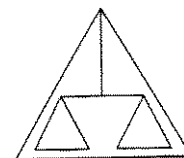


# Federation of Community Legal Centres (Vic) Inc

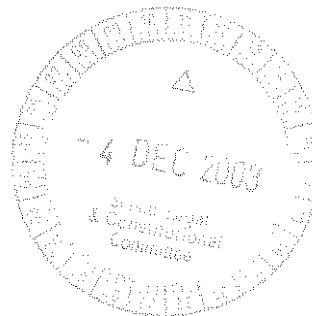
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(ABN 30 036 539 902)



December 1, 2003

Louise Gell  
Secretary  
Senate Legal and Constitutional Committee  
Parliament House  
Canberra 2600



Dear Ms Gell,

**Re: Inquiry into the capacity of current Legal Aid and Access to Justice arrangements to meet the community need for legal assistance**

Please find enclosed a copy of the National Association of Community Legal Centres Budget Submission and a copy of the Federation of Community Legal Centres Victorian State Budget Submission. We undertook to provide these documents to the committee 'on notice'. I have also included a report from the National Association of Community Legal Centres called 'Doing Justice' which accompanies their funding submission.

If you require further copies of these documents please contact me on 96024949.

Thank you for the opportunity to give evidence at the hearing.

Regards,

Dr Deborah Kirkwood

AUGUST 2005

# doing justice

Acting together to  
make a difference





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August 2003





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## Foreword: The need for a new 'justice partnership'

The National Association of Community Legal Centres (NACLC) believes that all Australians want a fair and effective justice system in our country. The burning issue is how to turn this shared aspiration into a reality – how to move from 'talking justice' to 'doing justice'.

Again and again, this issue has been debated, inquired into, reported on and researched. In the 1990s alone, we saw:

- 1990 National Legal Aid Advisory Committee: *Legal Aid for the Australian Community: Programs and Strategies*
- 1992 Senate Standing Committee on Legal & Constitutional Affairs: *Legal Aid: For Richer and For Poor*
- 1993 Senate Standing Committee on Legal & Constitutional Affairs: *The Cost of Justice: Foundations for Reforms*
- 1994 Commonwealth Access to Justice Advisory Committee: *Access to Justice: an Action Plan*
- 1995 Commonwealth Attorney General: *The Justice Statement*
- 1996 Law Council of Australia: National Summit on Legal Aid Funding
- 1996 National Legal Aid: *Meeting Tomorrow's Needs on Yesterday's Budget: the Undercapacity of Legal Aid in Australia*
- 1997 Senate Standing Committee on Legal & Constitutional Affairs: *Inquiry into the Australian Legal Aid System (3 reports)*
- 1999 National Legal Aid & National Association of Community Legal Centres: *Towards 2010 – Legal Aid Forum*

Even as we write, other significant projects are underway. Later this year or early the next:

- The Victorian Attorney General will release a 10 year strategy for Justice in Victoria.
- The Law Council of Australia will release a report from its 'Erosion of Legal Representation' project.
- The Senate Standing Committee on Legal & Constitutional Affairs will conduct an Inquiry into Legal Aid and plans to report by March 2004.

There is clearly no shortage of energy or concern, but it has not yet been harnessed to maximum effect. The time seems ripe for all the key players to come together in a renewed national determination to build a better justice system.

*With the release of this paper, NACLC signals our desire and willingness to be part of building a new partnership for justice aimed at delivering better outcomes for all Australians.*

*We hope others will join with us – so that together we can make a real difference.*

## 1. The pledge of a just society

Australians pride ourselves on our innate sense of justice, embodied in our national attachment to a 'fair go'. We have not always practiced fairness and we have never achieved the ideal of 'the just society', but we have always revered the idea of both. This striving for justice goes to the heart of how we see and define ourselves as a nation.

In every domain – taxation, education, health, Indigenous affairs, aged care, the economy, the environment – people are grappling with the contemporary meaning of fairness, and struggling to construct more robust and sophisticated frameworks and systems to deliver it. The challenge is to develop policies and programs in such a way that people will recognise the final picture as one that is 'fair enough' and hence good enough to be supported. This is a particularly sharp challenge in the law and justice system.

The importance of achieving this outcome cannot be over-stated. Without it, the bonds that tie us together, both as individuals and as groups connected to the larger community, begin to weaken. With it, we can maintain and strengthen an inclusive and democratic nation that works for all Australians.

People involved with the law, in one way or another, have a critically important role to play in this national endeavour. Their special responsibility derives from the fact that the concept of justice lies at the very heart of the meaning of fairness – and the core business of law is justice.

### A call for focused dialogue and action

The National Association of Community Legal Centres (NACLC) serves a network of around 207 free and (mostly) neighbourhood-based community legal centres (CLCs) located throughout Australia in urban, regional and remote locations. This means that we have daily contact with a wider range of people, service providers and organisations than any other part of the legal system.

We practice 'community law' that responds in a unique and effective way to community needs – whether that community is a geographical area or a group of people with similar needs and interests. As such, CLCs have developed an in-depth understanding of how the law and the legal system impact on specific communities within Australia but also on our society as a whole.

This paper sets out our views about some of the main fault lines in the contemporary justice system, and suggests some ways to move forward in tackling them more effectively. It quite deliberately maps out only broad directions for future change in a few key areas because we wish this paper to be a conversation-starter, not a debate-closer.

Our goal is to begin the process of developing more vigorous partnerships based on shared understandings and joint action to build a fairer and more effective system of justice in Australia – one that is capable of delivering better outcomes for more people.



## 2. The pervasive importance of law and justice

**I**t is critically important that the law and justice system operates fairly and well given that it permeates almost every aspect of individual and collective life.

### The little things of everyday life

The law affects the little things of everyday life as well as the larger things. Often without our conscious awareness, laws and the legal system underlie or influence a myriad of matters that we take for granted such as:

- sending our children to school and protecting them from harm;
- dealing with our neighbours, and their overhanging trees and barking dogs; or
- getting a loan or a plumber.

Most people only really notice or think about the law and its personal impact on their current and future lives when more momentous events occur. Legal issues can encompass the most profoundly important or troubling aspects of a person's life – such as when they or someone close to them:

- dies;
- becomes mentally ill or physically incapacitated;
- seeks a divorce or separates from their family;
- has a small business collapse or cannot repay debts.

Despite the public emphasis on criminal law, most direct interactions with the legal system occur in these areas of family law, civil law and administrative law.

Many, if not most, of the dealings that people have with the law occur across counters or in ordinary rooms, rather than in formal court settings. And, when matters do go to court, people overwhelmingly find themselves in the local court or the family court.

### The big things of national life

The law operates on a much larger canvas too. In a very fundamental way, it establishes the shape of a society and its character.

The major operational assumption of our democracy – the checks and balances embodied in the separation of the powers of parliament, executive and judiciary – mostly goes unremarked and unchallenged in Australia. In recent years, however, debates around issues such as native title and asylum seekers, border protection and territorial law, and detention with or without trial, have highlighted the importance of this basic principle within Australian society.

Similarly there have been difficult public debates over criminal sentencing regimes and mandatory detention in the immigration jurisdiction. They have provided a powerful reminder of the high stakes involved for any democracy in the handling of these issues. They have also been a reminder of the balancing act that is central to the system of justice.

### The need for a new policy approach

These debates have generated intense public interest but this has not translated into a similar level of public concern about all parts of the legal system charged with ensuring that 'justice is done'. Yet there are serious inadequacies in many areas that urgently require attention and that NACLC believes should be a strong focus of a new 'justice partnership'.

- There has been a failure on the part of all governments (State, Territory and Commonwealth) over successive periods of office to acknowledge the importance of legal citizenship in modern society. They have failed to produce the policies and resources required to facilitate fair and effective access for all citizens to the justice system.
- Since 1972 the legal system in Australia has expanded dramatically. There are now more laws governing the lives of citizens, and every day seems to bring a new demand for additional laws to be enacted in areas such as child or environmental protection. The need of ordinary people to understand the law, and the difficulties they face in using or following the law, has also grown substantially.
- At the same time as this growth in the legal system, citizens are increasingly required to expertly manage their own legal obligations, for example, to interpret and comply with taxation self-assessment, to estimate and declare their anticipated family income, and to enter into complex contractual obligations.
- The number of people who need assistance to meet these legal requirements tends to be seriously under-estimated. On the other side of the coin, people's capacity to self-finance their need for legal assistance tends to be seriously over-estimated. As a result, the public funds directed to legal aid and other free legal support services fall far short of what is required to guarantee equality before the law and equal justice for all.
- In this context of financial restraints, the more common non-criminal legal needs do not get their

fair share of resources (despite their high personal and social significance) because of the legitimate requirement to protect the rights of those accused of serious crimes.

- Community legal centres are also being placed under greater stress as a result of various changes in their operating environments including more complex management requirements, increased operating costs in areas such as rent and insurance, new industrial awards, and higher levels of community demand. CLCs desperately need relief.
- The Australian Law Reform Commission's 1994 report on *Equality Before the Law* identified Indigenous women as the single most legally disadvantaged group in our society. Some progress has been made since the mid-1990s in tackling this severe and unacceptable level of legal disadvantage. As often happens, this progress has only served to emphasise just how much further there is to go in terms of achieving equality.
- Australia's federal structure of government can create both gaps and overlaps in responsibilities between the Commonwealth and the States and Territories. In areas such as health and education, the resulting problems are being widely acknowledged and attempts made to address them. Unfortunately, the same attention has not been paid to these interface tensions in the legal system. Yet, if the 'jurisdictional divide' is not managed well, it increases the difficulties of responding in an effective and holistic way to people's real legal needs.

This is only a partial listing of problem areas in the legal system. The National Association of Community Legal Centres believes that there is an urgent need for a renewed commitment to the development of more appropriate policies and partnerships so that better justice outcomes can be delivered – both for individuals and our society as a whole.

We acknowledge that other stakeholders may hold different views as to priority areas, and believe these should all be aired and considered as part of the process of seeking broad-based agreement on areas for priority action. Together and through this process, we can develop the strategies required to ensure a fair and effective justice system that balances the needs of all the citizens of Australia and ensures justice for all.

At this point and as part of this process, community legal centres call on other stakeholders to consider our perspective – a perspective that derives from, and has been honed through, our daily work with individuals and communities all over Australia. The remainder of this paper sets out a few key areas that, we believe, require renewed focus and more concerted action.

### 3. Legal aid – the cornerstone of access to justice

The primary purpose of a legal aid system is to build a fairer system of justice that ensures equitable outcomes for all citizens. To be effective, a legal aid system needs to be:

*nationally consistent* – providing assistance to people in similar circumstances, regardless of where they live;

*comprehensive in scope* – covering the full spectrum of legal matters;

*adequately funded* – giving the requisite degree of assistance to ensure cases can be mounted properly; and

*efficiently administered* – so that public funds are spent wisely and well.

The Australian legal aid system currently falls short on all these benchmarks – largely, but not solely, due to a number of changes introduced by successive Commonwealth governments in the mid-1990s. As a result, increasing numbers of people who cannot afford a private solicitor:

- can no longer meet the unrealistically tight means and merits tests that Legal Aid Commissions are constrained to apply; or
- find that their matter is not one for which grants of aid are available; or
- have their grant restricted by a financial cap in family law matters, regardless of the individual features of their case.

#### Moving to a client-centred funding formula

The changes introduced to the national legal aid scheme during the 1990s, and particularly in 1997, ended the existing bilateral agreements between the Commonwealth and the States under which both parties contributed to the funding pool (mostly on a 55:45 ratio). The State Legal Aid Commissions (LACs) administered the unified system with the Commonwealth also represented.

These agreements had been painfully and progressively established to overcome the illogical situation which had existed previously when the States and the Commonwealth ran separate legal aid systems and which led to unnecessary expenditure on duplicated administrative costs and infrastructure.

One of the critical changes made in the mid 1990s was the Commonwealth's decision to mandate that

its legal aid funds were only to be used for priority Commonwealth matters. The irony of this new funding philosophy and formula, with its rigid distinctions between jurisdictions and different types of legal matters, is that it runs counter to notions of 'good practice' in service delivery being pursued by other human service agencies – including other Commonwealth government departments.

In every field except legal aid, the research and evidence is leading administrators and service providers to focus on breaking down program barriers, both within and between departments, and on pooling their funds. The goal is to fit the funding and the service around the person being assisted, not require them to fit pre-set moulds. Other Commonwealth government departments are taking their eyes off jurisdictional boundaries and becoming 'client-centred', knowing that a seamless service delivers better outcomes for both the person and the system.

The efficacy of this client-centred and 'whole-of-government' approach has become much more apparent in recent years. People's legal needs cannot always be neatly compartmentalised into distinct jurisdictions, and do not sit well with a fractured funding system. NACLAC believes that abandoning the Commonwealth/State funding divide, which imposes such unnecessary rigidity and inflexibility on how funds can be spent, is a pre-condition to improving the legal aid system in Australia.

If agreement in principle could be reached on this threshold issue, then a dialogue could begin about the appropriate apportionment of funding responsibility between the Commonwealth and the States. NACLAC is keen to hear and consider the views of other key players on this issue.

#### Increasing the funding pool

The following tables show the amount of funding provided for legal aid over the last 10 years by the Commonwealth (Table 1) and the States and Territories (Table 2). After reducing its contribution to legal aid by \$20million in 1997/98 Budget, the Commonwealth has increased its grant each year since 2000/2001. The states are now contributing more to the funding pool than the Commonwealth and the amount contributed has increased by \$75.15m, up 217%, with the Commonwealth contribution \$2.16m greater than in 1993/94.

## Legal aid - the cornerstone of access to justice

**TABLE 2.3** Commonwealth funds for legal aid 1993-2003 (\$million)

State/Territory	'93/'94	'94/'95	'95/'96	'96/'97	'97/'98	'98/'99	'99/'00	'00/'01	'01/'02	'02/'03
NSW <sup>1</sup>	38.65	38.35	38.56	41.09	31.31	31.32	31.27	33.89	36.61	39.36
VIC <sup>2</sup>	33.83	34.32	36.85	35.5	33.00	27.80	27.75	27.87	28.07	27.80
QLD	17.13	18.03	18.22	19.80	18.44	18.00	18.02	19.90	21.80	23.70
SA <sup>3</sup>	9.40	9.08	9.51	9.56	8.96	8.96	9.28	9.45	9.90	10.35
WA <sup>4</sup>	11.50	11.40	12.80	12.50	8.30	8.30	8.30	9.00	9.70	10.50
TAS	4.36	4.00	4.25	4.44	3.72	3.72	3.72	4.23	4.14	4.08
ACT <sup>5</sup>	2.42	TBA	2.69	2.71	3.12	3.00	3.00	3.17	3.07	3.92
NT <sup>6</sup>	2.39	2.23	2.28	2.59	2.01	2.01	2.01	2.11	2.42	2.13
<b>Total<sup>7</sup></b>	<b>119.68</b>	<b>117.4+</b>	<b>125.16</b>	<b>128.19</b>	<b>108.86</b>	<b>103.11</b>	<b>103.35</b>	<b>109.62</b>	<b>115.71</b>	<b>121.84</b>

<sup>1</sup>All Figures exclude funding for CLCs except Victoria.

<sup>2</sup>Figures pre 96-97 include CLC funding, 96-97 exclusive of CLC funding.

<sup>3</sup>'93-'94 includes \$417,000 for one off Commonwealth project.

<sup>4</sup>'99-'00 includes \$320,000 for Expensive Case, \$300,000 refunded when case did not proceed.

<sup>5</sup>Figures excluding funding relating to Indian/Ocean Territories Services.

<sup>6</sup>'00-'01 Figure excludes PDR funding of \$176,000

<sup>7</sup>'01-'02 Figure excludes PDR funding of \$560,000, Expensive Case funding of \$74,000 and LBT funding of \$50,000.

<sup>8</sup>'02-'03 Figure excludes PDR funding of \$110,000, Expensive Case funding of \$290,000 and LBT funding of \$50,000.

<sup>9</sup>Total Commonwealth and State funding for '95-'96 = \$4.6 million.

<sup>10</sup>'92-'93 & '96-'97 Figures include one off payments.

<sup>11</sup>'01-'02 Figures include pre-payment of \$201,800

<sup>12</sup>'02-'03 Figures exclude pre-payment of \$201,800

<sup>13</sup>Figures for '02-'03 financial year still subject to audit for some Commissions as at 10/08/03.

**TABLE 2.4** Direct State/Territory grants for legal aid 1993-2003 (\$million)

State/Territory	'93/'94	'94/'95	'95/'96	'96/'97	'97/'98	'98/'99	'99/'00	'00/'01	'01/'02	'02/'03
NSW <sup>8</sup>	15.09	17.25	22.38	21.67	23.06	24.77	30.36	34.14	46.18	55.28
VIC <sup>9</sup>	23.94	23.94	24.05	24.22	24.36	24.15	28.14	28.08	31.46	32.56
QLD	9.78	8.69	9.73	10.77	14.14	15.26	17.89	18.22	20.43	20.69
SA	3.29	4.02	4.69	4.52	4.58	6.15	7.88	8.51	9.41	9.69
WA <sup>10</sup>	7.40	7.60	8.20	8.20	10.30	11.50	13.10	12.00	12.80	13.30
TAS	2.23	2.60	2.69	2.73	2.70	2.73	2.74	3.08	2.85	3.00
ACT <sup>11</sup>	1.54	TBA	2.54	1.68	1.76	1.79	1.76	1.89	2.01	2.42
NT	0.66	0.81	0.98	1.14	1.88	1.94	1.88	1.91	2.00	2.14
<b>Totals<sup>12</sup></b>	<b>63.93</b>	<b>64.9+</b>	<b>75.26</b>	<b>74.93</b>	<b>82.78</b>	<b>88.29</b>	<b>103.75</b>	<b>107.83</b>	<b>127.14</b>	<b>139.08</b>

<sup>8</sup>All Figures exclude funding for CLCs, WDVCA except Victoria.

<sup>9</sup>Figures including funding for CLCs.

<sup>10</sup>'00-'01 Figure excludes \$644,000 for expensive cases

<sup>11</sup>'01-'02 Figure excludes \$407,000 for expensive cases & \$336,000 for Finance Brokers Inquiry

<sup>12</sup>'02-'03 Figure excludes \$686,000 for expensive cases, \$291,000 for Finance Brokers Inquiry & \$721,000 for police Royal Commission.

<sup>13</sup>Total Commonwealth and State funding for '95-'96 = \$4.6 million.

<sup>14</sup>Figures for '02-'03 financial year still subject to audit for some Commissions as at 10/08/03.

**TABLE 2.5** Total State and Commonwealth grants for legal aid 1993-2003 (\$million)

	'93/'94	'94/'95	'95/'96	'96/'97	'97/'98	'98/'99	'99/'00	'00/'01	'01/'02	'02/'03
Commonwealth	119.68	117.4+	125.16	128.19	108.86	103.11	103.35	109.62	115.71	121.84
States	63.93	64.9+	75.26	74.93	82.78	88.29	103.75	107.83	127.14	139.08

## Legal aid - the cornerstone of access to justice

While there have been some increases to the legal aid funding pool in the last decade, the impact of years of inadequate funding is that Legal Aid Commissions are being forced to ration resources through the imposition of unrealistically stringent means and merits tests and reducing the range of legal matters for which grants are available.

In 1992, the Law Council of Australia estimated that an extra \$50 million per annum was required simply to restore legal aid funding to a level that would provide assistance to all who were eligible in 1987-88. In 1996, National Legal Aid estimated that restoring funding to 1991 levels would require an additional \$64.9 million per annum.

The situation now is that only the very poor and the very well-off can be confident of getting the legal assistance they need. Even the very poor will miss out if their legal problem does not qualify for assistance. Those who can still meet the means and merits tests find that they:

- \* will only get a grant of aid if their legal matter has been classified as a 'priority' by the Commonwealth or the State;
- \* will almost certainly have to make an up-front contribution to the cost of their matter if they have any income at all other than a government pension or benefit;
- \* may have their grant of aid 'capped', and have it run out before their matter is finalised.

In addition to causing grave personal hardships, this situation is also having adverse impacts on other parts of the legal system. The most visible consequence is the increasing number of unrepresented litigants and appellants appearing before courts and tribunals in family and administrative law matters. Forty percent of those appearing in the family court are unrepresented and there are similar levels in other courts

Hidden behind this undisputed fact, however, are untold numbers of people who do not pursue their legal interests or rights at all – simply because they cannot afford to do so. This situation would not be tolerated in other areas of public policy governing basic human services, such as health care or education. It should not be tolerated in the legal area.

The unavoidable conclusion is that the size of the legal aid funding pool must be increased. Without this step, large numbers of Australians will continue to face insurmountable barriers to justice.

Again, the quantum and speed of the funding increase should be a matter for discussion and negotiation, with the views of all key stakeholders being heard and considered.

## 4. Community Legal Centres – the experts in community law

Community legal centres (CLCs) play a vital and unique role in the national 'mixed model' of legal services delivery.

*The report [of the implementation advisory group on the review of the community legal services program in Victoria] highlights the valuable contribution that community legal centres provide to the community. They should be supported in that work and encouraged to expand to areas of need.*

– Media release: Attorney General, The Hon Daryl Williams,  
1 June 2001

There are now around 207 CLCs Australia-wide, with 129 of them receiving funding under the Commonwealth Community Legal Services Program.

The latter group has a nationally consistent data reporting system which records the nature and extent of their work. In the last 8 years, these 129 centres have provided services to more than 1.5 million people throughout Australia in urban, regional and remote areas, and provided over 2.5 million instances of legal advice, information and case assistance.

In the single year of 2002-03, the 129 centres provided services to a quarter of a million people. In addition to their community legal education, policy and law reform work, these centres alone recorded approximately 450,000 individual service interactions, including:

- 262,000 instances of giving legal advice;
- 119,000 instances of providing legal information;
- 33,000 new cases opened; and
- 36,000 cases finalised.

Community legal centres provide an invaluable first point of contact for people who have little or no knowledge or experience of the legal system. While they have an open-door policy, providing basic advice and referrals to allcomers, they particularly serve the growing numbers of people who cannot afford private legal assistance and who do not qualify for legal aid.

### A Unique Law Practice

However, community legal centres are much more than 'gap fillers'. In over 30 years of operation, they have developed specialised expertise and a unique mode of service delivery that is particularly well suited to meeting the complex legal needs of the diverse communities that form Australian society.

While community legal centres provide legal assistance in most areas of law, nationally, they most commonly

provide assistance in the fields of family law, housing, credit and debt, neighbourhood disputes, motor vehicle matters, social security problems and other administrative law issues. The legal matters that are handled by CLCs in large numbers on an everyday basis fall into areas of law that are not always taught in law schools nor often practiced by the large legal firms (with the exception of some family law).

The needs of CLC clients do not fit well with legal training and the legal experience of most lawyers. They are most usually about the little but important things of everyday life.. This is 'Community Law' and community legal centres are the experts.

### A Unique Partnership

In addition to providing this particular expertise in community law that is in short supply elsewhere in the legal system, CLCs are also centres of innovation in legal service delivery. Their numerous volunteer lawyers and paid staff work together to produce high quality outcomes for both individual clients and society as a whole.

*The CLC method of service delivery is.... a unique and highly effective system. It is a sophisticated approach which acts in the long term to change individual legal problems into solutions which wider groups can access.*

[Report of the] Review of Community Legal Centre Funding [Queensland], The Wright Consultancy, 1997.

While diverse in terms of their precise aims and character, all CLCs share a common commitment to:

- being accessible to their clients – in terms of affordability, location, opening hours, language and atmosphere;
- adopting a holistic approach in their service provision, and providing an integrated range of services;
- emphasising a preventative approach, including through placing a high priority on community legal education;
- involving clients and community groups in defining and resolving their legal problems;
- transferring skills on an individual and group level, and building the capacity of the communities in which they work to effectively address their legal needs;
- tackling the structural causes of legal needs and problems, rather than simply treating the symptoms;

- giving community members the opportunity to participate in the management of the centres, and implementing a variety of mechanisms to ensure they are accountable to their communities.

CLCs operate not only in partnership with their local community, but also in partnership with many private practitioners and legal aid lawyers who volunteer their time, expertise and energy to the work of the centres. Government funding of CLCs pays a dividend, in that centres actually leverage extra resources into the system through attracting and organising substantial volunteer labour. Beyond this cost-effectiveness of CLCs, it is in the interests of governments as well as the community for the independence of CLCs to be protected, for this valuable volunteer contribution will dry up rapidly if centres are forced to become 'little arms of the State'.

### Time for a new deal

Community legal centres have provided over one and half million people with legal assistance in the last eight years alone. Given that CLCs resolve most people's problems without recourse to the courts, it is safe to assume that the financial savings to governments have been substantial. The savings in human terms, while incalculable, have been even higher.

Despite this enormous contribution to the public good, the Commonwealth CLC program has had only a modest increase in the total quantum of funds since the mid-1990s, and most of this has been directed towards the establishment of new centres in regional Australia.

CLCs agree that there is a great need to improve access to legal services in rural and remote areas but do not believe there should be a trade-off between this need and the equally compelling need of existing services to be properly funded.

CLCs continuously suffer from staff recruitment problems due mostly to the poor wages that centres are able to pay. Centres are able to attract and retain staff because the work they do is both satisfying and

worthwhile. But often commitment and a sense of purpose is not enough when trying to manage personal financial responsibilities and experienced staff are forced to move to better paid jobs. If these staff recruitment and retention problems are not addressed or worsen, they will jeopardise the effective and efficient delivery of essential services not provided elsewhere by the legal sector.

Centres are also being placed under greater stress as a result of various changes in their operating environments including more complex management requirements, increased operating costs in areas such as rent and insurance, new industrial awards, and higher levels of community demand). CLCs desperately need relief – and, given their track record, they have a right to expect it.

The primary responsibility for improving the funding situation of CLCs lies with the Commonwealth. The States and Territories should also contribute to the funding pool but their performance in relation to CLCs is very uneven. While States such as NSW, Victoria, Queensland and South Australia have always made significant funds available to supplement those provided by the Commonwealth, three (Tasmania, the ACT and the NT) have contributed nothing to the Community Legal Services Program and West Australia has contributed very little.

It is past time for a more serious and thoughtful approach – one that seeks broad agreement on the need for a progressive increase in the total pool of funds to ensure a well-functioning national network of centres.

The National Association of Community Legal Centres is in the process of producing data and costings to inform this task and will soon be distributing a second paper on the issue. At this point, we are seeking in-principle agreement from other key players that a new approach is needed and a commitment that they will give serious consideration to the specific proposals we will develop.

## 5. Indigenous Legal Need

Australia's 'First Peoples' still fall well behind the rest of the population on key indicators of economic and social well-being such as health, housing, employment, education and income. This situation, combined with the legacy of dispossession and the impact of discrimination and racism, means that Aboriginal and Torres Strait Islander people have higher levels of legal need than the rest of the community and face particular difficulties in their dealings with the legal system.

Indigenous women are the single most legally disadvantaged group in our society and the Indigenous Women's Legal Projects (IWLP) are a critical area of work within community legal centres. CLC believes that one of the top priorities of a new partnership should be improving legal access and justice outcomes for Indigenous people and communities and in particular, for Indigenous women.

### Aboriginal Legal Services

More legal casework for Indigenous people is conducted by Aboriginal Legal Services which are managed by Indigenous boards. Most provide a mix of services (advice, legal assistance, community education and policy development) and, in this respect, are similar to mainstream community legal centres. However, they are the primary provider of free legal services to their community, and so in this respect they are similar to Legal Aid Commissions. In most States, the ALS does 80 to 90% of all criminal law casework, and in some States it conducts more than 50% of all civil and family law casework.

Aboriginal Legal Services are extremely cost-efficient. Their current funding amounts to \$38 million per annum. A recent evaluation by the Office of Evaluation and Audit (ATSIC) found that it would cost the public purse \$25 million more if Legal Aid Commissions were to pay private solicitors to do the work. The report recommended funding increases and also concluded that tendering was not likely to be a successful strategy for improved effectiveness. The Commonwealth Government does not appear to have heeded this report.

There have been six years of uncertainty about whether Aboriginal Legal Services should be put out to competitive tender or their funding shifted to mainstream organisations. During this time, funding has fallen behind other legal aid providers despite the fact that the size of the Indigenous population is increasing much more quickly than the non indigenous population.

While community legal centres recently moved to triennial funding, ALSs were told in July 2003 that they would only receive six months funding. This is a move that will encourage existing staff to leave and deter new staff from joining. ALSs are essential to 'doing justice', but their capacity is being undermined by policy and financial neglect.

### Indigenous women

The Australian Law Reform Commission's 1994 report on Equality Before the Law identified Indigenous women as the single most legally disadvantaged group in our society. The numerous and alarming indicators of the extreme disadvantage of Indigenous women are bound up with socio-economic deprivation, violence, and geographic location and isolation. Cultural factors also have an impact on the full use of legal services, especially in areas where traditional culture is strong and/or where there is a long history of social exclusion. Language barriers also exist for many women, particularly in rural and remote areas.

Some progress has been made since the mid-1990s in tackling this severe and unacceptable level of legal disadvantage. The Aboriginal and Torres Strait Islander Commission (ATSIC) has acknowledged the previous gender bias in the legal services it is responsible for funding, and has now developed and implemented guidelines to improve women's access of women to these standard services. In 1998, it also began establishing Family Violence Prevention Legal Units (FVPLUs) and there are now 14 of these units focusing on a particular town or region. The Commonwealth government too has taken some important steps, including funding 10 Indigenous Women's Legal Projects which are auspiced by existing community legal services. All of these initiatives have a strong preventative focus and adopt a community capacity building approach in addressing both immediate needs and the underlying structural causes.

As often happens, this progress has only served to emphasise just how much further there is to go in terms of achieving equality. There are, for example, no FVPLUs in either Tasmania or the ACT, and there are high-need areas in other States that ATSIC has not been able to service. There is a need for specific supplementation by the Commonwealth of ATSIC funds so it is able to extend this effective initiative.

The same need for extra resources exists in relation to the Indigenous Women's Legal Projects. There is still



## Indigenous Legal Need

no IWLP in Victoria or the ACT, and the funds provided to both Tasmania and West Australia are particularly unrealistic. Given the widely-recognised importance of Indigenous self-determination and the improved outcomes that flow from adopting this approach in human services, ear-marked funds are also required to allow these projects to explore options and avenues to become independent self-managing organisations. This could best be achieved by formally recognising the existence of the National Network of Indigenous Women's Legal Services through funds that support its service development and coordination role.

## 6. Pro Bono Legal Assistance

### A major contributor to improving access

Australian Bureau of Statistics research in 2001 found that Australian lawyers in private practice reported doing around one million hours of pro bono work annually. This figure needs to be treated with some caution due to the research sample size and methodology, and the fact that not all of this reported free legal work is performed for clients who could reasonably be classified as disadvantaged. Nevertheless, pro bono legal services clearly make a considerable contribution to the legal needs of disadvantaged people.

Pro bono services can be provided in many different ways by both law firms and individual lawyers. They can involve providing direct assistance to individuals – through taking on cases within the law firm, volunteering at community legal services, seconding staff to community legal organisations, or participating in

Pro Bono Resource Centre, established by the Commonwealth, is currently undertaking a project to 'map' the provision of pro bono legal services nation-wide. Of particular note is the growing number of programs that combine the skills, knowledge and resources of community legal centres with those of law firms and barristers willing to undertake pro bono work. A number of these initiatives are documented in a paper produced by the Centre: Working Together: multi-tiered pro bono relationships between law firms and community legal organisations (available at [www.nationalprobono.org.au](http://www.nationalprobono.org.au)).

If we are to successfully build on the willingness of the private legal profession to contribute their expertise on a pro bono basis, a number of barriers need to be overcome. These include tackling the apparent mis-match between the areas of law with the highest incidence of unmet legal needs, and those where the private profession is most likely to be expert. Centres

## 7. The way forward

The National Association of Community Legal Centres believes there is a growing national imperative to address the issues that have been outlined briefly in this paper. Our sense of urgency is fuelled by our daily contact with ordinary people and communities in every corner of Australia. Our coal-face position means we are continually coming up against the hard cold facts that others can choose to ignore.

Every day in our working lives, we confront:

- the hardships facing people who have been denied legal aid even though they have no hope of affording a private lawyer;
- the problems caused by a legal aid umbrella that is no longer covering many types of legal matters that have great personal significance;
- the sense of social exclusion that comes from people feeling that they cannot 'get justice' and that the system is stacked against them; and
- the inadequacy of our own resources to tackle these problems alone.

We can no longer confront these realities alone – and we certainly cannot change them alone.

The time has come to ask others who share a concern and a responsibility for our system of law and justice – the various arms of government at both federal and state levels, the different parts of the legal profession, peak bodies and service providers in related disciplines and sectors, and other interested community groups – to join with us in a new partnership to build a fairer and more effective system that can deliver justice for all.

# doing justice

Acting together to  
make a difference

## AN EXTRACT

The National Association of Community Legal Centres (NACLC) serves a network of around 207 free and (mostly) neighbourhood-based community legal centres (CLCs) located throughout Australia in urban, regional and remote locations. This means that we have daily contact with a wider range of people, service providers and organisations than any other part of the legal system.

We practice 'community law' that responds in a unique and effective way to community needs – whether that community is a geographical area or a group of people with similar needs and interests. As such, CLCs have developed an in-depth understanding of how the law and the legal system impact on specific communities within Australia but also on our society as a whole.

The 'Doing Justice' paper sets out our views about some of the main fault lines in the contemporary justice system, and suggests some ways to move forward in tackling them more effectively. It quite deliberately maps out only broad directions for future change in a few key areas because we wish this paper to be a conversation-starter, not a debate-closer.

Our goal is to begin the process of developing more vigorous partnerships based on shared understandings and joint action to build a fairer and more effective system of justice in Australia – one that is capable of delivering better outcomes for more people.

NACLC believes that it is critically important that the law and justice system operates fairly and well given that it permeates almost every aspect of individual and collective life.

The law affects the little things of everyday life as well as the larger things. However, most people only really notice or think

their current and future lives when more momentous events occur.

And despite the public emphasis on criminal law, most direct interactions with the legal system occur in the areas of family law, civil law and administrative law. Many, if not most, of the dealings that people have with the law occur across counters or in ordinary rooms, rather than in formal court settings.

But the law operates on a much larger canvas too. In a very fundamental way, it establishes the shape of a society and its character. The major operational assumption of our democracy – the checks and balances embodied in the separation of the powers of parliament, executive and judiciary – mostly goes unremarked and unchallenged in Australia. In recent years, however, debates around issues such as native title and asylum seekers, border protection and territorial law, and detention with or without trial, have highlighted the importance of this basic principle within Australian society.

Similarly there have been difficult public debates over criminal sentencing regimes, and mandatory sentencing in both the criminal and immigration jurisdictions. They have provided a powerful reminder of the high stakes involved for any democracy in the handling of these issues. They have also been a reminder of the balancing act that is central to the system of justice.

## A new approach

These debates have generated intense public interest but this has not translated into a similar level of public concern about all parts of the legal system charged with ensuring that 'justice is done'. Yet there are serious inadequacies in many areas that urgently require attention and that NACLC believes should be a strong focus of a new



BUDGET SUBMISSION TO THE  
COMMUNIST PARTY GOVERNMENT 2004-2009

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# Community Legal Centres





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August 2003



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## Uncovering the real situation

The bottom line showing growth in the Commonwealth funding program for community legal centres (CLCs) does not reflect the financial situation of most centres.

For several years, workers on the ground have known that this nominal growth does not tally with their 'lived experience' in the centres. This has been particularly true for the older and more established centres that have been serving their communities for up to 30 years. Although long used to coping with financial restraints, they have been reporting a very noticeable deterioration in their situation and a growing gap between their resources and the true cost of fulfilling their charters and delivering their service.

Faced with this apparent contradiction between growth in program funds and increasing financial constraints in centres, NACLC decided to undertake a thorough analysis of the movements in the Commonwealth funding program since 1990-91, with a particular emphasis on the past five years. A senior economist undertook this work on a pro bono basis in 2002 using funding data provided by the Commonwealth. (The economic modelling is available from NACLC on request in Excel spreadsheet form.)

NACLC also asked its members in mid-2003 to provide some basic information about their actual expenditure on a few key items that are common to the core work of all CLCs. Despite the tight turnaround time, 80 centres provided information for this 'snapshot survey'. Their responses help flesh-out the operational meaning and implications of the more systematic economic analysis.

The findings of these two exercises, when combined with our pre-existing knowledge, constitute a powerful argument for a significant increase in the Commonwealth allocation to community legal centres in the coming triennium (2004-2007).

This paper consolidates the new findings and our lived experience into a series of 'Facts' that accurately reflect the financial situation of the CLC network. It is presented by NACLC to the Commonwealth in the fervent hope that it will shift our dialogue and negotiations around funding levels to a new plane, and that the end-result will be better outcomes for the clients and communities that we both seek to serve.

# 1 Fact One

Almost all of the growth in the total quantum of funds for the Commonwealth CLC program has been directed towards Program enhancements. While conferring benefits on previously poorly-served groups and regions, and contributing to better program management, these measures have not increased the capacity of most centres to undertake their core work.

The Program enhancements have included:

- the establishment of new centres (especially in rural and remote areas);
- the establishment of new service initiatives (such as services for Indigenous women or the Regional Law Hotline);
- the introduction of a special 'loading' for high litigation and remote centres;
- specific operational improvements in the program itself (such as the development of services standards and nationally consistent data collection and reporting systems); and
- 'one-off' special purpose or project grants (such as compensation for the cost of compulsory superannuation and a 40% contribution to professional indemnity insurance cost for centres).

These enhancements have delivered significant benefits to some regions (where new centres have been established), some client groups (who received new or improved services), and some types of centres (that received loadings to account for unusual cost structures).

It would be a mistake, however, to interpret these welcome developments as meaning that the day-to-day situation of most centres, especially the more established centres, has improved in terms of the resources available to carry out their core work.

For over a decade, there has been a widely accepted funding formula for CLCs which states that three full-time positions constitutes the minimal staffing level for operational and service delivery viability. This minimum standard continues to be elusive and has not yet been reached in all centres. The funding formula has many flaws. It is not based on the real operating costs of centres, nor does it use salary scales that are comparable to those of Legal Aid or government solicitors. The formula is also rigid, not allowing for the differences between centres in relation to the populations they serve or the legal issues they cover.

The NACLCLC submits that a new approach to funding community legal centres needs to be adopted that will deliver a minimum level of core recurrent funds to ensure adequate service delivery. This minimum standard should be fully implemented by the end of the coming funding triennium. This paper outlines both the arguments for change and proposes the basis for future funding.

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## Fact Two

After adjustments for new activities have been made, Commonwealth funding for community legal centres has increased by 2.45% per annum over the five years from 1997 to 2002. During this same period, Average Weekly Earnings rose by 4.5%. This discrepancy translates into 10.25% cumulative shortfall in the already low base line staffing budgets of CLCs.

reporting that, on average, staffing costs account for

## 6 Fact Six

A new approach to determining funding can reflect the realistic costs of community legal centres, allow for the diversity of CLC's and result in maintenance of CLC capacity to deliver effective community legal services.

A new funding model is proposed that:

- Bases the rates of pay for CLC's on comparable classifications employed in the Commonwealth public sector
- Allows for flexibility for CLC's to determine the actual composition of staff within each centre
- Addresses the real operating costs of CLC's, including costs that are specific to the operation of community legal services
- Provides for a loading that recognises the additional costs incurred by centres in rural/remote areas
- Introduces the increases over a three-year period.

### Staffing mix and costs of CLC's

While each community legal centre will need to determine the actual staffing composition to most effectively service the target group/legal specialty area, core functions of a typical community legal centre will require:

- A **manager/coordinator** with high levels of competency in financial and human resource management, policy and coordination skills in the legal arena and skills in working with voluntary boards of management in relation to governance of the organisation.
- A **senior or principal solicitor** who can provide high level supervision to volunteers and/or less experienced legal officers, determine cases that should be provided with assistance and ensure quality assurance of legal services provided.
- A **less experienced legal officer** who can provide legal advice and assistance on an independent basis in the area of specialty needed.

- A **community development/legal education officer** with high level skills in designing and delivery of community legal education (including use of education technology) and working collaboratively to increase community capacity in legal understanding and knowledge.
- **Experienced finance/administrative worker** who has high level organisational skills that include competencies in data management, bookkeeping, organisational systems and record keeping.
- **Volunteer coordinator/administrative worker** who has high-level skills in customer relations and working with a range of clients and professionals.

To date, the funding to centres has assumed that community legal centres can appropriately base salaries on the Social and Community Services Award. As has already been demonstrated, community legal centres are finding it increasingly difficult to attract and retain staff on this award, which does not acknowledge the specific skills required for the operation of legal centres.

NALC proposes that the appropriate comparable salary scale is more closely aligned to the Commonwealth Attorney General's Department Workplace Agreement of 2002, as outlined below. This agreement is proposed as it is national and includes the range of employee classifications that most closely align to a community legal centre's staffing structure. The following table outlines the salary and on-costs for a centre using the proposed core staffing structure, based on the this agreement.<sup>3</sup> It provides a basis for a funding formula for calculating equivalent full time salaries across staffing classifications, allowing centres to flexibly determine the actual staffing mix.

CLC position	AG's equivalent	Salary (mid range)	Total plus on-costs
Manager/Coordinator	Executive level 1 or 2	EL1 \$73,005	\$90,526
	EL1 \$65,867 to \$80,144	EL2 \$83,625	\$103,695
	EL2 \$75,968 to \$91,282		
Senior Legal Officer	Executive level 1 or 2	EL1 \$73,005	\$90,526
	EL1 \$65,867 to \$80,144	EL2 \$83,625	\$103,695
	EL2 \$75,968 to \$91,282		
Legal Officer	APS 3-6 \$38,268 to \$59,022	\$48,645	\$60,319
Community Legal Ed/Dev(graduate)	APS 4-6 \$42,651 to \$59,022	\$50,836	\$63,036
Finance/Administration (graduate)	APS 3-6 \$42,651 to \$59,022	\$48,645	\$60,319
Volunteer/Administration (non-graduate)	APS 3 \$38,268 to \$41,302	\$39,785	\$49,333

The following table indicates the cost of paying existing centre staff at the above rates.

TOTAL staff	Full time	Part time
125 Centres		
Solicitors	217	145
Other staff	208	348
Solicitors	\$ 16,919,746.00	\$ 4,373,127.50
Other staff	\$ 16,322,227.00	\$ 10,495,506.00
Totals	\$ 33,241,973.00	\$ 14,868,633.50
Total Cost	\$ 48,110,606.50	
Increase	\$ 18,010,606.50	

### Operating costs for metropolitan centres

Operating costs are more difficult to calculate as there are large variations between CLC's costs depending on location, size and purpose. (Facts 3 & 4 detail these costs) However costs identified by CLC's within the survey undertaken for this paper and by the ABS study of Legal Practices provide an indicative picture of the proportion of funds expended on salaries in comparison to other costs. The ABS study identified a salary component of CLC expenditure of 66%, while the CLC survey identified a figure of 72%.

If a midway figure is taken between these two levels of 69% labour cost component, then a typical CLC's metropolitan core funding would result in 31% being spent on operating or overhead costs.

In 2002/2003 the Community Legal Services Program provided \$30.1 million in funding to centres. 31% of this funding could then be estimated as having been allocated to operating overheads at centres. Using the increases to the different types of expenses at centres and including the cumulative impact of actual increases to funding not meeting actual increases in costs, NACLCL calculates a one-off 50% increase to the operating cost component of funding is required.

The actual increase is calculated below:

31% of current \$30.1m	\$9.331m
with 50% increment	\$13.995m
<b>Increase in operating overheads</b>	<b>\$4.665m</b>
Average increase per centre	\$37,320

### Additional loadings for rural/remote centres

Centres located in rural/remote communities are recognised as having substantially additional costs as

outlined earlier. The survey of 80 CLCs listed these additional & higher than metropolitan costs to include: leasing of cars and running expenses used to service outlying communities; increased recruitment costs – advertising, interviews, relocation etc.; all forms of travel; all goods, particularly IT equipment, in remote locations; and especially, high communications costs. Depending on remoteness of the location, and the communities served, the survey indicated that these costs vary considerably.

NACLCL proposes the introduction of an increase to the loading in recognition of these costs. However, in addition to the increased loading, individual CLC's servicing large/remote areas should have scope to negotiate funds according to identified needs.

This is the approach taken to funding in many services funded by the Commonwealth Department of Family and Community Services. The Reconnect program for instance has a number of services providing assistance to remote Indigenous communities. While there is a basic model for a Reconnect service (including purpose, staffing and anticipated outcomes), this is varied through individual negotiation according to a Reconnect services proposed methods for addressing identified needs.

The following table outlines the average additional loading for a rural/remote CLC

NACLCL proposes an additional loading of 50% of metropolitan CLC overhead costs for rural/remote CLC's.

Average increase to centre overhead costs	\$37,320
Rural remote loading increase	\$18,660
<b>Total cost of rural/remote loading for 48 centres</b>	<b>\$895,680</b>

## 7 Fact Seven

The total funding to Community Legal Centres needs to be increased by \$23.561m over the next three-year period, with funding increases to begin in the 2004/5 year to rural/remote services and to urban services that have lowest funding levels from combined sources. All centres should receive the increases by 2006/7.

Currently the funding of the CLC program is unevenly divided between the Commonwealth and states, with NSW and Victoria contributing the highest levels of funding, whilst WA and Tasmania do not provide a state contribution to the Community Legal Services Program. This has led to inequitable funding levels and access to CLC's across Australia. This is a matter for ongoing discussion between Commonwealth and State/territory governments.

However, it is possible for the Commonwealth to take a lead in addressing the decreasing capacity of CLCs. The total Commonwealth contribution to the Program in 2002/2003 was \$20.4million.

There are currently 125 funded CLC's through national Community Legal Service Program, and of these, 48 are rural/remote services. Calculating the cost of the program based on increasing wages to existing staff at existing centres plus operating costs (and the loading for remote services), this would require a total Commonwealth funding allocation of \$53,671,000. The following table outlines the current funding and

the proposed level of funding required for the total program.

NACLCS recognises that this represents a substantial funding increase to community legal centres and this increased allocation will require both a phasing in over the next triennium and negotiation between the Commonwealth and the states/territories on sharing responsibility for the ongoing funding to the program.

We suggest that funding increases in the first year should be directed to rural/remote services and to urban services that have lowest funding levels from combined sources. In the second and third year of the program, increases should be directed across the rest of the program to provide this level of funding for every service.

Having established realistic base line funding levels, the program allocation should also include ongoing indexation to ensure that capacity is maintained and that CLC's do not slip behind again.

	2002 funding allocation	Proposed allocation	Increase required
Wages		\$ 48,110,000	\$18,000,000
Overhead Costs		\$ 4,665,000	\$ 4,665,000
Rural/remote 48 CLCs		\$ 896,000	\$ 896,000
<b>Total</b>	<b>\$30,100,000</b>	<b>\$53,671,000</b>	<b>\$23,561,000</b>



## 8 Fact Eight

Spending funds on CLCs to provide access to legal advice and assistance decreases the social and financial burden to individuals and to the Australian community.

CLCs are acknowledged as providing cost effective access to the majority of Australians who would otherwise be left without access to legal advice and assistance. CLCs are positioned at the prevention and early intervention end of the legal system, working to reduce the likelihood of litigation, as well as other negative social consequences. Many of the matters that CLCs address will not result in court if advice is not provided. Rather the failure to gain legal advice will deny consumers of legal centres access to services that they are entitled to or result in worsening life circumstances. Few studies have been conducted that demonstrate the savings in these broader social costs as a result of access to timely legal advice.

However, there are some indicators of savings that can be made by funding access to quality CLCs.

### Family Law

A recent study of the Columbus Pilot in the family Court of Western Australia has costed intervention through traditional court approaches versus an approach that uses magistrates with family counsellors in entrenched disputes in family court matters. While this alternate approach is not directly comparable to PDR services (in that PDR services are less likely to have such entrenched disputes), the alternate intervention method uses much the same model as PDR.

The social costs to young people and families of a failure to come to a clear agreement following separation are well documented. In response to these costs governments have funded an increasing number of services directed towards dealing with ameliorating the outcomes of acrimonious family breakdown.

CLCs provide 32% of all advice and assistance per year in relation to family law.

### Cost of homelessness

CLCs work extensively in the area of housing and tenancy matters, providing 14% of advice and assistance per year. In addition, CLCs provide 7% of advice around consumer credit and debt. A typical case recently seen by the Consumer Credit Legal Centre (NSW) illustrates the housing and debt related issues that legal centres provide assistance.

Ms P was behind on her mortgage. Her income had unexpectedly reduced due to a relationship breakdown and she was also having difficulties paying her credit cards. She did not owe a lot of money on her credit cards but she could not quite make ends meet. She really started to panic when she was threatened (quite inappropriately) with the forced sale of her home by a debt collector pursuing a credit card debt of less than \$2000.

Ms P saw an advertisement in the newspaper for what sounded like a non-bank lender. The ad said that loans could be obtained for anyone regardless of their

contract in which she had unwittingly agreed to pay the brokers over \$3000 for arranging a loan. The contract was quite specific about the payment of the broker but rather vague on what would constitute a suitable loan. CCLC (NSW) Inc acted for Ms P to defend the Local Court action for fees. The matter was settled on the basis that no fees would be paid and each party would pay their own costs of the legal action. In this case legal advice was timely and prevented Ms P from having the forced sale of her home.

The costs of homelessness are high. A recent US study on the public intervention costs of homelessness found that the annual average cost per family that became homeless was \$77,200<sup>5</sup>.

### Volunteer Contribution

NACLC has calculated that the 3560 volunteers who provided services at centres last year made an in-kind contribution of \$21.5m to the program. This figure is calculated using the wage rate of Legal Officer. In practice, many of the volunteers at centres are senior lawyers whose price would be far in excess of this wage level if the government were required to pay the real cost.

While NACLC is unable to calculate the actual savings to the community and other government budgets through the work of community legal centres, these case studies indicate that the work of CLCs is not merely a cost to government, but in practice produces savings in other areas. The \$21.5m in-kind contribution of volunteers shows that the provision of funds to community legal centres is an investment in value, and a valuable investment in the assets of community law.

## **SUMMARY: Submission to 2004-05 State Budget**

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### **About Community Legal Centres (CLC's)**

Community Legal Centres have been an integral and indispensable part of the legal landscape in Victoria for thirty years. There is currently 47 Community Legal Centres (CLC's) in Victoria, comprising both specialist and generalist centres, with the Federation of Community Legal Centres as the peak body.

There are specific characteristics, which make CLC's unique in their provision of accessible legal services and ensure their lasting place in Victoria's legal system.

#### ***The Way We Work - Independent - Community Managed - Community Driven***

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- **Philosophy** based on a commitment to social justice the right to a fair and accessible legal system
- **Community partnership**, working in collaboration with their respective communities.
- **Volunteer Commitment**, the volunteer base of CLC's spans across gender and age. Volunteers participate in all aspects of management and service delivery of CLC's.
- **Places of Learning:** There are currently several formal and semi formal Clinical Legal Education Programs operating in Victoria. The value of the **community law** practiced by CLC's has long been recognised by University Law Schools, as offering their students a 'hands on' experience not available in the lecture theatre.

#### **The Service We Provide**

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A holistic approach to the provision of Legal Services: CLC's are unique in their provision of holistic legal services, looking not only on the symptom (the legal problem) but also the potential causes to their legal problem.

- **Casework/Court representation:** working with individuals or groups to resolve their legal problems in a way that respects individuals rights to make choices based on information that is accessible in it's presentation and language.
- **Advice and referral:** CLC's provide advice and referral to many thousands of people each year. While their main job is offering legal advice, CLC's recognise that the legal problem is often symptomatic of another issue.
- **Preventative Law** by increasing awareness of legal issues and processes to the broader community
- **Responsive Delivery** by delivering community legal education programs when casework indicates the prevalence of a specific issue.
- **Law Reform** by influencing changes in areas of policy law reform that potentially will negatively impact on the community.

## **Community Legal Centres – Integral to Achieving a ‘Fair and Accessible Justice System for All Victorians’**

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The Federation of Community Legal Centres considers itself and indeed is seen by the community and legal sectors as integral in a justice system which

*“...is about protecting the rights of all citizens and ensuring that people are treated fairly ... [and] about ensuring equality of access before the law, regardless of financial resources, gender, ethnicity, age or sexual orientation.”<sup>1</sup>*

CLC’s are integral to the State Government’s priorities (across departments) as identified in the following key direction statements. The areas specifically highlighted below are congruent with the aims of CLC’s in terms of making legal services accessible to the broader community, particularly the most disadvantaged, facilitating their participation, not just in the resolution of their legal problems but, in the broader community.

- **Growing Victoria Together – State Government Priorities**

- High quality, accessible health and community services
- Growing and Linking all of Victoria
- Promoting rights and respecting diversity

- **Justice Statement**

CLC’s have a specific role in both the development and implementation of the proposed Justice Statement. Historically and currently the goal of CLC’s has always been to increase access to justice. In practical terms this has and continues to mean that legal services are offered to the community in ways, which enhance the communities understanding, and their participation their legal problem.

- **Victorian State Disability Plan 2002-2012**

The Principle of Equality recognises that people with a disability are citizens who have the right to be respected and the right to have equal opportunities to participate in the social, economic, cultural, political and spiritual life of society.

- **Women’s Safety Strategy**

- Reduce barriers to women disclosing violence and seeking assistance
- Improve responsiveness to women who have experienced violence
- Provide a comprehensive approach to addressing the needs of women and children experiences of family and domestic violence



## The need for a new funding formula

Funding of CLC's is a shared Commonwealth & State Government responsibility. At times there has been significant tension between the differing priorities identified by those levels of government. This has affected the growth and development of community legal centres to the point that there is now significant variance in the levels of funding provided to individual centres, as well as the extent to which their services are available throughout Victoria. In addition, the current funding formula is also problematic in that it:

- Does not incorporate increases in operating costs
- Does not recognise the increased cost of providing a service to rural and regional communities spread over a large geographic area
- Wage levels are significantly lower than public or private sector counterparts. This has led to significant difficulties in attracting and retaining experienced staff.

## The way forward – a more realistic funding formula

A new approach to determining funding can reflect the realistic costs of community legal centres, allow for the diversity of CLC's and result in maintenance of CLC capacity to deliver effective community legal services.

### Wage Parity

The salary levels for CLC staff based on the current *SACS Award Community Development Worker* rates are proving unworkable and certainly unsustainable in the longer term, given that many experienced CLC staff have reached the top of the salary scales.

The following table provides an example of the wage disparity between CLC's and Commonwealth Public Service. The table as developed by the NACLC represents the salary levels considered to be appropriate in that they accurately reflect the type of work performed by CLC staff.

CLC position	AG's equivalent	Salary (mid range)	Total plus on-costs	Current CLC salary plus 15% on-costs	Variance
Manager/Coordinator	Executive level 1 or 2 EL1 \$65,867 to \$80,144	EL1 \$73,005	\$90,526	\$54,400*	\$31,126
	EL2 \$75,968 to \$91,282	EL2 \$83,625	\$103,695		
Senior Legal Officer	Executive level 1 or 2 EL1 \$65,867 to \$80,144	EL1 \$73,005	\$90,526	\$54,400*	\$31,126
	EL2 \$75,968 to \$91,282	EL2 \$83,625	\$103,695		

Adapted from NACLC Budget Submission 2004-07 (August 2003)

\*Note: these figures represent a full time salary at the highest rate within the SACS Award

### 5 EFT Minimum Funding Level

For many years the notion of 3 Effective Full Time (EFT) was seen as the minimum funding level on which a Community Legal Centre could operate and hope to provide an adequate service to their respective communities. It is, however, becoming increasingly clear that the notion of providing services to communities, based on the old formula 3 EFT minimum funding

levels is unrealistic and unsustainable in both the short or longer term. The Federation of Community Legal Centres recognises this model will require a substantial increase in sector funding and that there may need to be a staggered implementation period that will enable such increases to be managed effectively.

#### Rural, regional and specialist centre loadings:

There is a need to appropriately fund rural and regional community and specialist legal centres to meet the real costs of providing regional and statewide services. In the absence of a formal determination by Government of the level of the rural operating costs loading, the Federation suggests that a 32% rural loading apply to rural, regional and specialist community legal centres.

#### Recommendation

That the Victorian Government recognise the need for a new funding formula based on 5 EFT, incorporating:

- Bringing centres up to minimum 5 EFT to be implemented over a 3 year period - \$2,101,420 State recurrent; \$2,139,754 Commonwealth recurrent.
- 32% loadings for rural and regional and specialist centres - \$132,445 recurrent
- Incorporates CPI increases into future funding allocations

## Ongoing Costs

### Contingencies

In our State Budget submissions for the years 2001-02 and 2002-03 the Federation advocated the re-establishment of a fund for contingencies and emergency grants. In this budget cycle, we maintain our call for a scheme to cover unforeseen items of expenditure such as relocation, rent increases being so large as to necessitate relocation, and other unanticipated outlays.

**Cost: An initial outlay of \$70,000, with \$30,000 in recurrent funds to establish the contingency fund at \$100,000 at 1 July 2005.**

### Counselling and Debriefing - ongoing

In 2003 Centres proposed that funds be provided to assist CLC's in meeting the obligations imposed by the Occupational Health & Safety Act 1985, to protect the welfare of employees<sup>2</sup>. Specifically Counselling and Debriefing Service for CLC staff with critical incident support for volunteers. This proposal was supported with an allocation of \$7,000 (\$14,000 short of funds requested) for a pilot of one year. In the interests of service continuity and to ensure that CLC's OH&S obligations as outlined within the requirements stipulated by the Occupational Health & safety Act (Vic) 1985 continue to be met, we propose that funding be continued.

**Cost: \$10,000 on an ongoing basis to maintain service levels**

### Intervention Order Court Support Programs

Community Legal Centres have been at the forefront of delivering legal and domestic violence support services to applicants seeking intervention orders in the Magistrate's Court for many years. As a Statewide Network, CLCs offer a valuable resource for government in the collaborative and consultative processes of addressing domestic violence issues. There are 12 current services coordinated and provided by Community Legal Centres. Direct funding for these services and for the network does not currently exist and CLCs have supported such services as a priority within general budgetary constraints. Funding is sought to ensure these services continue.

**Cost: \$138,2049.00 + \$78,795.00: Total of \$1,460,844**

## Butterworths Electronic Looseleaf Service

Funding is sought that would ensure all centres continue to receive Butterworths Electronic Looseleaf Service. The loose-leaf service is critical to the provision of up to date legal information and advice to clients.

**Cost: Ongoing costs of Butterworths Electronic Looseleaf Service \$33,317 each year for the next two years**

## Broadband

Access to fast information on line is essential for CLC's. Faster access to web based information will ensure CLC's access to vital information necessary for the provision of services to the community. In addition it will facilitate greater use of online technology both for their own research purposes as well as servicing the information needs of clients.

**Cost: \$54,176**

## Website

With the assistance of a special grant from the Attorney General the Federation of Community Legal Centres has put basic infrastructure in place to facilitate the development and use of web sites for all CLC's, thus increasing the access to legal information by the community. Additional funds are needed to further develop this infrastructure and work towards making the ongoing maintenance and development self-sustaining.

**Cost: Based on a contract rate of \$50 per hour (Inc GST) a budget of \$15,000 is required.**

## Sector development

### Program Development and Support Unit

In order to support the development of innovative partnerships between community legal centres and expansion to meet identified areas of need, resources will need to be devoted toward increasing the level of collaboration within the sector.

Four specific positions have been identified:

- **Information Technology**

A full-time position or out sourced contract, the ICT worker would provide a number of services, including training and further develop web based services to meet the varied needs of CLC's and their clients.

- **Broadening Areas of Program Development**

This full-time position would act as a central resource for all Community Legal Centres, and would focus on addressing program issues related to collaboration between centres., with a view to extend services.

- **Enhancing Services to Rural and Regional Areas**

A full-time position which would work principally with rural and regional Community Legal Centres to undertake a range of project development activities aimed at strategically extending and enhancing service delivery to Rural/Regional communities.

- **Establishing a Research Centre**

Funding is sought to establish a research centre for Community Legal Centres in Victoria.

- Conduct research and write reports on community legal issues.

- Collect and analyse data that could be used to provide valuable 'on the ground' information to



- Develop partnerships with industry, tertiary institutions and government

**Cost: To establish these four positions in 2004-05, inclusive of travel would cost \$319,532.00.**

### **In house publishing**

In addition to the grants sought from outside the CLC funding program for specific publications, Centres produce a substantial amount of material 'in house' each year for distribution to their clients. In order to ensure a constantly high quality of material produced 'in house' by CLC's the Federation proposes to develop and 'In House Publishing' facility.

**Cost :Computer \$2,000; printer \$1,200; software \$2,900;training 20 people @ \$2,000 each - \$40,000 total: \$46,100**

## **Increasing Access to Services**

### **Disability Access**

In 2003 the Federation of CLC's conducted research into the access of people with disabilities to services provided by Community Legal Centres and the participation of people with disabilities in CLC's. Report recommendations outline a number of strategies, such as policy development, disability awareness training and the development of a disability plan for federation members. These strategies will facilitate greater access by people with disabilities to CLC's as well as increasing the preparedness of CLC's to provide a more accessible service.

**Cost: \$50,428 based on 0.8 CLE/Dev (grad) APS 4-6 mid range) plus \$10,000 resources  
Total: \$60,428**

### **Interpreting and Translating**

Victorian CLCs require access to interpreting and translation services in order to provide accessible and equitable services to culturally and linguistically diverse (CALD) communities and to the hearing impaired. Additional funding is needed to ensure that CLC's can further develop services to the CALD and hearing-impaired members of the community.

**Cost: community legal centres will require a budget allocation of \$88,000 (inclusive of GST)**

### **Outreach Services for Outer Melbourne and Regional Geelong**

The four legal centres (Casey - Cardinia, Eastern, Western Suburbs and Geelong CLC) seek funding for the equivalent of four positions to extend services to growth corridors including Pakenham, Cockatoo, Bunyip, Wantirna South, Belgrave, Lilydale, Rowville, Melton, Bacchus Marsh and Greater Geelong. This proposal is consistent with the priorities and strategies as outlined in '*Growing Victoria Together*', in that it builds on existing community legal infrastructure to extend services to areas of emerging need.

**Cost: \$260,770.88.**

### **Extension of the Youthlaw Network**

The difficulties in encouraging young people to access mainstream and or generalist services have been well documented over many years. The Federation of Community Legal Centres seeks funding to address this issue by employing solicitors with specific expertise in working with young people and placing them in rural and outer metro areas.

**Cost: The establishment of 4.5 new positions would cost \$345,476.**

### **Disbursements fund**

The cost of disbursements in relation to Tribunal or Court matters is a significant issue, which impacts on many CLC's ability to provide much needed services to their clients and thus their clients' ability to access justice. For those services that undertake litigation a lack of funds to support disbursements can severely limit their ability to act for individual clients and to pursue matters of public interest.

**That the State Government review access to disbursement funds to ensure greater accessibility by CLC's**

### **Centre for the Human Rights of Imprisoned People (CHIRP)**

Funding is sought to establish a new specialist Community Legal Centre whose primary focus would be; to advocate for the human rights of all imprisoned people and their families. Centres who participate in the Corrections Working Group of the Federation have long been aware of the need to establish such a centre, as evidenced through the requests for casework and legal education from imprisoned people and prison operators.

**Cost: \$328,797 based on using 5 EFT APS salary scale**

## Summary Table

<b>Federation of Community Legal Centres</b>		
	<b>\$ Recurrent</b>	<b>Non Recurrent</b>
<b>New Funding Formula</b>		
Cumulative CPI on State component applied to operating costs		\$139,369
5 EFT (State component)	\$2,652,664	
32% loadings for rural and regional and specialist centres	\$146,917	
<b>SUB TOTAL</b>	<b>\$2,799,581</b>	<b>\$139,369</b>
<b>Ongoing Costs</b>		
Intervention Order Court Support Program	\$1,460,844	
Contingencies	30,000	\$70,000
Counselling and Debriefing	\$10,000	
Butterworths	\$33,317	
Broadband	\$54,176	
Website maintenance	\$15,000	
<b>SUB TOTAL</b>	<b>\$1,603,337</b>	<b>\$70,000.00</b>
<b>Sector Development - Developing Innovative Services</b>		
Professional Development & Support Unit	\$319,535.00	
In House Publishing		\$46,100
<b>SUB TOTAL</b>	<b>\$319,535.00</b>	<b>46,100.00</b>
<b>Sector Development - Increase Access To Services</b>		
Disability Access		\$60,428.00
Interpreting and Translating	\$88,000	
Outreach Services for Outer Metropolitan Melbourne + Geelong	\$260,770.88	
Youth Law Network	\$359,476.00	
Centre for HR & IP	\$328,797.00	
<b>SUB TOTAL</b>	<b>\$1,037,043.88</b>	<b>\$60,428.00</b>
<b>TOTAL</b>	<b>\$5,759,496.88</b>	<b>\$269,817.66</b>

# COMMUNITY LEGAL CENTRES

- Free
- Accessible
- Independent

**Committed to Justice**

## Submission to 2004-05 State Budget

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Federation of Community Legal Centres

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September 2003



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## Summary Table

<b>Federation of Community Legal Centres</b>		
<b>New Funding Formula</b>	<b>\$ Recurrent</b>	<b>Non Recurrent</b>
Cumulative CPI on State component applied to operating costs		\$139,369
5 EFT (State component)	\$2,652,664	
32% loadings for rural and regional and specialist centres	\$132,445	
<b>SUB TOTAL</b>	<b>\$2,785,109</b>	<b>\$139,369</b>
<b>Ongoing Costs</b>		
Intervention Order Court Support Program	\$1,460,844	
Contingencies	\$30,000	\$70,000
Counselling and Debriefing	\$10,000	
Electronic Loose-leaf Service	\$33,317	
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<b>TOTAL</b>	<b>\$ 5,745,024.88</b>	<b>\$269,817.66</b>

## Summary of Recommendations

### Recommendation One – New Funding Formula

That the Victorian Government recognise the need for a new funding formula based on 5 EFT, incorporating:

- Bringing centres up to minimum 5 EFT to be implemented over a 3 year period - \$2,101,420 State recurrent; \$2,139,754 Commonwealth recurrent.
- 32% loadings for rural and regional and specialist centres - \$132,445 recurrent
- Incorporates CPI increases into future funding allocations

### Recommendation Two – Ongoing Costs

That the ongoing costs associated with these services be met by the State, to ensure that essential programs both to CLC staff and clients can continue.

**Cost:** Contingencies- \$100,000; Counseling & Debriefing- \$10,000; Intervention Order Support Program - \$1,460,844; Electronic Loose-leaf Service \$33,317; Broadband- \$54,176; Web site maintenance- \$15,000

### Recommendation Three – Sector Development

That the State Government fund sector development for CLC's to ensure that innovative services continue including the establishment of a Program Development and Support Unit to be based at the Federation Secretariat and an in 'in house' publications and educational resource section.

**Costs:** PD & S Unit- \$319,532.00 (4 staff including travel); In House Publishing - \$46,100.00

### Recommendation Four – Increasing Access to Services

That the State Government fund CLC's to increase in services

**Cost:** Disability Access - \$60,428; Interpreting and Translating - \$88,000; Outer Metro & Geelong Region Outreach - \$260,770.88 (Table 5); Youth Law Network - \$359,476 (Table 6);

Centre for HR&IP - \$328,797



## Introduction

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Since the first Community Legal Centre (CLC) opened its doors in Victoria thirty years ago CLC's have proven themselves to be an integral and indispensable part of the provision of accessible legal services to Victoria. CLC's have managed not only to survive, but also to go from strength to strength providing a wide range of services through out Victoria. In 2003 the number of CLC's in Victoria has risen to 47. The Federation of Community Legal Centres (Vic) Inc. Secretariat (the Federation) has prepared this submission on behalf of those members. (A list of the Federation's membership appears as Appendix One).

The diversity that exists within the Federation speaks to the breadth of justice related issues facing Victorians today, as well as to the variety of approaches taken in making justice more accessible and affordable to all Victorians. Specialist legal centres are orientated to particular client groups such as women, young people, Aboriginal people, people with a disability or mental illness, or to particular areas of the law such as consumer rights, environment, tenancy, or employment. Generalist legal centres provide a comprehensive range of community legal services aimed at designated geographical areas.

Whether specialist or generalist, there are specific characteristics, which make CLC's unique in their provision of accessible legal services and ensure their lasting place in Victoria's legal system.

## Philosophy

The philosophy of CLC's is based on a *commitment to social justice*:

That every person has the right to a fair and accessible legal system, whose role is to provide information, protect rights and ensure justice. The level of access and fairness to this system should not be determined by a persons ability to pay, speak English nor should it be determined by a person's age, gender, education and physical or cognitive capability.

## Community partnership

CLC's have always worked in collaboration with their respective communities, be they geographic, issue based or demographic specific. This is evident by the governance structure – *independent - community managed - community driven*. Their closeness to the community (both residents and service providers) ensures they remain dynamic and able to respond quickly and effectively to the needs of their respective communities.

## Volunteer Commitment

### Quote from volunteer

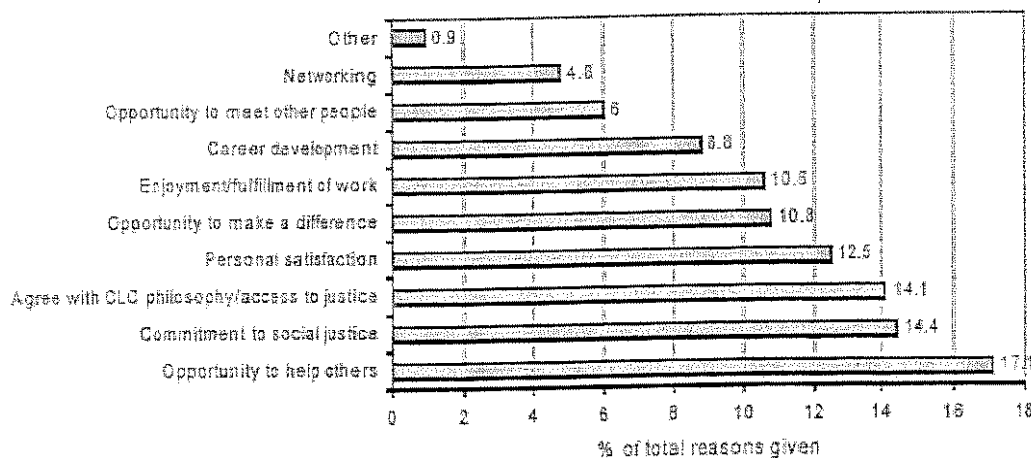
"I volunteer on a direct grass roots basis.....It is the independent, autonomous, community driven nature that still commits me to service"<sup>1</sup>

Volunteer participation in all aspects of management and service delivery of CLC's has been a fundamental component of CLC history, present activity and future development. The range of people who choose *to give their time freely* to CLC's on a weekly or monthly basis are hugely diverse, as indeed are the reasons why they choose to volunteer.

The volunteer base of CLC's spans across gender and age. Although difficult to quantify, there are reasons why people who volunteer, choose to do so at a CLC. There is something unique about how and why CLC's do what they do which moves people sufficiently to give their time freely. Fitzroy Legal Service conducted a survey of CLC Volunteers in 2002. The following tables help to illustrate why people volunteer at CLC's and provide a real insight into the level of dedication and commitment volunteers have for their CLC's.

Recent awards made to volunteers at the CLC State Conference, many with over 15 years service are testament to this.

### . Why do you volunteer at a legal centre?

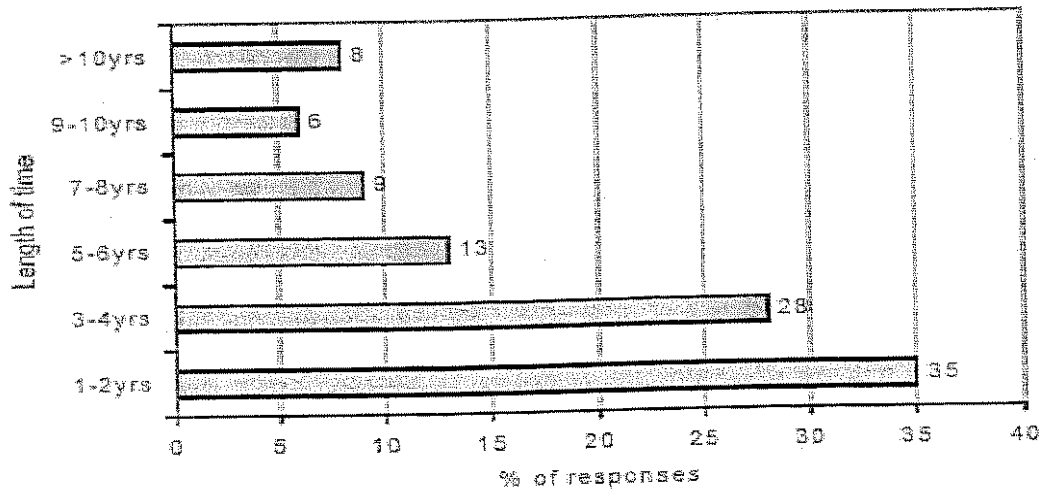


2

<sup>1</sup> Sam Biondo 'Community Legal Centres and their Volunteers: a study of dedication and commitment', Fitzroy Legal Service, May 2002 p. 33

<sup>2</sup> Sam Biondo 'Community Legal Centres and Their Volunteers: A study of their dedication and commitment', Fitzroy Legal Service, May 2002 p.23

### Specified length of time volunteering



3

### Places of Learning

CLC's have and will continue to be places of learning. The value of the *community law* practiced by CLC's has long been recognised by University Law Schools, as offering their students a 'hands on' experience not available in the lecture theatre. There are currently several formal and semi formal Clinical Legal Education Programs operating in Victoria. The most established of these are Springvale Legal Service - Monash University Law School; West Heidelberg - La Trobe University Law School and Western Suburbs Legal Service - Deakin University Law School. A recent partnership between Geelong CLC and Deakin University Law School is now emerging as the newest Community Legal Education Program. The older established and the new emerging programs are testament to the ongoing importance both CLC's and Universities place on developing partnerships and the invaluable role CLC's play in enhancing the skills, knowledge and in the longer term, the practice of new graduates.

<sup>3</sup> Sam Biondo 'Community Legal Centres and Their Volunteers: A study of their dedication and commitment', Fitzroy Legal Service, May 2002 p.15

### Quote from La Trobe University

*“La Trobe is currently celebrating its 25<sup>th</sup> year of Clinical Legal Education. There are many advantages in the CLE program for our students. In the short term they have an opportunity to put law into practice; to have contact with real clients and also to deal the ethical and professional dilemmas of being a lawyer.”*

## A holistic approach to the provision of Legal Services

CLC's are unique in their provision of holistic legal services, looking not only on the symptom (the legal problem) but also the potential causes to their legal problem.

The traditional modes of CLC service delivery are:

- **Casework/Court representation:** working with individuals or groups to resolve their legal problems in a way that respects individuals rights to make choices based on verbal and written information that is accessible in it's presentation and language and promotes open dialogue.
- **Advice and referral:** CLC's provide advice and referral to many thousands of people each year. While their main job is offering legal advice, CLC's recognise that the legal problem is often symptomatic of another issue.

### *Example:*

A young person may present at a CLC to seek advice about a PERIN fine. Whilst the fine is their legal problem the main issue for the young person may be the fact that they are homeless and not receiving Centrelink payments. A CLC worker will not simply deal with the legal problem but link the youth into other relevant service providers and support networks to address these needs.

- **Legal Education**
  - **Preventative Law** by increasing awareness of legal issues and processes to the broader community
  - **Responsive Delivery** by delivering community legal education programs when casework indicates the prevalence of a specific issue.
- **Law Reform** by influencing changes in areas of policy law reform that potentially will negatively impact on the community. Over the years CLC's have been an active and dynamic player in ensuring that government policy makers receive clear feedback of the 'in practice' impact Victoria's laws have on the community. CLC's closeness to their communities makes them ideally positioned to play such a role.

## Accessible and responsive legal services into the future

Despite the strengths of CLC's, there is a real need to:

- Introduce a **new funding formula** ensuring funding levels accurately reflect the real costs of providing accessible and responsive legal services to the broader community.
- Provide support for **sector development** to ensure that CLC's work collectively, sharing knowledge and experiences to continue to develop services and modes of service delivery which best meet the needs of the community.
- Further increase **access to services** for groups, that are particularly marginalised and require either specific services or services to adapt in specific ways.

## Community Legal Centres – Integral to Achieving a 'Fair and Accessible Justice System for All Victorians'

CLC's have a long history of providing services to disadvantaged communities, they are integral to the State Government's priorities (across departments) as identified in the following key direction statements. The areas specifically highlighted below are congruent with the aims of CLC's in terms of making legal services accessible to the broader community, particularly the most disadvantaged, facilitating their participation, not just in the resolution of their legal problems but, in the broader community.

### ➤ ***Growing Victoria Together – State Government Priorities***

#### **High quality, accessible health and community services**

- Improve local access to essential health, aged care and community services, particularly in rural and regional communities.
- Sustaining and improving essential hospital, community health, aged care, mental health, disability, child protection and family support services is fundamental.
- Early intervention and prevention to keep people of all ages and abilities living healthy and active lives in the community and to break the cycles of inequality, poverty and crime.

#### **Growing and Linking all of Victoria**

- The need to rebuild Victoria's social infrastructure – schools, hospitals, community services, recreational and cultural resources, which are the basic building blocks of prosperous and sustainable communities.

#### **Promoting rights and respecting diversity**

- Improve awareness of rights and promote equal opportunity
- Improve access to courts, legal aid, victim support and alternative dispute resolution procedures
- Increase racial and religious tolerance

- Promote reconciliation between indigenous and non-indigenous Victorians and move to redress the dispossession of Aboriginal land and culture
- Improve access to services for culturally and linguistically diverse Victorians
- Increase the diversity of representation on decision making boards and in local government<sup>4</sup>

### ➤ ***Justice Statement***

CLC's have a specific role in both the development and implementation of the proposed Justice Statement. Historically and currently the goal of CLC's has always been to increase access to justice. In practical terms this has and continues to mean that legal services are offered to the community in ways which enhance the communities understanding and their participation their legal problem.

### ➤ ***Victorian State Disability Plan 2002-2012***

#### **Guiding principles**

The Principle of Equality recognises that people with a disability are citizens who have the right to be respected and the right to have equal opportunities to participate in the social, economic, cultural, political and spiritual life of society.

- As citizens, people with a disability also have equal responsibilities towards Victorian society and should be supported to exercise these responsibilities.
- The Principle of Dignity and Self-Determination (Choice) is about respecting and valuing the knowledge, abilities and experiences that people with a disability possess, supporting them to make choices about their lives, and enabling each person to live the life they want to live.
- The Principle of Diversity is about recognising and valuing individual difference. Inclusive societies are strengthened by the diversity of their populations and by the contribution that each person makes to the social, economic, cultural, political and spiritual life of society.
- The Principle of Non-Discrimination implies that all people have the right to live their lives free from discrimination. This means that society must set right all forms of discrimination—including both active and passive forms of discrimination, and unfair and outdated standards, laws, policies and practices.
- It also means recognising and valuing people's differences. Failing to embrace these differences is itself discriminatory.<sup>5</sup>

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<sup>4</sup> Growing Victoria Together

<sup>5</sup> 'State Disability Plan', DHS 2002

## ➤ **Women's Safety Strategy**

### **Family and Domestic Violence Crisis Protection Framework**

- Reduce barriers to women disclosing violence and seeking assistance
- Improve responsiveness to women who have experienced violence
- Provide a comprehensive approach to addressing the needs of women and children experiences of family and domestic violence
- Enhancing delivery responses of women and children experiences of family and domestic violence

The Federation of Community Legal Centres considers itself and indeed is seen by the community and legal sectors as integral in a justice system which

*"...is about protecting the rights of all citizens and ensuring that people are treated fairly ... [and] about ensuring equality of access before the law, regardless of financial resources, gender, ethnicity, age or sexual orientation."<sup>6</sup>*

This submission is aimed at providing the Victorian Government with continued opportunities to work collaboratively into the future with Community Legal Centres as well as an opportunity to address the needs of the community to access justice, by securing the future of community legal centres as significant community assets oriented towards achieving a fair, accessible and understandable justice system for Victorians<sup>7</sup>.

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<sup>6</sup> Hulls, the Hon R., "A fair, accessible and understandable justice system" Ministerial Statement, 24 April 2002

<sup>7</sup> Ibid.

# 1. The need for a new funding formula

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Funding of CLC's is a shared Commonwealth & State Government responsibility. At times there has been significant tension between the differing priorities identified by those levels of government. This has affected the growth and development of community legal centres to the point that there is now significant variance in the levels of funding provided to individual centres, as well as in the extent to which their services are available throughout Victoria.

- **Limitations of the current funding formula**

- ⇒ *Does not incorporate increases in operating costs*
- ⇒ *Does not recognise the increased costs of providing a service to rural and regional communities spread over a large geographic area*
- ⇒ *Difficulty in attracting and retaining staff due to low wage levels*



# 1. The need for a new funding formula

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## 1.1 Background

The history of the development of community legal centres in Victoria is both brief and remarkable. From the emergence of the first legal services in the 1970's, which were almost entirely dependant on volunteer and pro bono support, community legal centres have developed at varying rates anticipating and responding to emerging need. This development has always taken place within a political context, meaning that the capacity of centres to firstly establish themselves, and secondly to expand and meet community need has been shaped by political priorities.

Since legal aid funding, on which centres are highly reliant, is a shared responsibility between Commonwealth & State Governments, at times there has been significant tension between the differing priorities identified by the two levels of government. This has affected the growth and development of community legal centres to the point that there is now significant variance in the levels of funding provided to individual centres, as well as in the extent to which their services are available throughout Victoria.

In June 2001, the current State Government sought to "...ensure the survival of CLC's"<sup>8</sup> whose future at that stage was being threatened by the State and Commonwealth review of CLC's. The ultimate aim of which was to impose forced amalgamations at the expense of smaller centres, which were facing closures. The Victorian Government signalled a rejection of community legal centre amalgamations and an acceptance that baseline funding had to be addressed. As a result, Victorian community legal centres received an additional \$1m "...the largest capital and recurrent funding boost to CLC's in the last 15 years".<sup>9</sup> This much needed funding boost contributed directly to increased staffing levels in community legal centres. Increases to under-resourced areas such as Brimbank and Werribee, enabled some centres to move closer to the minimum of three EFT staffing levels identified by the Parliamentary Law Reform Committee, thus strengthening the viability of those centres. It also ensured the replacement of antiquated, yet essential pieces of equipment such as phone systems, computers and photocopies. Since this initial and much welcomed funding boost, CLC's have received further increases in funding which have slowly moved some centres closer to minimum 3 EFT funding levels, the most recent increases having occurred in 2002-03 budget with funding targeted for centres including Central Highlands (Ballarat), Disability Discrimination Legal Service, Homeless Person's Legal Clinic as well as funds to establish a new centre in Whittlesea.

Whilst any increase in funding is always a welcome sight given the erosion of CLC budgets, the reality is that for many centres small increases in funds in an environment where budgets are constantly being reworked just to keep services operating, does little more than keep the doors open for one more year, with no certainty beyond this point.

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<sup>8</sup> See 'A Stronger Justice System' Bracks, Listens, Acts, Australian Labor Party pg.4

<sup>9</sup> Ibid

## 1.2 Limitations of the current funding formula

In its 2004-2007 budget submission to the Commonwealth Government, the National Association of Community Legal Centres (NACLC) stated:

“For over a decade, there has been a widely accepted funding formula for CLCs which states that three full-time positions constitutes the minimal staffing level for operational and service delivery viability.....The funding formula has many flaws. It is not based on the real operating costs of centres, nor does it use salary scales that are comparable to those of Legal Aid or government solicitors. The formula is also rigid, not allowing for the differences between centres in relation to the populations they serve or the legal issues they cover.”<sup>10</sup>

The Federation of Community Legal Centres endorses this approach and offers the following examples to illustrate the difficulties inherent in the current funding formula.

### • Increases in Operating Costs

Like all organisations, community legal centres are required to find the necessary funds to cover increases in operating costs, with fewer dollars remaining in centre budgets after covering the costs of salaries, this task is becoming increasingly difficult. Indeed, the nature of the work provided by CLC's results in additional costs, such as professional indemnity insurance, practicing certificates and loose leaf services, providing up to date legislative information. As the National Association have articulated in their budget submission to the Commonwealth Government, the increasing difficulties in meeting operational costs associated with providing services is not unique to Victorian centres.

*“All centres have experienced significant increases to operating costs over the last 5 years. However, the 54.4% of centres that have received increases of 1% or less over this period are struggling to meet operational costs”.*<sup>11</sup>

Whilst community legal centres benefit from intensive volunteer support and in-kind assistance (estimated at over 60 equivalent full time staff each year), they are strongly dependent on government to meet increases in operating costs. The obligation of government to meet these costs has rarely been disputed, since community legal centres are almost entirely dependent on government funding. This reliance has been made more complex in recent years by the Commonwealth's policy of removing one percent of funding from the commonwealth community legal centres each year as an “efficiency dividend”, while operating costs have continued to increase.

In addition, the existing budgets of many centres are so restrictive that planning for the costs associated in replacing a principal solicitor during their annual leave is not an option most centres can afford. The implications are that centres try to plan by reducing their caseload in the few weeks prior to taking leave, with no clients being seen at all during the period of leave, as to do so would be in breach of the Professional Indemnity Insurance. In addition to the obvious issue of having no

<sup>10</sup> NACLC 2004-2007 budget submission – ‘Community Legal Centres: An investment in value – investing in community law’ August 2003

<sup>11</sup> NACLC 2004-07 budget submission – ‘Community Legal centres: An investment in value – investing in Community Law August 2003 p.8

principal solicitor, for some centres this means no solicitor at all. It also places solicitors in a difficult position, for some this has meant not taking the full four weeks at one time and spreading their leave over the twelve-month period.

The Federation acknowledges that Centres have budgets which have been subjected to State Government imposed 'efficiency dividend'. The following table illustrates the cumulative CPI increases over the last five years, this has had a clear impact on CLC budgets. The proposed funding formula requests that the State Government make a one off adjustment for these increases and incorporate CPI increases in future funding allocations.

Year	CPI
1999 June to Dec.	1.53
2000	4.475
2001	4.4
2002	2.975
2003 March to June	3.05

Source: ABS data

- **Retaining and attracting staff**

Generalist and specialist centres alike are increasingly confronted by the reality of salary disparity between the private, government sector and community sector, for solicitors and other workers. This has an impact on attracting and retaining experienced staff. Potential applicants for solicitor positions at CLC's are either recent graduates or those with two or less years of experience. Attracting solicitors of five or more years experience is problematic, as it would require the solicitor to make the shift from a private firm to a CLC, arguably, not a scenario that many private practitioners would be willing to make given the loss of income required. The other potential recruitment field are new graduates or those with less than five years experience. Several years ago the salary level of first and second year solicitors was comparable to that of solicitors (regardless of years of experience) based at CLC's. As the table below demonstrates, the variation between salaries of CLC workers, private sector and government sector solicitors is now significant, further compounding the difficulties of recruiting new staff.

### CLC Solicitor Wages to Private Practice

Private Practice	Melbourne
1 year	\$48 – 62,000
3 years	\$62 – 83,000
5 years	\$75– 110,000
6 years	\$80 – 130,000
Senior Associate	\$110 – 180,000
<b>CLCs National Range</b>	<b>Average</b>
Principal Solicitor 5 years +	\$46,200

\* adapted from NALC Budget submission<sup>12</sup>

<sup>12</sup> NALC 2004-07 budget submission – 'Community Legal centres: An investment in value – investing in Community Law August, 2003 p.7

### CLC solicitors wages to Victoria Legal Aid and C'th Government Solicitor Wage

Position	CLC	VLA	AG
Salary level (principal solicitor 5 years +)	\$54,400 (SACS Award CDW 2b year 6, includes 15% on costs)	\$89,544 VLA 5 (mid salary range) includes 15% on costs	Executive level 1 or 2 EL1 \$90,526 EL2 \$103,695 (mid range including on costs)
Salary level (solicitor less than 5 years)	\$54,400 (SACS Award CDW 2b year 6, includes on 15% costs)	\$59,867 VLA 3 (mid salary range includes 15% on costs)	APS 3-6 \$60,319 (mid range includes on cost)
Manager/ Coordinator	\$54,400 (SACS Award CDW 2b year 6, includes on 15% costs)	\$89,544 VLA 5 (mid salary range includes 15% on costs)	Executive level 1 or 2 EL1 \$90,526 EL2 \$103,695 (mid range including on costs)
Community Legal Ed/ Dev. (Grad.)	\$49,992 (SACS 2b yr 3 includes 15% on costs)	\$59,867 VLA 3 (mid salary range includes 15% on costs)	APS 4-6 \$63,036 (mid range including on costs)

The effects of the current reward structure are well described by the Victorian Parliamentary Law Reform Committee:

*"For CLCs there is the additional problem of the very low salaries which are offered, usually in accordance with the rates of pay under the Social and Community Services Award, Community Development Worker Grade 2B. This award reaches a maximum annual salary of approximately \$42,000 after 6 years of experience. Salary packaging arrangements can make this basic salary slightly more attractive, but for experienced solicitors it remains uncompetitive. Although not compelled by funding bodies to use this award, the overall budgets of CLCs would rarely allow payment in excess of this amount."*<sup>13</sup>

It should be noted that not all centres pay staff at the level indicated in the table. It is also the case that many centres are not able to employ staff on a full time basis. Many CLC workers, including solicitors, are employed part-time (usually between 0.5 to 0.8 EFT) due to limited funding.

Although the ability of centres to salary sacrifice or package has to a limited degree off set the low salary levels, the introduction of caps to the proportion of salary that can be packaged has limited the effectiveness of this strategy. The minimal effectiveness of salary packaging and sacrificing as well as the broader issue of wages disparity has also been raised in the recent NALC budget

<sup>13</sup> Parliament of Victoria, Law Reform Committee, *ibid.* p. 136.

submission to the Commonwealth Government.<sup>14</sup> Clearly, the issues raised in this submission in relation to salary levels and attracting and retaining staff are not specific to Victoria and reflect the growing significance of this issue across Australia.

Salary levels for other qualified and professional staff is also low compared to private sector and government departments. This is particularly true for Coordinators/Managers and finance workers given the increasing level of responsibility and the expertise needed to manage a legal centre, both from financial and human resource perspectives.

- **Difficulties in providing services across a large geographic area**

The current formula does not acknowledge the costs incurred by CLC's in providing services either on regional or statewide basis.

There are currently eight generalist CLC's in regional Victoria, located in Geelong, Ballarat, Warrnambool, Morwell, Mildura, Wodonga and Frankston. In addition, the seven specialist legal centres which receive funding via Victorian Legal Aid (VLA) provide statewide services in law relating to a specialist area e.g. consumer rights, disability, environment, mental health, tenancy, welfare rights, women, young people and homeless people.

Individually, these centres provide services to large regional geographic areas or as in the case with specialist centres, provide services across the state of Victoria. The costs involved in providing services across large geographic areas (regional or state wide) are widely recognised as a barrier to comprehensive service delivery, costs such as telecommunications and travel, which are critical to serving regional areas. Regional and rural community legal centres describe one aspect of how the nature of their catchments impacts upon costs as follows:

*"The fact of being a Rural/Regional CLC has further and varied implications; for example, if a Rural/Regional CLC plans a Community Legal Education (CLE) project for students in years 10 & 11 at secondary schools, we can be talking in excess of 30 school sites—as opposed to a more locally based CLC whose catchment area may contain no more than half a dozen schools. This trend is often repeated when working with community/neighbourhood houses (of which there can be 20 or more), and many other service areas. This increases the resource needs in relation to networking, training community workers, information provision etc."<sup>15</sup>*

Likewise, specialist centres experience similar challenges in their endeavours to develop networks, provide casework and conduct legal education sessions in regional towns and small communities across the state.

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<sup>14</sup> NACLC 2004-07 budget submission – 'Community Legal centres: An investment in value – investing in Community Law August 2003

<sup>15</sup> Victorian rural and regional community legal centres, "Making Rural/Regional Community Legal Centres Sustainable: Enhancing Justice in Rural /Regional Victoria" March 2002, p. 2. (Attached as Appendix Two)

## 2. The way forward – a more realistic funding formula

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A new approach to determining funding can reflect the realistic costs of community legal centres, allow for the diversity of CLC's and result in maintenance of CLC capacity to deliver effective community legal services.

- ⇒ *Base the rates of pay for CLC's on comparable classifications employed in the Commonwealth public sector*
- ⇒ *Increase staffing levels to a minimum of 5 EFT over the term of a 3 year funding agreement in recognition of increased demands on CLC's over recent years*
- ⇒ *Allows for flexibility for CLC's to determine the actual composition of staff within each centre*
- ⇒ *Addresses the real operating costs of CLC's*
- ⇒ *Provides for a loading that recognises the additional costs incurred by centres in rural/remote areas<sup>16</sup>*

### Recommendation One

That the Victorian Government recognise the need for a new funding formula based on 5 EFT, incorporating:

- Bringing centres up to minimum 5 EFT to be implemented over a 3 year period - \$2,101,420 State recurrent; \$2,139,754 Commonwealth recurrent.
- 32% loadings for rural and regional and specialist centres - \$132,445 recurrent
- Incorporates CPI increases into future funding allocations

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<sup>16</sup> Community Legal Centres: Bringing Justice Closer to the Community 2003-04 State Budget Submission FCLC p.11

## 2.1 Wage Parity

As discussed earlier within this submission, the salary levels for CLC staff based on the current SACS Award Community Development Worker rates are proving unworkable and certainly unsustainable in the longer term, given that many experienced CLC staff have reached the top of the salary scales – a salary level makes it difficult to attract experienced solicitors to the sector.

The following table as developed by the NACLC represents the salary levels considered to be appropriate in that they accurately reflect the type of work performed by CLC staff.

CLC position	AG's equivalent	Salary (mid range)	Total plus on-costs	Current CLC salary plus 15% on-costs	Variance
Manager/Coordinator	Executive level 1 or 2 EL1 \$65,867 to \$80,144 EL2 \$75,968 to \$91,282	EL1 \$73,005 EL2 \$83,625	\$90,526 \$103,695	\$54,400	\$31,126
Senior Legal Officer	Executive level 1 or 2 EL1 \$65,867 to \$80,144 EL2 \$75,968 to \$91,282	EL1 \$73,005 EL2 \$83,625	\$90,526 \$103,695	\$54,400	\$31,126
Legal Officer	APS 3-6 \$38,268 to \$59,022	\$48,645	\$60,319	\$49,992 (SACS 2b yr3)	\$10,327
Community Legal Ed/Dev.(Grad.)	APS 4-6 \$42,651 to \$59,022	\$50,836	\$63,036	\$49,992 (SACS 2b yr3)	\$13,044
Finance/Admin Grad)	APS 3-6 \$42,651 to \$59,022	\$48,645	\$60,319	\$49,992 (SACS 2b yr3)	\$10,327

The Federation believes that whilst the comparisons across awards may not always be a smooth comparison, the comparisons above do serve to demonstrate beyond doubt the huge disparities that have arisen between current the CLC salary structure and the government and private sector.

<sup>17</sup> Adapted from NACLC Budget Submission 2004 –07 (August 2003)



## 2.2 5 EFT Minimum Funding Levels

For many years the notion of 3 EFT was seen as the minimum funding level on which a Community Legal Centre could operate and hope to provide an adequate service to their respective communities. It is, however, becoming increasingly clear that the notion of providing services to communities, based on the old formula of 3 EFT minimum funding levels is unrealistic and unsustainable in both the short or longer term. In addition to the shrinking funding levels, statistical and anecdotal evidence would suggest that the demand for CLC services is increasing.

Reasons for the increased demand are numerous. However, there have been several specific legislative and policy changes introduced over the last ten years which are having a marked and somewhat cumulative affect on the most disadvantaged members of the community and hence placing greater pressure on CLC's to assist. The following areas are having a particular impact on communities CLC's work with:

- Legal Aid caps to Family Law matters
- Decrease in Commonwealth funding to Legal Aid
- Greater restrictions to Legal Aid
- Changes to Migration Act and the introduction of TPV's
- Changes to the transport system with the introduction of a new penalty system
- Increased litigation in Family Law matters generally
- Changes to Social Security Legislation

The real impact of the changes both within the legal sector and social policy areas has been to increase the opportunities of the most marginalised communities to come into contact with the law and the ability of these groups to seek access to affordable legal advice or representation.

There have also been increases in administrative requirements that CLC's have had to meet with existing staff levels putting enormous strains on staff and volunteer Committees of Management.

### Proposed Model 5 EFT Centre

In developing this model, reference has been made to the National Association of Community Legal Centres budget submission to the Commonwealth Government for 2004-2007. This model shows the substantial increases required within the sector in order to operate at realistic levels. The Federation recognises that there may need to be a staggered implementation period that will enable such increases to be managed effectively. We suggest a two-staged process as follows:

Stage 1. Increase all CLC's to 3 EFT on the salary levels as indicated below

Stage 2. Increase to 5 EFT

### Proposed model 5 EFT centre

(This is a notional model CLC, some adjustment of positions may occur in individual centres.)

Position title	A.G. scale equivalent	Mid range	EFT	\$ Total Plus On Costs
Co-ordinator/Manager EL1	\$65,867 - \$80,144	\$73,005	1	\$90,526
Senior Legal Officer EL1	\$65,867 - \$80,144	\$90,526	1	\$90,526
Legal Officer APS 3-6	\$38,268 – \$59,022	\$48,645	1	\$60,319
Finance / Admin Officer APS 3-6	\$42,651-\$59,022	\$48,645	1	\$60,319
Community Ed Officer APS 4-6	\$42,651-\$59,022	\$50,836	1	\$63,036
<b>Total EFT</b>			<b>5</b>	<b>\$364,726.00</b>

- **Rural, regional and specialist centre loadings:**

There is a need to appropriately fund rural and regional community and specialist legal centres to meet the real costs of providing regional and statewide services. This was argued by Rural and Regional Legal Centres in their submission to State & Commonwealth Governments of March 2002 and in the National Association 2004-07 budget submission to the Commonwealth Government. It was also considered by the Victorian Parliament Law Reform Committee in its Inquiry into Legal Services in Rural and Regional Victoria, which recommended:

*Recommendation 22*

*That funding for rural and regional community legal centres includes a rural loading which acknowledges the additional costs involved in service delivery in rural areas.<sup>18</sup>*

The State Government response to this recommendation indicated that the Government was considering the issue of how such costs could be quantified.<sup>19</sup> While it is understood that this work is incomplete, the need to apply some form of regional cost loading ought to remain a priority for the forthcoming State Budget. In the absence of a formal determination by Government of the level of the rural operating costs loading, the Federation suggests that a 32% rural loading apply to rural, regional and specialist community legal centres. See Table 2.

<sup>18</sup> Parliament of Victoria, Law Reform Committee Review of Legal Services in Rural and Regional Victoria, p. 129.

<sup>19</sup> Department of Justice, Victoria. "Government Response, Rural and Regional Legal Services" July 2002. p. 28.

### 3. Ongoing costs

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There are a range of other costs associated with the day-to-day operation of CLC's. These include costs of contingencies such as forced relocation of CLC's; counselling and debriefing services to CLC staff and volunteers; maintenance of broadband, services, maintenance of the Federation web site and operating the Intervention Order Court Support Program. Centres have to date sought funding from alternative sources, however in many cases these sources of funding are not recurrent. Such insecure arrangements put much-needed programs at risk. One off costs associated with moving or replacing essential equipment need to also be factored in as, given the extremely tight budgets of CLC's, such costs cannot normally be accommodated.

⇒ *Contingencies*

⇒ *Counselling and Debriefing*

⇒ *Intervention Order Court Support Programs*

⇒ *Electronic Loose Leaf Services*

⇒ *Broadband*

⇒ *Web site Maintenance*

#### **Recommendation Two**

That the ongoing costs associated with these services be met by the State, to ensure that essential programs both to CLC staff and clients can continue.

**Cost:** Contingencies- \$100,00; Counselling & Debriefing- \$10,000; IOCSP - \$1,460,844;  
Electronic Looseleaf Service \$33,317 Broadband \$54,176; Web site maintenance- \$15,000

## 3. Ongoing Costs

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### 3.1 Contingencies

In the State Budget submissions for the years 2001-02 and 2003-04 the Federation advocated the re-establishment of a fund for contingencies and emergency grants. In this budget cycle, we maintain our call for a scheme to cover unforeseen items of expenditure such as relocation, rent increases being so large as to necessitate relocation, unanticipated outlays for security systems, and funds to cover breakdowns of major capital equipment out of warranty. During the last two years several centres, including Central Highlands, Geelong and Flemington/Kensington CLC's have needed to relocate. On one or more of these occasions centres have sought specific assistance from the CLC funding Program, placing increased pressure on the VLA budget.

Our proposal involves an initial outlay of \$70,000, with \$30,000 in recurrent funds to establish the contingency fund at \$100,000 at 1 July 2005.

#### **Recommendation**

That State funds be allocated to establish and maintain a contingency fund to meet unexpected costs periodically confronted by community legal centres.

**Cost:** An initial outlay of \$70,000, with \$30,000 in recurrent funds to establish the contingency fund at \$100,000 at 1 July 2005.

### 3.2 Counselling and Debriefing - ongoing

In 2003 Centres proposed that funds be provided to assist CLC's in meeting the obligations imposed by the Occupational Health & Safety Act 1985, to protect the welfare of employees<sup>20</sup>. Specifically Counselling and Debriefing Service for CLC staff with critical incident support for volunteers has been established. This project was supported with an allocation of \$7,000 from VLA for a pilot of one year. In the interests of service continuity and to ensure that CLC's OH&S obligations are met, ongoing funding is required

#### **Recommendation**

The State continues to fund the Counselling and Debriefing Service for CLC staff and volunteers.

**Cost:** \$10,000 on an ongoing basis to maintain service levels

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<sup>20</sup> Occupational Health & Safety Act, 1985 (Vic), Section 21 (d)

### 3.3 Intervention Order Court Support Programs

Issues impacting on victims/survivors of domestic violence has long been acknowledged by funders and service providers alike, as requiring a more specific response. The recognition of these needs has been acknowledged across government departments including Department of Human Services – Women's Safety Strategy; and the proposal from the Department of Justice to trial a Domestic Violence Court.

Community Legal Centres have been at the forefront of delivering legal and domestic violence support services to applicants seeking intervention orders in the Magistrate's Court for many years. In doing so CLCs developed innovative models to fill a significant gap in service provision by providing legal advice and facilitating/ co-ordinating domestic violence support to predominantly women in family violence situations seeking orders under the Crimes (Family Violence) Act 1987. Together these CLCs have formed a Statewide Network and drawn on their individual experiences in collaboration with key agencies providing domestic violence support. The role in the provision of such services is recognised by the Courts, (with increased efficiency for Courts in dealing with often overwhelming numbers of Applicants for Intervention Orders.) Victoria Legal Aid and Domestic Violence services as an integral part of the response to domestic violence issues.

As a Statewide Network, CLCs can offer a valuable resource for government in the collaborative and consultative processes of addressing domestic violence issues. This brings together the collective experience of CLCs who work in the Courts and with survivors of family violence on a daily basis.

There are 12 current services co-ordinated and provided by Community Legal Centres. Direct funding for these services and for the network does not currently exist and CLCs have supported such services as a priority within general budgetary constraints.

### Current services operate at the following Magistrate's Courts

Courts	CLC
Melbourne (2 days)	Women's Legal Service Victoria
Sunshine (1 day)	Footscray/Brimbank/ Essendon/Western Suburbs CLC's
Broadmeadows (1 day)	Broadmeadows Community Legal Service
Dandenong (2-3 days)	Springvale Legal Service
Heidelberg (1 day)	Darebin Community Legal Centre
Frankston (1 day )	Peninsula Community Legal Centre
Mildura ( 2x ½ days)	Murray Mallee Legal Service
Ballarat ( 2 days )	Central Highlands CLC
Wodonga (1 day )	Albury/Wodonga CLC
Wangaratta ( 1 day)	Albury/Wodonga CLC
Werribee ( 1 day )	Werribee CLC
Ringwood ( 2 days )	Eastern CLC

The provision of direct funding will ensure expansion and enhancement of existing services. Continued growth and development of services and the Statewide Network is a priority requiring the additional resources of a Development Officer.

The Development Officer position will work with existing services to develop policy and operational procedures, support and convene the Statewide Network. In addition, the Development Officer would act as a central point of referral for consultation by Courts and Government in relation to development of State Government initiatives and strategies in respect of Crimes (Family Violence) Act issues. The position will provide for development of an integrated Statewide approach to Intervention Order Court Support in the provision of legal advice and assistance for applicants in Family Violence situations.

The Federation of Community Legal Centres considers it appropriate to have a whole of Government approach to family violence and would look to funding across Departments in respect of a Family Violence Worker Position.

Solicitor position  (0.6 plus on costs)	CLE/ Family violence worker  (0.6 plus on costs)	Admin. 20%	Total for 12 services
Senior Legal Officer 1 APS mid range	CLE/Dev (grad) APS 4-6 mid range		@ \$115,170.00 per service
\$54,316.00	\$37,821.00	\$23,034.00	\$1,382,049

#### Program Development Officer

Remuneration Rate	Full time plus on costs	Administration 25%	Total
APS CLE/Dev (grad) APS 4-6 mid range	\$63,036.00	\$15,759.00	\$78,795.00

#### Recommendation

That the State Government provide funds to ensure that the valuable work currently being done by twelve CLC's on the Intervention Order Court Support Program can continue.

Cost: \$138,2049.00 + \$78,795.00: Total of \$1,460,844

### 3.4 Electronic Looseleaf Service

A special purpose grant was made by the Attorney General's Department for the provision of electronic library access to Federation members. A survey of members needs was conducted and negotiations commenced. Electronic Looseleaf Service generously discounted their package. Members are uncertain about terminating loose-leaf services until they have some certainty of continuity of the electronic access. VLA were made aware of the needs for continuing funding to ensure take up of the service.

#### Recommendation

That the State Government provide for the ongoing costs of maintaining the electronic loose-leaf service

**Cost:** Ongoing costs of Electronic Looseleaf Service \$33,317 each year for the next two years

### 3.5 Broadband

A decision was taken by VLA to purchase from the above-mentioned special grant by the Attorney General to promote wider use of the web by member Centres.

The initial contract was for 18 months supply of the ADSL access using a service provider sourced by VLA after various negotiations with alternate providers.

The contract is held by VLA and funded on behalf of user Centres. At the time of connection several inner city and rural Centres were unable to access the facility. With expansion of the Telstra ADSL cable network it is expected all Centres should have access over the next year.

These aspects of Broadband access provide strong support for continuation of funding. New IT equipment provided under an earlier special grant, means Centres can now physically access fast data. The development of the Federation website increases the internal demand and the electronic library service demands fast bandwidth.

#### Recommendation

That the State Government fund the continuation of the Broadband access

**Cost:** \$54,176

### 3.6 Website

In the first year after launch of the new Federation Website, funded by special grant from the Attorney General, it will be necessary to fund a specialist to carry out continued preparation of materials, establishment of protocols and maintenance of the principal site and sitelets.

The funds to date have enabled creation of a core Federation site, with the potential for 50 sitelets. At launch date it is expected there will be some 5-7 sitelets in place. These will of necessity be quite basic. The amount of text material on the principal site will also be limited.

Over the next year we believe 6 hours work a week will be required to flesh out the system to deal with settling in a train the trainer program, firm up protocols, establish a system for lodging and installing new on-site text, enabling new direct links and bookmarks and generally maximising the out-put on the site.

Once ongoing training and system management are well established, it is expected cost of ongoing maintenance etc. will diminish substantially.



**Recommendation**

That the State Government fund the continued development of the Federation of Community Legal Centres Web Site

**Cost:** Based on a contract rate of \$50 per hour (Inc GST) a budget of \$15,000 is required.

## 4. Sector development

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Recognising the directions implicit in the Victorian Government's response to the rural and regional review,<sup>21</sup> and the more recent statement of the Attorney-General in April,<sup>22</sup> the Federation has identified a range of opportunities to enhance the delivery of community legal services throughout Victoria, with the development of innovative programs through specific sector development initiatives and by improving access to services across Victoria.

Specifically, the Federation is seeking to strategically address a number of identified needs:

- The legal needs of rapidly growing outer-metropolitan corridors.
- The need for specialist legal services to develop policies that facilitate access to their services by rural and regional clients<sup>23</sup> and by people with disabilities<sup>24</sup>
- The need for a formal program of professional support for solicitors in rural and regional community legal centres through links with larger metropolitan centres.<sup>25</sup>
- The relative lack of specialist legal services for women in rural Victoria compared to the metropolitan area.<sup>26</sup>
- The need for training for rural and regional legal practitioners in advising and representing people with a mental illness.<sup>27</sup>
- The lack of Prisoners' Community Legal Service.<sup>28</sup>
- The need to extend youth justice initiatives.<sup>29</sup>
- The need to further develop the use of technology in enhancing service delivery.<sup>30</sup>

In considering how to best address these matters, the Federation has sought to identify areas in which synergies exist between legal centres and look to enhance these in order to build CLC capacity as "modern, innovative, effective and flexible" organisations contributing to a fairer justice system.

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<sup>21</sup> Department of Justice, Victoria. *ibid.*

<sup>22</sup> Hulls, the Hon R., "A fair, accessible and understandable justice system" Ministerial Statement, 24 April 2002.

<sup>23</sup> Parliament of Victoria, Law Reform Committee, *ibid.* Recommendation 24. p. 131.

<sup>24</sup> Improving access to people with disabilities

<sup>25</sup> Parliament of Victoria, Law Reform Committee, *ibid.* Recommendation 27. p. 137

<sup>26</sup> Parliament of Victoria, Law Reform Committee, *ibid.* Recommendation 43. pp. 173-174.

<sup>27</sup> Parliament of Victoria, Law Reform Committee, *ibid.* Recommendation 57. p. 192.

<sup>28</sup> Parliament of Victoria, Law Reform Committee, *ibid.* Recommendation 73. p. 221.

<sup>29</sup> Parliament of Victoria, Law Reform Committee, *ibid.* Recommendation 86. p. 236.

<sup>30</sup> Hulls, the Hon R., "A fair, accessible and understandable justice system" Ministerial Statement, 24 April

The following two sections of the submission - **Developing Innovative services** and **Increasing Access**, address five specific initiatives, all of which are oriented towards meeting the needs of disadvantaged communities across Victoria. These initiatives involve the establishment of a Program Development Support Unit, Research Centre and In House Publishing within the Federation Secretariat, new outreach services for the growth corridors of outer-metropolitan Melbourne, extension of the Youthlaw Network, strategic partnerships, increasing access to services by people with disabilities and people from Cultural and Linguistically Diverse background (CALD) and establishment of a Human Rights Centre for Imprisoned People.

- ⇒ **Program Development and Support Unit: Developing innovative programs through**
  - ⇒ Information technology
  - ⇒ Broadening areas of Program Development
  - ⇒ Enhancing Services to Rural and Regional Areas
  - ⇒ Establishing a Research Centre
  
- ⇒ **In House Publishing**

#### **Recommendation Four**

That the State Government fund sector development for CLC's to ensure that innovative services continue including the establishment of a Program Development and Support Unit to be based at the Federation Secretariat and an 'in house' publications and educational resource section.

**Costs:** PD & S Unit- \$319,532.00 (4 staff including travel); In House Publishing - \$46,100.00

## 4.1 Developing Innovative Services

### Program Development and Support Unit

In order to support the development of innovative partnerships between community legal centres and expansion to meet identified areas of need, resources will need to be devoted toward increasing the level of collaboration within the sector.

Three specific areas of focus have emerged from the directions set out in the rural and regional review, and the Justice Statement process. These are program development, information communication technology (ICT), and rural and regional support.

Three specific positions are proposed:

#### 4.1.1. Information Technology

A full-time position or out sourced contract, the ICT worker would provide a number of services to meet the varied needs of CLC's. This role would include:

- **Support and training for community legal centres:** the skill level of individual CLC staff is quite varied, the ICT worker would develop and deliver training to meet the varied needs of all staff.
- **Maintain Secretariat IT systems**
- **Enhance Service delivery:** work collaboratively with CLC staff in the use of ICT within community legal centres to support improved and expanded service delivery.

#### 4.1.2. Broadening Areas of Program Development

This full-time position would act as a central resource for all community legal centres, and would focus on addressing program issues related to collaboration between centres. The objective of the position would be to facilitate partnerships between centres, aimed at service extension. Specific priorities for the position would initially relate to the identification and pursuit of appropriate funding models for partnerships, shifting towards acting as a broker between centres to develop such partnerships. In developing partnerships, particular emphasis will be placed on increasing the extent to which Community Legal Education is delivered throughout the state.

The position would liaise with funding bodies, coordinate training for management committees and CLC workers, coordinate policy development as it relates to funding programs, coordinate Federation working groups on program issues, and examine alternative sources of revenue for community legal centres.

#### 4.1.3. Enhancing Services to Rural and Regional Areas

A full-time position which would work principally with rural and regional community legal centres to undertake a range of project development activities aimed at strategically extending and enhancing service delivery to Rural/Regional communities. The position would focus on supporting the extension and improvement of legal services in rural and regional Victoria, through developing programs to:

- extend pro bono support to rural and regional legal services;
- increase collaboration between rural/regional and specialist legal services aimed at service extension;

- provide professional development and training to rural and regional community legal centre workers, in addition to ongoing mentoring and support;
- extend collaborative partnerships to include local government, industry and state government bodies in rural / regional Victoria; and
- extend the delivery of community legal services into identified areas of need.

This position would be strongly oriented to providing a high level of support to rural and regional community legal centres. This would involve substantial travel to rural and regional centres to work closely with community management committees and staff, as well as the conduct of an annual seminar for rural and regional staff in Melbourne.

#### 4.1.4 Establishing a Research Centre

Funding is sought to establish a research centre for Community Legal Centres in Victoria. The role of the Research Centre would be to:

- Conduct research and write reports on community legal issues.
- Collect and analyse data that could be used to provide valuable 'on the ground' information to inform Victorian Law Reform Commission reviews of specific legislation. Currently CLCs have access to a range of data and information about crime, victimisation, discrimination, poverty, disadvantage and difficulties in accessing the criminal justice system. The Community Legal Research Centre could analyse this information (data) in collaboration with partners to produce significant research and reports. For instance, the Research centre could collect and analyse data from intervention order court support programs about their clients experiences of the legal process, to provide information for the current review of the *Crimes (Family Violence) Act* by the Victorian Law Reform Commission.
- Develop partnerships with industry, tertiary institutions, government and other organisations to seek funding in the form of grants from bodies such as the Criminology Research Council and the Australian Research Council.

#### Recommendation

That the State Government fund the establishment of a Program Development and Support Unit to be based at the Federation Secretariat, with an initial complement of four staff.

**Cost:** To establish these four positions in 2004-05, inclusive of travel would cost \$319,532.00. These costs are shown in *Table 4*

#### 4.1.5 In house publishing

In addition to the grants sought from outside the CLC funding program for specific publications, Centres produce a substantial amount of material 'in house' each year for distribution to their clients. Information can include 'one off' publications as well as pamphlets promoting centres or fact sheets used for Community Legal Education. The quality of 'in house' publications varies considerably. Whilst the information contained is always up to date and in plain English, the overall presentation of publications and CLE materials can at times be of varied standard depending on the centres capacity to access desktop publishing skills.

In order to ensure a constantly high quality of material produced 'in house' by CLC's the Federation proposes to develop and 'In House Publishing' facility. The unit would consist of a

dedicated computer, specific software and provision of training for CLC members who have an interest in developing their skills.

**Recommendation**

That the State Government allocates funds to assist CLC's to produce a consistently high standard of 'in house' publications and education material.

Cost :Computer \$2,000; printer \$1,200; software \$2,900;training 20 people @ \$2,000 each -  
\$40,000 total: \$46,100

## 5. Increasing Access to Services

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Community Legal Centres strive to make services more accessible to a diverse range of disadvantaged communities. The following areas have been identified by CLC's to represent areas of disadvantage, be they geographic, language, disability or age for whom CLC's have sought and are continuing to seek ways to **increase access to services and facilitate participation in services by communities.**

- ⇒ Increasing Access to Services by People with Disabilities
- ⇒ Increasing Services to people from Culturally and Linguistically Diverse backgrounds
- ⇒ Increases Services to Outer Metropolitan Growth Corridors & the Geelong Region
- ⇒ Expand Services to Young People
- ⇒ Establishing a New Community Legal Centre – Centre for Human Rights of Imprisoned People

### Recommendation Five

That the State Government fund CLC's to increase in services

Cost: Disability Access - \$60,428; Interpreting & translating - \$88,000; Outer Metro & Geelong Region Outreach - \$260,770.88 (Table 5); Youth Law Network - \$359,476 (Table 6); Centre for HR&IP - \$328,797

## 5.1 Disability Access

In 2003 the Federation of CLC's conducted research into the access of people with disabilities to services provided by Community Legal Centres and the participation of people with disabilities in CLC's. Report recommendations outline a number of strategies, such as policy development, disability awareness training and the development of a disability plan for federation members. These strategies will facilitate greater access by people with disabilities to CLC's as well as increasing the preparedness of CLC's to provide a more accessible service. (copy of report attached)

### Recommendation

The State Government allocates funds to employ a project worker to implement the recommendations of the report.

Cost : \$50,428 based on 0.8 CLE/Dev (grad) APS 4-6 mid range) plus \$10,000 resources Total: \$60,428

## 5.2 Interpreting and Translating

Victorian CLCs require access to interpreting and translation services in order to provide accessible and equitable services to culturally and linguistically diverse (CALD) communities and to the hearing impaired.

Currently centres receive funds from two sources; **Victorian Interpreting and Translating Services – the Department of Premier and Cabinet** and **Department of Multicultural Affairs** each provide \$33,000 (inclusive of GST) annually, these funds are kept in a central 'pool' and administered by Victoria Legal Aid. The funding pool of \$66,000 is allocated to centres on the basis on relative current demand and anticipated need.

Funds are primarily used by centres to provide on-site interpreters and to a lesser degree, for the translation of documents.

Centres are continually restricted in their capacity to provide translated legal education/information to their CALD communities. This is due to limited access to funding for translations and priority having to be given to using funds to respond to advice and casework. Various Centres have made successful submissions to local Councils and philanthropic trusts to cover the translations of specific publications or information sheets. However, the costs involved for lengthy translations into numerous languages have proven to be prohibitive.

CLC's could vastly improve access to services for CALD communities and those with a hearing or vision impairment. Ongoing links with these communities could be further established and maintained, specialised programs developed, printed materials in languages other than English expanded and legal advice services more responsive and efficient, with high quality and accessible interpreting and translating services.

### Recommendation

That the State government allocate funds for interpreting and translation service to facilitate access to existing services by CALD communities and people with hearing and vision impairment.

Cost: On the assumption that TIS remains free in the coming financial year, community legal centres will require a budget allocation of \$88,000 (inclusive of GST)



## 5.3 Outreach Services for Outer Melbourne and Regional Geelong

### 5.3.1 Outer Melbourne Growth Corridors

Outer-metropolitan areas of Melbourne have experienced dynamic growth since the 1970's and early 1980's when most CLC's were established. These centres were established by local communities to service immediate areas, similar to the model of those in the inner city.

Centres in outer-metropolitan Melbourne have found themselves stretching resources to meet the needs of newly established and growing communities, without the corresponding increases in funding to enable these services to be provided. In some areas there has been phenomenal growth over the last two decades. Some growth corridors have experienced considerable social problems as a result of this rapid expansion.

In addition, the lack of, or limited public transport, has played a part in making CLC's inaccessible or difficult to access from many outer-metropolitan areas. The most significantly disadvantaged people are often living in new housing estates or semi-rural areas and find the cost and long distances a barrier to access to services.

The CLC's in closest proximity to these areas while recognising the growing needs have not had the resources to meet them. Attempts have been made especially with the assistance of local government in some cases to provide 'outreaches', or limited legal services to these communities. These have been a stopgap measure at best and leave vast areas without access to any services.

The recent announcement by the State Government of funding to provide the establishment of a new Community Legal Centre in Whittlesea is very welcome and will provide legal assistance to the people in the growth corridor of the Northern suburbs. However this leaves enormous gaps in the Eastern, Western and South-East Corridors of Melbourne.

The local government areas of Knox and Yarra Ranges in Melbourne's East, Moorabool and Melton in the West and Casey and Cardinia in the South-East cover a vast geographical area, and are currently offered services by existing CLC's who are either not located in these local government areas or who are stretching existing resources to meet these demands. Access to Legal Aid offices is similarly limited.

The evidence of existing legal need is striking. Statistically and anecdotally these are some of the most disadvantaged areas in Melbourne, and indeed the State, with large numbers of people with low incomes and high debt who are the least able to afford the services of a private solicitor.

These areas urgently require an injection of funds to existing centres to meet the needs of these communities.

Our proposal to extend outreach services to outer metropolitan growth corridors has been developed by two existing community legal centres. It is consistent with the priorities and strategies as outlined in '**Growing Victoria Together**', in that it builds on existing community legal infrastructure to extend services to areas of emerging need.

The three legal centres (Casey – Cardinia, Eastern and Western Suburbs CLC) seek funding for the equivalent of three positions to extend services to Pakenham, Cockatoo, Bunyip, Wantirna South, Belgrave, Lilydale, Rowville, Melton and Bacchus Marsh.

Under this proposal, the main office of each centre would remain a base, where administrative support, bookkeeping, planning and coordination of both casework and community legal education would be conducted. An outreach solicitor would see clients at the proposed Outreach Centres and conduct follow up casework either on-site or at the originating centre.

### 5.3.2 Geelong Regional Capacity Building

The catchment area encompassed by the Geelong Community Legal Service (GCLS) was historically based on the (03) 52 telephone code region, which includes such townships as Lara, Apollo Bay, Queenscliff, Colac, Lorne, and the Bellarine Peninsula. Additionally, and particularly for our specialist Child Support and Welfare Rights services, clients come from even further afield.

Unfortunately, given limited resources, GCLS cannot claim to provide adequate services to large components of this catchment region.

The GCLS catchment region contains a total population in excess of 215,000 (ABS 1996), with many pockets of extreme disadvantage. In fact, the area of Greater Geelong alone has one of the highest rates of disadvantage in rural Victoria, both in absolute numerical terms as well as its concentration. Many areas within the region are at considerable distances from the Geelong West area where GCLS is located. Statistical data indicates relatively low levels of people outside of the Greater Geelong Council area being served by GCLS. Of particular concern are the extremely high levels of disadvantage in the Corio LGA.

Current GCLS staffing is as follows:

#### Management & Administration

Manager	34.25hrs pw
Administrator—Organisational	36hrs pw
Administrator—Service Delivery	30hrs pw
Finance (contract Commercial Bookkeeping)	4hrs pw
Sub total	104.25hrs pw (i.e. 2.74 EFTs)

#### General Legal Service

Principal Solicitor	34hrs pw (i.e. .89 EFTs)
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#### Child Support Service

Liabe Parent Solicitor (15.25hrs pw)	15.25hrs pw
Carer Parent Solicitor (34hrs pw)	34hrs pw
Carer Parent Support Worker (24hrs pw)	24hrs pw
Sub total	73.25hrs pw (i.e. 1.93 EFTs)

#### Welfare Rights Service

Welfare Rights Advocate (36hrs pw)	36hrs pw (i.e. .95 EFTs)
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TOTAL HOURS PER WEEK 213.75hrs pw (i.e. 6.51 EFTs)

While GCLS boasts a number of specialist services (i.e. Welfare Rights and Child Support), its dedicated General Legal Service is limited to the Principal Solicitor position with administration support. Given the need for management and administration, GCLS staffing does not cover dedicated legal education, volunteer coordination, nor the capacity to undertake outreach service provision to enhance access throughout the catchment area.

For this purpose, and as a first step in regional capacity building, GCLS is seeking the addition of staff for general legal purposes, both in relation to casework, legal education and community development.

The half time solicitor position would work closely with the Principal Solicitor in delivering information, advice and limited casework services on an outreach basis. This would be supported by the CLE/community development worker providing legal education services and developing community based strategies (eg. volunteer and pro bono options, internet/website strategies and other resource development proposals).

### Recommendation

That the Victorian Government provide adequate funds to Casey-Cardinia, Eastern and a Legal Centre located in the western suburbs to enable them to conduct outreach to Pakenham, Cockatoo, Bunyip, Wantirna South, Belgrave, Lilydale, Rowville, Melton and Bacchus Marsh; and that additional funds be provided to Geelong Community Legal Service to build and deliver outreach services throughout the Geelong catchment region.

### Cost

Based on estimated salaries and on-costs in based on APS salary scale, this outreach extension proposal would cost \$260,770.88. These costs are set out in *Table 5*

## 5.4 Extension of the Youthlaw Network

In 1997 the Australian Law Reform Commission and the Human Rights and Equal Opportunity Commission produced a report entitled *Seen and heard: priority for children in the legal process*. This report was the result of an investigation into children's experiences with the legal process and made a total of 286 recommendations for reform. The findings of this extensive inquiry remain relevant today.

The report identified numerous barriers, which hindered young people's access to legal services. These barriers included:

- Adult stereotypes as to what decisions young people are competent to make. Young people often feel detached from the legal processes which seem to go on around them and without their contribution;
- Adult nature of legal processes. The legal processes themselves may discourage or inhibit participation by young people, as they are designed for and by adults. Many adults do not have the skills and confidence necessary to fill out forms, provide information, give evidence and otherwise participate in formal legal systems. These difficulties are often significantly magnified in children, whose legal intellectual and emotional skills may be less well developed; and
- Reluctance of children and young people to initiate legal proceedings when their rights have been infringed. Most legal processes where young people are involved relate to family law, care and protection and criminal law. These are situations where young people are *compelled* to be involved in the legal system. This fosters a negative impression of the legal system and makes it difficult to encourage young people to see the benefits of engaging in the legal system.

### Extending the Youthlaw network to outer metropolitan and rural areas

The barriers to young people accessing legal processes outlined above demonstrate the need for specialist legal services to address these concerns. Moreover, generalist legal centres continue to identify young people as a disadvantaged group not accessing their services. The need to increase collaboration between specialist legal centres and those operating in rural and regional Victoria, together with the need to extend specialist youth legal services in particular, were a significant issue before the Rural and Regional Review.

At present the Youthlaw network consists of two centres, a newly established statewide centre located centrally, in the Melbourne CBD and a youth lawyer and youth worker team as part of Werribee Legal Service, an outer-metropolitan area of Melbourne. Werribee currently receives 0.5EFT equivalent and additional funding is sought to bring it to one EFT position. There is need to strengthen these existing services within the CLC Funding Program, particularly in Werribee, which partly relies on non-recurrent funds to conduct services.

The model envisaged by the Federation to meet these needs is (in addition to 5 EFT as is being proposed for other CLC's) a network of specialist youth programs in existing rural, regional and metropolitan community legal centres, where populations of at risk young people are high.

#### **The specialist youth programs in generalist centres would provide**

- Accessible and professional legal services for young people in their local community
- Local education programs with local services, school and community groups about legal issues facing young people and how to deal with them
- Local policy & law reform work
- Support for young people's participation in local legal service delivery

#### **Recommendation**

That the Victorian Government fund the extension of the Youthlaw network to the Outer Eastern Suburbs, Mornington Peninsula, Werribee (current 0.5 position to increase to 1EFT), Northern Metropolitan and Geelong.

**Cost:** The establishment of these positions would cost \$359,476. These costs are shown in *Table 6*.

## 5.5 Disbursements fund

The cost of disbursements in relation to Tribunal or Court matters is a significant issue, which impacts on many CLC's ability to provide much needed services to their clients and thus their clients' ability to access justice. For those services that undertake litigation a lack of funds to support disbursements can severely limit their ability to act for individual clients and to pursue matters of public interest.

### Example

In 2002/2003, Consumer Credit Legal Service had a number of matters/appearances in VCAT, Magistrates', Supreme and Federal Court. Most Supreme Court matters were a result of an appeal from VCAT or the Magistrates' Court. In many cases CCLS clients are on low incomes and they are unable to pay the disbursements associated with such matters. Where necessary, CCLS pays disbursements such as filing fees, barristers' fees, reports (such as psychiatric and psychological reports), title and company searches, expert opinion and even witness expenses. CCLS uses pro-bono schemes provided through the Bar Pro-Bono Scheme and the Public Interest Law Clearing House whenever possible, however, in some cases this assistance isn't possible or is not appropriate, for example where a matter is likely to run for more than a year and constant appearances and/or amendments of pleadings may be necessary.

### Recommendation

That the State Government review access to disbursement funds to ensure greater accessibility by CLC's

## 5.6 Centre for the Human Rights of Imprisoned People (CHIRP)

The Federation of Community Legal Centres - Corrections Working Group (membership: Brimbank Community Legal Centre; Darebin Community Legal Centre; Fitzroy Legal Service; Gippsland Community Legal Service; and North Melbourne Legal Service). Representatives from each of these Centres conduct direct casework, legal education and/or advocacy with imprisoned people.

These centres have long seen a need to establish a legal centre specifically to meet the needs of imprisoned people. This need was also identified by the Parliamentary Law reform Committee.<sup>31</sup>

### Scope and functions of proposed organisation

The proposed centre would function along the same management and service delivery lines as other legal centres.

- Advocate for the human rights of all imprisoned people; including those in police custody, transport vehicles, Juvenile Justice Centres, adult prisons and Immigration Detention Centres
- Advocate for the human rights of families of imprisoned people, especially children
- Development of Prison Law
- Resource existing welfare networks

<sup>31</sup> Lack of a Prisoners' Community Legal Service was noted by Parliament of Victoria in its *Law Reform Committee Review of Legal Services in Rural and Regional Victoria* Recommendation 73, p 221

- Resource prisoners
- Conduct Public Interest litigation
- Campaign for effective education in prison
- Raise community information and awareness
- Campaign against sexual abuse and assault both inside and out of prison
- Conduct inquests into deaths in custody
- Campaign for programs for rehabilitation
- Campaign around issues of mental health and addiction
- Carry out research and policy development activities

Because the CHRIP will also focus on post release support and endeavouring to curb recidivism, emphasis and priority will be given to crime prevention and early intervention, two pivotal components of the Commonwealth and State Government's criminal justice agenda. Early intervention and crime prevention is accompanied by cost savings to tax payers and more broadly, safer communities.

In arguments raised earlier, the Corrections Working Group has come to recognise the importance of health care provision within the criminal justice system and also its continued provision in the community. The CHRIP will look to liaise with both the Department of Justice, and the Department of Human Services in finding cost-effective, long-term solutions to issues that affect people who have been imprisoned and others caught up in the criminal justice system.

**The Centre for the Human Rights of Imprisoned People will assist government by:**

- Assist the government's commitment to reducing the incarceration rates.
- Assist the government's commitment to preventative strategies and diversion from prison.
- Assist the government's prioritisation of family ties in prison.

**Recommendation**

That the State Government fund a Centre for Human Rights of Imprisoned People

Cost: \$328,797 based on using 5 EFT APS salary scale

# TABLE ONE

## Minimum 5 EFT

	Salaries component	Operating costs component	TOTAL	% Commonwealth	% State	Min 5 EFT	Variance	State component	Cwealth component
ALBURY WODONGA CLC	\$ 163,523	\$ 54,508	\$ 218,030	100%	0%	\$364,726	\$146,696	\$0	\$146,696
WOMENS LEGAL SERVICE VICTORIA	\$ 429,699	\$ 143,233	\$ 572,932	84.11%	15.89%	\$364,726	\$148,255	\$0	\$148,255
GIPPSLAND	\$ 162,353	\$ 54,118	\$ 216,471	100.00%	0.00%	\$364,726	\$148,255	\$0	\$148,255
GEELONG CLS	\$ 316,342	\$ 105,447	\$ 421,789	76.16%	23.84%	\$364,726	\$168,923	\$115,543	\$53,380
CONSUMER CREDIT LS	\$ 146,852	\$ 48,951	\$ 195,803	31.60%	68.40%	\$364,726	\$163,857	\$28,773	\$135,084
COMMUNITY CONNECTIONS VIC	\$ 150,652	\$ 50,217	\$ 200,869	82.44%	17.56%	\$364,726	\$163,992	\$35,898	\$128,094
M	\$ 150,551	\$ 50,184	\$ 200,734	78.11%	21.89%	\$364,726	\$188,800	\$17,615	\$171,185
DDLS	\$ 131,945	\$ 43,982	\$ 175,926	90.67%	9.33%	\$364,726	\$282,410	\$57,100	\$205,310
ENVIRONMENT DEFENDERS OFFICE	\$ 76,737	\$ 25,579	\$ 102,316	78.24%	21.76%	\$364,726	\$289,726	\$289,726	\$0
HOMELESS PERSONS LC (PILCH)	\$ 56,250	\$ 18,750	\$ 75,000	0.00%	100.00%	\$364,726	\$159,680	\$159,680	\$0
MENTAL HEALTH LC	\$ 153,785	\$ 51,262	\$ 205,046	0.00%	100.00%	\$364,726	\$124,851	\$0	\$124,851
MURRAY MALLEE CLS	\$ 179,906	\$ 59,969	\$ 239,875	100.00%	0.00%	\$364,726	\$130,461	\$78,759	\$51,702
TENANTS UNION LS	\$ 175,699	\$ 58,566	\$ 234,265	39.63%	60.37%	\$364,726	\$188,764	\$10,967	\$177,797
WELFARE RIGHTS UNIT	\$ 131,972	\$ 43,991	\$ 175,962	94.19%	5.81%	\$364,726	\$272,219	\$65,523	\$206,696
YOUTHFLAW	\$ 69,380	\$ 23,127	\$ 92,507	75.93%	24.07%	\$364,726	\$0	\$0	\$0
PENINSULA CLC	\$ 335,378	\$ 111,793	\$ 447,171	65.40%	34.60%	\$364,726	\$176,333	\$82,700	\$93,492
CASEY & CARDINIA CLC	\$ 141,295	\$ 47,098	\$ 188,393	53.02%	46.90%	\$364,726	\$128,095	\$128,095	\$0
FEDERATION OF CLCS	\$ 177,473	\$ 59,158	\$ 236,631	0.00%	100.00%	\$364,726	\$167,995	\$128,281	\$39,714
DAREBIN CLS	\$ 145,125	\$ 48,375	\$ 193,500	23.64%	76.36%	\$364,726	\$171,226	\$129,995	\$41,231
ESSENDON CLS	\$ 141,383	\$ 47,128	\$ 188,511	24.08%	75.92%	\$364,726	\$176,215	\$102,892	\$73,323
FLEMINGTON/KENSINGTON CLS	\$ 230,423	\$ 76,808	\$ 307,230	41.61%	58.39%	\$364,726	\$57,496	\$29,697	\$27,799
FITZROY LS	\$ 146,876	\$ 48,959	\$ 195,835	48.35%	51.65%	\$364,726	\$116,048	\$61,923	\$40,703
FOOTSCRAY CLS	\$ 186,509	\$ 62,170	\$ 248,678	24.10%	75.90%	\$364,726	\$130,006	\$56,917	\$54,125
EASTERN CLC	\$ 176,040	\$ 58,680	\$ 234,720	46.64%	53.36%	\$364,726	\$177,299	\$100,156	\$73,089
BROADMEADOWS LS	\$ 140,570	\$ 46,857	\$ 187,427	56.22%	43.78%	\$364,726	\$176,392	\$117,689	\$77,143
COBURG LS	\$ 141,251	\$ 47,084	\$ 188,334	43.51%	56.49%	\$364,726	\$176,392	\$117,689	\$58,703
BRIMBANK CLC	\$ 274,577	\$ 91,526	\$ 366,102	33.28%	66.72%	\$364,726	\$178,164	\$98,329	\$79,835
SPRINGVALE LS	\$ 139,922	\$ 46,641	\$ 186,562	71.72%	28.28%	\$364,726	\$225,881	\$29,568	\$196,313
ST KILDAL LS	\$ 104,134	\$ 34,711	\$ 138,845	44.81%	55.19%	\$364,726	\$174,670	\$89,396	\$85,274
MONASH-OAKLEIGH LS	\$ 142,542	\$ 47,514	\$ 190,056	86.91%	13.09%	\$364,726	\$176,884	\$103,035	\$73,849
WERRIBEE	\$ 140,882	\$ 46,961	\$ 187,842	48.82%	51.18%	\$364,726	\$189,726	\$189,726	\$0
WEST HEIDELBERG CLS	\$ 131,250	\$ 43,750	\$ 175,000	41.75%	58.25%	\$364,726	\$179,256	\$112,358	\$66,898
WHITTLESEA	\$ 139,103	\$ 46,368	\$ 185,470	0.00%	100.00%	\$364,726	\$175,874	\$104,135	\$71,739
NORTH MELBOURNE LS	\$ 141,639	\$ 47,213	\$ 188,852	37.32%	62.68%	\$364,726	\$175,874	\$104,135	\$71,739
WESTERN SUBURBS LS	\$ 5,819,561	\$ 1,939,854	\$ 7,759,415	40.79%	59.21%	\$12,765,410	\$5,355,085	\$2,652,664	\$2,702,280
TOTAL									

**TABLE TWO**

**Local, Regional & Specialist Centres**

	Salaries component		Operating costs component		Commonwealth		% State	TOTAL	32% of on costs (calculated at 25% of total)		State component of 32% loading		Commonwealth component of 32% loading	
	\$		\$		TOTAL	%			TOTAL	\$		\$		\$
ALBURY WODONGA CLC	\$ 163,523		\$ 54,508		\$ 218,030	100%	0%	\$328,797	\$26,304	\$0	\$26,304	\$0	\$26,304	
WOMENS LEGAL SERVICE VICTORIA	\$ 429,699		\$ 143,233		\$ 572,932	84.11%	15.89%	\$328,797	\$26,304	\$4,180	\$26,304	\$4,180	\$22,124	
GIPPSLAND	\$ 162,353		\$ 54,118		\$ 216,471	100.00%	0.00%	\$328,797	\$26,304	\$0	\$26,304	\$0	\$26,304	
GEE LONG CLS	\$ 316,342		\$ 105,447		\$ 421,789	76.16%	23.84%	\$328,797	\$26,304	\$6,271	\$26,304	\$6,271	\$20,033	
CONSUMER CREDIT LS	\$ 146,852		\$ 48,951		\$ 195,803	31.60%	68.40%	\$328,797	\$26,304	\$17,992	\$26,304	\$17,992	\$8,312	
COMMUNITY CONNECTIONS VIC	\$ 150,652		\$ 50,217		\$ 200,869	82.44%	17.56%	\$328,797	\$26,304	\$4,619	\$26,304	\$4,619	\$21,685	
CENTRAL HIGHLANDS LS	\$ 150,551		\$ 50,184		\$ 200,734	78.11%	21.89%	\$328,797	\$26,304	\$5,758	\$26,304	\$5,758	\$20,546	
DDLS	\$ 131,945		\$ 43,982		\$ 175,926	90.67%	9.33%	\$328,797	\$26,304	\$2,454	\$26,304	\$2,454	\$23,850	
ENVIRONMENT DEFENDERS OFFICE	\$ 76,737		\$ 25,579		\$ 102,316	78.24%	21.76%	\$328,797	\$26,304	\$5,724	\$26,304	\$5,724	\$20,580	
HOMELESS PERSONS LC	\$ 56,250		\$ 18,750		\$ 75,000	0.00%	100.00%	\$328,797	\$26,304	\$26,304	\$26,304	\$26,304	\$0	
MENTAL HEALTH LC	\$ 153,785		\$ 51,262		\$ 205,046	0.00%	100.00%	\$328,797	\$26,304	\$26,304	\$26,304	\$26,304	\$0	
MURRAY MALLEE CLS	\$ 179,906		\$ 59,969		\$ 239,875	100.00%	0.00%	\$328,797	\$26,304	\$0	\$26,304	\$0	\$26,304	
TENANTS UNION LS	\$ 175,699		\$ 58,566		\$ 234,265	39.63%	60.37%	\$328,797	\$26,304	\$15,880	\$26,304	\$15,880	\$10,424	
WELFARE RIGHTS UNIT	\$ 131,972		\$ 43,991		\$ 175,962	94.19%	5.81%	\$328,797	\$26,304	\$1,528	\$26,304	\$1,528	\$24,776	
YOUTH LAW	\$ 69,380		\$ 23,127		\$ 92,507	75.93%	24.07%	\$328,797	\$26,304	\$6,331	\$26,304	\$6,331	\$19,972	
PENINSULA CLC	\$ 335,378		\$ 111,793		\$ 447,171	65.40%	34.60%	\$328,797	\$26,304	\$9,101	\$26,304	\$9,101	\$17,203	
<b>TOTAL</b>	<b>\$2,831,022</b>		<b>\$ 943,674</b>		<b>\$3,774,696</b>			<b>\$5,260,752</b>		<b>\$132,445</b>		<b>\$132,445</b>	<b>\$288,415</b>	



# TABLE THREE

## CPI Calculations

	Salaries equipment	Operating costs	TOTAL	Commonwealth % contribution	CPI from June 99 to June 03 (16.43% based on C/wealth) component of in costs	% State	CPI from June 99 to June 03 (16.43% based on State component of in costs
ALBURY WODONGA CLC	\$ 163,523	\$ 54,508	\$ 218,031	100%	\$ 8,966	0%	\$ 3,739
WOMENS LEGAL SERVICE VICTORIA	\$ 429,699	\$ 143,233	\$ 572,932	84.11%	\$ 19,794	15.89%	\$ 0
SPPS/LAND	\$ 162,353	\$ 54,118	\$ 216,471	100.00%	\$ 8,892	0.00%	\$ 0
GEELONG CLC	\$ 316,342	\$ 105,447	\$ 421,789	76.16%	\$ 13,195	23.84%	\$ 4,130
CONSUMER CREDIT LS	\$ 146,852	\$ 48,951	\$ 195,803	31.60%	\$ 2,541	68.40%	\$ 5,501
COMMUNITY CONNECTIONS VIC	\$ 150,652	\$ 50,217	\$ 200,869	82.44%	\$ 6,802	17.56%	\$ 1,449
CENTRAL HIGHLANDS LS	\$ 150,551	\$ 50,184	\$ 200,734	78.11%	\$ 6,440	21.89%	\$ 1,805
DDLS	\$ 131,945	\$ 43,982	\$ 175,928	80.67%	\$ 8,552	9.33%	\$ 674
ENVIRONMENT DEFENDERS OFFICE	\$ 76,737	\$ 25,579	\$ 102,316	78.24%	\$ 3,208	21.76%	\$ 914
HOMELSS PERSONS LC	\$ 56,250	\$ 18,750	\$ 75,000	0.00%	\$ 0	100.00%	\$ 3,081
MENTAL HEALTH LC	\$ 153,785	\$ 51,262	\$ 205,046	0.00%	\$ 0	100.00%	\$ 8,422
MURRAY MALLEE CLS	\$ 179,906	\$ 59,989	\$ 239,874	100.00%	\$ 8,853	0.00%	\$ 0
TENNANTS UNION LS	\$ 175,699	\$ 58,586	\$ 234,265	39.63%	\$ 3,813	60.37%	\$ 5,809
WELFARE RIGHTS UNIT	\$ 131,972	\$ 43,991	\$ 175,962	94.19%	\$ 6,802	5.81%	\$ 420
YOUTH/LAW	\$ 69,380	\$ 23,127	\$ 92,507	75.93%	\$ 2,885	24.07%	\$ 915
PENINSULA CLC	\$ 335,378	\$ 111,793	\$ 447,171	65.40%	\$ 12,012	34.60%	\$ 6,355
CASEY & CARDINA CLC	\$ 141,285	\$ 47,098	\$ 188,383	53.02%	\$ 4,103	48.90%	\$ 3,629
FEDERATION OF CLCS	\$ 177,473	\$ 53,158	\$ 230,631	0.00%	\$ 0	100.00%	\$ 9,728
DAREBIN CLS	\$ 147,548	\$ 49,183	\$ 196,731	23.64%	\$ 1,910	76.36%	\$ 6,170
ESSENDON CLS	\$ 145,125	\$ 48,375	\$ 193,500	24.09%	\$ 1,914	75.92%	\$ 6,034
FLEMINGTON/KENSINGTON CLS	\$ 141,383	\$ 47,128	\$ 188,511	41.61%	\$ 3,272	58.39%	\$ 4,521
FITZROY LS	\$ 230,423	\$ 76,808	\$ 307,231	48.35%	\$ 8,102	51.65%	\$ 6,518
FOOTSCRAY CLS	\$ 146,876	\$ 48,959	\$ 195,835	24.10%	\$ 1,936	75.90%	\$ 6,105
EASTERN CLC	\$ 186,509	\$ 62,170	\$ 248,679	48.54%	\$ 4,764	51.46%	\$ 3,450
BROADMEADOWS LS	\$ 176,040	\$ 58,680	\$ 234,720	69.22%	\$ 5,420	43.78%	\$ 4,221
COBURG LS	\$ 140,570	\$ 46,857	\$ 187,427	43.51%	\$ 3,350	56.49%	\$ 4,346
BRIMBANK CLC	\$ 141,251	\$ 47,094	\$ 188,344	33.28%	\$ 2,574	66.72%	\$ 5,161
SPRINGVALE LS	\$ 274,577	\$ 91,526	\$ 366,102	71.72%	\$ 10,785	28.28%	\$ 4,253
ST KILDALS	\$ 138,922	\$ 46,641	\$ 185,562	44.81%	\$ 3,434	55.19%	\$ 4,228
MONASH-OAKLEIGH LS	\$ 104,134	\$ 34,711	\$ 138,844	86.91%	\$ 4,957	13.09%	\$ 747
MERRIBEE	\$ 142,542	\$ 47,514	\$ 190,056	48.82%	\$ 3,811	51.18%	\$ 3,995
WEST HEIDELBERG CLS	\$ 140,882	\$ 46,961	\$ 187,842	41.75%	\$ 3,221	58.25%	\$ 4,494
WHITTLESEA	\$ 131,200	\$ 43,750	\$ 175,000	0.00%	\$ 0	100.00%	\$ 7,188
NORTH MELBOURNE LS	\$ 139,103	\$ 46,368	\$ 185,471	37.32%	\$ 2,843	62.68%	\$ 4,775
WESTERN SUBURBS LS	\$ 141,539	\$ 47,213	\$ 188,752	40.79%	\$ 3,104	59.21%	\$ 4,593
TOTAL	\$ 5,819,561	\$ 1,939,854	\$ 7,759,415		\$ 179,343		\$ 138,369

## TABLE FOUR

### Program Development and Support Unit

Staffing Requirements	Time proportion	Annual Salary as at Jul 01 2003	Travel, Accommodation and meals	Operating expenses	Total
Program Development Worker	1	\$ 60,319.00	\$ 4,485.00	\$ 15,080.00	\$ 79,883.00
Information Communications Technology Worker	1	\$ 60,319.00	\$ 4,485.00	\$ 15,080.00	\$ 79,883.00
Rural and Regional Development Worker	1	\$ 60,319.00	\$ 4,485.00	\$ 15,080.00	\$ 79,883.00
Research Coordinator	1	\$ 60,319.00		\$ 15,080.00	\$ 79,883.00
<b>Total</b>		<b>\$ 241,276.00</b>	<b>\$ 13,455.00</b>	<b>\$ 60,320.00</b>	<b>\$ 319,532.00</b>

# TABLE FIVE

## Outer and Metropolitan Geelong

Host Centre	Outreach Locations	Staffing Requirement	Time Proportion	Annual Salary as at Jul 01 2003				Sub-total salary items	Travel	Operating expenses	Total
				Salary	Leave Loading	Super	Workcover				
CASEY & CARDINA CLC	Pakenham	Solicitor	0.40	\$19,458	\$262.20	\$1,751.22	\$171.77	\$21,643.19	\$3,510.00	\$7,214.40	\$32,367
	Cockatoo / Bunyip	Solicitor	0.20	\$9,729	\$131.00	\$875.61	\$85.88	\$10,821.49	\$1,950.00	\$3,607.16	\$16,378
	Sub total		0.60	\$29,187.00	\$393.20	\$2,626.83	\$257.66	\$32,464.69	\$5,460.00	\$10,821.56	\$48,748
EASTERN CLC	Wantirna South	Solicitor	0.20	\$9,731.00	\$131.00	\$875.79	\$85.90	\$10,823.69	\$1,040.00	\$3,607.90	\$15,47
	Belgrave	Solicitor	0.20	\$9,731.00	\$131.00	\$875.79	\$85.90	\$10,823.69	\$1,625.00	\$3,607.90	\$16,056
	Lilydale	Solicitor	0.20	\$9,731.00	\$131.00	\$875.79	\$85.90	\$10,823.69	\$1,495.00	\$3,607.90	\$15,922
	Rowville	Solicitor	0.20	\$9,731.00	\$131.00	\$875.79	\$85.90	\$10,823.69	\$1,430.00	\$3,607.90	\$15,86
	Sub total		0.80	\$38,924.00	\$524.00	\$3,503.16	\$343.61	\$43,294.77	\$5,590.00	\$14,431.59	\$63,314
A CLC in the western suburbs	Melton	Solicitor	0.40	\$19,458	\$262.20	\$1,751.22	\$171.77	\$21,643.19	\$3,900.00	\$7,214.40	\$32,75
	Bacchus Marsh	Solicitor	0.40	\$19,458	\$262.20	\$1,751.22	\$171.77	\$21,643.19	\$5,200.00	\$7,214.40	\$34,05
	Sub total		0.80	\$38,916	\$524.40	\$3,502.44	\$343.54	\$43,286.38	\$9,100.00	\$14,428.79	\$66,81
GEEELONG & FURTHER CATCHMENT	Colac, Corio, Surf Coast	Solicitor CLE/comm development	0.50	\$24,322.50	\$327.42	\$2,189.03	\$214.71	\$27,053.66	\$4,875.00	\$9,017.89	\$40,94
			0.50	\$24,322.50	\$327.42	\$2,189.03	\$214.71	\$27,053.66	\$4,875.00	\$9,017.89	\$40,94
	Sub total		1.00	\$48,645.00	\$654.84	\$4,378.06	\$429.42	\$54,107.32	\$9,750.00	\$18,035.77	\$81,88
<b>TOTAL</b>			<b>3.20</b>	<b>\$155,672.00</b>	<b>\$2,096.44</b>	<b>\$14,010.49</b>	<b>\$1,374.23</b>	<b>\$173,153.16</b>	<b>\$29,900.00</b>	<b>\$57,717.72</b>	<b>\$260,77</b>

**TABLE SIX**

**Youth Law**

Proposal	Staffing Requirements	Time proportion	Annual Salary as at Jul 01 2003	Travel	Operating expenses	Total
Extend Youth Law Network to four locations in outer east, Geelong, Mornington Peninsula and Northern Metro	Specialist Youth Solicitors	4.5	\$271,435	\$20,182.00	\$ 67,859.00	\$359,476