



Cooperative Legal Service Delivery (CLSD) Program e-update

Dec 2016

CLSD PROGRAM UNIT

CLSD Program Unit

It's the end of another very big and busy year for the CLSD Program.

I'd like to thank our fabulous CLSD Program Regional Coordinators across NSW who do a great job connecting up legal services, and keeping our city-counterparts up to speed on the particular issues our disadvantaged clients in regional and remote NSW face on a daily basis. Last week, Ashurst kindly hosted a full day workshop for our CLSD Regional Coordinators across NSW. It's so inspiring to work with a passionate bunch of go-getters!

There's been a few changes of the guard. Long-standing South Coast CLSD Regional Coordinator Dianne Day has stepped down from the role she's held since 2009. The only good news is that her replacement is Justine O'Reilly, a solicitor with Legal Aid's Early Intervention Unit, and long-time South Coast resident. As sad as we are losing Dianne, we are very happy to have Justine join us.

Projects/activities in the CLSD Program regions

Recent activities across regional NSW include:

- Saltwater Women's Camp near Taree, including free wills for Aboriginal people provided by Gilbert + Tobin.
- Wills clinic at Wilcannia, provided by Far West Community Legal Centre and Ashurst.
- Legal information days at Coonamble and Warren which included free birth certificates for Aboriginal people at Coonamble.

What kind of systemic issues are we seeing across NSW?

The CLSD Program Unit provides quarterly reports on systemic issues to the New South Wales Legal Assistance Forum (NLAF), which can be found here: <http://www.nlaf.org.au>. The most recent report highlighted the following systemic issues:

- Lack of diversion options for people in the criminal justice system with drug, alcohol and mental health issues. A number of regions are lobbying for the Magistrate's Early Referral Into Treatment (MERIT) Program to be expanded to their region, including Walgett and Taree.
- Transfer of social housing stock from Housing NSW (a Family and Community Services FACS agency) to community providers – unclear whether community providers will have to comply with freedom of information requests and policies adopted by FACS, for example discount rent for tenants who are serving time in prison, enabling them to retain their tenancies.
- Need for Child Contact Centre in Broken Hill. Broken Hill has a very high rate of family violence and no supervised contact centre, inhibiting the Court's ability to make optimal orders for supervised contact. The Far West Community Legal Centre has released a report on the need for a centre in Broken Hill and the model that would meet the needs of the community.

Interventions for perpetrators of family and domestic violence

A few CLSD Program partnerships have recently raised the issue of the need for domestic and family violence perpetrator interventions to help address violence against women and their children. While behaviour change programs are available in a number of locations in NSW there are also some significant gaps in the availability of these services particularly in regional and remote areas in the west and north-west of NSW.

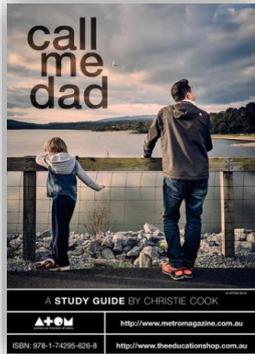
Participation in community based men's behaviour change programs in NSW is voluntary, and Corrective Services NSW provides programs to people who have been found guilty of an offence and sentenced.

Community based men's behaviour change programs are offered as a group program, typically for 16 to 18 weeks. Some service providers charge a fee of up to \$180 to course participants. Potential program participants must disclose details about partners so that the program can establish contact with the partners of participants to monitor safety.

The Men's Behaviour Change Network NSW acts as an umbrella organisation for programs that comply with the Minimum Standards for Men's Domestic Violence Behaviour Change Programs in NSW. For more information about the Network, the Minimum Standards and for links to men's behaviour change programs <http://www.mbcn-nsw.net/>.

Call me Dad

The CLSD program has negotiated some licences to screen 'Call me Dad', a documentary highlighted in the previous e-bulletin which follows the journey of some men who participate in a men's behaviour change program. A screening kit is also available to support marketing of the screening, and the facilitation of discussion at the screening of the movie. Screening of the movie could be used to start a conversation amongst community and service providers about how a men's behaviour change program could complement other strategies to prevent and eliminate violence against women. See <http://callmedadfilm.com/> for more information about 'Call me Dad.'



Contact your regional CLSD Program Regional Coordinator or the CLSD Program Unit if you are interested in a screening of 'Call me Dad'.

If you have any comments or contributions to make on these issues, please contact Jenny Lovric, CLSD Program Manager on jenny.lovric@legalaid.nsw.gov.au or (02) 9219 5102.

LEGAL AID NSW NEWS

Farewell to Legal Aid NSW CEO

Bill Grant the Chief Executive Office of Legal Aid NSW has retired. Richard Funston, the Deputy CEO, will act as the CEO until a permanent appointment is announced.

Change in guidelines for employment matters

From 21 November 2016 the Legal Aid NSW guidelines for employment matters has been expanded. Legal aid is available if a person meets the means and merit test, and is at social disadvantage. The guidelines contain a number of criteria for social disadvantage and an applicant needs to meet a number of these in order to be eligible for aid. One of those criteria was that the person seeking legal aid is over the age of 59 years. This is now expanded to the person being under the age of 25 years, or over the age of 55 years. For more information <http://www.legalaid.nsw.gov.au/for-lawyers/policyonline/guidelines/3.-civil-law-matters/3.3.-employment-law-matters>.

New Family Court duty service for survivors of domestic violence

Legal Aid NSW will soon commence a new integrated service for survivors of domestic violence at family law courts. The service will combine duty lawyers with support from specialist family violence workers.

SECTOR NEWS

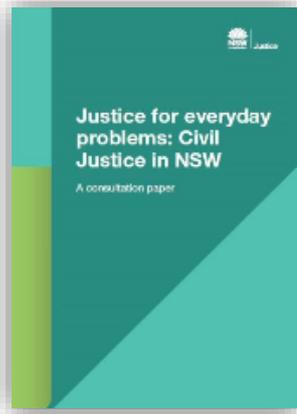
Their futures matter: reforms at Family and Community Services

FACs recently announced reforms that have been introduced following an independent review of out of home care. The reform introduces tailored support packages, and a new approach to monitoring to ensure that interventions that are funded by FACS are really working to effect good outcomes for children and their families.

For more information <https://www.facs.nsw.gov.au/reforms/children,-young-people-and-families/their-futures-matter-a-new-approach>.



Justice for everyday problems: Civil Justice in NSW - have your say



The NSW Department of Justice has released a consultation paper outlining ideas on potential improvements to the civil justice system in NSW.

According to the paper, more than two million people in NSW have a civil justice problem every year with a broad range of everyday problems such as issues with a mobile phone contract, disputes about faulty goods, and housing and debt problems. These kinds of issues represent 85 % of all legal issues experienced by NSW citizens.

However, research shows that many people don't take any action at all to solve these problems because they think it will take too long, or be too expensive or stressful, or because they simply don't know what to do.

The Civil Justice Consultation team are keen to hear about how people experience our current system through a [quick online survey](#). They also encourage those interested to hear more to visit the Department of Justice's [civil justice consultation page](#) to download the consultation paper and find details on how they can contribute ideas on making the system faster and easier. Submissions are open until 5pm on Friday, 24 February 2017. See http://www.justice.nsw.gov.au/justicepolicy/Pages/lpclrd/lpclrd_consultation/Civil-Justice-Consultation.aspx

Changes to the NSW Crimes (Domestic and Personal Violence) Act

Changes to the NSW Crimes (Domestic and Personal Violence) Act commenced on 3 December.

The most important change is the test for granting Apprehended Domestic Violence Orders (ADVOs) in section 16 of the Act. Until recently, the test required proof that the Person in Need of Protection (PINOP) had reasonable grounds to fear and in fact feared domestic violence.

This second, subjective part of the test has now been removed for all PINOPs. This will allow courts to make orders protecting PINOPs who may be reluctant to express fear due to concerns about retaliation from an alleged perpetrator. However, in the absence of evidence of subjective fears, a court will only be able to impose the mandatory conditions under section 36 of the Act.

These conditions have also been changed, with a new standard condition prohibiting a defendant from damaging or destroying the PINOP's property. Additional discretionary conditions can still be made on ADVOs where the subjective test is satisfied. There are now two forms of ADVOs that will be made, depending on what evidence from the PINOP is available to the Court.

Other key changes are:

- an expanded range of offences are categorised as "domestic violence offences". Any offence committed with the intention to coerce, control or intimidate a PINOP will now meet this definition
- an expanded definition of "domestic relationship" to cover the relationship between a current and former partner of the PINOP
- the Children's Court now has jurisdiction to make or vary ADVOS during care proceedings

- Provisional Orders are no longer limited to 28 days (new section 32)
- cross examination of child witnesses in ADVO proceedings by self-represented defendants is prohibited. This can only take place through a lawyer or “suitable person” appointed by the court.
- a court can make a final ADVO in the absence of the PINOP and/or the defendant
- Police must be notified and given standing in relation to any application to vary a police-initiated ADVO
- a defendant can no longer apply to revoke an expired final ADVO
- a new costs provision expands current restrictions on costs orders against police in ADVO matters.

The change to the Act is supported by regulations prescribing new standard ADVO application and order forms. These have been simplified and redrafted in plain English and include examples of conduct that would constitute a breach of the order.

Vulnerable young people: Interactions across homelessness, youth justice and child protection

The Australian Institute of Health and Welfare (AIHW) has released a report ‘*Vulnerable young people: Interactions across homelessness, youth justice and child protection: 1 July 2011 to 30 June 2015*’, which reveals overlap between homelessness, child protection and youth justice involvement.



The Report shows that of the 187,500 children and young people who accessed specialist homelessness services over the four years to 2014-15, almost 12,000 also received child protection services, over 5,100 were under youth justice supervision, and 590 were involved in all three sectors. "Compared with young people who accessed homelessness services only, young people involved with either or both of these additional sectors were more likely to report having substance use and mental health issues, identify as Aboriginal or Torres Strait Islander, and require more-and lengthier-periods of homelessness support," said AIHW spokesperson Anna Ritson.

This Report reveals that individuals who experience multiple, cross-sector services in the specialist homelessness, protection or youth justice service areas are a particularly vulnerable group. Clients experiencing 2 or more of these services were more likely than specialist homelessness services-only clients: to report having substance use issues; to report having mental health issues; to have an over-representation of Aboriginal and Torres Strait Islander people; and to receive more days of support and more support periods from specialist homelessness services agencies.

You can find the Report here: <http://www.aihw.gov.au/publication-detail/?id=60129557753>

New Peak Body for Aboriginal Housing

Minister for Family and Community Services Brad Hazzard announced a new Aboriginal housing peak body on 9 December. The new peak will be supported over the next two years by the NSW Federation of Housing Associations. It will provide a collective voice for Aboriginal housing bodies and ensure that providers of Aboriginal housing have access to advice and support. For more information, go to <http://www.sheltersnsw.org.au/news/moving-towards-united-voice-aboriginal-housing-sector-nsw>.

Parliamentary Inquiry into Freedom of Speech

The Federal Attorney General has asked the Parliamentary Joint Committee on Human Rights to look into whether the Racial Discrimination Act (including sections 18C and 18D) impose unreasonable restrictions on freedom of speech, and the complaint handling procedures of the Australian Human Rights Commission.

One of the issues that will be considered by the Committee is whether complaints are dealt with by the Human Rights Commission in an open, transparent and timely way. The Committee has been asked to report by 28 February 2017.

For the full terms of reference, information about possible hearing days go to http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights_inquiries/FreedomspeechAustralia. Written submissions to the inquiry closed on 9 December 2016.

Discounts on appliances from the Office of the Environment and Heritage

The New South Wales Office of the Environment and Heritage has a program to assist eligible people to get significant discounts on new energy efficient fridges and TVs. Clients may also be able to get help to purchase these with a NILS loan. New appliances are delivered and installed and the old ones are taken away! The program is available to June 2017. For more information, go to

http://www.environment.nsw.gov.au/households/appliance-replacement-offer.htm?utm_source=redirect&utm_medium=all&utm_content=&utm_campaign=Appliance%20replacement%20offer%20-%20Vanity%20URL

Appliance replacement offer

We are offering discounts on new energy efficient fridges and TVs so you can replace your old inefficient models. New appliances can cut your energy bills, improve your household and family living costs and help protect our environment.

We are offering:

- a 40 per cent discount on the cost of a fridge
- a 50 per cent discount on the cost of a TV

If you're eligible you can:

- Choose from selected energy efficient fridges and TVs from our retail partner The Good Guys



Refund for Cash Converters' customers

Payday lender Cash Converters agreed to refund \$10.8 million to consumers following an investigation of their practices by ASIC. Cash Converters failed to make reasonable inquiries into consumers' income and expenditure (the responsible lending requirement contained in the national Consumer Credit Protection Act 2009). Cash Converters also had to pay penalties of \$1.35 million following the issue of 30 infringement notices by ASIC.



Refunds to consumers will be overseen by an independent expert who will report to ASIC. The expert will also review Cash Converter's business operations and compliance with consumer credit law, and report to ASIC.

Consumers who had two or more small amount loans in the 90 days before taking out another small amount loan through Cash Converters' website during the period 1 July 2013 to 1 June 2016 should be contacted about a

refund.

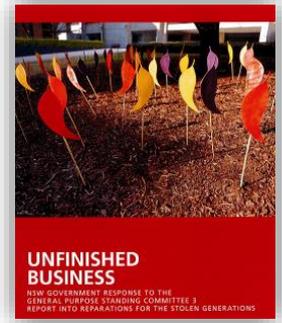
People who think they may have obtained a loan from Cash Converters either in-store or on line that was unsuitable should make a complaint with the Credit and Investment Ombudsman (CIO) <http://www.cio.org.au/>.

Unfinished Business: Reparations for Stolen Generation Announced

On 2 December the NSW Government announced its response to *Unfinished Business* – the Inquiry into Reparations for the Stolen Generations.

The NSW government has responded positively to many of the recommendations made in that report. Specifically the Government has made a commitment to:

- Public statements and acknowledgments regarding the impact of policies and practices that separated Aboriginal children from their families, memorials and education resources. The government will work with Stolen Generation organisations to establish memorials and keeping places.
- Establish a Stolen Generations reparation scheme for surviving children who were removed by the Aborigines Welfare Board of NSW. Up to \$75,000 will be available as an ex gratia payment to recognise the act of removal, or committal to the care of the Board. The Reparations scheme will not make payments for personal injury caused by physical or sexual abuse after removal, and will not provide payments for other types of loss or harm such as denial of educational opportunity, distress and trauma caused by the forced removal or that the actions of the Board were a race based human rights violation.
- Financial and non-financial support for Stolen Generations organisations such as Coota Girls Aboriginal Corporation, Kinchela Boys Home Aboriginal Corporation, the Children of the Bomaderry Aboriginal Children's Home incorporated and the NSW /ACT Stolen Generations Council for healing for survivors and their descendants.
- Work with and advocate for Commonwealth agencies for coordinated responses to aged care, health care card, social and emotional wellbeing counsellors and additional funding to Link-Up NSW.
- Work with Stolen Generation organisations and other non-government organisations through the Aboriginal Housing Office and Family and Community Services to provide information and resources that will help Stolen Generation survivors and their descendants to get access to housing.
- Establish a fund to contribute to the cost of funerals.
- Address recommendations about guarding against repetition, particularly in the context the current high number of Aboriginal children under care and protection orders and in out of home care. Increase early intervention services and introduce a new Cultural Care Plan for children in out of home care. The Department of Family and Community Services will work with the Secretariat of the National Aboriginal and Islander Child Care to implement a national compliance and reporting framework.
- Improve access to records to assist survivors and their descendants who are seeking verification of their cultural identity.
- Consult with communities to establish a state-wide NSW Aboriginal Language Centre.



To read the paper, go to <https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-details.aspx?pk=1645#tab-governmentresponses>

Cross Border Issues Survey

The Office of the NSW Cross-Border Commissioner was established by the NSW Government in 2012 to advocate for the resolution of issues which impact on NSW residents, business and organisations as a result of being located near a state or territory border.

A considerable amount of work has been undertaken to resolve numerous cross-border issues but many remain. A large number of these issues are longstanding and will require a significant commitment from stakeholders and government in NSW and neighbouring states and territories to see them resolved.

The Office has developed a short survey to get a snapshot of your views. The survey takes around 10 - 15 minutes to complete online, via [this link](#). The survey will remain open until Wednesday 14 December 2016. Your participation in this study is completely voluntary. To begin the survey, please [click here](#).

Information provided will be anonymous, and used purely to improve the services offered by the Commissioner and his office. For more information, go to <http://www.industry.nsw.gov.au/contact-us/commissioners/office-of-the-nsw-cross-border-commissioner>.

Review of the Guardianship Act NSW

The NSW Law Reform Commission has released additional questions papers for this review on:

- Decision making models and
- The role of guardians and financial managers.

The LRC is seeking views about these issues and submissions should be sent to the LRC by 31 January 2017. For more information, go to

http://www.lawreform.justice.nsw.gov.au/Pages/lrc/lrc_current_projects/Guardianship/Project-Update.aspx

Australian Law Reform Commission Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander People

The Commonwealth government has announced that the Australian Law Reform Commission (ALRC) will inquire into the incarceration rate of Aboriginal and Torres Strait Islander people. Draft terms of reference for the inquiry have just been released and comments can be made on them until 13 January 2017.

The draft terms of reference acknowledge that Aboriginal and Torres Strait Islander people are over-represented in the prison systems in Australia. The ALRC will be asked to consider a range of issues, research and existing data including:

- Law and legal frameworks that inform decisions to hold or keep Aboriginal and Torres Strait Islander people in custody, including cautioning, protective custody, diversion, sentencing and parole.
- Factors within laws and legal frameworks that affect decisions to hold or keep Aboriginal and Torres Strait Islander people in custody including community safety, availability of alternatives to prison, incarceration as a last resort and incarceration as a deterrent and punishment.
- Whether certain laws contribute to the rate of offending by Aboriginal and Torres Strait Islander people and their imprisonment.
- Legal institutions and law enforcement, including specialist courts, legal assistance services and prisons.
- Best practice laws and legal frameworks.
- Broader contextual factors that contribute to imprisonment of Aboriginal and Torres Strait Islander people, including the availability of and effectiveness of programs to reduce offending and incarceration of Aboriginal and Torres Strait Islander people.

The ALRC will also identify and consider other reports, inquiries and action plans that relate to the incarceration rate of Aboriginal and Torres Strait Islander people, including the Royal Commission into Aboriginal Deaths in Custody.

For the draft terms of reference, and how to comment on them, go to:

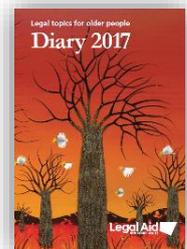
http://www.lawreform.justice.nsw.gov.au/Pages/lrc/lrc_current_projects/Guardianship/Project-Update.aspx.

INFORMATION AND RESOURCES

Legal Topics for Older People – Diary 2017

The 2017 edition of this popular Diary is now available from Legal Aid NSW. The Diary contains information about seniors' rights, consumer law and aged care as well as information and contacts for services for older people. Copies of the diary can be ordered through the Legal Aid NSW website at

<http://www.legalaid.nsw.gov.au/publications/factsheets-and-resources>.



Justice Access Alert

The Law and Justice Foundation publishes a regular alert that provides information about recent research on access to justice and legal need (like the case study on the CLE app highlighted in this e-update!). To subscribe go to <http://www.lawfoundation.net.au/publications>.

New Administrative Appeals Tribunal (AAT) Factsheets

The Administrative Appeals Tribunal has published some new factsheets to help people who have lodged an appeal for review of a decision about a debt claimed by Centrelink, a disability support pension, being a member of a couple, review of a Family Tax Benefit care decision, and review of a Child Support care decision. To get copies of the factsheets <http://www.aat.gov.au/social-services-child-support-division/applying-for-a-review/factsheets>

It is still important to advise clients to get legal advice about a review, particularly review of a decision about eligibility for a DSP payment.

New Legal Resource: Dealing with Family and Community Services (FACS)



Women's Legal Service NSW has created a new resource for Aboriginal women who are dealing with Family & Community Services (FACS) about their children. As well as really good tips for dealing with FACS it includes a diary for women to record meetings and interactions with service providers.

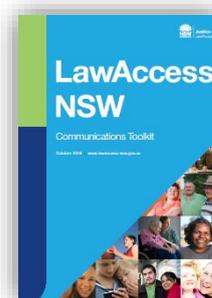
To download or order copies of the booklet
<http://www.wlsnsw.org.au/resources/publications/>

LawAccess NSW toolkit to raise awareness of its services

Law Access NSW has developed a new toolkit for individuals and organisations to raise awareness about Law Access through a range of platforms including internet and intranet pages, social media, electronic and paper based newsletters.

The toolkit contains

- Messages that can be used to about the services provided by Law Access, including material for newsletters
- Images for websites about Law Access
- Sample tweets and Facebook posts that can be used to raise awareness about the sorts of problems that Law Access can assist with and the resources that are available on the Law Access website.



For a copy of the tool kit and promotional resources on Law Access services
<http://www.lawaccess.nsw.gov.au/Pages/about-us/communications-toolkit.aspx>.

When CLE projects go wrong

A case study by Victoria Legal Aid on the use of a mobile phone application to provide legal information to young people provides some good insights into what can go wrong when planning and implementing community legal education (CLE). The "*Below the Belt*" app was developed to provide information to young people about sexting, cyber bullying and consent. However it was discontinued two years after its release because of low install rates and high uninstall rates, and following an evaluation of the project.

What went wrong? The case study concludes that the project was based on assumptions that young people have the capacity to resolve legal problems if they have correct information, and that young people will use an app to obtain legal information. By contrast available research indicates that young people prefer to get legal information from friends and peers, or through a google search. The project also had significant technical problems; the app was developed for Android operating systems only, and did not work successfully all versions of that operating system.

The case study also concludes that the concept was not adequately tested, and suggests some key points to consider when developing CLE materials:

- Identify the issues clients are facing
- Confirm if education is a solution
- Scope options, including viability of options
- Test options and assumptions
- Decide on an option or decide not to proceed with any options.

For more information <https://www.legalaid.vic.gov.au/sites/www.legalaid.vic.gov.au/files/vla-case-study-below-the-belt-phone-app.pdf>.

Regional Outreach Clinic Program

- The new Regional Outreach Clinics at Laurieton Library and the South West Rocks Community and Information Centre have started. The Mid North Coast Community Legal Centre and Vanessa McNeilly of McNeilly Lawyers provide services at these clinics. The first family law clinic at South West Rocks was booked out! Flyers and posters for these new services are available from Melanie Kallmier the CLSD coordinator for Kempsey Nambucca region who is based at the Mid North Coast Community Legal Centre.
- A new ROCP clinic at Goulburn will open at Mission Australia in Goulburn on 15 December. Matt Adam of Carter Ferguson Solicitors is providing services at this clinic.
- The new Tweed Heads clinic will start in early 2017.
- A full list of all ROCP clinics with locations, times, and contact numbers for making an appointment, is on the Legal Aid NSW website at <http://www.legalaid.nsw.gov.au/what-we-do/community-partnerships/regional-outreach-clinic-program>.

For more information on the CLSD Program, go to
<http://www.legalaid.nsw.gov.au/what-we-do/clsd> or contact Jenny Lovric on:
jenny.lovric@legalaid.nsw.gov.au or T: (02) 9219 5102