

Law Week Volunteers and Social Justice Address

Organised by Consumer Credit Legal Service (WA) Inc, The Humanitarian Group and Mental Health Law Centre (WA) Inc. Delivered in Perth on Monday, 16 May 2016.

The Hon Wayne Martin AC

Chief Justice of Western Australia



INTRODUCTION

I am pleased and honoured to have been asked to address this event, being held during Law Week 2016, for the purpose of illustrating the manner in which three community legal centres (CLCs) utilise volunteers in providing their important services. The three centres are the Consumer Credit Legal Service (WA), The Humanitarian Group, and the Mental Health Law Centre (WA).

Before going any further, however, I would like to acknowledge the traditional custodians of this land, the Noongar people, on whose land we are meeting, and pay my respects to Elders past, present and future.

VOLUNTEERS

I note that this evening's event is not focused on the very significant pro bono partnerships¹ with the CLC sector that lawyers and firms enter into, as businesses.² Instead the focus is upon the no less important contribution of volunteers who commit their personal time: volunteers who include, for the three CLCs mentioned, paralegals and, in the case of The Humanitarian Group, also interpreters. That distinction is made not for the purpose of diminishing the importance of pro bono assistance to CLCs but simply because this evening's event is intended to celebrate the contribution of those volunteers.

LEGAL NEED

50% of Australians aged 15 years and over need legal help every year.³ In Western Australia, legal need is more prevalent with 52% of the population facing a legal issue.⁴ Some 22% of those surveyed across Australia experienced three or more legal problems within the past 12 months.⁵ An Indigenous Legal Needs Project has also focused on the extent of Indigenous civil and family law

needs in Australia and demonstrated that access to legal assistance for Indigenous Australians is particularly limited.⁶

STRAIN ON INDIVIDUALS AND FAMILIES

The experiences of just over half of the Australians who had legal problems is that these have moderate or severe impact on their everyday life.⁷ The effects include loss of income, attendant financial strain, stress-related illness, and physical ill health.

The considerable negative impact that legal problems impose on people's lives can lead to an enormous cost to society at large. In the United Kingdom, the economic impact on health and other public services stemming from the adverse consequences of legal problems was estimated to be at least £13 billion over a 3.5-year period.⁸

LIMITED OPTIONS AVAILABLE

There is no absolute right to be legally represented in Australia. The cost of getting help and securing legal representation can prevent many Australians from gaining effective access. For a well-functioning system, access should not be dependent on the capacity to pay, and vulnerable litigants should not be disadvantaged. A system which effectively excludes a sizable portion of society from adequate redress not only can result in considerable economic and social costs, but can also be regarded as unjust.

Barriers that deter or frustrate parties from accessing the civil justice system include financial costs, communication barriers and a lack of awareness and resources.⁹

Legal Aid may be able to assist some Australians. However it is estimated that only the most seriously financially

struggling 8% of households qualify for Legal Aid assistance.¹⁰ Given that 14% of Australians live below the OECD's poverty line, it is clear there is a significant gap for Australians to get legal assistance.¹¹

The majority of low and middle income earners have limited capacity for managing large and unexpected legal costs. This "missing middle"¹² comprises the majority of low and middle income earners who cannot afford or access appropriate legal advice when faced with a problem.

CLCS ASSIST THE "MISSING MIDDLE"

The missing middle relies on the help of the community legal sector. CLCs aim to deliver fair and equitable outcomes as efficiently as possible by resolving disputes early and at the appropriate level. In 2012-13, CLCs across Australia provided:

- 172,600 instances of information services;
- More than 4,200 community legal education projects;
- 253,200 instances of advice services.

They also opened around 53,000 cases.¹³

Later this evening, you will hear more about the work and outcomes of three West Australian CLCs: Consumer Credit Legal Service, The Humanitarian Group and the Mental Health Law Centre.

It is worth reiterating however some of the key findings of the Productivity Commission's Inquiry into Access to Justice Arrangements. It found that:

- Given the number and type of cases they see, legal assistance providers are uniquely placed to identify systemic problems affecting disadvantaged Australians.

Addressing systemic problems can be an efficient way to use limited funding.

- Civil law matters are the poor cousin in the legal assistance family. Australia's most disadvantaged people are particularly vulnerable to civil law problems and adverse consequences resulting from the escalation of such disputes.¹⁴

CLCS USE VOLUNTEERS

Most CLCs utilise volunteers and *pro bono* support to some extent. Without this alternative, additional resource, CLCs would not be able to achieve as many, or as significant, outcomes for their clients. Volunteer paralegals and interpreters allow for the significant growth in advice and services. The volunteer interpreters ensure there is accuracy and greater efficiency in the communication between the lawyers and their clients while volunteer paralegals take instructions and draft advice under the close supervision of lawyers enabling the lawyers to focus on more complex legal issues.

For 2012, the National Association of CLCs' survey showed that of 106 CLCs who responded, over 95% used volunteers.¹⁵ Of these CLCs, over 3,637 volunteers contributed 8,369 hours per week.¹⁶

For 2013, 131 CLCs reported using 4,588 volunteers, who contributed 24,113 volunteer hours per week in the 2012/2013 financial year.¹⁷

For 2014, 125 CLCs reported using 6,543 volunteers, who contributed nearly 15,000 hours per week.¹⁸

Some 2,306 hours were spent per week responding to volunteers' queries and otherwise supervising volunteers, as reported by 116 CLCs.¹⁹ At only 15% of the volunteer hours contributed, the high return on supervision hours is evident.

SIGNIFICANCE OF INVESTING IN VOLUNTEER WORKFORCE

The capacity of CLCs to attract, train and utilise large numbers of quality volunteers is a major feature that sets them apart from many other legal service providers.

It is important that CLCs continue to invest in volunteers as an alternate or additional source of capacity, especially as they face reduced funding. Doing something that benefits others, beyond self or family, remains a core component of how most people see volunteering.

Notwithstanding the importance of such external community benefit, we should also acknowledge the mutual benefit derived from volunteering. This element of mutual benefit will become apparent in the comments of others to follow tonight.

I wish to also acknowledge the work burden placed on CLCs in their training and supervision of volunteers. Without the commitment to training and supervising volunteers, CLCs would not be able to rely on competent volunteer resources to continue their good work.

In conclusion, I hope that these short remarks have provided some indication of the significance of the contribution made by volunteers to the provision of legal services and assistance by the three CLCs represented at tonight's event, but also to the many CLCs operating across Australia. As a community, we owe a significant debt of gratitude to those who are willing to devote their time and energy to the assistance of the many who find our legal system complex, daunting and inaccessible.

NOTES

1. National Association of Community Legal Centers, Working Collaboratively: Community Legal Centres and Pro Bono Partnerships (2014) Sydney South, NSW.
2. National Census of Community Legal Centres Inc, National Census of Community Legal Centres 2014 National Report (May 2015) Sydney South, NSW p 9, note 3.

3. Coumarelos, C, Macourt, D, People, J, MacDonald, HM, Wei, Z, Iriana, R & Ramsey, S, Legal Australia-Wide Survey: legal need in Australia (2012), Law and Justice Foundation of NSW, Sydney p 161.
4. *Ibid.*, p 162.
5. *Ibid.*, p 14.
6. Indigenous Legal Needs Project, James Cook University. The Legal Australia-Wide Survey was limited by the small numbers of Indigenous respondents interviewed (above n 3, p 178).
7. Productivity Commission, Access to Justice Arrangements, Inquiry Report No. 72 (2014), Canberra p 88.
8. Above n 3, 28.
9. Above n 7, p 6.
10. *Ibid.*, p 20.
11. Australian Council of Social Service, Poverty in Australia (2014), Strawberry Hills, NSW p 46.
12. Above n 7, p 20.
13. *Ibid.*, p 671.
14. *Ibid.*, p 703.
15. National Association of Community Legal Centers Inc, Working Collaboratively: Community Legal Centres and Volunteers (2012) Sydney South, NSW p 1.
16. *Ibid.*
17. Above n 2, p 26.
18. *Ibid.* The NACLCL acknowledges the decrease in volunteer hours from 2013 to 2014, but cautions against reading the difference as a decrease; for example there were changes in the sample reporting between the two years.
19. *Ibid.*, p 29.

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Australian Council of Social Service, Poverty in Australia (2014) Strawberry Hills, NSW. Available at: <http://acoss.wpengine.com/poverty-2/>

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