CIVIL LAW AL'S OUTREACH REVIEW

BY DORA DIMOS  MARCH 2008
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Cover Page Art Work

The artwork on the cover page was created by Aboriginal artist Bronwyn Bancroft. It is a series of visual cues covering a range of civil law matters such as discrimination and housing. Bronwyn says her icons depict the overwhelming tide of events that people face when dealing with the law. “However as you learn to cope with all these problems and gain knowledge, you become the tree of self.”

Thankyou

LA NSW and ALS staff very generously contributed to the Review, demonstrating their deep commitment to improving legal services for Aboriginal communities.

The Review particularly acknowledges and thanks the staff of the ALS who enriched this Review by sharing their stories, knowledge and experience.
Executive Summary

Civil law problems are problems that impact on peoples’ day-to-day lives. They encompass a wide variety of problems such as housing, credit and debt, welfare payments, discrimination, consumer protection, victims compensation and employment related issues. Left unaddressed, such problems tend to compound, creating havoc and distress in the lives of socially and economically disadvantaged people.

Acknowledging that

“…it remains exceedingly difficult for Aboriginal people to access legal services pertaining to civil law…”

(para B, p.1 LA NSW/COALS Protocol)

the Coalition of Aboriginal Legal Services of New South Wales (now known as Aboriginal Legal Services NSW/ACT Ltd (ALS)) and LA NSW entered into a Protocol for the Delivery of Civil Law Services to the Aboriginal Communities of NSW in February 2006. Under this Protocol, LA NSW agreed to provide civil law outreach services at a number of ALS offices. This Report discusses the review of LA NSW outreach services provided at the following ALS offices:

- Redfern
- Parramatta
- Nowra
- Wollongong
- Lismore
- Taree

The Review found that the outreach services are providing effective civil law services for Aboriginal people except that the service had ceased at two locations: Wollongong and Taree. While the service has re-started at Wollongong, Taree presents particular challenges.

The 2003 Civil Law Review noted that:

“Whilst most (Aboriginal) people are aware of the services that are available for criminal law matters, few are aware of the scope of the law and the range of services available for other problems, particularly in the housing law and consumer areas. In fact, most people may be unaware that they have a legal problem for which they should be seeking advice.”

(LA NSW, 2003, p.31)

This is an issue that resonated through all consultations for the current Review.
There are many lessons to be learned in the experiences of LA NSW in providing outreach services for Aboriginal people to date. The Review makes a number of recommendations for the continuation and strengthening of outreach services at ALS offices at Redfern, Parramatta, Nowra, Wollongong and Lismore.

The Review also recommends the establishment of civil law outreach services at Newcastle ALS and combined civil and family law outreach services to Mount Druitt.

Following is a list of all recommendations. They are more fully discussed in the main Report.

Dora Dimos
Senior Project Officer
March 2008
1.1 List of Recommendations

The Civil Law ALS Outreach should continue with other improvements

**Recommendation 1:** The Review recommends that the civil law ALS outreach at Redfern, Parramatta, Lismore, Wollongong and Nowra continue, subject to strong leadership and a more sustained, coordinated effort by each party with some new strategies that will improve the service. While consistent service delivery is important, the need for flexibility that allows for the service to be provided in ways appropriate for each community should not be overlooked. Taree is discussed below under “Other LA NSW civil law outreach services”.

Community awareness of the ALS Outreach Service

**Recommendation 2:** It is recommended that a communication strategy be developed to promote the civil law ALS outreach service and to engage respective communities, legal aid partners and other stakeholders in the delivery of these services for Aboriginal people.

Training for ALS staff

**Recommendation 3:** It is recommended that suitable civil law training and other resources be developed in consultation with ALS staff. The training should include information about how LA NSW assists clients and the policies that are applied in determining applications for legal aid, so that client expectations are clear.

Cultural awareness and other training for LA NSW staff

**Recommendation 4:** It is recommended that LA NSW staff undergo regular cultural awareness refreshers. These could be informal sessions such as that delivered by the ALS at the 2007 LA NSW Criminal Law Conference.
Recommendation 5: It is recommended that regular training sessions be provided for LA NSW civil lawyers in areas of law for which there is high demand for civil law advice services. It is further recommended that for LA NSW staff providing outreach advice services, particularly in remote locations, training is provided to equip them to provide basic information and advice across all areas of law.

Recommendation 6: It is recommended that cultural awareness training for lawyers include training in the principles of developing services for Aboriginal people and community development.

LA NSW Civil Law and ALS staff communication

Recommendation 7: It is recommended that a discussion forum be established that will foster open discussion between LA NSW staff and ALS staff about any issues related to the outreach service.

Recommendation 8: It is further recommended that an agreed process be developed for the joint resolution of issues that may not be capable of resolution at a local level. For example, this process could involve referral of such issues to the ALS Chief Legal Officer and the LA NSW Civil Law Regional Program Coordinator\(^1\) for joint resolution.

LA NSW staff induction

Recommendation 9: It is recommended that the ALS provide new LA NSW staff with information about the ALS office and the services it provides, other key agencies in the community and in a culturally appropriate way, information about the community.

Recommendation 10: It is further recommended that the ALS provide guidance to assist LA NSW staff to build relationships with the community with a view to gaining a better understanding of civil law needs and identifying ways to improve the service.

\(^1\) In the absence of a distinct Aboriginal Civil Law Outreach Unit discussed below.
LA NSW rosters

**Recommendation 11:** It is recommended that outreach services be provided by no more than two civil lawyers for each service at any given time. The resource implications will need to be further considered. Further, the realities of staff turnover and other competing demands will impact on this aim from time to time, so it is important that strategies be developed to minimise adverse impacts when this occurs.

**Recommendation 12:** It is further recommended that the frequency of the outreach service at Parramatta ALS be increased for a trial period, to assess whether this improves accessibility to the service.

Missed appointments

**Recommendation 13:** It is recommended that further research be undertaken into the reasons why people fail to attend appointments, to better inform the development of solutions to this issue. For example, it may be possible to identify other community services that may assist in solving problems such as lack of transport.

**Recommendation 14:** It is recommended that for outreach locations consistently experiencing large numbers of missed appointments, LA NSW staff consult with ALS staff on options other than booked appointment times.
Minor assistance

**Recommendation 15:** It is recommended that LA NSW develop strategies including the establishment of paralegal positions to more effectively and efficiently manage minor assistance. With suitable resources and tools including comprehensive sets of precedents, the vast majority of minor assistance type work can be undertaken by non-legal staff or paralegals under the supervision of legal officers. This system is found in the community and pro bono legal sector. A recently advertised Advocate Clerk 6/7 in the Mental Health Advocacy Service provides a good basis for the further development of Advocate/paralegal positions in the Civil Law Division. The advocates could also undertake tribunal work, particularly in the Social Security Appeals Tribunal and in the Anti Discrimination Board, were the policies to be amended to cover these proceedings. Such positions could also provide opportunities for professional development of the advocates in our Veterans Advocacy Service.

**Recommendation 16:** Further, it is recommended that a number of such paralegal/advocate positions be identified Aboriginal positions.

Data recording

**Recommendation 17:** It is recommended that the civil law program develop standards for data recording, to ensure that all services are consistently captured and accurately recorded. In this regard, consideration should also be given to a “whole of legal aid” approach. Data entered should be monitored through the provision of regular activity reports.

**Recommendation 18:** It is recommended that LA NSW adopt a corporate definition for “outreach services” and in consultation with Strategic Planning and Policy, develop a uniform system of data recording for outreach services, particularly services provided at the ALS and other locations for Aboriginal people across civil, family and criminal law.

**Recommendation 19:** It is further recommended that data recording for minor assistance also facilitates assessments of the effectiveness of minor assistance services e.g., by enabling the recording of outcomes of the services provided.
Evaluation

**Recommendation 20:** It is recommended that targets for the outreach service be developed in consultation with Strategic Planning and Policy, the Director Aboriginal Services, the ALS and the respective communities. The targets should include the goals and objectives of the service, equity, effectiveness, access, appropriateness (i.e., how well the service meets client needs), quality, efficiency as well as outputs and outcomes for the community.

**Recommendation 21:** It is further recommended that the LA NSW civil law program provide six monthly performance reports of the civil law ALS outreach service. These reports should not only report against targets but also identify any key emerging issues, any problems being experienced and strategies to address identified issues. These reports should be made available to the ALS.

Other LA NSW civil law outreach services

**Recommendation 22:** It is recommended that where possible, outreach services take account of other legal needs such as family law. Where appropriate, services should be provided by lawyers sufficiently skilled in each area. However, in more remote locations where this is not cost effective, the outreach lawyer should have access to training across other areas of law, to enable them to provide basic advice and information during the advice session.

**Recommendation 23:** It is recommended that LA NSW together with the ALS develop systems for the effective and culturally appropriate referral of criminal law and family law clients who have civil law problems.

**Recommendation 24:** It is recommended that the LA NSW civil and family law programs in consultation with the ALS and respective communities, explore innovative means for delivering outreach services, particularly at Mt Druitt, including co-location with other organisations such as medical services, other Government departments or other community based organisations. Co-location with other organisations or services will facilitate a holistic approach to resolving clients’ problems. However, ultimately, any such developments will require careful consultation with communities. Sufficient time needs to be allowed for the building of trust and relationships with communities that will support the development of an appropriate service. New outreach services should be promoted through appropriate communication strategies.
Recommendation 25: It is recommended that a civil law outreach service be established in consultation with the ALS to be held out of the offices of the Newcastle ALS. This service should be included in the revised Protocol. The recommendations for improvements to the current outreach program also apply to the Newcastle ALS service.

Recommendation 26: It is recommended that the feasibility of establishing a civil law outreach service at Toronto be further investigated. The need for outreach services in other areas of law in Toronto should also be considered. This should be oversighted by a Steering Committee comprising members of the LA NSW Aboriginal Justice Committee.

Recommendation 27: It is recommended that LA NSW together with the ALS jointly investigate the feasibility of reinstating a sustainable civil law outreach service at Taree ALS, including determining the model that the service should adopt, by taking into account the needs of the local community. The need for outreach services in other areas of law in Taree should also be considered. This should be oversighted by a Steering Committee comprising members of the LA NSW Aboriginal Justice Committee.

Civil Law policies

Recommendation 28: It is recommended that the LA NSW civil law policies be sufficiently flexible to support and facilitate the delivery of appropriate civil law services that meet the legal needs of Aboriginal communities.

Increasing the awareness of Civil Law amongst Aboriginal communities & capacity building

Recommendation 29: It is recommended that LA NSW and the NSW Attorney General’s Department develop a protocol for the skilling and resourcing of Aboriginal staff in justice agencies to enable them to identify civil law problems and appropriately refer people for assistance.

Recommendation 30: It is recommended that civil law resources for Aboriginal staff in justice agencies be available on the LA NSW web site under a “For Community Workers” web site.
Improving the access of Aboriginal people to civil law services

**Recommendation 31:** It is recommended that LA NSW together with our partners, including the ALS, continue and improve participation in community celebrations.

**Recommendation 32:** It is further recommended that LA NSW develop creative culturally appropriate civil law resources in consultation with Aboriginal communities, utilising appropriate technological advancements. The ICAN web site from Queensland should be seen as an example of best practice in this regard.

The Protocol

**Recommendation 33:** It is recommended that the LA NSW and ALS Protocol for the Delivery of Civil Law Services to the Aboriginal Communities of NSW be revised to include references to the joint promotion of the service and other accepted recommendations for strategies to improve the service. Consideration should also be given to references to the particular needs of the most marginalised members of communities, including Aboriginal people experiencing mental illness, and Aboriginal people with disabilities.

Community participation

**Recommendation 34:** It is recommended that LA NSW in consultation with the ALS and other Aboriginal organisations develop processes to incorporate community participation in the development and monitoring of civil law services for Aboriginal communities.

Networks and coordination

**Recommendation 35:** It is recommended that the LA NSW civil law program become actively involved in appropriate networks, to promote a better understanding of unmet legal need and better awareness of the roles of other organisations in the communities and to identify potential for more strategic partnerships.
Law reform and advocacy

Recommendation 36: It is recommended that LA NSW work with the ALS and other relevant stakeholders to identify and pursue law reform activities which will strategically address systemic problems.

Leadership & organisational structure

Recommendation 37: It is recommended that LA NSW establish an Aboriginal Civil Law Outreach Program to lead, coordinate and monitor LA NSW civil law outreach advice services and the development and implementation of other culturally appropriate civil law services for Aboriginal communities in consultation with the ALS, the community and other appropriate stakeholders. The program should report jointly to the Director Civil Law and Director Aboriginal Services. Should this not be possible in the short term, this role should rest with the Regional Program Coordinator.

The program will have a capacity building role for LA NSW and would also be a liaison point for the ALS and other stakeholders about civil law issues. It will have the practical “on the ground” knowledge of civil law service delivery for Aboriginal people to support the development of further appropriate strategies in consultation with the Director Aboriginal Services. Further, the program will be an important resource for the development of appropriate responses to the findings of the Civil and Family Law Legal Needs of Aboriginal People in NSW Research.

The recently established Older Persons and Legal Education Unit is comprised of a legal officer, a legal support officer/paralegal and a senior legal officer. It is suggested that an appropriate model for the Aboriginal Civil Law Outreach Program, should comprise a senior legal officer and a legal support officer/paralegal as it is envisaged that its role should not include substantial litigation, as this expertise is available within the civil law program.

Implementation

Recommendation 38: It is recommended that implementation of the accepted recommendations of this Review be overseen by the LA NSW Aboriginal Justice Committee.
1 – Introduction

“And from this personal knowledge, I invite you to proceed with passion. What work could be more important?

To expect disappointment and continue anyway.

To know that you will make mistakes and to remember that it is better than not trying – and that it is the only way that you will learn.

To get the systems working for people rather than the other way around.

To ask in any area of working activity – what are the implications of what we are doing for Indigenous people? And explore the answers.

To go to the top to insist on support and resources to put the buzz words into action.

And, to find personal supports that will strengthen you to take the actions and hold the priorities that are important.”

(O'Donoghue, 2006, p.11)

In her address to the Institute of Public Administration Australia, Professor Lowitja O'Donoghue AC CBE highlighted the importance of Indigenous Australians in public sector management. The address was a pivotal source of inspiration and guidance for this Review.

The 1980 Report of the House of Representatives Standing Committee on Aboriginal Affairs Aboriginal Legal Aid found that civil law was an area of law to which

“Aboriginal people rarely have access and in which they are severely disadvantaged.”

(at p.85)
Access to civil law legal services as well as criminal and family law services is vital because unresolved civil law problems can exacerbate the disadvantage people may be experiencing in their day to day lives. In the UK, research has found that:

“Civil justice problems…are not problems that should concern only lawyers and those charged with civil law policy development. They relate to and impact on many aspects of peoples' lives….They are also part of the complex social processes that manifest in crime and social exclusion, and actions aimed at preventing, reducing and mitigating them will also have a bearing on actions aimed at preventing, reducing and mitigating crime and social exclusion.”

(Kemp, Pleasence, and Balmer, 2007, p.7)

While there have been important developments that have improved the access of Aboriginal people to civil law services in recent times, much work remains to be done.

At the outset, Legal Aid NSW (LA NSW) support for Aboriginal community controlled legal aid services across all areas of law for Aboriginal people should be acknowledged. However, as a result of decades of inadequate funding for Aboriginal legal services exacerbated by the Commonwealth / State divide and the heavy demands of criminal law matters on limited resources, Aboriginal people continue to experience extreme difficulties in accessing legal services for civil law problems.

LA NSW is a mainstream legal aid service provider. Nevertheless, it is responsible for providing legal aid services for disadvantaged people in NSW. Civil law legal aid services are delivered in partnership with the private legal profession and community legal centres. Community legal centres provide civil law assistance through their generalist legal centres as well as through specialist services including Wirringa Baiya Aboriginal Women's Legal Centre, Women's Legal Service's Indigenous Women's Program, Hawkesbury–Nepean Community Legal Centre and the Arts Law Centre's Artists in the Black. Until such time as Aboriginal controlled legal aid services are able to provide a full range of civil law services, there will continue to be an important role for LA NSW to play in the provision of civil law legal aid services for Aboriginal people.

LA NSW has identified Aboriginal people as a priority client group and has implemented a number of measures aimed at improving the access of Aboriginal people to civil law services. Acknowledging that

“…it remains exceedingly difficult for Aboriginal people to access legal services pertaining to civil law…”

(para B, p.1 LA NSW/COALS Protocol)

the Coalition of Aboriginal Legal Services of New South Wales (now known as Aboriginal Legal Services NSW / ACT Ltd (ALS)) and LA NSW entered into a
Protocol for the Delivery of Civil Law Services to the Aboriginal Communities of NSW in February 2006. Under this Protocol, LA NSW agreed to provide civil law outreach services at a number of ALS offices.

This Report discusses the Review of Civil law Outreach Services provided by LA NSW at the following ALS offices:

- Redfern
- Parramatta
- Nowra
- Wollongong
- Lismore
- Taree
2 – Terms of Reference

The Terms of Reference for the Review were as follows:

To review civil law outreach services currently being provided by Legal Aid NSW at the following offices of the ALS and to develop strategies for an effective, coordinated and sustainable civil law outreach program to Aboriginal communities:

- Redfern
- Parramatta
- Nowra
- Wollongong
- Lismore
- Taree

The review will consider:

- The effectiveness of outreach civil law services currently provided to Aboriginal communities by Legal Aid NSW.
- Ways to improve the coordination and delivery of outreach services (including their location and structural responsibility within Legal Aid NSW and the development of appropriate liaison points with other organisations).
- Gaps in service provision (either as to existing services or the need for new services).
- Greater collaboration between Legal Aid NSW and Aboriginal services (including but not limited to the ALS).
- The development of a consistent state-wide approach to the delivery of civil law outreach services to Aboriginal communities through training and guidelines.
- Data collection and reporting requirements (including the need to monitor performance and quality standards).
3 – Methodology

A literature review was undertaken and relevant LA NSW statistics were analysed.

Consultations took place in the form of semi-structured interviews. LA NSW offices and ALS offices at each outreach location were visited (due to time constraints, Taree ALS staff were interviewed by telephone) and relevant staff consulted. The Review would have benefited from direct consultations with communities. However, this was beyond the scope of this Review. Additionally, the Review was mindful that certain communities would be consulted as part of separate research commissioned by LA NSW and was concerned not to contribute to the “over research” experienced by many Aboriginal communities (Lawrence, 2007, p.5).

Nevertheless, ALS staff provided invaluable information through the consultations, drawing on their experiences as staff of the ALS and members of the respective communities.

Notwithstanding that Dubbo does not have an outreach arrangement with the ALS, the Dubbo LA NSW office and ALS were also visited and relevant staff consulted. In that community, Aboriginal clients attend the Dubbo LA NSW office for civil law advice and other assistance.

A schedule of consultations undertaken for the Review is contained in Appendix A.

A Consultative Group was formed to provide guidance, advice and information for the Review. The Group was comprised of the following.

Table 1. Civil Law ALS Outreach Review Consultative Group

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<tr>
<th>Name</th>
<th>Title</th>
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<tr>
<td>Richard Funston</td>
<td>LA NSW Director Strategic Planning &amp; Policy</td>
</tr>
<tr>
<td>From 22.01.2008</td>
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<tr>
<td>John McKenzie</td>
<td>ALS Chief Legal Officer</td>
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<tr>
<td>Monique Hitter</td>
<td>LA NSW Director Civil Law</td>
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<tr>
<td>Scott Hawkins</td>
<td>LA NSW Director Aboriginal Services</td>
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<tr>
<td>From 22.01.2008</td>
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<tr>
<td>Sarah Burke</td>
<td>LA NSW Regional Program Director Civil Law</td>
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<tr>
<td>Alex Grosart</td>
<td>LA NSW Legal Officer Civil Litigation</td>
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<tr>
<td>Steve O'Connor</td>
<td>Deputy CEO Legal</td>
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<td>To 18.01.2008</td>
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<tr>
<td>Carol Thomas</td>
<td>Director Aboriginal Services</td>
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<td>To 18.01.2008</td>
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4 – The Context

Rather than providing an exhaustive account of the lengthy history of legal aid services for Aboriginal people, this discussion will focus on key relevant developments since the 2003 Civil Law Review (LA NSW, 2003) which will assist in understanding the context within which this Review took place.

4.1 2003 Civil Law Review

The 2003 review of the civil law program was a wide ranging review of the way in which the civil law program delivered civil law legal aid services in NSW. It made a number of recommendations with regard to the future direction of the program (LA NSW, 2003).

Relevantly, that Review found that

“Certain client groups do not sufficiently access the Commission’s civil law services and focused on seven of those groups.”

(LA NSW, 2003, p.23)

Aboriginal communities were one of the client groups examined. The 2003 Review noted the high level of unmet civil law legal need experienced by Aboriginal communities due to the lack of accessible civil law services. However, in addition to the lack of civil law services, the 2003 Review also noted that:

“Whilst most (Aboriginal) people are aware of the services that are available for criminal law matters, few are aware of the scope of the law and the range of services available for other problems, particularly in the housing law and consumer areas. In fact, most people may be unaware that they have a legal problem for which they should be seeking advice.”

(LA NSW, 2003, p.31)

This is an issue that resonated through all consultations for the current Review.

The 2003 review recommended inter alia that

- The Commission develop a framework for a coordinated outreach program which is integrated with existing service providers and takes into account community need. The framework should include clearly defined goals for outreach services and a method for evaluating their effectiveness…
- The Commission give in principle approval to the establishment of a new client specific civil law service to meet the needs of one or more client groups. The following issues should be taken into account in the decision about which client group(s) should be chosen:
○ The level of disadvantage experienced by the group
○ Government and community priorities
○ The extent to which current services meet the needs of the group(s)…

(LA NSW, 2003, p.84)

Subsequently, Aboriginal people and their communities were identified as the first LA NSW priority client group.²

More Aboriginal people are accessing LA NSW civil law services today, than in 2003. In 2002–2003, 2.6% of the Family and Civil Law Division’s³ clients were Aboriginal people (LA NSW, 2002, p.17). In 2006–2007, 3.3% of the Civil Law Division’s⁴ clients were Aboriginal people.

4.2 Priority Client Groups

Client specific civil law services are being established by LA NSW as follows:

- Homeless people – LA NSW participates in the Homeless Persons Legal Service and provides outreach civil law services for homeless people.
- Older People – A newly established Older Persons Legal and Education Unit will be providing civil law legal aid and education services for older people.
- People Experiencing Mental Illness – LA NSW has funded the Public Interest Advocacy Centre to develop strategies to address the unmet legal needs of people with mental illness in NSW.

² The current LA NSW priority client groups are Aboriginal people, older people, the homeless and people experiencing mental illness.
³ During 2002–2003 Civil law and Family Law were combined in one Division.
⁴ The Civil Law Division includes civil law, mental health and veterans’ law programs.
4.3 LA NSW Corporate Plan 2007–2008

The development of strategies to address the legal needs of Aboriginal people feature prominently in the LA NSW Corporate Plan 2007–2008. In particular, the Plan identifies the following strategies and associated key targets.

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<td>Improve our understanding of the range of legal problems faced by our clients, including the most disadvantaged clients, and consider ways in which we can better meet their needs.</td>
<td>Develop priority client group strategies for older persons, the homeless, Aboriginal people and communities, and people with a mental illness by 31 December 2007.</td>
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<td>Develop and implement an organisation-wide framework for effective and appropriate service delivery to Aboriginal people including the identification of legal needs.</td>
<td>Develop an Aboriginal Justice strategy to guide our service delivery to Aboriginal people by 31 December 2007.</td>
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<td>Promote the availability of services to Aboriginal clients and communities in partnership with Aboriginal organisations and communities.</td>
<td>Develop two service delivery initiatives in partnership with Aboriginal organisations by 30 June 2008.</td>
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<td>Identify and participate in research, policy and service delivery initiatives that will uphold and strengthen the protection of rights, including the rights of Aboriginal people, within the justice system.</td>
<td>Commission a research project to identify Aboriginal legal needs and to develop strategies to address them in the areas of civil and family law by 29 February 2008.</td>
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4.4 NSW Aboriginal Justice Plan – Beyond Justice 2004–2014

Developed in consultation with and led by Aboriginal communities, the NSW State Government’s ten year plan,

“…focuses more broadly than on the criminal justice system alone. It provides for significant activity to ensure the justice system works effectively for both Aboriginal victims and offenders, while also tackling those factors that can be clearly linked to offending in Aboriginal communities.

(NSW AJAC, 2003, p.6)
Importantly, the strategies detailed in “Beyond Justice”, include a number of strategies that relate to civil law legal need and legal aid services as follows:

- Improve Aboriginal young people’s knowledge of their rights under the criminal law, civil and family law, through targeted information and education strategies (NSW AJAC, 2003, p.14)
- Improve Aboriginal young people’s knowledge of their rights to services, particularly in relation to contact with the police (NSW AJAC, 2003, p.15)
- Improve access to services for young Aboriginal people who are victims of crime, specifically violent crime (NSW AJAC, 2003, p.15)
- Improve Aboriginal people’s knowledge of their rights under criminal, civil and family law, through targeted information and education strategies (NSW AJAC, 2003, p.16)
- Develop basic levels of knowledge amongst Aboriginal enterprises of the legal aspects of economic development including corporation law, employment law, consumer law and environmental law (NSW AJAC, 2003, p.18)
- Encourage the highest possible standard of legal representation for Aboriginal people at court, including competency-based training for legal representatives (NSW AJAC, 2003, p.21)
- Promote access by Aboriginal people to programs that identify and deal with issues of discrimination in service provision and delivery (NSW AJAC, 2003, p.23)
- Ensure policy decisions affecting Aboriginal people are negotiated with Aboriginal people at state, regional and local levels of government – Work within existing Aboriginal partnership arrangements in areas such as health, education, justice, children, housing, land and services delivery, including those between peak Aboriginal bodies (NSW AJAC, 2003, p.23)
- Each agency establish an ongoing review of service delivery to Aboriginal clients that directly engages external Aboriginal stakeholders. (NSW AJAC, 2003, p.24)
- Develop standards for evaluating Aboriginal programs, projects and policies (NSW AJAC, 2003, p.24)
- Establish best practice standards for developing, implementing and planning Aboriginal programs (NSW AJAC, 2003, p.24)
- Provide for the ongoing review of government service delivery to Aboriginal communities to identify structural or legislative barriers that inhibit full access to services (NSW AJAC, 2003, p.24)
4.5 LA NSW Aboriginal Justice Service Delivery Plan 2007–2009 (AJSDP)

The AJSDP compliments the LA NSW Corporate Plan. It is a two year plan which looks at ways in which Legal Aid NSW is better able to work with, and address the needs of, Aboriginal people.

Many of the strategies reflect the strategies of “Beyond Justice”.

The LA NSW Aboriginal Justice Committee, comprising internal members as well as representatives from AJAC, the Community Legal Centres Aboriginal Working Group and the ALS "oversee implementation of the Legal Aid NSW Aboriginal Justice Strategic Plan strategies for:

- Working with Aboriginal organisations, communities and people to identify service delivery needs and developing strategies to meet those needs through the delivery of legal services, legal education and through policy reform initiatives.
- Providing increased employment and career development opportunities for Aboriginal people."

Key targets of the AJSDP include the following:

- An increase in the percentage of LA NSW’s case work and advice services provided to Aboriginal clients in civil law to 9% by 2009.
- An increase in the percentage and proportion of LA NSW staff who are Aboriginal to 4% by 2009
- An increase in the percentage of staff who have received advanced cultural awareness training to 90% of managers, 75% of front line staff and 50% of solicitors by 2009

4.6 LA NSW and ALS Statement of Cooperation

LA NSW and the ALS signed a Statement of Cooperation on 21 December 2006. This outlines each party’s responsibilities in relation to legal services for Aboriginal people and the ways in which each party will work cooperatively together.
4.7 Protocol for the Delivery of Civil Law Services to the Aboriginal Communities of NSW

The Coalition of Aboriginal Legal Services of New South Wales (now known as Aboriginal Legal Services NSW / ACT Ltd (ALS)) and LA NSW entered into a Protocol for the Delivery of Civil Law Services to the Aboriginal Communities of NSW in February 2006. Under this Protocol, LA NSW agreed to provide civil law outreach services at ALS offices at Redfern, Wollongong, Lismore, Taree, Parramatta (then Blacktown) and an outreach advice service to Aboriginal communities resident in remote parts of the Northern Rivers region.

In addition to the above, LA NSW also provides civil law outreach services at Nowra ALS.

4.8 LA NSW Director Aboriginal Services

LA NSW established a position of Director, Aboriginal Services in December 2006. The Director's responsibilities include:

- to improve and expand the delivery of Legal Aid NSW services to Aboriginal people by:
  - Developing and maintaining effective communication between the Legal Aid NSW and Aboriginal communities across New South Wales while building trust and confidence among Aboriginal clients in Legal Aid NSW and the services it delivers
  - Providing strategic advice to Legal Aid NSW on current and future Aboriginal client service needs and law reform proposals
  - Working across all areas of Legal Aid NSW to drive the delivery of responsive and innovative client service initiatives across the range of legal aid services
  - Bringing together legal and quasi-legal service agencies and other key stakeholders to work collaboratively on identifying and addressing Aboriginal client and legal service delivery issues
4.9 LA NSW Aboriginal Employment Strategies

In October 2007, LA NSW launched the Judge Bob Bellear Legal Career Pathways Program to provide various opportunities to Aboriginal or Torres Strait Islander students wishing to pursue their studies, particularly studies towards a legal career. As part of this programme, LA NSW will be offering two scholarships to Aboriginal secondary students who wish to pursue studies beyond Year 10 and complete their Higher School Certificate. The scholarship will provide financial assistance of up to $5,000 per year for students undertaking Year 11 in 2008 and Year 12 in 2009.

LA NSW will also be offering two cadetships to legal undergraduates commencing in mid-2008 as part of the Premier’s Department and Federal Department of Employment and Workplace Relations Indigenous Cadetships Program. The cadetships are currently being advertised.

Additionally, two Aboriginal law graduates commenced in professional legal placements in February 2008. These placements comprise a component of paid practical legal training followed by six months temporary employment as an admitted solicitor. One recently admitted Aboriginal solicitor also commenced the two-year Career Development Program in February 2008.

The Aboriginal Employment and Career Development Strategy is a two year strategy that commenced in July 2007. The employment targets set out in this strategy were to increase the number of Aboriginal staff members to 2% of the total number of staff by 30 June 2008 and 4% by 30 June 2009.

Prior to the commencement of this strategy Aboriginal staff members represented less than 1% of the total number of staff within Legal Aid. Under the strategy the number of Aboriginal staff members has now increased to 23 which represents 2.8% of the total number of staff.

LA NSW is continuing to work towards increasing the number of Aboriginal staff members to meet the target to increase the number of Aboriginal staff members to 4% by 30 June 2009. The targets for employment are spread across all practice areas and all types of work classifications. There are currently 13 staff members employed in administrative roles, eight staff members employed in Legal Officer roles or legal roles under the Judge Bob Bellear programme and two staff members employed in management roles.

To support the Aboriginal staff members employed through this strategy, LA NSW has introduced an Aboriginal Staff Network which will meet bi-annually, an Aboriginal staff mentoring program and more comprehensive training for staff members.
4.10 NSW Legal Assistance Forum (NLAF)

The NLAF brings agencies responsible for legal service delivery together to work cooperatively to improve legal services for socially and economically disadvantaged people in NSW. It has established a Working Group on Access to Civil Law for Aboriginal Clients to focus on projects specifically targeting the needs of Aboriginal people.

Participants at the first NLAF meeting in 2006, resolved that a guide to legal services for Aboriginal people be developed. This guide entitled Guide to Legal Services for Aboriginal People in NSW and the ACT, is now available and includes information about civil law and criminal law legal services. (ALS, 2006)

4.11 National Legal Aid (NLA)

NLA represents Australia's eight Legal Aid Commissions. In 2007, NLA published its New National Policy for Legal Aid, being their vision for a new Commonwealth approach to legal aid in Australia. This policy identified the following six priority areas of need:

“The New National Policy identifies the following six priority areas of need, with costings, which would replace the current Commonwealth legal aid policy and which need to be addressed in order to ensure that all disadvantaged Australians are able to have recourse to the law for the preservation and enforcement of their legal rights:

1. Supporting Australian families and protecting vulnerable family members.
2. Supporting Australians at risk of social exclusion due to poverty.
4. Supporting Australians at risk of social exclusion due to special circumstances.
5. Supporting a fair criminal justice system.
6. Supporting human rights and equal opportunity.”

(NLA 2007, p.3)
4.12 The LA NSW Civil Law Program

LA NSW civil law services are particularly directed to disadvantaged communities, including LA NSW’s priority client groups.

The Civil Law Program comprises of practices based in the head office of LA NSW in Sydney and 13 regional offices. It also provides three specialist services: the Mental Health Advocacy Service; the Veteran’s Advocacy Service; and the Coronial Inquest Unit. An Older Persons Legal and Education Unit has also been recently established.

Regional offices with civil law practices are located at Campbelltown, Coffs Harbour, Dubbo, Fairfield, Gosford, Lismore, Liverpool, Newcastle, Nowra, Parramatta, Penrith, Wagga and Wollongong. Aboriginal clients may access LA NSW civil law services either through the ALS outreach service or at any LA NSW office.

LA NSW’s Civil Law Program is the largest amongst all Australian legal aid commissions and has developed unique expertise in areas of law crucial to protecting and enforcing the rights of the socially and economically disadvantaged including consumer protection, human rights, housing and government law.

Grants of legal aid for civil law matters may also be assigned to private lawyers.

4.13 Aboriginal Legal Service (NSW/ACT) Limited

The ALS is a community controlled organisation that provides legal services at 22 offices across NSW and the ACT. The Board of the ALS is comprised of Aboriginal Directors representing major Aboriginal communities in NSW and the ACT.

The legal practice and administrative structures are managed through three zones. The following table lists each zone and the respective locations of ALS offices:

<table>
<thead>
<tr>
<th>Zone</th>
<th>ALS Office Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central South Eastern</td>
<td>Canberra, Moruya, Nowra, Parramatta, Redfern, St Marys, Wollongong</td>
</tr>
<tr>
<td>Northern</td>
<td>Armidale, Grafton, Kempsey, Lismore, Moree, Newcastle, Tamworth, Taree</td>
</tr>
<tr>
<td>Western</td>
<td>Bathurst, Bourke, Broken Hill, Dubbo, Griffith. Wagga Wagga, Walgett</td>
</tr>
</tbody>
</table>
All offices provide criminal law legal services. The ALS also provides family law and care and protection legal services at some locations.

“The ALS employs Civil Law solicitors, to give advice only, in our Dubbo office.”

(ALS, 2007)

The ALS civil law solicitors at Dubbo also undertake family law case work. They provide minor assistance (letters, documents for Local Court Small claims Division matters, and negotiations) as well as advice in civil law matters.

### 4.14 Civil and Family Law Legal Needs of Aboriginal People in NSW Research

LA NSW has commissioned research into the civil and family law needs of Aboriginal people in NSW. Commencing in February 2008, the research aims to provide:

- A greater corporate understanding of the civil and family law needs of Aboriginal people based on consultation with Aboriginal communities;
- An understanding of what is successful in the current service delivery structure and what is not working;
- Strategies to enable Legal Aid NSW to deliver more effective civil and family law services to Aboriginal people in NSW so as to affect an increased usage of these services by Aboriginal clients.

The researchers will undertake focus groups with Aboriginal communities at Bourke, Goodooga Tabulam, Moree, Wagga, Dubbo, Penrith (including Mt Druitt) and Redfern/Waterloo.

The results of this research will not be available for this Review. Nevertheless, it will provide valuable information and a rich evidence base for further policy and program development.

### 4.15 National Legal Needs Survey

The Law and Justice Foundation has been commissioned by all Australian state and territory legal aid commissions to undertake a national legal needs survey. The survey, being conducted during 2008, aims to provide a comprehensive assessment of Australia’s legal needs.
4.16 Civil Law Policy Review 2008

Concurrently with the Civil Law ALS Outreach Review, a review of the LA NSW civil law policies has also been undertaken and is reported separately to this report. The terms of reference for the civil law policy review were as follows:

The civil law policies (excluding mental health and veterans' law policies) will be reviewed in order to:

- Determine whether or not the current (state) civil law policies meet the legal needs of Legal Aid NSW clients and in particular our priority client groups: Aboriginal people, older people, the homeless and people experiencing mental illness and make recommendations for improvements to the policies.

- Examine the capacity of the civil law program to provide enhanced civil law legal aid services, in particular to our Legal Aid NSW priority client groups: Aboriginal people, the elderly, the homeless and people experiencing mental illness and make recommendations for the development of that capacity.

- Clarify ambiguities in policy interpretation (including State and Commonwealth policies)

The Civil Law Policy Review contains findings regarding the civil law needs of Aboriginal people and makes recommendations for improvements to the policies that will assist LA NSW to more appropriately meet the needs of disadvantaged people and our priority client groups including, in particular, Aboriginal people.
5 – Consultations

The ALS outreach is a regular advice session staffed by LA NSW civil lawyers, provided at an ALS office. Appointments are made by the ALS. The clients assisted through the outreach service, are clients of LA NSW. Advice is given face to face or by phone if the client is unable to attend the ALS. Minor assistance is also given in most instances. This includes a wide variety of work such as negotiations to resolve a dispute, assistance with letter writing, completion of other documents, further investigations, referrals, etc. Grants of aid are made in appropriate cases for representation in legal disputes.

In the absence of clear targets, it was not possible to review the outreach service against specifically measurable indicators.

The Review received valuable information and feedback through consultations with ALS staff and LA NSW staff at each of the outreach locations. The key points are recorded below and may form the base from which meaningful targets are developed and future reviews are undertaken.

Table 4. Outreach locations: feedback key points

<table>
<thead>
<tr>
<th>Location</th>
<th>Key Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Redfern ALS</td>
<td>- Roster comprises of head office civil law staff – Human Rights Group. Clients are from all over NSW, including Wollongong.</td>
</tr>
<tr>
<td>Weekly Friday mornings</td>
<td>- Clients are informed that the advice is to be given by a LA NSW lawyer.</td>
</tr>
<tr>
<td></td>
<td>- The community is generally unaware about the outreach service.</td>
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<tr>
<td></td>
<td>- People ring asking for help with a legal problem and then find out about the civil outreach.</td>
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<tr>
<td></td>
<td>- A wide variety of civil law matters are dealt with including unfair dismissal, VCT, employment, debts, wide variety of matters, commercial tenancy and personal injury</td>
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<tr>
<td></td>
<td>- ALS staff would find training on civil law policies and what the civil law program does, very useful.</td>
</tr>
<tr>
<td></td>
<td>- Additionally, regular meetings between ALS staff and LA NSW to discuss the service and any relevant issues would be beneficial.</td>
</tr>
<tr>
<td></td>
<td>- Clients are also referred to Redfern Legal Centre &amp; Anti Discrimination Board for discrimination matters</td>
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<tr>
<td></td>
<td>- Query whether to extend advice hours past 12.30pm.</td>
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<tr>
<td></td>
<td>- Many referrals from Aboriginal Medical Service.</td>
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<tr>
<td></td>
<td>- Record keeping – need to consider ways to improve</td>
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<tr>
<td>Location</td>
<td>Key Points</td>
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<tr>
<td></td>
<td>record keeping / continuity for more effective transfer of information about clients</td>
</tr>
<tr>
<td></td>
<td>• The roster arrangement is inconsistent with maintenance of continuity.</td>
</tr>
<tr>
<td></td>
<td>• Advice service generates much minor assistance work outside the advice sessions.</td>
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<tr>
<td></td>
<td>• From time to time, clients do not keep appointments. However, on the day of the visit, most clients had attended.</td>
</tr>
<tr>
<td></td>
<td>• LA NSW records outreach under &quot;Redfern ALS&quot; interview location.</td>
</tr>
<tr>
<td>Parramatta ALS</td>
<td>• Roster includes civil lawyers from Penrith (2 solicitors), Parramatta (3 solicitors) and Fairfield (currently 1 solicitor). Each solicitor rostered 1 × per three months.</td>
</tr>
<tr>
<td>Fortnightly service</td>
<td>• People come from varied locations but mainly close by.</td>
</tr>
<tr>
<td></td>
<td>• Complaints about police, motor vehicle property damage, personal injury, debts (including private debts and motor vehicle property damage).</td>
</tr>
<tr>
<td></td>
<td>• The community is generally unaware about the outreach service.</td>
</tr>
<tr>
<td></td>
<td>• Clients call with queries and an appointment is made. If people cannot wait for next clinic, they are told to ring the nearest civil law LA NSW office.</td>
</tr>
<tr>
<td></td>
<td>• Approximately 70% of clients cannot wait fortnight and go elsewhere. Clients are told that civil law advice is given by LA NSW and usually not a problem.</td>
</tr>
<tr>
<td></td>
<td>• ALS staff would find training on civil law policies and what the civil law program does, very useful. Additionally, regular meetings between ALS staff and LA NSW to discuss the service and any relevant issues</td>
</tr>
<tr>
<td></td>
<td>• A civil law ready reckoner would be useful for ALS staff.</td>
</tr>
<tr>
<td></td>
<td>• LA NSW records outreach under &quot;Blacktown ALS&quot; interview location.</td>
</tr>
<tr>
<td></td>
<td>• ALS keep copy of LAC sheet and enter basic information into computer data system.</td>
</tr>
<tr>
<td></td>
<td>• Advice service generates much minor assistance work outside the advice sessions – few cases generated.</td>
</tr>
<tr>
<td></td>
<td>• Legal aid staff have no access to LA NSW data base at the ALS – one client had been to legal aid at Penrith and the rostered solicitor was unaware of previous advice.</td>
</tr>
<tr>
<td>Location</td>
<td>Key Points</td>
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</tbody>
</table>
| Nowra ALS | • People call or attend the ALS and describe the problem and ask to see a solicitor – explain that LA NSW lawyer can give civil advice.  
• The outreach service is provided by one civil lawyer from the Nowra LA NSW office. This maintains continuity.  
• The LA NSW lawyer was previously employed by the ALS and is known to many of the clients – she has a detailed understanding of the community, dynamics, etc.  
• There is much minor assistance work, outside advice sessions.  
• ALS very happy with the service.  
• Most people attend for booked interviews – field officer helps with transport.  
• Both men and women attend the service.  
• ALS staff would find training on civil law policies and what the civil law program does, very useful.  
• Good to have a forum of office managers and legal aid – say 2 × pa.  
• Debts, motor vehicle property damage, consumer protection especially re motor vehicle purchases, victims compensation (Nowra private sols don’t do it), tenancy, discrimination, wills (approx 1-2 per month done by ALS lawyer). Criminal law clients with civil problems are referred to the outreach service.  
• Clients come from Nowra and outside of town e.g., Callala Bay.  
• Need for flyer to all Koori organisations re civil advice service, times, matters can assist with. ALS can disseminate to relevant organisations.  
• On visit date, 6 people had attended in the morning.  
• Important for Aboriginal people to come to their service to see a civil solicitor.  
• Community education is problematic. For it to be effective, need community feedback & input. The priority is to be able to respond to peoples’ issues when they arise. People live ‘day to day’.  
• Practice standards for Advice service? These could set out the service to be expected.  
• Before the new ALS funding arrangements, Nowra ALS had a civil law service, so community still expects it. The office still does much non-criminal law advice and referral. It is the last port of call between Wollongong |
<table>
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<tr>
<th>Location</th>
<th>Key Points</th>
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|          | and the border.
|          | • Criminal clients are mainly male 14 -30 years old. Civil clients are mainly women, but both men and women attend. |
|          | • Takes time to break down the barriers. |
|          | • Importance of knowledge about historical context of the community. |
|          | • 4 distinct groups in Nowra, stable population. Continuous Aboriginal population. |
|          | • People survive on a day to day basis, but if anything beyond that, they have difficulty dealing with it. Need assistance because of lack of family resources e.g., no transport, need help to get to medical appointments etc. Important to provide physical support for issues that most middle class families deal with on own. Not just legal advice but propping up with ability to survive – important for ALS to be able to do that. |
| Field officer: | • Excellent networks and knowledge of the community. |
|          | • Community literacy problems – without the civil law outreach, people would have no where to go. |
|          | • People tell him about their legal problems and he makes appointments for them. |
|          | • Transports clients to ALS for appointments including for the outreach service. Often contact LA NSW lawyer outside advice hours. |
|          | • Mid-week is quieter so he can chase up civil law clients for appointments. |
|          | • Better community awareness about the availability of civil law advice. LA NSW lawyer has acted for people across the 4 different communities. |
|          | • Many women with children and pensions. Some have problems with purchases of expensive cars that are not mechanically sound. |
|          | • Effectiveness of community education questionable – people will not attend for a general discussion – need someone to respond when an issue arises. |
|          | • Civil outreach at ALS is working well – there is large demand for it. |
| Legal Aid Solicitor: | • Has an advice flyer (General - not specifically aimed at Aboriginal community). |
Location | Key Points
---|---

• Community education not necessarily productive – low turnouts for previous forums, etc.

• Does not turn any clients away.

• Agrees that civil law training for ALS staff e.g., Administrative officer & field officers would be beneficial.

• Outreach is recorded under “Nowra” interview location.

Factors contributing to good service at Nowra ALS:

1. History of civil assistance at Nowra ALS.
2. LA NSW lawyer’s past work at ALS – known to the community & trusted by the clients.
3. Accessible service – weekly session and emergency matters outside session attended to – no one is turned away.
4. Field officer and administrative officer can identify civil law problems (especially the field officer who is out in the community, hears of problems and makes appointments).
5. Field officer assists clients with transport.
6. Good communication and rapport between LA NSW & ALS staff.

Location | Key Points
---|---

**Wollongong ALS**

Weekly Friday mornings

• Service had fallen away due to a number of factors but following Review meetings, now restored.

• There have been two ‘good service’ forums.

• Aboriginal Medical Service is 1/2km south of Wollongong.

• Need reasonably flexible policies to allow for assistance in ad hoc matters.

• Meeting 7.12.2007 at LA NSW office, attended by Gerry Moore, Zone Manager & Katie Corbin Administrative Officer.

• Mr Moore’s priority for 2008 is to improve civil law service delivery and marketing of civil law. He is supportive of the working relationship with legal aid. Focus on now bedding down the ALS following the office moves at Parramatta and at Wollongong.

Mr Moore’s 2 priorities:
### Location

**Build up civil law ALS / LA NSW relationship &**

**Build up family law / care & protection.**

- There are quarterly meetings of ALS office managers. LA NSW was invited to talk about civil law to the next meeting on 15.02.08. Agreed that a poster promoting the civil law outreach be developed for the meeting. It will be distributed to court houses, Aboriginal Medical Service and other key locations accessed by the community.

- Remember to include Aboriginal workers in councils as part of networks.

- ALS staff would find training on civil law policies and what the civil law program does, very useful.

- Need for pamphlets to market the civil law service.

- ALS extending Nowra outreach to Moruya.

- Confusion in community because of strong message sent after the tender that ALS only does criminal law.

### Lismore ALS

Outreach to Aboriginal communities started approx 7 years ago. Included outreach to Mulli Mulli, Tabulum, Cabbage Tree Island – with then ALS Field Officer, coinciding with the AMS. He left, then attended with ACSS to Tabulum. ACSS Currently on LWOP. Baryulgil asbestos mine close by.

- Outreach to Lismore ALS office fortnightly. See 4-5 people each fortnight and some come to LA NSW office. ALS will refer urgent matters.

- People call the ALS, describe the problem & are then booked in for civil law advice.

- People who cannot wait fortnight, referred to Community Legal Centre or contact LA NSW by phone. People think the ALS does everything.

- Mainly staffed by one LA NSW solicitor, although civil law resources recently were enhanced with an additional civil lawyer. This maintains continuity.

- Used to go to AMS at Tweed Hospital. Tweed has a large Aboriginal community, connected to the Lismore community. Now go to Murwill fortnightly & Tweed fortnightly for general outreach.

- When staffing resources are low, outreach to outlying communities ceases. Outreach recently re-started but Field Officer unable to attend. Mid-year, LA NSW had to cancel outreach and appointments fell away. Important to ensure it is adequately resourced.

- Have established network with two Aboriginal men, through the Bonalbo Aboriginal Land Corp. They are well connected & respected by the community. Started outreach in Bonalbo at the old general store which is now a café employing Aboriginal people. It is a central, safe location. They have got the word out about the
Location | Key Points
--- | ---
outreach. It is also attended by non–Aboriginal people. | • Matters other than civil law arise during outreach at remote locations e.g., Bonalbo – need for protocols about dealing with such matters. Need to be able to give some information / advice across all matters (training needs). Not cost effective to have solicitors from crime & family also attending.

• Transport is appalling, so important to be able to get out to communities.

• The LA NSW civil solicitor, got to know many of the Aboriginal families from her past Children’s Court work & has extensive networks with other agencies and she knows the Elders. There is also good rapport with ALS staff.

• There are many requests for assistance in disputes at Aboriginal organisations. She assists by giving information on matters such as running meetings.

• Solicitors need to stay bi-partisan

• Important to realise that you cannot take on every case e.g., matters that lack merit.

• Need to build trust and credibility e.g., by assisting Aboriginal people with civil law problems that may not be within current guidelines.

• VCT restitution – give minor assistance especially if Aboriginal person with mental illness. Recovery can be reduced to nil.

• Debt matters, medical negligence / personal injury. Centrelink, Discrimination, police issues, victims compensation, funeral fund, Office of Protective Commissioner issues, Aboriginal grandparents, employment issues, housing and tenancy, care and protection, neighbourhood disputes, Apprehended violence, VCT restitution and claims, family law, debts (bank and housing loans). Criminal law clients have other, related civil law problems. Estate queries and matters related to end of life (referred to LA NSW, CLC and private solicitors)

• If have to refer clients to another appointment, it is rarely followed up.

• There is heavy demand for Mental Health Review Tribunal Representation of Aboriginal people with mental illness. Therefore, important as part of outreach, to represent them in psychiatric hospitals. Lismore legal aid office has a holistic philosophy in the representation of clients who have legal problems across a number of jurisdictions. Generally, first contact of many Aboriginal
## Location

<table>
<thead>
<tr>
<th>Key Points</th>
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<tbody>
<tr>
<td>clients is at Richmond Clinic. People have a multitude of problems.</td>
</tr>
<tr>
<td>• Need for community education about “civil law” and what it is. Also, the respective roles of legal aid and ALS. Desirable for CLE to take place at NAIDOC, football knock out. Training to Indigenous students at TAFE, high schools about legal aid services.</td>
</tr>
<tr>
<td>• Need for poster about the civil law outreach.</td>
</tr>
<tr>
<td>• ALS staff would find training on civil law policies and what the civil law program does, very useful.</td>
</tr>
<tr>
<td>• Aim should be for better access to legal representation for civil law matters. Many isolated areas where people have no transport e.g., Tabulum, Bonalbo.</td>
</tr>
<tr>
<td>• Clients probably feel more comfortable at the ALS.</td>
</tr>
<tr>
<td>• Minor assistance is undertaken for almost all Aboriginal clients.</td>
</tr>
<tr>
<td>• Advice statistics for Lismore Aboriginal clients to be revised, query if all recorded.</td>
</tr>
</tbody>
</table>

### Newcastle/Taree

**ALS**

### Monthly outreach service to Taree. Ceased end 2006.

### Taree

• Monthly outreach at Taree ALS provided by civil lawyers from LA NSW Newcastle office. For urgent matters, clients could call LA NSW direct.

• The outreach at Taree has ceased for more than one year.

• Appointments were generally not arranged by the ALS. Clients were given contact details for LA NSW in Newcastle to make a booking for advice. Sometimes, ALS staff would contact LA NSW to make an appointment on behalf of a client.

• The Taree ALS is unaware why the service ceased. They are keen for it to be restored as there is need for the service.

• Newcastle LA NSW staff advised that the service ceased due to declining client numbers, distance from Newcastle and competing demands on available resources. Attendance at Taree effectively required a full day out of the office.

• Civil law clients are currently referred to private solicitors

• The outreach service could be publicised on Koori radio.

• The Review discussed Taree with Ms Julie Perkins, ALS Board, and Northern Zone Manager. Ms Perkins confirmed the need for a civil law service at Taree, with the main areas of need being debt and discrimination.
<table>
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<tr>
<th>Location</th>
<th>Key Points</th>
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<tbody>
<tr>
<td>Ms Perkins also drew attention to a North Coast Shared Responsibility Agreement whereby the Commonwealth Government is funding 10 CDEP positions to establish 10 Indigenous Community Contact Officers (ICCOs) located in key communities on the North Coast, to provide information on the services available from the Family Court to Indigenous families in the region. Training, coordination and support is provided to the ICCOs by the Family Court.</td>
<td></td>
</tr>
</tbody>
</table>

Newcastle

- Currently no civil law outreach to ALS.
- LA NSW and the ALS were co-located at Newcastle University until July 2007. This facilitated the referral of clients with civil law problems to LA NSW. Since relocation of ALS to other premises, referrals are still made to LA NSW. However, few clients reach LA NSW.
- Anecdotally, LA NSW saw few Aboriginal clients in their Mental Health Review Tribunal work. Possible reason, is people having dual diagnosis of mental illness and substance abuse and consequent difficulty of having them dealt with in the mental health system.
- ALS refers civil law clients to LA NSW and the CLC.
- Clients with family law inter-related problems are referred to private lawyers. However, some private practices are not “geared up” to assist Aboriginal people e.g., people who attend without appointments.
- The ALS receives ‘a few’ phone calls each day from people with civil law problems. People think the ALS does everything.
- Aboriginal people need to be able to trust someone before they are accepted. When referring people, the ALS needs to be satisfied that they are being referred to someone they can trust.
- A large discrimination matter was referred to the CLC and was resolved successfully.
- There is demand for assistance with wills, VCT restitution, motor vehicle property damage, fines, driving while disqualified because of outstanding fines, and care & protection matters. Many problems with police treatment but people do not complain because they assume “that’s how it is“. There has been a noticeable increase of people complaining to the ALS that they are experiencing racial harassment following the “Apology”. These matters are referred to the CLC. Many crises happen in the middle of the night, when there is no one available to contact.
<table>
<thead>
<tr>
<th>Location</th>
<th>Key Points</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>• While the ALS represents people in coronial inquests involving deaths in custody, there is also need for representation of people in other inquest matters. People need to understand the process.</td>
</tr>
<tr>
<td></td>
<td>• Toronto is an area with a high concentration of Aboriginal people. There is enormous unmet civil law need. The Toronto Local Court ACSS should be consulted regarding appropriate outreach locations.</td>
</tr>
<tr>
<td></td>
<td>• Ideally, Newcastle ALS should again be co-located with LA NSW civil law. However if this is not possible, outreach out of the ALS office could be pursued in addition to outreach at Toronto.</td>
</tr>
</tbody>
</table>

**Dubbo LA NSW**  
Sees Aboriginal clients at legal aid office – no ALS outreach

• Aboriginal clients attend Dubbo LA NSW office. There is no outreach arrangement with the ALS.
• Get a good number of enquiries.
• Dubbo LA NSW Office has the largest number of ATSI staff.
• Solicitor in Charge previously worked at WALS & has good relationship with the ALS.
• Tried some early initiatives e.g., outreach out of Gordon Centre.
• Was involved with ATSIFAM – had Aboriginal trainee from the outset.
• Shortage of Aboriginal legal graduates.
• Under – employment in the community.
• Debt, false imprisonment & police matters, housing, consumer protection – ‘loan sharks’.
• Co Operative Legal Service Delivery has helped with planning, can identify gaps.
• Family law outreach to Walgett & Cobar.
• Pre tender, WALS did provide a civil law service.
• The 2 civil lawyers at ALS provide advice for family law matters and refer most civil law matters out as mainly do family law (since the tender).
• Matters referred to LA NSW or CLC. Most people are OK with referrals.
• Personal injury, employment issues – to CLC, consumer protection, finance, cars, funeral funds referred to OFT. Also debts, motor vehicle property damage.
• Victims compensation – ALS solicitors help with the
<table>
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<tr>
<th>Location</th>
<th>Key Points</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>forms but refer ongoing matters to LA NSW, CLC, Blake Dawson.</td>
</tr>
<tr>
<td></td>
<td>• Centrelink issues referred to Welfare Rights.</td>
</tr>
<tr>
<td></td>
<td>• Most tenancy matters go to other tenancy advice services who provide a duty service at the tribunal.</td>
</tr>
<tr>
<td></td>
<td>• Scams e.g., Walgett computers, air conditioners for business purposes, cars.</td>
</tr>
<tr>
<td></td>
<td>• People need hands on help in filling out forms, making phone calls e.g., fine matters.</td>
</tr>
<tr>
<td></td>
<td>• ALS civil lawyer has worked at ALS for 10 years. Now no civil law case work except wills, VCT including restitution &amp; bankruptcy.</td>
</tr>
<tr>
<td></td>
<td>• Most clients want more than just minor assistance.</td>
</tr>
<tr>
<td></td>
<td>• ALS reported a downturn in enquiries about civil law. Query where do the clients go?</td>
</tr>
<tr>
<td></td>
<td>• Many people have been through the criminal justice system, so have little trust in the justice system. Mainly access to justice is imposed &amp; not a positive, helpful role.</td>
</tr>
<tr>
<td></td>
<td>• Community legal education not always effective. Sometimes get some people and other times, nil.</td>
</tr>
<tr>
<td></td>
<td>• The CLC has a field officer who used to work at WALS for many years.</td>
</tr>
<tr>
<td></td>
<td>• ALS Field Officer – 2 field officers at Dubbo &amp; 1 in other regions.</td>
</tr>
<tr>
<td></td>
<td>• Communities in West, East, and to South would need separate CLE sessions.</td>
</tr>
<tr>
<td></td>
<td>• Community info days are of limited benefit if not connected with assisting people with solutions to their own problems.</td>
</tr>
<tr>
<td></td>
<td>• Poster advertising civil law services would be helpful.</td>
</tr>
<tr>
<td></td>
<td>• Field officers get civil queries from criminal law clients.</td>
</tr>
<tr>
<td></td>
<td>• More information/training for ALS staff about civil law would be beneficial.</td>
</tr>
</tbody>
</table>
5.1 Other Feedback

There is a perception amongst others who were consulted that people do not contact the ALS if they have a civil law problem, as they believe that the ALS assists only with criminal law matters. However, ALS staff consistently commented that people do contact the ALS for assistance for civil law problems and expect them to assist with all legal problems. This is particularly so, for offices where the ALS has a pre tender history of providing civil law services.

Another commonly held perception amongst others who were consulted, is that women are not comfortable with attending the ALS for civil law assistance because of the predominance of criminal law services provided by the ALS largely for men. However, the Review notes that recent ALS policies have clarified the importance placed on the wider implications of representation in some matters. The ALS “Black on Black” Conflict of Interest Policy effective July 2007, inter alia provides that for direct representation of clients, there must be no “potential for serious disruption” to be caused in the ‘community’ where the incident arose if the ALS represents a party. The following is one example given of how this policy operates:

“If someone was charged with sexual assault on children within a community it may be likely to cause disruption within that community were the ALS to represent that accused. If it is determined that there would be serious disruption within the particular community, the ALS will not represent the client….”

(ALS, 2007)

While it was not possible within the scope of this Review to investigate this issue in detail, consultations with ALS staff indicated that women do access the civil law outreach service at the ALS. From October 2006 to October 2007, approximately 75% of clients who attended for civil law advice at Parramatta ALS were women.
6 – Some Key Statistics

6.1 Number of LA NSW Civil Law Advices 2006–2007

The following table shows the number of Aboriginal people who attended for advice at selected interview locations during 2006–2007. It is not an exhaustive record of all advice clients. However, it gives an indication of the numbers who attended at ALS outreach locations as well as other locations with a LA NSW regional office that has a civil law practice.

There are a number of notes regarding these figures. A more accurate picture was unable to be obtained due to inconsistent data entry.

Table 5. Number of Civil Law advices by Legal Aid NSW to Aboriginal people at selected interview locations 2006–2007

<table>
<thead>
<tr>
<th>Legal Aid Office or Interview Location</th>
<th>Number of Aboriginal People 2006–2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Redfern ALS(^5)</td>
<td>93</td>
</tr>
<tr>
<td>Dubbo</td>
<td>79</td>
</tr>
<tr>
<td>Parramatta ALS(^6)</td>
<td>69</td>
</tr>
<tr>
<td>Nowra(^7)</td>
<td>57</td>
</tr>
<tr>
<td>Lismore(^8)</td>
<td>37</td>
</tr>
<tr>
<td>Coffs Harbour</td>
<td>35</td>
</tr>
<tr>
<td>Blacktown ALS(^9)</td>
<td>32</td>
</tr>
<tr>
<td>Head Office</td>
<td>31</td>
</tr>
<tr>
<td>Newcastle University</td>
<td>18</td>
</tr>
<tr>
<td>Parramatta(^10)</td>
<td>16</td>
</tr>
<tr>
<td>Wollongong(^11)</td>
<td>12</td>
</tr>
</tbody>
</table>

\(^5\) This figure is taken from a report listing all clients interviewed at Redfern ALS. Note that a report listing Aboriginal clients interviewed at Redfern ALS showed fewer clients at 74. Reasons for difference are unclear. However, could be due to Aboriginality not being recorded for some Redfern ALS clients.

\(^6\) Statistics provided by ALS.

\(^7\) Includes Nowra ALS clients. Note that this outreach service started in March 2007.

\(^8\) Includes Lismore ALS clients. Note that Lismore staff have some doubts about the accuracy of this figure and will review their records.

\(^9\) Blacktown ALS includes some Parramatta ALS. Parramatta ALS statistics may also be included in Parramatta, Penrith or Fairfield Regional Office statistics. Note also that a report listing Aboriginal clients at Blacktown ALS for 2006–2007, showed 23 Aboriginal clients whereas a report listing all clients interviewed at Blacktown ALS showed 32 clients. Reasons for difference are unclear. However, could be due to Aboriginality not being recorded for some Blacktown ALS clients. Note also that the Parramatta ALS service replaced the Blacktown ALS service in approximately May 2007.

\(^10\) Could include Parramatta ALS clients.

\(^11\) Includes some Wollongong ALS clients.
6 – Some Key Statistics

<table>
<thead>
<tr>
<th>Legal Aid Office or Interview Location</th>
<th>Number of Aboriginal People 2006–2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Penrith</td>
<td>12</td>
</tr>
<tr>
<td>Campbelltown</td>
<td>8</td>
</tr>
<tr>
<td>Liverpool</td>
<td>7</td>
</tr>
<tr>
<td>Fairfield</td>
<td>6</td>
</tr>
<tr>
<td>Gosford</td>
<td>3</td>
</tr>
</tbody>
</table>

Community legal centres (excluding Wirringa Baiya) reported a total of 1147\textsuperscript{12} civil law clients for the calendar year 2007.

6.2 Mapping the Aboriginal Population in NSW

The following map (Figure 1) depicts the concentrations of the Aboriginal population in NSW by statistical subdivision. Note the large Aboriginal population around Penrith and to the north of Sydney. The map also records office locations for LA NSW and the ALS.

\textsuperscript{12} This is the number of files opened by CLCs for Aboriginal civil law clients.
The following map (Figure 2) depicts the concentrations of the Aboriginal population in Sydney by statistical subdivision. Note the large Aboriginal population in Outer South Western Sydney, Outer Western Sydney and Gosford – Wyong.

**Figure 2. Indigenous Australians: Total Indigenous population by statistical subdivision (Sydney)**

This information is relevant to discussions below about other outreach locations.
6.3 Key demographic challenges

There are a number of key challenges that arise from an analysis of current and projected Indigenous demographic trends. An awareness of these issues is vital for policy and program development. Following are some of these key issues:

**Youthful Indigenous Population**

“…as the wider Australian community is projected to age even further with increasing shares in the oldest age groups, the Indigenous population looks set to retain its youthful profile because of large numbers of women moving into child-bearing age, combined with high adult mortality.

This reinforces a widening gap in the focus and purpose of social and economic policy: as the Australian population is increasingly concerned with the effects and implications of ageing and funding retirement, Indigenous Australians remain firmly focused on the issues of raising families, education, housing and jobs.

**Income Disparity**

…In 2001 in NSW, the average income for an Indigenous person was $18,856 per annum compared to $28,460 for a non-Indigenous person.

**Disadvantage in Urban Areas**

…The argument of some commentators that migration to urban areas is the best means to secure Indigenous economic enhancement is not borne out in the census data, which tell quite a different story.

Indigenous people are over-represented in the poorest city neighbourhoods: for example, Macquarie Fields in NSW where non-Indigenous unemployment is 11%, compared to 30% Indigenous unemployment; Waterloo in NSW where non-Indigenous unemployment is 17% compared to 42% Indigenous unemployment; Campbelltown in NSW where non-Indigenous unemployment is 29% compared to 39% Indigenous unemployment…
Country Towns

A major factor relevant to the provision of government services is the increasing Indigenisation of country towns. For example, the Indigenous population (as a share of total town population between 1996 and 2001) grew by 50% in Broken Hill, 29% in Dubbo, over 39% in Orange, over 39% in Tamworth…”

(Dillon et al, 2007, pp.14, 17, 19, 21)

Social Exclusion and Deprivation

“…Indigenous Australians face the greatest deprivation overall…

Other areas where high rates of deprivation exist include the lack of:

- A substantial daily meal for Indigenous Australians (10.5%)
- Prescribed medications among public renters (14%) and Indigenous Australians (33.3%)
- A decent and secure home among sole parents (21.9%), people with disability (9.5%) and Indigenous Australians (22.2%)
- School activities and outings for children among public renters (16.3%) and Indigenous Australians (21.1%); and
- A hobby or leisure activity for children among sole parents (18.6%), unemployed people (20.0%) and public renters (20.5%) and Indigenous Australians (31.6%).”

(Saunders et al, 2007, p.53)
7 – Civil Law ALS Outreach – Findings and Recommendations

In its Submission to the Indigenous Law and Justice Inquiry of the Commonwealth Parliament Joint Committee of Public Accounts and Audit, Legal Aid NSW described its role in the delivery of Indigenous legal services as having the following three elements:

1. “Providing an alternative legal aid service for Aboriginal people who do not wish, for whatever reason, to use Aboriginal legal services.

2. Providing a complementary legal aid service for Aboriginal people, who, for reasons of conflict, are unable to access the services of an Aboriginal legal service.

3. Providing assistance to Aboriginal legal services to enable them to increase the level and range of services which they are able to provide.

In doing so, LAC NSW recognises the need for specialised Aboriginal community controlled legal aid services. It also acknowledges that as a mainstream legal aid provider, which is not Aboriginal community controlled and which has a limited number of Aboriginal staff…that the majority of Aboriginal people will continue to use ATSILS as their preferred legal aid service provider.”

(LA NSW, 2004, p.15)

The LA NSW Aboriginal Justice Service Delivery Plan 2007–2009 also reflects the high value placed by LA NSW on our cooperative relationship with the ALS:

“This plan seeks to identify the issues for Aboriginal people and to look at specific ways in which Legal Aid NSW can assist in these areas (civil, family law and care and protection). We need to look at how we can better support ALS’s in their role and start to strategically see where we can assist in that work, in order to complement the work of the ALS.”

The civil law ALS outreach service, the subject of this report, was established following the February 2006 Protocol for the Delivery of Civil Law services to the Aboriginal Communities of NSW. While it is providing an effective civil law service for communities in some locations, in others, it has been less effective and in two locations (Taree and Wollongong), it had ceased.

13 Note however, that outreach at the former Blacktown ALS, Wollongong and at Taree had commenced a number of years before that.
We should not lose sight of the fact that it takes time to build trust and credibility with Aboriginal communities, so that they can be confident that our services can meet their legal needs. However, considering the sizes of the Aboriginal populations at each location, it is reasonable to assume that there continues to be a high level of unmet civil law need. For all locations, there are good foundations from which improvements can be implemented, to increase the number of people accessing civil law legal aid services. However, Taree requires further investigation.

The **Civil Law ALS Outreach should continue with other improvements**

**Recommendation 1:** The Review recommends that the civil law ALS outreach at Redfern, Parramatta, Lismore, Wollongong and Nowra continue, subject to strong leadership and a more sustained, coordinated effort by each party with some new strategies that will improve the service. While consistent service delivery is important, the need for flexibility that allows for the service to be provided in ways appropriate for each community should not be overlooked. Taree is discussed below under “Other LA NSW civil law outreach services”.


8 – Strategies to Improve the Current Civil Law ALS Outreach

The following strategies and further recommendations are made to improve the effectiveness of the current civil law ALS outreach:

Community Awareness of the ALS Outreach Service

There was consistent feedback that not only were communities generally unaware of the ALS outreach service, but other legal aid partners in the community legal sector (including Wirringa Baya and LawAccess) were also unaware of the service.

There was a unanimous call for posters to advertise the service and other resources to explain how civil law legal aid services can assist people experiencing a broad range of problems. Action research as part of the Review produced a poster in consultation with the ALS and with the assistance of the LA NSW Strategic Planning and Policy Division’s Publications Unit (Appendix B). Other initiatives in addition to the poster should be developed to improve community awareness about the service.

**Recommendation 2:** It is recommended that a communication strategy be developed to promote the civil law ALS outreach service and to engage respective communities, legal aid partners and other stakeholders in the delivery of these services for Aboriginal people.

Training for ALS staff

There was unanimous support for training and other resources to be provided to ALS staff, to better equip them in identifying civil law problems and to better understand how LA NSW can assist Aboriginal clients.

During the Review, civil law staff from LA NSW Wollongong were invited to attend a meeting of administrative officers of the ALS Central South Eastern Zone for an information exchange and discussion about civil law issues. Administrative officers are pivotal to the efficient running of ALS offices. This was an informal ‘get together’ that allowed ALS staff and LA NSW staff to become better acquainted. The civil law staff gave examples of the types of civil law matters that they can assist Aboriginal people with and answered questions from the ALS staff. It was a very productive meeting that demonstrated the importance of forums like these.

**Recommendation 3:** It is recommended that suitable civil law training and other resources be developed in consultation with ALS staff. The training should include information about how LA NSW assists clients and the policies that are applied in determining applications for legal aid, so that client expectations are clear.
Cultural Awareness and other Training for LA NSW staff

“However, being effective means having some deeper understanding of social and political factors that have produced the burdens that Aboriginal people live with.

It means having some understanding of how racism works on both an everyday level and in a more deeply structured way.

And it means being able to confront the very real, yet difficult, issue that it is often whitefellas’ systems, assumptions and requirements that are the problem.”

(O’Donoghue, 2006, p.9)

Most of the outreach civil lawyers are experienced in providing legal services for Aboriginal people. However, there is always room for refreshment and reinforcement of awareness about culturally appropriate service. The session delivered by the ALS at the 2007 LA NSW Criminal Law Conference was practical and an excellent example of such training for legal staff.

**Recommendation 4:** It is recommended that LA NSW staff undergo regular cultural awareness refreshers. These could be informal sessions such as that delivered by the ALS at the 2007 LA NSW Criminal Law Conference.

Advice services cover a broad range of matters, some of which may be outside the lawyer’s specialty.

**Recommendation 5:** It is recommended that regular training sessions be provided for LA NSW civil lawyers in areas of law for which there is high demand for civil law advice services. It is further recommended that for LA NSW staff providing outreach advice services, particularly in remote locations, training is provided to equip them to provide basic information and advice across all areas of law.

If legal services for Aboriginal people are to be effective, lawyers need to expand beyond their traditional understanding of the role of a legal professional. They must extend beyond the narrow confines of the legal representative in a legal dispute and open themselves to closer contact with the wider community to which their clients belong and the issues they face in their day to day lives. LA NSW has given the following guidance:
“A flexible, responsive and client-focused approach is essential to the successful design and delivery of services for Aboriginal people. This involves considering the needs and preferences of the relevant Aboriginal community and being willing to tailor services accordingly. Simply making assistance available in the usual fashion, and assuming that if it is not used there is a lack of demand is an inflexible and inadequate approach…The basic principles for providing effective legal services to Aboriginal people can be summarised into five categories:

1. Improve general awareness
2. Get to know your Aboriginal client base
3. Address structural barriers
4. Promote your services
5. Communicate effectively with individual clients…”

(LA NSW, 2006, p.4)

Such skills may not come naturally to some lawyers.

**Recommendation 6:** It is recommended that cultural awareness training for lawyers include training in the principles of developing services for Aboriginal people and community development.

**LA NSW civil law and ALS staff Communication**

In any service, problems will arise from time to time. It is important that when they do, there is a mechanism for problems to be addressed at the earliest opportunity so as not to unnecessarily jeopardise the service and to identify improvements that can be made.

It is also important that expectations and the roles of all parties are clearly understood.

**Recommendation 7:** It is recommended that a discussion forum be established that will foster open discussion between LA NSW staff and ALS staff about any issues related to the outreach service.
Recommendation 8: It is further recommended that an agreed process be developed for the joint resolution of issues that may not be capable of resolution at a local level. For example, this process could involve referral of such issues to the ALS Chief Legal Officer and the LA NSW Civil Law Regional Program Coordinator for joint resolution.

LA NSW staff induction

Communities are diverse.

“Contemporary Aboriginal identity is better understood as a spectrum of ‘Aboriginality’. This spectrum is bounded by two ends of cultural distinctiveness and holds a multitude of variations. The first extreme could be defined as having the closest cultural resemblance to pre-invasion Aboriginal identity. While, the other extreme of the spectrum is that of an ‘integrated identity’, where people possess many non-Aboriginal social, religious and cultural traits but still retain the experience of a shared ‘Aboriginal’ history.”

(Penrith CC, 2006, p.23)

LA NSW staff new to the outreach service would benefit from an “induction” into the ALS office.

Recommendation 9: It is recommended that the ALS provide new LA NSW staff with information about the ALS office and the services it provides, other key agencies in the community and in a culturally appropriate way, information about the community.

Recommendation 10: It is further recommended that the ALS provide guidance to assist LA NSW staff to build relationships with the community with a view to gaining a better understanding of civil law needs and identifying ways to improve the service.
LA NSW Rosters

Feedback has demonstrated that the most effective service is that where there is “continuity” of service. Rosters with a number of civil lawyers who may not attend for several weeks do not effectively build the trust in the service that is essential.

**Recommendation 11:** It is recommended that outreach services be provided by no more than two civil lawyers for each service at any given time. The resource implications will need to be further considered. Further, the realities of staff turnover and other competing demands will impact on this aim from time to time, so it is important that strategies be developed to minimise adverse impacts when this occurs.

**Recommendation 12:** It is further recommended that the frequency of the outreach service at Parramatta ALS be increased for a trial period, to assess whether this improves accessibility to the service.

**Missed Appointments**

It has been the experience at some outreach locations that from time to time a number of people with booked appointments fail to attend.\(^{14}\) There is concern that this results in an inefficient use of civil law services.

Such failures to attend could be the result of many factors including lack of transport, illness, or other emergencies.

> “People need to talk things into place and they need to relate things to their own experiences and context. They need to feel safe enough to reflect on their own views and responses. And they have to gain understandings about the experiences of others.”

(O’Donoghue, 2006, p.9)

**Recommendation 13:** It is recommended that further research be undertaken into the reasons why people fail to attend appointments, to better inform the development of solutions to this issue. For example, it may be possible to identify other community services that may assist in solving problems such as lack of transport.

While booked appointment times assist with time and work management, consideration may need to be given to other alternatives such as people being

\(^{14}\) This experience is not limited to Aboriginal clients.
advised that civil law advice is available between certain times, so that people may attend at any time within that range.

**Recommendation 14:** It is recommended that for outreach locations consistently experiencing large numbers of missed appointments, LA NSW staff consult with ALS staff on options other than booked appointment times.

**Minor assistance**

All outreach locations reported heavy demand for minor assistance type services outside advice sessions. Clearly there is a need for this service to be provided. This presents challenges for LA NSW in the management of competing priorities, including the capacity to pursue litigation where appropriate.

**Recommendation 15:** It is recommended that LA NSW develop strategies including the establishment of paralegal positions to more effectively and efficiently manage minor assistance. With suitable resources and tools including comprehensive sets of precedents, the vast majority of minor assistance type work can be undertaken by non-legal staff or paralegals under the supervision of legal officers. This system is found in the community and pro bono legal sector. A recently advertised Advocate Clerk 6/7 in the Mental Health Advocacy Service provides a good basis for the further development of Advocate/paralegal positions in the Civil Law Division. The advocates could also undertake tribunal work, particularly in the Social Security Appeals Tribunal and in the Anti Discrimination Board, were the policies to be amended to cover these proceedings. Such positions could also provide opportunities for professional development of the advocates in our Veterans Advocacy Service.

**Recommendation 16:** Further, it is recommended that a number of such paralegal/advocate positions be identified Aboriginal positions.
Data recording

Gaining an accurate picture of the effectiveness of the outreach service was hampered because outreach services, advice and minor assistance are inconsistently recorded by LA NSW. Inconsistent recording of matter types for advice and case work, also results in less meaningful information being available as to civil law need.

**Recommendation 17:** It is recommended that the civil law program develop standards for data recording, to ensure that all services are consistently captured and accurately recorded. In this regard, consideration should also be given to a “whole of legal aid” approach. Data entered should be monitored through the provision of regular activity reports.

**Recommendation 18:** It is recommended that LA NSW adopt a corporate definition for “outreach services” and in consultation with Strategic Planning and Policy, develop a uniform system of data recording for outreach services, particularly services provided at the ALS and other locations for Aboriginal people across civil, family and criminal law.

**Recommendation 19:** It is further recommended that data recording for minor assistance also facilitates assessments of the effectiveness of minor assistance services e.g., by enabling the recording of outcomes of the services provided.

Evaluation

Meaningful targets for the outreach service will assist future evaluations of the ALS outreach.

**Recommendation 20:** It is recommended that targets for the outreach service be developed in consultation with Strategic Planning and Policy, the Director Aboriginal Services, the ALS and the respective communities. The targets should include the goals and objectives of the service, equity, effectiveness, access, appropriateness (i.e., how well the service meets client needs), quality, efficiency as well as outputs and outcomes for the community.

**Recommendation 21:** It is further recommended that the LA NSW civil law program provide six monthly performance reports of the civil law ALS outreach service. These reports should not only report against targets but also identify any key emerging issues, any problems being experienced and strategies to address identified issues. These reports should be made available to the ALS.
9 – Other Strategies

The following additional strategies and recommendations are made.

Other LA NSW civil law outreach services

LA NSW needs to plan for the expansion of civil law outreach services, particularly in areas serviced by new civil law practices including Wagga, Gosford, Penrith and Campbelltown. These are all areas with large Aboriginal communities. The aim should be to improve the access of Aboriginal people to civil law services, by removing as many barriers as possible.

In this regard, recent literature has highlighted the importance of awareness about the “pathways” taken by people in response to legal problems and that in the majority of cases if any action is taken, people turn to non-lawyers as their first port of call (Clarke et al, 2007). Local history, conditions and consultation are critical in determining the shape and location of outreach services.

“Policy strategies are one thing: their delivery, on the ground, is another. In recent years we’ve learned quite a lot about models of Indigenous program delivery. No doubt, we have a lot more to learn. However, I reckon we do know this much: that program delivery must be targeted to local needs, integrated and delivered in a cost effective and non-threatening way.”

(Henry, 2007, p.16)

There is no “one size fits all”. A useful starting point for LA NSW staff investigating the establishment of new civil law outreach services is the publication “Making our services work for Aboriginal people” (LA NSW 2006). As discussed in this paper and in numerous research papers, the engagement of communities in service delivery planning and development is key.

“To appreciate the importance of process, it is critical to understand the direct link between process and outcome, that decisions must be owned to be sustainable, and that all parties (including governments) need to take responsibility for them.”

(Bauman, 2007, p.13)

Therefore, LA NSW staff should actively seek out key people working at local government and non government agencies, particularly Community Justice Groups and Aboriginal Client Service Specialists, that provide services for Aboriginal people, to build awareness about LA NSW civil law services, build relationships of trust and cooperation and gain a better understanding of options for venues for outreach services that are likely to be effectively accessed by Aboriginal people. Where there is a local ALS office, it is likely that this could well be the appropriate venue.
One strategy suggested to the Review, was that an effective way of improving access to civil law services, would be to consider establishing outreach services at community medical centres, particularly those run by the Aboriginal Medical Services (AMS). Further consideration of this as an option for LA NSW outreach services would require consultation with the Aboriginal Medical Health and Research Council as well as individual AMS’s.

A comparable model is Victoria’s West Heidelberg Community Legal Service (WHCLS) which since 1978 has been co-located with the Banyule Community Health Centre and other community services. At the Centre, disadvantaged people from diverse cultural backgrounds including Aboriginal people have access to integrated legal aid services, doctors, dentists, nurses, social workers, psychologists, drug and alcohol counsellors and youth workers. The legal centre provides advice and casework.

“Civil law problems should not just be dealt with in a narrow context of lawyers only being able to provide narrow technical legal advice. Broader notions of holistic practice such as tackling social as well as legal problems need to be accorded much more attention by practitioners. Clients’ legal and social needs are complex and intersectional – their social and legal problems interrelate and amplify. The notion of “intersectionality” should be adopted, namely that separate problems need to be understood and dealt with. Here the coordinated management of solutions to justiciable and other problems is critical.”

(Curran, 2007, p.72)

This encapsulates the philosophy of the WHCLS. The centre embodies best practice principles for assisting disadvantaged people to resolve legal, medical and social problems. Legal centre and health centre staff

“…work jointly on individual problems to resolve the legal problem as well as the underlying cause that created the legal problem.”

(Noone, 2007, p.98).

Co-location with Aboriginal medical services is an option that should be considered in the development of new outreach services. However, it is too simplistic to expect that by merely co-locating outreach legal services with health services this will of itself provide effective legal services for disadvantaged Aboriginal people.
“It is generally accepted that the nature of relationships and good communication are critical to successful integrated services. Bringing together professionals who are predisposed to work with others to address complex and multifaceted issues is the first step. Then the task is to build processes and trust, enable ongoing communication and have continued cooperation and coordination….However, it must be recognised that the skills set required to facilitate good communication with a range of other workers may not be those characteristic of clinically trained health, welfare or legal workers…There needs to be management support for an integrated approach, which ensures workers are given appropriate induction, training and support. Both formal and informal mechanisms need to be established to enhance the communication.”

(Noone, 2007, p.103)

Noone found that data to substantiate the benefits of West Heidelberg’s integrated services were not readily available. She observed that

“The health of the West Heidelberg community is still poor and it is still an area of significant disadvantage.”

(Noone, 2007, p.105)

However, Noone also observed that despite the cultural diversity and disadvantage of West Heidelberg, it is an area with a greater degree of social cohesion than other areas of disadvantage and speculated about whether this was linked to the integrated services at the West Heidelberg centre.

The following are useful guiding principles for the development of culturally appropriate programs:

“The National Family Homelessness Prevention Pilot Program identified that culturally appropriate programs for Indigenous people have the following principles:

**Linking Indigenous development** – how does the program/service link to and/or build other initiatives within the community? This requires services/programs to consider, and actively link with, other initiatives within communities rather than to establish new programs in isolation;

**The use of Indigenous resources** – what resources such as people, skills and environments, are being used within the program/service? This places an obligation on services and programs to look at issues regarding employment of Indigenous staff as a central issue as well as how to ensure services utilize the strengths of the Indigenous community;
Cultural affirmation – how does this program affirm and support participants’ identities as Indigenous? This principle challenges many current approaches to service delivery to Indigenous people, where the issue of cultural affirmation is ignored;

Leadership endorsement and consultation – is this program endorsed by respected people within the community? This principle requires mainstream services to develop understanding and relationships across the community in order to identify the range of people who are recognised as having cultural authority;

Clear goals, quality of service and adequate resources – does the program have clear goals to positively improve Indigenous people’s circumstances; does the program deliver at the same quality levels similar programs provided to non-Indigenous people and does the program have adequate resources for the task?

Operating in Indigenous domains – is the program operating in ways that are acceptable to this community such as venues, use of language? In more traditional communities this principle will requires consideration of how to best deliver a service to differing age groups and genders for instance; and

Family/community focus – does the program focus on wellbeing of the family/community, not just individuals? This principle leads programs and services to consider broader approaches than working with individual clients (RPR Consulting, 2003:44) (as quoted in Penrith City Council (2006).”

Recommendation 22: It is recommended that where possible, outreach services take account of other legal needs such as family law. Where appropriate, services should be provided by lawyers sufficiently skilled in each area. However, in more remote locations where this is not cost effective, the outreach lawyer should have access to training across other areas of law, to enable them to provide basic advice and information during the advice session.

Clients accessing the criminal and family law services of the ALS and LA NSW are also potential civil law clients. This gives rise to the need for effective, culturally appropriate referral systems.
Recommendation 23: It is recommended that LA NSW together with the ALS develop systems for the effective and culturally appropriate referral of criminal law and family law clients who have civil law problems.

Mount Druitt

The Review received a submission from LA NSW staff that an outreach service be established at Mt Druitt. The Review has found that there is a gap in civil law legal aid services in Mt Druitt & surrounding suburbs.


There are 23,282 Aboriginal people in the region (2001 census), almost one-fifth of the Aboriginal population in all NSW….The largest number of Aboriginal people live in the Blacktown, Penrith, Campbelltown and Liverpool Local government areas.”

(NSW Govt, 2007, p.3)

Few Aboriginal people from these areas access either LA NSW civil law services or the community legal centre at Rooty Hill. For the calendar year 2007, the Mt Druitt and Area CLC reported 23 Aboriginal civil law clients.

Mt Druitt has also been identified as an area of unmet family law need. A joint Family Law and Civil Law Mt Druitt Aboriginal Outreach Steering Committee that includes the Director Aboriginal Services has been established to progress establishment of an outreach service. This presents a valuable opportunity for LA NSW to develop an innovative, holistic outreach service that will combine civil and family legal aid services. Interestingly, the Law and Justice Foundation’s research on legal needs in disadvantaged areas found that Aboriginal people experience clustered civil and family law legal problems and concluded that:

“Indigenous respondents were more likely than non-indigenous respondents to report credit/debt, employment and family events, and less likely to report wills / estates events15 (p.170)...The higher incidence of employment and family events among Indigenous participants is of particular interest given present and past evidence suggesting that these problems tend to endure and can trigger further problems.”

(Coumarelos et al, 2006, p.170)

15 This is not consistent with the findings from the consultations – particularly in Nowra, which reported demand for wills and estate assistance – this highlights the diversity of communities and their legal needs.
With respect to Mt Druitt, it was also suggested to the Review that a civil law outreach service could be provided at Blacktown Local Court on days attended by the Mt Druitt LC Aboriginal Client Service Specialist and the ALS. LA NSW staff are of the view that while this is a worthy suggestion, there are concerns that such a service may have an emphasis on civil law matters within the jurisdiction of the Local Court and not be accessible to people in and around Mt Druitt with broader ranging civil law problems.

**Recommendation 24:** It is recommended that the LA NSW civil and family law programs in consultation with the ALS and respective communities, explore innovative means for delivering outreach services, particularly at Mt Druitt, including co-location with other organisations such as medical services, other Government departments or other community based organisations. Co-location with other organisations or services will facilitate a holistic approach to resolving clients’ problems. However, ultimately, any such developments will require careful consultation with communities. Sufficient time needs to be allowed for the building of trust and relationships with communities that will support the development of an appropriate service. New outreach services should be promoted through appropriate communication strategies.

**Newcastle and Toronto**

Feedback from ALS and LA NSW staff was supportive of a civil law outreach service being established at the Newcastle ALS. There are good foundations to build on including the previous co-location of the ALS and Newcastle civil law offices, established relationships between staff of the two organisations and a good appreciation of the civil law needs of Aboriginal people on the part of the current ALS staff.

**Recommendation 25:** It is recommended that a civil law outreach service be established in consultation with the ALS to be held out of the offices of the Newcastle ALS. This service should be included in the revised Protocol. The recommendations for improvements to the current outreach program also apply to the Newcastle ALS service.

ALS staff also drew attention to the unmet needs of Aboriginal people residing in Toronto and suggested that a civil law outreach service also be established in Toronto.
Recommendation 26: It is recommended that the feasibility of establishing a civil law outreach service at Toronto be further investigated. The need for outreach services in other areas of law in Toronto should also be considered. This should be oversighted by a Steering Committee comprising members of the LA NSW Aboriginal Justice Committee.

Taree

Past LA NSW endeavours to provide outreach services in family law and civil law have not met with much success in Taree. There is currently no community legal centre located in Taree, although the Hunter Community Legal Centre has provided an outreach service to Taree from time to time. Some in the local community have been advocating for the establishment of a more permanent community legal centre.

The Taree civil law ALS outreach model differed to that utilised at the other ALS outreach locations. Although clients’ first contact may have been with the ALS, appointments for civil law advice were generally not made by the ALS but rather people were referred to LA NSW to make appointments. Additionally, the advice clinic took place on a monthly basis, although urgent matters could be dealt with by telephone at any time. Both Aboriginal and non-Aboriginal people accessed the service.

The LA NSW staff who provided the civil law advice were based in Newcastle, some two and a half hours drive each way to Taree. Distance and the relatively short time spent in Taree on the monthly visits, left little time for the important efforts that needed to be made to build trust and relationships with local communities. It appears that little effort to promote the service was made on an ongoing basis. LA NSW staff advised that the service became unsustainable as the number of people who attended for advice dwindled.

The LA NSW family law program had independently made its own Taree outreach arrangements. Family law outreach services to Taree had commenced in 2003, with staff from LA NSW Newcastle attending Taree two Thursdays each month. This was supplemented by the Child Support Service visiting Taree from 2004 on the fourth Thursday of each month. These services were available to Aboriginal people but were not specifically targeted to Aboriginal people and took place at a venue external to the ALS.

In the period from September 2003 to May 2004, 102 family law services were provided in Taree (7 clients per each of the 15 visits). From May 2004 to March 2005, 102 family law advices were provided (5 clients per visit). Few Aboriginal clients accessed the service.
The LA NSW family law program had gone to considerable efforts to promote the Taree service including:

- Mail outs and media releases
- Meetings with the ALS, local private lawyers, Hunter Community Legal Centre, Centrelink, a local women’s refuge, domestic violence court support scheme, the Local Court registrar and social workers from Manning Base Hospital.
- Law week activities and CLE
- Launch of the service in conjunction with the launch of an Aboriginal domestic violence brochure
- Inclusion of the outreach service in the local council’s community services directory

Notwithstanding these considerable efforts over two years, the service was terminated as it had become unsustainable due to the lack of people accessing the service.

This history does not provide for strong foundations to re-commence the Taree civil law outreach model, yet Taree remains an area of substantial unmet civil law need as advised by Ms Julie Perkins of the ALS.

Ms Perkins drew attention to a successful Family Court support model operating via a Shared Responsibility Agreement (SRA) on the North Coast of NSW. Through the SRA, ten CDEP positions have been used to establish ten Indigenous Community Contact Officers (ICCOs). The ICCOs are located in key communities on the North Coast to provide information on the services available from the Family Court to Indigenous families in the region. Funding is provided by the Federal government and training, coordination and support to the ICCOs are provided by the Family Court.

Under the Regional Solicitors Program, LA NSW funds a lawyer at one private law firm in Taree to undertake legal aid work as a proportion of their practice. However, legally aided work assigned to that firm is predominantly family and criminal law work.

It was not possible to undertake a thorough examination of possible options for reinstating a civil law service for Aboriginal communities in Taree. It appears that there is also unmet civil law need in the wider community. There may also be a number of local issues in the wider community which will need to be considered in identifying the way forward.

However, it is clear that reinstating the civil law outreach at the ALS under the previous arrangements is unlikely to be sustainable.
Recommendation 27: It is recommended that LA NSW together with the ALS jointly investigate the feasibility of reinstating a sustainable civil law outreach service at Taree ALS, including determining the model that the service should adopt, by taking into account the needs of the local community. The need for outreach services in other areas of law in Taree should also be considered. This should be oversighted by a Steering Committee comprising members of the LA NSW Aboriginal Justice Committee.

Civil law policies

The coverage of Aboriginal legal need by the LA NSW civil law policies is dealt with in a separate report on the Civil Law Policy Review. In order that these needs, as currently known to us, may be met, it is important that a flexible approach is maintained.

The Civil Law Policy Review Report makes detailed recommendations for improvements to the civil law policies.

However, other policies may also impact on the accessibility of civil law services. Such policies include a wide variety of matters such as the process for applying for legal aid.

“Service policy determines how an organisation will deliver a service. Policy developed in response to a range of management areas such as Occupational Health and Safety issues, duty of care, best practice, resource limitations and service eligibility are required by government funding agencies. These policies are important for client and staff safety, accountability and risk management. However, unless a service is specifically designed for Indigenous clients, policy will generally reflect the needs of the dominant client group. Often these needs differ from that of Indigenous people because of socio-economic and cultural circumstances.

“Often Indigenous people get exited early ‘not obeying the rules’, the policies can also be a problem.” (Youth Worker, 2005)

(Penrith City Council, 2006, p.72)

Recommendation 28: It is recommended that the LA NSW civil law policies be sufficiently flexible to support and facilitate the delivery of appropriate civil law services that meet the legal needs of Aboriginal communities.
Increasing the awareness of civil law amongst Aboriginal communities & Capacity Building

Feedback received through consultations, consistently drew attention to the need for Aboriginal people to have a better understanding of what “civil law” encompasses, how lawyers can assist in resolving problems they are experiencing and the range of services available for assistance to deal with civil law problems.

However, the consultations were generally in agreement that community legal education (CLE) as traditionally understood is of limited value. Past CLE endeavours by LA NSW have met with mixed success.

Nevertheless, there is potential in educative initiatives that are developed in consultation with communities and are specifically targeted to meet an identified, practical need e.g., Blake Dawson have given a presentation about purchasing cars in the maternity ward of a regional hospital where mothers would soon be receiving the “baby bonus”.

A model found to be effective by pro bono providers, involves providing CLE for an identified legal need such as will drafting. Advice is given concurrently with the delivery of a will drafting service for the community. The lawyers take instructions from participants and prepare wills for execution before they depart the respective outreach location.

Banks et al, evaluated “group – based services” delivered by legal aid agencies though not services specifically targeted for Aboriginal people. They concluded that:

“Finally the common theme that arises out of all the case studies is that legal information alone is not sufficient. People still want and need some kind of individual legal advice. In the case of the Traffic Summons Workshop and the SRL (Self Represented Litigant) Workshop, it is arguable that individualised legal advice instead of attendance at the workshop may be more useful to clients and no more (or indeed less) costly to the Legal Aid Commission.”

(Banks et al, 2006, p.146)

A more effective means of increasing civil law awareness and building community capacity could be the education and resourcing of key Aboriginal community workers and government staff. There are approximately 150 – 200 Aboriginal staff employed in the various State government justice agencies including Local Court ACSS who have excellent community networks and could become a network of contact points for information for Aboriginal people about civil law services.
“Clear evidence-based research in Australia and overseas has shown that those efforts that aim to empower local Aboriginal people and provide their communities with the real authority to make decisions have the greatest potential for immediate and long-term success in reducing Aboriginal crime.”

(NSW AJAC, 2003, p.7)

**Recommendation 29:** It is recommended that LA NSW and the NSW Attorney General’s Department develop a protocol for the skilling and resourcing of Aboriginal staff in justice agencies to enable them to identify civil law problems and appropriately refer people for assistance.

**Recommendation 30:** It is recommended that civil law resources for Aboriginal staff in justice agencies be available on the LA NSW web site under a “For Community Workers” web site.

### Improving the access of Aboriginal people to civil law services

Aboriginal communities are located across NSW, with varying degrees of isolation. Adopting the analogy of Dillon et al, funding constraints and the challenges of distance have resulted in civil law legal aid services that are

‘…like an overlapping patchwork or mosaic, which is denser in urban areas, less dense in rural, and very thin (and often non-existent) in remote areas.”

(2007, p.69)

In addition to face to face advice and outreach services, LA NSW should continue to strive for other creative means of assisting people to access our services and to build awareness about civil law. LA NSW participation in community celebrations in NAIDOC, footy knock out and Yabun symbolise our commitment to improving our relationship with Aboriginal people.

**Recommendation 31:** It is recommended that LA NSW together with our partners, including the ALS, continue and improve participation in community celebrations.

**Recommendation 32:** It is further recommended that LA NSW develop creative culturally appropriate civil law resources in consultation with Aboriginal communities, utilising appropriate technological advancements. The ICAN web site from Queensland should be seen as an example of best practice in this regard.
The Protocol

The LA NSW and ALS Protocol for the Delivery of Civil Law Services to the Aboriginal Communities of NSW is due for renewal.

**Recommendation 33:** It is recommended that the LA NSW and ALS Protocol for the Delivery of Civil Law Services to the Aboriginal Communities of NSW be revised to include references to the joint promotion of the service and other accepted recommendations for strategies to improve the service. Consideration should also be given to references to the particular needs of the most marginalised members of communities, including Aboriginal people experiencing mental illness, and Aboriginal people with disabilities.

Community participation

There is currently little room for community participation in the development and monitoring of civil law services for Aboriginal communities.

**Recommendation 34:** It is recommended that LA NSW in consultation with the ALS and other Aboriginal organisations develop processes to incorporate community participation in the development and monitoring of civil law services for Aboriginal communities.

Networks and Coordination

A number of networks of groups and organisations currently exist to facilitate discussion, information exchange and coordination of service delivery and other initiatives. These include the LA NSW Cooperative Legal Service Delivery and the NLAF Aboriginal Clients Working Group. Other groups are comprised of Aboriginal workers such as the Combined Community Legal Centres Aboriginal workers group. Various inter-agency coordinating committees operating in communities also fulfil a coordinating role.

**Recommendation 35:** It is recommended that the LA NSW civil law program become actively involved in appropriate networks, to promote a better understanding of unmet legal need and better awareness of the roles of other organisations in the communities and to identify potential for more strategic partnerships.
Law Reform and Advocacy

Some civil law legal and access to justice issues confronting communities could more strategically be addressed through advocacy for law reform.

**Recommendation 36:** It is recommended that LA NSW work with the ALS and other relevant stakeholders to identify and pursue law reform activities which will strategically address systemic problems.

Leadership & Organisational Structure

The civil law Regional Program Coordinator is responsible for the strategic oversight of civil law outreach services. However, for other priority client groups including older people, the homeless, and people experiencing mental illness, the creation of dedicated services and units have been instrumental in developing the capacity to better address unmet legal needs for those client groups.

Recent social exclusion research has identified Indigenous Australians as facing the greatest deprivation overall (Saunders et al, 2007, p.53). The further development of LA NSW civil law services for Aboriginal communities would be enhanced by a more visible, distinct unit within the civil law program, which will work closely with the Director Aboriginal Services, to lead and coordinate this important work.

**Recommendation 37:** It is recommended that LA NSW establish an Aboriginal Civil Law Outreach Program to lead, coordinate and monitor LA NSW civil law outreach advice services and the development and implementation of other culturally appropriate civil law services for Aboriginal communities in consultation with the ALS, the community and other appropriate stakeholders. The program should report jointly to the Director Civil Law and Director Aboriginal Services. Should this not be possible in the short term, this role should rest with the Regional Program Coordinator.

The program will have a capacity building role for LA NSW and would also be a liaison point for the ALS and other stakeholders about civil law issues. It will have the practical “on the ground” knowledge of civil law service delivery for Aboriginal people to support the development of further appropriate strategies in consultation with the Director Aboriginal Services. Further, the program will be an important resource for the development of appropriate responses to the findings of the Civil and Family Law Legal Needs of Aboriginal People in NSW Research.
The recently established Older Persons and Legal Education Unit is comprised of a legal officer, a legal support officer/paralegal and a senior legal officer. It is suggested that an appropriate model for the Aboriginal Civil Law Outreach Program, should comprise a senior legal officer and a legal support officer/paralegal as it is envisaged that its role should not include substantial litigation, as this expertise is available within the civil law program.

Implementation

**Recommendation 38:** It is recommended that implementation of the accepted recommendations of this Review be oversighted by the LA NSW Aboriginal Justice Committee.
10 – Conclusion

The LA NSW Civil Law outreach services provided at a number of ALS offices are providing valuable civil law services for Aboriginal people. The following case studies illustrate the real assistance that is being given to Aboriginal people by this service.

Case Study 1

An Aboriginal client attended the ALS outreach service for advice about some loan transactions he had entered into with a “pay day” lender.

“Pay day” lenders specifically target people on social security benefits and pensions or people with bad credit histories. They seek to conduct their business by trying to avoid the operation of the Consumer Credit Code.

The client wanted to borrow some money to buy groceries and pay some outstanding bills. He was made to enter into a series of complex, onerous loan transactions that quickly spiralled out of control. By the time the client had attended the ALS outreach service, he had mortgaged various items of his household goods and the lender had made aggressive home visits. LA NSW commenced legal proceedings to seek relief from these transactions. The matter was settled on terms favourable to the client.

Case Study 2

Client ‘D’ is an Aboriginal man with significant motor disability. ‘D’ received an unsolicited telephone call from a company selling mobile phones, which they referred to as a free mobile phone. ‘D’ thought this was very good and agreed to the contract over the telephone. He subsequently received the phone but used it no more than one or two times. He eventually gave it away to someone who wanted a telephone.

‘D’ had no understanding of the contract that he entered, nor that he would be responsible for any calls made on the phone. The person to whom he gave the phone made a substantial number of calls and ‘D’ then started receiving bills in the mail. He was then being chased by debt collectors for the phone company.

LA NSW obtained a letter from ‘D’s doctor explaining that he would have difficulty understanding a contract, as well as having physical difficulty just holding a phone steady against his head, and was unlikely to have understood anything about the oral contract.
LA NSW also obtained a recording of the oral contract which was almost incomprehensible.

LA NSW wrote to the telephone company explaining the client’s circumstances, however received no reply. After complaining to the Telecommunication Industry Ombudsman, the telephone company agreed to take no further action.

The continuation and enhancement of Civil Law ALS outreach services will result in many benefits for communities and for each of the ALS and LA NSW organisations as our partnership grows.

There is a ground swell of increasing awareness about the importance of the availability of civil law services for disadvantaged people. The ALS together with LA NSW has shown leadership on the issue of improving civil law legal aid services for Aboriginal people. The recently commissioned research on the Civil and Family Law Legal Needs of Aboriginal People in NSW is another example of the leadership shown by LA NSW.

Therefore, it is hoped that the ground swell of awareness will translate into a realisation that greater priority needs to be given to redressing the scarcity of available civil law resources.

“Considering the challenges of the time, Ahthun had a good life.

Ahthun also had a constant dissatisfaction within because he yearned to go home, and that sometimes caused him to be sad.

But that never stopped him from living, from adapting and going forward.

Always achieving things, wonderful things.”

(Ishiguchi, 2008, p.52)

Much has been achieved in recent times to improve the access of Aboriginal people to civil law services. However, with an even stronger, focused commitment, there is great potential for LA NSW in partnership with the ALS, other Aboriginal services and our justice sector partners to work with communities to achieve wonderful things.
References


Legal Aid NSW Corporate Plan 2007–2008


Legal Aid NSW (2006) Making our services work for Aboriginal people.


Legal Aid NSW (2006) LA NSW and Aboriginal Legal Service (NSW / ACT) Limited Protocol for the Delivery of Civil Law Services to the Aboriginal Communities of NSW.


O’Donoghue, Prof Lowitja AC CBE (2006) IPAA Qld Annual President’s Address. 4 May 2006.

Penrith City Council (2006) No Place to Call Home. Indigenous Homelessness in the Penrith LGA.


Appendix A Consultation Schedule

Civil Law Policy Review and Civil Law ALS Outreach Review Consultations

Organisation

- CLSD Partners – Blake Dawson & Gilbert & Tobin
- LawAccess
- Law and Justice Foundation
- LA NSW – Domestic Violence Services
- LA NSW – Access & Equity Committee
- LA NSW – Older Persons Coordinating Team
- LA NSW – Homeless Persons Coordinating Team
- LA NSW – Civil Law (HO)
- LA NSW – Sydney West Civil Sols (Campbelltown, Penrith, Parramatta, Liverpool and Fairfield)
- LA NSW – Coronial Inquest Unit
- LA NSW – Kirsten Cameron (CLE) & Miranda Jakich
- LA NSW – MHAS
- ALS – Civil Law Outreach Offices at Redfern, Parramatta, Lismore, Nowra, Wollongong, Newcastle, Taree
- ALS – Central South Eastern Zone Admin Officers meeting
- ALS – Gerry Moore. Central South Eastern Zone Manager
- ALS – Julie Perkins. Northern Zone Manager
- Legal Aid Regional Offices Parramatta, Lismore, Nowra, Wollongong, Dubbo, Penrith, Newcastle
- Board of ALS (through John McKenzie)
- LA NSW – Grants
- LA NSW – Strategic Planning & Policy
- LA NSW – Human Rights Committee
- Brendan Thomas, Attorney General’s Department
- Wirringa Baiya
- Homeless Persons Legal Service
- The Aged-Care Rights Service
- Centre for Elder Law UWS
- PILCH
- PIAC – Robin Banks & Stephen Kilkeary Project Co-ordinator Mental Health Legal Services
- Mt Druitt – ACSS and CJG Coordinator
Appendix A Consultation Schedule

- Combined Community Legal Centres Group
- Combined Community Legal Centres Group – Aboriginal Workers Group
- NLAF – Aboriginal Clients Working Group
- ACSS & Community Justice Group Coordinator – Mt Druitt
- Liz Curran, Lecturer in Law, La Trobe University – West Heidelberg Community Legal Service
- Law Society of NSW

Invitations for Submissions
- NSW Bar Association
- Legal Aid NSW Board Members
- Four private practitioners
- Regional Solicitors Program
Appendix B Civil Law ALS Outreach Poster

Helping Aboriginal people solve legal problems

Legal Aid NSW and the Aboriginal Legal Service can help you with problems like these:

- Debts—A loan or money you owe
- Things you buy, like a car
- Centrelink benefits
- Victims compensation
- Renting
- Losing your home
- Discrimination or being harassed
- Your job
- An accident
- Standing up for your rights

Come and have a talk with a Legal Aid NSW lawyer at the Aboriginal Legal Service at

To make an appointment, drop into the office or call: