

29th April 2009

Committee Secretary
Senate Standing Committee on Legal and Constitutional Affairs
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Re: Senate Legal and Constitutional Committee Inquiry on Access to Justice.

Dear Chair,

The following submission relates to terms of reference:

- a) the ability of people to access legal representation and**
- f) the adequacy of funding and resource arrangements for community legal centres**

We submit the most appropriate means to improve access to justice and enhance social inclusion is the development and facilitation of strategies to integrate the provision of legal services, particularly at community legal centres and regional legal aid commission office, with other community health and welfare services.

The evidence for this is based on current research into legal need, the benefits of providing holistic services that are client centred and the experience of such a model in West Heidelberg, Victoria.

We would be pleased to provide any further information required or to address the Committee.

Yours faithfully,



Mary Anne Noone
Associate Professor

and

Kate Digney
Research Assistant

Improving Access to Justice through Integrated Legal Service Delivery

The following submission relates to terms of reference :

- a) the ability of people to access legal representation and
- f) the adequacy of funding and resource arrangements for community legal centres

International and Australian research into legal need: evidence of the need to adopt an integrated legal service delivery model

Recent international and Australian research into legal need reveals that justiciable events (problems for which there is a potential legal remedy) (Genn 1999) are part of everyday life for a significant section of the population. (Coumarelos, Zhigang et al. 2006; Currie 2007). This body of research confirms the experience of many workers in the field. Problems often come in clusters, there can be a 'trigger' problem that causes a cascading of events that leads to further problems, that most people do not seek or receive legal advice and people suffer from 'referral fatigue'.

People facing significant social disadvantage, such as those with a chronic illness or disability, sole parents and those experiencing homelessness, are particularly vulnerable to experiencing complex and multifaceted legal and non-legal problems. (Pleasence, Balmer et al. 2004; Moorhead and Robinson 2006)

Research conducted by the Legal Services Research Centre in the UK through ongoing national surveys, establishes a significant association between an individual's experience of a justiciable problem and their health status. (Pleasence, Balmer et al. 2004) For workers in the legal, health and welfare sectors, the relationship between types of justiciable problems and ill-health is readily apparent. The importance of this recent research is that it now confirms workers experience with empirical data. The Legal Services Research Centre found that 16% of civil justice problems lead to physical ill-health (for example accidents, domestic violence, relationship breakdown, and poor quality housing) and 27% lead to stress-related illness. This was

recently confirmed in a Victorian study into the experience of those with debt who seek assistance from financial counselors.(Schetzer 2007)

This body of research reveals that most people do not seek or receive legal advice for their everyday life, justiciable problems. When people do seek assistance, non-legal services are often the first point of contact. (O' Grady, Pleasence et al. 2004; Coumarelos, Zhigang et al. 2006) The NSW studies showed that help was sought in only 51% of legal events reported. Of those events in which people sought help, only 12% sought assistance from lawyers, while non-legal services were approached for 56% of events. Non-legal services are often the first point of contact for people with legal needs and people sought assistance from services with which they were already in contact. There were many good reasons for this including familiarity with the service, convenience and not knowing where else to go.(Clarke and Forell 2007)

The studies have all confirmed the experience of referral fatigue.(Genn, Pleasence et al. 2004) For instance the NSW study showed that “people rarely seek assistance from more than one source for each legal issue”, providing good argument to ensure that the ‘door’ that is approached is adequately resourced to assist in an appropriate and timely manner.(Clarke and Forell 2007) p3.

A co-ordinated or holistic service response from legal and non-legal services is needed to better ensure access to appropriate legal advice and representation. A holistic or integrated service approach is recommended to ensure appropriate and timely referrals to and from legal services and to better enhance the expertise of non-legal services to provide an appropriate response to a justiciable problem. (Coumarelos, Zhigang et al. 2006; Moorhead and Robinson 2006)

Social Inclusion and integrated service delivery.

In a recent report for the Australian Federal government into social inclusion, “joined up services” for “joined-up problems” is listed as a policy approach to address the multiple disadvantages faced by some people and communities. (Hayes, Grey et al. 2008). Social inclusion is a current Federal government priority. Attempts to encourage social inclusion incorporate concepts of ‘whole of government’, ‘joined up service’ and localised approaches to address disadvantage.

The challenges to developing an integrated service delivery approach at a local level are many fold. At a policy and sector level, it needs to be appropriately supported in policy development and resource allocation,

(Darlington, Feeney et al. 2005) At an organisational level there needs to be a shared purpose, high level of trust, good communication, leadership and mutual responsibility. (Johnson, Wistow et al. 2003; Walker, Pietsch et al. 2007) There are also challenges in addressing professional practice differences. The last is particularly significant when looking at integrating legal services with non legal services.

Lawyers working with non-lawyers to enhance social inclusion.

The concept of lawyers working with non lawyers has generally been prohibited but in recent times the development of multidisciplinary practices have been the subject of heated debated within legal professional organisations both in Australia and internationally.(Norwood and Paterson 2002-2003 also Dal point)

There has also recently been a recognition of the benefits of a holistic approach to legal problems in the court system. In Australia the concept of the problem solving court has developed in the areas of domestic violence, drug use and indigenous offenders. The Neighbourhood Justice Centre in Victoria is another example of integrated services within the Justice portfolio.

Those lawyers who have worked in this integrative approach are convinced of its benefits and can easily cite individual examples in support of it. Drawing on the American experience, Brustin refers to several virtues of the approach:

- the ability to offer a package of services in one accessible location to people who are often isolated and lack access to resources and support systems;
- greater efficiency and continuity of care as clients do not have to travel from one agency to another to receive services; and
- the ability to access different professional skills to address complex social issues. (2002: 792.)

Similarly, Trubek & Farnham highlight the issue of trust both in the client and the lawyer. The client's fear of going to a lawyer is overcome through the trust developed often in the primary worker (referrer) and lawyer's learn to trust and rely on the expertise of the other workers.(2000 p 257-258)

West Heidelberg Community Legal Centre – a unique model of integrated legal service delivery.

Since 1978, the West Heidelberg Community Legal Service (WHCLS) has provided integrated legal services to the people of West Heidelberg, a northern suburb of Melbourne– an area that is identified as being of disadvantage. (Vinson and NR) From the beginning, it has been collocated with a community health and

welfare centre (now known as Banyule Community Health) and thirty years later, legal services are still provided to that local community as part of an integrated service. (For more detail see Noone 2007) These collocated services are, in many ways, a good example of an integrated legal service delivery model – two different services, with two separate funding bodies and boards of management, established together, to share facilities and expertise and in order to meet the needs of a socially disadvantaged community.

Staff at West Heidelberg can cite many anecdotal examples of how integrated legal, health and welfare services provide improved access to justice and addresses social exclusion. A research project to identify the key elements that facilitate and impede the integrated legal service delivery at the West Heidelberg is currently underway. This is funded by the Legal Services Board Victoria and being conducted by the two authors of this submission.

The experience at West Heidelberg, suggests that community legal centres and regional offices of Legal Aid Commissions, in coordination with other community health and welfare services are ideally placed to enhance social inclusion through an integrated legal service response to disadvantage.

Recommendations:

We submit that this inquiry recommend:

- a. Government acknowledge the benefits of integrating legal and non legal services as an approach to improving access to legal representation and advice.
- b. The development of appropriate policy and frameworks within government and non-government agencies to facilitate the integrating of legal services with non legal services based on access to justice and a social inclusion agenda.
- c. A cross government (whole of government) approach to provision of integrated legal and non legal services to improve access to justice that includes allocation of appropriate funding and resourcing.
- d. Community legal centres and regional legal aid commission offices be considered well positioned to trial plans to facilitate the integrating of legal and non-legal services.

Mary Anne Noone & Kate Digney

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References

- Coumarelos, C., W. Zhigang, et al. (2006). Justice Made to Measure: NSW legal Needs Survey in Disadvantaged Areas. Access to Justice and Legal Needs Sydney, Law and Justice Foundation of NSW. 3.
- Currie, A. (2007). The legal problems of everyday life. International Legal aid Group conference legal Aid: A New Beginning. Antwerp, University of Strathclyde.
- Darlington, Y., J. A. Feeney, et al. (2005). "Interagency Collaboration between child protection and mental health services: Practices, attitudes and barriers." Child Abuse and Neglect 29: 1085-1098.
- Dal Pont, Gino 2006 *Lawyers' Professional Responsibility* (3rd edition) Sydney, Australia Thomson Lawbook Co
- Genn, H. (1999). Paths to justice: what people do and think about going to law.
- Hayes, A., M. Grey, et al. (2008). Social Inclusion. Origins, Concepts and Key Themes. Canberra, Commonwealth of Australia.
- Johnson, P., G. Wistow, et al. (2003). "Interagency and interprofessional collaboration in community care: the interdependence of structures and values." Journal of Interprofessional care 17(1): 70 - 83.
- Moorhead, R. and M. Robinson (2006). A trouble shared - legal problems clusters in solicitor's and advice agencies. London, Cardiff Law School, Cardiff University
Matrix Research and Consultancy.
- NJC (2007). The Neighbourhood Justice Centre - Community Justice in Action in Victoria. Melbourne.
- Noone, M. A. (2007). "They all come in one door" The transformative potential of an integrated service model; A study of the West Heidelberg Community Legal Service. Transforming Lives: law and social process. P. Pleasence, A. Buck and N. Balmer. London, The Stationery Office.
- Norwood, J. M. and A. Paterson (2002-2003). "Problem Solving in a Multidisciplinary Environment? Must Ethics get in the way of Holistic Services? ." Clinical Law Review 337.
- O' Grady, A., P. Pleasence, et al. (2004). "Disability, social exclusion and the consequential experience of justiciable problems." Disability & Society 19(3): 259-272.
- Pleasence, P., N. Balmer, et al. (2004). "Civil law problems and morbidity." Journal of Epidemiol Community Health 58: 552-557.
- Pleasence, P., N. Balmer, et al. (2004). "Multiple Justiciable Problems: Common Clusters and Their Social And Demographic Indicators." Journal of Empirical Legal Studies 1(2): 3001-329.
- Schetzer, L. (2007). Drowning in Debt Melbourne Department of Justice
- Walker, R., J. Pietsch, et al. (2007). "Partnership Management: Working Across Organisational Boundaries." Australian Journal for Primary Health 13(3): 9-16.