

briefcase



Victoria
Legal Aid
Lawyers And
Legal Services

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Bushfire Legal Help - unity in adversity

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Bushfire Legal Help

Victoria's lawyers and legal agencies quickly rallied to help victims of the Saturday 7 February bushfires.

Hundreds of lawyers volunteered to help as several agencies joined forces to create Bushfire Legal Help. The agencies are Victoria Legal Aid (VLA), the Law Institute of Victoria, the Federation of Community Legal Centres, the Public Interest Law Clearing House (PILCH), the Victorian Law Foundation and the Victorian Bar.

Bushfire Legal Help initially had two main services- the Victorian Bushfire Legal Help Line and lawyers on site at the local relief and recovery centres.

Enquiries from victims firstly focused on insurance, identification, wills, fencing, family law, probate and deceased estates.

It is expected these will still be major issues for victims in the longer term. There will also be legal issues surrounding giving evidence to the Royal Commission and to the Coroner's enquiry.

The Bushfire Legal Help Line, based at VLA's call centre, took its first calls on Wednesday afternoon 11 February. The number for the service was supplied by the Department of Justice at very short notice.

Lawyers from VLA, PILCH, the Federation of Community Legal Centres, and the private profession began visiting bushfire relief centres on Friday 13 February.

At a briefing at VLA's Lionel Murphy Centre on Thursday 12 February, the Attorney-General Rob Hulls said 'You will be working

with people who have suffered greatly, and I know you will be practical and sensitive.

'The victims will have a range of legal issues facing them, some immediate and some in weeks and months to come. Don't underestimate the task ahead of you.'

The briefing was broadcast to the wider legal community via web-streaming equipment loaned by the Supreme Court of Victoria.

A week later VLA managing director Bevan Warner said: 'The cooperation unlocked through Bushfire Legal Help has exceeded expectations. Now we must try to anticipate the future. Things will change as victims seek various services.'

Lawyers and legal assistance agencies were drawn together by forces well beyond their day to day experiences.

In early March the site visits to relief and recovery centres were replaced by weekly half-day clinics and also specific information sessions about insurance. The information sessions, initially at Kinglake and Whittlesea, involved the Insurance Ombudsman and the Insurance Council of Australia as well as lawyers from Bushfire Legal Help.

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Latest law reform papers now on the table

Victoria Legal Aid (VLA) has recently made law reform submissions regarding the Review of the *Mental Health Act 1986*, the review of the draft Corrections Regulations 2009 and the draft model Spent Convictions Bill.

Corrections Regulations

VLA supports the review of Corrections Regulations and the development of protocols that places the welfare of the prisoner as a foremost consideration for their secure detention.

VLA supports mechanisms whereby prisoners are actively assisted to access their lawyers or legal advice. These include consideration of ways that prisoners may access confidential legal advice and have discussions with counsel in order to prepare for appeals as well as respond to internal disciplinary matters arising from their incarceration.

VLA and the Federation of Community Legal Centres worked closely together on their respective submissions, and VLA supports the federation's observations and recommendations on required reforms that place the new regulations within a human rights framework.

These reforms include as a priority: the removal of the use of firearms by prison staff in the management of escapees, greater clarity on prisoner classification systems and review of discipline options (including the requirement for strip searches).

VLA supports amendments that facilitate and enable prisoners' improved access to legal services as well as medical services and mental health supports.

Spent convictions

VLA is advocating for a national approach to consistent spent conviction laws across Australia.

VLA argues that the implications of a recorded conviction are significant and can affect a person's entire life.

VLA supports rehabilitation of offenders in a way that is positive and encourages their integration and inclusion in community life.

To this end, VLA supports proposals that remove discriminatory barriers to offenders' full participation and engagement in employment, with particular consideration given to the circumstances of children and young people under the age of 18 years.



VLA supports the introduction of the legislation with the following amendments:

- The definition of 'conviction' be more clearly articulated to maintain a distinction between findings of guilt and sentences where a conviction is imposed.
- The definition of 'eligible adult offence' should be amended as follows:
 - (a) a sentence of immediate imprisonment is not imposed [in order to cover all suspended sentences and Intensive Corrections Orders] and
 - (b) a sentence of immediate imprisonment is imposed but the sentence is 12 months or less. Corresponding amendments should be made to the definition of 'eligible juvenile offence'.
- The Bill should amend and codify existing policies and practices in relation to the release of criminal records in general and maintain a distinction between conviction and non-conviction dispositions in that regard.
- Matters before the Children's Court should become spent sooner.
- Aggregate penalties, both for eligible offences and 'minor' offences, be clarified.

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Bushfire Legal Help - unity in adversity

The sessions are part of an ongoing community legal education program that includes a website, check lists, fact sheets, and a handbook.

The VLA website is currently hosting Bushfire Legal Help resources for victims and lawyers until Bushfire Legal Help has its own website. The site includes referral information, advice record forms and a 'reclaiming identification' kit.

'One of the positive consequences of the bushfire tragedy is that it has galvanised people into action, into working together to help others,' said Mr Warner.

'This has happened here at VLA as staff, directly or indirectly, use their skills and experience to help people who have suffered unimaginable trauma.

'It has also happened across the legal sector as lawyers and agencies do their best to lend a hand. So many people have put their shoulders to the wheel to help. This includes those who have had to take on more of the everyday business of legal assistance.

'It's an example of what can be done when agencies are drawn together by forces well beyond our day-to-day experiences.'



Lawyers And Legal Services



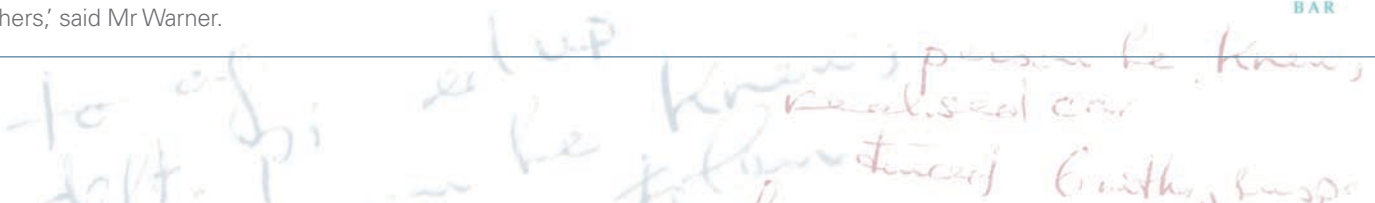
Grants Publications Education



Federation of Community Legal Centres VICTORIA



THE VICTORIAN BAR





Standing l-r: Rachna Muddagouni, Hugh de Kretser, Bevan Warner, Mat Tinkler. Seated l-r: Antoinette Braybrook, Joh Kirby, Frank Guivarra. (Absent: Mark Woods, David Neal)

First steps for new forum

The first meeting of the Victoria Legal Assistance Forum (VLAF) was held on Thursday 26 February.

Described by Victoria Legal Aid managing director Bevan Warner as 'an exploratory meeting', the meeting saw the forum taking its first steps towards providing a collective voice for Victoria's legal assistance providers.

The forum aims to improve outcomes for clients across the legal assistance sector by combining resources as best as possible in terms of planning, program delivery, policy and law reform.

Similar forums on a national level and also in New South Wales and Queensland have been established in recent years.

The VLAF meeting was attended by the chief executive officer of the Victorian Aboriginal Legal Service, Frank Guivarra; the chief executive officer of the Aboriginal Family Violence Prevention and Legal Service Victoria, Antoinette Braybrook; the executive officer of the Federation of Community Legal Centres, Hugh de Kretser; the executive director of the Victoria Law Foundation, Joh Kirby; the acting executive director of the Public Interest Law Clearing House, Mat Tinkler; Victoria Legal Aid managing director Bevan Warner and Victoria Legal Aid principal programs consultant Rachna Muddagouni.

Mark Woods was unable to attend the inaugural meeting due to appointments with bushfire clients, but did say the Law Institute of Victoria, welcomed the initiative.

'For too long government has been let off the hook by there not being one common voice from the legal assistance sector. VLAF will go a long way to addressing that.'

David Neal of the Victorian Bar, also unavailable due to court commitments gave his full support.

The eight agencies share a common role in helping clients whose legal issues generally stem from poverty.

'This is an opportunity for the various agencies to be more co-operative, and to not be re-using resources,' said Ms Kirby. 'The recent experiences in providing legal assistance to the bushfire victims showed what can be done.'

'The Victorian Aboriginal Legal Service will do everything in its power to make VLAF a success,' said Mr Guivarra. 'It's good to see these state forums coming to fruition.'

'The Federation of Community Legal Centres has been keen on an idea like this for a number of years,' said Mr de Kretser. 'There is strength in having a common approach and common voice.'

Guest speaker at the inaugural meeting was Caroline Seagrove, project manager of the New South Wales Legal Assistance Forum (NLAF). Ms Seagrove described NLAF's objectives, terms of reference and especially its practical achievements since it was formed in 2007.

Amongst its activities in its brief history NLAF has already started addressing the gap in access to civil law for Aboriginal people in New South Wales and the gap in services for CALD communities, particularly Fijian, Iraqi and Sudanese communities.

'NLAF has been able to turn decisions into action,' said Ms Seagrove, 'leading to practical, achievable outcomes.'

'NLAF believe that forums such as these can get to the nub of problems if you get the best people on board, not just on the forum itself but on the working groups, which are drawn from many organisations.'

'Legal assistance forums can be quite powerful tools.'

Bevan Warner said that VLAF needs to have a collective voice 'without fettering the individual roles of each agency. We need to complement what's already being done by assisting existing projects. Consensus will be the key.'

There is strength in having a common approach and common voice

'Responding to unmet legal need and doing the best with the resources we have requires collaboration across the sector,' added Mr Warner. 'Legal assistance providers have common aims and unless we make time to engage effectively with each other, we can fail to take full advantage of the skills and opportunities available to individual agencies, to improve the justice system and the way we all operate in it.'

The Victorian Legal Assistance forum does not intend to dismantle current collaborations amongst agencies but to increase awareness of partnerships and networks.

Pleasance on legal need and social inclusion

At the time of Briefcase going to print visiting legal academic Professor Pascoe Pleasance was set to speak at VLA's Lionel Murphy Centre on the topic of emerging global responses to meeting the legal needs of disadvantaged and poverty affected people.

Professor Pleasance is an international expert on access to justice and social science research methods and is currently an expert advisor to the Australian national legal needs survey which is being commissioned by all the legal

aid commissions of Australia.

Professor Pleasance will also be speaking with Department of Justice officials and Legal Aid and Social Inclusion policy officers in the Commonwealth Attorney General's Department in Canberra.

Professor Pleasance will draw upon developments and research findings from around the world describing ways to realise maximum benefit from limited legal assistance budgets.

This includes new methods of service delivery to promote social inclusion that are designed

around the needs and behaviour of clients.

The VLA website will shortly publish a summary of Professor Pleasance's speech.



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Latest law reform papers now on the table

Mental health

VLA undertakes 64.4 per cent of all representations before the Mental Health Review Board relating to involuntary inpatients in public psychiatric facilities.

Amongst its many recommendations on the Review of the *Mental Health Act 1986*, VLA calls for:

- a clear definition of mental disorder
- treatment to be voluntary wherever possible
- any decision about a patient to take into account the patient's views, wishes, beliefs and values to the greatest extent practicable
- mental health services to protect rights, minimise interferences with rights and promote rehabilitation and recovery.

VLA believes the Act needs to incorporate the rights of those informal voluntary patients who suffer from a mental illness. These patients are not presently covered by the Act and the consequence has been that they are often without legal recourse to review the decisions of a treating team.

VLA submits there should be provision for an assessment to consider the issue of what will occur if there is treatment received versus what will occur if there is no treatment. In other words, the benefit as against the risks,

particularly taking account of the side effects of medication.

This aspect needs to be looked at with regard to the issue of least restrictive manner of treatment. To place a client on a Community Treatment Order which is supposedly less restrictive than an involuntary in-patient treatment order, but to medicate them so that they are unable to participate in an active community life is, in VLA's view, highly restrictive.

The VLA submission states that a second psychiatric opinion is necessary for the proper functioning of the Act where:

- i. children are the patients,
- ii. it is a person's first admission, or
- iii. where a person who has previously been treated and has been voluntary in the community or on a Community Treatment Order for six months is readmitted.

Obtaining a second independent opinion in relation to ECT and ongoing medication and consent is likely to act as a safeguard for the patient, as well as for the clinical team.

The VLA submission was informed by the advice from and experiences of various community legal centres.

New debt publication

Victoria Legal Aid's newest publication '*Debt problems: The law, your options*' is now available to help people in debt. This booklet is for people who may be getting legal notices, demands for payment, and visits from debt collectors.

The booklet shows how people can get legal and financial help to:

- work out what is owed
- decide what to do
- make an affordable payment plan
- feel more in control.

To order a copy of '*Debt problems: The law, your options*' visit www.legalaid.vic.gov.au and follow the '*Publications*' link to the online order form. Or you can call 9269 0223 to order copies.

The booklet is one of many produced by VLA, covering many legal issues.



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