

Submission

Response to Access to Justice Review

February 2016



Programs of the Advocacy & Rights Centre Ltd trading as ARC Justice

Inquiries to:

Peter Noble, Executive Officer, ARC Justice
03 5445 0909 or peter@lcccl.org.au

© Advocacy & Rights Centre Ltd
54 Mitchell Street
Bendigo Victoria 3550

Ph: (03) 5445 0909
Fax: (03) 5441 1033

Introduction

The Bendigo based Loddon Campaspe Community legal Centre (LCCLC) and Shepparton based Goulburn Valley Community Legal Centre (GVCLC). They are both programs of the Bendigo based Advocacy and Rights Centre (T/A ARC Justice). LCCLC and GVCLC provide generalist legal assistance services and legal education targeting disadvantaged and vulnerable people in rural and regional Victoria. They also deliver a number of specialist programs.

LCCLC operates primarily in the Loddon Campaspe region (LGAs of Greater Bendigo, Loddon, Campaspe, Central Goldfields, Macedon Ranges and Mount Alexander). Goulburn Valley Community GVCLC, a division of LCCLC, operates in the Goulburn Valley (LGAs of Greater Shepparton, Mitchell, Strathbogie and Moira).

LCCLC and GVCLC generally endorse the submission made by our peak organisation, the Federation of Community Legal Centres (Victoria). However, this submission will focus on the more recent and unique aspect of our services, including health-justice partnerships, Shepparton's therapeutic justice project, a Bendigo based child protection pilot and family violence focused restorative justice opportunities.

Terms of Reference 1 – The Availability of easily accessible information on legal assistance services and the Victorian justice system, including advice on resolving common legal problems.

and

Terms of Reference 2 – examine options for diverting people from civil litigation and into alternative services where appropriate, such as a 'triage' model.

Health Justice Partnerships

Since 2012 Health Justice Partnerships (HJP) have grown to be one of the most innovative and dynamic service delivery approaches for Legal Assistance Services. There have been a range of critical initiatives across the legal assistance landscape, within Community Legal Centres, Legal Aid Commissions and Pro Bono Services, Philanthropy and Academia that have contributed to this exciting growth.

These initiatives build on the insight that many legal conflicts manifest as health issues and that together, health and legal service providers stand a better chance of helping clients and patients address their intertwined health, social and legal issues. They also respond to the research published by the Law and Justice Foundation of NSW that clients often access trusted health service providers regarding their social and legal issues, and that people with complex health needs experience a disproportionately high number of legal issues than compared with the general population.

Bendigo Health Justice Partnership – LCCLC and Bendigo Community Health

LCCLC's Health Justice Partnership project is based on the successful US Medical-Legal Partnerships model that promotes partnerships between legal services and health services to address unmet legal needs as social determinants of health.

In August 2012 LCCLC produced the report which set the scene for subsequent developments in this service delivery model. The report can be found here: http://lcclc.org.au/wp-content/uploads/2012/02/AHA-Report_General.pdf

In July 2013, LCCLC and Bendigo Community Health Services (BCHS) launched a 3-year Health Justice Partnership project at BCHS's Kangaroo Flat site. This project was one of the first of its kind and was generously funded by the Clayton Utz Foundation and the Victorian Legal Services Board and Commissioner.

LCCLC believes that by having our lawyers work alongside health professionals, it is better able to identify legal issues at an early stage and in turn assist health professionals to address the potential causes of health issues arising out of the stress and anxiety associated with previously unidentified and unresolved and legal issues.

As part of the Bendigo HJP, a lawyer is located at the Kangaroo Flat site of BCHS three days a week to provide legal assistance which is easily accessed by clients and health workers. The lawyer has expertise in a number of different legal practice areas such as facility violence, family law, child protection, fines, discrimination, consumer law, housing and criminal matters. The lawyer takes referrals from health workers, provides secondary consultations to BCHS staff and also offers legal education. Through being onsite at BCHS, the lawyer is able to build and maintain relationships with health workers and create a multidisciplinary service for clients when they come to their medical appointments.

In early 2015, we started to evaluate the Bendigo HJP. In partnership with the Australian National University we are employing an action research model which creates a 360 degree profile of the project by interviewing staff, clients and external stakeholders. Preliminary analysis suggests the project is proving successful in its goal of addressing unmet legal need. We expect that the evaluation will be published in late 2016.

Other Health Justice Partnerships in Victoria

There are a number of HJP's currently implemented in Victoria, many of which have been funded by the Victorian Legal Services Board and Commissioner (VLSB&C) through a dedicated grant round. The following information about these initiatives has been sourced from websites of the VLSB&C and the specific organisations:

Loddon Campaspe Community Legal Centre 'Why didn't you ask?' Project: The project aimed to improve the safety, social and health outcomes for women who are at risk of, or experiencing family violence. One elements of the project was to look into when and how health professionals screen for family violence and how they provide referrals to legal and other supports. Why didn't you ask? delivered education sessions in relation to screening and referral options for women who experience family violence and who present to their health care professional.

Inner Melbourne Legal Service collaborations with the Women's Hospital (through their Acting on the Warning Signs Project) Children's Hospital and Royal Melbourne: Through the project, they have partnered with inner city hospitals to provide legal support and assistance to woman escaping/surviving family violence. IMCL has identified that health professionals are one of the major professionals where woman disclose family violence. IMCL's project creates a multidisciplinary environment at hospitals where patients are able to attend their medical appointments and also safely access free legal advice on-site.

The project has generated significant momentum, achieved whole-of hospital support and improved legal access for vulnerable women. Stage 2 capitalises on this momentum by broadening the reach of the education component; harnessing the role of "clinical champions"; refining the outreach model to meet increased demand for legal assistance; evaluating the effectiveness of the legal assistance; and advancing the model of Advocacy-Health Alliances.

Maurice Blackburn / Alfred Hospital and Michael Kirby Centre Collaboration HeLP : Maurice Blackburn has formed a partnership with the Michael Kirby Centre for Public Health and Human Rights at Monash University and Alfred Health in Melbourne to provide legal assistance to patients. This assistance extends to relatives and others who are close to the patient who believe the patient may have a legal need. The HeLP initiative was launched in March 2014 as a result of the 2012 Legal Australia-Wide (Law) survey which identified the connection between people's health and issues they have with the law. The HeLP lawyer is on site two days per week to deal with a variety of legal issues, including those issues outside what Maurice Blackburn specialises in.

Monash University Kirby Centre (Partnering with Alfred Hospital, Latrobe Regional Hospital and Cabrini Hospital): The project works with three hospitals and several law firms to establish HeLPs in each and to develop a workable Victorian model in order to establishment and delivery of legal services at the hospitals, development and delivery of a postgraduate teaching program on-site at participating hospitals to familiarise practitioners with legal concepts and thinking and evaluation of the service delivery and teaching components to develop a Victorian HLP model.

InTouch Multicultural Centre Against Family Violence (through Jean Hailes Centre for Women's Health): This project works to ensure that women from Culturally and Linguistically Diverse communities who living within the catchment area of the Dandenong Magistrates' Court and who face family violence can get access to integrated, culturally responsive support. In partnership with legal and health stakeholders, the project builds capacity of health professionals to better understand and provide more appropriate support to CALD women.

Yarra Ranges Community Legal Centre (partnership with Yarra Ranges M&CH, Maroondah and Eastern Domestic Violence service): The project works to prevent and respond to family violence by improving the responses of maternal and child health, legal and support services in a co-ordinated and integrated manner, with a focus on mothers engaging with maternal child and health services.

West Heidelberg community legal centre (through Banyule community health): this project works to improve housing and health outcomes for tenants by understanding and addressing barriers to VCAT attendance. The project aims to significantly increase tenant attendance rates at VCAT, with correlating reduction in homelessness, poor health and housing stress for disadvantaged Victorian.

The First Step Program (First Step legal service development project): The project helps clients break the cycle of drug and alcohol abuse and addiction, relapse and reoffending. It also seeks to support their sustained recovery towards the achievement of a healthier, safer community. It provides enhanced multidimensional services within a unique advocacy health alliance that better supports the health, legal and social needs of clients and assists them to make positive life choices and live more meaningful lives.

Community West Inc (through Djerriwarrh Health Services): Wholly integrated health and legal wellbeing program in Melton is established to respond to the growing issue of mortgage stress within the community. Community West and Djerriwarrh Health Services has been collaborating to provide early intervention services. The program raises awareness of the impact of mortgage stress, and particularly its health consequences, through community engagement and policy and advocacy work to strengthen the Melton community.

Federation University Australia (partnering with Central Highlands Community Legal Centre): partnership works to reduce the impact of legal issues on the health and well-being of disadvantaged young people by providing timely identification and response to their legal needs at three community health sites across Ballarat, and through increasing the capacity of the agencies and raising the awareness amongst young people of the legal services available to them.

Flemington Kensington Community Legal Centre Inc (partnering with Doutta Galla Community Health Service): The Partnership is an outreach Program and Community Legal Education (CLE) pilot project which addresses the unmet legal needs of vulnerable/disadvantaged community members through integrated holistic legal, health and welfare services. Outreach services are available to family and friends of Doutta Galla patients and to the general community. Relevant and targeted Community Legal Education is provided to Doutta Galla health providers and to the general community to assist in recognising and responding appropriately to legal needs

McCabe Centre for law and Cancer (making the law work better for people affected by cancer): The project works to improve experiences and outcomes for Victorians affected by cancer, their families and healthcare professionals, by developing and implementing an evidence-based strategy to provide information about relevant laws and policies to enable people to make well-informed decisions and to access and assert their legal rights with respect to treatment and supportive care, educate policy-makers on how laws and policies can be implemented and/or reformed to improve the experiences of the target group and contribute to law reform to improve the patient experience.

Therapeutic Justice in the Goulburn Valley

Another distinctive area of practice that we wish to highlight is the Therapeutic Justice pilot in the Goulburn Valley. This project evolved in response to the patch-work of specialist court-based assistance for highly vulnerable respondents and criminal law defendants in Victoria outside of Melbourne; there being almost no supported special lists, CISP programs or dedicated Courts across regional and rural Victoria. This is a grave form of postcode injustice.

GVCLC promotes the justice philosophy known as Therapeutic Jurisprudence and conducts an integrated therapeutic justice practice at the Shepparton Magistrates' Court in partnership with health service provider, Primary care Connect. Officially launched by the Chief Magistrate of Victoria

in December 2015, the partnership or Therapeutic Justice Program (TJP) is an innovative and collaborative service based on the theory of therapeutic jurisprudence. It targets people with complex health care needs and related legal issues who are users of the Shepparton Magistrates' Court.

Again funded by the Victorian Legal Services Board and Commissioner, the three-year pilot team consists of a Therapeutic Justice (TJ) Lawyer and a Therapeutic Justice (TJ) Case Manager. The TJ Lawyer provides legal information, advice and advocacy assistance to the participants of the TJP. The Lawyer also provides legal education to any relevant health and social services. The TJ Case Manager is an allied health professional that connects participants of the TJP to appropriate support services. The participant is able to access a wide range of support services in the areas of health, social and cultural support (of particular importance to Koori participants and new arrivals to the Shepparton community).

The TJP aims to provide these medium to high risk offenders with support services throughout their legal proceedings and in some instances, prior to their legal proceedings. While it can assist with a range of legal issues, it targets people with criminal law issues. Although some offenders in our criminal justice system are assisted by Correctional Services Victoria upon the making of a Community Corrections Order with therapeutic conditions, others do not have similar support services available to them while their matters are pending.

Although the program may involve identifying and connecting the participant to relevant support services, or redeveloping the connection to pre-existing supports already in place, it does not solely focus on crisis support. Rather, it strives to identify opportunities to engage the participant in life skills and community connections, thus improving their current and future circumstances. It is hoped that through increased engagement between appropriate therapeutic services and the holistic health and legal case management of the TJP, participants will be better supported during their court processes, and minimise their chances of re-offending.

Because of the apparent synergies created when health care providers and legal services work together to deal with the underlying causes of offending by their damaged and vulnerable clients, GVCLC has recently taken a next step in by negotiating a health-justice partnership arrangement with Benalla Health. Through this GVCLC hopes to extend its provision of family violence duty and generalist lawyer services in the region.

LCCLC Child Protection Pilot

LCCLC is one of two Victorian CLCs who are participating in a pilot programme funded by Victoria Legal Aid (VLA) to deliver child protection legal services. It's an opportunity to expand and change our business model and demonstrate how CLC's can play a greater role in the mixed model of service delivery.

LCCLC has been funded for two years (from June 2015) which has allowed our service to employ two additional lawyers and support staff. This pilot has significantly increased the legal services available in our region where limited availability and managing conflicts of interest are of huge concern. LCCLC lawyers attend the child protection sittings of the Courts throughout the region on a duty basis and are also available for emergency applications. LCCLC lawyers can also apply for VLA grants of aid in child protection matters. Like in-house VLA staff, no money actually changes hands as a result of the grant application, it is simply a recording/reporting mechanism.

There is also capacity to assist in areas which VLA does not provide a grant of aid – including early advice, follow up and associated areas of law. This flexible capacity is a critical feature of the pilot

and allows for early and extended intervention. Such opportunities are not currently available through the grants/litigation driven approach to funding private representation through Victoria Legal Aid. Importantly, the pilot is also required to deliver community legal education, development and relationship building – providing a more holistic service to clients and service providers alike.

Term of reference 3 - whether and how alternative dispute resolution mechanisms should be expanded so that more Victorians can make use of them.

In 2012 LCCLC established the ‘*Why didn’t you ask?*’ project to improve the safety, social and health outcomes for women who are at risk of, or experiencing family violence. It was a three-year project funded through a grant from the Victorian Legal Services Board and Commissioner. It employed a social worker / community development worker and community lawyer.

LCCLC’s Family Violence Legal Service at Bendigo, Echuca and Maryborough Courts taught us that women often arrive at court not knowing what to expect from the legal process or how an Intervention Order will meet their needs. We also know that the courts often make assumptions about what victims of family violence want from the legal system. So we decided to take one step back and to ask women themselves what they wanted.

At the completion of this project we published the report [Will somebody listen to me?](#) The report outlines the experiences of local women who participated in 190 court-based surveys at Bendigo, Echuca and Maryborough, Kyneton and Swan Hill Magistrates’ Courts. Twenty seven women later agreed to in-depth interviews.

Importantly the report explored what women wanted out of the justice experience. Cessation of violence, safety and accountability ranked very highly. Somewhat surprisingly, perpetrator punishment did not. A number of women also articulated an openness to exploring alternative accountability processes, including restorative justice. Recommendations K1 – K3 in this report refer to alternative dispute process where the women were interested in exploring Restorative Justice Processes.

“The women in this research had not heard of restorative justice; however, some of them, in describing justice options that were better than intervention orders, described such a space and process where they thought they would have a better opportunity to be heard by the offender in a more empowering and less adversarial context.

These women believed that this would potentially initiate a better process of offender acknowledgement of the harm they had caused; offender behaviour change; and subsequent restoration for the women, children and the offender. They were clear that to engage in such a restorative process they would have to feel very safe, supported and empowered. Some women were very clear that they thought this process would not be appropriate at all because it would not adequately address their safety concerns.”

Loddon Campaspe Community Legal Centre, ‘Will Somebody Listen to Me’, April 2015, Page 120.

The abridged report can be found here: http://lcclc.org.au/wp-content/uploads/2015/05/FV_Abridged_online.pdf and the full report here: http://lcclc.org.au/wp-content/uploads/2015/05/FV_FULL_online_v2.pdf

Conclusion

We are grateful for the opportunity to participate into the Access to Justice Review and applaud the Department for taking this initiative. We are more than happy to further discuss any aspect of this submission, or our work generally.

Yours Sincerely,

Clare Sauro Legal Practice Manager, Loddon Campaspe Community Legal Centre

Kaz Gurney Managing Lawyer, Goulburn Valley Community Legal Centre

Peter Noble Executive Officer, ARC Justice