

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
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.

High Court win for asylum seekers shows the importance of CLC work

The Refugee and Immigration Legal Centre (RILC) together with pro bono lawyers achieved a landmark victory for their clients with the High Court ruling the "Malaysia solution" unlawful. The victory came against a backdrop of conservative media criticism of RILC. It was argued that it is somehow improper that RILC receives government funding and yet does law reform work and public interest litigation that conflicts with government policy. This criticism is misguided.

Community legal centres have always done more than just apply the law. Helping disadvantaged clients requires not just individual legal assistance, but community legal education that seeks to prevent legal problems, and law reform work that seeks to change unjust laws and practices and address sources of disadvantage.

CLCs, in assisting disadvantaged and vulnerable clients, come face to face with barriers to justice on a daily basis. It's entirely appropriate that we learn from these experiences and seek to address them more broadly. Laws and practices are constantly being refined and the voices of disadvantaged communities should be heard within that process.

CLCs are regularly asked by government how the law affects our clients and how laws and policies can be improved. Sometimes we proactively bring issues to the attention of government and the community. This work is squarely about serving our clients.

Sometimes government accepts our suggestions and changes the law. CLC law reform work has contributed to important improvements to laws and practices in areas such as family violence, policing, sexual assault, credit and debt, refugee law and many more.

Sometimes our clients' interests diverge from government policy and change can take decades or not come at all. Yet our society is better off for having these issues communicated and debated. It's a sign of a mature, healthy democracy that government funds NGOs like CLCs to help the poor and the vulnerable - and understands that helping these clients involves advocating on their behalf even though their interests may at times differ from government.

CLCs like RILC play a vital role in promoting democracy, human rights and the rule of law. The fact that key cases pursued by centres like RILC have been successful in the High Court and elsewhere demonstrates the importance of poor and vulnerable people having access to quality legal services.

With the overwhelming demand for individual services and high turn away rates,

CLCs in the News

A selection of CLC work in the media.

Mental Health Legal Centre's Supreme Court human rights win:

www.theage.com.au/victoria/psychiatric-patient-wins-back-control-over-home-finances-20110720-1hoxa.html

Tenants Union on dodgy landlord:

www.theage.com.au/victoria/landlord-banned-from-dealing-with-tenants-20110808-1ijiz.html

Flemington Kensington CLC police racial profiling report:

www.theaustralian.com.au/news/national/african-youth-cop-targets/story-e6frg6nf-1226088430841

Koda ♥ Victoria's Charter of Human Rights



50 cent? Bargain.

For just 50 cents per year per Victorian, the Victorian Charter of Human Rights and Responsibilities is delivering human rights protections for all Victorians.

Victoria's Charter of Human Rights. ♥ it.

Human Rights Law Centre
www.hrlrc.org.au/Koda

The Victorian Charter now has a new human rights champion. The Human Rights Law Centre has employed the help of an adorable miniature horse with dwarfism named Koda to put the spotlight on the campaign to strengthen Victoria's Charter of Human Rights.

Follow his adventures here:

www.hrlrc.org.au/koda/

New Dispute Settlement Centre of Victoria Website

The new DSCV website has been launched. The website features information on DSCV services, dispute resolution case studies, mediation training, community education information and the benefits of appropriate dispute resolution.

DSCV provides a free and confidential service to all Victorians, offering dispute resolution advice, conflict coaching and mediation services:

www.disputes.vic.gov.au

the real story around government funding of CLCs and legal aid is that it is inadequate. In this context, funding for legal education and law reform, in addition to funding for individual client services, is vital. Merely applying laws that are unjust or unfair isn't true access to justice.

Hugh de Kretser, Federation of Community Legal Centres (Victoria) and Michael Smith, National Association of Community Legal Centres

Springvale Monash Legal Service client receives racial discrimination compensation

John* is a Pacific Islander who was working as a trades assistant for a labour hire firm. John was contracted to work at a large company. Whilst on site, John's co-worker Chris* used to 'joke' with him. These 'jokes' took the form of a range of disparaging comments critical of John's race and family. They included: cannibal, darkie, coconut, monkey, dumb and various other demeaning statements. Jibes were also made against John's wife and family.

John found these racist comments distressing and complained to the site manager who was employed by the host company, not the labour hire firm which employed John. The host company didn't take any action to stop the comments. The disparaging comments continued for 2 years and John eventually left the workplace.

John wanted to take action about the racist comments. He wanted an apology and compensation. He received some initial advice from his union, but they were conflicted and ended up representing the other party, Chris. John represented himself, bringing a complaint in the Victorian Equal Opportunity and Human Rights Commission. The complaint was brought against Chris, the host company and the labour hire company.

The Commission urged John to seek legal assistance and he approached Springvale Monash Legal Service (SMLS) who took the case on. SMLS spoke to John and obtained statutory declarations from co-workers who had witnessed the racist comments.

At the conciliation conference, John sought a statement of regret, a statement of service and compensation. After some discussion and the production of the statutory declarations, Chris conceded he had 'joked' with John. Eventually, the matter was settled with the labour hire company agreeing to provide \$16,000 in compensation and past entitlements, a statement of service and a statement of regret.

When agreement was reached, it was clear that the labour hire company regretted what had happened to John and hugs and handshakes were exchanged. The outcome was a good one for John. The case highlights the need for legal assistance in cases like this, both advising and advocating for clients, particularly given the complexity caused by the labour hire arrangements.

*Graham Wells, Springvale Monash Legal Service. * names have been changed*

No Ball for Elder Abuse!



Max Walker, flanked by Tom Hafey (L) and Frank Vincent (R)

15 June was World Elder Abuse Awareness Day. To mark this important issue, a special event took place at the MCG. Cricket star and media personality Max Walker AM umpired an unorthodox game of cricket, calling "No Ball for Elder Abuse!" Also playing in this match were football's "super coach" Tom Hafey, former Supreme Court Judge Frank Vincent AO and cricketer Clint McKay.

Why a cricket game? Because we believe elder abuse remains "under the carpet" and it is time to raise awareness among all Australians about the social, health and economic implications of this growing issue. Max Walker is aware of this and offered his time to help generate a focus on this issue with the broader public – how better than a cricket game, where no balls and other 'rule-breaking' are indeed called and penalised?

The official definition of Elder Abuse is abuse by someone in a position of trust, such as a family member or carer. Over the next 50 years the percentage of people aged 60 and over will double. Based on current trends, the percentage of people with dementia will triple. Sadly, we know that the incidence of elder abuse increases with both of these factors.

Eastern Community Legal Centre organised and hosted the event, in partnership with Seniors Rights Victoria. For more information on responding to elder abuse in the Eastern region, please contact Kaz Mackay at Eastern CLC. In other areas, contact Seniors Rights Victoria on 1300 368 821

Sector Development Update

The Federation works with its members and stakeholders to build a stronger and more effective community legal sector. For more information contact Claudia Fatone at www.claudia.fatone@fclc.org.au.

NALC Accreditation Scheme

The NALC Accreditation Scheme is underway. CLCs have been undertaking the first step in the accreditation process – the online self-assessment process using the Standards and Performance Pathways resource. Federation Sector Development Officer Claudia Fatone is available to assist CLCs as they undertake the Accreditation process. The Federation is also pursuing resources for a dedicated Regional Accreditation Co-ordinator for Victoria.

CLC Salaries Benchmarking Review

The Federation, in conjunction with Community Legal Centres NSW, the National Association of CLCs, Queensland Association of Independent Legal Services and the Association of Community Legal Centres (WA), worked with human resources firm Mercer to update a salary benchmarking review conducted in 2006. In conducting the 2011 review, Mercer examined award wage rates for CLC positions and compared them with wage rates for public sector positions of comparable work value. The recommendations included in the report state that the following award pay increases are needed for CLCs to be competitive: Centre Manager 75%, Principal Solicitor 75%, Solicitor 24% and Community Worker 14%.

Fair Work Australia Equal Remuneration Case

The Federation has provided two submissions to Fair Work Australia in support of the Australian Services Union application for an Equal Remuneration Order. The second submission was a joint submission with Community Legal Centres NSW and referenced the 2011 Mercer Benchmarking Review Report (see above). A copy of the submission is available at www.communitylaw.org.au.

CLC Law Graduate Scheme

August has been a busy month in the CLC Law Graduate Scheme. Our first lawyer in the program, Parvathi Suriyakumaran, completed her rotations with a placement at Women's Legal Service, and we have also finalized the recruitment of our 2012 graduates. From the 96 applicants, we interviewed seven candidates and would like to congratulate Erin Buckley and Lee Carnie on their selection for the scheme. The quality and depth of the applicants was exceptional and we hope that CLCs will draw on this great pool of new talent interested in joining the sector in 2012. For more information please contact the scheme manager, Jane Staley jane.staley@fclc.org.au.

We have also just finalised the placement of a second year lawyer from VLA's New Lawyers Program. Lauren Hodes will spend six months seconded to the Homeless Persons Legal Clinic at PILCH. This placement is a great new initiative which we hope will continue in future years. And finally, we congratulate our two current graduates, Bonnie Renou and Peter Nannery, who were admitted in late August. Bonnie starts her placement at the Environment Defenders Office in September while Peter moves from his paralegal role to a lawyer position at Barwon.

CLCie improving CLC knowledge management

The Community Legal Centre information extranet (CLCie) is an internet-based resource for sharing resources between VLA and CLCs. Additional material is regularly added to the site. To access CLCie visit the Federation website intranet - Toolkit/CLC Legal Practice/Online resources section.



Justice Profile - Denis Nelthorpe
CLC trailblazer Denis Nelthorpe became a Member of the Order of Australia in June. Denis is a leader in his field who has provided 25 years of service in CLCs and elsewhere assisting the most disadvantaged Australians. Denis currently manages the Footscray Community Legal Centre, works at the West Heidelberg Community Legal Service and amongst other things is on the board of the Financial Ombudsman Service. Denis also worked for many years at the Consumer Credit Legal Service and Consumer Law Centre (both now merged into the Consumer Action Law Centre).

What made you get into CLCs?

I naively thought that the legal profession was entirely about the pursuit of justice so I obtained a law degree for the purpose of representing low income and disadvantaged people. I was told right through law school I would grow out of these idealistic notions. Never did! When I finished my degree there was no legal aid so these clients were unrepresented – there were huge opportunities IF you could find the funding.

What's been the most rewarding part of your work in CLCs?

Being one of the first lawyers to provide representation for low income clients against landlords, debt collectors, banks, and scumbags in general has been exhilarating. Looking back at victories that created systemic solutions is really satisfying!

What's been the most frustrating?

The constant quest for more funding and resources can be draining – although negotiating a \$2.25 million fund to start a CLC with no need for government funding for 10 years certainly gave me a new lease of life!

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Building a fairer justice system

The Federation structure ensures that the client-driven work of CLCs across Victoria informs our law reform and policy activities. Federation law reform submissions, articles and media releases are available at www.communitylaw.org.au.

Highlights and current work includes:

- *Submission to the Review of Guardianship Laws:* Our submission promoted the importance of a guardianship and administration framework involving supported decision making, substituted judgment and the presumption of capacity, resting on a human rights foundation.
- *Review of the Victorian Human Rights Charter:* Our submission identified the major benefits of the Charter in helping to improve the lives of disadvantaged Victorians. We gave evidence to the Review and made an additional submission on how the Charter protects the interests of victims of crime.
- *Access to employment law advice:* In light of the Victorian Government cuts to JobWatch's funding, we organised a meeting with representatives from Victoria Legal Aid, PILCH, Fair Work Ombudsman, Fair Work Australia, United Voice (Union), and JobWatch. The meeting discussed the challenges in ensuring clients receive assistance and strategies to ensure good referrals are made.
- *Submission on the Independent Broad-based Anti-Corruption Commission for Victoria:* The Federation's submission focused on a particular public sector integrity issue of concern—police accountability in relation to lethal and non lethal use of force and misconduct. We submitted that the proposed anti-corruption commission is the appropriate agency that should be given jurisdiction and the resources to investigate these issues.
- *Submission to the National Justice CEOs Group on national guidelines or principles for restorative justice programs in criminal justice matters:* The Federation broadly supports restorative justice due to its emphasis on crime prevention, rehabilitation and recidivism reduction, rather than on punitive measures which result in increased penalties and imprisonment rates or further stigmatisation of offenders who have completed their sentence. The Federation contributed to an additional, joint submission to this review, to address restorative justice in the context of family violence and sexual assault.
- *NACLCL Submission - review of Federal Court fee changes:* The Federation prepared a submission on behalf of NACLCL to the Commonwealth Attorney General's Department regarding its review of Federal Court fees. NACLCL does not support the low flat fee system for people facing significant disadvantage because it operates as a barrier to access to justice for our client group. Instead, a single fee exemption and waiver application should apply for people facing disadvantage and financial hardship, as existed under the pre 1 November 2010 Federal Court regulations.
- *Submission to the Sentencing Advisory Council on statutory minimum sentences for gross violence:* The Federation's submission noted our strong opposition to mandatory minimum sentences and endorsed the Law Institute of Victoria's submission.
- *Federation of CLCs submission to Taxi Inquiry June 2011:* Our submission drew on the work of the Taxi Driver Legal Clinic at Footscray Community Legal Centre to argue for stricter, more transparent regulation of the taxi industry, and a fairer deal for low-income drivers.
- *Protective Services Officers (PSOs):* The Federation is very concerned about the plan to deploy PSOs to every Melbourne metropolitan train station after 6 pm, particularly given the PSOs will have less training, supervision and support than police. The Federation with the Mental Health Legal Centre and Youthlaw has been arguing against legislation which would give PSOs wide ranging powers.

You're known as an ideas man in CLCs, running some innovative projects which have been picked up and expanded nationally. Do you have any great new project ideas up your sleeve?

Always – I continue to be interested in the delivery of access to justice. I want to expand the early intervention concepts “Bulk Debt” and “Bring Your Bills” to protect the income and shelter of the disadvantaged in government housing, prisons, and aboriginal communities. I also want to explore more innovative uses of volunteer night services to see whether we can assist more groups like the taxi drivers we see at Footscray.

How have CLCs changed over the years? What should our future direction be?

There are more CLC's and more jobs. And more expectations of accountability and bums on seats! CLC's must continue to be out there and innovative – and looking to assist the most disadvantaged even if that is unpopular. One of my first campaigns was to stop police harassing young guys by charging them with consorting – I even won a bit of sympathy for their plight!

Has the AM changed things? Do you get more respect when you suggest law reform changes now?

Not sure – I was a bit embarrassed at first – I think it has given me confidence to ask for more assistance on projects – look out if you see me coming. It has made me feel nothing is impossible.

If you were Federal and Victorian Attorney-General for a day, what would you change?

The infringements system – it is idiotic! Low income people should be fined according to their means – maximum fines of \$20-50.

What does the future hold for the relationship of CLCs and Victoria Legal Aid?

We need to develop more partnerships so we can help VLA spend its budget according to our priorities. Seriously, VLA has a statewide and national reach – what we can do locally they can do everywhere so we need to work together.

Helping young people keep out of debt

Preventing young people accumulating unsustainable levels of credit-related debt is the aim of a successful collaboration by four community legal centres and Victoria Legal Aid. This collaboration began in 2010 after Consumer Action Law Centre, Youthlaw and St Kilda Legal Service worked together to produce the “Keeping Out of Debt” Z-Card brochure funded through a Consumer Credit Fund grant.

The “Keeping Out of Debt” Z-Card incorporates light-hearted cartoon scenarios illustrating common credit traps for young people. It covers mobile phone contracts, ringtones and downloads, credit reports, car loans and where to go for help.

The first edition of the brochure was well received and the 5,000 copies printed were distributed in a few short months. Following the success of the initial project these three CLCs teamed together with Loddon Campaspe Legal Centre and Victoria Legal Aid to enable the production and distribution of 35,000 copies of “Keeping Out of Debt”. The second edition of the Z-Card was made possible via Legal Services Board and Consumer Credit Fund grants. A teaching resource called the 'Credit and debt quiz show' was developed to for use in community legal education sessions.

Loddon Campaspe has incorporated the Z-Cards into a broader credit-related project involving the provision of legal information to young people as well as the trial of a bulk debt negotiation scheme.

Victoria Legal Aid is distributing the Z-Card, ensuring the resource is available to young people and community agencies throughout Victoria. In five months 6,500 have been sent out. There is plenty of stock left and centres are encouraged to order. The teaching resource can also be downloaded from the Victoria Legal Aid website via the publications page see: www.legalaid.vic.gov.au/xfw/publications.htm.

The CLC and Victoria Legal Aid collaboration shows how small effective projects can develop into broader initiatives through effective pooling of skills and resources.

Victoria Legal Aid, Community Legal Education team

Aboriginal Credit and Debt Project

In 2010, the Public Interest Law Clearing House (PILCH) and the Victorian Aboriginal Legal Service (VALS) piloted a new project: the Aboriginal Credit and Debt Clinic (ACDC). The aims of the ACDC were to:

1. provide free legal assistance in consumer and credit law issues; and
2. collect data on the nature and extent of the unmet legal need of Aboriginal people living in rural and regional areas of Victoria.

Between May and August 2010, one-day free legal clinics were held at community hubs in Shepparton, Ballarat, Morwell and Mildura. These clinics were staffed by pro bono lawyers from PILCH member firms and were supported by local services, together with PILCH and VALS staff.

PILCH has now completed a project report which evaluates the ACDC. The numerous case studies in the report provide a stark picture of financial hardship and serve to highlight the civil law needs of some Aboriginal people in rural and regional areas. Without doubt, the report demonstrates the significant need for funded civil law legal services for Aboriginal people in rural and regional Victoria.

The report can be located at www.pilch.org.au/Page.aspx?ID=436. PILCH welcomes any feedback or comment on this report: contact: chris.povey@pilch.org.au

Chris Povey, Public Interest Law Clearing House

Stolen generations win prompts calls for a compensation scheme

On 24 June, Neville Austin, a member of the Victorian stolen generation, received an out of court settlement, awarding compensation and an apology from the Victorian government. Mr Austin, who was separated from his mother in 1964, is the first victim of the stolen generation in Victoria to receive compensation.

Mr Austin's mother gave him a home when he was a baby because she couldn't care for him, and when she fell behind in payments under an "agreement" to pay for his upkeep, he was made a ward of the state. Despite repeated requests and writing letters to him from 1970, it took 8 years before the Department allowed Mrs Austin to meet her son.

Mr Austin claimed the state had failed in its duty of care by not properly investigating the suitability of his mother's home, ignoring her repeated requests for contact and ignoring and refusing her demands for custody.

PILCH commends the Victorian government for acknowledging its role in Mr Austin's improper separation from his family. However, the case underscores the need for a Victorian scheme to investigate and compensate other stolen generations and stolen wages claims. Mr Austin first came to PILCH for pro bono legal help in 2002 and it is entirely unsatisfactory that it should take nine years for him to receive the compensation and apology.

PILCH recognises the pro bono contribution of the legal practice of Allens Arthur Robinson, and barristers Lachlan Carter, Holly van den Huevel and Jack Rush QC. Significant cases like Mr Austin's are frequently only possible as a result of the extensive resources, dedication and sensitivity of lawyers acting pro bono.

Gregor Husper, Public Interest Law Clearing House

City CLC law student volunteers in the dry season in the Kimberley

The first inkling I had that volunteering at the Kimberley Community Legal Service was going to be a very different experience was when a sweaty backpacker in Darwin decried the 'Telstra Monopoly' and said I would have to get a new mobile phone because nothing but Telstra worked up there. She also made a point of warning me not to go out alone at night. Needless to say I was a little apprehensive as I boarded the bus for the 9-hour journey the next day.

I travelled up to the small remote town of Kununurra in the Kimberley region of Western Australia to volunteer for three weeks in July. As soon as I arrived at the office I was up to my elbows in files and all the lovely staff wanted to know how I had ended up spending my holidays so far away from anywhere!

I spent the first week wading through dozens of applications for Redress WA, the ex gratia compensation scheme for children who were abused and neglected in state care. All the applications administered by KCLS were for Indigenous members of the stolen generation. A very high turnover of staff at KCLS contributed to the Redress files literally being found all over the place and I quickly found myself promising to never, ever, ever neglect file management. The whole experience of piecing together the files was extremely saddening. I read through excruciating stories detailing terrible abuse and neglect, which in some cases had never been voiced before.

Over the next two weeks I attended a three day outreach trip to the small town of Halls Creek, and became familiar with the trials of driving through remote Australia i.e. if you don't have a Bullbar on your car prepare to be squished by a cow or kangaroo. The brand new Principal Solicitor had so much on her plate, including a complete overhaul of the office filing system, that I, the law student who had attended her first client interview while on outreach, was given a stack of client files to deal with. I was soon searching through court records, calling clients and writing all types of correspondence. The prose I picked up at law school was predictably useless, especially when faced with explaining to a possibly illiterate elderly aboriginal about the small fortune of fines imposed on them as a result of mandatory driving sentences.

In addition to the great work and new learning experiences I was exposed to in the office, the generosity of new friends meant I was able to travel around and see some of the beautiful Kimberley sites. We climbed deep-red rock ridges, swam in icy water at the base of spectacular gorges and scanned the lakes with our torches in the dead of the night to find crocodile eyes. The strict alcohol laws amused the hundreds of tourists who clogged the entry to Liquorland at 5pm sharp every evening as full strength beer became available. But the laws also served as a poignant reminder of the entrenched alcoholism and rampant crime experienced by the town.

The whole adventure was really just brilliant. All the staff at the office were fantastic and were so appreciative of the work I did. I felt like they didn't want me to leave. The whole time I was there no one mentioned any other volunteers and then I think about CLCs in Melbourne turning law students away because they can't fit them in! It feels like such a waste when regional and remote centres are crying out for more support - if you have the time, you should definitely head up there.

Amanda Thompson, Law Student and Administrator at the Federation

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