

**COMMUNITY
LEGAL
CENTRES**

DOING JUSTICE

STORIES OF CHALLENGE AND CHANGE



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COMMUNITY LEGAL CENTRES

Community, Compassion, Justice

COMMUNITY LEGAL CENTRES (CLCs) are independent, community organisations providing equitable and accessible legal services.

They are of their communities and responsive to their communities. “Communities” may be geographic communities as for generalist CLCs or communities of interest as for specialist CLCs that may target a group (e.g. children) or a particular area of law.

CLCs are able to offer appropriate, effective and creative solutions based on their experience within their community. It is this community relationship that distinguishes community legal centres from other legal services. It is this community relationship that makes community legal centres essential and vital organisations.

While providing legal services to individuals, CLCs also work beyond the individual. Community legal centres initiate community development,

community legal education and law reform projects that are preventative in outcome and that strengthen the community.

The clients of community legal centres are those who are facing injustice, whose legal problem is not profitable, and whose life circumstances are affected by their legal problem.

Community legal centres harness the energy and expertise of thousands of volunteers across the country. Centres are committed to collaboration with government, legal aid, the private legal profession and community partners to ensure the best outcomes for their clients and the system of justice in Australia.

Community legal centres are about Justice and not simply the Law.

Here are our stories.



LOOKING AFTER OUR SISTERS

While fun activities such as karaoke, music, painting and outdoor activities is not what normally springs to mind when one thinks of a busy community legal centre, it was the flavour of the day at a recent CLC camp for young Aboriginal women. The Women's Legal Service SA, recognising disadvantages for young Aboriginal women across varying regions of South Australia, decided to invite these young women to an innovative camp called "Living Safe – Growing Strong". The philosophy behind the camp was to educate and empower young Aboriginal women from different regions with regards to violence, to debunk some of the myths surrounding sexual violence and to prevent abuse in interpersonal relationships.

The centre had noticed that a lot of older and younger Aboriginal women were talking about sexual assault in ways that indicated they were not sure whether it was sexual assault or whether it was something minor. They also noticed that young women were even less likely to report or seek help about sexual assault. These young women did not want to cause trouble in their family by inviting the police in or to create family friction by talking

"If you don't talk about it, it can make you sick inside." –Young Aboriginal woman on "Living Safe – Growing Strong" camp

about sexual assaults perpetrated against them. Added to this difficulty was the fact that even if they wanted to report a sexual assault the lack of communication systems in remote communities meant there was no mobile phone coverage and

few landlines available to them. It also surfaced that in remote areas young girls will not go to the police because of their on-going lack of faith in the justice system

The centre managed to obtain funding from the Law Foundation of SA for the camp with the aim that the camp be a two way process – including both the provision of information and "hearing" information back from the 'campers'. In this way, it works differently to an information booklet.

The workers on the camp, including all the speakers, had extensive

YOUNG WOMEN'S CAMP: NAME WITHHELD BY REQUEST





backgrounds in working with young Aboriginal people and the result was extraordinary.

Thirty-seven young women gathered together with the support of twenty staff and support workers. Amidst the games, socialising and laughing, some serious work was done. All workers, staff and speakers had experience with Aboriginal youth so could relate to them properly. Police and youth workers talked about reporting sexual assault and what happens during the legal process. There were discussions about what comprises sexual assault, conversations about keeping safe and myth breaking about the blame that is involved in sexual assault. Many expressive, fun activities were intertwined with the more serious



aspects of the workshop. The creation of posters and wonderful artwork facilitated extensive discussions. At all times, experienced sexual assault counsellors were available to offer support.

As a result of the camp, a video, DVD and booklet were created. Individual participants at the camp expressed clarity about what sexual assault was and an understanding about what services and assistance is available to them.

The debunking of the myth of guilt was a strong focus of the workshop and a key message was that it is 'ok to talk about sexual assault'.

This community legal centre has

equipped individuals to take the information and messages back to their separate communities and the hope exists that the word will spread.

The Young Women's Camp and project is an extraordinary example of how community links and cultural understanding allow a trust relationship to develop that can effect huge change. ■

TAKING CONFIDENTIALITY SERIOUSLY

Yit, a young Turkish man with mental health problems, has difficulty speaking English. Yit's main social and community contact is through a soccer club where he plays for a local team in a local league. Yit suffers from bipolar disorder and after an attempted suicide he was admitted to a psychiatric hospital as an involuntary patient. He recovered well in hospital and was keen to be discharged. As part of his discharge plan, he was appointed a case manager to assist him. Yit's case manager telephoned various community support services that could help Yit when he got out but told them Yit's name without his consent. One of the workers from the community support service recognised Yit's name. The worker told his son Steve, who also played soccer, that Yit has been admitted to a psychiatric hospital. Yit had no knowledge that anyone had been told about his illness and his hospitalisation.

Once discharged from hospital Yit returned home to get his life back together. He was excited to return to playing soccer for his local team, however one Saturday when

Yit's club played against Steve's club an argument broke out between Steve and Yit. In front of all the players and spectators Steve yelled out to Yit "What do you know, you've been in a psychiatric hospital, you're a mental case". Yit was absolutely devastated that Steve knew about his hospital stay. He left the soccer field and refused to go back.

Yit had lost one of his main connections to his local community. An outraged family member decided that Yit should get legal help about what occurred and found a CLC that could assist. A mental health community legal centre recognised that there had been a breach of confidentiality under legislation regarding health records. Yit was surprised and heartened that he could take action to redress the situation. Ultimately the CLC negotiated compensation for Yit which gave him confidence in his rights, and just as importantly, allowed him to purchase the new uniform that he needed to join a new soccer league. Yit was able to return to the soccer field without everyone knowing what had hap-



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“The soccer field was the one place I felt peaceful.” –Yit

pened. Yit was again a contributing community member.

In taking this action the CLC was sending a message about confidentiality to vulnerable members of the community and also to those workers who deal extensively with sensitive information. This matter brought home to workers that in each and every case such information needs to be protected and that what may seem a minor slip can have far-reaching effects. ■

GIANT VELVET WORMS

FORESTRY AND THREATENED SPECIES



When three local community residents decided to fight to protect neighbouring bushland, no one expected that this would be a case that would set a precedent for curtailing forestry operations in the State of Tasmania. Ted, Lance and Becky all lived in north-east Tasmania. They were passionate about challenging council's approval of forestry activity that included clear felling the native forest and establishing a blue gum plantation. The proposed forestry operations were to be conducted on an area which was partly in a coastal resource management zone, a land that was thought to provide habitat for rare species of a giant velvet worm. The forest practices planned for that area did not provide any special protection for the species and also the plan failed to identify and protect several stands of threatened flora including the *Eucalyptus Brookeriana*.

An Environmental Defenders Office represented Ted, Lance and Becky in their fight to stop the pro-

posed forestry operations. During the course of the appeal in court the giant velvet worms were actually found on the site and further detailed flora surveys identified that the *Eucalyptus Brookeriana* stands (the habitat of the giant velvet worms) definitely existed on the site as well. Ted, Lance and Becky assisted in some of the on-ground investigations and the community's support became increasingly strong but still the EDO had to fight long and hard in court.

The case was significant because of the application of the precautionary principle, a principle that is about protecting the environment for generations to come. In applying the precautionary principle, the Tribunal held that the proposed logging and plantation posed an unacceptable risk to the Giant Velvet Worm.

The Tribunal upheld the appeal and overturned council's approval of the forestry operation in the coastal resource management zone. This result meant that the *Eucalyptus Brookeriana* could continue to provide a habitat for the giant velvet worms.

This case drew on the strength of the community and the CLC



“Our great grandchildren will now have the chance to enjoy our beautiful land and creatures.” –Becky

working together. It was one of the first times forestry operations had been subject to legal challenge in Tasmania. The application of the precautionary principle was a breakthrough and it was the first case in which the protection of a rare species was a determining factor in a planning appeal. Ted, Lance, Becky and their community have set an exciting precedent for future generations proving that the community working together can keep the planet alive and have significant victories while doing so. This story is told over and over by the community so much so that the giant velvet worms are now something of a celebrity in Tasmania! ■

WORM PHOTO ABOVE: © BOB MESIBOV FROM WWW.QVMAG.TAS.GOV.AU/ZOOLOGY/MULTIPEDES/TASONYCH/ONYTABAR.HTML

IMMIGRANT SLAVE LABOUR

When a group of young Indian men were approached by an Indian restaurant in Australia to be sponsored to come out and work they jumped at the opportunity. This provided the employees with the opportunity of making a difference for their families.

Sadly their sponsor ignored the basic employment rights of these Indian immigrants. He deducted enormous amounts from their wages for payments he unilaterally decided they owed to him. Each of the employees worked over 80 hours per week and worked every-day including Christmas and New Year. They received none of their entitlements under the relevant state award and their total net income was just over \$1000 per month. They were never provided with wages slips, food breaks or superannuation. Their employer confiscated their passports and treated them as slaves. Living in isolated circumstances with no furniture and no hot water, the employees continued to work under these conditions.

One evening the employer approached two of the workers in

his restaurant and requested that when a visiting immigration officer arrived that they give false information. When the men voiced their concerns about lying to the immigration officials he threatened to send them back to India. Confused and distressed, the men walked home in the early hours of the morning, discussed the matter and decided that they were not going to continue to work for this employer.

After visiting a CLC that was recommended to them by another Indian restaurant owner, they finally received some assistance. With the support and help of the CLC, the clients made complaints to the Department of Immigration and to the police about their retained passports. The matter opened a can of worms for the Department of Immigration on the basis that the Department had accepted an illegal employment contract.

Despite their lack of English language, isolation and fear, the brave clients showed their personal integrity by working with the CLC and within the law. When the issues with the Department of Immigration were clarified, the

“I just couldn’t even imagine how hard life must have been for the client.”

–CLC solicitor

clients were again advised by the CLC on their employment rights and considerable action has been taken in that state Industrial Relations Commission. Despite an initial conciliation conference having a positive settlement result, the employer has not followed through and therefore this CLC will continue to pursue the entitlements of this group of men.

CLCs often uncover extraordinary abuses such as this being perpetrated in suburban Australia. The victims are often without means and few resources to fight back. It is because CLCs are embedded within their communities and through their multi-disciplined approach and determination that they are able to effectively address abuses such as these. ■

EMPLOYER CONFISCATED THEIR PASSPORTS AND TREATED THEM AS SLAVES



MAKING BIG ORGANISATIONS USE HUMANE PROCESSES AND RESPONSES

When 22 year old Lee first received his mobile phone he was excited. Having lived all his life with intellectual disabilities Lee saw his mobile as a form of independence and social possibility. He began calling chat lines to meet people and make friends. His telephone bill eventually accumulated to over \$35,000 which he then owed to a recognisable telecommunications company.

Lee did not understand the nature of the contract nor how he had accumulated such a large bill. He was also not sure what to do when he received a summons indicating that the telecommunications company had commenced legal proceedings against him in the magistrates court.

Frightened and confused Lee went to his local CLC extremely anxious about the situation. He met with staff who had expertise in dealing with people with intellectual disabilities. They sat down, listened and spent significant time with Lee establishing what the issues were.

The CLC solicitor drafted a defence on behalf of Lee arguing that the client had an intellectual disability and was incapable of understanding the nature and effect of entering into the contract with the telecommunications company. The solicitor

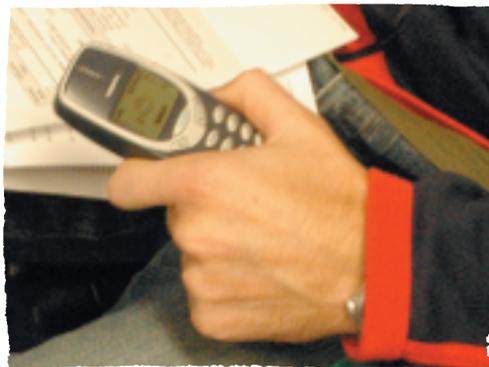
“I’d been so afraid, they spoke to me about it lots, they cared about me – so I didn’t have to pay for more phone calls!” –Lee

also argued that the company had a duty to mitigate its losses and should have terminated the service to the client at a much earlier date. The solicitor from the telecommunications company entered into negotiations with the CLC representing Lee.

The centre negotiated a much lesser debt of \$2,000, to be paid in weekly instalments of \$50. This was a debt that allowed Lee a realistic

opportunity to clear the debt, and one that acknowledged that the telecommunications company had a duty to assist clients such as Lee in managing their telecommunications bills.

This case had a far-reaching impact. The outcome affects how telecommunication companies monitor escalating bills. It may be mostly young people or people with limited intellectual capacity who do not understand the nature of contracts with such companies but those same companies target young people. Telecommunication companies now have a responsibility to ensure that there is proper understanding and/or to notify the user when bills are escalating at an accelerated rate. In addition, the publicity the case received enabled many more people to understand their rights with telecommunication companies and contracts. ■



“I want my kids to see a new and positive way of being a family.” –Janine

Janine met Tony when she was in her late teens and moved in with him soon after. They lived together as de-facto partners for 10 years during which time they had two daughters and a son, Miranda, Zoe and Lucas. During Janine’s first pregnancy with Miranda, Tony’s behaviour toward her changed. He became controlling and

violence. Through further threats and physical violence he forced Janine to return home.

Eventually Janine had saved enough money to buy tickets for herself and her children to leave their home in WA and flee to Victoria. Janine did not tell any of her family or friends where she was going so she and her children could

agreed to assist her in her family law matters.

While the matter continued to run Janine kept in touch with the Women’s CLC in VIC often dropping in to use facilities to communicate with her solicitors in WA since she had no access to telephone or email. Eventually Janine successfully defended Tony’s recovery

BREAKING THE CYCLE DOMESTIC VIOLENCE



antagonistic, and eventually towards the end of Janine’s pregnancy he became physically violent.

Over the years, the abuse worsened. He would slam her against walls, drag her through the house by her hair, hold a knife to her throat and beat her in front of the children. Tony controlled the family finances even though he did not work himself, however over time Janine hid money she found around the house to build up savings of her own. Janine attempted to leave Tony on a number of occasions but each time he tracked her down by threatening family and friends with

be safe. Nevertheless, she was served with a recovery application shortly after arriving in Victoria indicating that Tony was seeking residence of the children. Janine managed to have the matter adjourned while she desperately searched for legal help. Feeling desperate and fearful, Janine came to a Women’s CLC seeking assistance. They liaised with another Women’s CLC in WA who obtained a further adjournment to allow Janine to apply for legal aid. The Women’s CLC in VIC then liaised with a private solicitor in WA who successfully applied for legal aid on Janine’s behalf and

application enabling herself and her children to settle down in Victoria, for the children to go to school and Janine to get a job.

The extensive CLC network spanning the nation is a community of its own. When CLCs work together, even difficult legal problems can be solved. Janine and her children were assisted in leaving behind a life fraught with difficulty to successfully begin again in a safe environment. In seeking help from a CLC, Janine was able to protect her children and establish a new way of life for them. ■

BREAKING DOWN STEREOTYPES

Mammoud was a 19 year old Afghani boy who had come to Australia as a 16 year old refugee. Mammoud lost his family and lived in detention for some time before he was finally released into the community. He taught himself English, undertook a TAFE course and busied himself finding work. One evening after his TAFE course he was at a major train station waiting for a train with a few other young Afghani male friends. Another group of young men all of Caucasian appearance stopped and began to hassle them. While the second group started to throw punches Mammoud and his friends sought to take cover. The police were called and when they arrived they arrested Mammoud and his friends, not the other group.

Being arrested caused huge difficulties for Mammoud. He had been an innocent victim. His English was still limited and he had difficulty explaining the details of the incident to the police. He was charged with assault. Mammoud suffered nightmares and despair at the thought of being sent back to Afghanistan. He was on a temporary protection visa and any criminal

conviction weighed on his permanent residency application. Mammoud was taken to a community legal centre by a youth worker to discuss his case.

The community legal centre organised an interpreter and took a detailed statement from Mammoud and talked to him about what the situation involved. The CLC solicitor applied for legal aid for Mammoud and organised for a barrister to appear on his behalf.

Mammoud was acquitted of the charge and the magistrate hearing the evidence made strong remarks against the police in the matter. Mammoud returned to the community legal centre with his youth worker to express his delight and relief at being found not guilty. He had suffered for some months while the matter was waiting to be heard. The CLC solicitor then explained to Mammoud that he could make a complaint to the Ombudsman about the behaviour of the police. Mammoud worked with the solicitor to make the complaint and to encourage police to not automatically dismiss the account of the non-English speaking background participants in any affray.

“Where I come from, one wrong move could have meant you get killed. I thought I’d never be listened to but my lawyer stood by me and helped me be brave.” –Mammoud

When young people vulnerable from past trauma come to Australia for refuge, it is with great trepidation that they interact with any form of authority. By seeking access to solicitors at a community level and by being supported through the justice system the young person can come to a new understanding about their rights

Community legal centres provide the supportive environment and necessary culturally sensitive context to assist such clients. ■

MAMMOUD LOST HIS FAMILY AND LIVED IN DETENTION FOR SOME TIME BEFORE HE WAS



WORKING FOR THE RIGHTS OF WORKING WOMEN

A CLC with a specialist employment clinic was overwhelmed by the cases that involved working mothers. Many women find themselves being discriminated against in the workplace because they still bear the primary burden of managing family and work commitments.

One such story follows:

Lisa was delighted when she was appointed to a position as an engineer support technician at a well known firm. She worked long and hard, and her young son went to school nearby so that she could make the transfer to an after school care facility each day. Lisa worked through her lunch period every day so that she would be able to take 20 minutes to make that transfer in the early afternoon. Her employer was however intolerant of this arrangement and decided to reduce her hours to part-time hours rather than accommodating her needs. Lisa was distraught as she had relied on the full-time income to pay off a mortgage on the home she had purchased for herself and her young son.

Without anywhere else to go she decided to drop into her local CLC

“I’m a mum first but that doesn’t mean I don’t feel strongly committed to my job – and I need my job to survive.” –Lisa

and was given not just advice but support and advocacy to challenge her employer. Lisa’s challenge soon became a test case on whether the reduction of her hours of employment and pay should be seen as a dismissal under the Sex Discrimination Act 1984 (Cth). Lisa was very anxious about taking her employer to court as she feared she would lose her job in its entirety. Lisa felt, however that she had no other choice without her full-time position she would certainly lose her home, and she also felt passionately that it was unfair that she was being treated in this matter.

After weeks of stress and worry, Lisa’s day of judgment arrived. The magistrate found that her employer had dismissed Lisa when they unilaterally varied her contract to part-time hours without her consent and

by doing so had unlawfully discriminated against her on the grounds of her family responsibilities.

Lisa was delighted with this judgment and even more so with the order that she be reinstated to her full-time position and be allowed to take a late lunch break to enable her to transfer her son to childcare. The magistrate also awarded special and general damages to her and her costs to be paid by the employer.

Aside from the damages and the reinstatement of her position, Lisa’s was grateful to the CLC for the support and confidence she was provided with, and for assisting her in recognising her rights.

In challenging outmoded beliefs and asserting the rights of parents in the workplace this case has paved the way for others to take action. Lisa’s limited income and family commitments meant that CLCs were the only place where expert legal assistance was available. The work of the CLC made the difference. ■

"I'M A MUM FIRST BUT THAT DOESN'T MEAN I DON'T FEEL
STIFF JOE SUI
ED TO MY
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FIGHTING FOR THE BATTLERS

Two community legal centre clients living in the same household were assisted in challenging Centrelink. Their Centrelink payments were adjusted on the basis that they were apparently living in a “marriage-like relationship”. By Centrelink alleging a marriage-like relationship they could be paid at the lower married rate, rather than at a single person’s rate. Aton and Alna were in fact legally married and still living in the one house however their relationship had deteriorated and nothing about it even vaguely resembled a “marriage-like relationship”. This significant financial constraint added to the stress which was already palpable in the household. The parties did not want to live in the same household, however, due to financial constraints, relationships with their children, lack of appropriate alternative housing and the chronic illness of one party, it was impossible to live separately. The continuous investigations undertaken by Centrelink over the previous year had exacerbated health problems for both parties. In addition to their domestic concerns both Aton and



“I never thought we could fight it” –Aton

Alna displayed symptoms of high blood pressure, depression and anxiety.

Although the centre was not confident of the outcome, they took an action onto the Social Securities Appeals Tribunal (SSAT) claiming that Centrelink had made an incorrect decision. The SSAT allowed both of the appeals and held that the parties were living separately and apart under the one roof and accordingly were entitled to payment of their respective benefits at the higher single person’s rate. Furthermore the SSAT granted a year’s worth of back pay of the difference between the married and single rates of payment. The clients were overjoyed at this outcome, not only because of the financial implications that clearly lifted a

great burden, but also because it meant that Centrelink would stop the investigations. These investigations had created havoc in the household generally and it was difficult for them and their children.

When a CLC becomes involved in a matter where people are struggling, they focus on assisting them to have their rights met and on supporting them throughout the process. For Aton and Alna, the results dramatically changed not only their direct circumstances but their ability to negotiate within the system. It was an empowering and life-changing result. ■

REPORTING ON THE FINANCE AND MORTGAGE BROKING INDUSTRY

A community legal centre specialising in consumer credit undertook the mammoth task of researching the mortgage and finance broking industry. The subsequent report surveyed both brokers and consumer casework agencies such as financial counsellors, community legal centres and legal aid. The report was commissioned by the Australian Securities and Investments Commission and was released by them and received considerable media coverage.

The report identified a number of structural features of the finance and mortgage broking industry and regulatory gaps that placed consumers at risk. It also identified serious problems experienced by consumers in practice including problems relating to excessive fees,

disclosure of fees and high interest rates. It also examined the practice of maximising the amounts borrowed in circumstances where

“Using client’s stories to bring a bit of perspective to the big end of town.”
– *CLC solicitor*

it was not in the consumer’s interest and the problem of the arranging of finance for borrowers, particularly pensioners, when they were unable to afford it.

Equipped with such a comprehensive document the CLC was therefore equipped to facilitate further work in the area by way of law reform, tribunal and court action. The centre was then able to refer a number of systemic problems to the Department of Fair Trading and the Australian Securities and Investment Commission. The relevant regulatory agent took enforcement action in relation to some of these matters.



Innovative and comprehensive research and action like this can have a ripple effect throughout an entire industry. Low income and disadvantaged clients had their stories and interests put forward to the regulatory bodies and the court systems with results that ensured change to protect their consumer rights. CLCs take the time and initiative in collating such stories and go one step further by proposing changes that provide ongoing protection for their communities. ■

TAKING DISABILITY RIGHTS TO THE UNITED NATIONS



Despite Australia's robust discrimination law and policy framework for the rights of people with disability, currently there is no international convention to bolster our law and policy framework. A United Nations convention on disability rights would raise awareness and show the importance of disability rights,

“To have an international effect – now that’s a result!”
–CLC Management Committee

and, if applied domestically, could prevent the erosion of the rights of people with disability.

With a small amount of funding, extensive fundraising, and the self-funding of flights, accommodation and daily living expenses by staff, and individuals, a small group of lawyers and disability advocates from a CLC headed off to the UN in New York with endorsement

as representatives of NACLCL. With little prior international convention drafting experience, jet lagged and with only a few contacts, the group earned the admiration and respect of many in the United Nations by swiftly becoming involved in the non-government organisations' caucus.

Because of their extraordinary experience, the Australian contingent were asked to join the steering committee which meant they suddenly had to adapt quickly and speak to many other participants. Soon after the Australian government, in acknowledgment of the extraordinary work they and others from Australia had done, granted NACLCL and a major disability advocacy organisation a commission to undertake community consultation on the draft convention which they would then use to inform the Australian government delegation at the United Nations.

The draft convention is now in its second reading and it is anticipated that it will be finalised in 2006-2007.

The benefits of this work will not only be felt by the Australian people but it will also have positive ramifications for people with disability all around the world. Disability rights have traditionally been the poor cousin of human rights, race and gender. The United Nations convention provides a unique opportunity to promote and assert disability rights.

One small community legal centre harnessed the drive and energy of its staff and management committee and brought their exciting vision for people with disability to not only the Australian government but also to international organisations and governments around the world. They are working collaboratively and skilfully using the expertise that grew out of the unique world of Australian CLCs. The work of this small CLC is a major contribution ensuring that people around the world with disability have the right to live with dignity and respect. ■

RAISE AWARENESS AND SHOW THE IMPORTANCE OF DISABILITY RIGHTS



UNDER ATTACK AT HOME

Brianna was a 67 year old transsexual with serious medical conditions including emphysema and coronary artery disease. Brianna lived in an upstairs Dept of Housing flat which can only be accessed by climbing eight flights of stairs. As a result her medical conditions were exacerbated and she was concerned for her future.

As if that wasn't enough Brianna also had to suffer escalating verbal abuse, death threats and attacks on

“To have someone understand what I was going through was enough – to fix the problem felt like a miracle!” –Brianna

her property by other members of the housing estate. Brianna was becoming more and more stressed and anxious about this abuse and the stress and anxiety were a taking a further toll on her health. Living within a community that was so hostile toward her made her increasingly depressed and worried about her survival.

One day she discovered her car had been torched, and in desperation she sought the assistance of the CLC in the area. When Brianna arrived at the centre she felt that there was no hope. One of the solicitors sat down with her and took a lengthy statement about her medical condition and the abuse she was suffering on almost a daily basis. Brianna tearfully explained to the centre that she had tried to request a transfer through the Department of Housing but had been refused. The situation had now become intolerable. The centre decided to lodge an appeal on an urgent basis against the decision of Dept of Housing.

When the appeal was upheld and Brianna was relocated to new housing she was delighted. Her anxiety and depression began to lift. When the living conditions of people already disadvantaged are such that their lives become unliveable it is imperative that they have access to help that can provide advocacy about the issues that are fundamen-

tal to their wellbeing. It seems grossly unfair that someone in Brianna's situation would have to continue to live in such a hostile environment. The centre was pleased that they could assist in the way they did. The CLC not only found a home for Brianna but their non-judgemental attitude provided an opportunity for Brianna to talk without fear. Without CLCs it is quite possible that there would be no other access point for clients like Brianna to seek to justice. ■



MENTAL HEALTH AND THE RIGHT TO DIGNITY

Some of society's most disadvantaged and vulnerable members are those suffering from mental health problems. CLCs recognise this and are alerted to the special role they play in assisting such clients. By locating the legal centres within the community, being skilled in communication with mental health sufferers and by being fully trained in the legal areas that fundamentally affect their rights, CLCs play an enormous role in fighting for the rights of people with mental health issues and constantly strive to assist them to assert their rights.

When Kay was involuntarily admitted to a psychiatric hospital in a major Australian city she was disorientated and confused. A 33 year old woman with a history of sexual abuse made her a highly vulnerable patient. In spite of this she was placed in seclusion for 11 hours, and deprived of food, water and toileting facilities for 22 hours. And if that wasn't enough, Kay was then stripped searched and left completely naked in seclusion for 2 hours because she was assessed as posing a risk to herself after making an offhand threat. Things escalated out of control and for the 2 hour period while Kay was naked in

seclusion she was supervised by a male nurse through the window of the seclusion area. To be treated in such a way, whether suffering from a mental health illness or not, is immensely distressing. For Kay it also triggered recollections of prior

“When the hospital said they would change their policies I felt like I had helped lots of others. That felt good.” –Kay

sexual abuse making her feel extremely vulnerable, humiliated and violated. Kay tried desperately to make hospital officials understand how distressed she was, however she was not responded to and furthermore she was denied the right to make a call to the public advocate.

After an extended period Kay finally got in touch with a community legal centre where she articulated her complaint about the treatment. The hospital had clearly breached the guidelines of Human Services and the United Nations principles for the protection of persons with mental illness. The denial of her clothing, the inadequate food, fluid



and arrangements for personal hygiene, were direct and inhumane breach of her human rights. The CLC solicitor drafted a letter of complaint to the relevant Government department complaining of the abuse. Kay felt relieved and acknowledged when the response from the hospital was that they would introduce policies to ensure such an incident never happened again.

While Kay found the outcome more successful than she imagined, she was further grateful that the CLC not only treated her with respect and dignity but allowed her to have a voice within the system. The community legal centre involved also tapped into various support systems within the community and made referrals so that she could continue to be supported and to give her confidence that should she be involuntarily hospitalised again, she had people who she could call upon. ■



A VICTORY FOR THE INFANTS

Awelfare rights community legal centre represented several infants in appeals to the Administrative Appeals Tribunal (AAT) about the rate of special benefit that can be paid in certain cases. One of the clients was baby Tina who at two months of age was living in a women's refuge with her mother. Tina and her mother were escaping domestic violence. Tina's mother was not eligible for social security as she was not considered an eligible Australian resident. Tina, however, by virtue of the fact that her father is an Australian citizen,

is a permanent Australian resident and is eligible for special benefit. The Department of Family and Community Services policy was to pay special benefit at the non-independent youth allowance rate – a completely inappropriate level of payment for a mother and daughter to live on.

The welfare rights community legal centre ran a test case and the matter was decided by the President of the AAT. The President determined that the appropriate rate of special benefit for young children is the newstart allowance (with child)

rate. For the infant clients this meant the difference between their mothers receiving the impossibly low income of about \$150 per fortnight or the NSA (with child) rate of about \$390 per fortnight. For Tina's mother this meant that Tina and herself could be supported, in a safe place. The welfare rights CLC's victory in this case and in almost every similar case they represented led to the Department eventually changing its policy so that all children in this position were paid the higher rate. ■

AND LEGAL HELP FOR THE ELDERLY

When 80 year old Enid lost her husband, she needed assistance in liaising with the solicitor who dealt with her husband's estate. After making numerous telephone calls and writing letters, Enid was at her wits end when the solicitor still refused to release letters of administration. Enid dropped into her local community legal centre asking for advice as to what to do.

The CLC successfully negotiated on Enid's behalf with the other solicitors in the same firm to ensure the release of the letters of administration.

This was an interesting example of advocacy because not only did it allow for Enid to finally get the papers she was entitled to and to get on with her life, but it also created a dialogue within that firm as to what the best practice methods were when dealing with such matters.

When Enid felt that she had moved on from this issue and had begun to plan the rest of her life she remembered the CLC workers and one day presented them all with sausage rolls and a jar of pickles by way of thanks.

Even the simplest of matters can need the help of CLCs to reduce the stress on members of the community. It also illustrates how it is often the small problems



of everyday life that can cause huge heartache if they are not dealt with appropriately. Furthermore a CLC intervening when other solicitors are acting inappropriately, encourages better treatment of clients by the legal profession. ■

GROUND BREAKING CHANGE TO THE LAW OF CASUAL EMPLOYMENT

Like many people in the workforce today, Kadie was casually employed for 11 months at a five star hotel chain. When suddenly dismissed she was unsuccessful in pursuing her unfair dismissal claim because she was classified as a "casual employee" engaged for less than 12 months.

Outraged by this decision, a community legal centre went into action. The collaboration of a supervised student doing much of the research, a pro bono barrister and the CLC made for a strong team running an important test case at a hearing before the full bench of the Australian Industrial Relations Commission.

Kadie and the team were thrilled with the result. The full bench decided that Kadie was not a "casual employee" and was therefore entitled to pursue her unfair dismissal claim against the hotel chain.

The decision had great significance. It provided access to the unfair dismissal regime to many employees whose work is described as "casual" but in reality, is either a permanent or permanent part-time employment position. Despite amendments to the relevant act within a month of this decision, it seems clear that the result of this test case had significant implications for 'casual' employees and their employers. ■

LISTENING TO YOUNG PEOPLE AND OFFERING A COMMUNITY SOLUTION

When a specialist youth CLC interviewed a young 19 year old Vietnamese student about a shoplifting charge, the solicitor was concerned that there were issues underlying the charge. A straight 'A' student from a strong Vietnamese family, Jade felt it incumbent upon herself to be a dutiful daughter and a bright student. Having been arrested for stealing an inexpensive scarf accessory item from David Jones she was devastated as to how this would affect her family and her reputation. Jade disclosed the details of the arrest and presented her papers nervously. Having no previous criminal record of any kind or any interaction with the police she was reassured that it was not a serious matter or anything she was likely to go to jail over. Jade broke down tearfully and after some reassurance went on to disclose a violent sexual assault by a fellow university student.

Jade had never told anyone about this sexual assault including her family because of the shame she felt

“Sometimes just asking those few extra questions makes all the difference.”
–CLC Solicitor

about the incident and her continuing fear of the perpetrator. She continued to see the perpetrator at university and consequently she was failing to show up to lectures, more preoccupied with avoiding the perpetrator than studying for her exams. It became apparent that the minor criminal matter was a call for help over this much larger violent assault.

The solicitor was able to make representations to the police regarding the sexual assault and was successful in having the criminal charges dropped. The CLC then took on the matter as a victim's compensation application and assisted Jade in making the application and filing for compensation.

While Jade never found the

opportunity to disclose the assault to her family she certainly received support from the centre and from the university counsellor she was referred to. Jade was granted compensation from the Victims Compensation Tribunal and used this money to advance her education and to undertake further counselling. It was not only the compensation that turned things around for Jade but also the acknowledgement and support she received due to her disclosure.

Sometimes the trained listeners at CLCs can unravel the problem at hand to reveal highly significant issues which in turn need legal remedy. By working on all fronts a client is provided with a service that deals with legal problems and is connected to appropriate community services to help resolve social problems. ■

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