

Response to Employment Services – ‘Building on Success’

Issues Paper

Legal Aid NSW Submission

to the

**Director - Employment Services Beyond June 2015
Department of Education, Employment and Workplace Relations**

MARCH 2013

About Legal Aid NSW

The Legal Aid Commission of New South Wales (Legal Aid NSW) is an independent statutory body established under the *Legal Aid Commission Act 1979* (NSW) to provide legal assistance, with a particular focus on the needs of people who are economically or socially disadvantaged. Legal Aid NSW provides information, community legal education, advice, minor assistance and representation, through a large in-house legal practice and private practitioners.

Legal Aid NSW also funds a number of services provided by non-government organisations, including 35 community legal centres and 28 Women’s Domestic Violence Court Advocacy Services.

The Civil Law practice provides legal advice, minor assistance, duty and casework services to people through the Central Sydney office and 13 regional offices in a range of Civil Law areas, including Employment Law. Since the beginning of 2011 Legal Aid NSW has increased the delivery of employment law related services to vulnerable workers. The services have been delivered in response to high demand for advice and assistance from workers who have attended Legal Aid NSW offices or outreach clinics/services throughout NSW. In the year ending 30 June 2012, Legal Aid NSW provided advice and assistance to workers on approximately 2,211 occasions. A significant number of these workers were at risk of long term unemployment. Legal Aid NSW often provides legal advice and assistance to vulnerable workers who have re-joined the workforce after periods of unemployment.

In providing employment law services Legal Aid NSW solicitors have seen the vital strategic work of employment services organisations and agencies (Providers) who facilitate the return to work of unemployed people living with disadvantage and risk of social exclusion.

This submission focuses on the issues raised in the Issues Paper under the heading "Stronger partnerships with other services".

Should you require further information, please contact Simon Howard, Senior Solicitor – Employment Law Project, Legal Aid NSW via email at Simon.Howard@legalaid.nsw.gov.au or telephone (02) 9219 5141.

‘Stronger Partnerships with other services’

The Issues Paper has identified stronger partnerships between Providers and other services as an objective. Legal Aid NSW sees this as a very worthwhile objective and takes this opportunity to contribute to discussions relevant to achieving this objective.

Legal Aid NSW Solicitors engaged in employment law work have seen a very significant number of vulnerable workers whose employment may soon, or has been, terminated within the first few months of new employment. It is known from the instructions and information given by these clients, that they were assisted into their job through Providers. From this knowledge Legal Aid NSW has detected a significant pattern. Those workers assisted into jobs with employers who engage in 'best employment practices' are more likely to successfully work through any workplace difficulties and maintain their employment. Unfortunately the contrary also applies. Where an employer falls short of 'best employment practices' there is a very strong possibility that the employment relationship will not survive, and of course the worker will again be at risk of long term unemployment. Also, a negative employment experience often impacts on the person's confidence in renewing their job seeking activities.

'Best Employment Practices' involve a whole range of human resource management strategies, as well as compliance with relevant workplace laws and industrial instruments. Naturally Legal Aid NSW, as a legal organisation, approaches this from the view point of compliance - which may be achieved in a number of ways. In responding to the Issues Paper, Legal Aid NSW puts aside the matter of compelling adherence to the law and emphasises the important role of community legal education (CLE).

Relevant CLE activities of Legal Aid NSW

Legal Aid NSW has an extensive CLE service and program. This includes the strategic delivery of employment law related CLE. The objectives of employment law CLE delivered by Legal Aid NSW include:

- informing workers of their basic legal rights and responsibilities in the workplace
- raising awareness and knowledge about common employment law issues
- helping workers to recognise where common workplace problems may be legal problems requiring a legal resolution
- equipping workers with information about how to anticipate legal problems in the workplace and how to prevent or begin to resolve legal problems
- Informing workers of where and how to find appropriate legal advice and assistance with potential and actual workplace legal problems.

In recent years Legal Aid NSW has had considerable success in providing employment law related CLE. The groups who have participated in such CLE include:

- migrant workers
- workers in culturally and linguistically diverse communities

- workers in rural and regional NSW
- young people entering the workforce
- people living with disabilities
- people living and working with disabilities
- community workers - who in turn are often working with vulnerable jobseekers trying to enter the workforce.

One focus of CLE has been to assist workers understand their rights and be able to identify and accept jobs with employers who engage in 'best employment practices'. On the basis of the comments made above, Legal Aid NSW submits that these workers (who have participated in CLE) have a greater chance of maintaining employment on a long term basis with a good employer. These workers also avoid the risk of exploitation, injury and other adverse employment outcomes.

Training for the staff of Providers

Legal Aid NSW submits that CLE and related employment law training for the staff of Providers may assist these organisations to identify 'best employment practices' and assist vulnerable workers into jobs with good employers. In turn these workers will have improved prospects of long term employment.

Furthermore, Provider staff with appropriate employment law training may be more adept at identifying workplace problems for their clients, and help to solve those problems before damage is done to the employment relationship.

In providing CLE to community workers, Legal Aid NSW solicitors have already had contact with the staff of Providers. They have made clear to Legal Aid NSW that employment law training is something they see as worthwhile for themselves and their colleagues.

Conclusion

Effective employment law CLE may be delivered in a wide range of formats and contexts. Some possibilities include seminar type presentations, interactive workshops, webinars and more intensive training. All CLE should be specifically tailored to the learning needs, interests and desired formats of the potential audience.

Legal Aid NSW welcomes the opportunity to provide these comments and would be willing to provide further information about its CLE services if need be.