



Cooperative Legal Service Delivery (CLSD) Program e-update February 2017

CLSD PROGRAM UNIT

CLSD Program Unit

CLSD Program Regional Coordinators' Workshop

The CLSD Program Unit convened a Regional Coordinators Workshop on 6 December 2016. A warm thank you to our friends at Ashurst for hosting the meeting in their Sydney offices. It was great to get together with the Coordinators to share information and sharpen our focus on achieving the goals of the CLSD program.

Changes in the CLSD Program

We have new CLSD Regional Coordinators for the Far West and Hunter regions.

Suzanne Parker is moving from Disability Advocacy and the CLSD Regional Coordinator for the Hunter region to a new role at Legal Aid NSW in Sydney. Congratulations Suzanne! Mark Grierson at Disability Advocacy will take on the role as CLSD Regional Coordinator for the Hunter for the next few months.

Jillian Heeley, the CLSD Program Regional Coordinator for the Far West region, is handing the role over to Simon Hunter, the new Community Development worker at the Far West Community Legal Centre. Jillian will continue in her role as Principal Solicitor at Far West CLC and will retain involvement in the Far West CLSD partnership.

Thank you Suzanne and Jillian for the work that you have done for your partnerships - and welcome Mark and Simon.

CLSD Program contacts and quarterly meetings

Details for the CLSD Regional Coordinators and quarterly regional meetings can be found at <http://www.legalaid.nsw.gov.au/what-we-do/community-partnerships/cooperative-legal-services-delivery-clsd-program>. The page is updated regularly to reflect any changes to dates and locations of meetings

Kate Halliday is staying on as CLSD Program Coordinator in the CLSD Program Unit in Sydney.

Projects in development /activities in the CLSD Program regions

- In February the Wagga Wagga Legal Aid office and the Immigration Advice and Rights Centre (IARC) will conduct community legal education for caseworkers on *Family Violence and the Migration Act* in Griffith (7 February) and Wagga Wagga (8 February). Contact Lucy Claridge at Legal Aid NSW to register for the workshops on Lucy.Claridge@legalaid.gov.nsw.au.
- The CLSD Program Unit is working with the Central Coast CLSD Program partnership on a CLE project to develop a plain English guide on '*what needs to be done when someone dies*' that will incorporate legal and non-legal information.

What kind of systemic issues are being reported across regional and remote NSW?

Lack of diversion options for offenders with alcohol, drug and mental health issues continues to be a big issue. In regions such as Bourke, Moree, Walgett and Taree there is strong support for better diversion options, including MERIT, the court referral scheme that allows people charged with a summary criminal offence to obtain treatment for drug and alcohol problems prior being sentenced.

The Moree CLSD partnership has identified the need for some research about services and options available in that region – Gilbert + Tobin are assisting with this piece of work. The Moree partnership will use that research to engage with health and related services in the region about improving access to diversion. We are working through the Department of Justice with the NSW Legal Assistance Forum to further discussions with key stakeholders including the Aboriginal Legal Service, Health, Police and Corrections.

At the last Moree meeting held in December 2016 the issue of access to the full range of community based sentences was also raised. While the Sentencing Act contains a number of options for community based sentence such as intensive correction orders and community service orders, practically people do not have access to these kinds of sentences if there are limited opportunities for people to engage in court ordered community work.

Other recurring systemic issues include:

- Housing issues including repairs, maintenance, arrears, attendance at NCAT, transfer of government housing stock to community providers
- Access to identity documents for older Aboriginal people
- Disability issues: access to the NDIS, housing appropriate for people with disabilities, school exclusions for kids with disabilities
- Access to reputable men's behaviour change programs

LEGAL AID NSW NEWS

Vale Bill Grant OAM

Many of you would have heard the very sad news of the passing of Bill Grant, former CEO of Legal Aid NSW. The following tribute from National Legal Aid, the peak body for Legal Aid Commissions across NSW, has appeared in the Sydney Morning Herald:

National Legal Aid mourns the death of William (Bill) Grant OAM. Our dear colleague, Bill, recently retired as CEO of Legal Aid NSW, the largest legal aid agency in Australia. Under Bill's leadership, which combined 11 years, he initiated and implemented a wide range of legal aid services for the socially and economically disadvantaged, including the extension of legal aid services to rural, regional and remote areas. Bill greatly expanded civil law services, assistance for victims of domestic violence, legal assistance for the elderly and he championed youth justice initiatives. Bill led a wide range of innovative, client focused programs while building better relationships and co-operative service delivery. He achieved positive change in the delivery of legal aid to the community. As a colleague he was outspoken, fearless, client focused, passionate about justice and inspirational. We will miss him but value and are grateful for our friendship and the experience we gained through knowing and working with him. Our thoughts are with Bill's family and all his friends.

See more at: <http://tributes.smh.com.au/obituaries/smh-au/obituary.aspx?n=william-grant&pid=183807357#sthash.0BxREyCi.dpuf>

Call for Domestic Violence Panel Lawyers

Legal Aid NSW is calling for expressions of interest from solicitors and barristers for appointment to a Domestic Violence Panel. Practitioners appointed to this Panel will provide

- legal advice and referral on a wide range of legal issues connected with domestic violence such as criminal charges, child care and protection, victims assistance, credit and debt problems, housing, social security and family law
- representation in contested AVO proceedings throughout NSW
- duty lawyer services at specific courts.

Practitioners who are interested in appointment to the Panel will also have to demonstrate that they have an understanding of complex issues commonly experienced by particularly vulnerable clients and that they have an ability to communicate effectively with and on behalf of vulnerable clients.

A Panel Information Package is available at <http://www.legalaid.nsw.gov.au/for-lawyers/panels-audit-and-practice-standards/domestic-violence>.

Applications should be lodged by **20 February 2017**.

SECTOR NEWS



NSW Civil Justice Strategy – REMINDER TO HAVE YOUR SAY!

According to the NSW Department of Justice (DOJ), more than two million people in NSW experience a civil justice problem each year but many people don't do anything about it. They either don't know where to start, or think it will cost too much or take too long. Sometimes they begin to complain, then give up when it gets just too hard. The DOJ want to improve the civil justice system. To do that we need to hear about your experiences and what you think can be done better.

The DOJ are asking people to fill in a [short online survey](#) about peoples' experiences with the civil justice system. The [consultation paper](#) can also read or downloaded here <http://www.justice.nsw.gov.au/justicepolicy/Documents/Civil%20Justice%20Consultation/Civil%20Justice%20Consultation%20Paper-ACC%20amended.pdf>

This is a great opportunity for input into achieving faster, easier processes to resolve peoples' civil law problems, as well as improving the system and access to it.

You can also make a submissions may be made by sending an email to civiljustice@justice.nsw.gov.au or writing to:

Civil Justice Project Team
NSW Department of Justice
GPO Box 31
SYDNEY NSW 2001

Working with Children Checks

The Office of the Children's Guardian NSW is responsible for administering the *Child Protection (Working with Children) Act 2012*. People who engage in child related work (both paid and voluntary work), and authorised carers must get a Working with Children Check (WWCC) clearance. In addition, adults living in the same home as an authorised carer, and prospective guardians and people living with them, must also obtain a WWCC. A WWCC must be renewed every five years.

The requirement for a Working with Children Check (WWCC) that applies to child related employment and authorised child carers, and its impact on employment and family or kinship care arrangements under the *Children and Young Persons (Care and Protection) Act* was discussed at the recent CLSD Regional Coordinators Workshop.

It is important that people seek out legal advice in cases where Family & Community Services has asked a carer or person living with a carer to apply for a WWCC, or where a person has sought a WWCC and received a Notice of Proposed Refusal, or has received an interim bar or been refused a WWCC. People who have received a Notice of Proposed Refusal can make a written response to the Children's Guardian that must be taken into account by the Children's Guardian in deciding whether or not to issue a WWCC. If a person who has been subject to a risk assessment has been refused a WWCC there is a right of review to NCAT within 28 days. This means people should need to act quickly.

People who are disqualified from obtaining a WWCC because they have been convicted of a disqualifying offence, or have been charge with a disqualifying offence that has not yet been determined, may be able to make an application to NCAT for an enabling order so they are no longer regarded as a disqualified person.

The Office of the Children's Guardian publishes a number of Fact Sheets including information on bars and appeals at <http://www.kidsguardian.nsw.gov.au/>. One suggestion from a recent CLSD program meeting is for the development of some easy English resources on WWCC.

People who need assistance with WWCC should contact LawAccess NSW on 1300 888 529 or go to <http://www.lawaccess.nsw.gov.au/> for contact details for their closest legal service provider.

Domestic and Family Violence Innovation Fund: Expressions of Interest now open

Domestic and Family Violence Innovation Fund

The [NSW Domestic and Family Violence Blueprint for Reform 2016-2021: Safer Lives for Women, Men and Children](#) identified the need for an increased focus on prevention and early intervention activities to achieve a significant and sustained reduction in the rate of DFV. To achieve this, the NSW Government has launched a **\$20million Innovation Fund** for new ways of thinking, working and collaborating in the areas of prevention, early intervention and crisis response.

The [Domestic and Family Violence Innovation Fund overview](#) outlines the terms, conditions, time-frames and processes for submitting a proposal. Expressions of interest are open from today until **17 February 2017**, and can be submitted via the [NSW Government Innovation Launch site](#).

Law and Justice Foundation Anniversary Grants Program



The Law and Justice Foundation turns 50 this year and to mark this the Foundation is inviting applications for up to \$150 000 to fund a project that addresses the priority legal need of a specific group in NSW. The project would assess existing evidence about the best way to meet the legal needs of the group, develop and implement a strategy to address the legal need and evaluate the strategy to assess its success and to identify lessons learned for policy development and service delivery.

The Foundation is particularly interested in applications that address the themes of

- optimum ways to provide appropriate, targeted, joined-up and holistic services
- pro bono services including models of innovative service delivery
- self-help services for disadvantaged people, including self-represented litigants
- accessible and culturally appropriate services
- collaborative and co-located services
- key transition points (for example onset of mental illness, divorce and unemployment).

Applications close on **31 March 2017**.

To apply read the information on the Foundation's website <http://www.lawfoundation.net.au> and contact Jane Kenny, Grants and Legal Information Manager to make an appointment to discuss your proposal (phone 02 8227 3210 or grants@lawfoundation.net.au).

NSW Fair Trading Complaints Register



The NSW Fair Trading Complaints Register lists businesses that are the subject of 10 or more complaints to NSW Fair Trading in a calendar month. Businesses are listed

according to their public and recognisable 'trading' or 'brand' name.

The Complaints Register is updated monthly in the second half of each month with complaints data from the previous calendar month. The collection of data for the purposes of the Complaints Register commenced on 1 July 2016, and the first Register was published on 25th August 2016.

From September 2016, the data published on the Register includes the geographic location of businesses. All locations are in NSW, unless otherwise specified on the Register in the location column. Location is indicated as 'Online' for businesses that only trade online, regardless of their location.

This additional information allows consumers to see how many complaints have been received about each business by location. Businesses with a collective total of 10 or more complaints across all locations will appear on the Register.

Only complaints considered by Fair Trading to have been made by a real person, relating to a real interaction with a business will be listed on the Register.

Information listed on the Complaints Register includes:

- the name of the business (the recognised business/brand name)
- the number of complaints received by Fair Trading about the business in the last month
- the product groups complained about.

In the 2015-16 financial year, NSW Fair Trading received over 50,000 complaints. Making some complaint information publically available provides businesses with an incentive to provide better customer service and helps consumers make more informed decisions about where to shop. The register can be found at http://www.fairtrading.nsw.gov.au/ftw/About_us/Online_services/Complaints_Register.page

Review of Aboriginal children in care and new care plans

(Former) NSW Minister for Family and Community Services (FACS) Brad Hazzard announced in December that Professor Megan Davis will lead a review of each Aboriginal child taken into care over the last 12 months.



The review will involve about 1200 children and comes at a time when Aboriginal children are being removed from their families at a significantly high rate. Every week in Australia 25 Aboriginal children are taken into government care. The review follows a ministerial forum held earlier in 2016 where Aboriginal people raised concerns about the over-representation of Aboriginal children in care.

FACS has also redesigned care plans that must be submitted when an application is made to the Children's Court under the Children and Young Persons (Care and

Protection) Act. A cultural plan for Aboriginal children and children from multicultural families must also be completed as part of the care plan for these children. For more information go to

<http://www.community.nsw.gov.au/parents,-carers-and-families/out-of-home-care-transition/for-non-government-agencies/care-and-cultural-planning>

Mandatory Drug Testing

The NSW government has been expanding drug driving testing steadily since December 2015. By 2017 the program will be conducting 97,400 tests per year. This is a tripling in program size (previously around 30,000 tests per year) and it aims to deter drivers in the same way that was achieved by combining large scale RBT with public education.

At the same time there is mandatory drug and alcohol testing of all drivers and riders involved in fatal crashes.

Roadside drug testing is not new – it's been in place since 2007. Following a review of the program it was expanded and it now includes regional areas where a majority of drug driving fatal crashes occur.

Centrelink Debt Recovery Action – what to do, where to get help

Centrelink's new automated compliance system has been getting a lot of media attention since Christmas 2016. Issues to look out for are the way the automated system apportions income across a yearly period, and the 10% recovery fee.



The method used to apportion income across a yearly period can have a negative impact on people who work seasonally or casually. A recovery fee of 10% that may be added to a claimed debt should only be imposed if a person has refused or failed without reasonable excuse to provide information, or knowingly or recklessly provided false information.

People who receive a letter from Centrelink about a potential debt, or who are contacted by a debt recovery agency, should get advice about their options and respond to Centrelink as soon as possible.



The Welfare Rights Network has released a factsheet containing information for people who have received a letter claiming that they have a Centrelink debt: <http://www.welfarerights.org.au/news/2017/1/9/new-factsheet-centrelink-online-debt-system>.

The factsheet is being regularly updated so it is worth checking that you have the latest version. People who receive a letter or are contacted by a debt collector about a Centrelink debt can get advice from the Welfare Rights Service, their local CLC, a Legal Aid regional office or Legal Aid's specialist Social Security Service that is based in the Sydney office (02 9219 5790).

New Centrelink/Social Security initiatives commencing 1 January 2017

Some other important changes to social security started on 1 January 2017.

New migrants to Australia will no longer be exempt from the newly arrived resident's waiting period because they have family members living in Australia. They will have to wait 104 weeks (2 years) to access most social security payments. They can get FTB and childcare payments. Special Benefit may be payable during the two year period if the person is in financial hardship and unable to earn a sufficient livelihood and has had a substantial change in circumstances beyond their control. This waiting period does not apply to refugees and their family members

The assets test free area for pensioners will increase, meaning a person can own more assets and still keep their pension. HOWEVER the taper rate for pensions will also increase, meaning a small number of people will lose the small part pension they currently receive.

A person's assets don't affect their payment (under the assets test) if they are below the assets test free area. The new assets test free areas will be:

- \$250,000 for a single homeowner
- \$375,000 for a homeowner couple
- \$450,000 for a single non-homeowner
- \$575,000 for a non-homeowner couple

The person's principal home is still exempt from the assets test.

Currently for every \$1,000 of assets over the assets test free area, a person's pension is reduced by \$1.50 per fn. From 1 January, a person's pension will reduce by \$3 per fn for every \$1,000 over the assets test free area.

If a person loses their pension on 1 January, due to the new taper rate, they automatically get a non-income tested Low Income Health Care Card and a Commonwealth Seniors Health Card.

If a person enters an aged care facility after 1 January 2017, and they rent out their former home, they will have the rental income assessed as income for the purpose of working out their rate of age pension. This measure only applies to people entering aged care after 1 January, not people currently living in aged care facilities.

Federal Court Orders Photographer to Return Money to Consumers

In late December 2016 the Federal Court has found that Lifestyle Photographers Pty Ltd (trading as Expression Sessions) engaged in unconscionable conduct in breach of the Australian Consumer Law and ordered the company to pay a penalty \$1.1 million and to offer refunds to all customers who purchased photographic products from the business between 2012 and 2014.

Between 2012 and 2014, Expression Sessions sold photography packages, including baby and child portraits, through kiosks and pop-up stores in shopping centres around Australia. The company admitted allegations of

unfair tactics and undue pressure in selling photographic products, failure to provide clear and accurate information about contracts, unfair contract terms and that it targeted vulnerable customers.

Expression Sessions must write to all customers who entered into a contract between 2012 and 2014 to advise them that they are entitled to receive a refund. Customers who wish to receive a refund will not need to respond to the letter. For more information go to <http://www.accc.gov.au/media-release/photographers-to-pay-11-million-in-penalties-and-refund-customers>

Federal Court unconscionable conduct finding on telecommunications services Solenet and Sure Telecom

The Harrison Companies are probably better known to consumers as Solenet and Sure Telecom. On 20 December 2016 the Federal Court found that corporations trading as SoleNet and Sure Telecom (the Harrison Companies) engaged in unconscionable conduct in connection with the supply of telecommunications services.

The Court found that between 2013 and 2015, the Harrison Companies were restructured in part to avoid regulatory sanctions and unpaid debts to regulators. As part of this process, customers were transferred from one Harrison Company to another without their knowledge or informed consent, and were then subject to unjustified demands for payment of early termination or cancellation fees, when there was no legitimate contractual basis for the Harrison Company that was seeking the payment to demand payment.

The Court also found the sole director of the Harrison Companies, Mr James Lee Harrison, was involved in the unconscionable conduct. In making this finding, Justice Moshinsky stated “I do not think there is any doubt that Mr Harrison was well aware of each of the elements of the system of conduct or pattern of behaviour... He was aware that the transfers involved, at best, a lack of transparency or, at worst, trickery or deception, vis-à-vis customers.”

“This outcome sends a clear message to companies and directors that they cannot avoid their obligations under the Australian Consumer Law by corporate restructures which involve transferring customers without their consent,” Australian Competition and Consumer Commission (ACCC) Chairman Rod Sims said.

The Court also found that in the cases of four of the six customers who gave evidence in the proceeding, the Harrison Companies engaged in undue harassment in connection with the supply of services and payment for services. The Court has ordered the parties to file submissions on relief including penalty by 10 February 2017.

Both the Telecommunications Industry Ombudsman and the Australian Communications and Media Authority assisted the ACCC in its investigation of Mr Harrison and the Harrison Companies. For further information, see <https://www.accc.gov.au/media-release/harrison-telecommunications-companies-engaged-in-unconscionable-conduct>

INFORMATION AND RESOURCES



Legal Aid Publications Catalogue 2017

The 2017 Legal Aid NSW publications catalogue is now available at <http://laxextra.legalaid.nsw.gov.au/Publications/Website/Publications/Details/95>.

Latest Behavioural Insights Unit Report now available

The Behavioural Insights Unit's (BIU) latest report, *Behavioural Insights in NSW 2016*, is now available. The Report showcases BIU's major projects over the past two years and sets out some of the lessons they have learned along the way.

Some initiatives include:

- showing that an effective reminder text message can help social housing tenants pay off their rental debt, with 9.4 per cent more tenants exiting arrears compared to those that were not sent a text message (from 68.8 per cent to 75.3 per cent) (pages 14-17)

- developing and rolling out a plain English Apprehended Domestic Violence Order (page 22)
- changing a reminder letter, which could lead to an additional 7,500 women attending their cervical cancer screenings each year (pages 7-8)
- trialling new text messages to get people to attend their hospital appointments, projected to save just one hospital at least \$66,000 per year (pages 9-11)
- providing advice on incorporating behavioural principles into a wide range of policy areas (page 5).



The Report contains details on these and more. Go to

<http://bi.dpc.nsw.gov.au/assets/Behavioural-Insights/Library/Behavioural-Insights-in-NSW-2016.pdf> to read the report.

Recent Findings on Women’s Experience of Intimate Partner Violence (IPV): factors associated with higher risk of IPV and help seeking behavior of women



A Crime and Justice Bulletin released by BOCSAR in December 2016 provides some insights on factors that are associated with women being at higher risk of experiencing Intimate Partner Violence (IPV), factors that affect the

likelihood of women reporting IPV to the police and where women look for help after they have experienced violence. The research *Intimate partner violence against women in Australia: related factors and help-seeking behaviours* uses information collected by the latest (2012) Australian Bureau of Statistics (ABS) Personal Safety Survey.

The research findings are likely to resonate with people who work closely with women who experience violence, and the research provides good evidence to support service planning and strategies to prevent or address violence against women.

Factors that are associated with a higher risk of women experiencing IPV are

- highest level of education was a certificate
- having a long-term health condition
- living in a one-parent household
- not able to access support from outside the family in a crisis
- having experienced child abuse
- having experienced emotional abuse from a current or former partner
- having experienced financial distress (for example, not being able to pay the rent or mortgage, or having to go without a meal).

Out of these factors the most significant one is emotional abuse by a current or former partner. The cumulative effect of these factors on a woman’s risk of experiencing IPV is also significant.

The research also considered factors that affect help seeking by women who have experienced IPV –both reporting to police, and seeking other kinds of help or advice.

Just over one quarter of assaults experienced by women in the sample considered by the research in the two years prior to the survey were reported to the police. The main reasons for not reporting to police were that the woman felt that she could deal with the violence herself, the woman did not regard the assault as a serious offence, fear of the perpetrator and shame or embarrassment. Assaults that were physical rather than sexual were more likely to be reported to police.

Most women who had experienced an incident of violence, physical or sexual, in the two years prior to the survey sought help from a friend or family member (76%). Other sources of help included counsellor or support person (27%), the police (23%), a GP (21%) or another health professional (7%).

The Bulletin is available at

<http://www.bocsar.nsw.gov.au/Documents/CJB/Report-2016-Intimate-partner-violence-against-women-in-Australia-CJB200.pdf>.

Regional Outreach Clinic Program (ROCP)

- Toomelah and Boggabilla regional outreach clinics will be starting in February. The Boggabilla clinic will be held on the third Wednesday of every month at the Boggabilla Council office from 10am to 1pm. The Toomelah clinic will be held on the 4th Thursday of every month from 10am to 1pm at the Toomelah Local Aboriginal Land Council. For appointments at both clinics telephone Lucas Swan on 04111 71661.
- A new regional outreach clinic will start at Tweed Heads in February. The clinic will be provided by Universal Law and will be held at the Family Centre in Amber Street Tweed Heads every (??) Thursday from 9:30 to 12:30. For an appointment at this clinic telephone Universal Law on 6684 6111.
- The Legal Aid NSW civil law outreach team has added a new clinic at Goulburn to complement the ROCP clinic, provided by Matt Adam of Carter Ferguson Lawyers, which commenced in December 2016. These clinics are held at Mission Australia, 148 Sloane Street Goulburn on the 1st and 3rd Thursday of each month from 11am to 2:30pm. Appointments can be made by telephoning Mission Australia on 4824 4000. Family law advice is also available in Goulburn at a separate clinic held by Legal Aid NSW at the Goulburn Local Court on the 2nd and 4th Tuesday of each month from 9:30 to 4pm, telephone 1300 888 529 for an appointment at that clinic.

<http://www.legalaid.nsw.gov.au/what-we-do/clsd> or contact Jenny Lovric on:
jenny.lovric@legalaid.nsw.gov.au or T: (02) 9219 5102