

# 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 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.

## Calling for better coronial systems to prevent avoidable deaths

Imagine this. A motorist was killed at a Melbourne intersection. Investigators soon realized that this was due to failure of the traffic lights. However, no one took responsibility for fixing the lights and shortly afterward, another motorist died. Years went by, and motorists continued to die at the intersection.

Sounds far fetched? Yet the equivalent of this scenario is happening across other avoidable deaths such as deaths in custody, family homicides and child fatalities.

Each year, avoidable deaths occur across Australia. Many of these deaths are the subject of coronial investigation. Each state and territory has its own system where coroners not only determine the cause of death but are also empowered to make recommendations to bodies such as government departments, about how such deaths could be prevented in the future.

Coroners across Australia continue to make potentially life-saving recommendations, yet due to the failures of the Australian coronial framework, many of these recommendations are never implemented or even responded to. There is often little public awareness or access to the findings.

Only two Australian jurisdictions, the Northern Territory and, recently, Victoria, legally require responses to coronial recommendations in all deaths where such recommendations are made. These responses must be published on the Internet, along with the coroners' findings and recommendations.

Because there is no consistent or coordinated approach across Australia, deaths with very similar causes and solutions can occur in one part of the country despite the fact that recommendations which might have saved those persons' lives have previously been made in another jurisdiction. Nationwide research has found that it is not unusual for recommendations to disappear into the ether and never be acted upon or even acknowledged by the bodies to which the recommendations are made.

This problem and other crucial issues will be the focus of a historic meeting of coronial advocates, researchers and policy/law reform workers across Australia, in Melbourne on 1 March. The meeting has been convened by the Australian Coronial Reform Working Group, which formed in 2009 and is led by the Federation. The Working Group has produced a draft Issues Paper which includes a set of recommendations for reform of coronial systems around Australia. These recommendations and the potential for establishing an independent National Inquest Clearing House will help to focus discussion at the meeting.

## Justice Profile – Annie Nash



Annie Nash and children (circa 1990)

Annie Nash, the Federation's beloved Sector Development Officer, is moving on after 3 years to manage Flat Out, a housing service for women exiting prison. She's previously worked at Villamanta Disability Rights Legal Service and the National Association of CLCs, and also ran a successful café and catering business.

*Annie, you've worked for 3 years building a stronger CLC sector. What are the essential ingredients that make a great CLC?*

A 'great' CLC needs at least \$500,000 recurrent funding to function effectively in all areas: casework, policy/law reform, legal education - and most importantly, in making real difference to the lives of people or environment they serve. A CLC without this level of funding will struggle in at least one of these areas. In my view, CLCs that do not have a poverty law focus, have lost their way.

*What achievements are you most proud of in your time at the Federation?*

Being part of a cultural shift where CLCs are embracing learning and development. CLCs are way more aware of development opportunities, and more eager to grasp them. In future years, I hope this translates to more resources for more strident advocacy. CLCs should not develop just for the sake of becoming bigger in or powerful in their competition with each other. They should develop around an ethos of being able to draw more resources back to poor communities, so that they can self advocate.

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We hope the gathering will be a significant step on the way towards a 'joined up' independent and effective coronial system, across Australian jurisdictions, that is sensitive to the bereaved, and learns from past deaths in order to prevent future avoidable deaths.

To obtain the paper or more information contact Chris Atmore: [policy@fclc.org.au](mailto:policy@fclc.org.au)

*Chris Atmore, Policy Officer, Federation of Community Legal Centres*

## Bushfire Insurance Claims and the Court of Public Opinion

Sometimes litigation and legal argument are not the only solution to helping our clients. Recently, I had cause to look to the court of public opinion to resolve the problems of a group of bushfire-affected residents caught in frustrating battle with their insurer, Commlnsure. After unsuccessful attempts to broker a solution, I took the opportunity to highlight the insurers behaviour through the media. The result was justice for the clients.

For the past year, I've been working with Victorians affected by the devastating Black Saturday fires of February 2009, helping them resolve insurance claims arising out of the fires. Twelve months after fires, I had four matters which remained unresolved despite the best efforts of the clients at resolution. More matters emerged after some media publicity. All of the clients had lost homes in the fires. All had been insured with Commlnsure.

None of the clients had received written offers for re-building until the beginning of November at the earliest. Some had not received any offer at all. There was no suggestion by the insurer that the claims were deficient or would be rejected. The claims were similar in nature. Nearly all of the cases revolved around the question of how much it would cost to rebuild the client's home. The insurance policy was for the replacement of the home, as opposed to an agreed replacement value, and therefore an accurate estimate of the cost of rebuilding was required.

The main issue involved the clients' concerns that the insurer was not offering them sufficient funds to properly rebuild their homes, as was required in the insurance policy.

The insurer had arranged quotations based on a schedule of works (detailed description of the house, outbuildings and fixtures). In many cases, the clients felt the schedule was deficient. Further, in many of the cases the insurer made an offer based on the lowest quote where there were other quotes, obtained by the insurer and the customer, for significantly higher amounts. Some of the clients felt that the lowest quote was not based on the full schedule of works. Where customers sought an explanation for the large difference (\$100,000+) between the lowest quote and all other quotes, the insurer had made no attempt to satisfy these concerns.

The issues were compounded by the lack of customer service. The insurer had no presence in Victoria and relied on local assessors for face to face contact. Consumers had to contact Sydney staff by phone, at their expense, to progress matters. The insurer failed to progress matters and hadn't accepted responsibility for processing the claims in a timely manner. It didn't properly understand the trauma caused by the fires and didn't apologise for or even acknowledge the delays in finalising the claims. After months of delays, the clients had no confidence in the staff or processes of the insurer for dealing with these claims.

*What does the future hold for CLCs?*

It depends on whether we grasp the nettle. CLCs need to embrace the opportunity to be part of a well coordinated campaign leading into the state and federal elections. Every election! We have to develop a highly strategic, well resourced and well coordinated campaign to ensure that the broader Australian community is behind us.

*Any tips for new staff coming into the CLC sector?*

Walk with warm heart and courage!  
Walk with others. Silos are an oxymoron in community advocacy.

*Which do you think is harder, managing a café and catering business or a CLC?*

Definitely a café and catering business. I'd be happy to come back to a CLC - but I can't see myself running another café and catering business. It's an industry fraught with corruption, poor wages and inappropriate regulation.

*You've always had a passion for good food and music. What's a meal and a song that would best describe your time in CLCs?*

A mixed salad, as many varieties as I can fit in a bowl, and Johnny Cash - The Man in Black.

*What do you hope to achieve in your new position at Flat Out?*

I want to walk the talk. The sector development role has given me a lot of scope to observe and learn different management styles. In CLCs, the discourse about organisational structure is limited to flat vs hierarchy - I look forward to a collaborative management approach that nurtures leadership qualities and innovation at every level of the organisation. I want to walk alongside the women of Flat Out in their mission to abolish prisons. In the meantime we will provide the best possible housing and support opportunities for women recovering from the experience of prison. We will be a model service!

Interviewed by Hugh de Kretser

The insurer had effectively said to its customers, if you don't like what we are offering, you can take the dispute to the Financial Ombudsman. Yet, putting these disputes through the Ombudsman would have taken another 6 months (assuming I had the resources to run their cases), further delaying the clients from rebuilding their homes.

Given the situation, I decided to publicise the lack of progress in the cases. I was able to ensure that there were several pointed references to the cases on radio in the lead up to the anniversary of the fires. The Bushfire Reconstruction and Recovery Authority also became involved and put the Insurance Council of Australia on notice that these problems should be addressed as a matter of urgency.

By the time I went to air on radio and television news on the Monday after the anniversary there was panic in the air! By Monday afternoon I had eight cases and by Tuesday the insurer indicated a desire to settle all of them quickly. A week later, six had been resolved with substantially increased offers and an apology from the CEO. The two remaining cases I am assured will also be quickly settled. All told, the clients will receive increases of nearly \$1 million to cover the proper costs of rebuilding their homes.

The lesson for public interest advocacy is clear. We have to use all the weapons at our disposal including the media. The media, when used at the right time, intelligently and strategically can be a useful tool for bringing about an outcome when other avenues are not feasible or responsive enough. Many clients can't afford the legal costs and may lack the resilience and stamina to navigate the legal system to get redress, particularly in a situation like this where the delay in resolution meant a delay in rebuilding the family home. My clients had been through enough - losing their homes and possessions. Corporate reputation is important and a serious threat to that reputation will often bring about a serious change of attitude. It's amazing how giving voice to the injustices experienced by clients can reverse previous intransigence as appears to have occurred here.

The bushfire insurance cases that I know of are now all but completed. These outcomes hopefully helped to alleviate some of the trauma of the fires.

*Denis Nelthorpe – Project Lawyer, West Heidelberg CLC*

## Supporting international students

At the launch of the Victorian Government's International Student Care Service on 28 January, John Brumby announced \$250,000 in Victorian Government funding to establish legal assistance services for international students, to be delivered in collaboration with the new International Student Care Service.

The Federation is currently working with the Department of Justice, Victoria Legal Aid and the Victorian Multicultural Commission to develop and implement this new legal assistance service. The service will support international students on a range of legal issues such as migration law, crimes compensation, tenancy, employment, fines/traffic offences & consumer issues.

## Creating Better Access for Immigrant and Refugee Women

The so-called economic boom, which occurred prior to the global financial downturn of the latter part of 2008, had uneven application among Australians. For many immigrant and refugee women, particularly women who are newly-arrived and from refugee communities, the benefits of the boom were limited or unattainable. Immigrant and refugee women remain over-represented in unemployment rates as well as in the numbers of low-paid workers in precarious employment. They continue to bear the brunt of any deterioration in Australian workers' wage levels and conditions. Accordingly, financial wellbeing, an important element of women's health, has remained an elusive goal for many immigrant and refugee women.

The Multicultural Centre for Women's Health (MCWH), based in Collingwood, is a statewide women's health organisation committed to improving the health of immigrant and refugee women across Australia. As part of its mission to increase the capacity of women to participate in society, the Multicultural Centre for Women's Health implemented the *Healthy Credit Project*, an innovative initiative which aimed to encourage and empower immigrant and refugee women in Melbourne to use credit wisely. The project, conducted in 2008 and involving research and education, resulted in an improved understanding of immigrant and refugee women's key credit and debt-related experiences.

In 2010, the MCWH *Creating Better Access Project* will build on the findings of the *Healthy Credit Project*. The new project, funded by the Consumer Credit Fund, aims to improve the quality of community-based credit education and information services provided to women from immigrant and refugee communities. The Multicultural Centre for Women's Health will engage with community-based agencies that assist people with credit and debt-related issues, such as financial counselling services, community legal centres and microfinance providers with a

## 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](http://www.communitylaw.org.au). For more information contact Chris Atmore, Sarah Nicholson or Lucinda O'Brien at [administration@fclc.org.au](mailto:administration@fclc.org.au).

Recent initiatives include:

- Research and consultation with CLCs regarding taxi driver insurance project, and meetings with Victorian Taxi Drivers' Association and Victorian Taxi Directorate;
- Meeting with Independent Reviewer to discuss proposed amendments to the General Insurance Code of Practice;
- Attending a federal round table in Canberra, on behalf of the FCLC and the National Association of Community Legal Centres, to discuss the use of ADR by Commonwealth agencies;
- Writing to Attorney General Rob Hulls to commend the Department of Justice on its report, *Courting Debt: The legal needs of people facing civil consumer debt problems*, and to express our support for more civil law and financial counselling services in Magistrates' Courts;
- A submission, with the National Association of Community Legal Centres, to the Commonwealth Attorney-General's Department in response to the National Security Legislation Discussion Paper on Proposed Amendments. The submission responds to the Federal Government's counter terrorism reform proposals through the lens of the communities we work with who are affected by Australia's counterterrorism laws, policies and practices;
- A submission to the Scrutiny of Acts and Regulations Committee opposing the Summary Offences and Control of Weapons Acts Amendment Bill 2009. We believe that the Bill's 'move on' and police search powers are inconsistent with fundamental human rights;
- Letters to the Prime Minister and Commonwealth Attorney-General urging them to lead and support the implementation of the recommendations of the National Human Rights Consultation Report, including, especially, legislating for a federal Human Rights Act;
- A submission opposing the Parole Board's exemption from the Charter of Human Rights and Responsibilities, on the basis that a human rights framework would enhance the Board's decision-making and provide an important safeguard for prisoners;
- Commenting on the Attorney-General's Access to Justice report and emphasising: the need to increase funding for legal aid and CLC services in civil law; the importance of legal assistance in alternative dispute resolution; and access to justice under the new national consumer credit laws;
- A submission to the Stage 1 Bail Reform Project urging speedy implementation of the majority of the recommendations of the Victorian Law Reform Commission's final report *Review of the Bail Act*, as a step towards improving the bail system for Indigenous, vulnerable and disadvantaged communities;
- A submission to the Residential Tenancy Databases Consultation supporting regulation of Residential Tenancy Databases to ensure that they do not operate unfairly to exclude vulnerable people from the rental market;
- A submission to the Scrutiny of Acts and Regulations Committee and to key Members of Parliament, on the Severe Substance Dependence Treatment Bill 2009. We argued that the Bill is incompatible with human rights recognised

view to building their capacity to provide greater access for, and to work more appropriately with immigrant and refugee women. Engagement with the Federation of Community Legal Centres has already commenced and will involve input from the Federation's Community Legal Education Working Group into the development of professional resources.

To learn more about the Multicultural Centre for Women's Health or the *Creating Better Access Project*, please contact Carolyn Poljski, on 9418 0912 or [carolyn@mcwh.com.au](mailto:carolyn@mcwh.com.au). The full and summary reports of the *Healthy Credit Project* are available at [www.mcwh.com.au/healthprom/money.php](http://www.mcwh.com.au/healthprom/money.php)

*Carolyn Poljski, Project Officer,  
Multicultural Centre for Women's Health*

## State Budget Submission

Each year the Federation develops a State Budget Submission, which informs the Victorian Government and others of the CLC sector's funding and service delivery priorities. The 10-11 State Budget Submission calls for a range of initiatives including minimum sustainable funding for CLCs, adequate annual indexation of funding and efforts to eliminate the gaps in CLC service delivery that currently exist in rural and metro-fringe parts of Victoria. 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)

## 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 interest law jobs can be viewed at [www.communitylaw.org.au](http://www.communitylaw.org.au)

Current CLC jobs at 23 February include:

- Sector Development Officer, Federation of Community Legal Centres. Improve the lives of disadvantaged Victorians by helping to build a strong, effective and well-resourced community legal sector.

under the Victorian Charter, and that there is no robust research evidence to justify the Bill's proposed human rights restrictions;

- Writing to the Shadow Attorney-General, Robert Clark, supporting the Magistrates' Court Amendment (Mental Health List) Bill 2009 for its therapeutic jurisprudence stance. We believe that problem solving approaches like the proposed List are more likely to achieve offender rehabilitation and crime prevention, because they attempt to address the underlying causes of crime and to provide pathways to appropriate support and treatment.

## 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](http://www.communitylaw.org.au). For more information, contact [sectordevelopment@fcl.org.au](mailto:sectordevelopment@fcl.org.au).

Current highlights include:

- Finalising the Federation's State Budget Submission;
- Completing the new edition of the Federation's CLE Made Easy Guide, a resource for community legal centre workers to conduct effective community legal education. The guide was made possible through a Victoria Law Foundation grant and will be launched on 3 March 2010;
- Completing the Conflict of Interest Guide for CLCs to assist CLCs to minimise the risk of conflicts of interest.
- Organising continuing professional development training for around 100 CLC lawyers to take place on 11 March 2010, kindly hosted by Victoria Legal Aid.

## Strong response to CLC Law Graduate Scheme

The Federation received an extremely strong response to the advertisement of the 2011 Community Legal Centre Law Graduate Position. A very high quality field of close to 100 applications sought the position and it was extremely difficult to select just one successful candidate. Congratulations to Bonnie Renou who was the successful candidate.

Under the CLC Law Graduate Scheme, graduates gain admission through a practical legal training course and then undergo four placements across 12 months in Victorian CLCs, including one rural and regional placement. Towards the end of the 12 months, the Federation will work with the graduates to identify opportunities for ongoing work in the CLC sector.

The Federation hopes to obtain further funding to expand and continue the Scheme. Further details about the Scheme will be communicated to CLCs and partners and posted in the jobs section of [www.communitylaw.org.au](http://www.communitylaw.org.au).

## From Essendon to Moonee Valley

Essendon Community Legal Centre has changed its name to Moonee Valley Legal Service. The new name reflects the geographic areas covered by the centre. Free legal advice is available to eligible residents who live or work in the City of Moonee Valley or surrounding suburbs: [www.mvls.org.au](http://www.mvls.org.au)

## Not One More: Remembering Victims of Family Violence Homicide

Each year in Australia, at least 60 women and 20 children will die as a result of family violence. On 27 November last year, the Federation joined other workers against family violence, survivors, the White Ribbon campaign, VicHealth, Victoria Police, the Metropolitan Fire Brigade, the Australian Services Union and the Electrical Trades Union to remember those who have been killed and to say 'Not One More'.

Taking place at twilight, a poignant memorial roll of names on the Federation Square screen was complemented by a slide show of art against family violence, stories from survivors and other speakers.



Chris Atmore, Federation; Philippa Harrison, Federation supporter; Roy Reekie, Victoria Legal Aid; Magistrate Cathy Lamble; Deb Nicholson, Magistrates' Court.  
Photo: Victoria Mullings, Peninsula Community Legal Centre

## Is Community a Crime?

Since the first wave of Australia's anti-terrorism laws following the events of 11 September 2001, the Federation's Anti-Terror Laws Working Group has worked with religious and ethno-specific organisations representing communities most affected by anti-terrorism laws. We work to provide information to communities about counter-terrorism laws and initiatives and to enhance the capacity of these affected communities to contribute to the government's public consultation processes around the laws. This includes assisting community groups to draft written submissions for parliamentary inquiries, preparing proforma submissions and helping groups prepare to appear as witnesses before parliamentary committees and meet with politicians.

Through its work the Federation identified in 2008 that Islamic, Kurdish, Tamil and Somali communities had been particularly affected by these laws. In response the Federation, Western Suburbs Legal Service and the Australian Tamil Rights Advocacy Council convened a forum in which these four communities came together to share information and experiences, with a view to ending any feelings of isolation within the communities.

On 12 April 2008, the 'Is Community a Crime?' forum took place at the Melbourne Town Hall, with financial support from the Reichstein Foundation. Representatives from the Muslim, Kurdish, Tamil and Somali communities all spoke at the forum. Common themes raised by these community representatives included:

- Concern about the breadth of the investigative and policing powers provided to authorities such as the Australian Federal Police (AFP);
- Feeling targeted by Australian Security Intelligence Organisation (ASIO) and/or the AFP and that there had been a misuse of power by these authorities;
- Concern that the Australian government acted in the interests of other foreign governments in its application of the legislation. For example, the Turkish and Sri Lankan governments pushed Australia strongly to treat the Kurdistan Workers Party (PKK) and the Liberation Tigers of Tamil Eelam (LTTE) respectively as 'terrorist organisations';
- Fear of providing assistance to family and friends in countries of origin for fear of being accused of providing assistance to alleged 'terrorist organisations'. This fear was more prominent in relation to conflicts where a group such as the PKK or the LTTE were fighting for a separate state; and
- Feelings of intimidation when attending community events for fear that the authorities were incorrectly characterising such events as 'terrorist organisation' events.

The report of this forum "Is Community a Crime? A Forum for Communities Affected by Anti-Terrorism Laws and Policing" has been recently released and is available on the Federation's website.

Sarah Nicholson, Policy Officer, Federation of Community Legal Centres

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