacts of the financial crisis. It appears from national CLC data that the global financial crisis may already be impacting on demand for CLC services. Compared with the same period in the previous financial year, there have been significant increases over the first 7 months of this year in CLC services in legal areas likely to be impacted by the crisis. Credit & debt services are up 10%. Employment services are up 18%. Social security services are up 7% and tenancy services are up 24%. This is occurring against the backdrop of CLC services across all problem areas increasing less than 1% for the same period.

CLC services help people resolve mortgage and debt issues before they escalate. They keep people in their homes, providing protection from unlawful eviction. They target unfair lenders and lending practices and they ensure people receive their lawful social security and redundancy entitlements. CLCs support people through times of hardship and stress, providing advice on relationship breakdown and securing protection from family violence. CLCs also link effectively to allied services such as financial counselling, emergency relief and housing services.

CLCs will continue to work with legal aid and other agencies to develop innovative and targeted services that help Victorians deal with the effects of the crisis, and also policy responses that help to avert future crises.

CLCs helping communities recover from the 2009 bushfires

Victorians grappling with legal issues flowing from the devastating 2009 bushfires continue to be assisted by CLCs and our Bushfire Legal Help partners. Whittlesea, Eastern and Broadmeadows CLCs are delivering outreach services in Whittlesea, Yarra Glen and Wallan. Loddon Campaspe and Gippsland CLCs are providing local services, PILCH is coordinating pro bono assistance and West Heidelberg CLC is providing insurance services. The demand for assistance is significant; Eastern CLC has helped over 100 people so far with insurance, family law, tenancy, contracts and other issues. CLCs are working with their communities, and with government and other agencies, to ensure the best response to the emerging needs.

The Bushfire Legal Help website, www.bushfirelegalhelp.org.au, links affected Victorians with legal services and provides information on a range of topics including coronial processes, lost documents, fencing, insurance and wills. The Bushfire Legal Help partnership has also been active promoting the involvement of affected individuals and communities in the Bushfires Royal Commission.

Community Development and Community Legal Education mini conference

The Federation's Community Development (CD) and Community Legal Education (CLE) Working Group is hosting a professional development day for CD and CLE workers in CLCs.

Wednesday 3 June, 10.00am - 4.30pm, further details will soon be available at www.communitylaw.org.au

Topics will include:

- Marketing and promotion of CLCs
- Somali community understanding of the law
- Working with editors, designers and printers
- Delivering CLE to people with a mental illness
- Community law website sub-web training
- Innovative and effective CD and CLE projects
- CLE data base training

VCAT Review Unleashed

The President of the Victorian Civil and Administrative Appeals Tribunal, Justice Bell, is currently conducting a review of the Tribunal. The review covers jurisdictional issues, decision-making, consistency, alternative dispute resolution and day-to-day practical matters like listing procedures. Access to justice is a major focus with particular emphasis on outer suburban, regional and rural areas.

Justice Bell has already conducted a number of public forums in rural Victoria including one hosted by Loddon Campaspe CLC to consult with Bendigo region lawyers. Participants at the Bendigo forum underlined the value of co-locating and cross-promoting services, particularly in rural and regional areas. They noted problems associated with the antiquated (although beautiful) Bendigo court complex, including disability access,

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Test case finding: Mental Health Review Board breached human rights

In an important human rights test case, the Victorian Civil and Administrative Tribunal found that the Mental Health Review Board breached the human right to a fair hearing of Gary Kracke by failing to review his involuntary treatment orders within a reasonable time frame. Mr Kracke was represented by the Mental Health Legal Centre and barristers Alexandra Richards QC, Dr Paul Vout and Michael Stanton. The Human Rights Law Resource Centre appeared as amicus curiae.

Mr Kracke had been diagnosed with a mental illness and placed on an involuntary treatment order (ITO). As his treatment was able to be provided to him in the community, the authorised psychiatrist placed him on a community treatment order (CTO). Under the *Mental Health Act 1986*, ITO's must initially be reviewed within 8 weeks and then periodically no less than every 12 months from the initial review. CTO's must be reviewed within eight weeks of any extension. In Mr Kracke's case, the ITO was not reviewed for over two years and the CTO was not reviewed for over one year. The legislation is silent on the consequences of the Board's failure to review within the specified time limits.

Mr Kracke relied on the *Charter of Human Rights and Responsibilities Act 2006* (the Charter) in seeking to have his ITO and CTO declared invalid. He argued that the Board's delay in reviewing his treatment orders outside the statutory time limits was inconsistent with his human rights under the Charter.

Justice Bell who heard the case, said that it proved to be "a test case on important aspects of the application and operation of the Charter". The decision provides the most in depth analysis of the Charter to date.

Justice Bell made a declaration that the Mental Health Review Board violated the Mr Kracke's right to a fair hearing protected by s 24(1) of the Charter as the Board failed to review the treatment orders within a reasonable time in accordance with the Act. Significantly, this is the first declaration of its kind.

Justice Bell also found that involuntary treatment under the Act engages several other human rights under the Charter, including the right to freedom of movement (s12), the right to privacy (s13), the right to be free from medical treatment without full free and informed consent (s10(c)). On the facts of the case however, he found these limits were reasonable and justified pursuant to section 7 of the Charter.

Justice Bell concluded:

"When a human right is breached, the individual is injured. Because of the broader role of human rights, society is injured as well. Human rights protect interests and values which society in Parliament considers to be fundamental, both to the individual and to the maintenance of democratic society based on the rule of law. Where human rights are breached, both the individual and society have a strong interest in the remedy of a declaration, in which inheres their final vindication."

Kracke v Mental Health Review Board & Ors VCAT (April 2009) www.austlii.edu.au/au/cases/vic/VCAT/2009/646.html

Vivienne Topp, Mental Health Legal Centre

audibility and security concerns. Participants also highlighted the need to maintain a distance between VCAT members and the legal profession.

Further public forums will take place in rural & metro areas in coming months. CLCs interested in hosting a forum can contact the Review's administrators at VCAT on 9628 9702, or go to www.vcatreview.com.au/events.

The Federation will be working with members to prepare a submission to the review. Submissions are due on 8 June. For more information contact Lucie O'Brien at the Federation on 9652 1512.



Justice Profile – Kiera Dingle Chairperson, Darebin Community Legal Centre

Kiera, it was great to see you at the recent Federation launch of our new website and the CLC Fellowship 2008. What's your particular interest in being on the committee at Darebin?

I think it's really important for people to be involved in a voluntary capacity in working on community concerns. It's important for me personally to be involved in work that is genuinely about making a difference to people's lives. I am particularly interested in law and justice and the role of law in improving the lives of people experiencing social and economic disadvantage.

When did you first get involved with Darebin?

It was in 2001, when I was a second year law student. CLCs offered an opportunity for me to contribute to the local community as a volunteer. I chose Darebin because of its proximity to my home and its ethos. I've now been involved at Darebin for 9 years.

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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 at www.communitylaw.org.au. For more information contact Chris Atmore, Sarah Nicholson or Lucinda O'Brien at administration@fclc.org.au.

Recent initiatives include:

- Consumer protection - The Federation made a submission to the Federal Government's review of Australian consumer protection laws. We argued that Victoria's laws are the fairest and most effective in protecting consumers, especially with regard to door-to-door sales, telemarketing and unfair terms in standard form contracts. We encouraged the Federal Government to include these safeguards for consumers in its proposed Australian Consumer Law.
- Stalking and non-family violence intervention orders - The Federation and several member centres made submissions on the State Government's plan to use mediation to resolve non-family violence intervention order matters. We agreed that this could be effective in some cases, but not in disputes involving violence or a significant power imbalance between the parties.
- Powers of attorney - The Federation wrote to Victorian Attorney-General asking that enduring medical powers of attorney be included in the upcoming review of powers of attorney by the Victorian Parliament Law Reform Committee.
- Anti-terrorism laws - The Federation's Anti-terror laws Working Group made written and oral submissions to the Federal Parliamentary Joint Committee on Intelligence and Security's review of the re-listing of six organizations as terrorist organisations under the *Criminal Code Act 1995*. Our submissions reiterated the fundamental inconsistencies between the listing provisions, democracy, human rights and basic criminal law principles.
- Police accountability - The Federation continues to work to improve police accountability for use of force and coercive powers. This includes advocating for greater public access to police operational policies and for community input into ongoing reviews of use of force including the availability of "tasers" to police members. We are also advocating for independent investigations of complaints concerning excessive use of force by Victoria Police.
- Child Protection - The Federation's Child Protection Working Group examined the impact of the substantial changes brought about by the implementation of the *Children, Youth and Families Act 2005* (Vic) in 2007. Centres will continue to collaborate and advocate for improvements to this system for children, young people and their families.
- Federal human rights - The Federation and various member centres held training workshops for CLCs and other organisations wishing to make submissions to the Federal Government's National Human Rights Consultation.
- Mental illness - The Federation made a submission to the Department of Human Services Review of the *Mental Health Act 1986* (Vic), supporting the views of member centres (Mental Health Legal Centre, PILCH and the Human Rights Law Resource Centre) that substantial legislative and policy reform is required, particularly in the context of the Victorian Human Rights Charter and the Convention on the Rights of Persons with Disabilities.
- Disability discrimination - The Federation made a submission to the Swanston Street Redevelopment Consultation urging the abandonment of two options offered for consideration, on the basis that they discriminate against people with disabilities that affect their physical mobility.

What was your role as a student volunteer?

I started at the front desk and gained valuable exposure and experience of the Darebin community and the range of services provided by the legal service. Later on I worked as a community volunteer supporting lawyers in running the night service.

What did you do when you graduated from law?

In 2005 I started working with the Victorian Public Service. Currently I am working for the Department of Human Services in a division that focuses on people with mental health and drug issues – specifically I work in the area of patient's rights. As part of this role I am looking at how services can be delivered in light of the new Charter of Human Rights.

What do you consider to be the three most important roles for committee members?

Support and guidance to staff; ensuring transparency and accountability and good decision making; providing strategic direction and support; and bringing a big picture view to the centre

In your experience, what's the most significant achievement of the centre?

That the centre keeps doing what it does best – providing high quality services to the people of Darebin within the resource constraints.

It appears you have excellent grounding for your role on the committee at Darebin – what specifically do you gain personally?

I feel I have a more holistic appreciation and approach to my life and my work. I think that as committee members we are making a real and significant difference to people's lives.

Interviewed by Annie Nash

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 at sectordevelopment@fclc.org.au.

Current initiatives include:

- Meeting legal need in northern Melbourne - The Federation supported a network of 6 northern metropolitan Melbourne CLCs to develop an application for funding for a 3 year project to improve their capacity to identify and respond to the broad ranging legal needs of disadvantaged communities in the region. The project will scope legal need and legal services and build on existing strengths of CLCs to achieve innovative coordination and delivery of legal services across case work, community legal education and policy and law reform campaigns. This project is designed to complement the social inclusion agenda and the Victorian Legal Assistance Forum. Funding has been sought from the Legal Services Board major grants round.
- CLC Law Graduate Scheme – The Federation has applied for Legal Services Board funding to establish a CLC law graduate scheme. Under the proposal, final year law students would receive paid practical legal training to gain admission to practice law and would then undertake rotations across 3 CLCs over a 12 month period. One of the CLCs would be in rural and regional Victoria. The proposal responds to the lack of accessible career paths from university to CLCs despite the strong interest amongst law students in CLC careers. It also seeks to help address the shortage of lawyers in rural and regional Victoria.
- The Federation's Coordinators and Managers Network, together with Job Watch, hosted training for CLC managers and lawyers on "Bullying, sexual harassment and other thorny employment issues".
- CLC Multi Business Agreement (MBA) – The CLC MBA expires on 30 June 2009. A CLC managers group is being established to work on a new agreement with employees and the Australian Services Union. The Federation is in discussions with Victoria Legal Aid around indexation of CLC funding to allow sustainable wage increases.
- Employment advice for CLCs – Victoria Legal Aid has set aside funding to enable the bulk purchase of memberships for an employment advice service for Victorian CLCs (such as SIAG or Jobs Australia). The Federation is currently examining options.

Jobs in community law

Community legal centres offer the chance to perform rewarding social justice and human rights work in a dynamic environment. Working in a CLC is about making a real difference to people's lives through the law.

The latest community law and public law jobs can be viewed at www.communitylaw.org.au. Current CLC jobs on 18 May include:

- Intervention Order Court Support Lawyer – Darebin Community Legal Centre. Part-time up to 4 days per week. Closes 26 May.
- Lawyer – Youthlaw. Full-time, fixed term for 6 months with possibility of extension. Closes 1 June.

Tell Consumer Action what you think about Direct Debits

Do you use Direct Debits? How do you think the Direct Debit system works? Ever had a problem with a Direct Debit payment? How did you resolve it?

Over the past year Consumer Action Law Centre has fielded a number of complaints about companies continuing to direct debit their customers' accounts long after the customer believed their contract had finished. We are also increasingly seeing situations where direct debit is the only payment option available, or is tied to a discount, strongly pushing consumers towards direct debit even though it might be hard for them to manage properly.

While direct debits clearly have the potential to help consumers manage their personal finances more efficiently, they are not a perfect solution. The time and energy one used to spend paying the bills might now need to be spent playing the watchdog and making sure money is being taken out of the account correctly, and promptly challenging any mistakes.

Consumer Action is investigating what consumers like and don't like about direct debits and wants to hear from members of the public who have had experience with direct debit arrangements. We also want to hear from workers about direct debit issues arising in your casework, and of course from your clients directly – if they have a story to share, please encourage them to participate.

Anyone who wants to get involved and share their story – good or bad – can go to the Consumer Action website at www.consumeraction.org.au and follow the links to “Get involved in our campaigns” to have their say about direct debits.

Xan Colman, Senior Policy Officer,
Consumer Action Law Centre

New look community law website helps Victorians find the right lawyer

Many people seeking legal assistance don't know the difference between CLCs and legal aid, pro bono or “no win no charge” arrangements with private firms. The new look community law website now provides practical information that helps people find the right lawyer for their legal problem. The website now also provides easier means of finding a local CLC - through a postcode search function or by using “google maps”.

The new site, built by the University of Ballarat's Centre for eCommerce and Communications, has improved navigation, accessibility and layout. Lawyers and others keen to make the smart career move into the CLC sector can search the latest CLC jobs. There is information on volunteering, getting onto a CLC management committee and more. The site also contains a searchable database of over 200 Federation law reform and policy submissions.

CLCs can access helpful resources on the site's intranet like sample job descriptions, policies and legal practice tools including the ever popular list of limitation dates applying to legal actions in Victoria. With Fitzroy Legal Service's Law Handbook going online for free in June, there are plans to link visitors seeking legal information directly with the Law Handbook site.

The development of the new site was supported through a Legal Services Board project grant. Legal Services Commissioner, Victoria Marles, formally launched the new look site last month.



Victorian Legal Assistance Forum Established

Collaboration and the continuous improvement of legal assistance services are the aims of the newly established Victorian Legal Assistance Forum (VLAFF).

VLAFF formalises a structure for legal assistance providers to collaborate on planning, service delivery and policy & law reform. There are eight initial members; Victoria Legal Aid, PILCH, Victoria Law Foundation, Law Institute of Victoria, Victorian Bar, Victorian Aboriginal Legal Service, Aboriginal Family Violence Prevention & Legal Service and the Federation of CLCs (Vic).

VLAFF has been modelled on similar forums which are operating effectively on a national level and in NSW and Queensland and may be developed to include structures to promote collaboration within local Victorian regions.

Rachna Muddagouni at Victoria Legal Aid is providing project management support for VLAFF.

Caroline Seagrove, project manager for the NSW Legal Assistance Forum, attended the first VLAFF meeting and outlined some of the initiatives being pursued in NSW including promoting access to civil justice for Indigenous communities, improving access to legal services in rural and regional NSW, improving services to meet the legal needs of prisoners and greater collaboration on training.

VLAFF is currently examining the priorities it will pursue.



New CLC service in Rosebud opens up access to justice for the Peninsula

Hundreds of people have already received free legal advice from the Rosebud Branch of Peninsula Community Legal Centre, which was officially opened on 12 May 2009 by Deputy Premier and Attorney-General, Rob Hulls.

Speaking about the new service, Chief Executive Officer of Peninsula CLC, Helen Constas said, "Since the doors of our Rosebud Branch opened on 1 December 2008, we have seen a dramatic increase – around 200% - in the number of clients accessing our services. Clients are overwhelmingly in receipt of low income and often come to us at a time of personal crisis, with a cluster of interrelated legal, relationship, health and financial issues."

The Rosebud branch offers free legal advice in most areas of law, with ongoing assistance targeted to help those who are disadvantaged. Locals can access the full range of free legal services offered by the centre, including Family Law, Child Support, Tenant and Consumer Advocacy and Family Violence Programs, free Wills and Powers of Attorney for pensioners and low income earners and a range of community legal education activities and projects.

Speakers at the launch praised the work of Peninsula Community Legal Centre, and reiterated the need for free legal services to ensure that justice is accessible for the most vulnerable members of our community. Coinciding with Law Week and National Volunteer Week, speakers also paid tribute to the Centre's 120 volunteers, thanking them for their contribution to improving the lives of disadvantaged members of our community.

Ms Constas thanked all of the supporters of Peninsula CLC who had made the vision of a Rosebud Branch office a reality, including the Attorney-General, Victoria Legal Aid, Mornington Peninsula Shire and others.



Attorney-General Rob Hulls, Peninsula CLC CEO Helen Constas and others at the Rosebud Branch launch