

**Senate Standing Committee on Legal & Constitutional Affairs: Inquiry into Access to Justice
Service Rationalisation
21 August 2009**

This document was prepared by the Federation of Community Legal Centres (Vic) Inc to address the specific issue of service delivery models and rationalisation of services raised by the Standing Committee in its Melbourne hearings.

The Federation is the peak body for Victoria's 51 community legal centres (CLCs). We are a member of, and work closely with the National Association of Community Legal Centres. Further information: Hugh de Kretser, executiveofficer@fclc.org.au, T 9652 1505

Benefits of the current model of service delivery and scope for rationalisation of services

The Federation supports the current mix of legal assistance providers (CLCs, Indigenous legal services and legal aid commissions). The Federation believes that this multidimensional approach enables the delivery of more effective legal services.

The NSW Law & Justice Foundation's 2006 study of legal needs in disadvantaged areas¹ identified that people chose different means of resolving their legal issues and accordingly, a "multidimensional rather than a single, broad brush approach to accessing justice" should be pursued for disadvantaged groups².

To "maximise prevention and early intervention, and to enhance the appropriate targeting of limited resources" the Foundation's study recommended "high quality, reactive legal services, but also tailored and proactive strategies, in order to meet the varying needs of different individuals"³. Specifically, the Foundation recommended:

- More accessible legal services;
- Tailored legal assistance services to meet the specific needs of different groups and individuals;
- Improved coordination between different legal services and between legal and non-legal services; and
- Non-legal professionals acting as gateways to legal services.⁴

These recommendations support the use of a range of legal strategies and organisations to respond to legal need. They also highlight the need for greater collaboration.

CLCs are either:

- generalist centres, acting as visible and accessible triage points for legal problems and pursuing particular initiatives to respond to community need; and
- specialist centres that tailor their services towards particular groups or legal areas.

The flexibility and responsiveness of CLCs underpins their value and distinguishes CLCs from other services. Recent government reviews have confirmed the value of flexible, multi-dimensional approaches of CLCs in responding to the legal needs of disadvantaged Australians.

¹ See eg; Coumarelos, Wei and Zhou, "Justice made to measure: NSW legal needs survey in disadvantaged areas" Law and Justice Foundation of NSW, March 2006.

² Ibid, Executive Summary xxiv.

³ Ibid

⁴ Ibid, Executive Summary xxiv-xxv



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The 2008 Review of the Commonwealth Community Legal Services Program highlighted strengths of the CLC program “including:

- Its flexibility which enables responsiveness to emerging client needs;
- CLCs’ expertise in areas of law that other providers are unwilling or unable to cover;
- CLC’s multi-dimensional approach to service delivery which is well-suited to assisting people with complex needs and multiple disadvantaged; and
- Sharing of expertise and resources between CLCs which, in turn, promotes cost savings.”⁵

Similarly the 2007 Review of the NSW Community Legal Centres Funding Program found that a “key strength” of community legal centres is their “flexibility to design and develop their service delivery strategically on the basis of their knowledge and experience of target communities and their relationships with other legal, welfare and community service providers.”⁶

The National Association of CLC’s recent paper on meeting the legal needs of special groups⁷ recognises the value in having generalist CLCs, that can flexibly respond to emerging legal needs in a community by prioritising resources accordingly (eg: to establish a legal clinic in for African migrants).

The paper also recognises the need for specialisation to:

- respond complex areas of law that can have a disproportionate impact on disadvantaged people (eg: social security law); or
- develop culturally appropriate services to maximise the effectiveness of the service in responding to the needs of special groups (eg: Indigenous legal services). Properly engaging members of the disadvantaged group in governance, service delivery and planning of targeted specialist services is likely to increase the effectiveness of the service.⁸

The paper concludes that key features of the CLC service model allow them to effectively target the legal needs of disadvantaged groups. These features include CLCs’ responsiveness, innovation, mix of services (advice, education and law reform) and collaboration with other legal providers.

Nevertheless, the paper recognises that CLCs can do more to improve their methods of identifying the legal needs of special groups and developing services targeted towards those needs. Recommendations include improving CLC strategic planning to respond to legal needs, dissemination of legal needs research, building the core minimum funding of CLCs so that they can more effectively implement their mix of services and examining whole of government funding to respond to the needs of disadvantaged groups.

In Victoria, the Federation is actively supporting greater collaboration between generalist and specialist CLCs, and between other legal assistance providers and allied non-legal assistance providers (for example through the recently established Victorian Legal Assistance Forum). Both Victorian Aboriginal Legal Service and Aboriginal Family Violence Prevention and Legal Service are members of the Federation and are able to access Federation services and collaborate within the Federation’s member structures.

⁵ “Review of Commonwealth Community Legal Services Program”, Commonwealth Attorney General’s Department 2008 (p6)

⁶ “Review of the NSW Community Legal Centres Funding Program” NSW and Commonwealth Governments, 2007

⁷ Porteous, “Scoping Paper: Improving ways for CLCs to identify and meet the legal needs of special groups”, National Association of Community Legal Centres 7 July 2009

⁸ See eg; further submission of Aboriginal Family Violence Prevention & Legal Service Victoria 22 July 2009.

Managing conflicts of interest

Another important advantage of the current mix of different providers is that it allows conflicts of interest⁹ to be avoided without denying services to disadvantaged community members. CLCs regularly refer clients to other CLCs, legal aid or Indigenous legal services in cases where the CLC cannot act due to a conflict of interest. Sometimes, CLCs have specific protocols with other agencies to manage potential conflicts without denying services. For example, Victoria Legal Aid and CLC family violence services collaborate to ensure that both parties to family violence order proceedings have access to legal assistance.

Summary

The Federation does not see any general compelling need for rationalisation of services. The existing service providers have different strengths and capacities ensuring a greater and more effective reach. They generally work well in collaboration, complementing each other.

It is an important principle of social inclusion that services are targeted and adapted to ensure the most appropriate and effective service for groups with special needs. Sometimes these can be met as part of a generalist centre or service and sometimes it requires dedicated staff or tailored service delivery, recognising and responding to diversity. One size does not fit all.

In some areas of legal services, it is necessary and appropriate to have separate organisations and services representing and assisting different parties.

CLCs are particularly well placed to recognize and respond to groups with special needs and provide appropriate service delivery. This advantage could be lost with rationalisation of services.

CLCs recognize however that there are further improvements that can be achieved through continued emphasis on collaboration and further streamlining of service delivery such as:

- Greater consistency of data collection mechanisms across legal aid, CLCs and Indigenous legal services;
- Greater consistency of funding and accountability mechanisms across different legal and non-legal funding streams;
- Greater coordination between state and Federal governments, and across departments within governments, in responding to the legal needs of disadvantaged groups.

Improving the core capacity of existing CLCs would enable them to more effectively serve the community through improved identification, planning and tailoring of services towards the different needs of disadvantaged groups, and greater ability to implement the strategic mix of CLC services.

⁹ A law practice's duty to avoid conflicts of interest prevents it from acting for both parties to a dispute (eg: family violence, family law or car accident matters), and from acting against a former client where it holds relevant confidential information about that client.