



Federation of
Community Legal Centres
VICTORIA

August 2014

employment

Victoria
bullying
young age
disability
discrimination
problems
unpaid
pay
workers
individuals
unmet
complex
people
law
unfair
job
demand
knowledge
trial
free
rights
community
tribunals
dismissal
pregnancy
need
wages
funding
assistance
vulnerable
meeting
significant
JobWatch
leave
courts
group
women
working
legal
advice
education
private
resources
activity

PUTTING THE LAW TO WORK

Meeting the demand for employment law
assistance in Victoria

About the Federation of Community Legal Centres

The Federation of Community Legal Centres is the peak body for 50 community legal centres ('CLCs') across Victoria. CLCs provide free legal advice, information and representation to more than 100 000 Victorians each year. Most CLC clients face significant economic, social or cultural disadvantage.*

The Federation leads and supports Victorian community legal centres in pursuing social equity and access to justice. The Federation:

- provides information and referrals to people seeking legal assistance;
- works to build a stronger and more effective community legal sector;
- works for law reform to develop a fairer legal system that better responds to the needs of the disadvantaged;
- provides services and support to community legal centres; and
- represents community legal centres' priorities and interests.

As the peak body for Victorian CLCs, the Federation has a unique perspective on the justice system and access to justice issues. Its views are informed by the casework of its member centres, and the Federation advocates on behalf of both CLCs and their clients to address gaps in the provision of legal services to some of the most vulnerable members of the Victorian community.

* In 2012-13, 82.2% of Victorian community legal centre clients received less than \$26,000 per annum. 96.5% of clients received incomes less than \$52,000.

Acknowledgements

We would like to extend our thanks and appreciation to the following organisations and individuals for their support for this project:

Victoria Legal Aid, JobWatch and **Justice Connect** for their support for our project and for assisting us with our data requests.

Amy Frew, who interned with us through the Melbourne University Law School Internship Program. Amy's outstanding research and writing provided the basis for this report.

Patrick Sloyan and **Claire Alexander**, who interned with us through the Melbourne University Law School Internship Program. Patrick and Claire provided valuable assistance researching and editing sections of this report.

Catherine Dow at Footscray Community Legal Centre for her advice and feedback on the draft report.

The **Legal Services Board Grants Program** for its grant enabling us to undertake our work on this report as part of our broader Advancing Community Justice project.

Legal Services **BOARD**

Funded through the Legal Services Board Grants Program

Table of Contents

Executive Summary	4
Introduction.....	7
Why Adequate Assistance to Employment Law Help is Critical	8
The Prevalence of Employment Law Problems in Victoria.....	8
Vulnerable Workers.....	9
Employment Law is a Complex Area of Law and Generally Requires Expert Assistance	9
Impact of Unresolved Employment Law Problems.....	10
The Benefit of Legal Assistance to the Victorian Community.....	11
Barriers to Obtaining Legal Help.....	12
Barriers to Obtaining Legal Help	12
Declining Union Membership	13
Current Providers of Employment Law Help	14
Victoria Legal Aid.....	15
JobWatch	15
Other Community Legal Centres	16
Unions.....	17
Fair Work Ombudsman	18
Fair Work Commission.....	18
The Australian Human Rights Commission and the Victorian Equal Opportunity and Human Rights Commission	19
Gaps in the Provision of Employment Law Advice.....	19
What the Data Tells Us	22
Federation of Community Legal Centres.....	22
Community Legal Centres	22
Victoria Legal Aid	23
Justice Connect.....	23
National Pro Bono Resource Centre.....	24
The Referral Roundabout	25
Suggestions for Reform.....	25
Increase Funding for Specialist Employment Law Advice	25
Coordinating Service Provision and Improving Referral Pathways	25
Conclusion	26
Selected Bibliography.....	27

Executive Summary

Employment law is a complex area of law that impacts directly on the 2.9 million workers currently in Victoria.¹

In 2012, the Law and Justice Foundation of New South Wales published the Legal Australia-Wide Survey ('LAW Survey'), a comprehensive study of unmet legal need in Australia. This study identified that 5.9 per cent of respondents in Victoria had employment law problems in a one year period.² This figure is confirmed by a smaller study published in the same year by the Australia Institute, which found that seven per cent of respondents had employment law problems Australia-wide.³

Unsatisfactorily resolved employment law problems have significant negative consequences for both individuals and the community. If people do not seek or cannot access legal assistance, their employment issue may lead to other economic, physical, emotional and social problems. Workplace problems can have direct effects on a person's capacity to earn an income, support themselves and their family and meet basic needs such as housing and food. It can also have an impact on an individual's emotional and physical health.

Research indicates that two thirds of Victorians with an employment problem will face adverse consequences as a result of their initial employment problem.⁴ This means that not only did 5.9 per cent of Victorians have an employment law problem, but that the problem was not just contained to the employment relationship alone – it also had a negative impact across other areas of their lives. In this sense, employment problems tend to function as 'trigger' problems which cause other legal and non-legal problems to emerge.⁵

Despite high levels of demand for free employment law advice, there is insufficient assistance available to those who do not have the resources to pay for private legal representation. People who cannot afford private legal representation have few options for assistance. Victorians who are members of unions can access some advice and

¹ Australian Bureau of Statistics, *Labour Force Status by Sex - Victoria* (June 2014) <<http://www.abs.gov.au/ausstats/meisubs.nsf/log?openagent&6202005.xls&6202.0&Time%20Series%20Spreadsheet&F9B168BF059730A0CA257CF40017BD9B&0&May%202014&12.06.2014&Latest>>.

² Christine Coumarelos et al, 'Legal Australia-Wide Survey: Legal Need in Victoria' (Report, Law and Justice Foundation of New South Wales, 2012), 60 ('LAW Survey').

³ Richard Denniss, Josh Fear and Emily Millane, 'Justice for All: Giving Australians Greater Access to the Legal System' (Institute Paper No 8, Australia Institute, March 2012) 1 ('Australia Institute Survey').

⁴ Coumarelos et al, *LAW Survey*, 84.

⁵ For a detailed discussion of trigger problems, see Coumarelos et al, *LAW Survey*, 14 and 162.

assistance from their union. Besides this, there are only a few places that people can go to for free help. The organisations which do provide free advice are usually over-stretched and are frequently unable to keep up with the demand for their services.

JobWatch, the only specialist employment law legal centre in Victoria, provides the bulk of free employment law advice. However, due to resource constraints, JobWatch is unable to meet 57 per cent of demand for its services.

Justice Connect, which coordinates pro bono referrals in Victoria, reports that employment law consistently features in the top four problem types for which people seek pro bono help. However, in the last five years, Justice Connect has only been able to successfully refer about 20 per cent of employment matters to pro bono providers.

Similarly, Victoria Legal Aid received over 3700 employment related calls in the 2012-2013 year and had to refer around three quarters of these callers to other services because Victoria Legal Aid only provides employment law advice when the problem relates to a discrimination matter.

As can be seen, there is a significant gap between the need and demand for assistance and the services that are currently available.

There is an urgent need for greater funding of free and low cost employment law assistance in Victoria.

JobWatch is the only provider of comprehensive free employment law assistance in the state. It is a one-stop shop for employment law matters, and provides advice on federal and state workplace laws. Due to funding constraints, it is unable to keep up with the demand for its services. The report recommends additional funding for specialist employment law assistance, including advice, casework, community legal education and advocacy.

The report also supports funding other CLCs to enable them to develop targeted employment law programs that address the specific needs within their local communities and to enable the most marginalised groups of employees to access legal help.

While an increase in resources is vital, there may also be potential to improve the experience of people seeking assistance through better coordination among service providers, particularly through streamlined referrals.

The report recommends that service providers should share more detailed information about the capacity and capabilities of their services so that people can be referred to the services which are most able to assist them. Better referral pathways should be developed between different service providers. Existing procedures could be enhanced by developing referral protocols and standardised information collection processes. This would limit referral fatigue, where clients have to repeat their story a number of times before finding the correct service to assist them. It would also help address unmet need by facilitating access to assistance in a timely manner. Better referral processes would also assist legal service providers to focus their resources on people whose problems they can assist with.

Introduction

Workers who are trade union members can go to their union, workers who can afford to do so can go to a lawyer and workers who are confident and capable can use the information provided by the government body to look after themselves. However, this leaves a significant group of workers with nowhere to go in the absence of community-based services.⁶

Employment law assistance is currently out of reach for many Victorians. Despite amounting to approximately seven per cent of all legal problems in Victoria,⁷ there is insufficient assistance available to those who do not have the resources to uphold their rights under the law. The main provider of free legal advice and assistance on employment law matters in Victoria, JobWatch, reports that although they responded to 7311 telephone enquiries in 2013, they were only able to meet 43 per cent of demand for their telephone information service.⁸ Far fewer enquiries result in the individual being given casework assistance.⁹ The problem of lack of access is compounded by the complexity of employment law architecture and the extremely short limitation period for some claims under the principal Commonwealth industrial relations instrument, the *Fair Work Act 2009* (Cth). For these reasons, the provision of employment law assistance in Victoria needs urgent attention and additional funding.

Access to justice has often been acknowledged as crucial to community wellbeing,¹⁰ ensuring confidence in the justice system and upholding the rule of law.¹¹ However, the capacity for many Victorians to pursue their legal rights remains low. In particular, socioeconomically disadvantaged Victorians are more likely to be vulnerable to legal problems, and less likely to have the resources to address them.¹²

The objective of this report is to draw together the available information about the nature and extent of unmet legal need in the area of employment law in Victoria and to highlight a key area for attention by legal service providers and government.

⁶ Anna Booth, 'Report of a Review of Community-Based Employment Advice Services' (Report to the Fair Work Ombudsman, 30 September 2009) 2. In 2013, 17% of Victorians were members of a union in their main job. See Australian Bureau of Statistics, *Employee Earnings, Benefits and Trade Union Membership, Australia* (4 June 2014) <<http://www.abs.gov.au/ausstats/abs@.nsf/mf/6310.0>>.

⁷ Coumarelos et al, *LAW Survey*, 60.

⁸ Figures supplied by Zana Bytheway, Executive Director, JobWatch, on 18 February 2014.

⁹ Susan Campbell, 'JobWatch Review' (Department of Innovation, Industry and Regional Development, Government of Victoria, December 2009) 19 ('*JobWatch Review*').

¹⁰ Coumarelos et al, *LAW Survey*, xx.

¹¹ Ronald Sackville, 'Access to Justice: Towards an Integrated Approach' (2011) 10(2) *The Judicial Review* 221, 232.

¹² Coumarelos et al, *LAW Survey*, 1.

The report will briefly introduce the complex field of employment law and the service providers who currently offer assistance and advice in Victoria, before discussing the gaps in the provision of assistance. It will conclude with some suggestions for reform.

Why Adequate Assistance to Employment Law Help is Critical

The Prevalence of Employment Law Problems in Victoria

People may need legal help with a range of serious problems in their workplace. They may have been unfairly dismissed, subjected to bullying, or discriminated against due to their race, sex, colour or other protected personal characteristic. They may be underpaid, refused reasonable arrangements to care for children meaning they can no longer work, forced to work excessive hours or they may have been injured on the job.

In 2012, the Law and Justice Foundation of New South Wales published the Legal Australia-Wide Survey ('LAW Survey'), a comprehensive study of unmet legal need in Australia. This study identified that 5.9 per cent of respondents in Victoria had employment law problems in a one year period.¹³ This figure is confirmed by a smaller study published in the same year by the Australia Institute, which found that seven per cent of respondents had employment law problems Australia-wide.¹⁴

The LAW Survey also found that employment problems were more likely to be:

- Substantial ('having a moderate to severe impact on everyday life');¹⁵
- Have adverse consequences;¹⁶ and
- Trigger other legal problems.¹⁷

This means that not only did 5.9 per cent of Victorians have an employment law problem, but that the problem was not just limited to the employment relationship alone – it also had a negative impact across other areas of their lives.

¹³ Coumarelos et al, *LAW Survey*, 60.

¹⁴ Richard Denniss, Josh Fear and Emily Millane, 'Justice for All: Giving Australians greater Access to the Legal System' (Institute Paper No 8, Australia Institute, March 2012) 1 ('*Australia Institute Survey*').

¹⁵ Coumarelos et al, *LAW Survey*, 62.

¹⁶ Coumarelos et al, *LAW Survey*, 84.

¹⁷ Coumarelos et al, *LAW Survey*, 162.

Vulnerable Workers

The LAW Survey also found that ‘some people, most notably disadvantaged people are particularly vulnerable to legal problems including substantial and multiple legal problems’,¹⁸

Disadvantaged groups such as young people, culturally and linguistically diverse people, and people with a disability are especially susceptible to exploitation and have been described as ‘vulnerable workers’.¹⁹ Vulnerable workers are particularly disadvantaged, both in bargaining for and enforcing their rights. They frequently work in casual employment or other precarious forms of work, which has ramifications for their job security. Vulnerable workers may also be less likely to be members of a union and therefore will not have access to legal help through that means. All of this makes them both the most likely to need assistance, and the least likely to be able to access it.²⁰

Employment Law is a Complex Area of Law and Generally Requires Expert Assistance

Employment law in Victoria is a complex and constantly changing field. This is in part due to the continually changing landscape of industrial relations, and to the number of different pieces of legislation as well as the common law which governs the employment relationship. In addition to federal workplace laws, there are federal anti-discrimination laws, state anti-discrimination laws, state occupational health and safety laws, state workers compensation laws and federal superannuation laws, among others.²¹ All these different pieces of legislation have different avenues of seeking redress as well as different criteria and limitation periods.

¹⁸ Coumarelos et al, *LAW Survey*, xiv.

¹⁹ The Fair Work Ombudsman defines vulnerable workers as including, “[y]oung people, trainees, apprentices, people with a physical or mental disability or literacy difficulties, recent immigrants and people from non-English speaking backgrounds, the long-term unemployed and those re-entering the workforce, outworkers, people with carer responsibilities, indigenous Australians, employees in precarious employment (e.g. casual employees) and people residing in regions with limited employment opportunities and/or with financial and social restraints on their ability to relocate to places where there might be greater job opportunities.” Fair Work Ombudsman, ‘Litigation Policy of the Office of the Fair Work Ombudsman’ (Guidance Note No 1, Fair Work Ombudsman, 20 July 2011) 10 (*‘Guidance Note 1’*).

²⁰ For example, for a discussion of the barriers faced by migrant workers in the Western suburbs of Melbourne, see Catherine Dow, ‘Employment is the Heart of Successful Settlement’ - Footscray Community Legal Centre Employment Law Project: Overview of Preliminary Findings’ (Report, Footscray Community Legal Centre, February 2014).

²¹ Including the *Fair Work Act 2009* (Cth), *Racial Discrimination Act 1975* (Cth), *Sex Discrimination Act 1984* (Cth), *Age Discrimination Act 2004* (Cth), *Disability Discrimination Act 1992* (Cth), *Australian Human Rights Commission Act 1986* (Cth), *Superannuation Act 2005* (Cth) and the *Equal Opportunity Act 2010* (Vic).

A particular difficulty in employment law is the especially short limitation period on making a complaint under the *Fair Work Act 2009* (Cth). For example, if employment is terminated, workers only have 21 days to file a complaint under the general protections and unfair dismissal provisions.²² This is a very short period for workers to investigate their rights or seek out and obtain advice, particularly when dealing with the shock of loss of employment. The short timeframe is likely to have a greater impact on more vulnerable members of the community, for example those facing language or communication barriers. It is also likely to adversely affect people who are experiencing multiple difficult issues at the same time as well as those juggling competing priorities such as family responsibilities.

Even where short timeframes are not an issue (for example in situations where there has not been a termination of employment), an employee will often have complex jurisdictional issues to deal with. For example, a worker who is being bullied for a discriminatory reason has to decide what course of action to take. This will involve consideration of state and federal anti-discrimination laws, state occupational health and safety laws, stop-bullying orders and General Protections (non-termination) claims under the *Fair Work Act 2009* (Cth), workers injury compensation claims, and potentially constructive dismissal, all of which have their own individual jurisdictional limitations or eligibility requirements.

The complexity of employment law means that it is a very specialised area of law. It also means that it is very difficult for individuals with employment law problems to navigate their way through the system on their own. While some people might be able to pursue their rights by themselves in other areas of law, the sheer complexity of employment law makes it difficult for people to resolve their issues without access to legal help.²³

Impact of Unresolved Employment Law Problems

The consequences of unmet need for employment law advice can be far-reaching.²⁴ If people do not seek or cannot access legal assistance, their employment issue may

²² *Fair Work Act 2009* (Cth) ss 366(1), 394(2).

²³ The Australia Institute Survey conducted in 2012 measured people's views about the legal system and their capacity to negotiate it successfully. 88% of respondents thought that the legal system was 'too complicated to understand properly', and 60% thought that the 'courts are no place for an ordinary person.' Denniss, Fear and Millane, *Australia Institute Survey*, 22.

²⁴ While the impact on people who are unable to get legal advice to resolve their problems is hard to quantify in numbers, it is generally understood that unmet legal needs have 'broad implications for physical,

trigger other economic, physical, emotional and social problems. Workplace problems can have a direct effect on a person's capacity to earn an income, support themselves and their family and meet basic needs such as housing and food. It can also have an impact on an individual's emotional and physical health.

Unresolved difficulties in the area of employment frequently lead to other difficulties in people's lives. For example, if someone is unfairly or unlawfully dismissed after their employer learns they are pregnant, they may struggle to support themselves and their family throughout the pregnancy and birth of their child.

The LAW Survey found that two thirds of Victorians with an employment problem will face adverse consequences as a result of their initial employment problem.²⁵ In this sense, employment problems tend to function as 'trigger' problems which cause other legal and non-legal problems to emerge.²⁶ Research cited in the LAW Survey indicates that employment law problems often precede and trigger money and debt problems.²⁷ The significant negative impact of employment problems reinforces the importance of the provision – in particular, the timely provision – of advice or assistance in this area.

The Benefit of Legal Assistance to the Victorian Community

The Victorian community as a whole benefits in a number of ways from the provision of legal assistance to its most vulnerable members.

First, legal action helps to right individual wrongs. In the context of employment, it also helps to ensure that employers respect laws and comply with their legal obligations, which has flow on benefits for other workers and their families. As such, providing individuals with legal assistance can lead to wider systemic benefits. This promotes an effective, efficient and safe labour market, which is valuable to all community members.

Second, as explored above, early resolution of an employment law problem can prevent the development of other legal and non-legal problems, such as credit and debt defaults. This is important because it stops people from losing their financial independence and

emotional and social well-being.' Coumarelos et al, *LAW Survey*, 1. The survey found that outcomes of legal problems were significantly more unfavourable when the respondent did not pursue their claim further.

Coumarelos et al, *LAW Survey*, 149.

²⁵ Coumarelos et al, *LAW Survey*, 84.

²⁶ For a detailed discussion of trigger problems, see Coumarelos et al, *LAW Survey*, 14 and 162.

²⁷ Coumarelos et al, *LAW Survey*, 15 and 162.

becoming increasingly reliant on government support payments. More broadly, it ensures that people who have been able to engage with society in a positive and productive way via the labour market do not disconnect from their communities as a result of ongoing and unresolved difficulties at work.

Third, the provision of legal assistance saves public spending on unnecessary court costs associated with unrepresented litigants. It is well accepted that people who represent themselves take up considerably more of a court's time and resources as they learn to navigate the system.²⁸

As has been said by Managing Director of Victoria Legal Aid ('VLA'), Bevan Warner, legal assistance is an 'essential public benefit like the provision of public education and health services which both helps some of the most disadvantaged in our community and also saves the community and the taxpayer time, costs and resources down the track.'²⁹

The complexity of employment problems and the severity of their impact on Victorians' lives underpin a clear need for greater provision of both assistance and information as well as better referral pathways.

Barriers to Obtaining Legal Help

Barriers to Obtaining Legal Help

The biggest barrier to accessing legal advice is cost.³⁰ The Australia Institute found that it is 'prohibitively expensive for most Australians to adequately defend their rights.'³¹

Tellingly, 83 per cent of people surveyed thought that 'only the very wealthy can afford to protect their legal rights'.³² These figures show that people are averse to entering the legal system, and believe that they are priced out of defending their rights or enforcing their entitlements. This demonstrates a clear need for affordable, accessible legal

²⁸ Chief Justice Murray Gleeson, 'The Rule of Law and the Constitution: Aspects of the Commonwealth Constitution - Part 2' (Lecture delivered at the Boyer Lecture Series, Australian Broadcasting Corporation, 10 December 2000), quoted in Denniss, Fear and Millane, *Australia Institute Survey*, 14.

²⁹ Bevan Warner, 'Review of the National Partnership Agreement - an Opportunity to Iron out the Creases' (Speech delivered at National Access to Justice and Pro Bono Conference, Melbourne, 21 March 2013), 5.

³⁰ Coumarelos et al, *LAW Survey*, 133.

³¹ Denniss, Fear and Millane, *Australia Institute Survey*, 6.

³² Denniss, Fear and Millane, *Australia Institute Survey*, 22.

assistance, both to give people the confidence to pursue their legal rights, and to ensure that they are sufficiently informed to do so.

Another significant barrier to legal assistance is inaction on the part of people who have employment law problems. The LAW Survey found that 14.5 per cent of respondents with employment law problems did nothing to address their problem.³³ These may have been situations where assistance or advice could have facilitated a positive resolution to their legal problem.

There are a number of reasons why people may not take action in relation to their employment law problem. These reasons include fear about possible negative repercussions (such as losing one's job), and lack of knowledge about workplace rights.³⁴

In addition, the LAW Survey found a low level of knowledge and recognition of not-for-profit legal services in Victoria.³⁵ The Survey found 43 per cent of people could freely recall or name Legal Aid as a provider of free legal help, and 11.2 per cent could name a community legal centre. Low recall rates may also mean that many Victorians are unaware that free and low cost legal advice is available at all. It indicates a potentially large pool of unmet need in Victoria, which captures those who have legal problems but either do not know that CLCs exist or that they can access their services.

Data indicating a lack of awareness of legal services, alongside the barriers to accessing those services, reveal that the level of unmet need for employment law assistance is much greater than what can be surmised from merely looking at available data on unmet demand for those services.

Declining Union Membership

The Law Survey found that respondents with employment law problems were most likely to seek assistance from a trade or professional association.³⁶ However, in Australia there is a downward trend in trade union membership. Between August 1992 and August 2013, the percentage of workers who were members of a trade union in their main job

³³ Coumarelos et al, *LAW Survey*, 94.

³⁴ Catherine Dow, 'Employment is the Heart of Successful Settlement' - Footscray Community Legal Centre Employment Law Project: Overview of Preliminary Findings' (Report, Footscray Community Legal Centre, February 2014).

³⁵ Coumarelos et al, *LAW Survey*, 131.

³⁶ Coumarelos et al, *LAW Survey*, 112.

decreased from 43 per cent to 16.3 per cent for male employees, and from 35 per cent to 17.8 per cent for female employees.³⁷ This means that fewer people have access to assistance through a union and, unless this trend reverses, there will be greater need for other low cost services.

Current Providers of Employment Law Help

Despite the prevalence of employment law problems in Victoria, there are only a handful of places people can turn to for help. People who cannot afford private legal representation have few options for assistance. The organisations which do provide free advice are over-stretched and are unable to keep up with the level of demand for their services.

There is, therefore, a gap between the need and demand for assistance and what is currently available. Private lawyers' fees are often out of reach for people, and VLA only offers employment law advice when it relates to a discrimination matter.³⁸

Commonwealth bodies such as the Fair Work Ombudsman ('FWO') and the Fair Work Commission ('FWC') only provide general information,³⁹ or offer general procedural advice.⁴⁰ While unions provide advice, they will usually only assist their members.⁴¹

Victorians who do not meet the criteria for acceptance through one of these avenues are left to rely on their own resources or the free services provided by CLCs. However, most generalist CLCs have very limited capacity to give employment law advice,⁴² and the only specialist employment law CLC in Victoria, JobWatch, is unable to meet demand.

This part examines the key service providers in Victoria. While a variety of service providers offer some level of employment law assistance to Victorians, they all have limitations either due to their mandate, expertise or capacity.

³⁷ Australian Bureau of Statistics, *Trade Union Members, Australia* (3 February 1997) 5 <[http://www.ausstats.abs.gov.au/ausstats/free.nsf/0/4DBC4B22387DE1E0CA257225000737BD/\\$File/63250_0896.pdf](http://www.ausstats.abs.gov.au/ausstats/free.nsf/0/4DBC4B22387DE1E0CA257225000737BD/$File/63250_0896.pdf)>, Australian Bureau of Statistics, *Employee Earnings, Benefits and Trade Union Membership, Australia* (4 June 2014) 29 <<http://www.abs.gov.au/ausstats/abs@.nsf/mf/6310.0>>.

³⁸ Victoria Legal Aid, *Get Help with Employment and Your Rights* (17 December 2013) <<http://www.legalaid.vic.gov.au/find-legal-answers/employment-and-your-rights/get-help>>.

³⁹ Fair Work Ombudsman, *Our Role* (2 January 2013) <<http://www.fairwork.gov.au/about-us/our-role/pages/default.aspx>>.

⁴⁰ Fair Work Commission, *Contact the Fair Work Commission* (23 April 2013) <<https://www.fwc.gov.au/resolving-issues-disputes-and-dismissals/what-the-commission-does>>.

⁴¹ Australian Unions, *Why Join* <http://www.australianunions.org.au/why_join>.

⁴² Survey conducted by the Federation of Community Legal Centres, February 2013.

Victoria Legal Aid

VLA's Equality Law Program provides advice and assistance to people who have a discrimination complaint. They also provide a duty lawyer service to unrepresented people at the Victorian Civil and Administrative Tribunal ('VCAT').⁴³ The duty lawyer service focuses on discrimination matters, but will also occasionally assist with employment regulation matters, such as Working With Children Check disputes.⁴⁴ Casework clients must meet VLA's means and merits tests.⁴⁵ VLA also has a legal assistance telephone service, but does not provide any employment law advice unless the legal problem relates to discrimination in employment and can be referred to the Equality Law Program. VLA receives thousands of calls a year requesting assistance with employment law problems.⁴⁶ If the employment law matter does not relate to discrimination, VLA will refer to other service providers including CLCs and, in particular, JobWatch.⁴⁷ In the 2012-2013 year, VLA referred over 1900 callers to CLCs on employment law matters.⁴⁸

JobWatch

JobWatch is an employment law specialist CLC. It is the main provider of free employment law assistance and advice in Victoria. It provides assistance in many different forms, including online guides to employment law, the Telephone Information Service ('TIS') and casework. The TIS also serves as an intake method, and the average time of a call is 20 minutes,⁴⁹ which demonstrates the complexity of employment problems presenting to JobWatch.⁵⁰ JobWatch states that what distinguishes it from other agencies is its 'ability to provide information across such a wide range of

⁴³ Victoria Legal Aid, *New Service Helps People with Discrimination Problems Get a Fair Go*, (8 October 2012) <<http://www.legalaid.vic.gov.au/about-us/news/new-service-helps-people-with-discrimination-problems-get-fair-go-0>>.

⁴⁴ Information provided by Victoria Legal Aid on 5 March 2014.

⁴⁵ Victoria Legal Aid, *New Service Helps People with Discrimination Problems Get a Fair Go*, (8 October 2012) <<http://www.legalaid.vic.gov.au/about-us/news/new-service-helps-people-with-discrimination-problems-get-fair-go-0>>. VLA notes that it often has to refuse applications for legal assistance purely on the basis of a person's financial means. In 2012-13, 96% of people who received a grant of assistance from VLA were either receiving government benefits or had no income at all. See Victoria Legal Aid, *Access to Justice Arrangements: Productivity Commission Draft Report*, (May 2014), 3-4 <http://www.pc.gov.au/__data/assets/pdf_file/0011/137396/subdr252-access-justice.pdf>.

⁴⁶ VLA received 3727 employment related calls in the 2012-2013 year. Data provided by Victoria Legal Aid on 11 February 2014.

⁴⁷ Information provided by Victoria Legal Aid on 17 March 2014.

⁴⁸ Data provided by Victoria Legal Aid on 17 March 2014.

⁴⁹ Booth, 'Report of a Review of Community-Based Employment Advice Services' (2009), 21.

⁵⁰ Campbell, *JobWatch Review*, 16.

problems.’⁵¹ In 2013, the JobWatch Telephone Information Service received 34,544 calls from what was likely to have been approximately 17,000 individuals seeking assistance (who on average rang about 2 times each).⁵²

JobWatch was able to answer and provide assistance by phone to 7,311 of these individuals, which amounts to 43 per cent of all individuals that sought assistance.⁵³

JobWatch was unable to assist the remaining 57 per cent of individuals. As such, JobWatch estimates that it was unable to provide any assistance by phone to about 9,689 individuals who called the TIS in 2013.⁵⁴

The most common types of problems presenting to JobWatch are:

- Discrimination (various forms)
- Harassment (Bullying)
- Unfair Dismissal
- General Protections –Termination.⁵⁵

JobWatch’s role as a provider of specialist employment law help is recognised by the number of referrals from other employment legal assistance providers, including the FWC, the FWO and VLA.

Other Community Legal Centres

Given the level of specialist knowledge required to provide employment law assistance, most generalist CLCs lack the resources to provide employment law assistance and advice. A small number are able to offer assistance in a limited capacity, but this is usually dependent on the expertise of their volunteers.⁵⁶ For example, Fitzroy Legal Service provides employment law advice as part of its drop-in service, but only if they have a volunteer employment lawyer on duty at the time.⁵⁷ Another example of a CLC providing some advice in this area is Springvale Monash Legal Service, which provides employment law advice one morning a week. The service is by appointment only and

⁵¹ Campbell, *JobWatch Review*, 16.

⁵² Figures supplied by Zana Bytheway, Executive Director, JobWatch, on 18 February 2014.

⁵³ Figures supplied by Zana Bytheway, Executive Director, JobWatch, on 18 February 2014.

⁵⁴ Figures supplied by Zana Bytheway, Executive Director, JobWatch, on 18 February 2014.

⁵⁵ JobWatch, ‘Annual Report 2012-2013’ (JobWatch, 2013) 18 (*‘JobWatch Annual Report’*).

⁵⁶ Survey conducted by the Federation of Community Legal Centres, February 2013.

⁵⁷ Information provided to the Federation by Fitzroy Legal Service in March 2014.

sees six people a week. It is staffed by Monash University Law Students and is overseen by a solicitor.⁵⁸

In addition to advice services such as these, Footscray Community Legal Centre has recently launched a pilot specialist employment law service for refugees and newly arrived communities in the Western suburbs of Melbourne. The service was established in response to a recognised need for targeted services to these communities.⁵⁹

Several specialist CLCs offer employment advice specific to their demographic. For example, both the Disability Discrimination Law Service and the AED Legal Centre provide assistance to Victorians with disabilities, and Youthlaw provides assistance to people under 25 years of age.

Unions

Unions can provide 'specialist advice and support' to members about their workplace rights and entitlements.⁶⁰ Unions can provide assistance for workers to understand and defend their:

- Wages and entitlements
- Unfair treatment and harassment at work
- Work related injuries or illness
- Collective bargaining for better pay and conditions
- Superannuation.⁶¹

Australian Unions (formerly Unions Australia) is a 'one-stop-shop for union membership,'⁶² and has a small call centre to provide information. The Australian Unions call centre refers non-union members to services such as JobWatch or the FWO.⁶³ Union members can receive advice and support from their individual union. The level of support provided to workers and the strategies recommended will vary and depends on the particular union and the circumstances of the case.

⁵⁸ Information provided to the Federation by Springvale Monash Legal Service in March 2014.

⁵⁹ Catherine Dow, 'Employment is the Heart of Successful Settlement' - Footscray Community Legal Centre Employment Law Project: Overview of Preliminary Findings' (Report, Footscray Community Legal Centre, February 2014).

⁶⁰ Australian Unions, *Why Join* <http://www.australianunions.org.au/why_join>.

⁶¹ Australian Unions, *Why Join* <http://www.australianunions.org.au/why_join>.

⁶² Australian Council of Trade Unions, *ACTU Congress 2006 – Unions Australia* (24-25 October 2006) 3 <<http://www.actu.org.au/Images/Dynamic/attachments/2822/Congress06%20-%20Unions%20Australia%201.pdf>>.

⁶³ Data provided by Australian Council of Trade Unions (ACTU) on 9 July 2014.

Fair Work Ombudsman

The FWO is a statutory office that offers employees and employers free information and advice on pay, conditions and some workplace rights and obligations under the Commonwealth workplace system.⁶⁴ However, it does not advocate for either employees or employers.⁶⁵ This means that while a worker can make a complaint to the FWO, the FWO will not necessarily investigate that complaint, and the complainant has no agency in how the complaint is pursued. The FWO can also commence legal proceedings in the FWO's name as the result of a complaint. Generally the FWO will only investigate or litigate complaints of underpayments where 'a contravention has given rise to significant underpayments (upward of \$5000 in total (not per employee)).⁶⁶ There is also provision to investigate or litigate contraventions including those under \$5000 total where 'special circumstances exist,' including underpayments to vulnerable workers.⁶⁷ The FWO therefore has limited scope to assist workers who are trying to defend their rights. In addition, as the FWO only assists in Commonwealth matters, workers who have a claim under Victorian law, such as the *Equal Opportunity Act 2010* (Vic), cannot receive assistance. The FWO also refers enquiries to JobWatch.

Fair Work Commission

The FWC is the independent national workplace relations tribunal.⁶⁸ As such, it can give information about procedures for lodging a claim, but cannot provide advice as to the merits of the case and the implications of bringing an action.⁶⁹ In July 2014, the FWC launched a program to facilitate pro bono advice for unrepresented litigants in unfair dismissal disputes. Advice is limited to situations where a jurisdictional issue has been raised. The program operates like a duty lawyer service, where assistance is essentially provided 'at the door of the court'. It is not designed to provide comprehensive advice and representation.⁷⁰

⁶⁴ Fair Work Ombudsman, *Our Role* (2 January 2013) <<http://www.fairwork.gov.au/about-us/our-role/pages/default.aspx>>.

⁶⁵ Fair Work Ombudsman, *Working With You to Resolve Workplace Issues* <<http://www.fairwork.gov.au/How-we-will-help/How-we-help-you/Help-resolving-workplace-issues/working-with-you-to-resolve-workplace-issues>>.

⁶⁶ Fair Work Ombudsman, *Guidance Note 1*, s. 12.

⁶⁷ Fair Work Ombudsman, *Guidance Note 1*, s. 12.

⁶⁸ Fair Work Commission, *What is the Fair Work Commission?* (24 March 2014) <<http://www.fwc.gov.au/index.cfm?pagename=aboutrole>>.

⁶⁹ Fair Work Commission, *Guide – Unfair Dismissal* (7 July 2014)

<<http://www.fwc.gov.au/index.cfm?pagename=resourcefactsunfair>>.

⁷⁰ See Fair Work Commission, *Unfair Dismissal Pro Bono Pilot Program* (8 September 2014)

<<https://www.fwc.gov.au/creating-fair-workplaces/research/unfair-dismissal-pro-bono-pilot-program>> and

The Australian Human Rights Commission and the Victorian Equal Opportunity and Human Rights Commission

The Australian Human Rights Commission ('AHRC') and the Victorian Equal Opportunity and Human Rights Commission ('VEOHRC') operate telephone enquiry lines which provide information about discrimination matters. The information provided by these phone services is general in nature and is not individualised legal advice.

The AHRC and the VEOHRC are statutory bodies to which employees can make complaints relating to discrimination. Both bodies have conciliation services.⁷¹

Gaps in the Provision of Employment Law Advice

As outlined above, employment law is an extremely complex field.

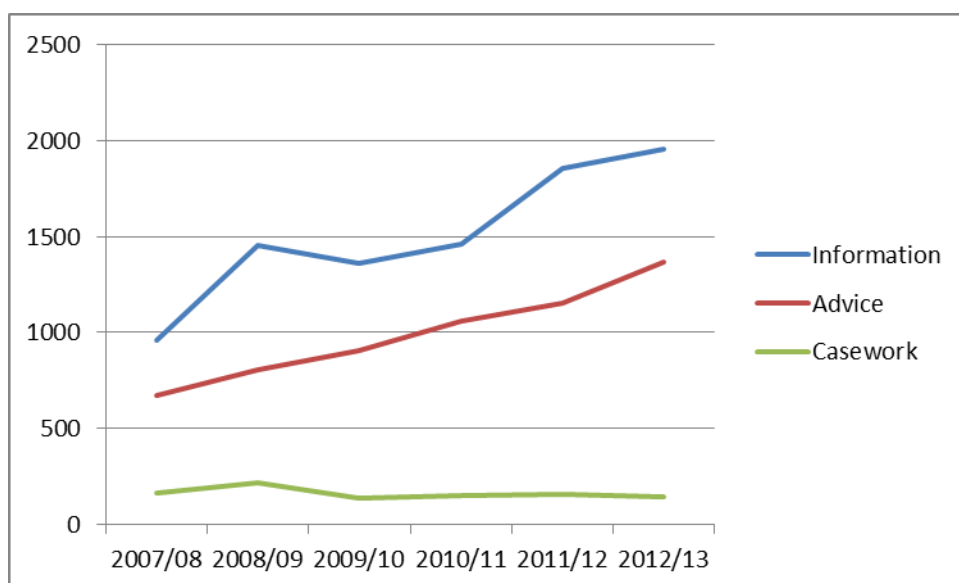
Given their limited resources, most generalist community legal centres have made a decision not to provide advice in relation to employment law matters because such matters require a high degree of staff specialisation and can be resource intensive.⁷² As such, most generalist CLCs do not provide any employment law advice. If they do, they generally only do so in very limited circumstances. The graph below shows the number of enquiries (information) that CLCs receive in relation to employment law and the significantly lower levels of advice and casework they provide in this area.

Centre for Innovative Justice, 'Report for Fair Work Commission: Review of Unfair Dismissal Pro Bono Pilot' (Report, Centre for Innovative Justice, December 2013).

⁷¹ *Equal Opportunity Act 2010* (Vic) s 111(a), *Australian Human Rights Commission Act 1986* (Cth) s 46PF.

⁷² CLCs do not have the resources to provide initial advice and assistance to everyone who contacts them. The 2013 ACOSS Australian Community Sector Survey found 63% of community legal services reported being unable to meet demand for their services and also reported the highest turn-away rate (20%) of any other community services. *Australian Community Sector Survey 2013* (ACOSS Paper 202, Australian Council of Social Services, 2013) 10.

Demand for Employment Law Assistance from Victorian CLCs (Excluding JobWatch) ⁷³



A 2013 survey of Australian CLCs found that the majority of CLCs surveyed had turned away clients during the 2012 to 2013 financial year. One of the top three reasons a person was ‘turned away’ was because the person’s legal problem was outside the CLC’s areas of focus.⁷⁴

As discussed above, statutory bodies that provide employment law assistance have very limited mandates or capacity to assist individual workers beyond providing information. VLA has strict eligibility guidelines and only provides employment law advice if the problem relates to a discrimination matter. Similarly, the FWO, FWC, VEOHRC and AHRC have restricted mandates or capacity to assist individuals. For this reason, these statutory authorities regularly refer callers to JobWatch.⁷⁵ In 2012, the Executive Director of JobWatch reported that 65 per cent of referrals to JobWatch were from Fair Work Australia (now the FWC) and the FWO.⁷⁶ As Booth argues in her report, CLCs:

are not “underground” organisations that are distinct from the new workplace relations architecture. They are an essential link in the chain of maintaining employment standards. In practice they are treated as such by government

⁷³ Community Legal Services Information System, analysed by the Federation of Community Legal Centres.

⁷⁴ National Census of Community Legal Centres 2013 (National Association of Community Legal Centres Inc., New South Wales, 2013).

⁷⁵ Campbell, *JobWatch Review*, 10-11.

⁷⁶ Zana Bytheway, ‘Panel discussion’ (Speech delivered at Employment Law in Victoria: How to get the Job Done, Melbourne, 29 May 2012).

bodies that regularly refer workers to them. Their interdependence in the system should be formally recognised and their visibility improved.⁷⁷

The lack of capacity to comprehensively assist Victorians with employment law problems means that in Victoria the burden falls mainly to the specialist employment law CLC, JobWatch, to provide employment law information and advice. As outlined above, a large part of JobWatch's service provision is through their caller information line, the TIS. In 2013, JobWatch TIS advisors responded to 7311 enquiries.⁷⁸ Due to the sophistication of the TIS, they are able to track how many calls remain unanswered, and they estimate that they are unable to meet 57 per cent of current demand.⁷⁹

In addition to the TIS, JobWatch has a casework practice which provides further assistance to disadvantaged workers. Because of the volume of demand for JobWatch services, JobWatch has developed criteria for deciding whether to accept a matter as part of their casework practice. When deciding whether to accept a matter, JobWatch will generally consider:

1. Whether the matter has legal merit.
2. Whether the matter:
 - Involves a serious injustice.
 - Contains test case elements.
 - Raises issues of public interest.
3. Whether acceptance of the matter would benefit a disadvantaged worker.⁸⁰

While the first criterion is a necessary component of any legal matter, many Victorians who might suffer disadvantage or incur further detriment may nevertheless fail to qualify for assistance from JobWatch because their case does not meet the second criterion set out above.

Considered against the demand for its services, JobWatch is only able to take up a small proportion of cases due to funding restrictions. Although the 2009 Booth report to the FWO and the 2009 Campbell JobWatch review to the Victorian Government both recommended that funding to JobWatch be increased,⁸¹ state funding to JobWatch

⁷⁷ Booth, 'Report of a Review of Community-Based Employment Advice Services' (2009), 2.

⁷⁸ Figures supplied by Zana Bytheway, Executive Director, JobWatch, on 18 February 2014.

⁷⁹ Figures supplied by Zana Bytheway, Executive Director, JobWatch, on 18 February 2014.

⁸⁰ JobWatch, *JobWatch Annual Report*, 7.

⁸¹ Campbell, *JobWatch Review*, 3 and Booth, 'Report of a Review of Community-Based Employment Advice Services' (2009), 3.

decreased from \$876 000 to \$371 000 in 2011.⁸² Commonwealth funding to the service increased from \$26 190 to \$277 128 in 2012.⁸³ However, JobWatch's overall income as of 30 June 2012 had been reduced by almost 30 per cent.⁸⁴ This has necessarily reduced JobWatch's ability to meet the need for employment law assistance and advice.

What the Data Tells Us

There are a number of different indicators of the high level of both need and demand for employment law assistance in Victoria. This is shown in the level of demand for low cost and free employment law advice providers, and in studies that map legal need in Victoria and across Australia.

Federation of Community Legal Centres

The Federation of Community Legal Centres runs a telephone referral service for people seeking legal help. Employment law enquiries are approximately 12 per cent of all calls seeking legal help.⁸⁵ Employment law is the most frequently asked about area of law when people ring seeking legal help.⁸⁶

Community Legal Centres

Excluding JobWatch, CLCs have experienced a 93 per cent increase in employment law activities in the last five years, from 1795 in 2007-08⁸⁷ to 3467 in 2012-13.⁸⁸

CLCs do not generally capture the number of people they cannot assist by type of legal problem.

⁸² JobWatch, *JobWatch Annual Report*, 22.

⁸³ JobWatch, *JobWatch Annual Report*, 22.

⁸⁴ Percentage drawn from figures included in JobWatch, *JobWatch Annual Report*, 22.

⁸⁵ Community Legal Services Information System, data analysed by the Federation of Community Legal Centres.

⁸⁶ Community Legal Services Information System, data analysed by the Federation of Community Legal Centres.

⁸⁷ Letter from Hugh De Kretser, Victorian Legal Assistance Forum, to Nicola Roxon, Attorney-General, 8 October 2012, 4.

⁸⁸ Community Legal Services Information System, data analysed by the Federation of Community Legal Centres.

Victoria Legal Aid

Employment law consistently features as a common enquiry to VLA's Legal Help telephone service. VLA received 3529 employment related calls to Legal Help in the 2011-2012 year, and 3727 in the 2012-2013 year.⁸⁹ Of these calls, less than one quarter is related to equal opportunity and discrimination matters,⁹⁰ meaning that over three quarters of callers must be referred elsewhere.

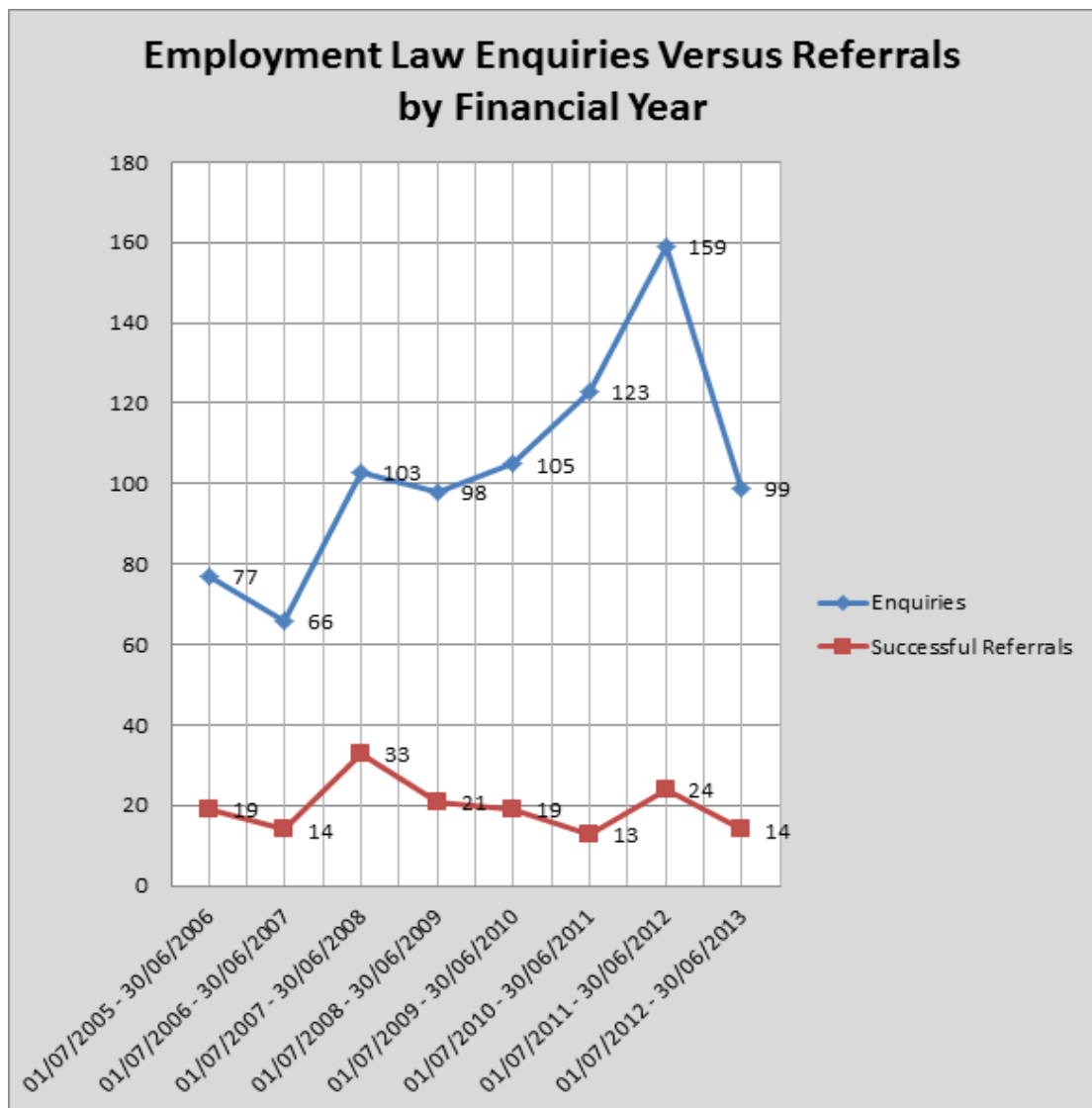
Justice Connect

Justice Connect, which coordinates pro bono referrals in Victoria, reports that employment law consistently features in the top four problem types for which people seek pro bono help. However, in the last five years, Justice Connect has only been able to successfully refer about 20 per cent of employment matters to pro bono providers.

The following graph shows the number of employment law enquiries that Justice Connect receives, compared with the number of successful referrals it makes. As can be seen, the number of enquiries far outstrips the number of referrals.

⁸⁹ Data provided by Victoria Legal Aid on 11 February 2014.

⁹⁰ Data provided by Victoria Legal Aid on 4 March 2014.



National Pro Bono Resource Centre

In addition, the National Pro Bono Resource Centre reports that in the 2012 National Law Firm Pro Bono Survey, employment law was the third most common matter for which pro bono help was provided.⁹² It was also the fourth most common area where people were turned away for reasons other than means or merit.⁹³ This means that many people were eligible for pro bono employment law help, but there were insufficient resources to meet demand.

⁹¹ Data provided by Justice Connect on 24 February 2014.

⁹² National Law Firm Pro Bono Survey (National Pro Bono Resource Centre, New South Wales, January 2013) 19.

⁹³ National Law Firm Pro Bono Survey (National Pro Bono Resource Centre, New South Wales, January 2013) 21.

The Referral Roundabout

As can be seen above, Victorians seeking employment law assistance face a confusing array of agencies to contact. If people are forced to take multiple actions to resolve a problem, not only does it increase the length and complexity of the matter, but there is an increased chance that a person will not pursue their claim, often with negative – even devastating – effects on the individual and their family.

The additional time necessary to find the right assistance also means that there is a significant risk that people will run out of time to pursue certain employment law claims due to the extremely short limitation period under the *Fair Work Act 2009* (Cth). Taking multiple steps is also a waste of scarce resources as it requires multiple advisors to make referrals and/or give assistance or advice.

Suggestions for Reform

Increase Funding for Specialist Employment Law Advice

There is an urgent need for greater funding of free and low cost employment law assistance in Victoria.

JobWatch is the only provider of comprehensive free employment law assistance in the state. It is a one-stop shop for employment law matters, and provides advice on federal and state workplace laws. Due to funding constraints, it is unable to keep up with the demand for its services. JobWatch should be funded to provide more legal assistance, including advice, casework, community legal education and advocacy.

The Federation of Community Legal Centres also supports funding to other CLCs to enable them to develop targeted employment law programs that address the specific needs within their local communities and enable the most marginalised groups of employees to access legal help.

Coordinating Service Provision and Improving Referral Pathways

In Victoria and elsewhere there is increasing recognition of the need for legal assistance services to work together to determine the best approach to meeting unmet legal need.

While an increase in funding is vital, there may also be potential to improve the experience of people seeking assistance through better cooperation among service providers and through streamlined referrals.

Better referral pathways should be developed between different service providers. Existing procedures could be enhanced by developing referral protocols and standardised information collection processes. This would limit referral fatigue, where clients have to repeat their story a number of times before finding the correct service to assist them. It would also help address unmet need by facilitating access to assistance in a timely manner. Better referral processes would also assist legal service providers to focus their resources on people whose problems they can assist with.

Service providers should share more detailed information about the capacity and capabilities of their services so that people can be referred to the services which are most able to assist them. For example, in their 2012 Annual Report, JobWatch reported that 23.3 per cent of their callers had discrimination issues. JobWatch advises that it has been making referrals to VLA since the commencement of VLA's discrimination service. This represents good practice and should be further developed across the range of services providing information and assistance in relation to employment law.

Conclusion

Provision of free employment law advice protects job security, increases financial security and helps ensure family stability.

There is significant demand for free employment law information and assistance in Victoria and current providers of free employment law advice are unable to keep up with demand.

As union membership declines, the demand for free employment law advice from other services is likely to increase. This will place an additional burden on the already stretched providers of free employment law advice.

As such, while the legal assistance sector can and should seek to coordinate services in order to maximise available resources, there is an urgent need for greater funding of free and low cost employment law assistance in Victoria.

Selected Bibliography

A Articles/Books/Reports

Arup, Chris and Carolyn Sutherland, 'The Recovery of Wages: Legal Services and Access to Justice' (2009) 35 *Monash Law Review* 96

Attorney-General's Department, 'A Strategic Framework for Access to Justice in the Federal Civil Justice System' (Commonwealth of Australia, September 2009)

Attorney-General's Department, 'Review of the Commonwealth Community Legal Services Program' (Commonwealth of Australia, March 2008)

Booth, Anna, 'Report of a Review of Community-Based Employment Advice Services' (Report to the Fair Work Ombudsman, 30 September 2009)

Campbell, Susan, 'JobWatch Review' (Department of Innovation, Industry and Regional Development, Government of Victoria, December 2009)

Centre for Innovative Justice, 'Report for Fair Work Commission: Review of Unfair Dismissal Pro Bono Pilot' (Report, Centre for Innovative Justice, December 2013)

Cockfield, Sandra et al, 'Assessing the Impact of Employment Regulation on the Low-Paid in Victoria' (2011) 22(2) *The Economic and Labour Relations Review* 131

Community Law Australia, 'Hard to Help: Impacts of Under-Funding on Community Legal Centres Helping Ordinary Australians to Access Justice' (Report, Community Law Australia, 30 November 2012)

Coumarelos, Christine et al, 'Legal Australia-Wide Survey: Legal Need in Victoria' (Report, Law and Justice Foundation of New South Wales, 2012)

Dow, Catherine, 'Employment is the Heart of Successful Settlement' - Footscray Community Legal Centre Employment Law Project: Overview of Preliminary Findings' (Report, Footscray Community Legal Centre, February 2014)

Genn, Hazel, *Paths to Justice: What People Do and Think about Going to Law* (Hart Publishing, 1999)

JobWatch, 'Annual Report 2011-2012' (JobWatch, 2012)

JobWatch, 'Annual Report 2012-2013' (JobWatch, 2013)

Hardy, Tess and John Howe, 'Partners in Enforcement? The New Balance between Government and Trade Union Enforcement of Employment Standards in Australia' (2009) 22(3) *Australian Journal of Labour Law* 306

Pleasence, Pascoe et al, *Causes of Action: Civil Law and Social Justice* (Stationary Office, 2004)

Sackville, Ronald, 'Access to Justice: Towards an Integrated Approach' (2011) 10(2) *The Judicial Review* 221

Stewart, Andrew, *Stewart's Guide to Employment Law* (Federation Press, 4th ed, 2013)

TUC Commission on Vulnerable Employment, 'Hard Work. Hidden Lives. The Short Report of the Commission on Vulnerable Employment' (Report, Trades Union Commission, May 2008)

B Legislation

Age Discrimination Act 2004 (Cth)

Australian Human Rights Commission Act 1986 (Cth)

Disability Discrimination Act 1992 (Cth)

Equal Opportunity Act 2010 (Vic)

Fair Work Act 2009 (Cth)

Racial Discrimination Act 1975 (Cth)

Sex Discrimination Act 1984 (Cth)

Superannuation Act 2005 (Cth)

C Other

Australian Bureau of Statistics, *Decline in Trade Union Membership* (August 2011)
<<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/6310.0main+features3August%202011>>

Australian Bureau of Statistics, *Employee Earnings, Benefits and Trade Union Membership, Australia* (4 June 2014)
<<http://www.abs.gov.au/ausstats/abs@.nsf/mf/6310.0>>

Australian Bureau of Statistics, *Labour Force Status by Sex - Victoria* (June 2014)
<<http://www.abs.gov.au/ausstats/meisubs.nsf/log?openagent&6202005.xls&6202.0&Time%20Series%20Spreadsheet&F9B168BF059730A0CA257CF40017BD9B&0&May%202014&12.06.2014&Latest>>

Australian Bureau of Statistics, *Trade Union Members, Australia* (3 February 1997)
<[http://www.ausstats.abs.gov.au/ausstats/free.nsf/0/4DBC4B22387DE1E0CA257225000737BD/\\$File/63250_0896.pdf](http://www.ausstats.abs.gov.au/ausstats/free.nsf/0/4DBC4B22387DE1E0CA257225000737BD/$File/63250_0896.pdf)>

Australian Community Sector Survey 2013 (ACOSS Paper 202, Australian Council of Social Services, 2013)

Australian Council of Trade Unions, *ACTU Congress 2006 – Unions Australia* (24-25 October 2006)
<<http://www.actu.org.au/Images/Dynamic/attachments/2822/Congress06%20-%20Unions%20Australia%201.pdf>>

Australian Unions, *Why Join* <http://www.australianunions.org.au/why_join>

Bytheway, Zana, 'Panel discussion' (Speech delivered at Employment Law in Victoria: How to get the Job Done, Melbourne, 29 May 2012)

De Kretser, Hugh, Fiona McLeay and David Hillard, 'Pro Bono Burden Reflects Social Gap', *The Australian* (online), 9 November 2012

Denniss, Richard, Josh Fear and Emily Millane, 'Justice for All: Giving Australians greater Access to the Legal System' (Institute Paper No 8, Australia Institute, March 2012)

Dreyfus, Mark, 'Speech' (Speech delivered at the National Access to Justice and Pro Bono Conference, Melbourne, 22 March 2013)

Fair Work Commission, *Contact the Fair Work Commission* (23 April 2013)
<<https://www.fwc.gov.au/resolving-issues-disputes-and-dismissals/what-the-commission-does>>

Fair Work Commission, *Guide – Unfair Dismissal* (7 July 2014)
<<http://www.fwc.gov.au/index.cfm?pagename=resourcefactsunfair>>

Fair Work Commission, *Unfair Dismissal Pro Bono Pilot Program* (8 September 2014)
<<https://www.fwc.gov.au/creating-fair-workplaces/research/unfair-dismissal-pro-bono-pilot-program>>

Fair Work Commission, *What is the Fair Work Commission?* (24 March 2014)
<<http://www.fwc.gov.au/index.cfm?pagename=aboutrole>>

Fair Work Ombudsman, *Our Role* (2 January 2013) <<http://www.fairwork.gov.au/about-us/our-role/pages/default.aspx>>.

Fair Work Ombudsman, 'Litigation Policy of the Office of the Fair Work Ombudsman' (Guidance Note No 1, Fair Work Ombudsman, 20 July 2011)

Fair Work Ombudsman, *Working with You to Resolve Workplace Issues*
<<http://www.fairwork.gov.au/How-we-will-help/How-we-help-you/Help-resolving-workplace-issues/working-with-you-to-resolve-workplace-issues>>

Gleeson, Chief Justice Murray, 'The Rule of Law and the Constitution: Aspects of the Commonwealth Constitution – Part 2' (Lecture delivered at the Boyer Lecture Series, Australian Broadcasting Corporation, 10 December 2000)

Law Institute of Victoria, Submission No 11 to Senate Committee on Legal and Constitutional Affairs, *Senate Inquiry into Access to Justice*, 30 April 2009

Letter from Hugh De Kretser, Victorian Legal Assistance Forum, to Nicola Roxon, Attorney-General, 8 October 2012

National Census of Community Legal Centres 2013 (National Association of Community Legal Centres Inc., New South Wales, 2013)

National Law Firm Pro Bono Survey (National Pro Bono Resource Centre, New South Wales, January 2013)

Victoria Legal Aid, *VLA Handbook for Lawyers* (5 June 2013)
<<http://handbook.vla.vic.gov.au/handbook/Index.htm>>

Victoria Legal Aid, *Get help with Employment and Your Rights* (17 December 2013)
<<http://www.legalaid.vic.gov.au/find-legal-answers/employment-and-your-rights/get-help>>

Victoria Legal Aid, *New Service Helps People with Discrimination Problems Get a Fair Go*, (8 October 2012) <<http://www.legalaid.vic.gov.au/about-us/news/new-service-helps-people-with-discrimination-problems-get-fair-go-0>>

Victoria Legal Aid, *Access to Justice Arrangements: Productivity Commission Draft Report*, (May 2014) <http://www.pc.gov.au/__data/assets/pdf_file/0011/137396/subdr252-access-justice.pdf>

Warner, Bevan, 'Review of the National Partnership Agreement – an Opportunity to Iron out the Creases' (Speech delivered at National Access to Justice and Pro Bono Conference, Melbourne, 21 March 2013)



Federation of Community
Legal Centres (Victoria) Inc.
Level 3, 225 Bourke St
Melbourne Vic 3000

Telephone: 03 9652 1500

administration@fclc.org.au
www.communitylaw.org.au

ABN 30 036 539 902
Registration A0013713H