

The Hon. Robert Clark MP
Attorney-General, Minister for Finance
Level 26, 121 Exhibition Street
Melbourne VIC 3000

The Hon. Mary Wooldridge MP
Minister for Mental Health, Women's Affairs and Community Services
GPO Box 4912VV
Melbourne VIC 3002

20 February 2013

Victoria Legal Aid defunding of Mental Health Legal Centre

Dear Attorney-General and Minister Wooldridge,

We are writing to urge the Victorian Government to continue funding the Mental Health Legal Centre (MHLC), a specialist community legal centre. After approximately 20 years of funding MHLC, Victoria Legal Aid recently advised the organisation that it would not be funded after 30 June 2013. Instead, Victoria Legal Aid will redirect the funding to itself as a means of expanding the services it provides to people with mental illness.

MHLC is a crucial service which must continue to be funded. If funding is not continued, the organisation, which assists in excess of 1,500 Victorians experiencing mental illness each year, may be forced to close within months.

Background

MHLC was established in 1987. For 26 years, it has provided free, confidential and independent legal help to Victorians on legal issues related to mental illness. MHLC also undertakes legal education, research, law reform and policy work.

MHLC has a reputation as trusted source of advice for people with mental illness. It has strong partnerships with community agencies, pro bono law firms, volunteers, universities and other community legal centres. It has made significant contributions to actual or planned improvements to laws and policies including: the review of the Mental Health Act, promotion of advance directives for mental health, review of Guardianship laws, improvements to health services complaints, involuntary patients' experience of the Mental Health Review Board, and police engagement with people with mental illness.

The MHLC annual budget is around \$920,000. Approximately \$363,000 of this funding is provided by Victoria Legal Aid and a further \$400,000 is provided by Department of Health. In 2012 the Department of Health announced that this funding would be put to tender. The tender opened on 22nd January 2013 and closes on 26th February 2013.

Level 3
225 Bourke Street
Melbourne
Victoria 3000

Tel: 03-9652 1500
Fax: 03-9654 5204
administration@fclc.org.au
www.communitylaw.org.au

Federation of
Community Legal Centres
(Victoria) Inc
Registration A0013713H
ABN 30 036 539 902

A new Board was appointed to MHLC on 27 November 2012 following a period in which a manager, appointed by the Magistrates' Court upon the application of Consumer Affairs Victoria, governed the organisation. Victoria Legal Aid played an important constructive role in contributing to the establishment of the new MHLC Board. We understand that the new Board has the support of all of the organisation's key stakeholders.

Shortly after the new Board was appointed, Victoria Legal Aid decided to not continue funding MHLC beyond 30 June 2013. It did not advise MHLC of this decision until 7th February 2013. Significantly, it has not advised the MHLC of any breach of its current funding agreement, or expressed concerns over present governance arrangements.

MHLC has continued to meet a majority of its service delivery targets, as evidenced in its most recent progress report to Victoria Legal Aid (for the period July – December 2012).

The withdrawal of Victoria Legal Aid funding means MHLC is at grave risk of closure. We strongly believe that the Victorian Government should continue to fund MHLC for a number of reasons.

MHLC delivers an efficient and effective service

Victoria Legal Aid currently delivers representation for people placed on involuntary treatment orders at the Mental Health Review Board, with the MHLC representing people placed on community treatment orders. Victoria Legal Aid has claimed that their service is more effective as they service more clients than the MHLC with the same number of staff. This ignores the fact that Victoria Legal Aid provide a duty lawyer service in hospitals where they have a captive audience, whereas the work of the MHLC is in the community, which is more labour intensive and clients don't always turn up for their hearings.

We believe that MHLC delivers an efficient and effective service to people with mental illness. We do not accept that Victoria Legal Aid will deliver a more effective or efficient service. Furthermore the MHLC funding allows the organisation to leverage significant volunteer and pro bono contributions, as well as philanthropic support. We also note the recent cost benefit analysis of community legal centres commissioned by the National Association of Community Legal Centres that showed on average a return of \$18 in savings for every \$1 invested.

MHLC is better placed on prevention and early intervention of legal issues

Research such as the recent Legal Australia Wide survey highlighted the importance of legal assistance agencies working closely with non-legal agencies to address connected legal, financial, social and health issues. This non-legal collaboration is critical to preventing legal issues from arising and resolving them early when they do. As a community agency, with established community connections, MHLC is in a better position to collaborate with non-legal agencies than a large statutory agency like Victoria Legal Aid.

MHLC's work around community education and law reform and policy is central to prevention and early intervention of legal issues. Again, MHLC is better placed to undertake this work than Victoria Legal Aid and has a proven track record of success in this area.

MHLC allows choice of service and avoids conflicts of interest

If MHLC was forced to close, people living with a mental illness will be denied choice in who represents them as Victoria Legal Aid will effectively be the only specialist mental health legal service for people who cannot afford a private lawyer.

Similarly, the closure of MHLC is likely to create significant problems around client access due to conflicts of interest. The breadth of Victoria Legal Aid services which include areas like child protection and family law creates risks of conflict that are far less likely to be faced by a community legal centre specialising in mental health law.

Concerns around objectivity of decision making

The objectivity of Victoria Legal Aid's decision to defund the MHLC is compromised by its role not only as a funder and evaluator of MHLC, but also as a service provider and funding competitor. Concerning is the lack of transparency around this decision. The timing of the defunding decision and the Department of Health tender reinforces our concerns around the objectivity of Victoria Legal Aid's decision making. Victoria Legal Aid has indicated it plans to tender for the Department of Health funding previously held by the MHLC.

Increased demand and need for specialisation

It is anticipated that the State Government's proposed reforms to the Mental Health Act will seek to minimise the use of compulsory treatment, leading to an increase in community based orders. This greater community focus calls for the particular skills and expertise of the MHLC in representing people on community treatment orders. Furthermore there is a question as to what extent Victoria Legal Aid will actually provide increased services, as they have not publicly committed to employing more staff.

The way forward

We believe there is a strong case for the continued funding of a *community based specialist* mental health legal service and we urge you to intervene to restore funding for the Mental Health Legal Centre.

Sincerely



Claudia Fatone
Acting Executive Officer
[Direct line (03) 9652 1504]



Nick Hudson
Chair