



CLSD Program e-update July 2017

CLSD Program News

The CLSD Program Unit convened the annual CLSD Program Regional Coordinators workshop in Sydney on 5-6 June, where we welcomed Shane Smith from the Moree Aboriginal Legal Service who has taken up the role of CLSD Regional Coordinator for the Moree CLSD Program partnership.

We will be convening a few CLSD Program planning days later this year, beginning with a planning day in Taree on 16 August. Planning Days in Kempsey, Moree, Central West and Far West will follow.

CLSD Program Projects

Recently funded projects

The CLSD Program has funded a new project in the Northern Rivers Region and provided another year of funding for three traffic clinics.

Traffic clinics provide legal advice and representation at a local court for disadvantaged people charged with traffic offences, or subject to a habitual traffic offender declaration, who are not eligible for legal aid. The three traffic clinics operate at:

- Broken Hill Local Court, provided by the Far West Community Legal Centre
- Toronto Local Court, provided by the Hunter Community Legal Centre and
- Wyong Local Court, provided by the Central Coast Community Legal Centre.

The Pottsville Beach Neighbourhood Centre will undertake a **budget education project** in collaboration with Legal Aid Lismore Regional Office and the Northern Rivers Community Legal Centre (NRCLC). This project will develop a budget education package on personal finances and deliver training and coaching to community workers in two locations on the kit. Training will be conducted in partnership with lawyers from Legal Aid and the NRCLC

Law Week in Brewarrina and Bourke

Law Week in Brewarrina and Bourke started in 2011 with just 4 services at the Bourke Court House. In 2017 it has grown to an event where over 15 services collaborated over 4 days to provide legal advice, free wills as well as help with fines and energy bills.

The event was organised by Thiyama-Li Family Violence Prevention Legal Service and the Central West CLSD Program partnership. Community members had access to free legal advice, free birth certificates and free wills. The Senior Rights Service, the Origin Hardship team and the Tenant Support and Education Project (a joint initiative by Murdi Paaki Regional Housing Corporation, Mid Lachlan Aboriginal Housing Management and the Coonamble Local Aboriginal Land Council) participated in Law Week for the first time this year.



photo of Brewarrina by Tamara Sims from Gilbert + Tobin

Other participating services at Law Week in Bourke and Brewarrina included:

- Western NSW Community Legal Centre
- Aboriginal Legal Service Bourke office
- Legal Aid NSW
- State Debt Recovery
- Maranguka Community Hub
- Fair Trading NSW
- Anti-Discrimination Board
- Energy and Water Ombudsman of NSW
- Centrelink
- Ability Links
- Pathfinders National Aboriginal Birth Certificate Program.

Thanks to the pro bono partner Gilbert + Tobin who provided free wills, and to Igniting Change who provided funds to Legal Aid NSW for birth certificates.

The evaluation of Law Week 2017 suggests that the event could continue to grow by:

- providing community transport for people who live in outlying areas
- having music to draw the crowd in
- adding some more low key activities for kids to make it easier for parents to stay around and
- expanding the event to other locations in the region.

Systemic Issues

The Prison Health Project needs your case studies

Do you visit a prison as part of your outreach work? Do you regularly have contact with inmates, or people who have recently left prison? Do you have clients who have complained about their health care in prison?

The Prison Health Project (PHP), a joint project between Legal Aid NSW and the Public Interest Advocacy Centre, is gathering case studies for a snapshot report on systemic issues with health care services in NSW prisons.

The primary aim of the PHP is to ensure health care services in custody are delivered at community standards in accordance with Australia's international human rights obligations.

The PHP will produce a snapshot report in 2017 to government that will include case studies and facilitate roundtable discussions with the government and contractors to resolve the identified issues. If necessary a mass complaint may be submitted to the NSW Ombudsman or Inspector of Custodial Services.

To date the project has received health complaints from about 80 clients and those complaints indicate that Justice Health, Corrective Services NSW, as well as contractors such as GEO, do not provide a standard of care comparable to the public health system.

Common issues include complete lack of dental and optical care, inappropriate pain relief, delays in accessing specialists and surgery, transfers between gaols despite medical holds, untreated infections and insubstantial mental health care.

You can gather case studies and refer them to us. We are specifically interested in fresh or relatively recent complaints about:

- sub-optimal health care, including by nurse practitioners and GPs,
- denial of health care, such as lack of access to specialists or therapies, and
- unreasonable delays in the provision of health care (e.g. surgery).

For further information contact Anthony Levin at Legal Aid NSW
Anthony.levin@legalaid.nsw.gov.au (02) 9219 5790.

Legal Aid NSW news

The July 2017 edition of [Legal Aid News](#) is now available and includes information about:

- General criminal and general family law Legal Aid NSW Panels are now open – submissions close on 4 September 2017.
- Defence disclosure in the District Court.
- Funding for the Legal Aid NSW specialist homeless lawyers that has been extended for another year.

The 2017 Criminal Law Conference will be held 2-4 August at Darling Harbour. You can [download the program](#) for full details of each speaker and the range of topics offered.

Sector News

New South Wales Council of Social Services (NCOSS) Regional Conferences

NCOSS 2017 Regional Conferences [Investing in Communities](#) bring together the community sector, government, individuals and local business to shape solutions for positive change. They want to hear from you to identify key issues for your community, and the solutions that would make a difference. As well as the [consultations](#) and networking opportunities, there will also be panel discussions and capacity building workshops in the afternoon. Register today for regional conferences at the following locations:

- 25 July – [Orange](#)
- 31 July – [Kiama](#)
- 15 August - [Newcastle](#)
- 22 August - [Wagga Wagga](#).

New BOCSAR paper on upward trend in Indigenous imprisonment

The NSW Bureau of Crime Statistics and Research (BOCSAR) has published an [issues paper](#) that takes a closer look at the factors that are influencing the upward trend in Indigenous imprisonment. According to the paper:

“The Indigenous imprisonment rate in this State is now 13.5 times higher than the non-Indigenous imprisonment rate (Australian Bureau of Statistics). By way of comparison, the African-American imprisonment rate in the United States is only 5.6 times higher than the white imprisonment rate (Carson and Anderson 2016).”

BOCSAR’s research found that the growth is caused by 3 factors:

- An increase in the number of Indigenous defendants charged with criminal offences, especially for offences of stalking/intimidation, breach section 9 bond and breach section 12 bond.
- An increase in the proportion of convicted Indigenous offenders receiving a prison sentence for the offence of stalking/intimidation.
- An increase in the length of time being spend on remand by Indigenous defendants refused bail.

The paper notes that many of the 1 380 Indigenous people who were convicted and sentenced to imprisonment in 2015 for the offences of common assault, stalking/intimidation, breaching section 9 bond, breaching section 12 bond, assault causing actual bodily harm and breaching an AVO may have been eligible for home detention or an intensive correction order which are alternatives to imprisonment for offenders given sentences of less than 18 months (in the case of home detention) or two years (in the case of intensive correction orders).

NSW Stolen Generation Reparations Scheme opens



The Stolen Generation Reparations Scheme and Funeral Assistance Fund opened on 1 July 2017. Stolen Generation survivors who went into the care of the Aborigines Protection Board or the Aborigines Welfare Board up until the repeal of the Aborigines Protection Act in 1969 are eligible for benefits under the scheme. The standard payment for Stolen Generation survivors is \$75,000. An additional payment of \$7,000 for funeral assistance is also available to people who are eligible for reparations.

Applications are assessed by an independent assessor who makes a recommendation to the Minister. The scheme will be open for 5 years. Two forms of identification are needed for an application. The Stolen Generations Reparations Scheme Unit at Aboriginal Affairs NSW will do a search of Board records and other government records and prepare a report for the independent assessor.

People who are considering making a claim should get legal advice from their local community legal centre or from Legal Aid NSW telephone 1800 793017.

Legal Aid NSW and the NSW Law Society have established the **Stolen Generation Wills Initiative** to help Stolen Generation survivors who make a claim for reparations to get a will for free or for a substantially reduced fee. **Call the Law Society on (02) 9926 0318** to talk with a lawyer about getting a will made under this initiative.

Aboriginal Affairs NSW has published [guidelines and factsheets](#) about the reparations scheme.

New Work and Development Order Guidelines

The NSW government has issued new [Work and Development Order Guidelines](#).

Key changes made to the guidelines include:

- Recognition of personality and other addictive disorders such as gambling as a mental illness for the purpose of doing a work and development order (WDO).
- Clients under the age of 18, and people experiencing domestic or family violence can use WDOs.
- Treatment or activities that are undertaken in accordance with section 32 of the *Mental Health (Forensic Provisions) Act* can be counted towards a WDO.

New enforcement method for victims restitution order debt

Victims restitution order (VRO) debts are now enforced by NSW State Debt Recovery (SDR) as if they were court imposed fines following amendments to the *Fines Act 1996* and the *Victims Rights and Support Act 2013*.

A VRO can be made against a person who has been convicted of a criminal offence when financial support or a recognition payment was made to the victim of that offence.

The debt 'handover' from Victims Services has started and SDR has been progressively issuing enforcement orders since mid-May. SDR will apply the same enforcement measures that are used for fines, that is, driving sanctions, garnishee orders, property seizure, and other civil enforcement.

Before 20 March 2017 a VRO was enforced as a judgment debt with a limitation period of 12 years. We understand that SDR will apply the same limitation period.

A person with a VRO that was made more than 12 years ago should get legal advice before entering into any arrangements with SDR about the debt. As a first step the person can ask SDR for a stay of any enforcement action to get some time to get legal advice. SDR is granting stays of up to 3 months for these matters. It is also important to get legal advice if a person with a VRO debt is considering bankruptcy.

Work and Development Orders (WDOs) are now available for eligible clients with VRO debt but placement options will be more limited.

SDR have recognised that not all sponsors will be able to support WDOs for VROs. These debts are much larger than the average fines debt and there is also likely to be a higher level of risk for some service providers given the nature of the offences. Some sponsors will be conflicted out because they provide services to victims.

SDR has advised that they will actively case manage VRO debt. The debts will not automatically be added to existing WDOs and sponsors can opt out entirely.

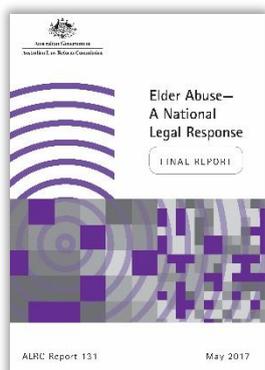
A full or partial write off of the debt under section 101 of the *Fines Act* is also an option for vulnerable clients. LawAccess NSW and Legal Aid NSW are developing some self-help resources for people to apply for a write off. There are also resources in [Fined Out](#), a joint publication of Legal Aid NSW, Inner City Legal Centre and Redfern Legal Centre.

For further help contact:

- A [Community Legal Centre](#)
- The [WDO Service at Legal Aid NSW](#) or
- [LawAccess NSW](#) 1300 888 529.

ALRC Report on Elder Abuse Released

The Australian Law Reform Commission has released its [Report](#) on Elder Abuse. The Report includes 43 recommendations for law reform across the following areas:



- Improved responses to elder abuse in residential aged care.
 - Enhanced employment screening of care workers.
 - Greater scrutiny regarding the use of restrictive practices in aged care.
 - Building trust and confidence in enduring documents as important advanced planning tools.
 - Protecting older people when ‘assets for care’ arrangements go wrong.
 - Banks and financial institutions protecting vulnerable customers from abuse.
- Better succession planning across the self-managed superannuation sector.
 - Adult safeguarding regimes protecting and supporting at-risk adults.

Class Action against MyBudget

The [Financial Rights Legal Centre](#) (FRLC) has started an opt-out class action against MyBudget, a company who claims to provide “caring money management, structure and support” for a “debt free life”.

MyBudget takes deposits from consumers and uses that money to, among other things, pay bills on the consumer’s behalf. A term of the contract specifies that the interest earned on the deposits can be held by MyBudget rather than returned to consumers.

FRLC is arguing that the contractual arrangements that MyBudget makes with consumers are unfair and unconscionable.

Any customer of MyBudget who signed up and deposited money between 19 January 2011 and 1 September 2015 is a member of the class and class members do not need to register with FRLC. Customers can opt out of the legal action but should get legal advice before making any decision. Only class members will get a benefit if the legal action is successful.

Disability Advocacy faces funding cut



Disability Advocacy NSW anticipates a 30% reduction in funding in 2018 as NSW transitions to the National Disability Insurance Scheme. As a result some regional offices of DA may be forced to close. The roll out of the NDIS will not replace the advocacy services that are currently provided by DA in those regional areas. Here is the [link](#) to the full story

Tenants Union launches campaign on unfair evictions

Unfair evictions hurt us all.



The Tenants Union has launched a new campaign [Make renting fair](#)

The campaign seeks changes to the NSW Residential Tenancies Act to remove 'no grounds evictions' from the legislation and replace it with 'reasonable grounds' for terminating a tenancy.

Get in touch with Ned Cutcher at the Tenants Union (02) 8117 3712 or 0405 433 996 or ned.cutcher@tenantsunion.org.au if you have any questions, or would like to endorse the campaign.

Otherwise people can sign the [petition](#), like and share the [facebook page](#), and let the Tenants Union know if they'd like to [tell their story](#) about the impact of unfair evictions.

NSW Law Enforcement Conduct Commission starts operating

The New South Wales Law Enforcement Conduct Commission (LECC) started operating on 1 July 2017. The LECC replaces the Police Integrity Commission and the Police and Compliance Branch in the Ombudsman's Office. The LECC has two main functions:

- detecting and investigating misconduct and corruption and
- oversight of complaints handling.

Anyone can make a report to the LECC about NSW Police Force or NSW Crime Commission misconduct or maladministration. For more information, or to make an online complaint go to their [website](#).

New Code of Practice for Life Insurers

From 1 July 2017 life insurers who are members of the Financial Services Council (FSC) must comply with the new Life Insurance Code of Practice. The Code contains a number of important requirements for plain language information for customers of insurers.

The Code is available on the FSC's [website](#), which also has a list of members of the FSC. The Code will be monitored by an independent Code Compliance Committee and anyone can report a breach of the Code to the Committee.

Information and Resources

Challenging NDIS decisions



Legal Aid NSW has published a new [brochure](#) on the National Disability Insurance Scheme that outlines the steps you can take to challenge a NDIS decision. It contains information about the kinds of decisions that can be challenged, how to challenge a decision and important time limits for making a challenge.

New tool for consumers and advocates



The Financial Rights Legal Centre has launched a new legal information tool for people who need help with insurance claims following a motor vehicle accident. Called the [Motor Vehicle Accident Problem Solver](#) it provides advice, sample letters and factsheets.

ACC complaint letter tool

The Australian Competition and Consumer Commission has a complaint letter [tool](#) to help consumers write create a letter or email to complain about a service or a product. It is designed to encourage consumers and businesses to resolve problems without having to make a complaint to the ACCC.

Information on the CLSD Program



For more information, visit the [CLSD Program](#) at Legal Aid NSW, or call Kate Halliday on (02) 9219 6399 or Jenny Lovric on (02) 9219 5102.